

**FISCAL TRANSPARENCY AND PARTICIPATION IN THE
BUDGET PROCESS**

South Africa: A Country Report

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INTRODUCTION

A movement towards greater transparency and participation in governmental budget decisions is sweeping much of the world. This trend is apparent in many developing countries as part of the trend towards greater democratisation and openness in government decision-making. The trend is apparent also in developed countries, where in countries like Australia, New Zealand, Sweden and the United Kingdom broad budget reforms adopted in recent years placed emphasis on transparency.

Spurred by the Asian financial crisis – which in hindsight developed in part due to financial practices that were not open to scrutiny – an emphasis on fiscal transparency (but not necessarily an emphasis on participation) has also become common among international financial institutions (IFIs). Most notable in this regard are the efforts by the IMF, including its recent publication of a Code of Good Practices on Fiscal Transparency and supplementary documents designed to help countries realise this code.

Though the trend towards greater transparency and participation in the budget process¹ is unmistakable, in many countries it begins from an inadequate baseline. In these countries the development of budgets often occurs exclusively in the secrecy of the executive branch; the adoption of budgets by the legislative branch occurs with little opportunity for debate or amendment; budget policies are implemented without information being provided about their effectiveness; and actual expenditure data is not provided or provided too late to control budget execution effectively.

The issue of transparency and participation in the budget process is of direct relevance to South Africa. As path breaking as the strides towards democracy have been since 1994, including significant strides in opening up the budget process, much remains to be accomplished. The budget process, for instance, allows for little input by the legislature, let alone by the public.

It is with these trends in mind that the Budget Information Service of the Institute for Democracy in South Africa and the International Budget Project of the Centre for Budget and Policy Priorities based in Washington, D.C. have undertaken this report on transparency and participation in South Africa's budget process. The report may serve as an approach that would be of use to researchers in other countries who are interested in assessing how the IMF Code and other principles of transparency and participation could help inform and improve the budget process in their nations.

The report borrows from, modifies, and adds to the IMF Code of Fiscal Transparency. The IMF code has a special focus on the features of transparency of most interest to the financial community and does not fully flesh out a budget process that facilitates effective participation by

¹ For the purpose of this paper the budget process is understood to start with the drafting and conclude with the audit stage, therefore including the legislative process and implementation.

the legislature and the public. The survey developed for this report attempts to develop these principles, reflecting our special focus on the role of civil society.

The efforts of civil society and of institutions like the IMF to promote fiscal transparency are complementary in several respects. Independent researchers and the IMF have access to different information and target different audiences. Using diverse information to reach diverse audiences is likely to broaden the scope of promoting transparency. Civil society can also act as an independent check on government reports. Independent research concerning budget transparency may also prod governments to undertake their own efforts at assessing transparency in their countries. Taken together, reports such as this one by independent researchers and the fiscal transparency efforts of the IMF may yield the most comprehensive and productive debate on these issues.

Factors Spurring Greater Transparency

In a large fraction of the world's countries, transparency and openness in government decisions became more common in just the past few years. International trends in public management have pushed transparency to the fore as an operational necessity while the increased adoption of democratic systems of government created a political environment of greater openness and participation. This is obvious in a number of countries, not the least in South Africa where dramatic improvements have occurred since the first free election in 1994. Fully transparent and participatory budget processes do not, however, automatically follow from the transition to democracy. In fact, even some of the world's longest standing democracies have budget processes that in key respects are opaque or severely limit the involvement of those outside of the executive branch.

It is perhaps not surprising that the public, civil society, the media, and some in the legislative branch of government have applauded and encouraged the trend towards budget transparency. But the recent international financial crisis has intensified the demand by international organisations and by the international business and financial communities for governments to provide accurate and complete information about their fiscal situations.

In 1998 a range of Asian economies, some of which had performed exceptionally well for more than a decade and which had attracted vast amounts of international capital, saw their financial markets unravel and their economies spiral downward. Few observers predicted the dramatic downturns in these countries' economies as few understood the underlying structural weaknesses including problems with their financial markets. This lack of understanding reflects the fact that certain fundamental information about these economies had not been readily available. In other words, these economies were not transparent. Many believe that the economic reversals would not have been so sharp if more complete information about the financial markets and fiscal policies in these countries had been available. Economic risks would have been easier to assess and resources would have been better allocated. This would have meant smaller and more diversified market reactions that could have triggered prompter policy adjustments. The belief that greater transparency would have helped prevent the Asian economic crisis contributed to the development of the IMF Code.

Another sometimes related set of economic challenges may have contributed to the growing support for transparency. At the same time that many countries have been adopting democratic forms of governments, frequently these same countries – such as those in Eastern Europe – have been experiencing economic turmoil that produced widespread poverty. This has led citizens and non-governmental organisations (NGOs) to focus on the budget for solutions, creating pressure for transparency and participation. Transparent institutions and decision-making processes can permit countries to address these economic challenges while at the same time maintaining the support of their citizens. When citizens have accurate information that enable them to understand the difficult economic choices their countries face, and are able to participate in the decisions, better decisions that have the support of the public may result.

Why is Transparency and Participation Important?

Good governance dictates that government operations and decisions should be made openly, and with the active participation of those people influenced by them. The budget is the primary economic policy document of governments; for this reason transparency and participation in the budget is particularly important.

Indeed, it can be argued that in a democracy the public has the *basic right* to information about the budget and to have its views considered in budget decisions, making it an end in itself. Put differently, transparency is a prerequisite for democracy. However, even without recourse to the principles of democracy, the provision of comprehensive, accurate, timely and frequent information on a country's economic conditions and its budget policies is desirable because:

- Transparency is a prerequisite for public debate. Simply put, if budget information is not available, it is difficult to discuss it. Transparency also means that government budget policies can be assessed and analysed, thus leading to improved programmes and the more efficient use of resources. Transparency facilitates the identification of governmental weaknesses, thus facilitating the adoption of needed reforms.
- Transparent governments can be held accountable: legislatures and civil society will be able better to hold government to account if they have information on government budget policies, practices, and expenditures. Elected office holders will also be more likely to make governance decisions in accordance with their mandate if those decisions are open to public scrutiny. Similarly members of civil services will be more likely to act in a responsible manner if their actions are transparent. Holding governments accountable can provide a check on corruption.
- An adherence to transparency can increase faith in governments. This support can come from the public who can better understand what their governments are doing, and thus have more confidence in government. In this respect, transparency can also contribute to building consensus on and commitment to social trade-offs. This increased faith in and support of a transparent government can also come from the international community and investors. With a clear understanding of a government's policies, they may be more likely to invest in a country.
- Transparency contributes to macroeconomic and fiscal stability as it prevents the build-up of a crisis in secret, bringing about smaller adjustments sooner.

There is an important relationship between participation and the focus above on transparency. Transparency is not only an end in itself. Transparency is desired as a means of achieving desired outcomes such as enabling participation. Meaningful transparency is not only about the availability of information, but its use. Meaningful transparency is inextricably linked to meaningful participation in the budgetary process by a variety of interests. In turn, therefore, the provision of sufficient opportunity for legislature and civil society input budgetary processes is important because:

- For many of the objectives of transparency above, the availability of information is not enough to bring about the desired outcomes. For example, sufficient information is only one half of what it takes to allow the legislature to fulfil its role as “keeper of the purse”. Information may allow legislatures to monitor executive decisions and performance, but if they do not have sufficient opportunity to act on the information they receive, their oversight will remain ineffective. Similarly, governments will only be accountable if their constituencies are able and prepared to make use of the information available and hold them to account.
- While transparency itself engenders consensus to policy and allocation decisions, this consensus will be deepened if both the legislature and civil society are allowed significant inputs into the debate. The need for such participation opportunities is strengthened by the legislatures' and civil society's closer contact with communities and interest groups.
- Over and above the commitment building role, involvement of these actors can improve policy and allocative decisions by bringing a different perspectives and creativity to budget debates.

Therefore, if governments want to reap the benefits of being transparent, a country's governance systems must ensure that the incentives for making use of available information outweigh any obstacles to participation.

Measuring transparency and participation

The findings of this paper are based on a Transparency and Participation Questionnaire (see Appendix 1). The questionnaire sets parameters applicable to most democracies for research on transparency and participation. It draws on the provisions of the IMF Code of Good Practices for Fiscal Transparency but also revises and expands on these to address the most fundamental factors determining both transparency and participation.

This methodology section on how we measured transparency therefore discusses the survey we used and how it differs from the Code. It concludes with a short section on sources used to compile the South African survey report.

The IMF code comprises a set of guidelines to establish a sound and viable transparency framework for fiscal policy. It is built around the following objectives, each of which speaks to a category of requirements: roles and responsibilities in government should be clear; information on government activities should be provided to the public; budget preparation, execution, and reporting should be undertaken in an open manner; and fiscal information should be subjected to independent assurances of integrity (IMF, 1998: 122).

While the IMF Code is an important advance in efforts to promote fiscal transparency, it is limited, particularly when it is examined from the perspective of promoting participation in the budget decision-making process. The limits to the Code create an interesting opportunity for civil society to expand its framework to encompass the principles of participation and accountability.

The transparency and participation guidelines used in our survey are to a large extent compatible with the IMF Code, frequently drawing directly from it. The differences between the two sets of guidelines include the level of detail and the number and technicality of the standards. We weeded through the IMF standards, selected the ones that seemed most important to advancing the goals of both transparency and participation, and tried to express them in more general terms. In some cases we supplemented the IMF Standards with guidelines from the South African Constitution and in others developed measurable indicators. The biggest differences however, in the two sets of guidelines are our separation of the legal and regulatory framework for fiscal transparency from in practice fiscal transparency and our addition of questions related to the participation of the legislature and civil society in the budget process.

Section 1: A legal framework for transparency

Section 1 examines the legal framework for transparency and participation. While governments may publish fiscal information and have a transparent budget process, transparency is strengthened considerably if these practices have a legal basis.

The questions in this section were concerned with the legal framework of roles and responsibilities, the legal basis for taxes, and the legal basis for fiscal transparency requirements for the executive. It also amalgamates the legal framework issues important to participation referenced throughout the IMF questionnaire.

Section 2: Transparency in Practice: the clarity of roles and responsibilities

The establishment of clear roles and responsibilities between arms² and levels of government is an indispensable part of transparency. It is on the basis of this clarity that fiscal decisions and outcomes can be monitored by the electorate and accountability assigned. Clarity in practice is therefore a prerequisite for effective participation.

This section looks at the clarity of expenditure roles and responsibilities in practice.

Section 3: Public availability of budget information. A fundamental requirement of fiscal transparency is that comprehensive budget information is made available. This information should be provided in a timely fashion and in accessible formats. The basis for calculation and aggregation should be explained, as well as the coverage of the data. The information should be reliable and based on credible information systems.

This section follows the IMF approach relatively closely although we also examine questions of budget information that were referenced under other principles of the IMF Code. Further, we emphasised an element that is crucial for civil society: the usefulness of the information provided. The public availability of information is of little benefit if it is not released in a format that can be understood and assessed.

² Arms of government refer to the executive, legislature and judiciary. Levels to national and sub-national tiers of government.

The section examines the availability of information as regards the budget framework, fiscal stance, budget classifications and extra budgetary activities.

Section 4: Independent checks and balances of budget execution and government data A critical requirement of fiscal transparency in the context of democracy is the opportunity for legislatures and civil society to assess whether government undertook what it planned in the budget. Another fundamental issue here is to establish checks and balances to the data used in fiscal policy and budget processes.

This part of the survey also is concerned with the availability of independently audited actual expenditure data and with the internal checks that prevent over-expenditure or illegal expenditure.

In this section there is again similarity between the IMF and the paper's approach, although the paper has drawn together in this section budget execution questions which were referenced elsewhere in the IMF Code.

Section 5: Budget decision-making process. The IMF titles its somewhat analogous section as "open budget preparation, execution and reporting." There is a large distinction between our approach and the IMF's. Our emphasis on assessing whether both the legislative branch of government and civil society have access and input into the actual decision-making process is of major importance for researchers, independent organisations and others who are interested in taking part in the policy dialogue. The IMF code lacks this strong emphasis on participation.

While calling for an "open" budget process, the IMF Code does not assess whether the legislature or civil society can participate in the budget process. For example, it does not assess whether the legislature is able to amend the budget bill, a standard used in our survey.

The research and report format

It is important to note at the outset that speaking of a questionnaire and a survey may be misleading: the research was not intended to be an opinion survey. Rather the authors set themselves the task to make the most accurate assessment of transparency and participation in South Africa in accordance with the questionnaire. In order to do this a panel of experts was selected and interviewed. The report reflects the collated opinion of the respondents, not only on the answers to the questions, but the reasons for the answers being what they are. In many cases, existing research of the Budget Information Service already covered the survey questions comprehensively: this knowledge base was used both to supplement and inform the interviews.

The tougher questions were the qualitative ones: for example the question on the clarity of roles and responsibilities presupposes consensus on what it takes for roles and responsibilities to be called clear. Different people with different agendas may have different answers.

In order to bridge this potential gap, the panel of experts were selected with care: each had a specific and relevant area of specialisation and in each area of specialisation we made sure that we had experts from different sectors of society, that is from the executive, the legislatures, civil

society and the private sector³. We conducted a total of nine in-depth interviews, supplemented by shorter interviews on written replies on specific points of clarification, with a total of 17 respondents.

A breakdown of respondents is as follows: 7 came from the executive, 4 from the auditor general's office, 1 from the legislature and 5 from civil society and the private sector. In writing up the interviews we attempted to reflect the full spectrum of opinion, within reason.

In conducting the survey and writing this report, it became clear that taking an accurate snapshot of the state of transparency in South Africa would be extremely difficult. The image is bound to be blurry. The survey questions rarely had a straightforward answer: more often than not, the answer was conditional on an information system coming on-line, or on a future change happening, or unclear because processes have not yet settled down.

In trying to deal with this ambiguity, the results were collated in the following format:

The report includes broad assessments of progress on transparency and access to the budget process. These assessments take into account only changes already announced or implemented. In doing so it hopes to establish a benchmark against which changes can be measured in future surveys.

The report itself – in order to make the data more accessible to the reader -- is in discursive format and thematically aggregates the answers to individual questions. The full questionnaire with individual question answers is reproduced in Appendix 1. In the discussions we have endeavoured to give the context of the level of transparency. This means that the report distinguishes where relevant between policy decisions in principle and the feasibility of implementation. It also means that the reasons for lack of progress on some issues will be explored.

At the end of each of the four sections an overall assessment for that section is given. This includes a digest of milestones relevant to that section. Similarly, it includes a synopsis of key concerns for future progress.

Where applicable, reference is made to transparency and participation measures that may soon be adopted, especially where a grading needs to be balanced by future plans in order not to skew the overall impression a reader may get.

³ Although we did not include members of the media on the panel, in retrospect we probably should have. It is crucial that the budget information is available to the media and media panelists would have a good sense of the ease of finding information, as well as of the usefulness of available information for audiences without technical or budget expertise.

THE SOUTH AFRICAN COUNTRY REPORT

South Africa is a country in transition. The change in government brought about by the first democratic elections in 1994 set off a transformation process that is an evolutionary roll-out of the democratic principles established in the pre-election negotiations. Transparency is no exception, as is demonstrated by the following comparison.

