SOUTHERN AFRICAN PARLIAMENTARY SUPPORT TRUST

REVIEW OF THE PUBLIC FINANCE MANAGEMENT ACT AND PROPOSED CHANGES

FOR THE ZIMBABWE PARLIAMENTARY BUDGET OFFICE

MARCH 2017

Table of Contents

LIST OF ACRONYMS ii
1. INTRODUCTION/BACKGROUND 1
2. REVIEW OF THE PROVISIONS 3
2.1 Object of Public Finance Management Act 3
2.2 Duties and Powers of the Minister 4
2.3 Ministerial Directives on Public Funds 5
2.4 Fund Accounts 5
2.5 Sanctions for Failure to lay reports before the National Assembly 6
2.6 National Budget 6
2.7 Financial Statements and Reporting to Parliament 6
2.8 Public Entities 8
2.9 Principles of Public Administration and Leadership 9
2.10 Office of the Auditor General 11
3. OTHER GOOD PRACTICES IN PUBLIC FINANCIAL MANAGEMENT 11
3.1 Legislating for the Entire Budget Cycle 11
3.2 Gender Budgeting 17
3.3 Parliamentary Budget Office 21
4. CONCLUSION 24
5. ANNEXES 24

LIST OF ACRONYMS

AG:	**Auditor General**
BPS:	**Budget Policy Statement**
BRRR:	**Budgetary Review and Recommendations Report**
CRF:	**Consolidated Revenue Fund**
GRB:	**Gender Responsive Budgeting**
MTBPS:	**Medium Term Budget Policy Statement**
PBO:	**Parliamentary Budget Office**
PFMA:	**Public Finance Management Act**
POZ:	**Parliament of Zimbabwe**
PRSP:	**Poverty Reduction Strategic Paper**
SADC:	**Southern African Development Community**
SCOPA:	**Standing Committee on Public Accounts**

1. INTRODUCTION/BACKGROUND

The general public view is that the legislative branch in developing countries is weak, and cannot enforce the key elements of effective governance – state capability, accountability and responsiveness. The Africa Governance Report (2005) found out that "in terms of enacting laws, debating national issues, checking the activities of government, and in general promoting the welfare of the people, these duties and obligations are rarely performed with efficiency and effectiveness in many African parliaments".

While this statement is true in many respects, the last few years have seen some African parliaments beginning to assert their oversight role in the governance system. Zimbabwe is one of those parliaments. Parliamentary budget oversight is now an area receiving greater attention as a means to advance parliamentary oversight. Due to the fact that parliamentary processes involve citizens holding their elected representatives to account, it follows therefore that civil society participation in the budget process is a necessary condition for effective parliamentary budget oversight.

Many parliaments in the Southern African Development Community (SADC) region are in the process of reforming their procedures and processes as part of institutional reform. Closer attention is being paid to reforming the manner in which Parliament participates in the entire budget cycle from formulation, implementation of the budget and audit. Zimbabwe is making some strides in that respect.

Although the majority of SADC parliaments have not been able to amend the Budget (mainly due to the Westminster political tradition of a legislative branch not independent enough), many are beginning to assert themselves in the budget process. There is consensus that the starting point is to strengthen legislation governing public financial management if Parliament is to be effective in its budget oversight role.

The Public Finance Management Act [Chapter 22:19] is the main statute governing public finance management in Zimbabwe. The object of the Act is to secure transparency, accountability and sound management of the revenues, expenditure, assets and liabilities of any entity specified in section 4 (1). The entities are ministries; designated corporate bodies and public entities; constitutional entities; and statutory funds. The elevated status of the Public Finance Management Act is provided for in section 4 (3) which says "in the event of any inconsistency between this Act and any other enactment, this Act shall prevail".

The purposes of the PFMA are as follows:

- To provide for the control and management of public resources and the protection and recovery thereof;
- To provide for the appointment, powers and duties of the Accountant-General and staff;
- To provide for the national budget processes;
- To provide for the preparation and presentation of financial statements;
- To provide for the regulation and control of public entities;
- To provide for the raising, administration and repayment of loans by the State and for the giving of guarantees in respect of certain loans;
- To provide for general treasury matters and the examination and audit of public accounts;
- To provide for matters pertaining to financial misconduct of public officials;
- To repeal the Audit and Exchequer Act [*Chapter22:03*] and the State Loans and Guarantees Act [*Chapter22:13*]; and to provide for matters connected with or incidental to the foregoing.

The key players for controlling public financial management are as follows:

- Parliamentary Public Accounts Committee
- Parliament Parliamentary Portfolio Committees
- Ministry of Finance
- Accountant General
- Accounting Officers of Ministries
- Accounting Authorities of Public Entities
- Finance Directors

Those who prepare Financial Statements for Public Entities must be persons who are registered by Public Accountants and Auditors Board; are members of a Professional Accountancy body and hold PAAB Registration Certificate. Accordingly, Public Accountants and Auditors Act Chapter 27:12 makes it illegal for an unregistered person to prepare financial statements for any public entity in Zimbabwe.

The PFMA was enacted in 2009. The statute has been lauded for including several provisions that have improved the role of Parliament in the budget process as a significant step toward strengthening public finance management in general. Some of the positive provisions include the submission of monthly and quarterly financial and other reports to portfolio committees, and allowing the Finance and Economic Development Portfolio Committee to conduct public hearings during the formulation of the national budget.

While the Act has certainly provided legal safeguards for the management of public finances, there is still significant room for improvement. The coming into force of the new Constitution in 2013 means the Public Finance Management Act, like many other statutes in Zimbabwe, need to be aligned with the supreme law. The Parliament of Zimbabwe has for the past few years been implementing a reform programme aimed at strengthening parliamentary budget oversight, among others issues. There are several new practices that Parliament has adopted in its parliamentary budget oversight work. Some of these innovative practices need to be legislated for if we are to institutionalise them and sustain their implementation.

This paper reviews the Public Finance Management Act, and identifies provisions that need to be aligned with the Constitution. Proposals are also made for provisions that will further strengthen public finance management in Zimbabwe borrowing on the reforms implemented to date, and good practices from similar jurisdictions.

