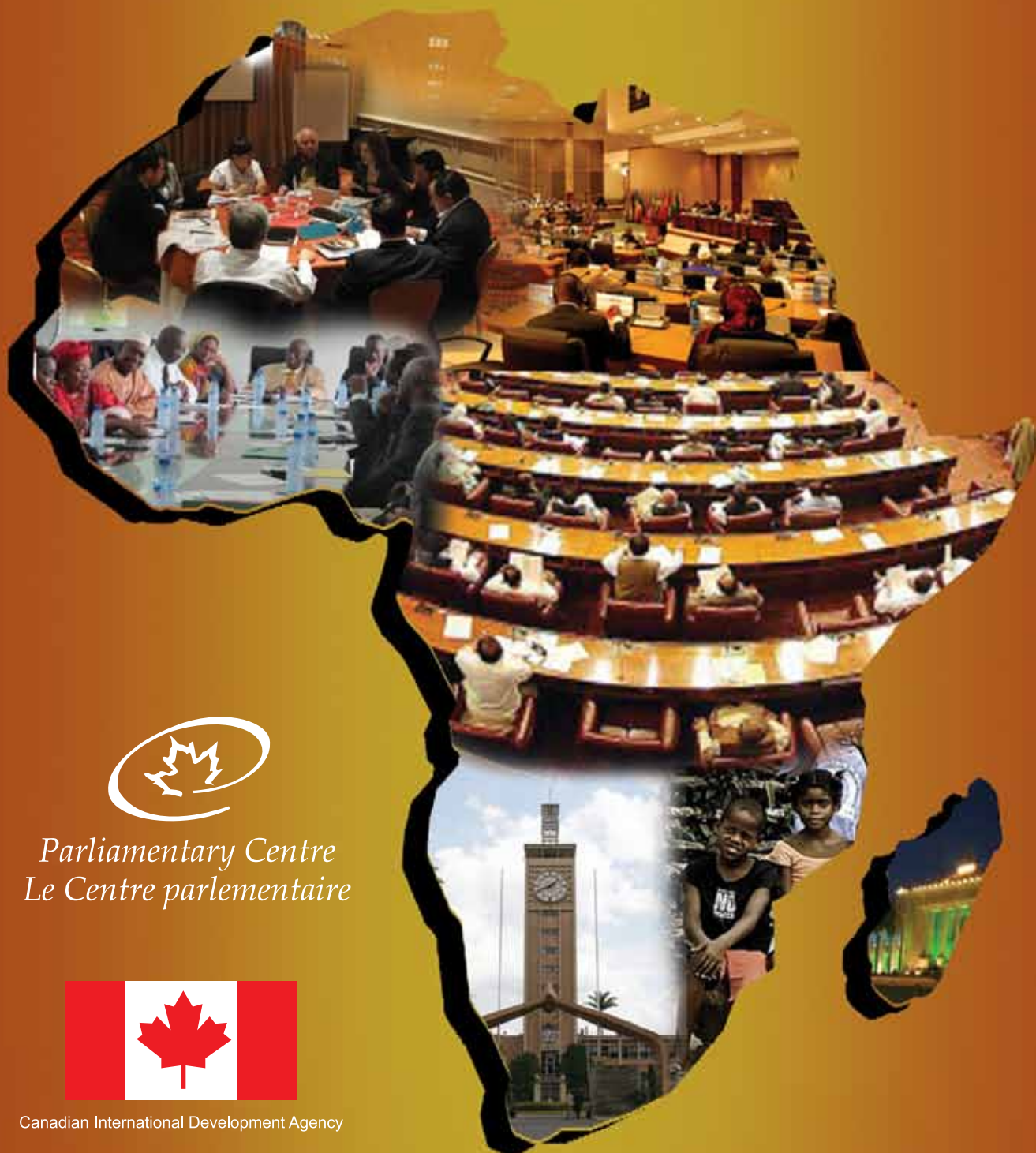


JUNE 2011

AFRICAN PARLIAMENTARY INDEX (API)

A Report for Seven African Countries



*Parliamentary Centre
Le Centre parlementaire*



Canadian International Development Agency

A publication of the Parliamentary Centre (Africa Programme)



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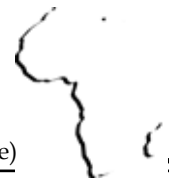


Parliamentary Centre
Le Centre parlementaire



Canadian International Development Agency
Agence Canadienne de Development International

This document is written in two languages including English and French. The English version presents the synthesis report of the study in chapter one, followed by country reports of the five English speaking countries under the study. The French version which is at the reverse side of this document also has the synthesis report and two country reports for Benin and Senegal.



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Acronyms and Abbreviations

A-G	Attorney General
API	African Parliamentary Index
APNAC	African Parliamentarians Network Against Corruption
APSP	Africa Parliamentary Strengthening Programme
BFP	Budget Framework Paper
CAG	Controller and Auditor General
CIDA	Canadian International Development Agency
CP	Cabinet Paper
CPA	Commonwealth Parliamentary Association
COI	Commissions of Inquiry
CSO	Civil Society Organization
DACF	District Assembly Common Fund
DCDs	District Coordinating Directors
DCEs	District Chief Executives
GACC	Ghana Anti-Corruption Coalition
GETFUND	Ghana Education Trust Fund
GII	Ghana Integrity Initiative
GSDA	Ghana Shared Growth Development Agenda
HIV-AIDs	Human Immune Virus-Acquired Immune Deficiency Syndrome
ICA	Independent Country Assessor
IEC	Information Education Communication
IMTC	Inter Ministerial Technical Committee
IT	Information Technology
IPU	Inter-Parliamentary Union
LGAs	Local Government Authorities
LI	Legal Instruments
MDAs	Ministries, Departments, Agencies
MDGs	Millennium Development Goals
MOFEP	Ministry of Finance and Economic Planning
MOFEA	Ministry of Finance and Economic Affairs
MOU	Memorandum of Understanding
MP	Members of Parliament
MTEF	Medium Term Expenditure Framework
NA	Not Applicable
NDI	National Democratic Institute
NGO	Non Governmental Organization
PAC	Public Accounts Committee
PC	Parliamentary Centre
PLWHAs	People Living With HIV/ AIDS
PM	Prime Minister
TAs	Traditional Authorities
UNECA	United Nations Commission for Africa
UNMC	United Nations Millennium Campaign
URT	United Republic Tanzania
WBI	World Bank Institute



Acknowledgement

The Parliamentary Centre would like to thank the leadership of all seven APSP partner Parliaments for enabling evidence-gathering visits by staff and consultants of the Parliamentary Centre to their various Parliaments. We are most grateful to the Members of Parliament and staff of these Parliaments who took time off their very busy schedules to fully participate in the self-assessment process.

The invaluable contribution of the Independent Country Assessors (ICAs) and support staff that ensured participants understood the API concept and assigned scores cannot go without mention. Your contribution is highly appreciated.

We are especially grateful to the Civil Society Organisations (CSOs) who responded to our invitations with alacrity and actively participated in the API assessment. By their participation, they provided a different perspective which serves as validation to that of the self-assessment by Parliamentarians. We are most grateful for their invaluable contribution.

To all the hard working and dedicated staff of the Parliamentary Centre who worked tirelessly to ensure the completion and launch of the API report, we say well done. The Centre is particularly grateful for the considerable contribution of Mr. Elvis Otoo, a former M&E Governance Expert at the Centre, for leading in the development of the methodology of the API.

The Centre also recognises and commends the contribution of Ms Cynthia A. Arthur and Mr. Issifu Lampo for reviewing all the country reports submitted by the independent country assessors and making considerable editorial input.

The Centre also appreciates the role of the Coordinator of Operations, Mrs. Gifty Adika for fostering strategic alliances, liaising with Partner Parliaments and coordinating a successful implementation of the first round of the API with the support of the Director of Africa Programmes.

To the team of administrative support staff, thank you for managing the administrative process relating to the API which was seamlessly executed.



Foreword

The African Parliamentary Strengthening Programme (APSP) for Budget Oversight is a five (5) year capacity strengthening Programme for seven partner Parliaments; namely, Benin, Ghana, Kenya, Senegal, Tanzania, Uganda and Zambia. The Programme, funded by CIDA and implemented by the Africa Programmes of the Parliamentary Centre supports the seven (7) partner Parliaments to develop and implement strategies to strengthen their overall role and engagement in the national budget process.

This is premised against the backdrop that the budget process is a key area of focus for Parliaments and relates closely to poverty reduction. As governments' budgets are about resource allocation that affects the lives of citizens who Parliamentarians in democratic states represent, it is critical that Parliamentarians are equipped with the requisite tools to help facilitate their role in the budget process. This, it is expected, would enhance their understanding of the salient elements that are of direct relevance to poverty reduction in their respective countries.

The African Parliamentary Index (API) has been designed by the Centre to provide a standard and simplified system for self assessment of the performance of Parliaments in Africa, especially the seven (7) APSP select Parliaments. The process of assessment was led by APSP partner Parliaments and validated by key stakeholders including, independent research institutions, groups of civil society organisations, and university academics, which contributed to ensuring the legitimacy and country ownership of the final outcome.

The findings point to obvious capacity strengths as well as demonstrable weaknesses of participating Parliaments. It is hoped that partner Parliaments find this information useful in designing their strategic direction including capacity strengthening plans for their individual Parliaments.

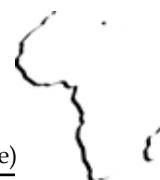
Though the API initiative by Parliamentary Centre (PC) is not the first of its kind in Africa, the added value in this initiative lies in the fact that Partner Parliaments were the key drivers of the assessment process. The high level of interest demonstrated by all the participating Parliaments gives cause for optimism with regard to the sustainability of the API process.

As we seek to contribute our quota to effective participatory democracy in Africa, we acknowledge the continued sponsorship of CIDA under the APSP and the wonderful support and participation of all the partner Parliaments and their staff in our programmes.

Dr. Rasheed Draman

Director of Africa Programmes

Parliamentary Centre



Message from the President and CEO

Parliamentary democracy, the bedrock of good governance and accountability has witnessed phenomenal growth on the continent of Africa since the early 1990s. Recognizing the critical role parliaments play in fostering democracy and improving the livelihoods of the citizenry, over the past two decades, the Parliamentary Centre has engaged African Parliaments in efforts aimed at strengthening their capacity. These efforts have also contributed significantly to deepening democracy on the continent.

The Parliamentary Centre's Regional Office for Africa is located in Accra, Ghana. It is at the forefront of our efforts to engage African parliaments and promote democratic governance on the African continent. During the past two decades the Centre worked with over 31 African Parliaments, implementing in many ways, ground-breaking and pioneering work through almost 50 projects that are as diverse as the continent itself.

The African Parliamentary Index (API) is yet another innovation from the Parliamentary Centre. It is a self-assessment tool which provides a set of indicators that shows the level of engagement of select African parliaments in the budget process as well as other functional areas. The tool has been developed in line with identified best practices and is based on categories of indicators linked to parliament's three core functions of representation, law making and oversight of public expenditure and finance. It aims to provide a standard and simplified system for self assessment of the performance of parliaments. What makes this tool unique is the involvement of the participating parliaments at every stage of the process, which helps ensure the legitimacy and country ownership of the final outcome.

The usefulness of the API for all parliaments on the Africa continent is evident as the findings can be drawn on to make informed decisions and to help parliaments develop strategic plans to improve their own capacity. This initial report covers our seven partner parliaments. However, the Parliamentary Centre hopes that the great interest and expressed value of the API will enable us to increase our reach and scope in the future.

I wish to take this opportunity to express my appreciation for the unrelenting support to all our development partners, particularly CIDA for its pioneering role in Parliamentary development and its generous support to the Parliamentary Centre over many decades. Additionally, I am sincerely grateful to our partner Parliaments whose exemplary support and cooperation made it possible to successfully accomplish this exercise. I also want to thank our staff for their dedication and professionalism in the pursuit of our mission to build effective Parliaments with a view to promoting good governance on the African continent.

Jean-Paul Ruszkowski
President and CEO
Parliamentary Centre



CHAPTER 1

SYNTHESIS REPORT

1.1 INTRODUCTION

The Parliamentary Centre (Africa), through the Africa Parliamentary Strengthening Programme (APSP) for budget oversight aims to increase the capacity of partner Parliaments to carry out their legislative, financial, oversight and representative functions to enhance good governance, accountability, transparency and participation, particularly in the budget process. The APSP is cognizant of the fact that the organization, powers and effectiveness of participating Parliaments vary from country to country across the continent.

Because of this reality, the need has been established for a set of indicators to provide a comparative framework in which to assess and measure the performance of partner Parliaments. These indicators are derived from a series of variables and are combined into an index to measure cross-country variation in legislative budgeting and to facilitate empirical application based on a survey designed by the Parliamentary Centre (Africa). This has been done through a participatory process that includes consultation with a wide spectrum of stakeholders. Such consultation was to ensure ownership of and participation of partner Parliaments in the design of the index.

The choice of indicators relies on governance issues by such institutions as the National Democratic Institute (NDI), the World Bank Institute (WBI), the Commonwealth Parliamentary Association (CPA), Inter-Parliamentary Union and on the experience of the Parliamentary Centre.

Central to a legislature's constitutional position is the "Power of the Purse". This refers to Parliament's ultimate authority to authorise public expenditure. Without this authorization, a government spending public funds will be doing so unlawfully. Parliamentary approval of the budget is essential to the legitimacy of government. The legislative power of the purse is widely regarded as fundamentally important for democratic governance.

However, there still remain some questions of how this power of the purse is exercised in the real world. Question one: is the legislature's approval a genuinely contested approval? Question two then is: or is it a rubber-stamping of decisions taken elsewhere within the Executive? Question three is: to what extent do Parliaments and their committees examine and challenge government expenditures and on what grounds can they do so? The final question is: Do legislatures have the capacity to do so?

There is a political dimension to Parliament's financial scrutiny and oversight. A simple comparison of legislative arrangements for financial scrutiny leads to the conclusion that legislatures differ widely in the way with which they exercise the 'power of the purse'. The political dimension can be expressed as the divide between "Congressional" and "Westminster" Parliamentary systems.



In congressional systems, (the most significant being in the United States), the Executive and legislative branches of government are separate. The Executive is elected directly in different elections to legislative elections. Cabinet ministers are not, or do not necessarily have to be, members of the legislature and the government does not need to maintain a majority in it.

The Westminster system stands in contrast to the congressional system. In the Westminster Parliamentary framework, there is a large degree of fusion between the Executive and legislative branches. Election is solely to the legislature and a government is formed out of its results. The government will remain in power as long as it retains the support (or confidence) of the majority in the legislature. Cabinet ministers are members of Parliament and participate fully in its work.

In the case of the seven (7) APSP partner countries, a hybrid system comprising aspects of both the “Congressional” and “Westminster” Parliamentary system is practised.

PARLIAMENTARY CAPACITIES IN AFRICA

Crucially, Parliament is one of the important institutions of democracy which play a critical role in terms of legislation, oversight and representation. However, in many developing countries, as well as some developed countries, Parliaments are weak, ineffective and marginalised. With the onset of democratic governance in Africa (the late 1990s witnessed a great number of countries in Africa organise free, fair, democratically elected governments premised on multi-party democracy) following the demise of one-party dictatorships in sub-Sahara Africa, Parliaments in this region assumed refreshing assertiveness; they deliberate policy, pass legislation and provide a link between government and the people. As representatives of citizens’ concerns and interests, Parliaments are responsible for overseeing the Executive and holding it to account, essentially by reviewing public funds and how they are used.¹

Many African Parliaments have slowly begun to exert the new constitutional powers that have come with the transition away from dictatorships to multi-party politics. Without doubt, African legislatures wield more power currently than they have since independence.² However, African Parliaments face acute challenges. Many lack formal powers and established clear procedures. They also lack institutional capacity as well as incentives to encourage MPs and Parliamentary officers to exercise their responsibilities. In its submission to the African All Party Parliamentary Group, the United Nations Economic Commission for Africa (UNECA) highlighted its African Governance

¹ Africa All Party Parliamentary Group- Strengthening Parliaments Report, page 17. March 2008

² J. Barkan, et al, “Emerging legislatures; Institutions of horizontal accountability”, in B. Levy and S. Kpundeh (eds) Governance and Public Sector Management in Africa. Washington: The World Bank, 2004, p. 211



Report which concludes: “In terms of enacting laws, debating national issues, checking the activities of the government and in general promoting the welfare of the people, the duties and obligations are rarely performed with efficiency and effectiveness in many African Parliaments”.³

Inadequate capacity of Parliaments in Africa seriously hampers effectiveness in the discharge of their responsibilities. Significantly, in order for African Parliaments to discharge their responsibilities effectively, these Parliaments need to be capacitated through Parliamentary strengthening activities that aim to enhance their effectiveness through institutional development, building the capacity of Parliamentary staff, MPs and committees as well as ensuring that the nuts and bolts of infrastructure and equipment are put in place. This synthesis report sets out to highlight the findings of the African Parliamentary Index (API) covering seven African partner Parliaments (Benin, Ghana, Kenya, Senegal, Tanzania, Uganda, and Zambia).

It is worth emphasizing the point that within the network of Parliaments engaged by PC-Africa, there are observable different types of Parliaments with different characteristics, and varying mandates with regards to budget oversight. Some feature dominant party control and dominance by the Executive, leading to low level of legislative activities, little influence on government and little effectiveness in representing the concerns of citizens. It is also the case that a growing number of Parliaments are characterized by an opposition that is gradually asserting itself, thereby increasing political space for debates, rising legislative activities, growing influence over government, and increasing interest and effectiveness in representing citizens. It is also refreshing to note that there are others that have grown in terms of sustained multiparty competition, intense partisan debate, and high level of activity with varying degree of influence on government and well organized services for constituents. The Parliamentary indicators developed by PC-Africa help to assess and compare institutional quality of these Parliaments and can assist in research and policy making.

THE API: RATIONALE AND OBJECTIVES

The African Parliamentary Index (API) is a tool kit developed to show the level of engagement of select African Parliaments in the budget process in their respective countries. These indicators were derived from a series of variables and combined into an index to measure cross-country variation in legislative budgeting.

Objectives of the African Parliamentary Index

The core objectives of the API are to assess partner Parliaments against international best practices for budget oversight, present a standard and simplified system for assessing the performance of selected Parliaments on budget oversight, identify priorities and entry points for strengthening partner Parliaments, and stimulate Parliamentary progress towards achieving the goals of the APSP programme.

³ UNECA, African Governance Report, p. 2005



Approach and Methodology

Organisation

Facilitated by Independent Country Assessors (ICAs), the API was organised in a way that targeted experienced Parliamentarians and staff who were knowledgeable in the operations of Parliamentary business. The self-assessment by Parliament grouped participants around key committees of Parliament. The composition of the self-assessment group included MPs from the opposition and governing political parties and staff of Parliament. Gender consideration was also taken into account in the selection of participants.

ICAs made presentations on the concept and scope of the API and where necessary, assisted participants to find a common understanding of the purpose of the exercise and the roles each group member was expected to play in the process.

The primary tool kit (with questionnaire providing capacity level options) and its components were also introduced and explained to the understanding of participants. Participants discussed the possible score for each indicator before a score was assigned. The group discussions also generated evidence to support the rating and recommendations for capacity enhancement of Parliament and other interest groups.

During the assessment, every indicator under review was clearly described in terms of Parliament's standing (please refer to appendix 1). This was done with the express aim of providing a guide to members while assessing and scoring. In areas where the status of issues in Parliament was the same, a relevant score was assigned. Yet in some circumstances, the group awarded scores that were in between the assigned score. For instance, it was common to find scores of 2.5, 3.5 etc.

Participants also completed a weighting table by determining the level of importance between one indicator and the other. This was tabulated to come up with a computed weight for each indicator which also determined the priority partner Parliaments attached to each indicator compared to the others.

The assigned scores were put into a spreadsheet and the average mark for each question was calculated. The weighted capacity average was also calculated using a relationship that took into consideration the average score over the maximum possible score (which is 4) multiplied by a calculated priority weight. The results of the self-assessment survey provided a snapshot from which the African Parliamentary Index was constructed.

As a validation measure, the API also sought the views of relevant non-governmental organizations and civil society groups in partner countries about the capacities of Parliament to perform their mandate. Like the self assessment by Parliament, they also evaluated indicators and assigned scores.



The validation exercise was done with the aim of generating complementary insights and credible feedback on Parliament's capacity for effective budget oversight from informed representatives of key civil society groups. It was also to familiarize other stakeholders in the governance system in partner countries with best practices in relation to budget oversight, and share information on the constraints facing Parliaments as they strive to perform their functions. This, it is hoped, will facilitate the prioritization of these concerns as a basis for advocacy.

PARTICIPATION

Participants in the self-assessment workshops and validation exercises from the various partner countries are outlined as follows:

In Benin, twenty-six (26) participants comprising eight (8) Members of Parliament and eighteen (18) Parliamentary staff took part in the self-assessment of their Parliament. There were also seven (7) independent observers who provided backstopping during the working group session. Four (4) work groups were formed to facilitate the assessment exercise. Sixteen (16) civil society participants took part in the validation exercise. Six (6) independent observers were at hand to provide support. In Ghana, thirty-three (33) persons participated in the Parliamentary assessment exercise, consisting of sixteen (16) Members of Parliament and seventeen (17) Parliamentary staff/clerks. Twenty (20) participants from civil society undertook the exercise to validate the conclusions reached by Parliamentarians. The participants comprised mainly representatives of key NGOs, think-tanks, academic and research institutions that engage Parliament regularly.

Twenty-three (23) participants took part in the Parliamentary self-assessment in Kenya. Of this number, ten (10) were members of Parliament and thirteen (13) were Parliamentary staff. There was also an independent assessor and his two assistants. During the civil society validation workshop, thirteen (13) representatives from non-governmental and civil society organizations participated. They were assisted by an independent assessor and his assistant.

The Parliamentary self-assessment exercise in Tanzania attracted nineteen (19) participants, including eleven (11) MPs and eight (8) Parliamentary staff. The workshop was facilitated by an independent assessor with his assistant. Eight (8) representatives from NGOs and CSOs validated the conclusions reached by Parliamentarians.

In Uganda, twelve (12) MPs and fourteen (14) Parliamentary staff participated in the Parliamentary self-assessment exercise. They were assisted by an independent assessor and an assistant. The civil society validation exercise was represented by seven (7) main CSOs who have a history of long association with the Ugandan Parliament.

In Zambia, sixteen (16) MPs and four (4) parliamentary staff participated in the self-assessment exercise. They were supported by an independent assessor. Six (6) representatives of civil society organizations took part in the validation exercise.



In Senegal, members of parliament from all the different political groups participated in the self-assessment exercise. In all, there were thirty three (33) MPs and five (5) parliamentary staff. An independent assessor and three assistants facilitated the process and provided technical support.

In all the country assessments, there was representation from the Parliamentary Centre to provide technical backstopping and/or logistical support.

SCOPE AND AREAS ASSESSED

The self-assessment tool covered six core areas –

- (1) representation;
- (2) legislation;
- (3) oversight functions;
- (4) financial scrutiny;
- (5) institutional capacity; and
- (6) institutional integrity.

The areas assessed related to the Parliamentary budget oversight and other core functional areas that directly affect Parliaments' financial oversight roles. The questions were largely qualitative with an overall intention of giving greater clarity in response. The questions required respondents to make their judgments and score each variable or indicator on a *four-point scale where: 4 denotes a high level of Parliament's capacity in place; 3 shows a moderate level of capacity; 2 indicates the existence of a basic level of capacity; and 1 signals a clear need for increasing capacity.*

This synthesis report would in the ensuing sections present a comparative analysis of the different country experiences picked up in the country assessments. It would also highlight best practices and lessons across the countries. Finally, the report will make specific recommendations for improving Parliament's role in the budget process.