When South Africa's newly elected members of parliament took up their seats in 1994, one of their first tasks was to consider the annual budget. As with countless budgets presented to apartheid parliaments in the preceding years, the budget was unveiled in its entirety for the first time on budget day. Hundreds of pages of technical line item, programme and vote (inter-departmental) information for all spheres⁴ of government were presented to members with very little supporting material and in a vacuum of actual spending information on the preceding year. In their deliberations on the budget, members had no recourse to inputs from outside of government. Even inputs from the executive were restricted. In fact, Parliament had very little power to do anything but pass the budget, which indeed it did.

Earlier this year, the same Parliament passed its fifth, and last pre-election budget. Although it was still in the absence of detailed amendment powers and actual spending information, this time parliament had already seen the three-year fiscal and budget framework as well as the aggregate budget numbers in November. This time the budget was presented with two volumes of detailed supporting information and analysis and this time the portfolio committee on finance could draw on the inputs of 14 organisations before presenting its report to the floor. This time individual ministers appeared before dedicated portfolio committees to defend their budget and policy choices. This time, the process was repeated in all nine provinces (the national parliament considers only the national budget and the division of revenue between and among spheres of government).

The current South African budget process represents a marked increase in the degree of transparency and participation, the focus of this paper. Yet further changes are planned and are indeed required before South Africa can reap the governance benefits of good availability of information, a responsive executive and an active legislature and civil society.

Before turning to the specific areas demarcated by the questionnaire, it is useful to consider briefly the South African context of transparency and participation. All of the pro-transparency forces referred to in the international background above, are at work in South Africa.

- The democratisation of the country in 1994 laid the groundwork for more transparent decisions and decision-making in government.
- Extreme inequality and limited resources requires social consensus in order to affect tough economic choices. Transparency and participation can aid the development of social consensus.

⁴ The South African Constitution specifically refers to different "spheres" of government in order to imply a non-hierarchical and inter-dependent relationship between national, provincial and local government. The creation of separately elected provincial governments after the 1994 election was the result of the agreement negotiated before the election that set up the Interim Constitution.

- With low levels of domestic investment, South Africa is dependent on international capital to fund development while being vulnerable to shifts affecting emerging markets. Transparency can facilitate access to international capital.

While these forces may have engendered transparency and increased participation organically, three other categories of events have speeded up and systemised progress towards both.

1: The interim and new Constitution call for specific measures to translate transparency and participation principles into practice. The Constitution sets up different spheres of government, assigns roles and responsibilities in principle and requires intergovernmental relations to be managed through co-operative governance. It sets out in principle the tasks of the executive and the legislative arms of government. It sets out framework requirements for budget formats. All these principles require practical changes in the system of government, including the budget.

2: In 1995/96 the executive embarked on a drive to reform the public sector in order to improve delivery. These reforms were based on a world-wide trend towards more performance-oriented management, including the devolution of power and increased accountability and transparency. A movement toward increased transparency in the budget and financial management systems is fundamental to the reform programme.

3: As the first democratic parliaments' (national and provincial) term in office progressed, it increasingly became clear that the legislative arm of government was developing a separate identity to the executive, in spite of very strong party-political ties. The growing willingness to hold the executive to account as demanded by the Constitution, has resulted in demand for more information, i.e. greater transparency.

As a result the South African budget process is more open today than five years ago, much more information is available and often in more useful formats. The discussion in the following sections is intended to systematically establish exactly how far the country has progressed, as well as tease out obstacles and challenges to transparency.

Section 1

A Legal Framework for Fiscal Transparency

Since 1994 new national legislation has strengthened fiscal and budget transparency in South Africa. The survey however, did show up several areas of concern.

The questions relevant to this section tested the following aspects of transparency:

- The existence of legislation or rules setting transparency requirements for the executive arm of government and the observation of these rules;
- A legal framework that clearly defines the roles and responsibilities for all key aspects of fiscal management;
- The legal basis for expenditure responsibilities and taxing powers of sub-national governments; and
- The legal basis for taxes.

Transparency requirements for the Executive

Fiscal transparency requirements for the executive are only set out to a limited extent in the existing legislation. South Africa does not have a comprehensive fiscal transparency code for the executive, such as the UK Code on Fiscal Stability (1989) or New Zealand's Fiscal Responsibility Act of 1994.

Existing fiscal transparency in South Africa-- such as the fiscal information published, how often it is published, the format thereof and the availability of supporting information – has the following legal foundations:

- Constitutional requirements
- The requirements of the Public Finance Management Act (PFMA, Act 1 of 1999).
- Government's obligations under the IMF Standards of Data Dissemination
- The obligations placed on Departments under the new Public Service Act and the new Public Service regulations to publish information on departmental objectives and programme outputs and outcomes.

The PFMA is the cornerstone of new public financial management in South Africa. As such it has far-reaching provisions for the provision of information on fiscal activities, both as regards scope and usefulness. The burden of reporting increases drastically under its provisions. For example the PFMA demands monthly actual expenditure reports from departments to treasuries, public consolidated actual expenditure and revenue statements as regards the revenue funds from treasuries; and audited statements to the legislatures within 7 months after fiscal year end. That is a major step up from the current one year gap between budget year end and the tabling of audited statements, and will not only require better information systems, but also increased financial management capacity. As has been emphasised in several official reports on the state of the public sector⁵, departments are plagued by a chronic dearth of capacity on both accounts. For these reasons the PFMA makes provision for a phased implementation of some of its transparency

⁵ For example the Ncholo reports on the provinces and the reports of the Presidential Review Commission on the Public Sector.

provisions. Some of the respondents expressed doubt that the government's management information and accounting systems will be able to produce the full scope of information as frequently as is required even within the implementation time frames.

As will be apparent from Section III (Public availability of Information) Government currently publishes more than what is required by the acts and regulatory framework documents. This is the result of Government's interpretation of information needed by Parliament and Civil Society to participate in and monitor the budget. The resultant scope, depth and usefulness of available information are therefore dependent on the goodwill of current office holders. It is hoped that the Budget Reform White Paper⁶ and the accompanying Department of State Expenditure Regulations will expand existing requirements and establish a more comprehensive formal basis for the assignment of responsibility to the executive.

The lack of legislation on the publication of contingent liabilities and extra-budgetary activities remains a major gap in South Africa's transparency requirements. An annual consolidated statement on public sector contingent liabilities may be a useful addition to current documentation. Such a statement would include a range of actual liabilities, to explicit or contractual contingent liabilities to implicit liabilities. Examples include the liabilities of funds such as the Unemployment Insurance Fund, claims against the foreign currency reserves, the liabilities of provincial governments, liabilities of extra-budgetary public sector institutions, the liabilities of government agencies and potential liabilities in support of the banking sector. Such a report could further serve the purpose of making explicit who is liable in the final instance, aiding the management of contingent liabilities between spheres of government.

Key aspects of fiscal management

Two sets of measures were used to flesh out this section of the questionnaire, namely the requirements under the Constitution and some key aspects listed in the manual accompanying the IMF Code (IMF2, 1998). Appendix II contains a table with detail on both these sets of requirements.

The Constitution sets the requirement that national legislation has to be enacted to set out roles and responsibilities in principle for key aspects of fiscal management, including budget planning, approval, execution and oversight. It requires the establishment of a National Treasury and the need for measures to ensure both transparency and expenditure control in each sphere of government by introducing generally recognised accounting practice, uniform classifications and uniform norms and standards.

It requires legislation to

- regulate the flow of money through the National Revenue fund;
- put in place a pro-transparency budget process that promotes accountability and effective financial management of the economy, debt and public sector;

⁶ The drafting of a Budget Reform White Paper was first raised in 1996 at a Budget Reform Conference organised by the Department of State Expenditure. The project has since moved to the Department of Finance. It is expected that the White Paper will provide a policy framework for overall public expenditure management. This policy document is now expected this year as stated by Finance Minister Trevor Manuel in the 1999/2000 Budget Speech.

- prescribe budget formats for all spheres of government;
- prescribe fair, equitable, transparent, competitive and cost-effective procurement procedures;
- set conditions for the issue of guarantees by all spheres of government;
- regulate fiscal relations between the spheres of government.

(Constitution of the Republic of South Africa, 1996: Sections 213, 215, 216, 217, 218, 219, 226)

The enactment in February 1999 of the PFMA and the Public Finance Management Act Amendment Act (PFMAB, Bill 27 of 1999, applicable to the provinces) entrenches these principles in enabling legislation. It further obligates the national treasury to publish regulations that will refine the framework requirements of the Act.

Earlier acts -- such as the Intergovernmental Relations Act (Act 97 of 1997) that established the Budget Council⁷ and the Local Government Budget Forum⁸, and the Finance and Fiscal Commission Act that established the commission and its advisory responsibilities -- set out roles for individual institutions.

However, legislation for the clear assignment of fiscal management responsibilities between the executive and the legislature remains a significant omission. The Constitution assigns to Parliament the crucial dual roles of policy making through legislation and oversight over the executive through monitoring the direction of policy, amongst other by approving and debating expenditure and revenue plans and holding the government to account on the execution of these plans. It therefore grants the legislature amendment powers over the budget in principle, but leaves it to national legislation to determine what exactly these powers should be. On the other hand, the Constitution assigns to the executive the mandate to formulate policy and to design, fund and run programmes to give effect to policy. In the continuing absence of the enabling amendment powers legislation it is unclear how the legislature is to fulfil its responsibility to scrutinise the budget.

The IMF Manual on Fiscal Transparency lists the following requirements all of which are covered by existing legislation:

- The budget should be comprehensive
- Budget transactions should be in gross terms
- A minister responsible for finance should be so designated
- Individual agencies should be held accountable for collection and/or use of resources by these agencies
- Audited reports should show clearly how public funds have been used

The manual also identifies the need for clear and stringent conditions for the use of contingency funds. This is not covered by existing legislation.

One respondent pointed out that whereas an extensive legal basis for the budget exists, it is spread over many acts and documents: there is no agency or body tasked with ensuring that all

⁷ Consisting of the Minister of Finance and the Provincial Members of Executive Council (MEC) for Finance.

⁸ Consisting of the Minister of Finance, the MECs for Finance, 5 representatives of the national local government organisation, and one member of each provincial local government organisation recognised in terms of the Organised Local Government Act, 1997.

actors fulfil their legal obligations; and there is no budget law that ensures full coverage. Several in-government regulations qualify and expand published budget rules, making clear understanding difficult for stakeholders outside of government.

The legal basis for sub-national expenditure responsibilities and tax powers

The Constitution assigns either concurrent or exclusive expenditure responsibilities to the spheres of government. Functional areas of concurrent responsibility (joint competencies) are listed in Schedule 4 of the Constitution (for example health, housing, education, welfare services and policing). Exclusively provincial functions are listed in Schedule 5 (for example abattoirs, ambulance services, provincial roads and traffic). Other functions remain at national level (for example defence and foreign affairs). Co-ordination of some local government matters are shared between national and provincial (municipal health services, municipal airports, municipal public transport) while others are provincial (street lighting, cleansing, municipal roads).

The taxing powers of sub-national governments are still murky. The Constitution grants provinces the right to levy certain taxes as long as it does not interfere with national policies and is done in accordance with national legislation. This legislation, which may for example leave room for provinces to put a provincial surcharge on income tax, is still outstanding. The debate around what provincial taxing powers should be, given equity, redistribution and efficiency considerations, is only just starting. Provincial own revenue is therefore restricted to levies, user charges and fees and in total comprise on average only 5% of provincial budgets. Respondents agreed that there is little clarity about the future tax powers of sub-national governments. Whereas it is very clear what the nature of current sub-national tax powers are, it is less clear what they ought to be and what they will be, once enabling legislation is in place.

The legal basis for taxes

Respondents felt that taxes are raised according to legislation approved by the legislature. South Africa also has a well-established tax case law, as well as transparent and well-established procedures for negotiating concessions and settling conflict. Tax regulations are published by the South African Revenue Services (SARS) in guidebooks and distributed to all taxpayers with their tax returns. Additional popularised booklets explaining regulations and procedures are available.

The rights and obligations of the state vis-à-vis the taxpayer and vice versa are also made transparent by the adoption by SARS of a code of conduct in 1997 when it gained managerial authority independent of the then public service regulations. This code is applicable to all taxes and governs the way in which officials of the SARS shall interact with the public. Furthermore, a SARS client charter was published in the 1998/99 Budget Review that sets out the rights and obligations of taxpayers.

Despite the above, some respondents felt that tax regulations are still not very clear. There are many people who have no idea how their tax is calculated. The base tax system is seen as non-transparent, even if additional regulations are well explained. Another respondent however emphasised that in a modern economy all tax codes are likely to be complex, and that South Africa is no worse than any other country. In fact, the South African Revenue Service issues notes and procedures on contentious issues that can be applied uniformly.

Most respondents to the tax questions felt that the law and incidence follow each other fairly closely in South Africa, compared with other countries. Some respondents remarked that tax compliance is far from complete in some sectors. This argument is borne out by year-on-year improvement in collections.

A respondent from the Department of Finance remarked that whereas there may be a legal basis for taxes, there is enormous lack of transparency on the rationale behind new tax regulations and their impact. The information systems of the South African Revenue Services are set up in such a way that aggregating tax information across individual tax records is not always possible – blocking the easy assessment of the impact of tax policy. This makes it very difficult for the legislature and civil society to evaluate any of the tax proposals in the budget despite improved information on tax proposals published in the last two years' Budget Reviews. There is also no ex-post accounting of the effects of new tax proposals, making it difficult for the executive to plan and justify future tax proposals, and difficult for parliament to fulfil its oversight role, both before and after taxes are published.

Summary

Since the 1994 democratic election, the legislative framework for fiscal relations, budgeting and financial management has changed in line with the dictates of the pre-election negotiated agreement on the structures and functions of government. Many of these changes have impacted on transparency.

The following analysis gives a brief overview of legislative milestones for transparency, as well as remaining shortcomings of the legislative framework.

The final Constitution (Act 108 of 1996) entrenched a degree of transparency in budgeting and financial management. It did so, however, only in principle. In the two years since the enactment of the Constitution the South African government has passed further national framework legislation that translated these principles into a set of practical arrangements. Of these the recently enacted Public Financial Management Act has been the most significant for all spheres of government. It assigns roles and responsibilities to various actors; it sets out the framework for consistent budget and reporting formats; and beefs up the reporting requirements. The Act also consolidates budgeting and reporting requirements for extra-budgetary public entities. Other significant acts are the Intergovernmental Relations Act that clarifies roles within a framework budget process.

The post 1994-government has continued transparent tax practices in that all taxes are levied in accordance with legislation. It has further tried to clarify roles and responsibilities in the tax system by issuing a tax officials' Code of Conduct and a tax payers' Charter.

Compared to these positive features of the legislative framework for transparency practices, we note these concerns:

- National legislation to give form to parliament's oversight duties over the budget still needs to be passed. In the participation context, this is a crucial omission.
- Parameters for the reporting of liabilities in the current legislation, have not been extended to include contingent liabilities.
- Legislation on provincial tax powers is still outstanding.

- Current legislation sets out detailed executive transparency requirements, but does not task any one body with policing these requirements.
- It needs to be seen whether current information systems and management capacity will be equal to the increased transparency requirements under the new legislation. There is considerable doubt that it will. The implementation of legislation is therefore now the bigger challenge.