2. REVIEW OF THE PROVISIONS

2.1 Object of Public Finance Management Act

Section 3 states the object of the Act as that of securing "transparency, accountability and sound management of the revenues, expenditure, assets and liabilities of any entity specified in section 4 (1)". Section 298 of the Constitution is more comprehensive and outlines the principles of public financial management as follows:

- Transparency and accountability in financial matters
- Burden of taxation must be shared equally
- Equitable sharing of national revenue between central government and provincial and local tiers of government
- Marginalised groups and areas must receive special attention in government expenditure
- Burdens and benefits of the use of resources must be shared equitably between present and future generations
- Public funds must be expended transparently, prudently and economically and effectively
- Financial management must be responsible and fiscal reporting must be clear
- Public borrowing and all transactions involving the national debt must be carried out transparently and in the best interests of Zimbabwe
- No taxes must be levied except under the specific authority of the Constitution or an Act of Parliament.

We propose therefore that the object of the Act becomes more detailed by including other principles of sound public financial management as outlined in section 298 of the Constitution. The object as it stands has two principles: transparency and accountability. There is need to include other important principles such as prudency, equity, economic use of resources, effectiveness and pro-marginalised groups and areas.

2.2 Treasury to Control and Manage Public Resources

Section 6 of the PFMA grants Treasury the powers to manage and control public resources. Section 80 of the Act confers on the Public Service Commission the power to appoint internal auditors to assist Treasury to perform functions under Section 6. The role of the Internal Auditor is to strengthen the system of internal and accounting control. The Internal Auditor has therefore a dual reporting role to the Accounting Officer and Treasury.

Corporate Governance can be improved by cutting the reporting to the Accounting Officer. An amendment of Section 80 is therefore proposed

2.3 Duties and Powers of the Minister

Section 7 of the PFMA outlines the duties and powers of the Minister in the control and management of public resources. In the same section there is reference to the duties and powers of the National Assembly. We propose that the duties and powers of the National Assembly are provided for in a separate section. Section 299 of the Constitution which speaks about the parliamentary oversight of State revenues and expenditure must be replicated in the PFMA as a section which provides for the duties and powers of Parliament[1]. Section 7 (3) goes on to state that "for the purpose of effectively supervising the public resources of Zimbabwe, the Minister shall, subject to this Act and any other enactment, be responsible for the management of the Consolidated Revenue Fund and the supervision, control, direction of all matters relating to the public resources of Zimbabwe". This provision can be interpreted to mean the Minister alone is responsible for the management of the Consolidated Revenue Fund (CRF). There is no reference to Parliament when section 299 of the Constitution explicitly confers power to oversee State revenues and expenditure to the legislative branch.

[1] Section 299 states that Parliament must monitor and oversee expenditure by the State and all commissions and institutions and agencies of government at every level, including statutory bodies, government-controlled entities, provincial and metropolitan councils and local authorities in order to ensure that:

A) All revenue is accounted for;
B) All expenditure has been properly incurred; and
C) Any limits and conditions on appropriations have been observed.

We propose this provision be amended to allow the Minister to be responsible for the management of the CRF in consultation with Parliament.

Section 11 (2) of the PFMA provides for the Minister to bring a Bill to Parliament to condone writing off any public resources advanced to funds or other entities if Treasury is of the opinion that the money is irrecoverable.

This is tantamount to seeking parliamentary approval after the action has already been taken. This provision should be amended to allow parliamentary approval before the debts are written off.

2.4 Ministerial Directives on Public Funds

Section 14 of the PFMA provides for the accounting officer to comply with a directive issued by his/her minister to commit certain payments that in the opinion of the accounting officer are not allowable. The accounting officer will comply but immediately submit a written report thereon to the Minister, the Accountant General, the Auditor General and the Secretary to Cabinet. This is a bad provision because the accounting officer has the primary responsibility for the management and disbursement of public resources allocated to the ministry. The accounting officer should never be forced to comply with orders that are not allowable. The Accountant General should approve such directives first before any payments are made. This is because section 9 (4) {b} empowers the Accountant General to refuse payment on any voucher in support of a charge on the CRF which is not allowable.

2.5 Fund Accounts

Section 18 of the PFMA provides for the establishment of other public funds. Of note is section 18 (8) which states that the "Minister may, on such terms and conditions as he or she may fix, make loans or advances for a period not exceeding three hundred and sixty days to any statutory fund or fund referred to in this section to enable the functions that should be carried out by means of the use of the money in that fund to be carried out". The problem with this provision is that it confers too much power on the Minister. The provision is not consistent with the constitutional powers that have been granted Parliament to oversee State revenues and expenditure. The Minister cannot have absolute power to fix terms and conditions for the loans when the Constitution requires an Act of Parliament to set limits on borrowings by the State; the public debt; and debts and obligations whose payment or repayment is guaranteed by the State; and that those limits must not be exceeded without the authority of the National Assembly[2].

We propose that the Minister fix terms and conditions for advancing to statutory funds in line with provisions of the Constitution and after approval by Parliament

The PFMA must also make it explicitly clear that entities can only retain revenues collected if an Act of Parliament allows them to do so. The current practice whereby some entities such as the Zimbabwe Republic Police collect spot fines that are not remitted to the CRF should be outlawed.

2.6 Sanctions for Failure to lay reports before the National Assembly

Section 15 of the PFMA says if a minister fails to lay the annual reports, financial statements and financial misconduct reports of the entities that he/she presides over, the Speaker shall require the minister concerned to give a written explanation to the National Assembly setting out the reasons why reports were not tabled within the specified time period. It goes on to say the Auditor General may issue a special report on the delay. It is our considered view that these sanctions are not deterrent enough. The Minister must defend his written explanation before an appropriate portfolio committee which will make recommendations on the matter to the whole house.

2.7 National Budget

Section 28 of the PFMA requires the national budget to be laid before the National Assembly "not earlier than 30 days before or not later than 30 days after the start of the forthcoming financial year". This provision should be aligned with section 305 (2) which requires the estimates of revenue and expenditure to be presented to the National Assembly on a day on which the National Assembly sits before or not later than 30 days after the start of each financial year. This constitutional provision allows the budget to be tabled much earlier before the start of the forthcoming financial year, thereby allowing Parliament enough time to scrutinise, debate and pass the budget. The PFMA must also include provision for separate estimates of expenditure for each commission established by the Constitution, the office of the Auditor General, the National Prosecuting Authority, the Council of Chiefs and any other institution prescribed in an Act of Parliament. This is a constitutional requirement.