1.2 ANALYSIS OF SPECIFIC INDICES

Based on what is thought to be good Parliamentary practice in improving democracy and effective governance in Africa, the seven APSP countries were assessed under six core areas, namely, representation, legislation, oversight function, financial oversight, institutional capacity, and transparency and integrity. The computed weighted capacity ratio defines the level of Parliament's capacity given the priority level individual Parliaments attach to each indicator.

Thus for the same level of priority score, a Parliament with a higher average assessment score is said to have a better capacity at performing the specific function relative to a function with a lower average score. Alternatively, at different priority levels, a Parliament with a low priority indicator for any function must score a high average assessment to improve upon its performance in that particular function.

Recognising that Parliaments in this study are at different levels of development and the assessment were internal to each Parliament, the comparison of the scores across Parliaments presented below is done with a caveat that each Parliament can improve upon one function or the other relative to other Parliaments, provided they recognise that they have not attained their maximum score in a particular functional domain. Discussion of Indexes is presented as follows:

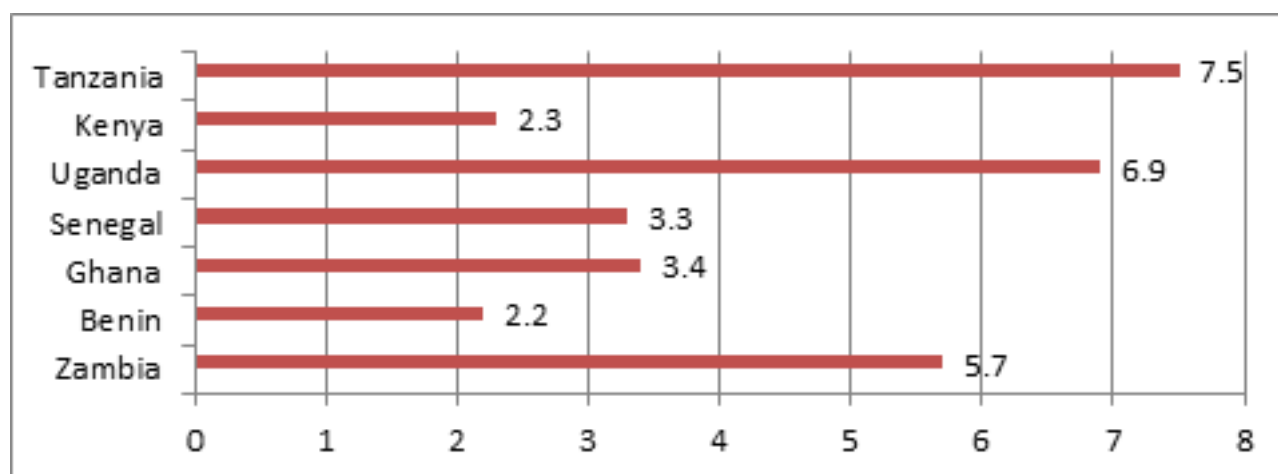
Representation

Parliament embodies the will of the citizens and therefore provides the space for the expression of that will. It provides a forum where issues of local and national importance are raised and debated and these debates may translate into policies. Effective representation requires MPs to continually interact with their constituents in order to understand their views and perspectives and to use various legislative or Parliamentary processes such as questions, motions, resolutions and other oversight mechanisms to bring these to the attention of implementing institutions for redress. Overall, the effectiveness of the representational role of the MPs and for that matter Parliament depends to a large extent on the quality of the interaction between constituents and MPs. To this extent the API looked at how accessible the legislature is to the public and the efforts of the Legislature to get the public to understand its role.

All seven Parliaments indicated the importance of their representation function by assigning relatively high weights to accessibility. The challenge for the different Parliaments was how to harness existing capacity to make them more accessible to the public. In terms of Parliament's capacity to represent its people, chart 1 below shows how the various Parliaments fared:



Chart 1: Weighted Capacity Ratio – Representation



The self assessment by Tanzanian Parliament indicated they have a high capacity to represent their people. They are followed by Parliaments of Uganda, Zambia, Ghana, Senegal, and Kenya. Benin has the least capacity required to meet the expectation of their people in terms of representation. Comparing the two extremes, the Parliamentary assessors in Tanzania assigned an average score of 3.3 out of a maximum rate of 4 to their ability to represent their people. This resulted in a computed capacity weighted score of 7.5. The Tanzanian Parliament among others indicated the legislature is accessible to citizens and the media, they have a non-partisan media relation and mechanisms exist to promote citizens' understanding of their work. They also did indicate however that information flow to the public is often not timely as they would have wanted. Tanzanian CSOs however gave a different picture by assigning an average capacity score of 2.5 out of 4 and a weighted capacity score of 5.6. For further reading, see Tanzania country report in Chapter 4.

In the case of Benin, the results of the self assessment exercise by Parliamentarians and Parliamentary staff revealed that the legislature is not as open to citizens and the media as it ought to be. Also, the mechanisms for promoting citizens' understanding of the legislature did not exist even though some attempts have been made to create public awareness of Parliament's work. Participants assigned an average score of 1.8 out of 4, resulting in a computed weighted capacity of 2.2.

Legislation

Law making is a core function of the Legislature and this function is, in most jurisdictions, vested by the constitution of that country. In other jurisdictions the legislative power is vested by an Act of Parliament. Whether initiated by the Executive or a Private Member, it is the responsibility of the Legislature to pass such a Bill into law irrespective of the source of the legislative power. The Legislature's control of the purse (resources) is expressed in its power to pass the Appropriations Act which allocates resources to the Executive and other institutions of the State. Recognizing the complexities of modern society and the technicality of the legislative process, Parliaments require knowledge and expertise in a vast array of technical areas. In this section, the API assesses all



the factors that affect the effectiveness of the Legislature in executing its legislative function. The assessment also covers partner Parliaments' legal mandate with emphasis on the source of the authority of the legislative power, whether the public has access to input into the legislative process and whether the Legislature has a mechanism to monitor the impact of laws passed.

Chart 2: Weighted Capacity Ratio - Legislation

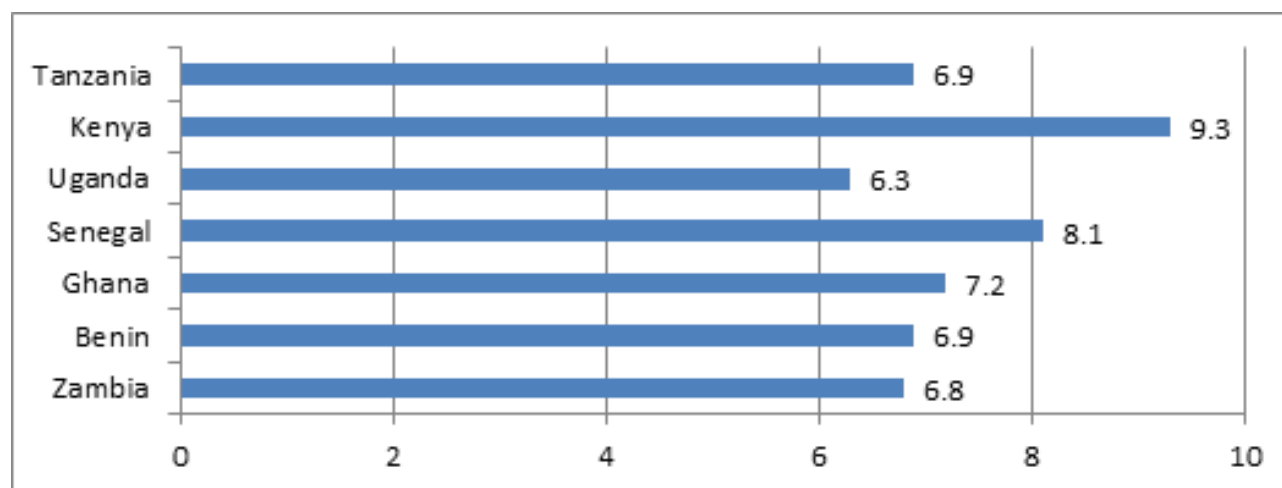
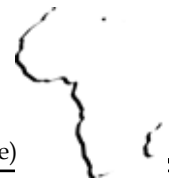


Chart 2 above highlights how the seven countries fared in the self assessment by Parliament. Kenya Parliament scored the highest capacity in this indicator with a weighted capacity average of 9.3, followed by Senegal with 8.1, then Ghana, Benin, Zambia and Uganda. Tanzania Parliament had the least capacity in this area of assessment. The Kenya Parliamentary assessors indicated the relative importance of their law making function and assigned a high weighting coefficient of 13 compared to the other indicators. Due to the high importance attached to the legal mandate of Parliament, the power of the legislature to make laws including the Appropriation Act is enshrined in the constitution, and adequate provisions exist for citizens to input in the legislation process, even though these are not backed by legislations. Participants also indicated the legislature can amend the Appropriation Bill only with the consent of the Minister of Finance/Executive and some mechanisms exist for tracking enacted legislations but this needs adequate resourcing. Kenya CSOs in their validation assessment of this indicator scored higher than Parliament. They perceived Parliament to have more power and capacity than Parliament perceives of itself in terms of the legal mandate it possesses. CSOs assigned an average weight of 3.4 resulting in a computed capacity weight of 11. In the case of Tanzania which had the least capacity in this indicator, the legislature's inability to amend the Appropriation Bill was a source of concern.

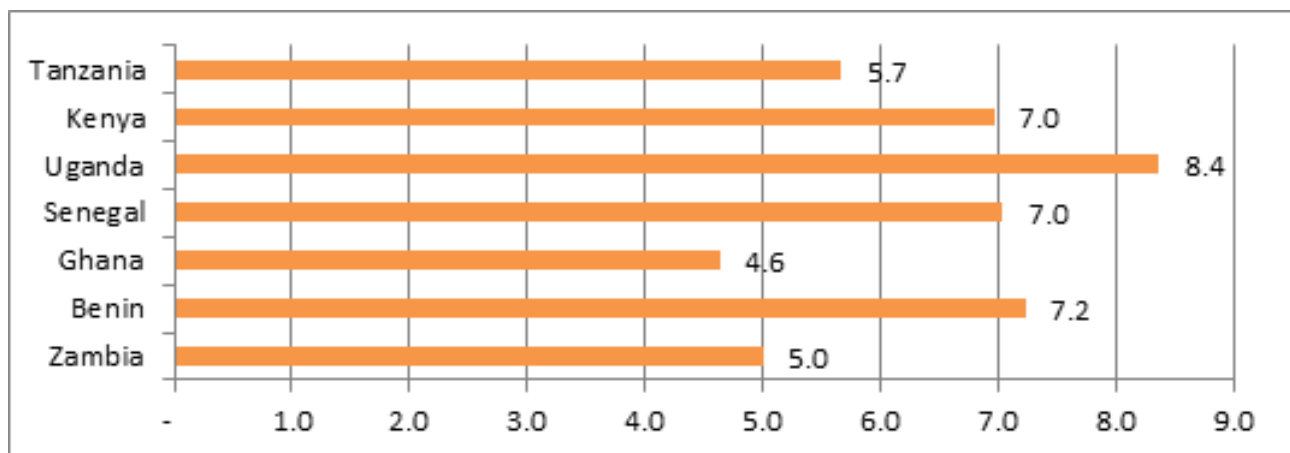
Financial Function

The financial function is one of the major responsibilities of the Legislature. Also referred to as the power of the purse in Parliamentary parlance, it implies the Legislature controls the resources/ finances of the State and therefore its responsibility to disburse such resources. As representatives of the people, the Legislature must approve of taxes and also determine how those taxes are expended.



Thus the financial function transcends the mere allocation of funds to encompass a general understanding of economic indicators and how decisions of the Legislature such as increases in taxes and the imposition of levies impact on economic activity generally. This indicator assesses the strengths of partner Legislatures on the execution of this financial function. This assessment particularly examines the extent to which the Legislature is involved in the budget process and whether the Legislature can introduce changes to the proposals submitted by the Executive. It further assesses the legal foundation of the Legislature's involvement in the budget process and availability of technical expertise to the Legislature. Of particular interest is the existence of a Budget Act and a Budget Office. Other areas under consideration are the review mechanism(s) of the budget once approved by Parliament. Chart 3 below presents average weighted capacity of all three sub categories of the financial function of Parliament.

Chart 3: Average Weighted Capacity Ratio –Financial Function



From the chart, Uganda scored the highest capacity points in this category compared to the others. It is followed by Benin with 7.2, Kenya and Senegal scored 7.0 points each, then Tanzania and Zambia. The Parliament of Ghana scored the least in terms of its capacity to perform financial functions. As an indicator that assesses the existence of the Budget Act and Office it is not surprising the Parliaments of Uganda and Kenya are among the top 3 high capacity performers. Uganda for instance has a Budget Act that clearly defines the role for the Legislature in the budget process. This fact is confirmed by CSOs, but they have also called for the review of the Act to reflect the issues of supplementary ceiling and conform to the planning framework and harmonize it with other legal frameworks. Kenya on the other hand has the 'Fiscal Management Act' which provides for a more assertive role by Parliament in regulation and oversight of the national budget, and also establishes the Budget Office.

In the case of the two francophone countries, Senegal and Benin, Parliamentary assessors were of the view that their Organic Laws for public finance is adequately regulating the role of the legislature in the budget process. Though the law does not recommend for the setting up of a Budget Office, there is a Budget/Finance Committee which does the work of the Budget Office. It is on this basis that the high capacity score of 7.2 and 7.0 was graded for Benin and Senegal respectively.

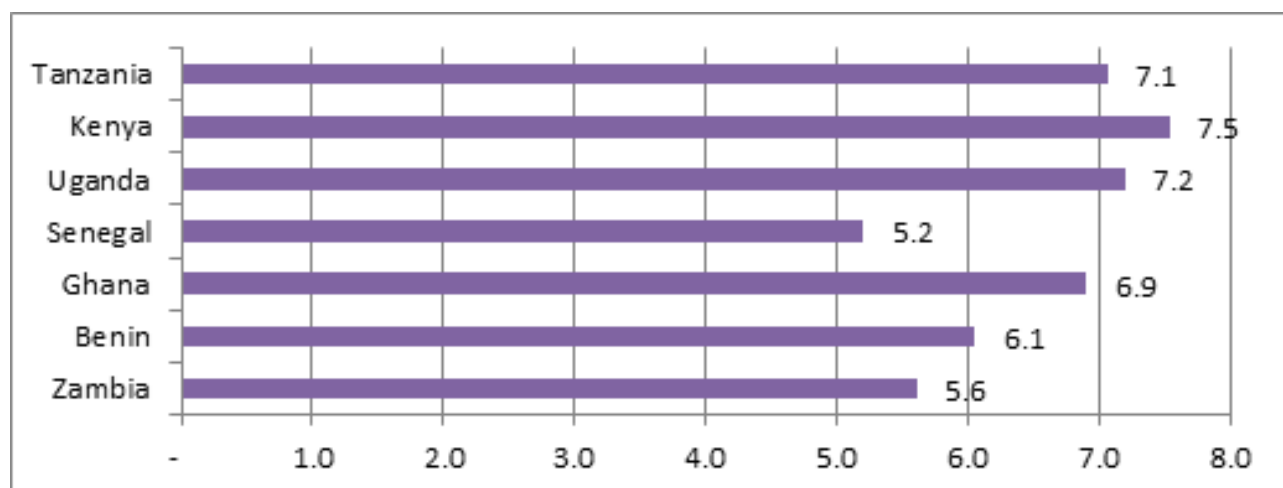


On the other sub indicators – the capacity to review and conduct budget hearings – Uganda and Benin registered a score of 7.9 each whilst the Parliament of Tanzania had the least capacity score. In terms of periodic review of the budget, Ghana’s Parliament had less capacity compared to the others. Refer to chart 7 for detailed pictorial comparative analysis.

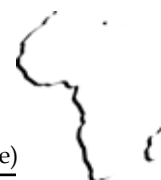
Oversight Function

Parliamentary oversight broadly involves monitoring of the Executive’s actions by the representatives of the citizens. Effective Parliamentary oversight is one of the tools used by the Legislature to maintain a balance of power among the three arms of Government and to assert the interests of ordinary citizens particularly against the decisions of the Executive. The committee system is a key tool for oversight. It breaks down the work of Parliaments into small chunks based on themes and subject matter, allowing Parliamentarians to develop expertise and conduct thorough examinations of proposed legislations, Executive actions and policies and Executive expenditure. As key organs of Parliaments, committees require highly qualified staffs that are familiar with Parliamentary procedures and practices and the subject to which the committee has oversight. The oversight indicator assesses the existence and effectiveness of relevant oversight Parliamentary committees, their powers and the resources available to them. It also examines the existence and effectiveness of a Public Accounts Committee and an Auditor-General, the powers and responsibilities of the two bodies and whether they have requisite resources to enable them deliver. Chart 4 below gives a graphic view of the capabilities of each of the seven countries.

Chart 4: Average Weighted Capacity Ratio – Oversight Function



Like the scores displayed in chart 3, the scores in chart 4 represent the average score for three sub indicators including; the existence and functions of the oversight committees, Public Accounts Committee and Audit. The assessment by partner Parliaments revealed Kenya has the most capacity to execute its oversight functions. This is followed by Uganda, Tanzania, Ghana, Benin and then Zambia. Senegal has a relatively low capacity weighted rating of 5.2 which may partly be due to the different governance systems in Francophone countries where the oversight arrangement is



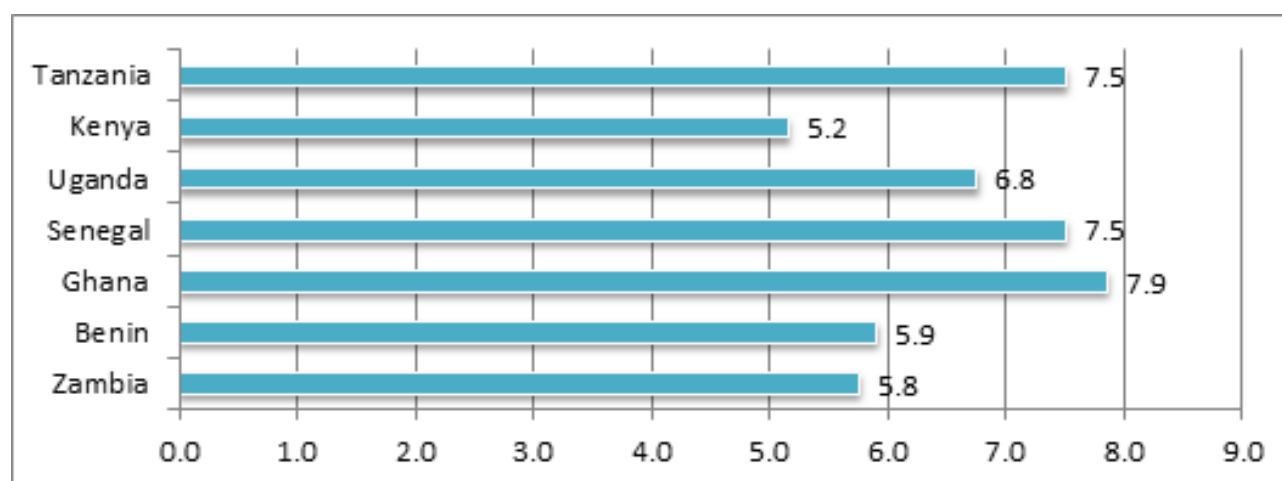
different from that envisaged by the assessment tool. The oversight arrangement is such that there is no independent stand-alone Public Account Committee like in Anglophone Parliaments, which is responsible for public accounts. In Senegal for instance, Parliament through the Finance/Budget Committee is assisted by the Court of Auditors (Cour des Comptes) by virtue of Article 68 of the Constitution (2001) and Article 37 of the Budget Act n°2001-09 of 15th October 2001, to oversee public finance related transactions. Thus in a nutshell though there is no PAC, its functions are being carried out by appropriate oversight committees.

In terms of the specific sub indicators, Kenya has a higher capacity rating for the existence and performance of oversight committees and capacity for budget audit. As per the API criteria, the PAC in Uganda is assessed to have a higher capacity to perform its oversight functions compared to the others in Anglophone countries. Though Senegal has the highest capacity score for PAC, the assessment is based on the functions of the Court of Auditors (Cour des Comptes) which is a body outside Parliament. See chart 7 for detail assessment of all sub indicators of the index.

Institutional Capacity of Parliament

A strong, dynamic, and effective Parliament cannot exist without a Parliamentary administration of equal quality. The organization of the Parliamentary administration is a key component of a successful Parliamentary institution. The internal organization and the provision of modern facilities and improved information technology (IT) system are essential for building a strong Parliamentary institution. An informed legislation and decision-making by Parliament depends on the existence of a good policy analysis and research capacities. Recognizing that Parliaments have different levels of capacity, the API assesses the institutional capacity of Parliament, which includes access to resources – human, material, as well as financial – to support MPs in the budget process. Chart 5 presents the scores of the various countries institutional capacities.

Chart 5: Average Weighted Capacity Ratio – Institutional Capacity of Parliament



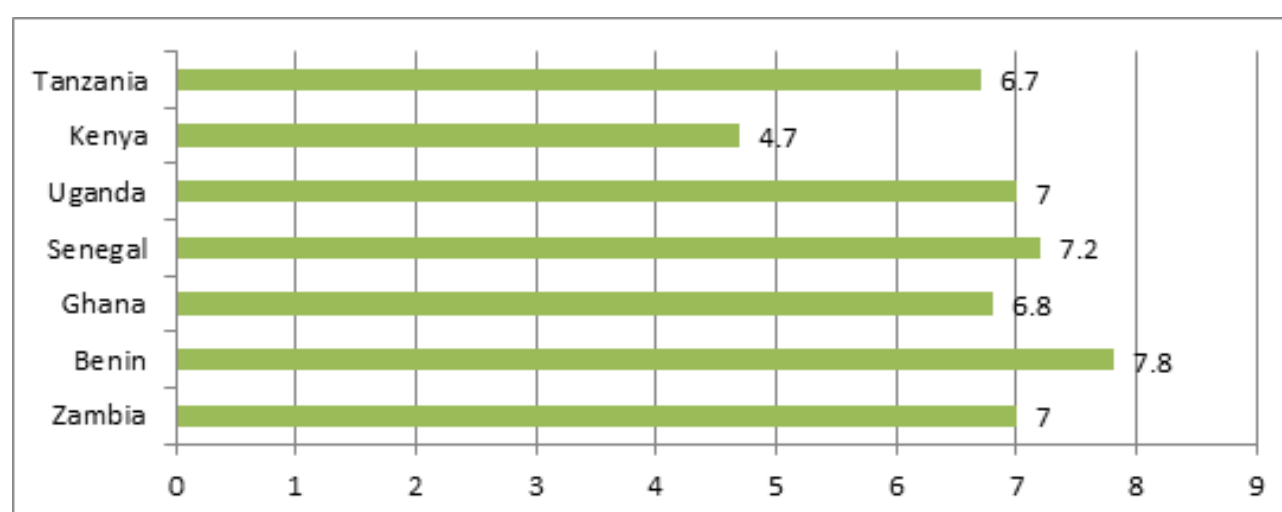


Parliaments' ability to fairly and in a non-partisan manner recruit competent staff and equip them with the needed resources was seen as a high priority capacity indicator by all countries. Ghana has the highest score for this indicator (7.9), followed by Senegal and Tanzania with 7.5 capacity rating each. Ghana has a high score for human capacity, but did not have adequate material and financial resources to be able to execute their legislative and oversight functions. Benin on the other hand has the resources but did not have enough qualified staff to support the work of Parliament. Kenya has the lowest capacity rating in this indicator even though it is the only Parliament with the power to determine its own budget. It has a research department which is understaffed and has basic logistics to work with. But somehow this was not rated as a high priority area for Parliament in the priority matrix. See chart 7 for further details. The individual country reports also provide further explanations and the thoughts of CSOs.