This section of the paper/questionnaire dealt with the legal requirements for transparency. Given that key pieces of national legislation have been passed in support of transparency requirements (Public Finance Management Act), while key pieces (amendment powers, provincial taxing powers) are still outstanding, we rate South Africa as medium on the legislative framework for transparency. We note however the relative strength in the area of taxes.

SECTION 2

Clarity of Roles and responsibilities in practice

We have established in the *Introduction* that the transparent management of the public finances means that the electorate can hold specific parts of government accountable when things go wrong. In this way, transparency provides an incentive for individuals in government to govern better.

As the IMF Manual on Transparency points out, in an intergovernmental system clarity on roles and responsibility is not only absolutely essential, but also much more difficult to obtain. In a country with multiple levels of government (such as South Africa) budget transparency requires at a minimum that the roles different levels of government play in budget decisions and their responsibility for budget execution should be clear.

In South Africa sub-national governments are elected separately from national government, but have very little taxing powers. As seen in the previous section, the Constitution assigns expenditure responsibilities per function to either or both of the national and provincial spheres of government. It does so, however, only in principle. In order to reap the better governance benefits of accountability, the practical arrangements for the assignment of roles and responsibilities should leave little doubt as to the location of decision making power and execution responsibility.

As will be explored in this section, the practical arrangements in the South African case fall far short of such transparency. All respondents to the questionnaire agreed that the assignment of expenditure and tax responsibilities between spheres of government is unclear or emerging. This creates room for spheres of government to point fingers at one another when responsibility for over-expenditure or failure to deliver services needs to be located. Two sets of factors contribute to the obscuring of roles.

Firstly, the national and provincial governments in South Africa share the same budget cake. Currently provincial own revenue⁹ contributes on average only 5% to total provincial expenditure. Yet provinces spend 55-60% of the consolidated non-interest national budget. If allocative roles and expenditure responsibilities of the different spheres were clear, accountability for public moneys could follow. However, respondents agreed that there are several factors in the way revenue is divided and in the balance between revenue assignment and expenditure responsibility which exacerbate the asymmetry between taxing powers and expenditure responsibility. We briefly consider the following:

- In the South African system the decision on the division of revenue is firmly located in the national sphere of government. Respondents agreed that whereas the Constitution envisaged a key role for the Finance and Fiscal Commission in ensuring agreement on the assignment of revenue, it never gained enough influence to fulfil its function as an independent advising body. In the 1996/97 budget, the FFC recommendations for the vertical split¹⁰ were ignored. By the 1997/98 budget its horizontal split¹¹ recommendations were also set aside and replaced by the national Department of Finance's formula¹². For the 1999/2000 budget the FFC did not even table its recommendations in Parliament. An ineffective FFC means that the independent authority that would have given weight to the equitable shares is lacking. The implication is that provincial governments were able to argue consistently to their legislatures and publics that they are not responsible for overspending or non-delivery on their mandates.
- National policy decisions and national norms and standards in the joint competencies furthermore bind provinces to spend the largest proportion of their budgets on national spending mandates. Often these are unfunded¹³. In effect this means that although provinces have prima facie budget decision making powers in terms of the Constitution, they have de facto discretion over only a small proportion of their budget. This means that in practice provinces cannot take up the expenditure responsibilities assigned to them in the Constitution.

Secondly in the joint competences the roles of the spheres of government is not clear. Broadly speaking, national is responsible for policy and for norms and standards, while provincial governments are responsible for delivering the services. One respondent pointed out that

⁹ Provincial own revenue refers to revenues that provinces collect for deposit into their own revenue accounts and over which they therefore have control. Examples are license fees, gambling taxes and the income of provincial toll roads. Currently these account for only 5% of provincial revenue.

¹⁰ The division of revenue between spheres of government.

¹¹ The division of revenue between provinces.

¹² The change in formula and subsequent variations on the Department of Finance formula has also meant that the principles behind the assignment of revenue to provinces has not been stable, rendering it in itself less than transparent.

¹³ An example of an unfunded mandate is the obligation under national legislation to pay out social security grants to all eligible recipients. Provinces have to find the money for these within their equitable share, ie the grants are not funded on a case by case basis from the national level. In the case of the Northern Cape, for example, where take-up rates have been historically high, social security payments make up a disproportionate spending obligation for the provincial government. Another national spending obligation is public service wages. These, on a national and provincial level, are determined through negotiations nationally. As the national sphere has not yet provided any retrenchment tools with which to rightsize the personnel component of programmes, provinces do not have the option to pay less people the higher wages. In effect the size of the salary bill becomes another spending mandate from national government, making provinces even less accountable for overspending and for delivering on their mandates.

historically available capacity determines what happens where, and that this occurs inconsistently across sectors. Education is a good example: in the 1998/99 budget year the national department not only took over the delivery of text books to provinces which were without books (a provincial responsibility), but for a period also entertained the notion that provinces should be allowed to set their own teacher/pupil ratios (a national responsibility). It is hoped that a move towards sectoral policy making in the budget process that includes provincial governments will contribute towards greater transparency on policy goals and how they are to be achieved, given existing constraints.

Despite the above concerns, it would be unfair not to pay attention to efforts to make explicit the expenditure responsibilities of sub-national governments. For example, the Budget Council, an intergovernmental body of national and provincial ministers, now discusses and agrees to the vertical and horizontal divisions of revenue. This should help prevent recommendations going to Cabinet if they are under-funded. The medium expenditure framework (MTEF) enables national and provincial spending departments to plan within spending trajectories, making it more difficult to agree to allocations in the Budget Council, and then to argue cases of underfunding when they are unable to stick to their budgets. The Public Finance Management Amendment Bill further obligates the national sphere to attach to national legislation with provincial budget implications a memorandum assessing the potential cost to provinces. This gives the national legislature (including the provincial chamber where relevant) an opportunity to ratify the provincial implications of national policy decisions. Finally, the exercise by the national sphere of its Section 100 powers¹⁴ in the case of three provinces, has forced these provinces to accept budget constraints and responsibility for delivery within these constraints. Whereas this is an extreme measure, it has had the effect of setting precedents that make explicit provinces' expenditure responsibilities.

Summary

Although the Constitution assigns clear taxing and spending powers to the different spheres, in practice there has been a great deal less clarity in the assumption of roles and responsibilities by the spheres of government. In fact, the planning and execution of the first post-election budgets have been mired with disagreements between the spheres on the sufficiency of revenue transfers, efficiency of expenditure and policy/budgetary control. This has made it very difficult for the legislatures, as well as the electorate, to know whom to hold accountable for either budget planning or budget execution.

Whereas new institutional arrangements like the Budget Council, the MTEF budget process and the strict assignment of accountability under the PFMA represent improvements in practice to enforce constitutional roles and responsibilities, fundamental problems remain that allow sub-national spheres to deny budgetary responsibility. These problems are rooted in the lack of provincial taxing powers commensurate with expenditure responsibility and concern the division of revenue process and the effect of national spending mandates on provincial budgets. Confusion on the roles of the spheres in the joint competences further obscures the transparent assignment of accountability for effective policy and efficient spending.

¹⁴ Section 100 of the Constitution grants the national government the right to intervene or take over a provincial government in the national interest. The Minister of Finance has used these powers to grant three provincial governments bail-outs conditional on a revamp of budgets and hard future budget constraints.

In weighing up these factors and respondents answers to our questionnaire, we rate the South African system as weak on the clarity of subnational roles and responsibilities.

SECTION 3

Public Availability of Information

A fundamental requirement of fiscal transparency is that comprehensive, reliable and useful budget information is made available.

This section firstly examines the comprehensiveness of budget documentation as regards

- the budget framework;
- fiscal stance;
- budget classifications;
- extra budgetary activities; and
- actual spending information.

Secondly it focuses on the reliability of budget information by testing for divergence between budget plans and actual spending. Thirdly it evaluates the usefulness of budget information.

Comprehensiveness of budget documentation¹⁵

Since 1994 the national Department of Finance has systematically been expanding the breadth and depth of annual budgetary information. Nowhere is this better illustrated than in column three of the table detailing the availability of budget information as per the transparency questionnaire in Appendix 3. The only requirement that was fulfilled before 1994 was the publication of programme and line item data. All other requirements have been fulfilled through subsequent transparency developments.

These developments are contained in four sets of documents:

- The macro-economic framework Gear (Growth, Employment and Redistribution Strategy) was published late 1996 and includes macro-economic growth, employment and deficit assumptions and targets up to the year 2002. These targets are repeated in the budget documentation.
- The Medium Term Budget Policy Statement (MTBPS) is published in November of the year preceding the fiscal year to which it pertains.
- The Budget is tabled every year in February (since 1999, previously in March) and consists of the Estimates of Expenditure, the Division of Revenue Bill and a Tax Acts Amendment Bill. The Estimates of Expenditure is supplemented by a comprehensive Budget Review, which is

¹⁵ The questionnaire specifies a list of transparency requirements for budget documentation. Appendices I and III table our response to these requirements. Appendix III lists the location and frequency of publication of data under each requirement. The main text of this section is restricted to demonstrating a trend towards greater transparency, followed by a discussion on issues surrounding the publication of budget data.

largely discursive document in support of the Estimates. A National Expenditure Survey has been published for the first time this year (1999), as well as an Intergovernmental Fiscal Review (mid-year). The latter document represents a review by the National Treasury of provincial expenditure trends.

- A supplementary budget is published at the end of the fiscal year to which it pertains.

Budget Framework numbers

Current Budget Documentation includes most of the required budget framework information. This has been a fairly recent development. One catalyst has been the implementation of Gear, which set up the targets and required fiscal policy to be based on the macro-economic framework and forecasts.

The introduction of medium term budget planning in the 1998/99 budget year expanded the annual agency and programme forecasts of pre-1994 documentation to a three year period. National data is published in the consolidated Estimates of Expenditure, as well as in the Budget Review. On provincial level, Expenditure Estimates and Reviews are provided for each province. The new National Expenditure Survey tabled with this year's budget, added contextual information on a national level for every vote. The Intergovernmental Fiscal Review added sectoral contextual information for provincial expenditure.

A pre-budget statement was issued for the first time in November 1997. The MTBPS spells out government's medium term fiscal policy objectives and priorities. These are repeated and updated in the Budget Review.

Indicators of fiscal stance

The budget documentation for consolidated government contains several indicators of fiscal stance. Tables in Annexure B of the Budget Review include overall balance, current balance, primary balance, public debt indicators and liabilities. The budget documentation does not compare estimated indicators of fiscal stance with the actual outcomes. Comparisons of year on year changes are restricted to publishing the previous year's estimates. However, analysts could monitor these indicators by referring to data published by the Reserve Bank.

As far as indicators of the central government's financial position is concerned, Annexure B of the Budget Review gives overall balance, primary balance and current balance. The budget deficit, however, is presented in the budget and taken up by the press and analysts as the acid test summary indicator of the financial position.

There are some concerns that the schedule of contingent liabilities is defined too narrowly. The national budget excludes provincial overdrafts, university debt, non-departmental organisations, research councils, government agencies and social security and other funds. Table 9 of Annexure B in the Budget Review contains financial guarantees furnished by national government, but does not cover all potential shortfalls that may have to be covered by the budget, such as those incurred by Public Entities or Public Enterprises.

The debt table, Table 8, does not include provincial debt. It also excludes extra-budgetary institutions and social security funds, making it difficult to assess the full liability risk of the

consolidated government. The budget documentation contains no information on quasi-fiscalities¹⁶ or on tax expenditures¹⁷. It also does not include a statement of financial assets and liabilities, or one of net worth¹⁸.

Forecasts

Fiscal policy and budgeting is based on medium term macro-economic forecasts. These are supported by limited analysis, including some reference to assumptions. The medium term assumptions are updated twice a year, once in the MTBPS and once in the Budget Review. The discussion of the economic outlook in the 1999/2000 Budget Review was much improved in scope and depth over the previous years' analysis.

The assumptions, parameters and models underlying the macro-forecasts are not available for public scrutiny. Government forecasts make use of the Reserve Bank model, as well as models from the Council for Scientific and Industrial Research and the University of Stellenbosch. These are not open to independent assessment.

Further, the interaction between the fiscal framework and the macro-forecasts is based on a set of policy guidelines in the medium term macro-economic strategy document, Gear. Gear was drafted by a panel of economists during a closed process and is based on the same models. Since its announcement Gear has controversial. Its major opponents included the labour movement and prominent pro-poor non-governmental organisations.

Given that the macro-economic growth projections of Gear have not been achieved (see page 35 below), that the drafting process was closed and the models are not open to scrutiny, public reaction to the budget is often still overshadowed by debates on the integrity of the macro-forecasts and the validity of Gear. Greater transparency may have enhanced consensus and could have released scarce capacity and time for debate and scrutiny of allocative or operational issues.

Classifications

The Constitution requires the national Treasury to introduce uniform expenditure classifications in the interest of transparency, simplicity and comparability. This would entail changes to vote structure across the provincial and national budgets, as well as changes to the way in which expenditure is classified within votes and programmes. A programme, led by the Department of State Expenditure¹⁹, is currently underway to pilot these changes in the 2000/2001 budget.

¹⁶ Quasi-fiscalities would result from government activities or regulations that have indirect fiscal implications, either on the tax or revenue side. An example would be the directed lending by banks for public services provided by non-financial public enterprises through the cross-subsidisation from their commercial activities.

¹⁷ Tax expenditures would be the cost of tax concessions, for example the cost of excluding certain categories of mining companies from a general company tax.

¹⁸ A strong argument can be made that focus on the deficit as an indicator of fiscal position can be misleading, especially in cases where governments sell off assets in order to reduce the deficit. Net worth, which includes assets and liabilities as variables, increases provides a longer term focus to assessments of fiscal position.

¹⁹ Currently the National Treasury consists of the Departments of Finance and State Expenditure. They are however soon to amalgamate into one department.

Currently consolidated expenditure is classified first by vote (which often coincides with an individual administrative agency, but not necessarily), then by programme with line items within programmes. Up till the 1999/2000 Budget programme information was also classified according to capital and current expenditure and according to standard items. The standard items classification is not a system used internationally, nor does it correspond with the economic classification of expenditure used by the Reserve Bank and Statistics South Africa. From the 2000/2001 budget Government intends to move towards a system of economic classification of planned expenditure. This will replace both the current standard items and current/capital expenditure classification. The new system not only simplifies the classification of expenditure, but makes it compatible with international systems. It can furthermore be used to break down expenditure in a way that is almost exactly comparable to the previous classifications, as is demonstrated by the table below.

Standard items classification (old system)	Economic classification (new system)
	Current spending
Personnel expenditure	Remuneration
Administrative expenditure	Goods and services
Stores and livestock	
Professional services	
Transfers (current)	Current grants to persons & households
	Subsidies
	Capital spending
Equipment	Transport equipment
	Machinery and equipment
Land and buildings	Land and buildings
	Infrastructure & construction
	Other fixed assets
Transfers (capital)	Capital grants
	Net lending & financial transactions

As government will in future account for expenditures in accordance with the economic classification system and as these will be captured through the classification of account codes in the information systems, it will make the Reserve Bank and Statistics SA data more reliable. In the past these were derived manually from the standard item accounts produced by government.