2.8 Financial Statements and Reporting to Parliament

Section 32 speaks about directors of finance in ministries preparing annual financial statements and submitting such statements to the secretary of the ministry and the Accountant General within 30

[2] Section 300 of the Constitution

days of the year concerned. The Auditor General or any independent auditor shall audit the financial statements and return the audited statements to the accounting officer within 60 days of receipt thereof. An annual report should also accompany the financial statements, and must contain a report on the activities, outputs and outcomes of the ministry and fairly represent the state of affairs of the ministry, reporting unit, constitutional entity or public entity for which the ministry is responsible.

> ***While this provision is good, most ministries and government entities have not complied with it, thereby making the work of the Auditor General very difficult. There are no sanctions for failure to comply. There is therefore need for provisions that spell out the penalties if we are to move to a stage where financial reporting complies with the principles of sound public financial management highlighted in earlier sections of this analysis. In addition, the PFMA must be explicit that financial reports adhere to the International Public Sector Accounting Standards (IPSAS) reporting framework. At the moment, they do not fully comply. Budget structure should also take the format set out by International Public Sector Accounting Standard number 24, for ease of integration with periodical reporting.***

Sections 33 to 38 is mainly about financial reporting and submission of the reports to portfolio committees of Parliament and the time frames for such submission. Again, the rate of compliance is very low. Furthermore, the requirement that both monthly and financial reports are submitted to portfolio committees might not be necessary as this inundates portfolio committees with too much information that they don't have the capacity to make use of.

> ***It is our considered proposal that only quarterly financial and other reports and annual reports be submitted to portfolio committees. However, the Act can still provide for the submission of monthly reports upon request by the committees.***

Parliament recently adopted Quarterly Budget Performance Reporting Guidelines which have been shared with ministries to guide them in the preparation of reports to portfolio committees. These guidelines focus on the entire public resource management system of the State. The conceptual approach is based on the premise that there are five basic processes through which States manage public resources to deliver services that realize the socio-economic rights of citizens. The five processes are: Strategic Planning and Resource Allocation; Expenditure Management; Performance Management; Public Integrity Management; and Oversight. When compiling their quarterly reports for submission to Parliament as required by the law, ministries should address these five processes of public resource management so as to give portfolio committees adequate information and a clearer picture of how each ministry is managing public resources under its jurisdiction. It is only through this way that Parliament can be able to effectively play its constitutionally mandated oversight function; which is to call the Executive to account for its actions.

> ***We are therefore proposing a provision in the PFMA which compels ministries to submit budget performance reports to portfolio committees that are in line with these guidelines and the concept of results based budgeting that government has adopted. This will comply with section 83 which requires annual reports and audited financial statements "to contain a report on the activities, outputs and outcomes of the ministry". Provisions on quarterly reports are however not specific on performance/results based reporting.***

2.9 Public Entities

Part 5 of the PFMA is about public entities. Section 41 states the accounting authority of a public entity as the board, and where there is no board the chief executive officer. Section 41 (3) empowers Treasury, "in exceptional circumstances" to approve or appoint a person other than the board or chief executive officer, as the accounting authority of a public entity. It is our considered submission that granting Treasury such powers can lead to unwarranted interference by the Executive in the operations of public entities. The Act must not give room for a public entity to operate without a board and chief executive.

In his Mid-Term Fiscal Policy Review Statement presented to Parliament on 11 September 2014, the Minister of Finance and Economic Development Hon. Patrick Chinamasa announced that Government was in the process of amending the Public Finance Management Act in order to address corporate governance and corruption problems bedevilling the public enterprise sector. The amended Act was then passed by Parliament and gazetted into law in 2016.

The minister came up with new provisions to try and address corporate governance issues in public enterprises. It is now illegal for ministry officials to usurp the management functions of public enterprise officials. The amendments bar ministry officials from accepting any monetary or other benefits inconsistent with the discharge of the ministry's supervisory and regulatory functions. These include fuel coupons, travel allowances, holiday allowances, among others. It will also be illegal for ministry officials to approve remuneration of public entity employees without Treasury concurrence. There are provisions that criminalise public entity officials from colluding with ministry officials in condoning or concealing non-compliance with the Public Finance Management Act.

Sections 46 and 47 of the Public Finance Management Act were amended in order to strengthen reporting by public entities, and ultimately their accountability to the public. Section 46 was amended to require the accounting authority for every public entity to submit to the accounting officer of the appropriate ministry and to the Accountant-General, at least sixty days (or such greater period agreed by the appropriate ministry with the Accountant-General) before the start of its financial year a projection of revenue, expenditure and borrowings for that financial year in the prescribed format. They are also required to submit an annual corporate plan in the prescribed format covering the affairs of that public entity, including its subsidiaries, for the following three financial years. Such plan shall include targets, outputs and outcomes.

The Minister tried to address the non-implementation of recommendations from the Auditor General by making it a legal requirement for the recommendations to be complied with within time frames agreed with the Auditor General. However, many analysts expressed displeasure at this proviso which gives latitude to the public entity not to comply with the recommendations “upon good cause” shown to the Treasury.

> ***This is not a good provision as it is tantamount to Treasury overriding the decisions of the Auditor General. There is a danger of such a provision being abused to achieve certain objectives not necessarily in the interests of prudent public financial management. Every public entity and ministry must fully comply with the recommendations of the Auditor General, and not be allowed to seek dispensation elsewhere.***

The Bill that was passed by Parliament was generally criticised for not comprehensively addressing the frighteningly poor public financial management in public entities. Many concluded that it was a piece-meal approach that did not resolve the fundamental issues.

The Minister did not therefore fulfil his pledge in 2014 to review the PFMA in order to deal with concerns over public entities’ management of public resources, poor governance arrangements, and deployment of resources to non-priority areas at the expense of service delivery and the entities’ core mandates.

2.10 Principles of Public Administration and Leadership

It is our submission that the review of the Public Finance Management Act has to be informed by the constitutional principles on public finance management and principles of public administration and leadership. The principles of sound public financial management outlined in section 298 have already been highlighted in earlier sections of this report.

Section 194 (1) outlines eleven basic values and principles of public administration and leadership. Among others, they include efficient and economical use of resources and exercising transparency through providing the public with timely, accessible and accurate information. The State is required to take measures, including legislative measures to promote these values and principles.