Transparency and Integrity

Institutional integrity is fundamental in ensuring public belief and acceptance of the decisions and actions of that institution. As the representatives of the people, MPs must be perceived and known to be above board in the performance of their responsibilities. Any negative perception on the integrity of the Legislature by the public will weaken and distort further the authority and power balance between the Executive and the Legislature. The Legislature should therefore appeal to the conscience of Members and staff to maintain high ethical standards in the performance of their duties. In this regard, this indicator assesses whether the Legislature has a code of conduct and whether it is being enforced. It also examines whether the code is backed by legislation or is a convention and whether it is published. Chart 6 below gives an indication of how partner Parliaments have put in place measures to encourage staff and MPs to conduct themselves honourably.

Chart 6: Weighted Capacity Ratio – Transparency and integrity



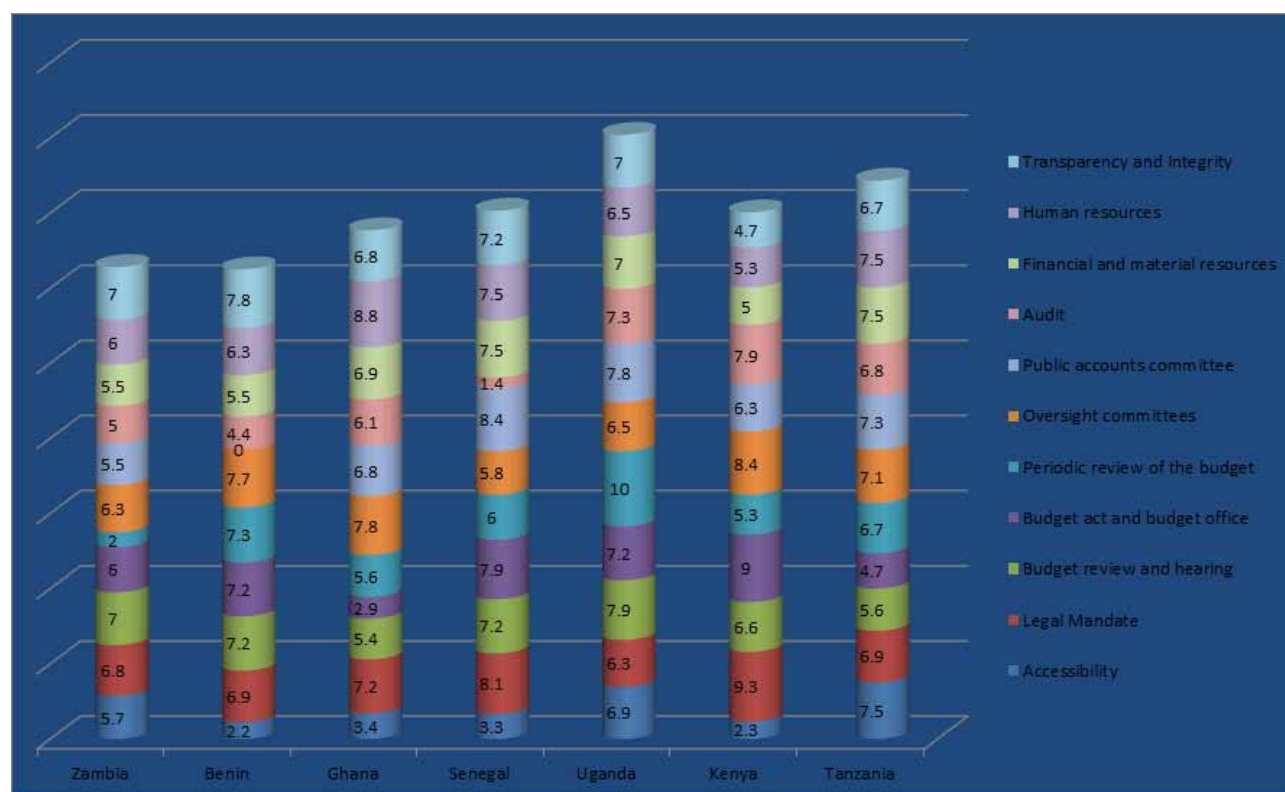


It is revealing to note that though the relatively high performing Parliament (Benin) and the relatively low performing Parliament (Kenya) equally rated this indicator as of high priority to them, the Parliaments of Benin and Senegal have gone further to provide the policy environment to engender transparency and integrity of Parliament. Information gathered from the assessment revealed the existence of a code of conduct which is backed by legislation in Senegal for instance. The enforcement of legislation has seen the declaration of assets and private interests by some MPs which means there is still room for improvement to get all members on board. In the case of Kenya, the legislature has no specific code of conduct but there are some provisions in the standing orders that guide the conduct of MPs. These provisions however do not oblige members to declare their assets and business interest.

CSOs' perception of the capacity of Parliament in these two countries is interesting. Whilst Kenyan CSOs scored Parliament higher than they scored themselves, the CSOs in Benin and Senegal scored their Parliaments lower. See country reports for further details.

The overall results can be viewed in the multiple bar chart below that gives a snapshot of the assessment of the country performance in the various sub sections of the broad indicators.

Chart 7: Weighted Averages per Capacity Area





1.3 FINDINGS AND CONCLUSIONS

It is important to note that the API is a perception index based on the assumption that respondents are knowledgeable about their Parliaments and would honestly score indicators based on the descriptions provided for each sub indicator. The API also assumes similar geo-political environment for all countries. It is however clear from the indicator assessment above that the francophone countries have a different oversight arrangement from that in Anglophone countries. Thus as we rank the overall capacity of the seven Parliaments, readers should be mindful of the geo-political dynamics.

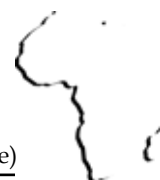
Chart 8 below provides readers with an overview of the areas of the sub indicators where countries are creating the right environment for best Parliamentary practice. This does not mean these countries are doing perfectly well in terms of building capacity for their Parliaments but that they have made some progress in the right direction to achieving the effective capacity required for the legislature to achieve its expected mandate.

From the self assessment by Parliamentarians and Parliamentary staff, the National Assembly of Kenya has relative capacity in four sub indicators. These indicators include; Legal Mandate, Budget Office and Budget Act, Oversight Committees and Audit. The reason for this is not far-fetched. Kenya has in place the Fiscal Management Act which has helped create the governance environment to allow the legislature to effectively engage stakeholders in budget oversight.

The Parliaments of Senegal, Uganda and Tanzania have capacities in two sub indicators each. As can be seen in chart 8, Senegal has capacity in carrying out its oversight functions on the public accounts and has the needed financial and material resources to perform its legislative mandates. Perhaps the support of the Court of Auditors (Cour des Comptes) to the Senegalese National Assembly could account for the increased capacity result assigned to the PAC.

The Parliament of Uganda has relative capacity in Budget reviews and hearings, and periodic review of the budget. Like in Kenya, Uganda has enacted the Budget Act which since its introduction in 2001 has improved the performance of Parliament in the budget process. In line with the broad objectives articulated in Article 155 of the Ugandan Constitution, the Act explicitly spells out the role of Parliament in the budget process. The Act facilitates increased flow of information relating to the national budget from Government to Parliament which in turn aid periodic review of the budget. The Act also introduced the Budget Office within the Parliamentary Service to collect, review, analyse and report on budget related information to all committees. Though the Budget Office has some capacity challenges; nonetheless, it has contributed greatly to improving the capacity of the Ugandan Parliament.

The Parliament of Tanzania has capacities in accessibility and also in financial and material resources. The decentralised system of planning and budgeting, to a large extent contributed to improving



citizens' participation in the budget process and access to Parliament in Tanzania. Through the strategy of decentralisation by devolution (D-by-D) which was introduced by a Local Government Reform Programme (LGRP) in 1997, a system of local governance emerged that enabled LGAs to provide their mandated services to the citizens in a transparent, accountable, accessible, equitable and efficient manner. The Member of Parliament is a member of the local council which is made up of representatives of wards who are in close contact with the MP. As the intermediary between Parliament and the citizens at the local level, the MPs disseminate, educate and consult citizens on pertinent issues including budget related matters. In addition, regarding mechanisms to promote public understanding of the work of the Legislature, it was found that there exist a department on Civic Education, Information and International Corporation in the Tanzanian Parliament whose duty is to ensure that the general public is sensitized to understand the work of the Legislature. In recent times the Parliament has enhanced the public's understanding of its work through live TV broadcast.

Chart 8: Relative Strength of Parliaments



The Parliaments of Benin and Ghana have capacities in a sub indicator each. As depicted in chart 8 above, Benin has relative capacity in transparency and integrity while the Ghanaian Parliament has relatively high skilled human resources to carry out their legislative mandate.



Relatively, Zambia has above average scores in most of the indicators, but these were not enough to overtake any of the partner countries. Readers may refer to chart 7 to see areas in which partner Parliaments have relatively low capacities.

It is important to indicate also that the validation assessment by CSOs also showed some interesting results which can be seen in the various country reports. In most countries, the self-assessments by Parliaments were disputed by CSOs who expressed the view that more needed to be done by partner Parliaments especially in making Parliaments accessible to citizen groups and the citizenry at large. For further information and analysis, please refer to country reports for the full country API assessment and the conclusions reached.

1.4 RECOMMENDATIONS AND WAY FORWARD

The findings of the API assessment revealed that Parliaments with independent Budget Offices (Kenya and Uganda) received significant support from these units and this has considerably influenced the effectiveness of their Parliaments with regard to budget oversight. With enhanced capacities, Parliamentarians are able to engage in informed debates and make cogent recommendations at committee sittings as well as plenary sessions. Clearly, Parliaments that lack these independent budget units need to make concerted efforts in order to establish independent Budget Offices.

One of the key functions of Parliament is representation of citizens which involves collecting, aggregating and expressing the concerns, opinions and preferences of the country's citizens through the institution of Parliament. The assessment results indicate that with the exception of Uganda and Tanzania, all the other partner country Parliaments fared poorly in regard to the extent of Parliament's accessibility to the public and particularly efforts being made by Parliament for the public to understand its core mandate. This, no doubt, calls for the need to educate the public about the role of Parliamentarians as well as informing the public about existing mechanisms open to citizens and the media to engage Parliament effectively.

The strength and effectiveness of Parliament can also be measured by the extent to which Parliament's operations are determined by itself, rather than by the Executive. The financial independence of Parliament is of crucial importance. The assessment results underlined the fact that all the partner Parliaments with the exception of Kenya are not able to determine and approve their own budgets. Reliance on the Executive branch for funding and determination of salaries has the potential to severely compromise Parliamentary autonomy. The leadership of the various Parliaments are therefore encouraged to make strenuous efforts to engage the Executive in a dialogue with a view to achieving this objective.

Parliament's mandate is derived from the country's constitution and the constitution determines the formal rules of the political system and Parliament's role and leverage within the system. The assessment results point to quite a number of constitutional hurdles partner Parliaments are



confronted with. It is the case that these Parliaments have no power of amendment of proposed budgets submitted by the Executive for Parliamentary scrutiny and approval. The leverage thus exercised by Parliament with respect to input made into the proposed budget is minuscule. In light of these challenges, there is the need for constitutional reforms in participating countries that will focus on improving the performance of partner Parliaments.

Civil society interface with Parliament and collaborative work between Parliaments and civil society on oversight issues in particular have the potential to consolidate and enhance the principles of ownership and participation in the decision-making process as well as strengthening the voice of citizens in embedding good governance. Even though the level of interaction between civil society actors and partner Parliaments leaves much to be desired according to the assessments, it is refreshing to note encouraging signs of enhanced collaboration between civil society actors and partner Parliaments. This momentum needs to be continued and sustained especially by civil society actors with special interest in governance. Equally, Parliament needs to make itself amenable or predisposed to engaging civil society organizations and undertaking collaborative work for mutual benefit.

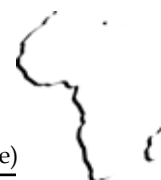
A vibrant Parliament is integral to, and indeed the cornerstone of democracy. Free and fair elections constitute essential pillar but elections must be accompanied by a Parliament with resources, capacity and above all, the will to exercise its responsibilities. Partner Parliaments should exert the constitutional powers they possess and do away with the practice where Parliaments in some instances are viewed as sub-branches of the Executive.

CHAPTER 2



AFRICAN PARLIAMENTARY INDEX COUNTRY REPORT **GHANA COUNTRY REPORT**

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EXECUTIVE SUMMARY

Ghana has adopted four (4) Republican Constitutions over the past five decades following independence and operates a hybrid of the presidential and parliamentary systems of government. Presently, more than half of the Ministers of State are drawn from Parliament.

The African Parliamentary Index (API) is a self assessment tool which provides a set of indicators that shows the level of engagement of selected African Parliaments in the budget process. The tool has been developed in line with identified best practices. As one of the partner Parliaments under the CIDA sponsored APSP for budget oversight, the assessment in Ghana was carried out for the leadership of Parliament with the support of key parliamentary staff. A validation of Parliament's assessment was also carried out with Civil Society Organizations CSOs by evaluating their perception of Parliaments work and capacities.

The exercise provided a picture of perceived strengths and weaknesses of Ghana's Parliament in relation to budget oversight as well as priorities for capacity building. The assessment was based on categories of indicators which defined Parliaments three core functions of representation, law making and oversight of public expenditure and finance.

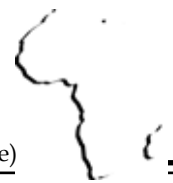
Legal mandate and financial and material resources scored highest suggesting that participants were concerned about parliament having sufficient power and resources to do its work efficiently and effectively. Accessibility on the other hand was scored lowest indicating that MPs felt that a lot had been achieved in that area already.

There were various outcomes of the exercise. These included the exposure of both parliamentary and civil society participants to the API as a structured tool for assessing budget oversight performance and identifying capacity priorities. Other gains from the process were that:

- Representatives of CSOs and NGOs were familiarized with the functions of parliament generally, the importance of effective budgetary oversight and considered best practices in that exercise.
- Increased attention was paid to the external and internal factors that influenced and constrained parliamentary performance and thereby enriching the governance advocacy agenda of NGOs/CSOs.
- Complementary perspectives on parliamentary performance, particularly from the citizens' viewpoint were generated.

The following are some of the recommendations provided by participating groups:

- There is the need for Parliament to develop a clear policy for public education, communication and citizens' engagement.
- There is need for a capacity-building programme on the role of the legislature in the national budget-making and the implementation process for MPs, CSOs and other interest groups.



CHAPTER 1

1.0 INTRODUCTION

1.1 THE LEGISLATURE IN GHANA

Parliament is an arena in which the representatives of the people consider issues of public concern and interest and the optimal ways of mobilizing and sharing resources to meet national aims and aspirations. It is intended to provide a facility for public participation in national governance. The first Parliament of the Republic of Ghana was initiated in 1951 and was based on the Westminster-type arrangement. Over the period of five decades that have followed independence, the country has adopted four (4) Republican Constitutions, establishing first a one-party national assembly, then a return to the Westminster model, then to an executive president working with a multi-party legislature and presently, a hybrid of the presidential and parliamentary systems of government, which has been practiced since 1993. Presently, more than half of the Ministers of State are drawn from Parliament. Ministers appointed from outside Parliament can participate in a debate but cannot vote.

In terms of election process for selecting members of the Legislature; Ghana has a four-year cycle for presidential and parliamentary elections held concurrently. In between these, local government elections are held. There is a single-chamber Parliament with two hundred and thirty (230) members elected through universal adult suffrage. Elections are held on first-past-the-post basis and candidates compete as members of organized political parties or as independent candidates. Article 94 of the Constitution outlines factors that would disqualify a prospective candidate and Article 97 outlines the conditions under which an MP shall cease to be one.

The business of Parliament is facilitated by the House's Business Committee which is chaired by the Majority Leader. The Committee prepares the Agenda for the week and the order of business for each day. Agendas are circulated at least fourteen (14) days before the Meeting. Notices to meetings are also circulated for the same period by the Clerk of Parliament. The following are some key events on the Calendar of Parliament include:

- The commencement of a Session of Parliament with the ceremonial opening;
- The dissolution of Parliament at the end of a term
- The State of the Nation Address at which Parliament hosts the President to present a review of the state of the nation to the Ghanaian public. By the Constitution (Article 67), the President is expected to do this at the beginning of each Session of Parliament and before its eventual dissolution

1.1.1 *The Role of Parliamentarians*

Under the Fourth Republican Constitution, MPs pass legislation, review national and international issues and exercise oversight over the use of public funds. The MP represents the interests of their



constituents in these matters and provides feedback to them on initiatives undertaken by sector agencies. At the local level, the MP is a non-voting member of the local government council or assembly. However, given the historical expectations of Ghanaians of their Parliamentarians, MPs find themselves being required to undertake development and welfare interventions in the interests of their constituents. To this end, MPs have been allocated portions of various funds including the District Assemblies Common Fund (DACF), the Ghana Education Trust Fund (GETFUND) and HIV-AIDs related funding to address constituency level concerns that arise.

In spite of the above, Parliament exercises financial oversight over the use of public funds particularly in relation to the operations of Government Ministries, Departments and Agencies (MDAs). No tax for instance can be imposed without the authority of Parliament; withdrawals cannot be made from the Consolidated Fund without the approval of Parliament, except for moneys charged directly by the Constitution or Acts of Parliament; and Parliament is empowered to take action on Auditor-General's reports. There are other financial powers of Parliament (indicated in Articles 174, 181, 184, 187 of the Constitution). Thus while the Executive makes proposals for revenue mobilization and expenditure, Parliament through its 'Power of the Purse' grants approval.

Parliament works through Standing and/or special Committees, which may make inquiries, investigations, issue statements and parliamentary questions to examine proposals from the Executive. In particular, statements and questions are used to seek clarity from sector Ministers on the state of the projects/programmes in particular areas of the economy. Through the legislature's requirements for accountability and financial control, sector Ministers may be summoned to the floor of Parliament to explain issues to interest to the House.

1.1.2 Legislature's Relationship with the Other Arms of Government

The functions of each "arm" of government impacts on the others in one way or the other. The Executive has responsibilities that involve the translation of national aspirations into tangible goods and services. This involves planning, organizing, co-ordination and decision-making; as well as maintaining law and order. Parliament makes laws and exercises oversight over the use of resources belonging to or acquired in the name of the Ghanaian public. The judiciary interprets and applies the legislation in the effort to realizing and protecting the rights and freedoms of citizens.

The Constitution allows for the appointment of more than half of the Ministers of State from Parliament. Parliament also has considerable input into appointments of key officers of the state by subjecting them to vetting and approval processes. Ministers, Deputy Ministers, the Chief Justice, Justices of the Supreme Court, the Auditor-General and the Administrator of the District Assemblies Common Fund (DACF) require the approval of Parliament.

The Constitution provides for the financial autonomy and dignity of Parliament (see also Articles 115, 117, 119 and 179 (2b). The Parliamentary Service Act has its expenses charged on the Consolidated Fund. In practice, Parliamentarians do not feel that the Executive is so amenable to the Legislature.



1.1.3 Freedom of the Press and Access to Information

Oversight over public resources is greatly facilitated by a free press. It is important therefore the Legislature to have a good working relationship with the media/press as they perform their functions. The opening article (Article 162) of Chapter Twelve of the Fourth Republican Constitution guarantees the freedom and independence of the media. On Friday 27 July 2001, Ghana's Parliament unanimously repealed the Criminal Libel and Seditious Laws.

Article 21(1) of Ghana's Constitution provides that all persons have the right to "freedom of speech and expression including freedom of the press and other media", as well as the right to "information, subject to such qualifications and laws as are necessary in a democratic society". However, a Right to Information Bill was first drafted by government in 2002 and has over the past eight years been subjected to wider public scrutiny and input. As at October 2010, the bill was at the Parliamentary Committee level. A Whistleblower Act is in place and with the support of Development Partners, the Ghana Anti-Corruption Coalition (GACC) are working to facilitate its implementation. GACC is liaising with the Parliamentary Committee on Constitutional, Legal and Parliamentary Affairs in this effort.

1.2 THE AFRICAN PARLIAMENTARY INDEX

The African Parliamentary Index (API) is a set of indicators that shows the level of engagement of selected African Parliaments in the budget process in their respective countries. The API have been developed in line with identified best practices and the areas of weakness of partner parliaments thereby facilitating a more structured and targeted capacity building and intervention by partners.

As a core component of the Parliamentary Centre's Africa Parliamentary Strengthening Programme (APSP) for Budget Oversight the API also measures the performance of Parliaments in selected African Countries on budget oversight. The Africa Parliamentary Strengthening Programme (APSP) for Budget Oversight aims to enhance partner Parliaments' ability to carry out their legislative, financial, oversight and representative functions in ways that engender good governance and values of accountability, transparency and participation, especially in the budget process. The budget process is a key area of focus for Parliaments and relates closely to poverty reduction because government budgets are about the allocation of scarce resources that affect the lives of citizens who parliamentarians in democratic states represent. It is, therefore, imperative that parliamentarians are equipped with the necessary tools with which to perform their role in the budget process and increase their understanding of the salient elements that are of direct relevance to poverty reduction in their respective countries. The African Parliamentary Index (API) like is being done for Ghana is also being applied in six (6) other partner African countries including Benin, Kenya, Senegal, Tanzania, Uganda and Zambia. This initiative is funded by the Canadian International Development Agency (CIDA).

¹ The Parliamentary Centre is a Canadian not-for-profit, non-partisan organization devoted to improving the effectiveness of representative legislative assemblies around the world.



1.2.1 SCOPE AND AREAS ASSESSED

The API is a self assessment tool covering five (5) core areas relating to Parliamentary budget oversight and other functional activities that had implications for the Legislature's performance in this regard. These areas were representation, legislation, financial, oversight, institutional capacity and institutional integrity². These areas were prioritized in terms of capacity requirements relative to the others and then assessed separately. The separate assessments required respondents to make judgments about Parliament's delivery on various aspects on a four-point scale. The issues that were considered in each of the five areas are presented in the Table 1 below.

Table 1: Areas and Indicators for Assessment

Capacity Area	Indicators for Assessment
Representation (Accessibility)	<ul style="list-style-type: none">• The Legislature is open to citizens and the media.• Opportunities exist for the media to access proceedings of the Legislature and other information in a timely manner.• The Legislature has a non-partisan media relations facility.• The Legislature has mechanisms to promote the public's understanding of its work.• Information is provided to the public in a timely manner regarding budgets under consideration by the Legislature.• The Legislature promotes citizens' knowledge and understanding of legislators' roles in the budget process.
Legislation	<ul style="list-style-type: none">• The source of authority of the legislative power of the Parliament.• Whether the Legislature has power to amend the Appropriations Bill when presented to Parliament by the Executive.• Whether the public can input into the legislative process – whether the public can submit/make amendments to Bills before the Legislature.• Whether the Legislature has mechanisms to track and monitor legislations passed by Parliament.

²Reference: Parliamentary Centre (2010) African Parliamentary Index Assessment Manual.