Extra-budgetary institutions

The transparency questionnaire, as well as the IMF Code, is particularly concerned with the transparency of extra-budgetary institutions. Transparency on the extra-budgetary activities of the state has two results: it makes clear the extent of the role of the state in the economy and secondly, it makes explicit the fiscal implications of such activities.

Transparency on extra-budgetary activities would be conducive to better overall decision making because:

- User charges levied by extra-budgetary institutions (EBIs) are an alternative form of tax and should be included in revenue to give a complete picture of the size and distribution of the tax burden.
- The affairs of funds like the Unemployment Insurance Fund should be included in any picture of the public finances since the burden for any shortfall in revenue often reverts to the fiscus. Crises can then be detected sooner, and adjustments made.
- Transparent fiscal management requires that all fiscal activities should be subject to scrutiny as part of the budget process. Although EBIs are managed independently and have standing legislative authority, they should still be reviewed periodically as they directly or indirectly use public resources and should be part of the priority setting process.

For the sake of simplicity and comprehensiveness, we have consolidated our discussion of transparency on extra-budgetary institutions in South Africa in this section of the paper. The discussion draws on several questions in the questionnaire.

The first two months of 1999 saw two pro-transparency developments in the publishing of information on extra-budgetary institutions, namely the passing of the Public Finance Management Act (PFMA) and the inclusion of more extra-budgetary information in the Budget Review.

The PFMA introduces three changes regarding extra-budgetary activities:

- It casts a net over most EBIs by classifying all boards, commissions, companies, corporations, funds or entities established in terms of national legislation or under ownership of the state as public entities. These can be either a national public entity that is fully or partially funded by the state, or a national government business enterprise that is under the ownership control of the executive and not funded by the state.
- It requires all of these to be listed under Schedules 2 and 3, thereby for the first time setting a legal requirement for the public availability of a comprehensive list of extra-budgetary institutions.
- It standardises the budgeting and reporting requirements of all the listed institutions and extends the accountability provisions of the act to the accounting authorities of public entities. It requires the auditors of public entities to submit reports to the relevant legislatures, thereby ensuring transparency on EBI activities and financial affairs.

The Public Finance Management Amendment Bill (PFMAB) extends these provisions to provincial public entities. However, whereas the new legislation establishes a central list of EBIs, it does not require consolidated reporting by government on its extra-budgetary activities²⁰, and secondly, the lists still excludes for example institutions of higher education.

²⁰ The 1998 Budget Review included a table which give the consolidated revenue, expenditure and deficit/surplus for extra-budgetary institutions. This table was omitted in the 1999 Budget Review. This is an instance of information that is volunteered – i.e. not required by law or regulation -- one year and then not published subsequently.

Changes to the 1999/2000 Budget Review represent an effort by central government to consolidate data on EBIs. The Review takes several steps to bring the South African Budget closer to international standards. Tables in this document are constructed to include extra-budgetary institutions (EBIs), and where data is available, donor funds, as well as more information on local governments.

The following table sets out how aggregate figures are put together in the new National Government Accounts table of the 1999/2000 Budget Review. Figures in bold were either not represented or under-presented in previous tables:

<u>CENTRAL GOVERNMENT</u>	+ EBIs
+ provincial conditional grants	+ Social Security Funds
+ provincial equitable shares	<u>CONSOLIDATED</u>
+ local government equitable share	CENTRAL
<u>= NATIONAL BUDGET</u>	GOVERNMENT
+ provincial own revenue	
<u>= CONSOLIDATED NATIONAL AND PROVINCIAL BUDGET</u>	
+ Extra Budgetary Institutions	
+ Social Security Funds	
<u>=CONSOLIDATED CENTRAL GOVERNMENT + PROVINCES</u>	
+ Local Government (excluding business enterprises)	
<u>=GENERAL GOVERNMENT</u>	
+ National Parastatals	
+ Provincial Parastatals	
+ Local business enterprises	
<u>=PUBLIC SECTOR</u>	

This resembles much more closely what is required by the IMF standards and makes it easier to compare South African budgetary data with data from other countries.

On national level the Estimates of Expenditure and the Budget Review distinguishes between budget and extra-budgetary funds. Annexure B of the Budget Review classifies revenues, financing and debt in a way that is compatible with Government Finance Statistics standards of the IMF. Provincial overdrafts are excluded, however. The Budget Review includes a GFS-consistent account of national government including all numbers that fall within the GFS net, but outside the South African national budget. The Budget Review reconciles this table with the national budget classification. It distinguishes between budget and extra-budgetary funds.

Availability of actual spending information

Up till the enactment of the Public Finance Management Act, fiscal reporting to the legislatures took place once a year, and audited financial statements were available two years after the budget had been tabled. Both the frequency and timeliness of fiscal reporting, as it stood, made it difficult for legislatures to fulfil their oversight role.

In accordance with the PFMA audited statements on spending of provincial and national departments, legislatures, constitutional institutions, public entities and enterprises must be presented to the relevant legislatures within seven months after the end of the financial year. This is five months earlier than previously.

A more significant change is the requirement that the national treasury must also publish monthly statements within 30 days after the end of each month on the actual revenue and expenditure per vote from the National Revenue Fund. The PFM Amendment Bill extends these provisions to the provincial treasuries and provincial revenue funds. This means that actual expenditure data will be available year-round. The data is released to the public through a monthly release and is available on the Department of Finance's website.

The Reliability of budget information

The questionnaire tested two indicators of reliability: the incorporation of information on risks to the fiscal position and the reliability of expenditure and revenue estimates.

The budget presentation includes a discursive assessment of risk: it sketches a low and a high economic forecast scenario and indicates factors that could affect those. Further indicators of risk can be found in the contingent liabilities table in the Budget Review.

In testing the expenditure and revenue estimates, we calculated the average absolute deviation of outcome numbers from estimates on four levels:

- Medium term macro-economic forecasts
- Budget framework
- Expenditure between votes on a national level
- Types of expenditure within a vote (provincial)

Medium term macro-economic forecasts

The South African economy has consistently failed to achieve the overall growth rates forecast in Gear and in subsequent budget documentation. The real GDP growth rate forecast for 1996/97 was 3.75%, it turned out to be 3%. The comparative numbers for 1997/98 were 2.5% and 1.5% (Budget Review, 1998:2.2). The 1999/2000 MTBPS published in November last year, already adjusted projections for 1998/99 to 0.2% (MTBPS, 1998: 30), compared with the 3% projected in the Budget Review, 6 months earlier.

Expressed as a ratio with GDP these adjustments are not huge (R734 billion to R656.9 estimated GDP for 1998/99). However, the knock-on effect on the fiscal framework over the medium term is considerable given a programme of deficit reduction. For the 1999/2000 fiscal

year it has meant a nearly R3 billion adjustment in the projected deficit, and more importantly, a close to R1 billion adjustment in expenditure. In order to still achieve GEAR targets of a 3% deficit by the year 2002, the 2000/01 fiscal years has absorbed an adjustment in expenditure estimates of approximately R6 billion over the baseline. And that is based on a 2, 3 and 4% projected GDP growth in the base and outer years for the 1999/2000 fiscal framework.

Budget Framework

Government, since the introduction of GEAR, has succeeded in delivering an actual deficit within range of its target. This, however, is not attributable to precise revenue or expenditure estimates. Since 1996/97 improved collections on the revenue side have offset over-expenditure. The table below records planned estimates and actual outcomes for the budget framework since 1995/96.

*Planned and Actual Revenue, Expenditure and Deficit for the fiscal years 1995/96--
1998/99*

R billion	1995/96 Budgeted	1995/96 Outcome	1996/97 Budget	1996/97 Outcome	1997/98 Budgeted	1997/98 Outcome	1998/99 Budgeted	1998/99 Revised
Revenue	125.96	126.06	142.99	146.52	161.98	163.49	177.6	178.89
Expenditure	153.02	151.83	173.66	176.29	186.75	190.61	201.3	204.29
Deficit	28.06	25.56	30.68	29.77	24.77	27.12	23.7	24.36

Source: Budget Review 1997, 1998.

If one takes the absolute deviation of actual outcomes from planned estimates (see table below), the average over the four years calculated from the table is 2.8%. In the 1997/98 budget year recorded the biggest deviation (4.2% average absolute deviation over the three estimates). Of the three estimates, the actual deficit deviated the most (6% over the four years²¹) from the planned deficit.

²¹ The deficit in 1995/96 was approximately 8% lower than estimated in the budget, while the 1997/98 deficit was approximately 9% more than the estimated deficit. Both these years were followed by a deficit within 3% of the estimate.

Percentage absolute change from budget framework estimates 1995/96-1997/98

	1995/96	1996/97	1997/98	1999/2000	Average over four years
Revenue	0.08	2.46	0.94	0.72	1.05
Expenditure	0.78	1.52	2.07	1.49	1.46
Deficit	8.93	2.97	9.47	2.64	6.00
Average over three estimates	3.26	2.31	4.16	1.62	2.84

An average absolute deviation of 2.8% over the four years is not high. The more interesting aspect of the table above is the dramatic improvement from 1997/98 to 1999/2000. The relative stability of the budget framework numbers also masks the greater fluctuations that can occur on the vote and programme level of estimates.

Expenditure between votes on a national level

While the actual level of overall expenditures have not differed dramatically from their expected levels, there have been large discrepancies between expected and actual expenditure levels in particular programmatic areas. On average, over the four fiscal years 1995/96 to 1998/99 actual expenditure deviated from planned non-interest expenditure across all the budget votes by 17%. Over the four years a total amount of R35 billion (6% of total consolidated non-interest expenditure for the 4 years) was overspent in the national votes while a total amount of R62 billion (11% of total expenditure for the four years) was underspent.

Trends for the four years are as follows.

Amounts overspent and underspent on planned national expenditure 1995/96--1998/99

	1995/96	1996/97	1997/98	1998/99
	(in R million)	(in R million)	(in R million)	(in R million)
Amount overspent	3702	12756	13898	4746
Amount underspent	30347	30134	911	225
Total absolute deviation in R	34049	42890	14809	4971
Total national budget expenditure	122494	142191	151128	160880
Average absolute %change from planned expenditure on votes	23%	44%	24%	9%

The votes ranking are as follows:

Average absolute deviation from planned expenditure per national vote over the fiscal years 1995/96-1998/99.

SA Police Service	287.4%
Public Enterprises	113.9%
Central Economic Advisory Ser	40.8%
Land Affairs	40.4%
Constitutional Development	35.8%
Executive Deputy President	35.3%
Sport and Recreation	34.1%
Statistics SA	30.8%
Welfare	30.3%
SA Management Development Institute	26.9%
Water Affairs and Forestry	21.6%
Housing	20.8%
Finance	20.3%
Promoting the RDP	19.4%
Public Service Commission	18.1%
Public Service and Admin	17.7%
Government Communication and Information	15.2%
Health	15%
Dep Pres of the Minority Party	12.7%

Justice	12%
State Expenditure	11.8%
Defence	11.3%
Labour	11.2%
Trade and Industry	10.3%
Correctional Services	10%
Agriculture	8.1%
Independent Complaints Electorate	7.6%
Home Affairs	7.2%
President	7.1%
Foreign Affairs	6.7%
Public Works	6.2%
Environmental Affairs and Tourism	5.6%
Minerals and Energy	5.6%
Transport	5%
Education	4.4%
Arts	4.1%
Parliament	3.1%
Communications	0.7%

(Source: Budget Review 1999, Estimates of Expenditure 1995/96; 1996/97)

Although the average absolute deviation from planned expenditure over the four years (17%) is not inconsiderable, the trend is encouraging. For the 1998/99 fiscal year on average spending in particular departments differed by only 9% from the budget estimates. It would therefore seem that whereas budget estimates were wrong by as much as 43% in the past (1996/97), they may have become more reliable.

Expenditure within programmes

Furthermore actual spending between types of expenditure within programmes, and between programmes within a vote can differ substantially from budgeted expenditure. The differentials, moreover, can vary considerably by province. For example, note the

difference in budgeted and revised personnel expenditure in provincial health and education spending in 1997/98 in the table below.

Budgeted and revised provincial health & education personnel expenditure for 1997/98

Province	Education			Health			
	R,000	1997/98 Main Budget	1997/98 Revised Expenditure	% change	1997/98 Main Budget	1997/98 Revised Expenditure	% change
Eastern Cape		4631622	5850000	26.3	1695924	1900000	12
Free State		1925060	2247000	16.7	727033	1005000	38.2
Gauteng		3981878	5163000	29.7	2355323	3084000	30.9
KwaZulu Natal		5609000	6537000	16.5	2186000	3012000	37.8
Mpumalanga		1469680	2300000	56.5	409068	549645	34.4
Northern Cape		592799	738000	24.5	163445	197000	20.5
Northern Province		4262314	5206000	22.1	964178	1156000	19.9
North West		2355953	2886000	22.5	678005	830000	22.4
Western Cape		2930692	3368000	14.9	1626835	1935000	18.9
Average absolute % change				25.5%			26.1%

(Source: Provincial Estimates of Expenditure, 1997/98; 1999/98)

However, if one looks at the next fiscal year 1998/99, a marked improvement can be seen. This can mostly be ascribed to tighter control over expenditure.

Budgeted and revised provincial health & education personnel expenditure for 1998/99²²

R billion	Education			Health		
	Planned Personnel Spending 1998/99	Adjusted personnel spending 1998/99	% change	Planned Personnel Spending 1998/99	Adjusted Personnel Spending 1998/99	% change
Eastern Cape	5.713	5.942	4.0	2.824	2.995	6.1
Free State	2.15	2.419	12.5	1.566	1.588	1.4
Gauteng	5.042	5.511	9.3	5.246	5.084	3.1
KwaZulu Natal	6.266	6.266	0.0	4.464	4.464	0
Northern Cape	0.684	0.684	0.0	0.357	0.361	1.1
Northern Province	5.115	5.389	5.4	1.87	1.906	1.9
Western Cape	3.162	3.386	7.1	2.911	3.019	3.7
Average absolute %change			5.8%			2.5%

(Source: Provincial Estimates of Expenditure 1999/2000)

The Usefulness of Budget Information

The public availability of information is of little benefit if it is not released in a format that can be understood and assessed. The questionnaire establishes three indicators of the usefulness of budget information.

- Information given on the calculation, aggregation and coverage of data
- The amount of supporting information (on objectives for example) that accompanies budget information
- Comparability of budget information

On a national level a clear statement on the accounting basis and policies adopted in the budgets and accounts of government is made in Annexure D of the Budget Review. The same policies apply to the provincial budgets (as per the Public Finance Management Act), but are not consistently stated in the provincial documentation.

²² The Estimates of Expenditure for the Northwest and Mpumalanga did not include adjusted data on a vote level. These two provinces are therefore not represented in the 1998/99 table.

Policy and budget analysts today have immediate access to much more supporting budget information than in 1994. A milestone is the inclusion of a national Expenditure Review in the budget documentation for the 1999/2000 budget. This document reports on the objectives, funding and activities of spending departments on a programme level for the national government. The Intergovernmental Fiscal Review (published in September 1999) offered similar information on a sectoral level for provincial expenditure. It also provided the first access to comprehensive actual provincial expenditure data in some areas. Some provinces, like the Western Cape, publish an extensive supporting memorandum that fulfills some of the functions of the Expenditure Review on a vote level, but this is not done consistently across the provinces. The absence of information on the objectives and activities of programmes, continues to present a problem.