It would be good for the amended Public Finance Management Act to restate all these principles.

Part 4 of the Constitution is about safeguarding of public funds and assets. Section 308 stipulates that it is the duty of every person who is responsible for the expenditure of public funds to safeguard the funds and ensure that they are spent only on legally authorised purposes and in legally authorised amounts. It is also the duty of every person who has custody or control of public property to safeguard the property and ensure that it is not lost, destroyed, damaged, misapplied or misused.

An Act of Parliament must provide for the speedy detection of breaches of provisions to safeguard public funds and assets and the disciplining and punishment of persons responsible for any such breaches.

The Public Finance Management Act must therefore be fully aligned with Section 308. Monetary penalties outlined in the current Act must be revisited to make them deterrent enough. Level 10 fine is only $700 which is not deterrent enough. Related to the issue of penalties for poor management of public funds and assets, section 88 is not conclusive, as it states that the Minister may make regulations prescribing a number of things. So long the regulations are not set out there may be a problem in handling disciplinary proceedings.

Section 197 says an Act of Parliament may limit terms of office of chief executive officers of public enterprises. We propose that the Act sets these term limits so that we move away from treating these entities as a personal empire for some people. We need dynamic leadership and new innovative ideas in parastatals in order for them to effectively serve the public good.

The Minister spoke about proposed amendments to the Public Finance Management Act requiring State enterprises and local authorities to submit their corporate and financial plans to Treasury not later than three months before the beginning of each fiscal year; mandating Treasury to review the budgets of public entities to ensure that deployment of resources is consistent with set priorities and service delivery objectives/mandates; empowering the Minister of Finance and Economic Development to direct entity boards to amend their corporate plans where necessary to align with the national development agenda; and incorporating provisions requiring State enterprises and local authorities to submit quarterly financial statements and performance reports not later than thirty days after the end of the respective quarter. The Minister expects the financial information and commentary to facilitate assessment of performance against budget and identify the causes of major variances to allow for timely policy interventions; and strengthening the enforcement arrangements to effectively deal with cases of non-compliance. All these measures need to be legislated for in the Act.

2.11 Office of the Auditor General

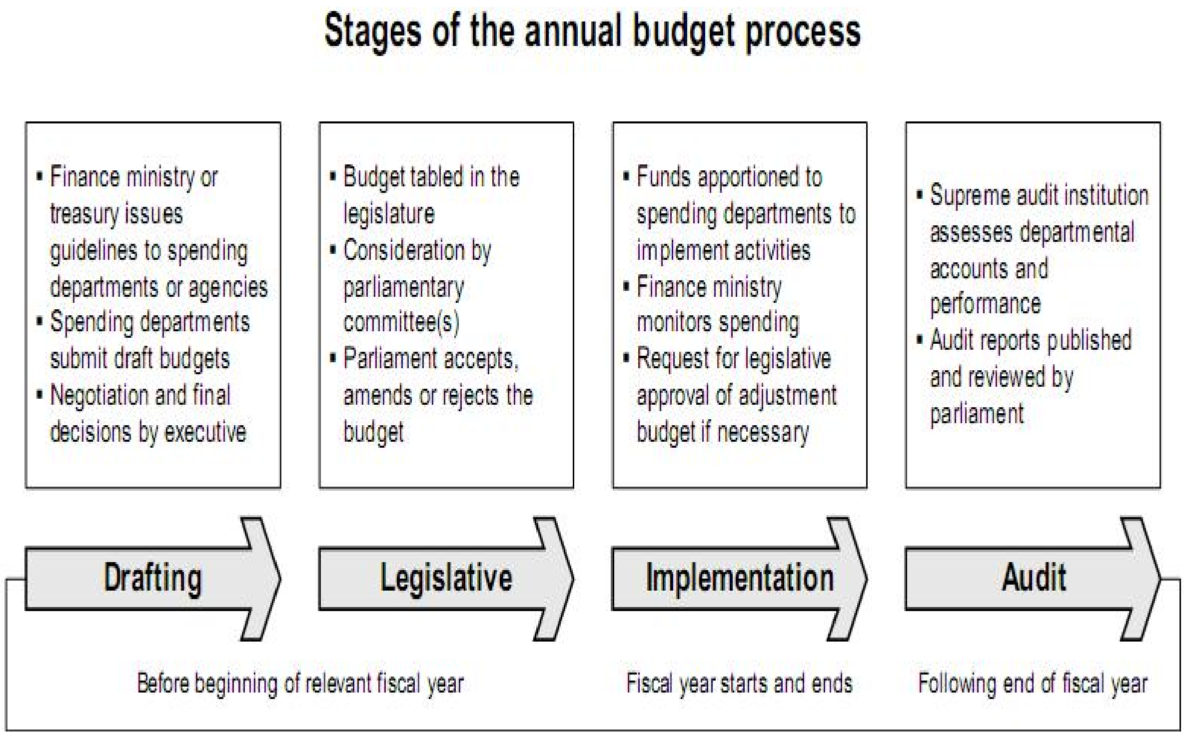
Section 309 of Constitution Amendment 20 establishes the Office of the Auditor General (AG) as a stand-alone body and sets out the functions of the Auditor-General that are further elaborated in the Audit Office Act [Chapter 22:18]. Section 308 of the Constitution further defines duties of custodians of public funds and property. The office of the Auditor General is responsible for auditing government receipts and spending and to ascertain whether public expenditures have yielded value for money across government ministries, departments, public bodies and statutory organisations. Section 309 (c) grants the AG powers to 'order the taking of measures to rectify any defects in the management and safeguarding of public funds and public property' and (d) states that 'public officers must comply with orders given to them in terms of subsection 2 (c). Beyond the recommendations and orders, the AG does not have power of sanction to enforce compliance.

The Audit Office Act and the PFMA must include provisions that empower the Auditor General with the power of sanction to enforce compliance with recommendations made.