Financial	<p><u>Budget Hearings and Review</u></p> <ul style="list-style-type: none"> • The time-frame available to the Legislature to review the budget once submitted to the House. • Whether the Legislature has an Appropriations/Budget Committee and whether the budget review function is performed by a single Committee or a number of Committees. • Whether Legislative Committees hold public hearings on the budget estimates. • Extent of public participation in the budget process. • Whether the Legislature has power to amend the budget after submission by the Executive. • Authority to send back budget to the Executive for revision. • Whether the appropriations (expenditure budget) approved by the legislature is extensively detailed. • Whether the Legislature has power to amend spending and revenue proposals submitted by the Executive. • Whether the Legislature or its Committee(s) review the estimates of the Defence Ministry and the Intelligence Services. <p><u>Budget Act and Budget Office</u></p> <ul style="list-style-type: none"> • Whether the Legislature has a Budget Act • Whether the Legislature has a Budget Office. • Whether the Budget Office is well resourced in terms of personnel and logistics. • Whether the Budget Office has access to up to date information from Government Departments and the private sector. <p><u>Citizens' Input Into the Budget Process</u></p> <ul style="list-style-type: none"> • Opportunities for public input into the legislative process. • Opportunities for civil society input into legislations • Procedures for receiving feedback from the legislature • A clear process exist for the participation of citizens in the budget process • The process for the participation of citizens in the budget process is effective • A clear mechanism exist for citizens to input into the budget process • Mechanisms for citizens input into the budget process is effective • The Legislature interface with CSOs and citizens and receives inputs from citizens such as memos and petitions
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Oversight	<p><u>Oversight Committees</u></p> <ul style="list-style-type: none">• Whether oversight is conducted by a single committee or a number of committees• Powers of oversight committee(s) and the source of that power• Power and effectiveness of committee(s)' oversight of State Enterprises• Mechanisms for oversight committee(s) to obtain information from the Executive branch and other institutions.• Follow-up on recommendations of oversight committee(s).• Resourcing oversight committee(s).• Opportunities for minority/opposition parties to exercise oversight of the Executive and its agencies. <p><u>The Public Accounts Committee</u></p> <ul style="list-style-type: none">• Whether there exists a Public Accounts Committee (PAC)• Appointment of the Chairperson• Rights and powers of the PAC and the source of that power• Whether Ministers of State are required to attend meetings of the PAC• Whether sittings of the committee are held in public or in camera• Consideration of reports of the Auditor-General at the PAC's sittings• Whether the PAC can conduct independent enquiries• Are recommendations binding on the Executive and is this backed by law• Mechanisms for tracking implementation of recommendations of the committee• Resourcing the PAC• Collaboration between PAC and other anti-corruption agencies <p><u>Audit Process</u></p> <ul style="list-style-type: none">• Appointment of the Auditor-General (A-G)• Submission of reports to the Legislature by the A-G• Regularity and timeliness of reporting by the A-G• How are reports of the A-G made public• Can the Legislature request the A-G to conduct audit on its behalf• Resourcing the A-G and authority to conduct audits
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Institutional Capacity of Parliament	<u>Financial and Material Resources</u> <ul style="list-style-type: none"> • Power of the Legislature to determine its own budget • Logistics available to the Legislature to carry out its functions and activities • Availability of resources to MPs for constituency development and constituency activities • Mechanisms for receiving and coordinating donor/technical assistance <u>Human Resources</u> <ul style="list-style-type: none"> • Whether the Legislature is an equal opportunity employer • Availability and quality of research and other support staff
Institutional Integrity	<ul style="list-style-type: none"> • Existence of a code of conduct for legislators and staff and whether it is being enforced. • Maintenance of high standards of accountability, transparency and responsibility in the conduct of all public and parliamentary matters. • Mechanisms to prevent, detect and discipline MPs and staff engaged in corrupt practices • Declaration of assets and other financial interests by MPs and staff.

1.3 METHODOLOGY AND OBJECTIVE OF THE ASSESSMENT

A three-step process approach was adopted. First, relevant literature was reviewed to provide the country context for Parliamentary budget oversight. Secondly, a parliamentary assessment workshop was conducted with the assessment team of Parliamentarians on the 18th and 19th of August, 2010. To validate the positions adopted by the Parliamentarians, the views of Parliamentary service staff members, particularly experienced clerks and former parliamentarians were selected to assist the assessment team to debate and arrive at consensus conclusions.

In the third aspect of the process, citizens' views were sought and the tool was administered to representatives of selected non-governmental and civil society organizations (NGOs/CSOs) to confirm or provide alternative views on the self assessment undertaken by the Parliamentarians. Civil society engagement efforts culminated in and were validated at a workshop conducted in 13th December, 2010.

An Independent Assessor, Dr. Esther Ofei-Aboagye facilitated the self-assessment process. The Independent Assessor was expected to ensure the quality of outcomes and to gather documentary evidence to support key findings in the assessment. Other functions included leading the analysis of country information and facilitating the validation of the outcome of the parliamentary self assessments. She also conducted some in-country interviews with other identified groups.



1.3.1 Participation

Thirty-nine (39) persons participated in the parliamentary assessment team meeting. They consisted of sixteen (16) Members of Parliament (MPs); seventeen (17) Parliamentary Staff/Clerks and six (6) staff members of the Parliamentary Centre.

In a second meeting held on 13th of December, 2010, twenty (20) participants from civil society undertook the exercise to apply the tool and validate the parliamentary conclusions. The participants comprised mainly representatives of key NGOs, think-tanks, academic and research institutions that engaged regularly with parliament.

Several issues were taken into consideration in the selection of the participating organizations. It was important that they had a national presence and had working experience and involvement with issues from most of the regions of the country. The selected organizations were familiar with issues of underserved group including gender, disability, HIV/AIDs, young people's concerns. Cognizance was also taken of the need to have diversity of sectoral interests and specializations. For instance, the selected organizations had expertise in trade, natural resources and environmental concerns, education, agriculture and labour issues. Finally, attention was paid to their advocacy track record (See Appendix One for Lists of Parliamentary and Civil Society Participants).

1.3.2 Objectives of the Assessment Meetings

The objectives of the parliamentary self-assessment meeting were to:

- Provide a standard and simplified system for assessing the performance of Parliament with the aid of the self assessment tool.
- Identify entry points for strengthening the capacity of various partners
- Stimulate Parliamentary progress towards achieving the goals of the programme.
- To assess Parliament against international best practices for budget oversight.

The objective of the civil society validation exercise was to generate complementary insights and credible feedback on Parliament's capacity for effective budget oversight from informed representatives of key civil society entities. Specifically, the process sought to

- validate the self-assessment results undertaken by the Parliamentary Reference Group
- generate alternative, complementary perspectives on the performance of parliament in budget oversight
- familiarize participants as stakeholders in Ghana's governance processes with best practices in relation to budget oversight
- share the information on the constraints that parliament faces in this function and
- prioritize these concerns as a basis for advocacy.

To these ends, the workshops adopted presentation, plenary and group discussion methods. Specifically, meeting activities consisted of:



- An introductory presentation on the purpose of the exercise, the API Project, processes and activities so far;
- Plenary discussion on the project and general perceptions about the performance of parliament in its budget oversight functions, issues that had affected this performance as well as relevant information for the country assessment report. A summary of the insights presented in the discussions has been presented in Appendix Two;
- A presentation on the primary tool (the questionnaire providing capacity level options) and its components to familiarize participants with it;
- An introduction to the weighting index and deciding on the relative importance of inputs into budget oversight;
- Group work to apply the tool and rate the performance of parliament; the group discussions also generated evidence to support the rating and recommendations for capacity enhancement of parliament and other interest groups;
- Application of the weighting index by the parliamentary self-assessment meeting. Civil society participants indicated that those actually engaged in budget oversight, that is the parliamentarians, were best placed to construct the weighting index;
- Plenary sessions at which the group results were presented and discussed; and
- A closing plenary discussion to reflect on the tool, its relevance, rigour, the credibility of the information it generated, ease of use, adaptability/flexibility and other characteristics as a viable performance assessment tool.



CHAPTER 2

2.0 THE NATIONAL BUDGET CYCLE IN GHANA

Ghana adopted the Medium Term Expenditure Framework (MTEF) approach to budgeting in 1998 and was applied to the 1999 Annual Budget. The MTEF involves the preparation of a three-year, rolling, activity, performance based budget in which the government forecast taxes and spending plans for an additional two years following the active budget year. These projections can be reviewed in subsequent years but there has to be justification for major changes.

The budget cycle in Ghana is a year long process that involves four broad steps:

- Budget Preparation (establishment of budgetary policies, ceilings and allocation priorities) by the Executive
- Budget Approval by the Legislature or Parliament
- Budget Implementation by Ministries, Departments and Agencies (MDAs)
- Budget Monitoring and Review involving the Auditor-General's Department/Office.

These steps are summarized in Figure 1 and discussed further below.

2.1 STEP ONE: BUDGET PREPARATION

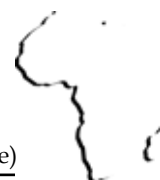
The Budget Circular: The budget cycle begins with a budget circular by the Ministry of Finance and Economic Planning (MOFEP) for the ensuing year to all MDAs in July/ August. The circular outlines the major policy and programme thrusts, projected estimates for macro-economic targets, indicative ceilings for sectoral expenditures amongst others. The circular also sets timelines for budget hearings with each ministry, statutory deadlines requirements of submissions to Cabinet and Parliament and a time-frame in which submissions from the public and interest groups will be entertained.

Budget Hearings: MOFEP organizes budget hearings in September/October of every year where each MDA has to justify its existence and contributions to growth for the budget year.

The Executive's Approval of the Budget Proposals: Cabinet debates and agrees on the proposals for both the domestic and foreign revenue generation, total expenditure outlays and how deficits will be financed. The detailed estimates for each MDA are approved by Cabinet and with the above, officially constitute the government's budget proposals. These are formally presented to Parliament on behalf of the President by the Minister for Finance and Economic Planning to formally request its approval.

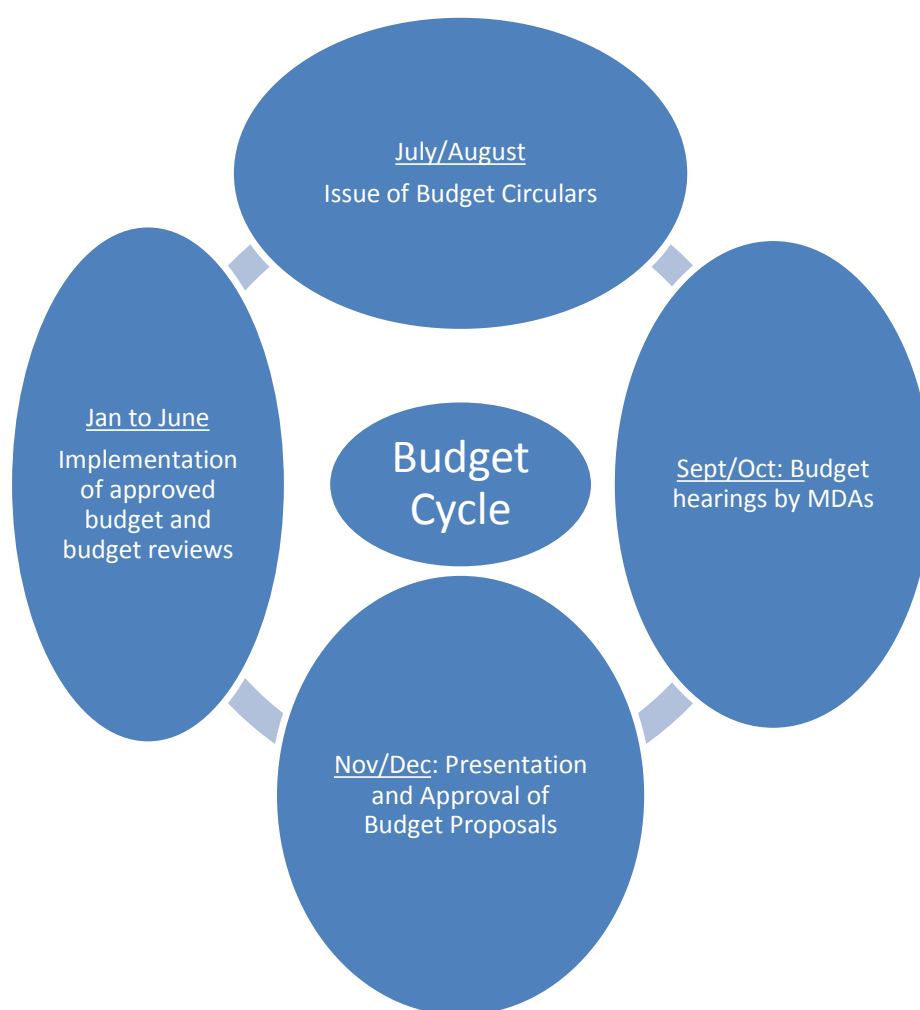
2.2 STEP TWO: THE LEGISLATURE'S APPROVAL OF THE BUDGET

Since 2005, the Budget Proposals have been presented to Parliament in November and Parliament's approval secured before the end of the year. The Parliamentary Sub-Committee on Finance



discusses the main document concerning the macro-economic targets, local and external resource mobilization and makes recommendations to the House. The parliamentary select committees, debate the expenditure layout of individual MDAs and sectors, and make recommendations to the full house. At this stage, memoranda are accepted from the public and individuals are allowed to appear before the Standing Committees in Parliament to make presentations on specific issues in the budget proposals. The whole house, Parliament debates and approves the proposals for implementation.

Figure 1:



2.3 STEP THREE: THE IMPLEMENTATION OF THE BUDGET

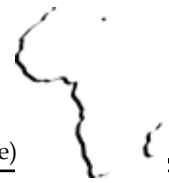
The approved budget is implemented by the Executive through MDAs. The public expenditure management system in Ghana is based on a centralized treasury system which uses a single Consolidated Fund account at the Central Bank. MOFEP authorizes the release of funds for expenditures approved by Parliament. Unfortunately, unpredictable inflows in revenues, institutional constraints and other economic factors often bring about fluctuations in flow of cash which may result in some approved activities not being funded.



2.4 STEP FOUR: BUDGET MONITORING AND REVIEW

Post Budget Review: In the middle of the budget year the Executive uses the experiences of the first few months to assess whether the set revenue targets and foreign inflows can be achieved or not. Expenditure estimates may be revised downwards and priority given to statutory expenditures. The formal involvement of Parliament in this is not evident.

Audit/Ex-Poste Evaluation of Budget Implementation: The Auditor-General's Department is mandated to audit the public accounts of Ghana and present its report to Parliament within 6 months of the end of each financial year. In the report, attention should be drawn to irregularities as well as any other matter that should be brought to the attention of Parliament. However, there is a considerable backlog of reports due to some logistical and resource constraints.



CHAPTER 3

3.0 THE WEIGHTING INDEX AND ANALYSIS OF RESULTS

In recognition of (a) the importance of participation and ownership in capacity assessments; (b) PC's commitment to making assistance demand-driven; and (c) the need to acknowledge the circumstances under which parliamentarians worked, which they would best be able to recognize, it was important that the Legislature played a critical role in determining weights of the assessment, results and the recommendations.

3.1 PRESENTATION OF THE INDEX

The purpose of the weighting index was to provide a tool for determining the comparative importance of different variables to Ghanaian Parliamentarians. It sought to establish the relationship between the various variables and prioritize the weights on each of the variables: Accessibility; Legal mandate; Budget review and hearing; Budget act and budget office; Periodic review of the budget; Oversight committees; Public Accounts Committee; Audit; Financial and Material Resources; Human Resources and Transparency.

A total of 10 marks were shared between each variable and another. As one variable was weighed against the other, its relative importance on a scale of 1 to 10 was assigned as a mark. The balance of the 10 marks was assigned to the other variable. If the assessors considered two variables as equally important, a mark of 5 was assigned to each variable. The results have been presented in a matrix below.

The total scores for each variable and the totaled relationships are intended to provide a picture of the perceived strengths and the weaknesses of the parliament in relation to budget oversight as well as their priorities for capacity building.

The computed weights indicated the priority that the parliamentarians gave the particular indicator out of a total of 100. For instance, "accessibility" which scored a total of 29 out of the 550 therefore had a computed weight of 5. The results are presented in Tables 2 and 3 below.

The "Legal Mandate" and "Financial and Material Resources" variables were scored highest suggesting that MPs were concerned about Parliament having sufficient power and resources to do its work effectively and efficiently. Legal mandate was considered very important because it related to Parliament's primary responsibility. Financial resources were perceived as fundamental to any undertaking. This was followed by "Oversight" (which is Parliament's role in the budgeting process) and financial resources. Human resources were also urgently required.

Table 2: Weighting Factors for Indicators

	Accessibility	Legal Mandate	The Budget Review and Hearing	Budget Act and Budget Office	Periodic Review of the Budget	Oversight Committee(s)	Public Accounts Committee (PAC)	Audit	Financial and Material Resources	Human resources	Transparency	Total	Computed Weight
Accessibility	8	2	4	2	2	2	5	3	2	2	5	29	5
Legal Mandate	8		6	7	6	6	6	6	5	6	5	61	11
The Budget Review and Hearing	6	4		4	5	4	4	4	3	3	5	42	8
Budget Act and Budget Office	8	3	6		6	4	5	6	4	4	5	51	9
Periodic Review of the Budget	8	4	5	4		5	5	5	4	4	5	49	9
Oversight Committee(s)	8	4	6	6	5		5	5	4	6	5	54	10
Public Accounts Committee (PAC)	5	4	6	5	5	5		5	6	6	5	52	9
Audit	7	4	6	4	5	5	5		4	6	5	51	9
Financial and Material Resources	8		7	6	6	6	4	6		5	5	58	11
Human resources	8	4	7	6	6	4	4	4	5		5	53	10
Transparency	5	5	5	5	5	5	5	5	5	5		50	9
												550	100

**Table 3: Priorities**

Variable	Computed Weight	Level of Priority
Legal mandate Financial and material resources	11	Highest Priority
Oversight Committee Human Resources	10	Considerable Priority
Budget Act and Budget Office Periodic Review of the Budget Public Accounts Committee Audit Transparency	9	Moderate Priority
The Budget Review and Hearing	8	Some Priority
Accessibility	5	Low Priority

Generally, participants also scored “Budget Review and Hearing” and the “Budget Act and Budget Office” relatively lower than would have been expected because they felt Parliamentarians did not have much influence over those issues. “Accessibility” was scored rather low perhaps indicating that a lot had been achieved in that area already. Some of the reasons for the scoring of “Accessibility” were identified as follows:

- In comparing accessibility and legal mandate, legal mandate was weighed higher because that is the main instrument of Parliament
- Budget review and hearing was considered a more important process or variable than media/accessibility.
- Between accessibility and the budget act and office, accessibility was rated very low (2); since the budget facility is urgently required (8)
- However, accessibility was compared favourably with the Public Accounts Committee (PAC). Accessibility and openness to the media had impacted positively on the work of the PAC because it had opened up the proceedings of the committee to public viewing and enhanced the appreciation of the public of Parliament’s work. Therefore, accessibility and PAC were considered to work hand-in-hand (5,5)
- However, accessibility was rated lower than audit. Audit was rated 7 and, accessibility, 3.
- Financial and material resources were considered fundamental as compared to accessibility. Respondents’ argument was that once the resources for work were available, other things could be added or secured.
- However, the group argued that where there was greater access, transparency would be enhanced. The discussion was complicated by the parameters identified under integrity and felt they could not adequately compare these.



3.2 ANALYSIS OF THE INDEX

The following section presents the ratings legislators gave Parliament's performance and circumstances in each of the core areas, namely, representation and accessibility, legislation, financial, oversight, institutional capacity and institutional integrity. Parliamentarians rated various indicators under the variables (core areas) on a range of 1 to 4, namely:

- 1 meant a clear need for increased capacity;
- 2 suggested that there was a basic level of capacity in place;
- 3 scored a moderate level of capacity in place; and
- 4, a high level of capacity.

3.2.1 Representation and Accessibility

Parliamentarians noted that the public was not fully aware of the role of the MP in the budget process. For instance, many citizens did not know that Parliamentarians could deliberate on the budget before it was laid in parliament for review. Participants noted that deliberations of parliament are open to the general public but committees meetings, which are held in camera, are not. The legislators also noted that Parliament did not have a media centre of its own but relied on the private and state media stations for reportage of proceedings and decisions of parliament. Also, Ghanaians appear to value MPs' services in bringing development projects to their constituencies more than their oversight roles. As a result, public input into the scrutiny and legislative aspects of their work had been limited. There was therefore the need to educate the public on the legal mandate of the legislature. The MPs considered that information on budget was reasonably available to the public. They indicated that when a document is laid before parliament for review and approval, it automatically becomes a public document. However, in order to broaden access to these documents there was the need to post them on Parliament's website which should be updated frequently. Finally, it was noted in spite of the good relations between Parliament and CSOs, there were no clear guidelines in the rules of procedure on how that relationship should be organized. It would be important to develop such guidelines to facilitate information-sharing and budget review. The specific ratings the assessment team from Parliament gave to the questions under Representation and Accessibility are presented in Table 4 below.



Table 4: Rating of Representation and Accountability

REPRESENTATION: Accessibility	Rating	Evidence	Recommendation
The legislature is open to citizens and the media.	4	The framework exists for the media and citizens to have free access to parliament.	All committees should be supported with the necessary logistics to enable them sit effectively in public.
The Legislature has a non-partisan media relations facility.	2	There is no written document. There is no media center but there exist some form of a relationship with the media.	There is the need for policy direction and a well equipped media center. Capacity building for those who will operate the center.
Mechanisms to Promote Public Understanding of the work of the Legislature.	3	There is the annual public event to educate people on how parliament operate, speakers breakfast forum, parliamentary resource center, youth parliament in tertiary institutions etc.	There is the need to structure these mechanisms to focus on specific aspects of parliament's work. The activities must be expanded to cover the entire country.
Timely provision of Information to the Public on the Budget	4	The document is laid before parliament and it becomes a public document. It is therefore accessible to everyone.	Broaden access to these documents by posting them on the parliamentary website.
Promoting Citizens' Knowledge and Understanding of the role of MPs in the Budget Process.	1	Budget hearings at MMDAs are not opened to the public but held under camera.	Public Affairs Department of parliament should educate the public on the roles of the MP in the budget process.
Relationship between Parliament, CSOs and other related Institutions	2	The relationship is ad hoc and determined by the legislature. Parliament does not provide clear guidelines on the relationship with CSOs and other institutions.	Relationship should be well structured. There should be clear cut guidelines which will be closely observed.

Civil society respondents considered that openness to the media and non-partisan analytical media relations needed to be improved. Mechanisms to promote public understanding of the work of the legislature were available. However, timely provision of information to the public on the budget and citizens' knowledge, understanding and expectations of the role of MPs in the budget process were unsatisfactory. Similarly, there was a lot of work to be done on the relationship between Parliament, CSOs and other related institutions. Civil society observers noted the need for an active parliamentary press corps. However, communication between parliament and the citizenry could be improved. They therefore recommended procedures for improving access of citizens to parliament including strengthening public education on the functions of parliament. Such education should start with students by building on existing practices such as the mock Parliaments in tertiary institutions



and making the proceedings of Parliament widely available to them. It was also suggested that some proceedings could be made available to rural and community FM radios to increase access of ordinary people. Civil society respondents proposed the establishment of a non-partisan media centre to enhance relations with the media.

Civil society was quite appreciative of mechanisms to promote public understanding of the work of the legislature including briefings by parliamentary staff members and public access to the gallery to listen to parliamentary proceedings. However, they also noted that information was only provided to the public as and when it was needed. They considered that perhaps the Legislature and its support structures did not appear to see it as a responsibility. A communication strategy prioritizing communication to the public was therefore required.

Civil society participants indicated that there did not appear to be sufficient mechanisms for promoting citizens' knowledge and understanding of the role of MPs in the budget process. They also suggested that access to Parliament depended on the leverage that a particular CSO has with the Legislature. The bodies that had good relations and connections gained ready access to Parliamentarians and Parliamentary Committees. Others were impeded by rules and regulations. It is desirable to have an even and equal access as far as possible and therefore clear guidelines should be developed, implemented and adhered to.

3.2.2 Legislative Function

Legal Mandate

The legislators noted that the legal mandate of Parliament was very important. Therefore participants thought that reviewing experiences with budget oversight so far and putting in such legislative mechanisms that were required to strengthen Parliament vis a vis the Executive should be a priority activity. Other critical inputs for the work of budget oversight were the financial and material resources to perform Parliament's mandate effectively. The specific ratings the assessment team from Parliament gave to the questions related to the Legal Mandate are presented in Table 5 below.