In assessing South African Budget Documentation for usefulness, it would be unfair not to pay brief attention to the transparency goals that government has set itself. Recent documentation²³ applicable both to national and provincial government requires annual reporting on departmental and programme objectives, planned activities and outputs. The annual report should also include the result of a clients' needs survey conducted earlier in the year. Furthermore, as part of the medium term expenditure planning for every programme, performance indicators must be drafted. These will be consolidated in the provincial and national medium term expenditure frameworks.

In order to be useful budget data should be comparable across years, spheres of government, votes, programmes and between planned and actual expenditure. In researching this paper, the following shortcomings were noted:

- Because of changes in vote structure, planned expenditure is not always comparable across years. In most cases no effort is made to reconcile previous structures with current ones. Examples of this are the division of the health and welfare vote in Mpumalanga and the Northwest into two separate votes. When a new department/vote is created/shut down halfway through a fiscal year, it is difficult to reconcile planned and actual expenditure unless it is published. An example of this is the creation of the Department of Public Service and Administration in the 1995/96 fiscal year and the closure of the Economic Advice Bureau in the 1997/98 fiscal year.
- Provinces do not provide the same data across votes, nor are their votes structured similarly. This means that education expenditure in the Eastern Cape cannot be compared readily with education expenditure in the Northern Province, where the vote includes arts, culture and sports expenditure.
- Some expenditure items, like improvements in conditions of service (ICS) that is the amount national government budgets for annual wage increases for the consolidated budget, are not treated the same across years.
- The Adjustment Estimates contain very little detail on adjustments, making it very difficult to adjust vote and especially programme expenditure accordingly.
- Actual expenditure is consistently reported by the Auditor General, Statistics SA and the Reserve Bank. However, their classification differs from that of the National Department of Finance's planned expenditure, rendering the consistent comparison of actual with planned

²³ The Medium Term Expenditure Framework Document; the Public Service Regulations and the Public Finance Management Act.

expenditure impossible. In order to get comparable data, analysts have to refer to data on actual expenditure published by the national and provincial treasuries. Such data is not published consistently across all votes or across years. This reservation should also be noted against the planned improvement in availability of actual expenditure data in accordance with the PFMA -- although the act prescribes regular public reporting on the state of the budget, it does not specify the format. Unless such reporting is reconciled with the budget estimates, its usefulness will be limited.

Summary

Changes in the structure of government, as well as budget reform measures, have resulted in far-reaching improvements in the budget information available to legislatures and civil society.

Let us consider the milestones:

- South Africa now publishes over 90% of the information required by the survey in its annual budget documentation. In comparison, approximately 30% were published five years ago. The increase in available information did not happen piecemeal, but was catalysed by fundamental changes in the system. These include the introduction of a medium term expenditure framework and the passing of the Public Finance Management Act.
- Since the 1996/97 budget year, the budget documentation has been improving steadily. The national and provincial Budget Reviews have become indispensable guides to the budget. At a national level the National Expenditure Survey has added more detailed information about the objectives of spending. The economic forecast information has also been expanded in scope and depth, include better indications of risk to government's overall position. The Annexures including statistical tables on the government accounts and memoranda to the division of revenue and tax proposals, have been expanded in the 1999/2000 Budget Review to include much more comprehensive information in each area.
- Should the requirements of the Public Finance Management Act be realised, legislatures and civil society will have access to more comprehensive actual expenditure information more frequently. Public entities and enterprises are now included in the net.

Compared to these milestones, the concerns we'd like to raise from this section include the role of government in the economy and the paucity of information management capacity.

- Although the PFMA extends standard budgeting and reporting requirements to public entities and public enterprises, government is still not required to publish a consolidated statement on all extra-budgetary activities. A once a year review of government's extra-budgetary activities, tabled in parliament, will enhance transparency as to the role of government in the economy as well as transparency on the use of public resources.
- The assessment has also identified the following information shortfalls: information on contingent liabilities is not sufficiently comprehensive; as yet the budget documentation contains no information on tax expenditures and the analysis of tax policy and incidence can be expanded.
- The continued divergence between projections and actual outcomes still indicates that budget data remains unreliable. Progress is needed especially at the between vote and within vote level. It is noted that the 1998/99 fiscal year saw a marked improvement in the reliability of expenditure estimates. This can be ascribed to increased treasury control measures, as well

as an improvement in the government's information bases for the national sphere and nine provinces. It took four fiscal years after the 1996 policy decisions for budgets to reflect actual spending obligations in terms of these decisions²⁴ It is however too soon to establish whether this is a once-off event, or a permanent improvement in budgeting systems now able to withstand future shocks.

- The continued absence of information on objectives and the efficiency and effectiveness of spending detracts from the usefulness of available information. This is especially true at the provincial tier. There is very little trust in the capacity of government information systems to generate accurate and suitable information to comply with the requirements of the PFMA.
- The use of inconsistent classification of budget data across votes and spheres of government, as well as between planned and actual expenditure, complicates comparisons across categories detracting from budget transparency.

Even though the concerns above are important, the improvements in the availability, reliability and usefulness of budget information since 1994 merit a rating of medium in this section.

²⁴ The 1996 wage agreements not only set up large increases for a three year period, but in some sectors also included agreements on simplifying wage structures which on average moved personnel into higher salary brackets. There was no data available to predict the impact of these decisions. Other policy decisions with severe spending implications included the move to free health care for pregnant women and children. This led to increased expenditure, as well as reduced own revenue as previously user-charges were levied.

SECTION 4

Independent Checks and Balances of Budget Execution and Government Data

A critical requirement of fiscal transparency in the context of democracy is the opportunity for legislatures and civil society to assess whether government undertook what it planned in the budget. The survey is therefore concerned with the integrity of actual expenditure data, as well as with internal checks on consistent budget execution.

The questionnaire tested the following aspects:

- The independence and effectiveness of the national audit and statistics offices;
- The regulations governing procurement;
- The rules governing emergency expenditure;
- The existence of early warning systems in case of poor budget execution.

Independence of the national auditing and statistics offices

National statistics are collected and collated by an independent institution, Statistics South Africa. Economic outcome data, as well as the data on the national government accounts, are reliable.

The Constitution guarantees the independence of the Office of the Auditor General. Provincial Auditor Generals fulfil the functions of the national body for provincial governments, but report to the Auditor General. In practice the funding mechanism in place for the Auditor General enforces independence. The office of the Auditor General does not draw its funds from a budget vote, as in other countries. Rather it operates by invoicing departments on a time basis. Departments are required to budget for their audits, as do companies in the private sector. The Auditor General issues warnings to departments during audit, should this budget be breached. This has the further effect of setting up an incentive for departments to account accurately for expenditures, minimising potential audit problems and therefore their audit cost.

Currently, the Auditor General's mandate has been extended to not only monitoring and reporting on the accounting for funds used, but also to the efficiency and effectiveness with which they have been used, as well as adherence to prescribed rules and procedures, for example procurement procedures.

Officials in Office of the Auditor General (AG) expressed concern as regards government information and accounting systems. Staff of the AG pointed out that previous attempts to universally reform the system and institute consistent information systems have failed because of the lack of political will in seeing it through, and because the systems redesign did not take adequate account of users' needs. As it is the users who determine the quality of information going into the system, their buy-in is crucial to ensuring that quality information is produced within it. It was feared that in the current redesign the same fundamental errors are being made.

The AG also pointed out that whereas his office has a mandate to audit the activities of public institutions, they have no exclusive mandate to audit extra budgetary institutions. These are mostly audited by private sector auditing firms, whose auditing scope are notably more limited than that of a public auditor who also has to report on the efficiency of expenditure and procedural compliance with prescribed norms and standards. One example of the potential danger of such arrangements is the Mpumalanga Parks Board deal with the Dolphin Consortium. Although the Board's auditors gave the deal a clean bill of health, the AG decided to obtain a special mandate from Parliament to investigate the deal, a procedure which unearthed several irregularities.

The Auditor General expressed some disappointment at the lack of follow-up on his recommendations. It was felt that both the legislatures and the executive often wait until abuse of systems have resulted in fraud and corruption before taking heed of warnings on weak adherence to for example the procurement procedures or financial reporting requirements.

Procurement regulations

The current regulations around procurement sets up a net of tender boards, provincial and national, and a procedure for inviting and evaluating tenders.

Respondents to the questionnaire recognised that

- Current procurement processes are unnecessarily complex and non-transparent, rendering them inefficient and creating opportunity for corruption.
- Current regulations are not always observed in practice, leading towards inconsistent application and corruption. The most recent Auditor General's report covering the 1997/98 financial year noted several instances of non-adherence to procurement procedures across all votes and provinces. The reasons ranged from ignorance of, to deliberately ignoring the rules and regulations.
- Current procedures are costly, adding unnecessary cost to the price of the resource purchased, and should be streamlined.

The Constitution calls for national legislation to ensure fair, equitable and cost-effective procurement systems across the public sector. It does not, however, say which agency should take responsibility. Given the complexity and inflexibility of the current rules and regulations, the Department of Public Service and Administration has expressed its intention to draw up new regulations that will simplify the system. Some provinces have in the meantime proceeded to draft their own regulations. On the other hand, the PFMA makes it the responsibility of agency accounting officers and accounting authorities to ensure that a fair, equitable and cost-effective system is in place and tasks the National Treasury with drawing up a framework within which systems can operate. It is expected that a Draft Procurement Bill will clear up some of the uncertainties around the regulations.

Emergency expenditure

The Public Finance Management Act sets out clear procedures for emergency expenditures. The Minister of Finance may authorise the use of funds from the National Revenue Fund to defray expenditure of an exceptional nature which is not provided for in the current budget and which cannot without serious prejudice to the public interest be postponed until the next budget. The

combined amount of all authorisations in any year may not exceed 2 per cent of the overall expenditure allocation of the consolidated national budget. An amount thus authorised must be reported to the National Assembly and the Auditor General within 14 days, and must be attributed to a vote. A report must also be tabled in the National Assembly and the expenditure must form part of the next adjustments budget, or be authorised separately by Parliament within 120 days.

Whereas the procedures are clear, respondents have noted some caution about the generic terms in which the rules are stated: almost anything can be termed expenditure of an "exceptional nature".

Early warning systems

The Department of State Expenditure runs an early warning system that compares monthly actual expenditure with planned expenditure. Monthly expenditure trends are extrapolated to annual expenditure and compared to planned expenditure. No specific adjustments are made for cyclical demand or spending trends. Should expenditure deviate beyond a set target, the Department dispatches liaison officials to investigate the cause of over- or under-spending.

At a provincial level, provinces have instituted different systems to control over-expenditure. The measures range from ceilings on certain types of expenditure, to regular provision of cash flow statements and projections; regular review meetings; treasury approval for all spending commitments and even a virtual banking system in the case of Gauteng. Many of these measures were only implemented in the past two years and their effectiveness remains untested.

These early warning systems are however expected to be supported by a Public Finance Management Act requirement that spending departments submit monthly actual expenditure reports to Treasuries.

The recent bail-out of the Free State -- under Section 100 of the Constitution -- by the National Department of Finance emphasised the need for reports to the legislature to prevent crises. The system of the Department of State Expenditure is largely untested: continuing expenditure overruns within provincial departments have raised doubts as to its effectiveness. For example, the Eastern Cape Health Department failed to pay salaries at the end January 1999 due to lack of funds (Business Day, 26 January 1999). More recently the Department of Agriculture and Land Affairs in the same province, have effectively ceased operating, calling in staff to avoid stay and travel costs and closing order books, also due to severe budget shortfalls for the remainder of the year (Business Day, 9 November 1999): with an effective early warning system this should not occur.

Summary

In assessing South Africa in this section, we have noted the following milestones:

- The Constitution guarantees the independence of the Auditor General. Statistics South Africa is independent and effective.

- The new Public Finance Management Act provides for continuous checks on the execution of budgets through frequent departmental and treasury reporting procedures. This should support the early warning system of the Department of State Expenditure.
- The Public Finance Management Act puts in place procedures to govern emergency expenditures.

Concerns are:

- The scope of the Auditor General's auditing obligations does not cover extra-budgetary institutions. The Auditor General noted concerns about capacity in his office to deal with performance auditing.
- Procurement policy is not clear, inconsistently applied and ignored.
- While procedures have been determined to govern emergency expenditure, concern remains about the definition of emergency expenditure.
- The effectiveness of early warning systems for over-expenditure is untested, as is the ability of the public sector to comply with the actual expenditure reporting requirements of the PFMA. Information from the early warning system is also not public, except on aggregate level, where the national and provincial treasuries have to publish monthly expenditure reports. While such reports will be useful, they can hide a multitude of over- and under-expenditure cases, detracting from the ability of legislatures and the public to raise concerns over spending at an early stage.

Based on the strong independence of data collection and auditing agencies and the clear provisions of the Public Finance Management Act, the authors rate South Africa as strong on the integrity of execution data. On the other hand poor procurement control is noted as a serious concern.

Section 5

Budget Decision Making Process

This section tests the extent to which the legislature and civil society are able to effectively participate in the drafting and legislative stages of the budget process. By effective participation we refer to the opportunities to make viewpoints known to appropriate people and have these views taken seriously, especially if they justifiably require a change in policy or budget.

The following aspects of participation were tested:

- The first section is information related testing the availability of information during the budget drafting process.²⁵
- The opportunities for participation by the legislature in the budget, as well as actual participation to date.
- The opportunities for civil society participation in the budget, as well as actual participation to date.

Availability of information during the drafting process

The budget drafting process is relatively closed in most countries of the world and South Africa is no exception. Until 1997, no information was available to the public prior to the public presentation of the forthcoming budget. In this context, the Medium Term Budget Policy Statement (MTBPS), which was released at the end of October 1999 for the third year, represents a substantial improvement. The 1999 Statement was also debated for the first time in parliament, after a process of committee debate and hearings.

In August 1999 the Minister of Finance announced the further intention of the executive to present the national medium term expenditure estimates to the national parliament with the MTBPS. Such a step will effectively grant the legislature insight, during the drafting stage, into national spending proposals for the coming fiscal year. This will enable the legislature to consider these proposals, hold hearings and submit its reaction for inclusion into the final proposals, which will then be tabled as normal on budget day.

The National Treasury is of the opinion that the information released in the MTBPS represents an optimal degree of transparency during the drafting stage. Members of the Treasury argued that parliamentary and civil society scrutiny is a vital part of budget decision making, but it should not mean that the government has to formulate the budget in public. They argued that three-year expenditure estimates offer parliament and civil society sufficient time to influence the budgeting decisions of subsequent years. A concern was expressed that the premature release of insufficiently formulated allocative options, is more likely to lead to poor decision making than to better decision making.

²⁵ This differs from the availability of information section where the main focus was on the scope of information published once the budget has been finalised by the executive.

The MTBPS does indeed contain very useful information, previously unobtainable prior to the budget presentation (and in many cases not provided at all). The MTBPS contains information on the medium term economic outlook and the fiscal framework. On the inter-governmental front, the MTBPS announces the inter-sphere and inter-provincial allocations for the budget (vertical and horizontal split), and considers in detail the effect of the horizontal share formula. On expenditure the MTBPS carries a consideration of the functional and economic classification of expected expenditure, ie the share of health, education, security, etc spending in the total consolidated budget and the expected split between capital and current spending.