3. OTHER GOOD PRACTICES IN PUBLIC FINANCIAL MANAGEMENT

3.1 Legislating for the Entire Budget Cycle

The following diagram generally describes the budget cycle drawing largely on the Westminster political system:



In summary, the budget process/cycle is as follows:

- **Budget Formulation**
  - Executive drafts budget
- **Budget Enactment**
  - Minister of Finance presents budget to parliament, which debates and approves
- **Budget Execution**
  - Government agencies & departments implement programmes and spend the money
- **Budgeting Auditing and Assessment**
  - Agencies and departments report on expenditure
  - Auditor General (Supreme Audit Institutions – SAIs) audits the expenditures

The timelines for the Budget formulation process in Zimbabwe are generally as follows:

- Reaffirmation of both national and sectoral key result areas and goals (May)
- Mid Term Fiscal Policy Statement (June/July)

- Macroeconomic and Budget Framework and the Expenditure Target. Inflation outlook, GDP growth, revenue and expenditure projections. Production of Budget Strategy Paper for consideration by Cabinet (August/September)
- Issuance of an expenditure target/indicative budget through Budget Call Circular to guide ministries in formulating their expenditure proposals (August/September)
- Strategic Planning Process by ministries (August/September)
- Performance agreements between ministry of finance and line ministries (August/September)
- Submission of Budget Proposals for Treasury consideration (September/October)
- Pre-Budget Seminar with MPs (October/November)
- Budget Presentation to Parliament (November/December)
- Budget Analysis by Parliament, Debate and Approval (December/January)

The main challenge that has been faced with regards to this budget cycle (in particular the formulation stage) is that the time frames are not fully adhered to, thereby making it very difficult for Parliament and other stakeholders to participate effectively in the budget process. One is never certain when the various stages will happen. This is worsened by the absence of public information on the budget formulation process. Some countries have legislated for some of these stages in the budget formulation process.

A pre-budget statement is released by the Ministry of Finance in some countries at least a month before the tabling of the Budget in Parliament. This is in line with the OECD's best practices guidelines for fiscal transparency which recommends that the pre-budget statement should be released no later than one month prior to the budget proposal. The statement spells out the macroeconomic framework and the medium term fiscal and economic objectives. In Zimbabwe it is called the Budget Strategy Paper. It has however not been produced on a consistent basis. Neither has it been formally tabled in Parliament to allow the legislative branch to scrutinise and debate it.

We therefore propose that the tabling of the Budget Strategy Paper is legislated for. There should be provisions compelling the Minister of Finance to table it in Parliament in order for the Speaker to refer it to the Budget and Finance Portfolio Committee for scrutiny and then report to Parliament for debate and approval with suggested amendments. The Minister of Finance should only submit the Budget Strategy Paper to Cabinet after approval by Parliament. In South Africa the Medium

Term Budget Policy Statement is provided for in section 6 of the Money Bills Amendment Procedure and Related Matters Act, 2009. It is submitted to Parliament at least three months prior to the introduction of the national budget. The Medium Term Budget Policy Statement in South Africa must include the following:

- ***A revised fiscal framework for the present financial year and the proposed fiscal framework for the next three years***
- ***An explanation of the macro-economic and fiscal policy position, the macro-economic projections and the assumptions underpinning the fiscal framework***
- ***The spending priorities of national government for the next three years***
- ***The proposed division of revenue between the spheres of government and between arms of government within a sphere for the next three years***
- ***The proposed substantial adjustments to conditional grant allocations to provinces and local governments, if any***
- ***A review of actual spending by each national department and each provincial government between 1 April and 30 September of the current fiscal year.***

The statement is referred to the committees of finance and appropriations in the National Assembly and National Council of Provinces who are required by the Act to consider the statement and report to their respective houses within 30 days. The committees have power to propose amendments to the fiscal framework.

The Money Bills Amendment Procedure and Related Matters Act (No. 9 of 2009) provides the procedure for Parliament to amend money Bills. The Act establishes and makes the Finance and Appropriations Committees central to the consideration of the annual national budget by Parliament. It also requires these two committees to interact with portfolio and select committees in the process of recommending amendments to the fiscal framework, Division of Revenue Bill, Appropriation Bill, Taxation / Revenue Bills, and adjustments budget. The Act requires Portfolio Committees to use reports of the Standing Committee on Public Accounts (SCOPA) – in addition to oversight reports (Budget Review and Recommendations Reports), and reports on the Medium Term Budget Policy Statement(MTBPS) by Portfolio Committees – as the basis for the consideration of the fiscal framework and the Division of Revenue Bill. The Act also establishes a Parliamentary Budget Office (PBO) to provide independent, objective and professional advice and analysis to Parliament on matters related to the budget and other money Bills. The PBO does so by undertaking research and analysis for the committees of finance and appropriation that are

established by the Act. The Act requires committees of the Assembly to submit annual Budgetary Review and Recommendation Reports (BRRR), after the adoption of the Appropriation Bill and prior to the adoption of the reports on the MTBPS [Section 5(4)]. The Minister of Finance and the relevant member of Cabinet are informed of the assessment.

The BRRR provides an assessment of a department's service delivery performance, given available resources; assesses the effectiveness and efficiency of the department's use and forward allocation of available resources; and allows an opportunity for the Assembly to make recommendations on the forward use of resources.

Parliament's **reporting on the MTBPS** is the next oversight element in the procedure [Section 6].

- The Act requires the Minister of Finance to submit the MTBPS to parliament at least three months prior to the introduction of the national budget.
- The MTBPS includes a revised multi-year fiscal framework, the spending priorities of national government for the next three years, and a review of actual spending by each national department and each provincial government between 1 April and 30 September of the current fiscal year.
- The MTBPS is referred to the respective committees on finance and committees on appropriations of the National Assembly and the National Council of Provinces for consideration, before these bodies report back to the respective Houses.
- The Houses may require their committees on finance or appropriations to consult with any other committee in considering matters referred to it.
- Committees must report within 30 days from the date of the tabling of the MTBPS, and the reports may recommend amendments to the fiscal framework or the division of revenue, should these remain materially unchanged when submitted with the national budget.
- The reports from the committees on finance and committees on appropriations must be submitted to the Minister of Finance within seven days of their adoption by the respective Houses.

- The BRRR and the reports on the MTBPS serve as indicators as to whether amendments might be proposed to the fiscal framework and the budget Bills when these are introduced the following year. The Minister of Finance must submit a report to parliament setting out how the Division of Revenue Bill and the national budget give effect to (or the reasons for not taking into account) the recommendations contained in the BRRR and the reports on the MTBPS when the national annual budget is introduced in the National Assembly [Section 7(4)].