Citizens' input was that while the legal mandate was clear and quite adequate, more attention was required for creating opportunities for public input into the legislative process and mechanisms to track the impact of the legislation. Given Parliament's mandate for law-making under the Constitution, civil society respondents felt that there was room to enhance parliament's power for amending the appropriations bill. The prevailing arrangements and practice were inadequate and relevant legislative provisions to change could be made. While there were opportunities for some public input into the legislative process, civil society representatives indicated that wider engagement of the public by Parliament, especially on regional basis, would be desirable. They suggested that Parliament's Information Technology (IT) Department needed to upgrade its database and make relevant information on new laws and relevant instruments especially on budget oversight electronically available so that Ghanaians outside Parliament could have these at a click.

**Table 5: Rating of Legal Mandate**

Legal Mandate	Rating	Evidence	Recommendations
Law Making including the Appropriations Act	4	Article 93 (2); Article 179. Some MPs have seen Article 108 of the Constitution as a potential constraint to this mandate. However, a look at Article 108 in its entirety may not pose a limitation on the work of Parliament. It may rather have the potential for checks and balances.	Consideration of the potential impacts of article 108 of the Constitution in the context of separation of powers.
Power to amend the Appropriations Bill.	2.5	It appears that there is no legal provision for this power. In Article 179 (8): the legislature can only amend the AA subject to the approval of the executive	Parliament. can only “amend” the budget only with the consent of MoFEP
Opportunities for Public input into the Legislative Process.	2	Opportunities exist for the public to participate in the legislative process. The public is represented in the Legislature by the MPs and at the local level by assembly members. These persons provide feedback to the citizenry. Again, a memorandum is invited from the public on any bill before a committee.	The practice and convention of inviting public input should be further encouraged.
Mechanisms to Track Legislation	2	Some mechanisms do exist such as the Hansard. The actual enactments are available in public libraries and bookshops. Institutional memories exist in parliamentary staffers. These mechanisms are not adequate.	Strengthen research department of Parliament and parliamentary capacity for research.

Civil society respondents also observed that the descriptions provided by the Index (API) were not adequate because they focused on tracking legislation. It was important to take account of implementation as well. They observed further that the relevant legal provisions and legislative instruments (LIs) were not easily accessible, available or understandable to the ordinary citizen. The laws are not available on governance websites and databases. Therefore, citizens needed to make special efforts to go after these.

3.2.3 Financial Function

The Budget Review and Hearing

Some respondents were concerned about the interpretation of the word “review” relating to the budget. They would have preferred “scrutiny”. They interpreted the question about a period for review as having a proposal or draft report to examine and make recommendations before the final



budget. However, what actually happened was that Parliament was briefed on what had already been done.

MPs stated emphatically that they did not remember any time that the budget had been brought to Parliament for review. The budget was already completed when it was brought to Parliament. When the budget is presented, Parliamentarians make inputs; however, they could not establish whether these inputs had been used. The budget was not brought back to Parliament for review after its presentation. As it were, what Parliamentarians received was a printed, finalized budget.

The legislators considered that ideally, a budget draft should be brought to Parliament three months ahead (with the final presentation slated for mid-November) for MPs to scrutinize. It would then be taken back to the Executive to input MPs' recommendations before a final document is produced. This they reckoned would require a Constitutional amendment.

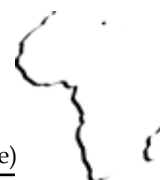
Members agreed that after the budget presentation, Select Committees dealt with the various sector budgets and the Finance Committee looked for appropriations. Therefore, there was an appropriate committee dealing with appropriations but it shared the mandate for scrutiny with other Standing/ Select Committees as provided for in Standing Order 140(2)/ (4)

In reality, the Executive takes about thirteen (13) months to develop and refine the budget as compared to the one month Parliament has to consider it. Members recommended that Parliamentary Committees should have the opportunity of scrutinizing the budgets of MDAs prior to their presentation to the Ministry of Finance. A pre-budget workshop should be held for components of the budget to be examined and inputs made before the presentation to the sector minister.

Public Hearings on Budget: Participants were of the view that meetings between the Executive and the public on the budget, in the spirit of public hearings, were not conducted. Very often, technical people in the MDAs were those involved, considering what inputs were received by way of memoranda from the public. The appropriations committee and other committees hold public engagements on the budget but these are often one-way presentations by the executive into which the public cannot make inputs (See Part 19 of the Standing Orders (S. O. 138-150))

MPs could play a more critical role by dialoguing with their constituents and transmitting the inputs to Parliament. In the participants' view, such public dialogues should be prioritized in order for Government interventions to be more responsive to the citizens' needs. Alternatively, Parliament could be allowed to hold public hearings so that the proper priorities and mechanisms are known even before the draft is submitted and the final budget passed.

Process for citizens' participation in the budget process: Respondents noted that there were some existing processes for citizens' participation but because these were not well documented, they were also not known to the public and therefore not effectively deployed. There was the need for clear document of the available processes and publication at all levels.



Authority to amend the budget presented by the executive: The existing situation is that Parliament can only amend downwards as provided for in Article 108 of the Constitution. A Constitutional amendment was therefore required to enable Parliament amend upwards as well as across sectors within the resource envelope should re-prioritization be required.

Power to send back proposed budget for review: Participants recognized that Parliament has the authority to send proposed budgets back for review. This was implied in the Constitution however, this authority has not been used in recent times. It was recommended that the budget procedure be amended to include a draft stage where inputs from parliament could be factored in.

Amendments on spending and revenue proposals: Participants noted that though at the consideration stage, amendments were made the Executive always found various excuses not to implement them. It was recommended that capacity strengthening for monitoring and evaluation of relevant committees, especially financial committees, as well as government assurances was required. It was also proposed that the Standing orders for government assurances as per order 174(1) should be amended to make the minority chair the government assurances. Where there was the need for a major change, ministers must be required to go to parliament for approval.

The specific assessment values and evidence that the Parliamentary team assigned to the issues raised under the Financial Function relating to Budget Review and Hearing are presented in Table 6 below.

The Budget Review and Hearing	Rating	Evidence	Recommendations
Period for the Review of the Budget by the Legislature.	1	The legislature has effectively only a month to review the budget. The finalized budget is presented to Parliament in mid-November and by mid-December it is passed (as per Article 179 [1]).	A draft should be sent to parliament three months ahead of time, to take inputs from parliamentarians before the final presentation in mid-November, which means there should be a constitutional amendment.
Existence of an Appropriations/ Budget Committee.	3	There is an appropriations/budget committee but shares the mandate for the review of the budget with other standing/select committees (See order 140 (2)/(4))	The opportunity for scrutinizing the budget of MDAs should be given priority
Public Hearings on the Budget	3	Part 19 of the Standing Orders (S. O. 138-150)	Need for parliamentary consultation with constituents on the budget priorities before the budget is drafted. Parliament should be granted the opportunity to hold public hearings on priorities which can be used by MoFEP to set the basis for the budget.

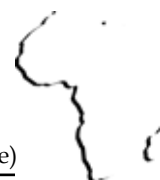


Processes for Citizens Participation in the Budget Process	2	No known rules exist for this process.	There must be a clear process documentation and publication at all levels
Authority to Amend Budget Presented by the Executive.	2.5	Article 108 of the constitution, which states that parliament can only amend downwards.	Parliament should be given the authority through a constitutional amendment to be able to amend upward, downward and even across sectors within the resource envelope (Re-prioritization).
Power to send back proposed Budget for Review	3	None	Budget procedure should be amended to include a draft stage where inputs from parliament is factored in.
Amendments on Spending and Revenue Proposals.	3	None	Strengthen relevant committees especially financial and government assurances committees. Standing orders 174(1) should be amended to make the minority chair of government assurances
Information in the Appropriation Approved by the Legislature.	4	Standing Order 142 (a) and (b)	Where there is the need for a major change, the minister must go to parliament for approval.

Civil society participants observed that after the budget presentation, select committees dealt with various sector budgets and finance committees looked for appropriations. This was in relation to the deliberations on the existence of an appropriations/budget committee.

Civil society actors suggested that the question on “Processes for Citizens’ Participation in the Budget Process” could have been further clarified. For instance, a high rating could be assigned because a published budgetary time-table was available and fora were organized to generate inputs from the public. However, these actions are by the Executive, not Parliament. However, since the exercise was about budgetary oversight capacity of the Legislature, this good practice could not be attributed to the legislature. On the other hand, Parliamentarians are supposed to sensitize their constituents to make budgetary inputs but this does not come about. Perhaps, what the indicator should be asking is “Does parliament invite public participation in the budget process?” is it documented? Is it adequately communicated to the public by the Parliament?

Civil society observed that in the last five years, less than a month on average had been available for budget review. Evidently, more time needed to be built into the budget cycle for legislative review. Civil society was quite satisfied with the existence of the Finance Committee in Parliament to look at the budget, Public Hearings on the Budget and available processes for citizens’ participation in the budget process. It was observed that a number of public hearings are provided for and there were various fora for people to access and participate in the process, including documentary means. The citizens’ representatives also appreciated the fact inputs from organizations and individuals into the budget process were acknowledged.



Civil society representatives considered such processes as the timelines that the state/government provided for soliciting hearings as adequate. These were abundantly available in the newspapers. Inputs from labour organizations and other identifiable bodies were also captured and acknowledged. However, the CSOs indicated that they found it difficult to comment on Parliament's capacity to make amendments on spending and revenue proposals because they lacked the relevant information or knowledge on that.

The Budget Act and Budget Office

Participants recommended the establishment of a well resourced (in terms of human, logistic and financial resources) budget office to ensure proper budget tracking and support for all committees in all their budget-related work.

Considerations of estimates for defense and intelligence services by the legislature: Participants recommended that the present arrangements for considering and approving the estimates for the Defence and Intelligence Services should remain. Even though by the Index, this scored a 2, they felt it was still appropriate in the Ghanaian circumstances. The current arrangement is that a Special Committee considers and approves the estimates in closed sittings. Their report is also not discussed in the plenary of the House. Parliament would take steps to ensure that confidential documents are handled confidentially.

The specific ratings the assessment team from Parliament gave on the Budget Act and the Budget Office are presented in Table 7 below.

Budget Act and Budget Office	Rating	Evidence	Recommendations
Existence of a Budget Act	1	None	Executive should initiate a process to bring a bill to parliament.
Existence of a Budget Office	1	None	The bill if enacted should create budget office.
Resourcing the Budget Office	N/A	None	There should be a well resourced (both human and logistic) budget office to ensure proper tracking and to support all committee.
Access to Information from Government MDAs and the Private Sector	N/A	None	Enforce the freedom to information law
Consideration of Estimates for Defence and Intelligence Services by the Legislature.	2	Standing order 158.	<ol style="list-style-type: none"> 1. The closed sitting should be continued. 2. Parliament should take steps to ensure that confidential documents are handled confidentially. 3. The budget should be considered by a select committee specially composed for the purpose.



Civil society stakeholders considered that as constituted, the Ghanaian Parliament did not have the authority to amend proposals by the executive. Ghana did not have a Budget Act, like in other countries, therefore, limiting Parliament's authority as compared to the Executive. While the situation could have historical roots (in the Third Republic), it was time this was changed to give meaning to Parliamentary oversight.

Civil society respondents agreed that the budget act establishes the budget office. The budget office is an office that seeks to support the work of parliament. It is an independent office of economists, tax experts and other professionals to provide short briefing papers etc with analysis of the various options and scenario. The situation seeks to correct an imbalance in which the executive has an unfair capacity by being supported a large number of civil servants. It was noted that different countries had different names for such a facility.

Civil society participants noted that proper budget review is an involving and time-consuming business. The prevailing arrangements were clearly inadequate and they suggested that three months should be allowed for budget review and approval.

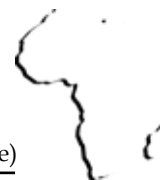
Civil society indicated that the practice of a special committee considering estimates for defence and intelligence services confidentially did not promote transparency and accountability. Given that the tax-payers' money went to finance the budget, it was important that the public had some indication of what went into these sectors.

Periodic Review of the Budget

Respondents observed that budget reviews were undertaken at various times in a financial year by the Executive as part of the financial administrative procedures of the Ministry of Finance and Economic Planning (MFEPP). However, these budget reviews are not presented to the legislature and do not require the legislature's approval. It was recommended that reports of the reviews should be made available to the Parliament. The specific assessment values by the Parliamentary team on the Review of the Budget are presented in Table 8 below.

Table 8: Rating of Periodic Review of the Budget

Periodic Review Of The Budget	Rating	Evidence	Recommendations
Budget Reviews	4	This is part of the financial administrative procedures put in place by Ministry of Finance and Economic Planning.	Parliament should have reports of the reviews
Legislative Approval of Reviews	1	None	Parliament should have reports of the reviews
Time allocated for Approval of Reviewed Budget	N/A		



Yet, civil society rated budget review processes quite highly. From their experience, budget reviews were undertaken before provisions for the following year were made. Also, Parliament had to be given copies of reviews before approvals could be made. However, the citizens indicated that the time allocated for approval of a reviewed budget needed to be extended since it was only about a month. Civil society think tanks should be consulted in such budget reviews by generating public inputs in an open invitation. More often than not, public input is not solicited once the budget gets to the floor of Parliament and it becomes subject to partisan sentiments.

3.2.4 Oversight Function

Oversight Committees

Participants noted that oversight committees have investigative powers over budgetary issues. However, the Finance Committee usually took up the issues directly. It was proposed that a two-step approach be considered where an issue is referred to a specific sector committee, considered, then sent on to Parliament and then to the Finance Committee to consider the financial aspects. Participants considered that the Finance Committee was only supposed to handle loans and the financial aspects of issues only. It was proposed that Select Committees be properly empowered to strengthen their oversight.

With regards to oversight of spending by state enterprises, members indicated that though state enterprises were supposed to present quarterly reports to Parliament, this had not been done. Committees of Parliament could not call for audits but could make recommendations through Parliament for the President to call for audits. While auditing may be required, financing these exercises was always a challenge.

Participants noted that Committees of Parliament had the power to obtain information from the Executive. However, they were not exercising this role effectively. Committees were sometimes compromised by sponsorship for their workshops or other activities by the particular Ministries, Departments or Agencies. Parliamentary Committees could sometimes invite the minister in charge to appear before it. Again, Committees could write to persons in the ministry to provide some required information. However, these prerogatives were not exercised as often and in the ways that they should be. Usually responses to such requests were slow or even not forthcoming. The situation was summed up in a statement “How do you order your bread winner?” For instance, even though a Minister can be arrested by bench warrant, this power was not exercised.

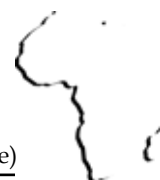
Resource constraints were also cited as impeding oversight functions. Committee budgets were rather low. Funds that were released were only received on quarterly basis with exhortations to Parliamentarians to “manage travel costs and economize”. Committee budgets required urgent review and committee funds released directly to the Committees. There were difficulties in getting approvals, the procedures were too long and releases were often delayed. The specific ratings the assessment team from Parliament gave to the questions related to the performance of the Oversight Function are presented in Table 9 below.



Table 9: Rating of Oversight Function

Periodic Review Of The Budget	Rating	Evidence	Recommendations
Existence of Oversight Committees	3	Existence of Select Committees and standing committees	Some committees need to be strengthened and empowered to be able to perform effectively
Investigative Powers of Oversight Committees	4	Committees undertake oversight activities but findings are not laid on the floor of parliament	Provision should be made for reports to be laid on the floor of the house otherwise it becomes an exercise in futility.
Oversight of Spending by State Enterprises.	3	Provision made in standing order (184/2c)	Committees should be able to call for special auditing of the finances of SOE.
Mechanisms for Oversight Committees to obtain information	2.5	Mechanisms exists but parliament is not exercising it effectively	Committees should exercise mechanisms effectively and also be financially empowered to carry out its functions effectively
Power of Oversight Committees to follow up on Recommendations	3	As indicated in order 155	Parliament should exercise the responsible order in 155 fully
Access to resources by Oversight Committees	2	Committees are not adequately resources but have separate budget	Committees should be adequately resourced. Approvals and releases of funds should be timely
Opportunities for Minority/ Opposition Parties	4	Some committees are chaired by members of opposition parties for example Public Account Committees	More collaboration should be encouraged for effective performance.

From reports of their activities in the media and parliamentary publications, it was evident to civil society that the Oversight Committee(s) exist and function. Civil society stakeholders suggested that the question relating to “Mechanisms for Oversight Committees to obtain information from the Executive” (question 30) needed to go beyond whether the mechanisms exist to finding out whether they are working or have been proven to work. Indeed, a lot of the questions in the “Oversight” Section sought to find out whether mechanisms exist or had been provided for by law but not whether they were actually working. Citizens doubted whether Parliamentary Oversight Committees could exercise their legal powers of investigation to the fullest. This was because they observed an apparent lack of capacity of committees and research assistants to facilitate relevant investigations.



Civil society also considered that Parliament exercised adequate oversight over spending by State Enterprises. This was evident in the work of the public accounts committee and their review of reports. Civil society participants suggested that the mechanisms available for Oversight Committees to obtain information from the Executive were not as efficient as required. This was in spite of the Constitutional mandate (as provided for in Article 103, 6). The production of documents and examination of witnesses was provided for. It was imperative that an element of obligation be exerted on the executive to provide the required information.

Civil society observed that given some of the questions asked, follow-up statements and recommendations made in parliament, it appeared that some members had inadequate understanding of the issues. Civil society respondents suggested that if qualified research assistants were available to legislators, they could be supported to ask relevant questions to follow up on recommendations they had made.

Also, civil society members observed that Oversight committees are not adequately resourced. They do not have separate budgets for the special requirements of their work. Therefore, civil society respondents suggested that separate budgets should be provided for the work of Oversight Committees. Also, an independent administrative structure/process should be available to facilitate efficient disbursement and processing.

Public Accounts Committee (PAC)

Though the Public Accounts Committee (PAC) existed to examine the expenditure of government, there were challenges. The PAC is chaired by a member of the Opposition; therefore, it becomes difficult when the situation being audited was created when their government was in power: "One cannot audit oneself". The legislators observed that the PAC does not investigate and deals with accounts submitted to the house and not just any public issue. There is no law backing the implementation of recommendations by PAC. Respondents considered the PAC as being inadequately resourced. The PAC often depended on donors for support to show their proceedings live on television. There was no separate budget for PAC Activities. Parliamentary respondents' scored the Public Accounts Committee (PAC) indicator as presented in Table 10 below.

Table 10: Rating of Public Accounts Committee

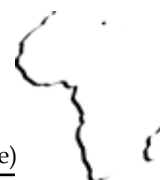
Periodic Review Of The Budget	Rating	Evidence	Recommendations
Existence of a Public Accounts Committee (PAC)	4	Provisions in article 103/5 of the constitution and standing order 165	No recommendation



Chair of the Public Accounts Committee (PAC).	4	Order 165(1)	Order 165(1) should be amended for chairmanship of PAC on a case by case basis
Rights and Powers of the PAC	4	Powers of committees in the constitution 103/6 and standing order 155	As provided in the constitution
Attendance by Ministers	4	Constitution 103(6) order 155	N/A
Openness of the PAC Proceedings	2	By convention	The present arrangements are suitable (Ok as it is).
Consideration of Reports of the Auditor-General (A-G)	3	There is a backlog of reports	Auditor General should submit report on time for the PAC to also work on it
Independent Investigations	N/A	N/A	N/A
Recommendations of the PAC	2	No law binding the Executive to implement the PAC recommendations	Reform existing regulations to make Executive implementation of PAC recommendations binding
Mechanisms for Tracking Recommendations of PAC	2	The powers of the committee is stated in order 155	Parliament should do it regularly or often in order for the PAC to be effective
Resourcing the PAC.	2.5	Parliament usually falls on donors for support due to inadequate funds	Provision of adequate resources
Collaboration with Anti-Corruption Institutions.	2	There are occasional workshops and meetings	There should be better collaboration with anti-corruption institutions.

Civil society was aware of the existence and functioning of a Public Accounts Committee (PAC). The PAC is legally mandated to work as a high court. The fact that the Chair of the Committee was required to be from the Opposition was considered by civil society as an advantage. However, they were concerned that the PAC's role was not sufficiently anchored. Further efforts would be required to secure it, possibly in the Constitution.

Civil society respondents observed clearly that Parliament has capacity problems in following-up on whether its recommendations had been taken seriously by the Executive. It appeared to participants that Parliamentarians perceived themselves as powerless to call the Executive to order. Efforts by civil society organizations such as the Ghana Anti-Corruption Coalition (GACC) to get information on action taken on past recommendations had proved difficult. For Civil Society representatives, the "Openness of the PAC Proceedings" (Question 38) should go further to enshrine this privilege in law.



In other words, the PAC's proceedings should be open to the public. Very often, the proceedings of the PAC's work can only be made available with funding from development partners and at the will of Parliamentarians. They should be supported to hold their proceedings openly for public scrutiny.

In relation to "Recommendations of the PAC" and "Mechanisms for Tracking Recommendations of PAC", civil society respondents indicated that it was important to go beyond Parliament recommendations to making legal provisions binding on the Executive to implement. Participants suggested that Parliament did not even have the mechanisms to monitor whether their recommendations are taken into account. Some participants thought no effective mechanism for tracking recommendations of the PAC existed³. They suggested that considerable advocacy should be invested in tracking recommendations.

Civil society representatives considered PAC proceedings quite open given that there some hearings had been public and inputs could be solicited from the public. However, they argued that there were limitations on the hearings and inputs. More education was required to encourage people to make inputs and the non-partisan nature of operations emphasized.

Civil society functionaries were as concerned about the late release of the Auditor-General's reports as well as efforts to act on the back-log and improve the pace of release of reports. These needed to be stepped up; the capacities of the Department built further. They were of the view that there was sufficient legal provision for independent investigations. However, in practice, Parliament needed to exercise its mandate fully and ensure that its recommendations are enforced. Therefore, advocacy was required as well as interventions to build Parliament's capacity to effect independent investigations.

There was considerable discussion amongst Civil Society actors on "Collaboration with Anti-corruption Institutions". While most anti-corruption organizations had good relations with Parliament and considered these satisfactory, the position that these relationships needed to be formalized beyond just goodwill to be effective prevailed.

Audit

All reports of the Auditor General are submitted to the Legislature because this is a constitutional requirement. Participants noted that there was a challenge because these were delayed and there is a considerable backlog. The specific ratings the assessment team from Parliament assigned to the issues related to Audit are presented in Table 11 below.

³ It is interesting to note that Parliament itself rated "2". The evidence was that such powers of the PAC are stated in order 155. But they recommended that Parliament should do it regularly or often in order for the PAC to be effective.



Table 11: Rating of Audit

Audit	Rating	Evidence	Recommendations
Appointment of the Auditor-General	2	Appointment by president as provided for in the constitution (article 187 subsection 7a)	As in the constitution
Submission of Reports of the Auditor-General's Department	4	Constitutional Requirement	N/A
Regularity and Timeliness of Reports	3	Delays and late submission of reports	Conscious efforts to clear the backlog of reports must be made to facilitate timely submission of reports.
Publication of Reports of the Auditor-General's Department.	3	N/A	N/A
Request for Audit	1	Article 187(8) of constitution	Parliament should have powers to call for special audits
Resources and Authority of the Auditor-General	3	Limited resources contribute to delays in the submission of reports	More resources should be provided

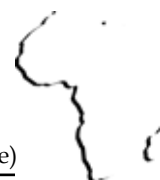
Civil society indicated because of the manner of appointment of the Auditor-General (which does not require the approval of the legislature), Parliament cannot adequately pressure that department. Somehow, additional obligations of the Auditor-General's Department to Parliament have to be secured. Even though it is a legal requirement for the reports of the Auditor-General to be sent to the Legislature, these did not appear to civil society to work. They considered the five-year backlog of reports as unacceptable. Civil society respondents observed that only the president could request Auditor-General to conduct special audits. However, they felt that that power should be extended to Parliament towards strengthening their oversight responsibilities. Civil society also noted the untimely release of resources as well as inadequate staffing had bedeviled the efforts of the A-G to provide reports in a timely manner. They recommended for Parliament to make it a priority to ensure timely release of adequate resources to the Auditor-General's Department.