Our assessment is that the MTBPS enables a thorough and timely evaluation of macro-economic policy, assumptions and performance. This may offer a space to influence macro-economic policy for years two and three in the MTEF.

There are however, several qualifications to note on the usefulness of the MTBPS:

- The Division of Revenue Bill, which gives legal form to the policy decisions of the MTBPS, is tabled with the budget, at which point it would be too late to debate or amend its provisions, even if amendment powers were in place. The public debate on the MTBPS will gain influence in the final drafting stages of the budget if the Division of Revenue Bill is tabled before the budget and amendment powers are granted (see below). (Afrec, 1999)
- Interdepartment allocations are not provided and neither are intra-department programme allocations. The data is restricted to broad economic sector classifications. This exclusion obscures the major South African budget challenge of reprioritisation within departments and prevents detailed early engagement and research on this issue in preparation for the legislative budget process.
- Although the MTBPS offers a first glimpse of the horizontal split of resources between provinces, it cannot indicate provincial allocations between departments. As provinces can currently allocate their block grant according to their assessment of sector priorities, the MTBPS sector numbers are only normative estimates based on the horizontal split formula and estimates for the national allocations.
- There is no information on revenue proposals or options.

In sum, the MTBPS is a considerable improvement in budget transparency. It is unfortunate that additional departmental and programme information is not available and that provincial treasuries do not publish similar statements. A release of this information would not require Treasuries to prematurely release policy decisions since many of the allocative decisions have been made. It will however contribute immensely to the quality of budget debate; detailed engagement is important to focus the nation's energies on timely research and debate on intra-department allocations. (As a Member of the National Assembly Finance Committee argued the need to interact with the budget numbers before Budget day is critical because of limited time and legislative capacity to assess the numbers before the Budget is passed.) One consequence of the time squeeze around the budget presentation is that civil society is more likely to focus on broad discussions of the size of the envelope rather than detailed consideration of better ways to spend existing resources.

Legislature participation

On balance, greater availability and usefulness of budget information has had a less than proportional effect on participation. Partly, this may be inherent to the structure of the South African democracy. It may also be because the obstacles to effective participation still outweigh the opportunities.

In terms of the Constitution, legislatures have strong powers to call witnesses and experts, including any member of the Executive and to hold public hearings. Some commentators have argued that the nature of the South African democracy suggests that committees may end up rather weak custodians of oversight given, in particular, the large ruling party majority and the proportional party list system which maintains party discipline.

Certainly, the committee system has not always proved strong to date. Nevertheless, in the context of the budget process and related committees, it does seem that where committees have been willing to push their powers, they have been increasingly and effectively used to investigate financial issues, such as the Sarafina saga, the Sitole case and the Child Maintenance Grant²⁶. Where these powers have been tested, the legislatures' right of access to civil servants and demands for accountability or policy shifts have often been upheld.

Enhanced effectiveness in the national Finance and Public Accounts Committee's participation in the budget process can be measured through increasing quantity of hearings, greater depth of certain hearings and increased participation in hearings. These strengths have been particularly evident during the recent negotiation process over the Public Finance Management Act and the consideration of upcoming money bill amendment procedure legislation. Increased participation is uneven but visible in several of the Provinces (especially Gauteng, Free State, KwaZulu-Natal, Western Cape). Several provincial finance committees have found mechanisms within current constraints to enhance effectiveness such as securing accurate monthly actual expenditure reports and significant improvements in departmental information on budget implementation. A couple of provincial legislatures have also been at the forefront of uncovering mis-expenditure and overspending (KwaZulu-Natal and Mpumalanga). In general, the National Finance Committee has established expertise in some system and macro-economic issues, while several of the provincial legislatures have established expertise in tracking budget execution.

Opportunities for participation

Apart from the availability of information (as discussed above) three further factors influence the effectiveness of parliament's participation in the budget: time, capacity and the formalisation of amendment powers.

Time: The Budget is tabled in the National Assembly on the second Wednesday in March (1999 being an exception due to the elections). Following the presentation in the National Assembly, the budget is referred to Portfolio Committees on Finance that has a minimal seven days to undertake

²⁶ In each of these cases the relevant national parliament committee intervened either to hold the executive to account for expenditure decisions (Sarafina and the Sitole case) or to change the provisions of draft legislation with a budgetary impact (the Child Maintenance grant).

public hearings and to table its report to the House. The budget is then referred to each of the sector Portfolio Committees that have the option to hold public hearings and table a report. In the National Council of Provinces (NCOP), committee involvement is optional. The lack of time for research and analysis on a document that has taken 18 months to prepare is a serious obstacle to transparency and legislative oversight.

Over and above the insufficient time allocated to research and committee discussion, the time allocated to parliamentary debate is skewed towards deliberations in the House as opposed to detailed committee investigation. Finance Committee debate comprises less than one-tenth of the four months allocated to the entire legislative budget debate in the deciding House. Given the poor weighting to committee deliberations currently in South Africa, most of the process is consumed by general debate on the floor of the House, often unrelated to the budget.

One of the solutions currently under discussion is shifting the presentation of the budget to November or January to allow for sufficient analysis prior to parliamentary hearings and the beginning of the financial year. This process change should be observed simultaneously in the national and provincial legislatures to enable accurate consolidated accounts. Currently the budget is tabled two months before the start of the fiscal year. By the time it is passed, the fiscal year has already started.

As far as budget execution is concerned, the time lapse between the tabling of audited accounts and the end of the fiscal year, makes it difficult for parliament to relate audit results to the current spending environment. This contributes to a lack of effective oversight over budget execution. The format of actual spending information and audit reports should also facilitate reconciliation with budget plans, to enable parliament to hold the executive to account.

Amendment powers: Neither the National nor Provincial Legislatures have the power to amend the budget. Although the Constitution grants legislatures the right to amendment, enabling legislation has not yet been agreed on. In theory, a committee can recommend that the entire budget (or specific votes) be rejected in total and this could lead to a motion of no-confidence or force the Executive back to the drawing board. In practice, however, this is unlikely to happen for several reasons, including the large ruling party majority in the National Assembly. Parliamentary officials recall only one instance in the past when part of the budget was rejected. This occurred when one of the Houses of the tri-cameral system rejected Chris Heunis' Constitutional Affairs vote. Nevertheless, the President's Council subsequently overrode the decision. On a provincial level the Mpumlanaga legislature rejected the education vote, which was amended and finally passed close the end of the fiscal year. Legislation on amendment powers was tabled in the national Finance Committee in late 1997, but was immediately withdrawn and referred to a Finance Committee / Department of Finance working group that has yet to resolve the issue.

While the early availability of inter-departmental allocations may give the legislature more influence in the budget, it should not be traded for amendment powers. Amendment powers, incorrectly designed to take account of the need for parliament to hold the executive to account for the effectiveness of spending, are still required to give weight to the parliamentary recommendations during the drafting stage. In the absence of amendment powers, these, as well as recommendations on the outer years of the MTEF, may be ignored too easily by the executive.

Research capacity: The obstacles to effective legislature participation are compounded by the lack of legislature research capacity. The national Portfolio Committee on Finance currently has access to only one researcher. The Committee on Public Accounts has recently secured outside funding for two researchers, but appointments have yet to take place. There is no independent parliamentary research capacity, nor is there a tradition of researchers available to individual members. In addition, each party has proportional access to a limited pool of research funds. This does not alter the paucity of available skills; for example, this means that the African National Congress study group in the Finance Committee has access to a single researcher. The situation in the provinces is even worse. In many cases the whole of the legislature, ie all committees, has access to only one or a couple of researchers.

In summary, despite the increased impact of the National Finance Portfolio Committee and several provincial Finance Committees, the effective involvement of legislators in the budget process remains strongly curtailed by existing institutional and process arrangements.

Civil society participation

Pre-1994 participation in parliamentary budget debates was restricted to a small section of private sector interests. This situation is changing. In 1997, there were 3 civil society groupings participating in the National Portfolio Committee on Finance hearings articulating the priorities of low-income people and women. By 1998, this had grown to 6 presentations. In 1999, a total of 14 civil society presentations were made at the hearings representing a broad spectrum of macro-economic, poverty and sector interests. For the 1999/2000 budget a group of community-based organisations (CBOs) also got together and drafted a reaction to the budget which was distributed country-wide to other CBOs and NGOs. It is worth noting that the stimulus for most presentations is an invitation from the Committee, rather than individual or organisational initiative.

Outside of actual budget deliberations, civil society involvement in finance related legislation is poor²⁷. Exceptions are the strong involvement in the Jubilee 2000 campaign that advocates the scrapping of apartheid-related debt and the Child Maintenance Grant campaign that advocated for an increase in the amount per child. Both of these are closely related to poverty. Many sectors of civil society have also been involved in campaigning against the implementation of Gear.

At the national level, the greater breadth of input still reflects primarily better resourced non-governmental organisations. The input of community groups and Chapter 9 monitoring institutions is still very limited. Throughout the provinces participation of civil society in budget debates remains low – in fact it is non-existent in most provinces.

²⁷ It is worth pointing out that at a local government level budgeting systems, transparency and participation differ from local authority to local authority. Some authorities have participatory budgeting processes that allow for high levels of community involvement. Others have closed processes with low levels of involvement and transparency. In many cases community-based organisations have taken up the challenge of participation, campaigning for certain outcomes from the budgetary process, such as streetlights or civil amenities. This kind of budgetary participation by civil society is not included in our assessment, because the research focused on the consolidated national budget, of which only R1 billion (or less than 1%) is transferred to the local government level.

It is important to note the reason for the lack of solid data on which to base this judgement. Neither the national nor provincial legislatures maintain a database on civil society participation, despite commitment in each legislature to a public participation policy. Some data is becoming available through the work of the Parliamentary Monitoring Group whose monitors minute committee procedures. However data on the incidence of civil society input is not captured independently of committee reports, making it difficult to ascertain the extent, quality and impact of such inputs without mining the whole database.

The absolute and relative participation of civil society does not yet do justice to the size and potential contribution of the sector to public policy formulation and poverty alleviation. Despite strong improvement from a low base, civil society participation has not yet reached a critical mass that can stimulate consistent and broad involvement. There are several reasons for this:

- Consistent and in-depth data required for analysis has only recently been made available. The major changes are still only scheduled for 1999 / 2000. To date civil society involvement has occurred despite data constraints.
- The continuing institutional obstacles to amendment and the timing of the budget process further constrain involvement in two ways. The perception is created that Parliament in effect is still performing a rubber stamp role. Further, civil society does not have easy access to the Executive or Judiciary as alternative means to influence the budget. The Legislature is the most accessible avenue for intervention; but without amendment powers, even this presents only a weak option for influence. One of the unfortunate effects is to lock civil society involvement into the broadest questions of macro-policy and debt relief which are most difficult to influence, rather than detailed discussion of intra-vote spending where creativity is vital.
- However, the obstacles to deeper civil society involvement are also endogenous to the sector. First, the lack of access to skilled researchers is a major problem, partly reflecting the paucity of tertiary public finance education opportunities. Currently, the legislatures, civil society and the executive are frequently appointing from the same limited pool, bidding remuneration above civil society levels.
- There is a growing but very limited group of organisations that are attempting to develop expertise in budget and finance issues. At a national level only three organisations have built capacity to consistently focus on national and provincial budget issues. At a sector level, the pool of NGOs is stronger in health, welfare and education, but this focus is often diluted by other core activities. At the provincial level, there is very limited capacity even in the strongest provinces, although interest is growing.
- The above reflects in part an adjustment in the core activities of civil society towards public policy analysis and parliamentary process. South African civil society is broad and deeply engaged in service delivery, translating these strengths into budget analysis and parliamentary intervention is still a challenge in progress. This transition towards critical public policy has not infrequently met resistance in government, particularly in provincial legislatures and executives. Thus civil society is, in a real sense, slowly creating a legitimate role for itself in budget debates.

Summary

Since 1994 the relationship between the legislature, the executive and civil society has been transforming according to the dictates of the Constitution and the end of the struggle against apartheid. Milestones for increased participation in this process have been:

- In the absence (until now) of formalised frequent fiscal reporting to parliament some legislature committees have of their own accord flexed their constitutional muscles and demanded monthly actual spending reports and frequent briefings by departments in their portfolio. This has been a critical information source on the activities of government.
- The enhanced effectiveness of the national Finance and Public Account committees' participation in the budget process can be measured through the increasing openness, quantity and depth of hearings, as well as through increased involvement in legislation.
- The growth in participation by civil society in parliamentary budget debates is manifested by the growth in number of submissions to the portfolio committee considering the budget. Outside of parliament, civil society is engaging in fiscal debate through campaigns such as the Jubilee 2000 debt reduction campaign.
- The MTBPS has introduced a second point in the fiscal year for the release of macro-assumptions and macro allocations between the spheres of government. The MTBPS allows a space for legislatures and civil society to engage in the discussion on the macro framework and to start engaging with the budget allocations for the forthcoming budget.

Several obstacles however still remain.

- The effectiveness of oversight by legislatures is impaired by the lack of formalised amendment powers, the timing of the budget process and the lack of parliamentary research capacity.
- The capacity of national civil society to participate in the budget process is limited to the better-resourced non-governmental organisations and the private sector. The provincial situation is marked by the absence of civil society participation.
- Civil society does not have easy access to the executive or judiciary²⁸ as an alternative means of influencing the budget. As the legislature largely still is seen as an ineffective access point, one of the unfortunate effects is to lock civil society capacity into the broadest policy questions.

A closed budget drafting process and lack of legislature amendment powers severely restrict legislature and civil society participation in the budget process. Whereas some legislatures have carved a space for themselves in monitoring the implementation of the budget, they are also largely unable to effectively scrutinise budget plans before passing the budget. In turn this restricts civil society input into the budget. We rate South Africa as weak on participation in the budget process.

²⁸ Whereas industrial interest groups could still access the Constitutional Court should they want to present a case that policy and its budgetary implications are unconstitutional, the high cost of this route is closed to the non-profit public interest organisations and their constituencies.

CONCLUSION

South Africa is lifting the shroud of secrecy that obscured public finances in the apartheid years. In some areas such as the availability of information progress has been remarkable. In other areas such as the roles and responsibilities and the availability of sub-national data, practice still needs to catch up with the in-principle requirements of existing legislation. In still some other areas such as the rules for budget execution and the coverage of contingent liabilities and extra-budgetary institutions, the provision made is insufficient to be effective in fulfilling the objectives of transparency. While the degree of progress is certainly laudable, it should therefore not cause complacency on the issue of transparency.

In summary the following table provides an overview of areas tested, criteria used and scores as presented in Section 1 to 5 of the South African report.

Section Title	Areas tested	Scores	Reasons for assessment
Legislative Framework for Transparency	<ul style="list-style-type: none"> • Existence of legislation setting transparency requirements for executive arm • Legal framework that defines roles and responsibilities for all key aspects of fiscal management • Legal basis for subnational expenditure responsibilities • Legal basis for taxes 	Medium	The establishment of a legal framework to assign fiscal management responsibility to the executive is noted, as is the strong legal basis for taxes. However, outstanding legislation on provincial taxing powers and the role of parliament in the budget process and the lack of a legal basis for transparency requirements for the executive, are still strong concerns.
Clarity of Subnational expenditure roles and responsibilities	The nature of sub-national expenditure responsibilities in practice -- are they clear?	Weak	Although Constitution assigns clear expenditure responsibilities, the assumption of roles in practice has lead to such lack of clarity that the spheres of government have been able to argue about public accountability for over-expenditure/non-delivery of services.