- At this point, context for amending the fiscal framework, and thereafter the Division of Revenue Bill, is now set.

In Kenya, there are set dates for such stages as release of National Treasury Circular, approval of the Budget Policy Statement by Parliament and tabling of development plans in county assemblies. The Public Finance Management Act creates opportunities for the public to participate at the national level and at the county level. The Act mentions very specific dates that are important to remember. The first important date is February 15. This is when the government must release what is known as the Budget Policy Statement (BPS) to Parliament. The BPS is a statement by the government about its plans to raise and spend money in the coming year and the main priorities it will spend on. It is not yet the detailed budget proposal, with all the specific numbers for each ministry. That document, known as the budget proposal, or Budget Estimates, comes later.

The law says very clearly that the government shall seek and take into account the views of the public in drafting the BPS. So this means that even before February, the government should create some opportunities for ordinary citizens to give their views on what government priorities should be.

The budget year starts on July 1, so this statement is due 4½ months before the new budget year begins. The statement comes to Parliament on February 15, but it must be made available to citizens by the end of February. Parliament is supposed to debate and approve the BPS by the end of February.

The Public Finance Management Act also says that every year by August 30, the Cabinet Secretary for Finance shall issue a circular to all national government bodies that lays out in more detail how the public can participate in the budget-making process. This may contain additional opportunities and specific dates on which public input will be sought. In addition, the Act says that regulations may be drafted to provide more detail on the manner of public participation under the Act. For example, regulations may specify the procedures for the public to be notified and to comment on financial matters, and regulations may provide for special needs of people who cannot read or write, people with disabilities, women and other disadvantaged groups.

Disability sensitive budgeting is strongly recommended under our own PFMA in order to fulfil the requirements of sections 22 and 83 of the Constitution

The PFM Act lays out a set of "fiscal responsibility principles" that should be observed. These include:

- When we look at spending over a three to five-year period, at least 30 percent of the budget should go for development (or capital) expenditure

- ❖ Some limit should be put on the share of spending that goes for wages and benefits for public officers (but the exact limit is to be set in separate regulations)
- ❖ Again over a three to five-year period, government borrowing should only be used for development or capital expenditure
- ❖ Public debt should be maintained at a sustainable level (Parliament must set the exact level that it considers sustainable)
- ❖ Tax rates should be reasonably stable and predictable

How about our own PFMA setting expenditure limits for employment costs and capital programs?

The Act creates something called the Intergovernmental Budget and Economic Council. This body brings together the County Executive Members for finance from all 47 counties with the Cabinet Secretary for Finance at national level. It also includes representatives from the Judiciary and Parliament, and from the Council of County Governors. Finally, the Cabinet Secretary for intergovernmental affairs also sits on the committee. This body is designed as a space for consultation on all major budget issues, including the distribution of revenues between levels of government. The Council is to meet twice a year and is chaired by the Deputy President.

3.2 Gender Budgeting

All SADC member states have acceded to the SADC Protocol on Gender and Development. In this protocol the member states are convinced that gender equality and equity is a fundamental human right. Article 15 of the protocol enjoins state parties to ensure gender sensitive and responsive budgeting at the micro and macro levels, including tracking, monitoring and evaluation. These commitments make gender responsive budgeting (GRB) a priority for SADC countries. The “power of the purse” of Parliament means it has a central role in ensuring that gender responsive budgeting becomes a reality in the SADC region.

The constitutions of most countries recognise the importance of addressing gender inequality as a fundamental value. The new Zimbabwe Constitution, which was enacted into law on 23 April 2013, deals with gender and women’s rights in a more comprehensive manner. Not only does it provide for absolute equality of treatment between men and women, it goes further to provide specifically for measures that speak directly to the concerns of women.[3] The South African Constitution also has elaborate provisions that speak to gender equality.

---

[3] Section 17 of the Zimbabwe Constitution compels the State to promote full gender balance in Zimbabwean society. Section 13 enjoins on the State and all institutions and agencies of government at every level to endeavor to facilitate rapid and

Gender equality refers to equal rights, responsibilities and opportunities between women and men and girls and boys. Equality does not imply that women and men will become the same but that women's and men's rights, responsibilities and opportunities will not depend on whether they are born male or female. Gender equality implies that the interests, needs and priorities of both women and men are taken into consideration, recognizing the diversity of different groups of women and men. Gender equality refers to equal opportunities for all people and equally valued work done by all, irrespective of their sex. Equality between women and men is seen as a precondition for and indicator of sustainable people-centred development.

UN Women defines gender responsive budgeting as government planning, programming and budgeting that contributes to the advancement of gender equality and the fulfilment of women's rights. It entails identifying and reflecting needed interventions to address gender gaps in sector and local government policies, plans and budgets. GRB also aims to analyse the gender differentiated impact of revenue raising policies and the allocation of domestic resources and official development assistance. GRB is part of gender mainstreaming strategy. It focuses on a gender based analysis and an equality-oriented evaluation of the distribution of resources. That is, how policy and implementation strategies address the gender inequalities in the various sectors. More importantly, how much of the expenditure is also addressing the differential needs and realities of women/men and girls/boys in the sector. GRB is not a separate or a 'for women only' budget but it looks at the budget from a gender perspective (gender lens). It does so by analyzing the impact of actual expenditure and revenue on women/men, girls/boys so that policies and resources can be differentially targeted to address the existing gender gaps, and if need be, adjustments and reprioritization can take place. ZWRCN, 2014.

Gender budgeting offers a range of advantages that partly go beyond an effective contribution to gender equality:

- GB creates greater transparency regarding the criteria that form the basis for budget-related political decisions.
- GB facilitates greater accuracy and sustainability because available funds are more precisely tailored to the real needs of the different social groups.

equitable development and that the measures to achieve this must protect and enhance the right of the people, particularly women, to equal opportunities in development.

- GB is a procedure that makes discriminating implications of financially effective decisions visible and that enables a gender-equitable restructuring of resource-related decisions.
- GB is an option to put gender-equality-related goals into practice, including in times of bigger budgetary margins.