3.2.5 Financial and Material Resources

Material Resources

Participants generally considered Parliament under-resourced. Parliament is supposed to determine its own budget taking into consideration the requirements of all the Committees. However, this was not done effectively. MPs' own resources often went into development projects and welfare of constituents. MPs lacked adequate office space, using corridors for committee meetings and storing their documents in their car boots. The scores the assessment team from Parliament gave to the questions under Financial and Material Resources are presented in Table 12 below.

Civil society respondent noted that a Constitutional provision (Article 106) required that bills from Parliament be approved by the President. While by the API this was a low rating, civil society



considered this system as a check on the legislature. Therefore, the current arrangement should be maintained.

Civil society also considered the logistics available to the legislature as basic and recommended that more adequate logistics and space must be secured for the MPs if they were expected to perform effectively. While civil society was aware of some resources for MPs to undertake constituency development activities, representatives found the need to re-examine the purposes underlying these sources and the modes of application of these funds. Civil society indicated that the implementation of the DACF Constituency Portion and the constant involvement of MPs in delivering local level development took Parliamentarians away from their core functions of law making and public oversight.

Table 12: Rating of Financial and Material Resources

Financial and Material Resources	Rating	Evidence	Recommendation
Power of the Legislature to determine its own budget.	3	Parliament prepares its own budget on the authority of the parliamentary service amendment act.	Parliamentary service budget should be different from the institutional budget.
Logistics available to the Legislature	1	Lack of basic logistics including office space, office equipment, office assistant, supporting staff, etc	Relevant logistics must be secured including office space, office equipment, etc to make work easier
Resources for MPs Constituency Development and Activities	2	This is largely from the Constituency Development Fund a.k.a MPs' share of the District Assembly Common Fund.	Accountability processes for the use of these funds must be enforced and audited

Human Resources

Parliamentarians lack adequate supporting staff. Members noted that a donor coordination office exists but it is inadequately staffed. Members suggested that it required strengthening. Members noted that though some research assistants had been provided, the absence of other logistics such as office space made it difficult to optimize their services. Also, participants observed that MPs required in-service training just like the Parliamentary Service Staff. Scores on the issues related to Human Resources were assigned as follows by the assessment team from Parliament (see Table 13 below).

Table 13: Rating of Human Resources

Human resources	Rating	Evidence	Recommendations
Equal Opportunity Employment	4	Members of the Parliamentary Service are governed by the rules and regulations of the Ghanaian public service. See Article 123 of the Constitution	The process of recruitment is adequate



Research and other Support Staff.	4	There is a research department.	Staff and facilities are inadequate
Mechanism for Receiving and Coordinating Technical Assistance	4	There is a donor support unit in Parliament	The process of recruitment is adequate

Civil society indicated that the modes of appointment of clerks and other staff of the Parliamentary Service were transparent. Current recruitment processes needed to be expedited and modernized to give Parliament the cutting-edge staff they required on an equal opportunity employment basis. Respondents also noted that Parliament still lacked critical data and evidence that was required for efficient and effective oversight due to the absence of sufficient research capacity. From an external position, civil society indicated that coordination of technical assistance appeared ad-hoc.

3.2.6 Transparency and Integrity

The code of conduct for public officials referred to in the Constitution was a general rule, for the avoidance of doubt, it did not adequately provide for MPs. Respondents noted that while there may be no “designated” code of conduct for Parliamentarians, there were rules governing what was appropriate for MPs to do. The Constitution also conferred power to Parliament to review these rules as required. While formal and informal mechanisms for disciplining MPs existed within Parliament (including the application of national legislations like the procurement act), these may not be effectively enforced as would have been desired. However, the Parliamentary Service was subject to codes of conduct, including that of the Public Service of Ghana. MPs were required to willingly declare their assets and file their tax returns.

A body that has the potential for regulating the conduct of MPs is the Privileges Committee. However, the Privileges Committee is guided by the Standing Orders of Parliament. Presently, it is also not the business of the Privileges Committee to examine and sanction corrupt practices. The onus was largely on MPs to conduct themselves honourably and set a good example. To some extent, the presence of a very active media could deter an MP from inappropriate behaviour. The present arrangements regarding resources available to MPs for work in their constituencies insulated them somewhat from charges of corruption. The systems for the disbursement of such facilities as those from the District Assemblies Common Fund (DACF) and the Ghana Education Trust Fund (GETFUND) were such that MPs did not handle these monies directly. In the effort to maintain standards, one area that requires attention is MPs’ attendance in Parliament and Committee work. One could be absent for many sittings with the excuse of being in a committee meeting without being noticed. Other Parliaments have voting and attendance checks.

On the other hand, the extensive demands on MPs could lead them to compromising situations including encouraging Clerks to make lucrative arrangements. While the assets declaration for public office-holders applied to MPs, it had to be strictly enforced amongst Parliamentarians. For the avoidance of doubt, a clear and specific code of conduct for MPs would help to clarify such issues as



conflicts of interest. Members noted that while they were aware of various anti-corruption networks and initiatives including APNAC, most were not motivated to join them. Education and publicity within Parliament regarding their aims, objectives and activities needed to be stepped up. While there were relations with such organizations as the Ghana Integrity Initiative (GII), these were not formalized. The specific ratings the assessment team from Parliament gave to the questions under Transparency and Integrity are presented in Table 14 below.

Table 14: Rating of Transparency and Integrity

Human resources	Rating	Evidence	Recommendations
Existence and Compliance with a Code of Conduct.	2	There is a provision in chapter 24 spanning from article 284-288 spells out code of conduct, standing order 100 etc.	N/A
Maintenance of High Standards of Accountability, Transparency and Responsibility.	3	Standing Orders, but some provisions needs to be improved to better monitor the work of MPS	Resources allocated to MP's are not managed directly by MP's. There is need for more accountability mechanisms for accountability established to guide MPS
Mechanisms for Anti-corruption Activities.	3	Existence of APNAC (Ghanaian Parliamentarians are members)	1. Awareness creation of the existing of such anti-corruption networks. 2. There should be promoters 3. Much publicity on such issues
Mechanisms to Prevent, Detect and Discipline MPs and Staff engaged in Corrupt Practices.	3	Mechanisms exist but no checks; Parliamentary Service Act-c.i.11. Committees on members holding offices of profit and privileges	Strict Enforcement-Issues should not be left hanging. Mechanisms required for the grey areas. There should be clear enforcement because it borders on the credibility of parliamentarians
Declaration of Assets and Business interests.	4	Access declaration form committee on members holding office of profit	Parliaments generally comply.

Civil society representatives did not appear to be familiar with a code of conduct for MPs or the strict enforcement of any such mechanism. Representatives suggested that the Parliamentary Service Act provides some standards to be met. In relation to the "Existence and Compliance with a Code of Conduct" (question 57), Civil Society actors argued that it was important to examine both "existence" and "compliance". For instance, a recent survey on Parliament's accountability on oil and gas issues indicated that the public did not trust them to comply with codes of conduct. Civil society representatives also observed that opposition MPs would be more motivated to join anti-corruption networks such as APNAC. Members of parties in power often did not see the need and it was important to ensure commitment to anti-corruption across board. Respondents indicated that they had insufficient information about any available mechanisms for anti-corruption activities.



Representatives advocated effective monitoring of the implementation of standards of accountability, transparency and responsibility that MPs were required to meet. Such a monitoring mechanism or platform should be endowed with adequate capacity to implement its mandate effectively. The public should be made adequately aware of its existence and mode of operation. Civil society representatives thought mechanisms to prevent, detect and discipline offending MPs and Staff existed but did not have evidence that there had been effective implementation. Civil society acknowledged the Assets Declaration Form as an adequate framework for revealing MPs' interests. Adherence to the requirement for MPs to declare their assets and business interests should be effectively monitored along with application of sanctions.

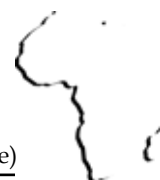
3.3 PARLIAMENTARY ASSESSMENT VERSUS CIVIL SOCIETY PERCEPTIONS

On the whole, no capacity area totally achieved a high level rating. Parliamentarians gave more than a moderate level of capacity in place for human resources, oversight committee, the public accounts committees and transparency. There was near moderate capacity in place in the areas of accessibility, budget review and hearing and audit, with an average score of 2.7. Parliamentarians rated legal mandate, periodic review of the budget and financial and material resources a little over basic capacity (2.5/2.6). The Budget Act and Budget Office, however, were rated as requiring clear and urgent need for increased capacity (1.3).

Civil society respondents agreed with the assessment by Parliamentarians on almost half of the issues (29 out of 61 indicators). There was total agreement on the absence, yet importance of the Budget Act and Budget Office. Conclusions regarding Audit were similar. However, there was considerable disparity in views in such areas representation and accessibility, practices and capacity for budget review and hearing processes as well as in transparency and integrity. The extent of agreement on the different areas of capacity is summarized in Table 15 below.

Table 15: Parliament and Civil Society in Agreement

AREAS OF CAPACITY	Total Number of Areas of Assessment	No. of Areas Legislators and CS agreed on
Accessibility	6	2
Legal Mandate	4	2
The Budget Review and Hearing	8	3
Budget Act and Budget Office	5	5
Periodic Review of the Budget	3	1
Oversight Committee(s)	7	3
Public Accounts Committee (PAC)	11	5
Audit	6	5



Financial and Material Resources	3	1
Human resources	3	1
Transparency and Integrity	5	1
TOTALS	61	29

Parliamentarians and civil society held differing views on most of the accessibility indicators. However, the two parties were in agreement on the extent to which the legislature did not have a non-partisan media relations facility and the need to improve relationships between Parliament, CSOs and similar institutions. Both parties considered that the Ghanaian parliament had low capacities in these areas.

Parliamentarians gave higher marks to performance on the openness of the legislature and timely provision of information to the public on the budget than civil society did. On the other hand, civil society rated the Ghanaian parliament's capacities for promoting public understanding of the work of the legislature and citizens' knowledge and understanding of the role of MPs in the budget process more highly than the parliamentarians themselves did.

Civil society was less optimistic about the power of the legislature to determine its own budget. However, the CSOs/NGOs thought there were more logistics available to the legislature than the MPs indicated. The two parties agreed on the low capacity pertaining to resources for MPs' constituency development activities. They were also agreed about the availability of equal employment opportunities, which was rated highest capacity. Parliamentarians had a higher opinion of the available research and support staff as well as the mechanisms for receiving and coordinating technical assistance than CSOs/NGOs did.

In relation to transparency and integrity, Parliament gave a moderate rating to maintenance of high standards of accountability, transparency and responsibility; however CSOs/NGOs rated low capacity. Similarly, while the legislators gave the highest rating to Parliament on declaration of assets and business interests, CSOs/NGOs gave a moderate score. Discussions suggested that the different perspectives could be the result of perception; however it is important to explore these further and build capacities on both sides.

Finally, the CSOs/NGOs felt they had insufficient information on mechanisms for anti-corruption activities in the legislature. In contrast, the legislators gave a moderate rating on this matter. To enhance credibility in the legislature, it will be useful for the mechanisms that exist to be made known and public education on how they work provided to the electorate. Appendix 1 presents the overview of the index and scores.



CHAPTER 4

4.0 NEXT STEPS AND RECOMMENDATIONS

4.1 IMPLICATIONS AND RECOMMENDATIONS

Based on the discussions and issues raised above, recommendations by Parliamentarians and civil society/citizens' participants as well as the capacity area priority rating and observations, the following proposals are offered.

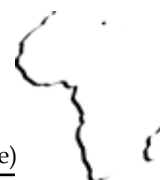
4.1.1 Review of Information Education Communication Strategies

Though enhancing accessibility did not score highly on Parliamentarians' priorities, it is important that efforts are made to enhance public understanding of and participation in Parliament's budget oversight activities. To this end

- Parliament has to develop a clear policy for public education, communication and outreach and citizens' engagement. This must go beyond the periodic contact of some committees with civil society and citizens' groups.
- As part of this effort, a strategy for improving public access to timely information on Parliament's activities, Parliament's Information Education Communication (IEC) must be developed. The effectiveness of Parliament's website must be evaluated and ways in which to use electronic communication efficiently proposed. The upgrade of the website must be preceded with an information needs assessment exercise. This should identify critical links that must be created including current and previous budget proposals; acts of parliament, legislative instruments, government white papers and other instruments of governance;
- Guidelines on structured relationships and platforms of engagement between parliament and various interest groups (professional bodies, identifiable governance institutions, NGOs and civil society) especially in relation to budget oversight and review must be developed and implemented at the instance of Parliament.

4.1.2 Training and Skills Building

- Periodic, modular, short skills-building programme on communication skills, rapid assessment, techniques, and engagement with the media, citizens and conduct of public education events should be made available to Parliamentarians.
- A capacity-building programme on the role of the legislature in the national budget-making and implementation process must be conducted for civil society and other interest groups.



4.1.3 Budget Review Processes

- Advocacy with the Constitutional Review Committee to review Article 179 (and Article 108) in the light of Parliament's experience with the practicalities of effective review of the budget proposals. The issues for consideration will include implications for timing, amendment and re-prioritization across sectors and provision for the Executive to revise budget statement to include Parliamentary inputs.
- Advocacy with MoFEP for earlier issuance of budget circulars to start the budget preparation processes
- Establish/initiate programme of two consultative meetings (start-up and reference) between sector Ministries, Departments and Agencies (MDAs) and the sector-responsible select/parliamentary committees before budget hearings and the formal submission of the consolidated budget proposals to Parliament
- Initiate steps for Parliament to consider and debate possibilities for amending standing orders for government assurances to grant chairmanship to the minority; as well as measures to strengthen committees and provide for their periodic self-assessment.
- Expedite efforts to provide all Parliamentarians/the entire House with education on the Budget Act, the functions of a Budget Office and strategise on the establishment and logistic resourcing and staffing of an efficient Budget Office.
- Initiate steps by the Legislature to require/engage MoFEP to provide Parliament with reports of budget review actions undertaken within the course of the year. As per the budget cycle, government in the middle of the budget year assesses performance on set revenue targets, inflows and feasibility of expenditure estimates.
- Undertake a capacity assessment of Oversight Committees in order to develop a targeted strengthening programme for various committees and adequate resourcing based on the committees' annual plans of activity.
- Undertake advocacy with Parliament to realistically plan for and empower Oversight Committees to be able to require special investigation/auditing of particular public enterprises, programmes and initiatives; including separate budgets for the work of Oversight Committees
- Initiate a discussion with the leadership of and the entire House on evaluating the effectiveness of the Public Accounts Committee (PAC) including relevant amendments of the Standing Orders (165) regarding chairing of the Committee.



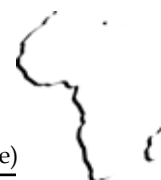
- It is acknowledged that considerable efforts are ongoing to strengthen Auditor-General's Department. Parliament should take an interest in these initiatives and undertake relevant advocacy to reduce the backlog of reports, build the Department's capacity and address the constraints the Department faces.
- Establish a programme of engagement including a periodic (annual or twice a year) platform between key representatives of the legislature and identified and credible anti-corruption institutions on tracking public resource use.

4.1.4 Financial and Material Resources

- The legislature should take steps to assess reasonable logistic requirements for effective budget oversight including office space, equipment, meeting rooms, documentation and electronic research facilities and other resources and develop a phased plan for addressing this need. This strategic plan should be the basis for engagement with development partners who would like to assist.
- Given the steps being taken to advocate and operationalize a Constituency Development Fund separate from the District Assemblies Common Fund (DACF), legislators should engage the Executive to examine and finalize the design of such a fund and the inputs from various sources into a consolidated facility. Systems for reporting on, monitoring and auditing this facility should be developed as part of the design to ensure probity and transparency as befits legislators as role models and representatives of the people.
- Meeting the basic needs of the constituents will remain a critical issue to Ghanaians. Therefore, Parliamentarians will be required to address development issues. Given the handicaps that assemblies face, it is important that MPs have a facility to deploy on a rapid or emergency basis that would make a critical difference to lives of their constituents.

4.1.5 Transparency and Integrity

- Based on the requirements of the Constitution and other relevant guidelines on ethical conduct of public officials, a specific code of conduct must be developed for legislators. This instrument must include mechanisms for preventing, detecting, disciplining legislators on potentially corrupt practices; and monitoring and maintaining standards of accountability in all aspects of the parliamentarians' work on the floor, committee and possibly constituency levels (including the use of the constituency development fund). There must be provisions in the guidelines for enforcement and sanctions.
- The leadership of Parliament should have an instrument that can at any point in time, provide information on extent of adherence to periodic declaration of assets and business interests of legislators and establish compliance.



4.1.6 Research Support Capacity Building

- A research capacity needs assessment to support legislators for budget oversight should be undertaken to establish the minimum levels of support required for Parliament to improve sources of information and analysis.
- Research support for Parliamentarians should be creatively fostered. Apart from the provision of research assistance, access to specialized support and information must be facilitated through retainer-ships of experts/consultants to various committees; commissioned studies; and provision of relevant documentation and emerging studies for Parliamentary libraries
- Research assistants must be supported/capacities built to undertake advanced documentary searches, secondary information review and analysis.

4.2 OBSERVATIONS ABOUT THE TOOL AND ASSESSING PARLIAMENTARY OVERSIGHT

Both legislators and civil society actors found the tool useful and exciting. While the tool stimulated considerable discussion and was extremely pertinent to the Ghanaian society, in some instances the answers were not so clear cut.

Methodological Issues: Importance of a Credible Tool for Assessing Parliament

Against the backdrop of recent efforts to assess Parliament, this tool fulfilled two vital requirements: it adequately measured performance as well as ensured the participation of the legislators in their own assessment. Civil society participants indicated that the approach had some important lessons, namely

- Championship by the leadership of Parliament in the process
- Selection of respondents to represent both sides of the House
- Periodic communication with the leadership on the process
- Adequate focus on specific aspects of Parliamentary work
- Assessment against tested and tried standards of performance
- Linkage with findings to clear capacity building requirements
- Combination of weighting, quantitative and qualitative assessment strategies
- Provision for external stakeholder validation.

A plenary discussion to reflect on the tool, its relevance, rigor, credibility of the information it generated, ease of use, adaptability/flexibility and other characteristics as a viable performance assessment tool was undertaken.

In relation to the questionnaire/indicators, participants raised the following issues:

- The tool was generally educative; and a lot of hard work had gone into its development. However, it could be further adapted to the Ghanaian situation to tailor capacity building more sharply.



- The assignment required reference to the Constitution and the standing orders in order to make appropriate choices. This had refreshed MPs' knowledge and in some cases, added to their education. The discussions that had arisen in efforts to support the choices had enabled them to express their concerns about moving Parliament forward.
- Some of the expressions lent themselves to ambiguity in the Ghanaian usage, for instance "review of the budget". Some scenarios did not quite reflect the Ghanaian situation. In some cases, only some parts of two options applied, requiring participants to provide a half way mark. Other indicator options did not reflect anything in the Ghanaian situation; so that rather than score 1 or 2 to demonstrate low capacity, an option to rate "none of the above" and "other" would have been useful. This should be included in the tool to make it a little more flexible.
- Though the tool was directly targeting its indicators at budget processes, the approach and philosophy could be adopted in assessing other aspects of Parliamentary performance. The tool will be useful to CSOs and stakeholders for systematic and evident based advocacy.
- Participants were interested in the next steps beyond the assessment: whether the results of the exercise were going to be used for practical steps at improving parliamentary performance. Follow-up action should be as quick as possible.

Participants made the following observations about the weighting process and index. It was agreed that the tool followed a proven methodology. However, it should be used along with other capacity assessments. Also, none of the variables were mutually exclusive. The tool required a facility to take account of the context in understanding the importance assigned to different variables. Participants also had some initial difficulties with the scoring and construction of the matrices. They felt that their judgment needed to be validated by other Parliamentary groups. The following specific concerns and recommendations were raised.

1. The tool required a lot of explaining and initially, its application was difficult
2. Duplication on the flip side to construct the matrix caused some confusion amongst participants. The possibility of simplifying and splitting the matrix into smaller boxes should be explored. Opportunities should be provided for "not applicable" (N/A) choices
3. Some of the indicators could not be easily compared or prioritized such as Human Resources against Committee Oversight; or Human Resources and Accessibility; it was also difficult to compare Oversight with Public Hearing; and Legal Mandate and Public Accounts Committees.
4. The manual to the matrix did not always reflect the Ghanaian understanding of the issues and terminologies and the practice. Some of the explanations of the indicators in the manual did not reflect the use of the terminologies in a Parliamentary context for instance transparency (a situation of the contact of an MP versus doing a budget). A broader interpretation of transparency was required.



5. It also did not provide some important issues to be considered in a variable. For instance, the Human resource description in the manual did not make provision for MPs' capacity. It was looked at only in terms of equal opportunities and research support. Therefore, if you are looking at the effectiveness of a committee.
6. The tool by requiring users to compare two parameters to the exclusion of all others did not sufficiently take account of influencing factors in the larger environment. The possibility of looking at the variables in clusters must be considered and the sense of a totality, reinforced.



APPENDIXES

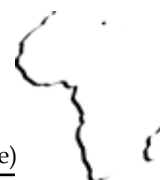
APPENDIX 1: the Weighting Index, overall Assessment Score on the Index

	Total	Computed Weight	Capacity Rating Average	Capacity Rating Weighted Average	Capacity Area Priority Rating and Observations
Accessibility	29	5	2.7	3.4	Legislators placed relatively low priority on accessibility, even though capacity rating was lower than moderate. Civil society respondents differed from Parliamentarians in most of the areas of assessment. However, interventions are required to strengthen performance in this area.
Legal Mandate	61	11	2.6	7.2	Parliamentarians placed the highest weight on legal mandate because they considered this their main function. Performance in this area was also lower than moderate level of capacity but better than basic. Therefore, capacity building support will be required interventions in opportunities for public input into the legislative process and mechanisms for tracking legislations
The Budget Review and Hearing	42	8	2.7	5.4	On average, budget review and hearing attracted a slightly less than modest performance. However, it was not an immediate priority for intervention. The main areas for intervention is in advocacy for the extension of the period for



					review of budget proposals as well as efforts to increase citizens' participation in the review process and activating the legislature's authority to ensure executive action on proposed amendments.
Budget Act and Budget Office	51	9	1.3	2.9	Having a budget act and a budget office were of some priority; and the assessors scored capacity in this area as less than basic. However, some action on this is underway.
Periodic Review of the Budget	49	9	2.5	5.6	This was an area of some priority to Parliamentarians but there was more than basic capacity in place. An area that can be considered for strengthening could be in enhancing the legislature's input into and approval of budget reviews
Oversight Committee(s)	54	10	3.1	7.8	The work of Oversight Committees was of considerable priority to legislators. However, capacity was also rated more than modest. A critical area of attention is adequate and timely resourcing of the Oversight Committees to do their work effectively.
Public Accounts Committee (PAC)	52	9	3.0	6.8	The performance of the PAC in the Ghanaian system was rated as being more than moderate. It was assigned moderate priority for intervention; what can improve its work is to ensure timely submission of audited reports, which lies outside the purview of Parliament.