<p>Availability, Usefulness and reliability of information</p>	<ul style="list-style-type: none"> • The comprehensiveness of budget documentation as regards the budget framework, fiscal stance, budget classifications, extra-budgetary activities and actual spending information • The reliability of information as manifested in divergence between estimates and outcomes • The usefulness of information as measured by the availability of supporting information and the comparability of budget information. 	<p>Medium</p>	<p>On the positive side South Africa is now publishing much more budget information in terms of both scope and depth than five years ago. The reliability of this information has shown marked improvement in the 1998/99 budget year, but it is too soon to say if earlier trends towards considerable divergence between estimates and outcomes have been reversed permanently. Although more supporting information is now available, South Africa still does not publish detailed programme objectives and assessments for approximately 60% of spending after interest. The capacity of information systems to supply quality supporting information is also in doubt.</p>
<p>Independent Checks and Balances of Budget Execution and Government Data</p>	<ul style="list-style-type: none"> • Independence and effectiveness of the national audit and statistics offices • Existence of early warning systems in case of poor budget execution • Rules governing emergency expenditure • The regulations governing procurement 	<p>Strong</p>	<p>The Auditor General is guaranteed independence in the Constitution and Statistics South Africa has been set up as an independent institution. An early warning system does exist and is now backed up by reporting requirements under the law. Both emergency expenditure and procurement is governed by regulations. The authors do note however that the procurement regulations are not observed in practice.</p>

Budget Decision making process	<ul style="list-style-type: none"> • Availability of information during the drafting process • The opportunities for participation by the legislature in the budget process • Opportunities available for civil society participation in the budget process. 	Weak	<p>Budget preparation still happens behind closed doors, with the exception of a medium term statement which makes available the budget framework 2 to 3 months in advance.</p> <p>The legislatures have no formal power to amend the budget and even if they had, neither the budget timetable nor legislature capacity is conducive to effective participation.</p> <p>Official opportunity for civil society participation is channeled through the legislatures and is therefore limited and ineffective.</p> <p>Both the legislatures and civil society are engaging increasingly with budgetary processes despite their restricted access.</p>
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Many of the shortcomings mentioned in the above table, are covered by planned budget reform measures. These are:

- Money bill amendment powers legislation, expected in 1999, that will establish a regulatory framework to define the fiscal management roles of the executive and legislatures.
- A new revenue framework for the provincial sphere of government that will look at borrowing and taxing powers in the context of the asymmetrical assignment of revenue powers and expenditure responsibilities and the ensuing difficulty of assigning expenditure responsibility.
- An overhaul of government budget formats, financial management systems and management information systems to enable greater consistency across spending departments.
- The establishment of output and outcome indicators for spending programmes across the board.
- The inclusion of information on tax expenditures and quasi-fiscalities in the budget documentation.

It bears noting that planned budget reform measures are, at this stage, just that: plans. It is not assured that they will be adopted in the near future. But, as this report underscores, it is important that these plans are enacted if the South Africa budget process is to be strengthened. The details of the plans are, of course, also critical, and will determine in substantial part how much further down the road of transparency and participation South Africa will go. For instance, the details of the still to be drafted money bill amendment powers legislation will determine the effectiveness of the legislatures' scrutiny and oversight functions. Should the legislation grant parliament weak powers

only -- ie the ability to move funds between votes or within votes but locate these powers in the main house with only little time to review the budget -- the effectiveness of legislature and civil society participation in the budget will be dealt a severe blow. However, too strong powers will compromise the ability of the legislature to hold the executive to account for implementation. On the other hand, the way in which structures in support of parliament's amendment powers are set up, may exclude civil society from the process, strengthening parliament's hand, but weakening civil society. A strong internal research section may lock budget discussions within government (referring to both legislature and executive) and exclude civil society, who currently fulfils an advisory role to committees through submissions.

Future research will track the exact design of these budget reform measures, as well as the implementation of future and currently new transparency provisions. In addition, arising from the findings of this research, the authors would like to highlight the following...

- Clear procurement regulations should be instituted as a matter of urgency.
- The progress towards clearer in-practice sub-national expenditure roles and responsibilities should be monitored carefully. Should practice over time not enable better clarity, renewed efforts should be made to regulate responsibilities in a more transparent manner.

... and make the following recommendations.

- That the promotion of transparency as a tool for better government is made the specific mandate of a department/institution within government. Such a function may rest with parliament or with the auditor general. Its functions would include monitoring adherence to legal provisions for transparency. Whereas South Africa complies with many of the transparency requirements as stipulated by the IMF and in this paper, progress in this regard has so far been the by-product of other processes. The potential benefits of transparency merit closer attention to its institutionalisation in principle and implementation in practice.
- That legislation/regulations are drawn up setting minimum transparency requirements for national, provincial and local governments, consolidating the requirements of other processes, fleshing out the pro-transparency statements of the Constitution and institutionalising the efforts of the current government to publish more and better information. This will align well with the recommendation above: although some respondents argued that by legislating minimum transparency requirements across the board, one would limit what is published, the establishment of a pro-transparency gatekeeper will be supported by such legislation. Such a code/legislation or regulations should go beyond the fiscal transparency requirements of the UK and New-Zealand governments and pay more attention to micro budget transparency.
- That two annual statements be added to the fiscal publishing schedule, namely one on contingent liabilities and the other on extra-budgetary activities. Whereas it can be argued that the South African budget system already produces too much information and that information overload can be as damaging as too little information, the following three arguments would apply (in this case and more generally). Firstly, it is important that the correct scope of information is made available in useful formats, which requires attention to level of aggregation. This may enable a trade-off with the level of detail that is provided and align the cost of transparency with the potential benefits. Secondly, while all stakeholders may not

access all of the information all the time, the consistent availability of information ensures access for specialised stakeholders at required times, enabling better governance. And thirdly within this context the requirement of transparency acts as a disincentive for poor governance practices, whether the information is actually used or not.

- That the timing of the budget process is reconsidered to give parliament enough time to be effective in its oversight. This may include the separation of the Division of Revenue Bill from the Budget and the tabling of the budget earlier before the start of the fiscal year. Alternatively, that more information on budget plans is made available during the planning year to allow input from the legislatures and civil society.
- That an explicit effort is made to reconcile actual spending information formats with budgeted estimates: this would apply both to monthly reports on the state of the budget, as well as the audited financial statements for all levels of government. As far as the latter is concerned, an annual review of the actual spending information as per the budget formats for both the national and provincial spheres of government at the time of the release of the audited statements, will improve opportunities for budget analysis considerably.

Our concern in this paper was neither with transparency nor with participation alone, but with the relationship between transparency and participation in bringing about better government²⁹. It is in this arena that the South African country survey has started to crystallise principles that may be applicable to other countries. And it is to these principles, implicit in much of what is written above, that we want to turn in conclusion.

Firstly: Transparency is a prerequisite for effective participation. Pre-1994 the existence of a budget information service would have been close to completely ineffective: government decisions and their budgetary implications were not part of the public arena. After 1994 the provisions of the Constitution and the availability of more information and access to civil servants enabled the legislatures and civil society to begin to explore budget work and financial oversight.

Secondly, transparency will not automatically lead to increased or effective participation. The improvements in the availability of budget information in South Africa has not been followed by a proportionate increase in the effective participation of legislatures and civil society. This is because of strong institutional and legislative obstacles, including the availability of access points for debate in the budget process, the timing of the budget, and civil society and legislature capacity. It would be interesting to see if the weight of these factors in the South African situation are replicated in the results of other country surveys.

Thirdly, significant improvements in participation can occur in the absence of formal information releases. In South Africa both civil society and the legislatures were able to significantly improve participation through creative information seeking.

The openness of government decision making, the availability of budget and outcome data and the effective engagement of government's constituencies in budget debates are inseparable. The release of better information by the executive branch, will not mean much unless coupled by efforts

²⁹ It is interesting to note that these conclusions may apply to transparency within the executive in the interest of better policy making and internal controls, as much as it does to transparency to the outside.

in the legislature and civil society to use it. Similarly, it is difficult for the executive to establish accurately what information and institutional provisions are most needed without a dialogue with legislatures and civil society. Only through this dialogue will we be able to push for greater information and more intervention opportunities. Only through a vibrant budget debate thus enabled, will we realise the potential benefits of transparency. In the final analysis it is only through partnering one another towards more transparency and better participation that government, the legislatures and civil society can reap the benefits of open government.

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APPENDIX I

TRANSPARENCY AND PARTICIPATION IN BUDGET PROCESS SURVEY

(ANSWERS TO QUESTIONS THAT LIST OPTIONS ARE IN BOLD)

SECTION 1

Legal framework for transparency

Legal basis for the fiscal transparency requirements of the Executive

- Does legislation set out fiscal transparency requirements for the Executive arm of government
 - a) to a limited extent or not at all
 - b) **moderately well**
 - c) very well

- Are the accountability and transparency provisions of the law observed in practice
 - a) to a limited extent
 - b) **moderately well**
 - c) very well

Please note that the accountability and transparency provisions of the new fiscal transparency legislation is still untested. The score of moderately well reflects that past provisions have been observed, as well as doubts as to the immediate ability of government to comply with the new provisions.

Legal basis for all key aspects of fiscal management?

- Does a legal framework exist that clearly defines the roles and responsibilities for all key aspects of fiscal management?³⁰
 - a) to a limited extent,
 - b) **most aspects with significant gaps,**
 - c) comprehensive?

- How clear is the definition of fiscal management roles of the Executive and Legislature?
 - a) **unclear or emerging,**
 - b) established with significant areas of uncertainty,
 - c) well established with capacity to resolve issues

³⁰ Appendix II contains a table listing significant aspects of fiscal management in accordance with the South African Constitution, as well as further aspects identified by the IMF Manual on Transparency. For each item the table records who is responsible according to which legislation.

Legal basis for roles and responsibilities of sub-national governments

- How clear is the taxing and expenditure responsibilities of sub-national governments defined in law?
 - a) unclear or emerging
 - b) main functions clear but subject to ad hoc negotiations**
 - c) comprehensive allocation of powers and transfer mechanisms

Legal basis for taxes

- Is there a legal basis for taxes?
 - a) widespread discretionary concessions or negotiated tax and customs
 - b) explicit and clear statutory basis for liability or concession in most tax and customs laws
 - c) explicit and clear statutory basis for liability or concession in all tax and custom laws**

- How clear are the tax regulations and procedures?
 - a) generally unclear
 - b) unclear for some taxes
 - c) clear for all taxes**

- Is there a significant difference between the law and tax incidence?
 - a) to a limited extent
 - b) moderately well**
 - c) very well

- Is there an officials' code of conduct or process protection
 - a) for none or few taxes
 - b) some taxes
 - c) most or all taxes**

- Is there a code governing taxpayers rights and obligations?
 - a) none or few taxes
 - b) some taxes
 - c) most or all taxes**

OVERALL ASSESSMENT OF SECTION

Medium overall but strong in the area of taxes.

SECTION II

Clarity of subnational expenditure responsibilities in practice?

- How clear is subnational expenditure responsibilities in practice?
 - a) **unclear or emerging**
 - b) main functions clear but subject to ad hoc negotiations
 - c) comprehensive allocation of powers and transfer mechanisms

OVERALL ASSESSMENT OF SECTION

Weak

SECTION III

Public availability of information

Comprehensiveness of budget documentation³¹

Budget Framework Information

a) Forecast of fiscal aggregates for budget year plus two years?	Yes
b) As above but with forecast by individual agency?	Yes
c) Formal rolling medium term baseline (3-5 yrs) baseline?	Yes
d) Estimates of revenue are maintained in (c)?	Within reason
e) Statement of government's medium-term fiscal policy objectives and priorities?	Yes
f) Explicit targets set for budget policy in the medium-term: <ul style="list-style-type: none"> • Expenditure / GDP • Revenue / GDP • Current Balance • Deficit / GDP • Debt / GDP • Other 	No Yes No Yes Yes Provincial equitable shares

³¹ Appendix III contains a table listing each of the requirements below, whether information is published, where and how frequently.

Indicators of Fiscal Stance

- Which of the following indicators of fiscal stance are provided in fiscal policy statements?

(i)	Overall balance	Yes
(ii)	Overall balance, less asset sales	Yes
(iii)	Current balance	Yes
(iv)	Primary balance	Yes
(v)	Operational balance	No
(vi)	Public debt	Yes
(vii)	Contingent liabilities	Yes
(viii)	Quasi-fiscalities	No
(ix)	Tax Expenditures	No
(x)	Statement of financial assets and liabilities	Yes
(xi)	Net worth (or other balance sheet indicator)	No

Note: There was some concern from respondents as to the coverage of the public debt and contingent liabilities tables in the policy statements.

- Are they monitored ex-post?
 - Limited or not at all**
 - To some extent
 - To a great extent
- Are similar indicators applied to subnational government or general government policy statements?
 - limited or not at all**
 - to some extent
 - to a great extent)
- What are the main summary indicators of the government's financial position in the annual budget presentation?

(i)	No indicators presented with the annual budget?	No
(ii)	Central government overall balance?	Yes
(iii)	Central government underlying balance?	Yes

- **As above, with limited additional supporting analysis and indicators?**
- As above, with extensive additional supporting analysis and indicators? No

Forecasts

- Is information given on the macro-economic and fiscal forecasts used as the basis of fiscal policy and budgeting?
 - not at all
 - to a limited extent**
 - comprehensively

- Are these in the medium term?
Yes
- As above, with analysis of assumptions and parameters?
 - a) No analysis
 - b) Some analysis
 - c) **Thorough analysis**
- As above and open to independent and expert assessment?
No
Note: While budget documentation contains thorough analysis of the forecasts, the assumptions and parameters of the models on which the analysis is based, is not open to public scrutiny.
- How accurate are the medium-term macro-forecasts?
 - a) Unrealistic
 - b) **Moderately**
 - c) Very reliable
- How frequently are the medium-term assumptions updated and published?
 - a) Never
 - b) One a year
 - c) **Twice a year**

Classifications

- Which of the following classifications are provided in budget documentation?

(i)	Expenditure classified by individual administrative agency?	Yes
(ii)	Individual program budgets?	Yes
(iii)	Line items within programs?	Yes
(iv)	Capital / current expenditure breakdown within above?	Yes
(v)	Classification of revenues, financing and debt in a way that is compatible with GFS or other international standard?	Yes
(vi)	GFS / SNA functional classification of expenditures?	Yes

Extra-budgetary institutions

- What is the extent of coverage of extra-budgetary activities in budget documentation?
 - a) not at all
 - b) **to a limited extent**
 - c) comprehensively

- How clear are the mechanisms for co-ordination and management of budgetary and extra-budgetary activities

a) **not well defined**

b) sufficiently defined to enable effective control of budget and EBF spending

c) well defined

Note: Although the Public Finance Management Act requires reporting on a comprehensive net of extra-budgetary institutions, there are no mechanisms to make public or debate the nature and scope of extra-budgetary activities ex ante. There is no aggregate reporting on extra-budgetary activities.

Availability of actual spending information

- How frequent and timely is fiscal reporting?