Members of Parliament have the "power of the purse" and so have a central role to play in gender responsive budgeting. A whole range of questions must be asked by the law-makers when approving the budget and monitoring its implementation. Some of the questions are as follows: ✓ What impact does a resource-effective decision/measure have on the living conditions of women and men in their diversity? ✓ Who directly or indirectly benefits from state expenditures? ✓ What impact do economic measures have on unpaid work and which social groups do this kind of work? ✓ Which women and men pay what kind of direct, indirect and invisible taxes (as unpaid work) to the community? ✓ What resource-effective decisions/measures consolidate or change existing gender roles? **Source:** www.unwomen.org

Failure to institutionalise gender budgeting at all levels of government largely explains why gender budgeting remains mere rhetoric in most of the SADC countries. In its 2009 Evaluation of the Gender Responsive Budgeting in Mozambique, the United Nations Development Fund for Women (UNIFEM) highlighted some of the following successes:

- Inclusion of gender issues and indicators in the second Poverty Reduction Strategy Paper (PRSP) and consistent reporting on gender in the formal PRSP review mechanism;
- Introduction of gender in the budget call circular letter, with more specific guidance in successive letters;
- Increased engagement by women's organizations in a national mechanism for monitoring government progress on its policy commitments;
- Specific budget allocations for institutional activities advancing gender equality in the pilot sectors of the Interior and Health; and
- Health sector protocol and proposed budget allocations in the Ministry of the Interior to improve services for women who are victims of violence.

However, the evaluation report found out that “staff with gender remits such as gender focal points in sector ministries were highly effective in achieving results but did so by direct lobbying of the sectors’ ministers. This indicates that commitment to change was not institutionalised in sectors’ planning and finance functions”.

The Zimbabwe Women’s Resource Centre and Network Evaluation of its Gender Responsive Budgeting and Women’s Empowerment Programme (2010 – 2014) also found out lack of institutionalisation as the biggest causes for the failure of the programme to realise some of its outcomes.

Good practices from elsewhere are that gender budgeting has to be legislated for if it is to take root or embedded in the operations of all government entities. The PFMA must therefore be amended to include provisions that make it mandatory for ministries and government departments/agencies to budget from a gender perspective. Section 13 of the Constitution provides adequate justification for gender budgeting to be legislated for. The provision binds the State and all institutions and agencies of government at every level to facilitate rapid and equitable development, and that measures to achieve this “must involve the people in the formulation and implementation of development plans and programmes that affect them’. The same section goes on to say that measures to achieve rapid and equitable development “must protect and enhance the right of the people, particularly women, to equal opportunities in development”. This is a very good example of the Constitution promoting participatory and gender budgeting.

According to UN Women, Morocco has a long history of gender responsive budgeting work with sustained, high-level political will to address gender equality. Since the adoption of a new finance law in January 2014, the needs of women and girls are increasingly being reflected in how government spend and the gender priorities are integrated throughout the budgeting process.

Ongoing efforts have resulted in GRB being progressively anchored in Morocco’s budget reform process. Experience with results-based and gender-responsive public finance management for more than 10 years in Morocco resulted in the adoption of the new organic law of finance by the Council of Government, which legally institutionalizes gender equality throughout the budget process. Taking the GRB processes a step forward; the new legislation explicitly mentions that gender equality must be taken into account in the definition of objectives, results and indicators of performance of the line budgets. The new organic law also institutionalizes the Gender Report as an official document that is part of the annual Finance Bill - an important achievement.

Annually, Morocco produces a Gender Report that contains information on the work conducted by each sector disaggregated by gender (where data allows), which has become an important accountability and monitoring tool, advancing implementation of GRB from one year to the next. By 2012, a total of 27 departments joined the report, corresponding to more than 80% of the State's overall budget. The report is successful in requiring reporting from more traditional (for GRB), such as health and education, as well as non-traditional sectors, such as ministries of infrastructure and transport.

The Department of Literacy now conducts budget planning of its programmes based on its "targets" which are largely women, who now constitute 85 per cent of the beneficiaries of such literacy programmes in Morocco. This approach, which began in 2009, has allowed the Department to better adapt to the needs of its beneficiaries. As a result, several different programmes are also being developed according to age (15-24; 25-45 years and 45+), as well as employment status (employee or looking for employment).

Another breakthrough was the inclusion of provisions in favour of gender equality in the country's new Constitution in July 2011. Article 19 explicitly enshrines gender equality in the enjoyment of civil, political, economic, social, cultural and environmental rights. The new Constitution also introduces the principle of gender equality in fact through several articles that mention the commitment of governments to work towards the creation of conditions to allow the achievement of gender equality and equal representation of women and men in all areas, and access to decision-making bodies.

3.3 Parliamentary Budget Office

In a significant development, the Parliament of Zimbabwe (POZ) has just established a Parliamentary Budget Office (PBO). The PBO is an independent, professional, objective and non-partisan technical support unit to Parliament and its committees on budget and financial matters. It provides independent simplified expert analysis and impact assessment of the budget proposals and spending plans- thereby enhancing parliamentarians' capacity to objectively debate national budgets and other fiscal and monetary instruments. It enhances and strengthens the capacity of MPs to thoroughly interrogate the national budget and key government economic policies - thus enabling them to put forward informed, objective and well balanced proposals for consideration by the Executive. The PBO will provide timeous, clear, relevant and well researched analytical reports on government policy statements. Continuous research by the PBO on key macroeconomic and monetary developments will help Parliament improve its effectiveness in monitoring the Executive's management of national resources and the country's economic recovery programmes. The PBO concept is in line with regional and international best practice in legislative responsibility and Executive accountability.

While the PBO concept is in line with regional and international best practice in legislative responsibility and Executive accountability, critics see the PBO as just another additional layer of Parliament bureaucracy that will not strengthen Parliament's effectiveness in the budget process as long as the legislative branch is not accorded constitutional and legal powers over the whole budgetary cycle. Barry Anderson (2008) argues that establishing a non-partisan analytic unit that provides independent, objective budgetary information to the legislature is not easy. Certain fundamental characteristics have to be present if the unit is to be successful. They are as follows:

- Independence (in terms of providing independent analysis and setting its own work agenda)
- Non-partisanship
- Making the outputs of the unit, and the method by which those outputs are prepared transparent (especially reports that are critical of proposed policies) and understandable;
- Placing the core functions of the Unit in law so that they cannot be easily changed to suit political purposes, avoiding recommendations;
- Briefing relevant members of the legislature immediately before a report is issued, especially if the report contains negative information with regards to a proposal;
- Principally serving committees rather than individual members;
- Willing to meet with lobbyists or other proponents – as well as opponents – of policy proposals, keeping in mind that a fair and balanced process is always important;
- Fully fledged office manned by highly qualified and experienced economists, public finance specialists, accountants, lawyers
- Adequately funded

We therefore strongly recommend provisions in the Public Finance Management Act for the establishment of the PBO. The Act should clearly spell out the functions and powers of the Office.