Audit	51	9	2.7	6.1	Capacity for the conduct of audits was rated more than basic yet less than modest. It was also of moderate priority for intervention. Parliament's limited control over the appointment of the Auditor-General and mandate to request special audits, constrained its effectiveness.
Financial and Material Resources	58	11	2.5	6.9	Parliamentarians clearly considered financial and material resources of the highest priority. Yet there was more than basic capacity in place. While Parliament had considerable influence on the resources assigned to the institution, the logistics available for its work and for constituency-level development work is considered less than basic. This may require Parliament to re-assess its priorities for assigning resources.
Human resources	53	10	3.5	8.8	Human resources were of considerable priority to the Parliamentarians even though existing capacity was more than basic. Observations that research assistance and support should be augmented could be an area of capacity development.
Transparency	50	9	3.0	6.8	Fostering transparency while of modest priority was an area in which Parliament indicated more than modest capacity. However, transparency can only be improved and any interventions to enhance openness and credibility must be supported.
Total	550	100	29.6	67.7	



APPENDIX 2: A: LIST OF PARTICIPANTS IN PARLIAMENTARY WORKSHOP

No.	Members of Parliament	Committee
1	Hon. Alfred Agbesi	Constitutional
2	Hon. Joe Appiah	
3	Hon. Frema Osei Opare	Employment, Social Welfare & State Enterprises
4	Hon. W. O Boafo	Defence & Interior
5	Hon. Raymond Tawiah	Environment, Science & Technology.
6	Hon. David T. Assumeng	Works & Housing
7	Hon. Samuel Obodai	Roads & Transport
8	Hon. Stephen Yakubu	Health
9	Hon. Peter Wiafe Pepra	Trade, Industry and Tourism
10	Hon. E.K Bandua	Constitutional, Legal & Parliamentary Affairs
11	Hon. Wisdom Gidisu	
12	Hon. Kutun Blankson	Local Government
13	Hon. Joseph Amankwanor	Mines & Energy
14	Hon. Ekow P.E. Okyere	Employment, Social Welfare and State Enterprises
15	Hon. M.C Boampong	Roads & Transport
16	Hon. Stephen Kunsu	Trade, Industry & Tourism
	Parliamentary Staff	
17	Alhaji Ibrahim Gambilla	Rep. Dept. Clerk
18	Hajia Ayisha S.	Defence and Interior
19	Mohammed Hardi	
20	Janet Frempong	Works & Housing & Government Assurances
21	Abigail A. Anso	Clerk, Gender & Children
22	Eric Owusu-Mensah	
23	Peace Fiawoyife	
24	Samuel Addei	Roads & Transport
25	Richard Acheampong	Communication
26	Rose Keddey	Deputy Clerk
27	Ephraim Amu	Mines & Energy
28	Samira Abdulai	Public Accounts
29	E. Akrofi – Tibo	Finance
30	Paul Baka	Special Budget
31	Louis Yiadom Boakye	Assistant Clerk



32	Ernest Darfour	Employment, Social Welfare & State Enterprises
33	Akua Owusu Agyekum (Mrs.)	Food & Agric & Cocoa Affairs
	Parliamentary Centre Staff	
34	Mr. Elvis Otoo	Parliamentary Centre
35	Mr. Adams Fuseini	Parliamentary Centre
36	Dr. Anthony Tsekpo	Parliamentary Centre
37	Dr. Rasheed Draman	Parliamentary Centre
38	Mr. Stephen Yao	Parliamentary Centre
39	Mercy Akwamuwor	Parliamentary Centre
	Facilitator/Independent Assessor	
40	Dr. Esther Ofei Aboagye	Institute of Local Government Studies



APPENDIX 2: B: LIST OF PARTICIPANTS FOR CIVIL SOCIETY VALIDATION ENCOUNTER

NAME	ORGANIZATION
Ebenezer Hanson	Public Agenda
Patrick Amoateng-Mensah	Centre for the Development of People
Alex Baffoe Oppong	SKOL Consult
Bashiru Mohammed Jumah	SEND Ghana
Rev. Father Patrick Amos	National Catholic Secretariat
Joseph Bangu	National Catholic Secretariat
Judith Sara Sawyerr (Mrs)	Ghana National Education Campaign Coalition
Samuel Ofori-Boakye	Ghana National Coalition of NGOs in Health
Wilberforce Laate	Centre for Indigenous Knowledge for Development (CIKOD)
Michael Boadi	Public Agenda
Kyerewaa Asamoah (Miss)	Christian Council of Ghana
Daniel Owusu Boatey	Ghana Trades Union Congress
Baaba Ofori-Kwafo	Ghana Integrity Initiative
Ruby Kissiedu	Integrated Social Development Centre
Daniel Oberko	General Agricultural Workers Union (GAWU)
Kwaku Darko Aferi	Ghana Trades Union Congress
Hor Sidua	Alliance for Reproductive Health Rights
Elizabeth Akpalu (Mrs)	Advocates for Gender Equity
Florence Dennis (Mrs)	Ghana Anti-Corruption Coalition
Issifu Lampo	Parliamentary Centre
Jennifer Yeboah	Institute of Local Government Studies
Esther Ofei-Aboagye	Institute of Local Government Studies

CHAPTER 3



THE AFRICAN PARLIAMENTARY INDEX (API) KENYA COUNTRY SELF ASSESSMENT REPORT

By
PETER OLOO ARINGO
INDEPENDENT ASSESSOR
NAIROBI

KENYA



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EXECUTIVE SUMMARY

The purpose of the African Parliamentary Index is to present a standard and simplified system for assessing the performance of Parliaments in Africa, especially Parliaments in the seven core countries that make up the APSP project. In that regard, the API provides a simplified way of assessing different Parliaments engaged in the APSP on the key objectives of the programme. The set of indicators developed against which performance of partner parliaments can be measured recognizes the fact that the organization, powers and effectiveness of parliament vary widely.

The core objectives of the API are to assess partner Parliaments against international best practice for budget oversight, present a standard and simplified system for assessing the performance of selected Parliaments on budget oversight, identify priorities and entry points for strengthening partner Parliaments and to stimulate Parliamentary progress towards achieving the goals of the programme. The set of indicators used to measure the effectiveness or otherwise of the Kenyan National Assembly were defined by two broad issues, namely the roles and functions of parliament, and the Parliamentary Centre's understanding of the role of parliament in the budget process, especially with respect to the key functions of representation, legislation and oversight. The target groups for this exercise were parliamentarians and parliamentary staff on the one hand, and groups of civil society organizations on the other. The parliamentarians were chosen because they are key drivers in parliament and therefore well placed to conduct self assessment, and the civil society groups were chosen to act as society's lens through which parliament's work could be viewed in respect of the above-mentioned indicators.

The API workshop for the parliament of Kenya was held in Nairobi and was attended by parliamentarians and parliamentary staff representing various committees of parliament. The self-assessment exercise which was preceded with a presentation on the concept of the API was facilitated by an independent assessor. Participants formed groups (five) and each group was given a cluster of indicators to analyze and assign scores. A plenary session followed the group exercises where each group representative presented group reports. The group reports were discussed by participants and a common understanding was reached on the results of the various assessments. A similar exercise was conducted with selected civil society organizations in Kenya. This was aimed at getting civil society perspectives on the capacity of parliamentarians and parliament in the discharge of their oversight mandate to complement the information arising from the self-assessment exercise of parliamentarians and parliamentary staff. Each group discussed extensively the issues under review and scored each indicator on a scale of 1 to 4. For instance, each of the scales was defined as follows:

- 1 High level of capacity in place
- 2 Moderate level of capacity in place
- 3 Basic level of capacity in place
- 4 Clear need for increased capacity



Under the category of representation the assessment focused on the under listed indicators:

- The legislature is open to citizens and the media
- The legislature has a non-partisan media relations facility
- Mechanisms to promote public understanding of the work of the legislature
- Timely provision of Information to the public on the budget
- Promoting citizens' knowledge and understanding of the role of the MPs in the budget process
- Relationship between parliament, CSOs and other related Institutions

From parliamentarians' point of view, the legislature is moderately open to the media hence a score of 3. The civil society organizations on the other hand feel the legislature's openness to citizens and the media is in clear need for increased capacity hence scored one. On the question of the legislature having a non-partisan media relations facility, a score of 4 was assigned by the parliamentarians. With regard to promoting public understanding of the work of the legislature, the MPs were of the view that Parliament is in clear need of increasing capacity. Equally the relationship between parliament, civil society organizations and other related institutions is ad hoc and determined by the legislature, no clear guidelines in the Rules and Procedures and/or other laws governing this relationship hence scored 2. Civil society organizations' assessment of legislature's capacity regarding the above indicators (b)-(d) averages a score of 1.5. Generally CSOs and parliamentarians differed markedly in their assessment of the legislature's representation function in terms of how accessible the legislature is to the public and the efforts of the legislature to get the public to understand its roles. Therefore the average capacity rating score by CSOs was 1.8 and that by parliamentarians was 2.3. Of the six indicators under accessibility the closest score was on the relationship between parliament, CSOs and other related institutions where Members scored a 2 and CSOs scored a 2.3.

Under legal function the assessment basically focused on the following:

- Law making including the Appropriations Act;
- Power to amend the Appropriations Bill;
- Opportunities for public input into the legislative process;
- Mechanisms to Track Legislation.

Law making including the Appropriations Act was rated 4 by the parliamentarian's; thus, implying parliament has a high capacity to make laws. The CSOs however gave a score of 3.7 which does not vary much from that of parliamentarians.

With regard to opportunities for public participation in the legislative process, self assessment by members of parliament indicates that adequate opportunities exist for citizens to input into any legislative process and are made public but they are not backed by legislation. This indicator also received a similar assessment and received a score of 3 from CSOs. With regard to mechanisms for tracking legislation, CSOs scored 3 arguing that the mechanisms do exist and that some resources exist to provide evidence on the impact of specific legislature but this is not adequate. However



parliamentarians scored 2 arguing that some mechanisms do exist with limited resources. Overall on the assessment of parliament's capacity to discharge its legal mandate, CSOs rated parliament at 3.4 compared to parliamentarians' own assessment average score of 2.9.

Under financial function there are three sub functions namely: Budget review and hearing; Budget Act and Budget office; and Periodic review of the budget. Civil society organizations rated parliament's capacity in conducting budget review and hearing higher, an average score of 3.3 than parliamentarians rated themselves; an average score of 2.6 was assigned by members of parliament. With regard to the sub-section on Budget Act and Budget office, the members of parliament gave an average score of 3.0 whereas the CSOs average score was 2.9, clear indication of congruence by both parties on these set of indicators. On the aspect of periodic review of the budget civil society organizations average rating was 2.9 whereas that of the members of parliament was 3.8.

Oversight is a major function of Parliament especially where budget is concerned. By discharging this role of oversight, parliament is in a position to exact accountability from the executive on behalf of the citizenry. The key oversight tools at the disposal of parliament include the parliamentary questions and motions, ministerial statements and petitions; parliamentary committees; public hearings; fieldwork based oversight activities; and oversight by extra parliamentary institutions such as Kenya National Audit Office. In terms of the indicators used to measure the effectiveness of oversight committees in parliament, the under listed were considered:

- Existence of Oversight Committees
- Investigative Powers of Oversight Committees
- Oversight of Spending by state enterprises
- Mechanisms for Oversight Committees to obtain information from the executive
- Power of Oversight Committees to follow up Recommendations
- Access to resources by Oversight Committees
- Opportunities for Minority/Opposition Parties

In recognition of the fact that oversight committees have investigative powers over budgetary issues as enshrined in the National Assembly Powers and Privileges Act, a rating of 4 was awarded by parliamentarians. While agreeing with the fact that oversight committees have investigative powers, CSOs argue that these investigative powers are not regularly enforced hence rated it 3.

One of the key determinants of institutional capacity of parliament is the ability of the legislature to determine its own budget. In the view of the parliamentarians, Kenyan parliament is in clear need of increased capacity as its budget is determined by the Minister of Finance. The CSOs held a contrary view. They rated the indicator 3.3 with the reason that parliament has the capacity to determine their own budget based on Article 126 (6) of the new constitution which vests power of determining the budget of the parliament in the Parliamentary Service Commission.



On the question of declaring of assets and other financial or business interests by Members of Parliament and staff, there is a law, the Public Officers Ethics Act to advance the ethics of public officers by providing a code of conduct requiring them to declare their financial interests. In practice however, few MPs have complied with this law. In view of the gap between what is on paper and practice, parliamentarians scored 1 implying that there is a clear need for increased capacity for enactment of a law or Rules of Procedures that will oblige them to declare their assets. Civil society groups were of the opinion that the existence of the Public Officers Ethics Act is a sufficient requirement for assets declaration; they however decried the palpable lack of enforcement of the law and rated it poorly as well. The average score was 2.1 and a weighted score of 4.7 against target of 9.



CHAPTER 1

1.0 INTRODUCTION

1.1. PARLIAMENTARY REFORM IN KENYA SINCE 1963

The present parliament is the Tenth elected parliament in Kenya since the attainment of independence in 1963. It is also the third parliament since the return of multiparty political dispensation in 1991. Yet, it falls in line with the first independence parliament of June 11th, 1963. The first parliament which was multiparty and bicameral lasted until 1969.

However, the history of parliament in Kenya stretches to the first sitting of the colonial legislative council on August 17th 1906. By independence, the colonial legislative council was in its Tenth Council when it was dissolved to pave the way for the first independence Parliament.

Throughout its life of nearly sixty years of existence, the legislative council made no pretence of being a representative institution of the majority of the African people. It was created to represent the British citizens who were farmers, business people, missionaries and civil servants of the colonial government in Kenya. The legislative council was to fulfill the inalienable rights of every British citizen of “no taxation without representation”¹.

The legislative council remained an all-white council which progressively incorporated the Indians and the Arabs until 1943 when the first African was nominated by the governor to represent the Africans. Hitherto the African interest in colonial government which included the legislative council was represented by white clergymen.

From the beginning of the colonial government, the legislative council was anchored in the Westminster parliamentary model. The structure of the legislative building, the decorum, etiquette and dress-code of the speaker and the members and the procedures of the Houses replicated those of the House of Commons. The staff and mechanism put in place for provision of facilities and services to members reflected the Westminster parliament model. The clerk was appointed by the governor while the staffs were civil servants. The colonial government controlled the security, the budget and accommodation.

Upon independence, the membership and the composition of the National Assembly and the Senate changed because the majority electorate achieved African dominant representation in the bicameral parliament. Most of the other aspects of parliament were a carry-over of the colonial legislative council.

¹This was put in place to ensure that every British citizen who paid taxes had a right to representation in the legislative council



This status became an immediate concern of the African members and the urge to reform parliament became the carry-over of the nationalist struggle to gain total independence and repudiate colonial practices.

The speaker Sir Humphrey Slade had assumed speakership of the legislative council in 1960 and was to remain in the position until his retirement in 1970. He could not effect radical changes in the Standing Orders and in the procedure of the House. The Standing Orders and the forms of procedures remained the same with little change for ten years save for the convenient and crisis solving measures meant to address emergencies.

Prior to 1964, there was only one functional committee, *the standing committee*. Backbenchers' role was limited to reacting and reviewing the business as set out by the executive. There were no provisions for the backbench members to introduce bills and make appreciable contribution to the parliamentary process. The legislative council and the first parliament, indeed, the whole parliamentary process was designed to provide legitimacy to the actions of the executive without any encumbrances.

The rise and growth of the imperial presidency and the continued executive dominance further marginalized parliament. The *de facto* one party state between 1964 and 1969 and the abolition of the Senate in 1967 and the enactment of numerous amendments to the constitution consolidated the power of the executive. Members could not advance proposals geared at serving the interest of the electorate.

During the second and third parliaments (1970-1979) and the fourth parliaments (1980-1990) voices of reform challenged the status quo. The members wanted to participate in the management and administration of parliament. They wanted a review of their terms and conditions of service and a revision of Standing Orders to create standing and sessional committees. The proceedings of the House, the calendar and the agenda were controlled by the executive government and the rigging of election was rampant.

Though small gains were made for parliamentary reforms during the sixth, seventh, and the eighth parliaments (1991-2002), the overweening powers of the executive coupled with deteriorating governance and economic conditions brewed discontent among the electorates. Parliament became emboldened and members publicly spearheaded the growing glamour for an all-out reform. The National Assembly enacted a constitutional amendment to introduce multiparty political dispensation. Working in collaboration with civil society, the Inter-Parliamentary Party Group (IPPG) gained short and long term electoral reforms which facilitated a level playing field for all parties at the 1997 general election. The collaboration between parliament, civil society and development partners expanded the democratic and governance space.



The enhanced collaboration between parliaments, civil society and development partners saw the steady invigoration of the committee system in general and oversight committees in particular. The crescendo of parliamentary reform received a major boost when parliament amended the constitution to create the Parliamentary Service Commission (PSC) and the Parliamentary Service in 1999/2000. The law delinked parliament from the control of the president and the parliamentary service from the control of the Public Service. Parliament received budgetary autonomy and could now engage in the development of the institution of parliament. The Parliamentary Service Commission published a Strategic Plan (2000-2012), outlining its vision and mission as well as activities to be undertaken within the reform agenda.

In keeping with the desire to democratize and enhance the participation of members in the business of the House, the Commission embarked on capacity building measures for members and staff of the National Assembly.

These included the following:-

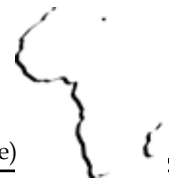
- Enhance welfare packages for members and staff of parliament
- Enhance budgetary allocation to enable members to hire personal and research assistants
- In-service training through workshops and attachments to other parliaments
- Office accommodation within the precincts of parliament and in the constituencies
- Provision of the Constituency Development Funds to enable members to spearhead community based projects at the grass root level
- Access to information by installing information technology services both in parliament and in the members' offices in the constituency.

The general election of 2002 created a transition in which the incumbent government was replaced, while the general election of 2007 created a coalition government that has led to the promulgation of a new constitution. The beacons and roadmap are in place to enable parliament in Kenya to become a transformative parliament to achieve the aims of participatory democracy.

1.2. Overview of the purpose of the Africa Parliamentary Index

The African Parliamentary Index (API) is a set of indicators that show the level of engagement of selected African Parliaments in the budget process in their respective countries. Through the Africa Parliamentary Strengthening Programme (APSP) for Budget Oversight, partner parliaments' ability to carry out their legislative, financial, oversight and representative functions are enhanced. This is done in ways that engender good governance and the values of accountability, transparency and participation, especially in the budget process.

This is premised on the fact that the budget process is a key area of focus for Parliaments and relates closely to poverty reduction because government budgets are about the allocation of scarce resources that affect the lives of citizens who parliamentarians in democratic states represent. It is therefore



important that parliamentarians are equipped with the necessary tools with which to perform their role in the budget process and increase their understanding of the salient elements that are of direct relevance to poverty reduction in their respective countries.

1.2.1 Objectives of the Index

The purpose of the African Parliamentary Index is to present a standard and simplified system for assessing the performance of Parliaments in Africa, especially Parliaments in the seven core countries that make up the APSP project. In that regard, the API provides a simplified way of assessing different Parliaments engaged in the APSP on the key objectives of the programme. The core objectives of the API are:

- a) To assess partner Parliaments against international best practice for budget oversight
- b) Present a standard and simplified system for assessing the performance of selected Parliaments on budget oversight
- c) To identify priorities and entry points for strengthening partner Parliaments
- d) To stimulate Parliamentary progress towards achieving the goals of the programme.

1.3. Approach and Methodology

The API workshop for the parliament of Kenya was held in Nairobi on November 5th, 2010. It was attended by members and staff representing various committees of parliament. The self-assessment exercise was facilitated by the independent assessor who was assisted by the Director of the Budget Office in parliament. Participants formed five groups and each group was given a cluster of indicators to carefully analyze and then assign a score. Each group had a chairperson and scribe. The independent assessor and the director of the budget office provided backstopping to participants. A plenary session followed the group exercises where each group representative presented group reports. Participants at the plenary discussed the group reports, and reached a common understanding on the results of the various assessments.

A similar exercise was held on February 9th 2011 with selected civil society organizations in Kenya. The purpose of this exercise was aimed at getting a civil society perspective on the capacity of parliamentarians in discharging their oversight mandate. Their assessment will complement and provide additional information which will enrich the self- assessment conducted by parliamentarians and staff of the parliament. As the number of participants of the civil society groups was not as big as anticipated, only two groups were formed for the exercises. As in the earlier self-assessment exercise of parliamentarians and staff, the independent assessor provided guidance during the group work. Presentations were made at the end of the group work, the data was analyzed and collated and participants reached an understanding on the scores assigned to all the indicators.

Uniquely in Kenya, parliamentarians and staff mainly from the Finance Committee of parliament had the opportunity to validate the results of both parliamentarians and civil society assessment of the capacity of parliament in the exercise of its mandate. At a meeting held on February 10th 2011,

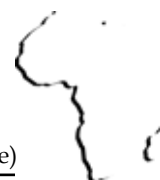


MPs in the presence of the deputy speaker of the parliament of Kenya unanimously approved the API Country Report for Kenya and recommended that the Budget Committee of parliament should take the initiative and organise a workshop for members in Mid- March 2011 to examine the API Country Report.

Each group discussed extensively the issues under review and scored each indicator on a scale of 1 to 4. For instance, each of the scales was defined as follows:

- 1 High level of capacity in place
- 2 Moderate level of capacity in place
- 3 Basic level of capacity in place
- 4 Clear need for increased capacity

During the assessment, every indicator under review was clearly described in-terms of parliament's standing. This was done with an aim of providing a guide to members while assessing and scoring. In areas where the status of issues in parliament was the same, a relevant score was assigned. Yet in some particular circumstances, the group awarded scores that were in between the assigned score. For instance it was common to find a score of 2.5, or 3.5. Nonetheless evidence was provided by the group to justify those scores.



CHAPTER 2

2.0 The Budget Process

The annual budget process like in most countries is prepared on the Medium-Term Expenditure Framework (MTEF) basis which is preceded by the national development plan that spells out broad macroeconomic policies and Sectional plans. A Ministerial Working Group (MWG) prepares the medium term Fiscal Strategy Paper (FSP) which sets out optimal levels of aggregate revenues, expenditure, financing and deficit strategies taking into consideration Government policy priorities. The Treasury issues budget guideline circulars to all accounting officers of ministries, districts and all government agencies. The circular specifies the composition of Sector Working Groups (SWG), MTEF calendar, terms of reference for SWG formats, government fiscal strategy over the medium term, sectoral resource ceilings and resource bidding timetables, expenditure coding and other budget preparation information. SWGs through a consultative process prepares sector reviews and reports outlining the overall mission, objectives, and strategies for the budget in a prioritised format, inter and intra sectoral linkages and tradeoffs. Upon receipt of completed reports and confirmation that the reports have spelt out sector missions, objectives, priorities, and activities costed appropriately, the Secretariat organises public sector hearings where the chairmen of the various SWGs present their respective sector reports and receive comments from the public.

The sectoral resource ceilings are then presented to Cabinet for discussion and approval before being released to the respective sector ministries for bidding. Ministries prepare itemised budgets, which are compiled and submitted as draft estimates to the Ministry of Finance (MoF). The MoF compiles outcomes of the bidding process and communicates ministerial ceilings. Sector ministries then prepare itemised draft estimates proposals for review. MoF consolidates information resulting from the stakeholder discussion at each activity stage to initiate a draft budget speech. This is discussed at the draft review meeting with stakeholders to confirm that priorities and ceilings had been adhered to. Draft estimates are then put into appropriate parliamentary format and presented for approval by the Minister of Finance. The final draft estimate is submitted to cabinet for Approval. Preparation of the Financial Statement commences with the firming up of revenue estimates statistical annexes. The document presented to parliament addresses all the following issues: Fiscal policy objectives for the medium term, Budget priorities, Comprehensive table of tax expenditures, Medium-term perspective on total revenue and expenditure, Clearly defined appropriations to be voted by the Legislature.

The draft estimate is submitted to Parliamentary committee on finance and trade by June to discuss the Finance Bill and other budget documents. The budget document and the printed estimates book is then laid before Parliament and the budget speech is presented on the floor of Parliament by 20th June by the Minister of Finance on behalf of the President as required by law.