<i>Time</i>	<i>How soon after</i>	<i>Level of Government</i>	<i>By</i>	<i>Content</i>	<i>Dissemination</i>
Monthly	Within 30 days after month end	National/provincial	Departments	Expenditure for month Expenditure up to date for fiscal year	Treasury
Monthly	Within 30 days after month end	National/Provincial	Treasuries	Aggregate expenditure for month Aggregate Expenditure up to date for fiscal year	Public (via Government Gazette)
Annually	Within 7 months after end of fiscal year	National/Provincial	Departments Treasuries Public enterprises Parastatals	Audited statements	Legislatures

- How soon after the close of the financial year does the auditing body provide an annual assessment?
 - a) Within 6 months
 - b) **Within 1 year**
 - c) More than 1 year

Reliability

- Does the budget presentation formally incorporate information on risks to the fiscal position?
 - a) not at all
 - b) **to a limited extent**
 - c) extensively
- How reliable are the budget expenditure and revenue estimates?

- a) unrealistic
 - b) moderately reliable**
 - c) very reliable
- Is a clear statement made on the accounting basis (e.g.: cash or accruals) and the accounting policies adopted in the budgets and accounts of government?
Yes

Usefulness

- Is a statement of objectives to be achieved by government programs provided with budget documentation?
 - a) not at all
 - b) some reporting of objectives**
 - c) general reporting of objectives
- As above with expected indicators of performance.
No indicators

OVERALL ASSESSMENT OF SECTION

Medium to strong in most areas, with the exception of extra-budgetary institutions, where the information is weak.

SECTION III

Independent Checks and Balances of Budget Execution and Government Data

Independent national auditing and statistics offices

- Is there a national, independent auditing body?
Yes
- What is the impact of the recommendations and findings of the independent audit body?
 - a) No follow-up and rectification**
 - b) Some follow-up and rectification
 - c) Consistent follow-up and rectification
- Does the national statistics office have institutional independence?
Yes

Procurement regulations

- Do regulations require open tendering processes for public supply contracts?

- a) are not in place
 - b) are in place but unclear or incomplete**
 - c) satisfactory
- To what degree are tender regulations observed in practice?
 - a) not observed
 - b) only partially observed**
 - c) are followed rigorously

Early warning system for over-expenditures

- Is there an early warning system for over-expenditures?
 - a) No warning system
 - b) Some system, but ineffective**
 - c) A comprehensive and effective system
- Does this exist at national and / or subnational government?
National. Provincial level not consistently so.

Emergency expenditures

- Are there procedures and rules governing emergency expenditures?
 - a) No rules
 - b) Some rules leaving either scope or nature of spending discretionary**
 - c) Comprehensive rules that enable tight control over scope and nature of spending
- Is reporting required on emergency expenditures?
 - No reporting required
 - Only audit reporting after end of fiscal year
 - Timely reporting before end of fiscal year**

OVERALL ASSESSMENT OF SECTION

Medium

SECTION IV Participation in the Budget Process

Availability of information during drafting process

- Which of the following fiscal policy decision-making tools are publicly released during the budget drafting stage and when?

Macro-assumptions	Yes	3 months before Budget day
Interdepartment allocations	No	Only on Budget Day
Tax options	No	Only on Budget Day

NOTE: The inter-provincial allocations + expected aggregate sectoral and economic classification of the budget is released together with the macro-assumptions.

Legislature participation

- What are the opportunities for and incidence of legislature participation in the budget?

(i)	How much time is available to the legislature to review the budget?	One month
(ii)	What are the amendment powers of the legislature?	Legislature has no amendment powers, can only pass budget or individual votes in total or reject them in total.
(iii)	What is the ratio of legislature budget / finance committee debate relative to general budget debate in the House?	Finance Committee has 6 days, house has 3 to 4 weeks.
(iv)	What is the independent analysis capacity of the legislature?	1 Researcher to Finance Committee 1 Researcher to Public Accounts Committee ie. Very weak
(v)	Can the legislature hold public hearings and who may it call to appear?	Yes. Up to the discretion of the legislature. Members of civil society and the executive branch.

Civil society participation in the budget

- Is there any independent space in the budget process for civil society participation?
 - a) No independent space
 - b) Limited space but ineffective
 - c) Effective space -- ie participatory budget processes

- **If civil society takes part in the budget process through the legislature**

To what extent does civil society take part in legislature hearings?	Submissions have grown from 3 to 14 from 1997 to 1999. Extent of participation restrained by time committee has to hold hearings and the effectiveness of participation
To what extent does civil society undertake independent analyses of the budget?	The media and financial community have always analysed the budget. Recent years have seen an increasing number of non-governmental organisations undertaking analysis. Often this is focused on the budget framework and macro-economic issues rather than on the allocative level.

OVERALL ASSESSMENT OF SECTION

Weak

SECTION IV

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OVERALL ASSESSMENT OF SECTION

Weak

APPENDIX II

Section I

Legal Framework for Fiscal Transparency

Definition of Roles and Responsibilities for Key Aspects of Fiscal management

Key aspect	Who?	Defined by	Remarks
Regulate the flow of money through the National Revenue Fund	The National Treasury ³²	Chapter 2 of the PFMA ³³	The Treasury is responsible for the control of the revenue fund; money can only be withdrawn through an Act of Parliament or as a direct charge, which is defined in the PFMA.
Put in place a pro-transparency budget process that promotes accountability and effective financial management of the economy, debt and public sector	The National Treasury; Provincial Treasuries ³⁴	Chapter 2 of the PFMA	Chapter 2 of the PFMA sets out the rights and obligations of the National Treasury. Amongst other it is required to coordinate fiscal and macroeconomic policy; manage budget process; exercise control over budget implementation; monitor provincial budgets; promote and enforce transparency; prescribe uniform norms and standards; prepare consolidated financial standards. The provincial treasuries are obliged to perform similar functions on a provincial level.
Prescribe budget formats for all spheres of government	The National Treasury; Provincial Treasuries	Chapter 2 of the PFMA	The Treasury is required to prescribe uniform norms and standards for all spheres of government and enforce uniform norms and standards in national departments; public entities and constitutional institutions. Provincial Treasuries are responsible for enforcing uniform norms and standards on a provincial level.

³² The National Treasury consist of the National Minister of Finance and the national department(s) responsible for financial and fiscal matters (currently the Department of Finance; State Expenditure and the South African Revenue Services).

³³ Public Finance Management Act

³⁴ Provincial Treasuries consist of the Provincial Member of Executive Council for Finance and the provincial department responsible for financial matters.

Prescribe fair, equitable, transparent, competitive and cost-effective procurement procedures	National Treasury; Accounting officers and accounting authorities ³⁵ of departments; public entities; constitutional institutions	Chapter 3, 5, 6 and 9 of the PFMA.	Accounting officers and authorities must ensure that the Department, public entity or institution under their control has in place fair, equitable, transparent, competitive and cost-effective procurement procedures. The National Treasury may determine framework to ensure appropriate systems (Chapter 9).
Set Conditions for the issue of guarantees by all spheres of government	The National Minister of Finance; Provincial Members of Executive Council for Finance; Provincial Borrowing Powers Act.	Chapter 8 of the PFMA.	The National Minister must approve all guarantees by national departments, public entities and public enterprises, as well as provincial public enterprises and entities. The Provincial MEC of Finance must approve all provincial guarantees. The PFMA and the Provincial Borrowing Powers Act sets conditions for the issue of guarantees by the respective spheres of government.
Regulate Fiscal Relations between the Spheres of Government	The National Treasury; The Budget Council ³⁶	Chapter 2 of the PFMA; the Intergovernmental Relations Act	The national treasury is tasked with regulating intergovernmental fiscal relations in the PFMA; the Intergovernmental Relations Act assigns specific duties in this regulation to the Budget Council and other intergovernmental forums.

³⁵ Accounting officers are the heads of departments; trading entities and institutions; accounting authorities are the board that is accountable for public entities or, in cases where there is no board, the executive officer of such entities. Public entities are public enterprises (state ownership with financial and operational authority and not financed by public funds) or other entities which is established in terms of national legislation, accountable to parliament and fully or substantially funded by public funds.

³⁶ The Budget Council consists of the national Minister of Finance and the Provincial MECs for Finance.

<p>The budget should be comprehensive</p>	<p>The National Department of Finance is tasked with coordinating the budget. Provincial treasuries with coordinating the provincial budgets.</p>	<p>PFMA, Chapter 4</p>	<p>The minimum information included in the national and provincial annual budgets is prescribed. Although the roles and responsibilities are clear, the net is not thrown wide enough to include all activities of a fiscal nature nor all spheres of government: formats are not prescribed for extra-budgetary institutions nor for local government.</p>
<p>Budget transactions should be shown in gross terms</p>	<p>The Accounting Standards Board; National Treasury and Provincial Treasuries; accounting officers of departments and institutions; the Auditor General</p>	<p>Guidelines set by the ASB and the National Treasury; The PFMA.</p>	<p>The Accounting Standards Board is tasked with setting generally recognised accounting practices and the National Treasury with further norms and standards; national and provincial treasuries, national and provincial accounting officers and national and provincial accounting authorities are tasked with implementing these. The Auditor General is tasked with auditing compliance with all standards. The PFMA is the legal basis for this framework.</p>

<p>A minister responsible for finance should be so designated and given effective power of budget management</p>	<p>National Minister of Finance; Provincial Members of Executive Council (MECs) for Finance</p>	<p>PFMA establishes a national and provincial treasuries and outlines the duties of the executive authority dealing with finances</p>	
<p>Individual agencies should be held accountable for collection and/or use of resources by these agencies</p>	<p>Collection of Revenue: The National Minister of Finance for the collection of most revenue including income tax, VAT, customs and excise duties; Some agencies are responsible for the collection of user charges and provinces take responsibility for the collection of other own revenue fees and levies.</p>	<p>PFMA Chapters 5, 6 and 7.</p>	<p>The PFMA sets out the obligations of accounting officers and accounting authorities. Financial misconduct refers to any contravention of the general, budgetary control of reporting duties of accounting officers or accounting authorities. Internal disciplinary procedures are provided for in the case of willfull or negligent financial misconduct. Criminal proceedings allowing up to 5 years imprisonment are provided for in the case of willfull or grossly negligent financial misconduct. The penalties apply jointly and severally to members of the boards of public entities.</p>

	Expenditure: Accounting officers of national and provincial departments and institutions; accounting authorities of public entities and enterprises. used to the accounting officers of spending agencies.		
Contingency provisions should specify clear and stringent conditions for use of such funds	Cabinet decides on the use of the contingency reserve, on the advice of the Minister of Finance	No legal requirements exist for the use of the contingency reserve.	
Audited reports should show clearly how public funds have been used	The Auditor General has responsibility to draw up audit reports; in the case of public entities external auditors may be appointed with the approval of the auditor general.	Auditor General Act; PFMA.	

APPENDIX III

Detailed table for SECTION III

The Public Availability of Information

The following table indicates where, how often and since when specific budgetary data are published. It is suppleme

Comprehensiveness of budget documentation

Budget Framework Information

Requirement	Yes / No	Time period ³⁷	Where, published by whom & frequency	Coverage (spheres of govern
i) Forecast of fiscal aggregates for budget year plus two years	Yes	1994-99	The Medium Term Budget Policy Statement (MTBPS); The Budget Review; The National Estimates of Expenditure Provincial Budget Reviews and Estimates of Expenditure. By the National and Provincial Treasuries 2 x a year. November and March	Provincial ³⁸ , nation consolidated gover

³⁷ For convenience three time periods are designated: pre-1994, 1994-1999, 2000-. The 2000- period has been included for cases where a (often in the PFMA) of which the implementation is in the future.

³⁸ Provincial government budgets include all provincial expenditure and revenue transfers from national government plus provincial own rev

³⁹ The National Budget covers all revenues and borrowing to cover expenditure by national government departments, and all monies transf extra-budgetary institutions originating from the national revenue account.

⁴⁰ Consolidated government covers national and provincial budgets.

li) As above, but with forecast by individual agency	Yes	1994-1998	The Budget Review and the Estimates of Expenditure for national government; provincial budget reviews and estimates for provincial governments. By the national and provincial treasuries. Once a year, on budget day.	National and Provi
lii) Formal rolling medium term baseline (3-5 yrs)	Yes	1994-99	The MTBPS reviews the formal rolling medium term baseline for consolidated government. The Budget Review again reconciles the new medium term framework with the previous year's budget numbers.	National Budget
v) Statement of government's medium term fiscal policy objectives and priorities	Yes	1994-99	The MTBPS (November), updated in the Budget Review (March) for consolidated government. Some provinces set out policy objectives and priorities in their budget documentation, either in the budget speech or in the review.	National Budget. Some provinces.
Vi) Explicit targets set for budget policy in the medium term Expenditure/GDP Revenue/GDP Current balance Deficit/GDP Debt/GDP Other	No Yes No Yes Yes See Notes	1994-99	The targets are published by the Minister of Finance in the MTBPS, and again in the Budget Review.	National Budget

Indicators of Fiscal Stance

Which of the following indicators of fiscal stance are provided in fiscal policy statements?

<ul style="list-style-type: none"> ▪ Overall balance 	Yes		Budget Review ; Table 5a	National Budget
<ul style="list-style-type: none"> ▪ Overall balance less asset sales 	No			
<ul style="list-style-type: none"> ▪ Current balance 	Yes		Budget review	National Budget
<ul style="list-style-type: none"> ▪ Primary balance 	Yes		Budget review	Primary balance
<ul style="list-style-type: none"> ▪ Operational balance 	No			
<ul style="list-style-type: none"> ▪ Public debt 	Yes		Budget review	Table 9 Debt of central government, extrabudgetary institutions and social funds. Chapter 3 provides information on public sector borrowing requirement
<ul style="list-style-type: none"> ▪ Contingent liabilities 	Yes		Budget Review, Chapter 3 on Public finances	For National Government Excludes provincial Liabilities
<ul style="list-style-type: none"> ▪ Quasi-fiscalities 	No			
<ul style="list-style-type: none"> ▪ Tax expenditures 	No			
<ul style="list-style-type: none"> ▪ Statement of financial assets and liabilities 	Yes		Budget Review, Chapter 3 on Public Finances	For national government only
<ul style="list-style-type: none"> ▪ Net worth 	No			

Classifications

<ul style="list-style-type: none"> ▪ Expenditure classified by individual administrative agency 	Yes	Pre-1994	National and provincial Estimates of Expenditure	National departments, provincial departments
<ul style="list-style-type: none"> ▪ Individual programme budgets 	Yes	pre-1994	National and provincial Estimates of Expenditure	National and Provincial
<ul style="list-style-type: none"> ▪ Line items within programmes 	Yes	Pre-1994	National and provincial Estimates of Expenditure	National and Provincial
<ul style="list-style-type: none"> ▪ Capital/current expenditure breakdown 	Yes	Pre 1994	National and provincial Estimates of Expenditure	National and Provincial
<ul style="list-style-type: none"> ▪ Classification of revenues, financing and debt in a way that is compatible with GFS 	No	Pre 1994		
<ul style="list-style-type: none"> ▪ GFS/SNA functional classification of expenditures 	Yes	1994-1999	National and provincial Estimates of Expenditure give a functional classification of spending on vote level. A new classification system will extend this to programme level.	National and Provincial

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