In South Africa, the PBO is provided for in the Money Bills Amendment Procedure and Related Matters Act, 2009. Section 15 of the Act outlines the main objective of the PBO as that of providing independent, objective and professional advice and analysis to Parliament on matters related to the budget and other money Bills. The core function of the office is to support the implementation of the Money Bills Amendment Procedure and Related Matters Act by undertaking research and analysis for the committees of finance and appropriations on the following:

- annually providing reviews and analysis of the documentation tabled in Parliament by the Executive in terms of this Act;
- providing advice and analysis on proposed amendments to the fiscal framework, the Division of Revenue Bill and money Bills and on policy proposals with budgetary implications;
- monitoring and synthesising matters and reports tabled and adopted in the House with budgetary implications, with particular emphasis on reports by other committees;
- keeping abreast of policy debates and developments in key expenditure and revenue areas;
- monitoring and reporting on potential unfunded mandates arising out of legislative, policy or budgetary proposals; and
- undertaking any other work deemed necessary by the Director to support the implementation of this Act.

In order to guarantee the independence of the PBO, the Act requires the Director of the Office to report to Parliament any inappropriate political or executive interference to prevent the office from providing independent, objective and professional advice on matters related to the budget and other money Bills. The Parliamentary Budget Office must annually receive a transfer of funds from Parliament's budget to carry out its duties and functions. The Director must annually submit to Parliament a rolling three-year budget in time for inclusion in Parliament's budget and a report on the use of funds and the activities of the Parliamentary Budget Office. This allows the office to be adequately funded. The Director must appoint deputy directors and personnel with the requisite experience and qualifications as may be necessary to carry out the duties and functions of the Parliamentary Budget Office.

In Uganda, the Budget Act of 2001 established the Parliament Budget Committee with a mandate to scrutinise the National Budget, and the Parliamentary Budget Office (PBO) to support analysis of the budget and related economic developments. The PBO is headed by a director and is staffed by 20 full-time economists. The office consists of two main divisions, Fiscal Affairs and Macroeconomic Affairs, and a Financial Programming section which is responsible for meeting the office's data requirements. The PBO is mandated by the Budget Act to undertake a number of key tasks, including regular and ad hoc analytical reports on budgetary and macroeconomic topics. It also produces reports on the financial implications of new legislation.

4. CONCLUSION

Zimbabwe has certainly made some strides in reforming its budget process and the role of Parliament and citizens in that process. Chapter 17 of the Constitution has elaborated sound principles on public financial management and clearly defined the role and powers of Parliament in the management of public funds. However, the PFMA has to be aligned with these constitutional provisions in order to enforce the supreme law provisions. The alignment has to address the letter and spirit of the Constitution. Zimbabwe is the only country in sub-Saharan Africa which has explicitly legislated for the submission of budget performance reports to portfolio committees of Parliament. Parliament has come up with innovative practices to enhance its role in the budget process such as the annual pre-budget seminar which is preceded by the pre-budget seminar briefing. We have also witnessed portfolio committees convening public hearings to solicit public views on their priorities for the next budget. This public input has greatly influenced portfolio committee reports and discussion at the annual pre-budget seminar. However, all these good practices have to be legislated for to enforce institutionalisation and enforcement. The recent establishment of the PBO and greater awareness on the importance of gender budgeting are all positive developments. Again, these moves need to be supported by appropriate legislative provisions.

5. ANNEXES

Annex 1: **Kenya Budget Timeline at National (and County) Level**

August 30. National Treasury releases a circular to all government agencies starting the process, and setting out guidelines for public participation. The County Executive Member for finance must also release a circular by this date doing the same at county level.

September 1. Counties must prepare and table a county development plan in the County Assembly by this date. The plan must be made public within 7 days.

September 1 to February 15. During this time, the National Treasury and the various ministries and agencies should undertake some type of consultation with the public and other stakeholders. This can include sector hearings as in the past, or visits by Treasury to counties to solicit views. Views from the public should feed into the formulation of the Budget Policy Statement.

January 1. By January of every year, the Commission on Revenue Allocation should submit its recommendations for the division of revenue between national and county governments, and among the counties, to the rest of government.

February 15. Cabinet Secretary for Finance to submit the Budget Policy Statement to Parliament. Also the deadline for the debt management strategy paper, and the Division of Revenue and County Allocation of Revenue Bills to go to Parliament.

February 28. Deadline for Budget Policy Statement to be approved by Parliament. This is also the deadline for the County Fiscal Strategy Paper to be tabled in each County Assembly.

March 1. Deadline for Budget Policy Statement to be made available to public.

March 16. This is the deadline for passing the Division of Revenue and County Allocation of Revenue Bills.

April 30. This is the deadline for the Cabinet Secretary to submit the budget proposal, or Budget Estimates to Parliament. It is also the deadline for the Judiciary and the Parliamentary Services Commission to submit their own budgets to Parliament. This is also the date for the county budget proposal to be submitted to the County Assembly.

May. This is likely when the Budget Committee will begin to hold public hearings on the budget.

May-June. This is when the Budget Committee will table its recommendations on the budget in Parliament.

May 15. This is the deadline for the Cabinet Secretary to give any comments on the Judiciary and Parliamentary budget requests.

June. The national Finance Bill to authorize tax and revenue collection is tabled in Parliament. A County Finance Bill is to be tabled at this time in the County Assembly.

June 30. This is the end of the financial year, and the deadline for the Appropriations Bill to be passed by Parliament to authorize spending for the new budget year.

July. Sometime in the latter half of July, the final approved budget estimates should be available to the public.

November. Government must publish the Budget Review and Outlook Paper, reviewing last year's budget performance and this budget year's initial forecasts from the Budget Policy Statement in February. There is no deadline for the County Budget Review and Outlook Paper, but it should be available around this time as well.

November 15. Government must publish an implementation report on the first quarter of budget implementation from July-September no later than 45 days after the end of the quarter.