Parliament has between June and October to pass the Appropriation Bill into Law. There is a seven-day debate on the policy proposals spelt out in the budget after the official presentation of the budget. The official opposition has first priority to respond to the budget proposals and at the end of the debate, the Minister of Finance responds to the issues raised by MPs. This is followed by the passing of the vote on account. As an interim measure, the Minister of Finance seeks Parliament's approval to spend 50% of the allocated funds to commence budget implementation. Parliament debates the various proposed tax measures that are contained in the Finance Bill. The Appropriations Bill is debated on a ministry-by-ministry basis. All other votes not discussed are passed in the last House business day by "guillotine method" (a method that imposes time limit on the debate on a piece of legislation, designed to speed up parliamentary proceedings and which may prevent opponents of the legislation from obstructing its progress).

The President, through the Minister for Finance, authorises withdrawals from the Consolidated Funds in accordance with the Appropriation Act. The funds are then allocated to various spending agencies which receive a lump sum appropriation covering both operating and capital expenditures. The executive through the Controller and Auditor General's office monitors the budget by ensuring all withdrawals from the Consolidated Funds are within the Appropriation Act. All spending agencies are expected to periodically submit their vote book balances to the Ministry of Finance, which publishes the quarterly monitoring reports.

The office of C&AG is established under the Exchequer and Audit Act (cap 412) as the Auditor of the National Assembly. Section 105 of the Constitution of Kenya stipulates the role of the Controller and Auditor General (C&AG) as overseeing public finance. Section 18(1) requires that within a period of four months or longer as may be deemed necessary by the National Assembly, annual accounts are prepared and transmitted to the C&AG. Section 19(1) also requires that on receipt of the accounts prescribed by section 18, the C&AG shall cause them to be examined and audited, and shall, within a period of seven months after the end of the financial year to which the accounts relate and be submitted to the Minister of Finance. The Public Accounts Committee of Parliament reviews audit reports and makes recommendations to the executive for necessary action.



CHAPTER 3

3.0 Discussions and Analysis of the Index

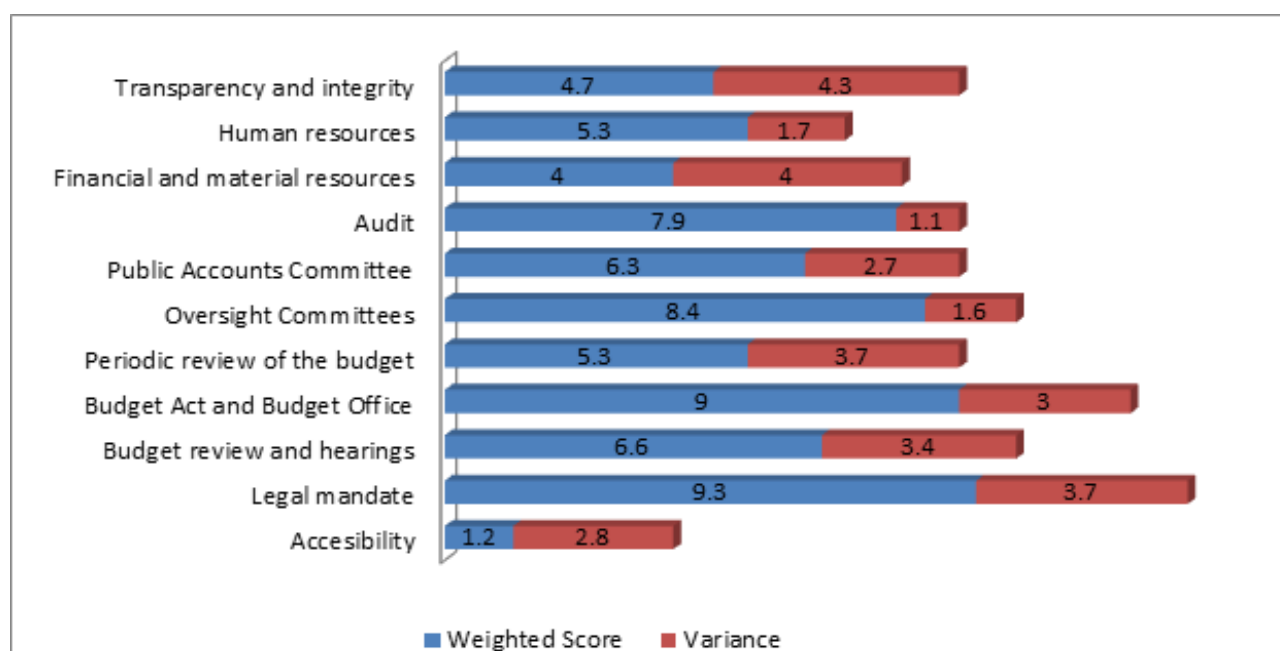
The global trend has seen numerous efforts across many parliaments to engage more effectively with the public and to improve the way they work to become more genuinely representative of their electorates, more accessible and accountable to them, more open and transparent in their procedures and more effective in their key tasks of legislation and oversight of government.

The graphs below depict Parliament of Kenya's performance on budget oversight and in terms of its capacity to engage in the budget process. It is a self assessment exercise conducted by parliamentarians and complemented by an assessment of civil society organizations.

3.1 Weighting Systems of Parliament Core Functions

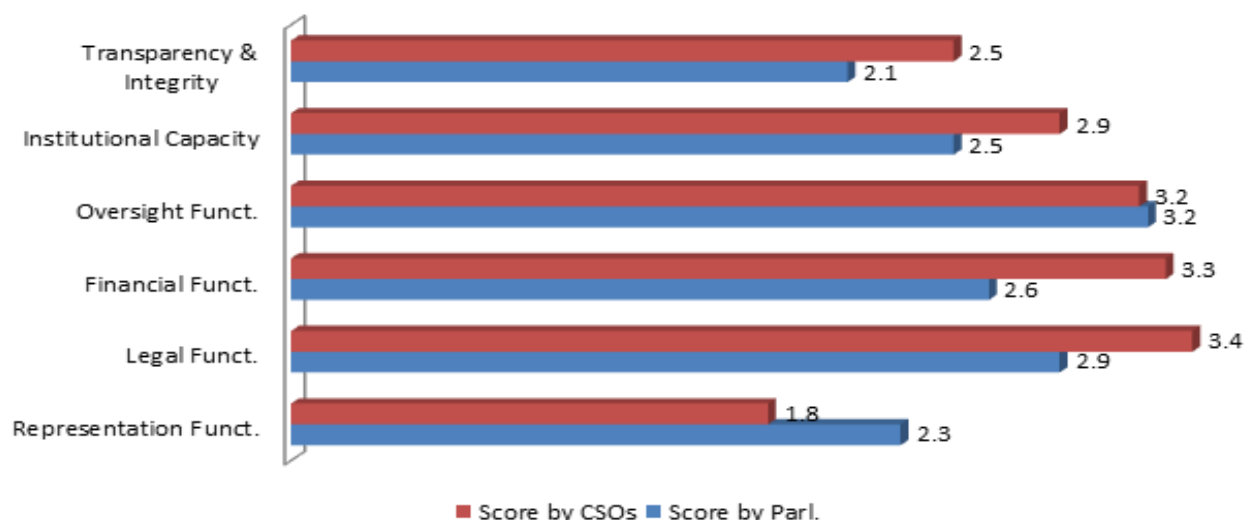
As a way of determining parliament's reality in relation to the indicators and also the importance of each indicator in relation to the others, members assessed the 11 indicators to gauge priorities of each as they view them.

Graph 1: Capacity Rating Weighted Average for KNA





Graph 2: Capacity Rating Avg for Kenyan Parliaments Core Functions (Scale 1-4) as assessed by Parliamentarians and CSOs



Interestingly civil society organizations' assessment of parliament capacity to engage in the budget process and exercise oversight was high in each of the six indicators than parliament's own self assessment. The exception to this was on the oversight function which tied at a capacity rating average score of 3.2 and on the representation function where parliament's assessment was 2.3 relative to CSO score of 1.8, understandably so.

3.2. Representative Function

One of the major roles that members of parliament play is that of representation. As such parliament embodies the will of the people in government and carries their expectations and needs. As the elected body that represents society in all its diversity, parliament has a unique responsibility for reconciling the conflicting interests and expectations of different groups and communities through the democratic means of dialogue and compromise².

Since Members are elected by their people to represent them in parliament, it therefore implies that parliament should involve the public including associations and movements in their work. Under this category the assessment focused on measuring accessibility and the key areas on accessibility were:

- (a) The legislature is open to citizens and the media
- (b) The legislature has a non- partisan media relations facility
- (c) Mechanisms to promote public understanding of the work of the legislature
- (d) Timely provision of Information to the public on the budget
- (e) Promoting citizens' Knowledge and understanding of the role of the MPs' in the budget process
- (f) Relationship between parliament, CSOs and other related Institutions

²Via <http://www.ipu.org/dem-e/guide.htm>



A democratic parliament should espouse openness and transparency through different media in its conducts of its business. Kenya National Assembly launched a fully equipped media centre with internet facility that enables journalists to file their stories to their respective newsrooms in May 2009 and the first issue of the Kenya Parliament Magazine. This media centre facilitates parliamentarians to have press conferences in a designated room and live broadcast of parliamentary proceedings. In addition parliament has a *website www.parliament.go.ke* and all these enable it to be open to citizens and the media. From parliamentarians' point of view, the legislature is moderately open to the media and citizens. The existing communication strategy however needs to be fully strengthened. This is contrary to the view of civil society organizations which seem to disagree in their assessment that, the legislature's openness to citizens and the media is in clear need for increased capacity hence allotting a score of one, indicating that no communication strategy exists for the legislature. Worthy of note is the fact that the legislature as per members' assessment has a non partisan media centre that is guided by a code of conduct and one that gives access to all media houses; thus, giving it a score of 4.

Promoting public understanding of the work of the legislature is enhanced through the following existing mechanisms including outreach programmes, public gallery and making committee meetings accessible to the public. Nevertheless, these mechanisms are not followed, neither are they well structured. Parliament is in clear need of increasing capacity in the areas of promoting citizens' knowledge and understanding the role of Members of Parliament in the budget process by putting in place a mechanism to deepen this. Additionally information on the budgets under consideration by the legislature is not provided to the public. Equally the relationship between parliament, civil society organizations and other related institutions is ad hoc and determined by the legislature. There are no clear guidelines in the Rules and Procedures and/or other laws governing this relationship hence the score of 2.

Further civil society organizations assessment of legislature's capacity on indicators (b)-(d) averages a score of 1.5. Nevertheless they feel, contrary to parliamentarians' assessment, that there exists mechanisms to promote citizens' knowledge and understanding of the role of the MPs on one hand, but these mechanisms are not well structured and enforced, on the other hand. Generally CSOs and parliamentarians differed markedly in their assessment of the legislatures representation function in terms of how accessible the legislature is to the public and the efforts of the legislature to get the public to understand its roles. Therefore the average capacity rating score by CSOs was 1.8 and that by parliamentarians was 2.3. Of the six indicators under accessibility the closest score was on the relationship between parliament, CSOs and other related institutions where Members scored a 2 and CSOs scored a 2.3.

The low scoring provided CSOs may denote the lack of awareness of some of the milestones that parliament has made in terms of establishing a media relations office and a parliamentary broadcasting unit that has really aided members when it comes to press conferences.



As regards freedom of and access to information, although the Kenya parliament is ahead as it has established a media relations office that has really aided members when it comes to press conferences, on the areas of releasing budget information to the citizenry it is weak. Therefore despite having a great high score on (a), (b) and (c) it scored low on the others, hence the weighted score came to 1.2 which is low.

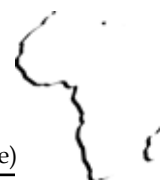
3.3 Legal Function

In many countries there exists an ensemble of laws comprising a constitution, statutes, regulations and procedures which offer the substantive and procedural mechanisms to ensure that the budget achieves its stated purposes. The law would set out rules for the various phases of the budget processes; specify the roles and responsibilities of both state and non-state actors involved in each phase; ensure that budget rules have sufficient authority; incorporate budget principles into legal text; elaborate on constitutional requirements for budget system; reform the budget– either radically or on a piecemeal basis; contribute to macroeconomic stability; specify the financial powers of the legislature and enhance the transparency of the budget system. Inclusion of such substantive provisions in the law that encapsulate the stated policy objectives and intents may not necessarily midwife the achievement of the stated goals of the budget if the law is not enforced. In this regard, enforcement of the law is critical. Under this category the assessment basically focused on the following;

- (a) Law making including the Appropriations Act
- (b) Power to amend the Appropriations Bill
- (c) Opportunities for public input into the legislative process
- (d) Mechanisms to track Legislation

According to the constitution of Kenya, the National Assembly is the supreme law making organ. Therefore the power of the legislature to make laws including the Appropriations Acts is contained in the Constitution, implying a high level of capacity to make laws. The CSOs however gave a score of 3.7. In the recent past the Parliament of Kenya has asserted itself in the budget making process through various legislations, namely the Fiscal Management Act of 2009, the new Standing Orders of 2008 and these further strengthened what was already in the constitution which vested power for approval of the budget to the parliament.

The Provision in section 48 of the Old Constitution of Kenya limits the legislature budget amendment powers in that the Legislature cannot propose new charges on the Consolidated Fund, neither can they propose new taxations. It can only propose nominal reductions of specific items either expenditure or tax measures as a sanction of non-performance by line ministries. For instance, the current 10th parliament reduced the travelling budget line for the Attorney General's Office, demonstrating that parliament can only amend the Appropriation Bill by reductions without necessarily seeking consent from the executive. Conversely the new constitution provides for a significant shift from budget approving parliament to budget making.



With regard to opportunities for public participation in the legislative process, self assessment by members indicates that adequate and publicized opportunities exist for citizens to input into any legislative process but they are not backed by legislation. This indicator also received a similar assessment and score of 3 from CSOs. When it comes to mechanisms for tracking legislation, CSOs indicate that these mechanisms do exist and that some resources exist to provide evidence on the impact of specific legislature but this is not adequate. However parliamentarians assigned a lower score relative to CSOs, a rating of 2 indicating that some mechanisms do exist with limited resources. Overall on the assessment of parliament's capacity to discharge its legal mandate, CSOs rate parliament at 3.4 compared to parliamentarians' own assessment average score of 2.9. The difference in average capacity rating may be explained by the difference in the understanding of parliament's legal function. Thus, parliament's score of 2.9 (average capacity) and the capacity rating weighted average of 9.3 (graph 1) depicts the true status in respect to the indicator.

3.4. Financial Function

Parliament is the custodian of public money. A majority of democratic constitutions require appropriations and taxation measures to be approved by parliament in order to become effective. It controls the entire purse of the Central Government. No taxes can be legally levied and no expenditure incurred from the public exchequer without specific parliamentary authorization by law³. The other related important role a parliament performs is to ensure that the budget takes into consideration the overall government priorities.

Studies have shown that the role of legislatures in the budget process varies from country to country⁴. Some parliaments have unlimited powers to amend the budget while others approve the budget as tabled by the executive without any changes.

Under this function there are three sub functions namely: Budget review and hearing; Budget Act and Budget office; and Periodic review of the budget with each sub-function being assessed differently.

3.4.1 Budget Review and Hearings

Under this category the major areas of review were:

- (a) Period for the review of the Budget by the Legislature
- (b) Existence of an Appropriations/Budget Committee
- (c) Public Hearings on the budget
- (d) Process for citizens' Participation in Budget Process
- (e) Authority to amend Budget presented by the executive
- (f) Power to send back proposed budget for review
- (g) Amendments on spending and revenue proposals
- (h) Information in the appropriations approved by the legislature

³

⁴Via <http://www.cabri-sbo.org/en/programmes/budget-practices-and-procedures/24-african-budget-practices-and-procedures-report>

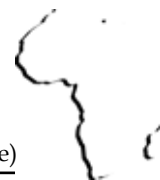


Best practices in budget transparency require that legislature have sufficient time to review the budget. Since the budget is tabled less than a month to the start of the fiscal year in Kenya, parliament has practically little time to review the budget.

In enhancing parliament's role in the budget process and in particular budget scrutiny, the Financial Management Act (FMA 2009) was instrumental in the creation of a Budget Committee. However it does not have the sole mandate to review the budget but does this in conjunction with the Finance Committee and other departmental committees that discuss specifically votes that are parallel to their mandate. The budget review is undertaken when estimates of expenditure have been laid before the National Assembly, the standing committee to the respective departmental committees according to their mandates. At this stage each departmental committee considers, discusses and reviews estimates committed to it under the Standing Orders and submits its report thereon to the House within twenty one days after they were first laid before the House. According to Section 180 of Republic of Kenya National Assembly Standing Orders (2008), legislative committees shall be open to the public except when the committees otherwise decide on when it is compiling a report. Therefore legislative committees are compelled to hold public hearings except in situations where they summon the executive to shed light on the budget. Since these hearings are held at the discretion of the Chairperson, members of parliament gave it a score 2 being the extent to which it holds public hearings on the Budget, this is lower than the score of 3.5 as per the CSOs. Further in terms of citizens' participation in the budget process, there is need for increased capacity as parliament has no process or mechanism for their participation according to parliamentarians. On the contrary, civil society organizations without giving evidence reveal that the process of citizens' participation exists and that the process is well documented but not known to the public.

Consequent to submission of the budget by the executive, legislatures globally have constitutional powers to amend the budget including both the spending and revenue proposals. Legislative powers to amend the budget, however varies substantially between countries. Kenya which draws its parliamentary practices from the Westminster traditions allowed "reductions only" of tax and appropriation bills. This is in sharp contrast with CSOs perception and assessment as they indicate that parliament is in clear need for increased capacity to amend the budget. Parliament has moderate powers to send back the budget to the executive for review but this provision is usually not exercised. Further amendments made by the legislature on spending and revenue proposals are binding on the executive but the executive usually finds an excuse not to implement the amendments. Indeed the Appropriations that are approved by the legislature are comprehensive in detail relating to all ministries, departments and agencies. To a large extent the assessment and scores by parliament on indicators (f)-(h) tally with those by CSOs.

In a clear departure from the past, the new constitution under Articles 114, 218 and 221-223 gives the legislature unlimited powers of the public purse to authorize taxation, other charges and public borrowing, modify sharing of revenue base and collected revenues, oversee budget implementation and hold executive to account on performance, conduct detailed analysis through House committees



and monitor compliance and achievement of results. Indeed the new constitution signifies the transition of parliament from budget approval to budget making with powers to increase or reduce taxes and expenditures and remove items from budget and introduce new items.

One of the major reforms the parliament of Kenya has successfully brought about is that of making the parliament of Kenya to have amendment powers through the law and having to enforce it. It is therefore a reflection of this that under item (e) it scored the highest. In other words it is not enough to have a budget committee but the law needs to provide some amendment powers to the parliament. On this note, CSOs rated parliament budget review and hearing capacity higher at an average of 3.3 than score of 2.6 in the self assessment by parliament. Parliament scored an above average weighted score of 6.6.

3.4.2 Budget Act and Budget Office

As has been experienced in other countries the constitution is not by itself adequate for the entrenchment of parliament in the budget process. Secondly Government budgets are complex, often contained in many documents that can comprise thousands of pages, the format of the budget is not always easily understandable, and thorough analysis can take considerable time. For such reasons, budget scrutiny can be a daunting challenge facing legislators when they are asked to consider the annual revenue and expenditure proposals of the government hence the need to create specialized departments within the legislative arm. Under this function the following were examined:

- (a) Existence of a Budget Act
- (b) Existence of a Budget Office
- (c) Resourcing the Budget Office
- (d) Access to information from central government departments and the private sector
- (e) Consideration of estimates for defense and intelligence services by the legislature

On the issue of the legislature finding their capacity constrained by not effectively participating in the budget process, the legislature in Kenya has witnessed legislative reforms aimed at broadening their ability to scrutinize the budget by the establishment of a Budget Act. The Act does not only provide for a more assertive role by parliament in regulation and oversight of the national budget, it also established a budget office.

Although the Budget office has been in existence since 2007, it is not well resourced as it lacks requisite personnel and equipment to effectively deliver. Legally the Budget Office has the power to call for information and documents from government departments and the private sector but sometimes it is not respected by these entities. Since in a democracy no area of state activity should be reclusive, parliament through the Defense Committee provides scrutiny of defense and intelligence service budget estimates with limited disclosures on the estimates. The average score of 3.0 by parliamentarians and 2.9 by CSOs indicates that parliament of Kenya has moderate access to technical expertise to strengthen its capacity for budget scrutiny. The major variance on the assessment of the indicators by the two entities was on the last (e) indicator where CSOs scored a 1 implying that the legislature does not consider or approve the budget for Defence and Intelligence Services whereas parliamentarians scored a 3.



The overall weighted score of 9 out of 12 is an indication that in these areas efforts have been made but there is still room for improvement.

3.4.3 Periodic review of the budget

Under this sub function the areas examined were:

- (a) Budget reviews
- (b) Legislative approval of reviews
- (c) Time allocated for Approval of Reviewed budget

With regard to budget reviews, the Executive does this every year on a quarterly basis; however, the reports are sometimes not comprehensive and are neither produced nor published on time. Subsequently these budget reviews are presented to the legislature. The only difference according to parliamentarians is that the Executive presents these reviews as and when they deem necessary but the CSOs indicate that all the reviews are approved later by the legislature upon presentation. Whereas parliamentarians argue that the legislature has scheduled time to consider the reviewed budget, CSOs think that there is adequate time to consider the reviewed budget both at plenary and at committees. To this end the average score under this sub-function as provided by CSOs is 2.9 while that by parliamentarians is higher at 3.8.

The assessment concluded that as much as there are budget reviews the time allocated for legislative review is short and thus returned a score of 2.3 with a weighted one of 5.25.

3.5 Oversight Function

Oversight is a major function of Parliament especially where budget is concerned. It is one of the ways that parliament provides some form of a link between the government and the public. Parliament uses its internal mechanisms and processes to act as an interface between government and the people, essentially the nature of representative democracy⁵. By discharging this role of oversight, Parliament is holding of the executive accountability accountable on behalf of the citizenry.

Parliament has at its disposal various mechanisms and instruments for budget oversight including:

- Parliamentary questions and motions, ministerial statements and petitions
- Parliamentary committees
- Public hearings
- Fieldwork based oversight activities
- Oversight by extra parliamentary institutions such as Kenya National Audit Office

The most systematic method for oversight of the executive is by parliamentary committees which track the work of individual government departments, ministries and conduct specific investigations into particular salient aspects of their policy and administration. These are smaller working groups in which in-depth work of parliament is carried out.

⁵ Parliaments, Politics and AIDS, IDASA and Parliamentary Centre, 2006



The major focus here was on Oversight Committees; Public Accounts Committee, and Audit Committees.

3.5.1 Oversight Committees

- (a) Existence of oversight Committees
- (b) Investigative Powers of Oversight Committees
- (c) Oversight of Spending by state enterprises
- (d) Mechanisms for Oversight Committees to obtain information from the executive
- (e) Power of Oversight Committees to follow up Recommendations
- (f) Access to resources by Oversight Committees
- (g) Opportunities for Minority/Opposition Parties

The new Constitution under Article 93 and 94 establishes Parliament and its roles whereas parliament's institutional framework, its rules and procedures are espoused in the National Assembly Standing Orders, 2008. Further the Standing Orders allow the establishment of various House Committees for general or special purposes that the House may deem fit. The Rules and Procedures of the National Assembly provide for the establishment of the following type of committees; committees of the whole House, Standing committees (Public Accounts Committee (PAC), Public Investment Committee (PIC) and most recently Local Authorities and Funds Committee⁶); Sessional committees; Departmental (subject-related) committees and Ad hoc select committees⁷.

Following various reforms that led to adoption of a revised National Assembly Standing Orders in December 2008 during the second session of the Tenth Parliament and the enactment of Fiscal Management Act, 2009 parliament has increasingly become focused, dynamic and vibrant in exercising oversight on government operations. Currently, parliament has twelve designated departmental committees which are grouped by subject and departments according to the structure of government ministries with the mandate of monitoring and scrutinizing policies, projects and programmes of ministries and departments. Equally, parliament exercises ultimate oversight through its watchdog/investigative committees of PAC, PIC and more recently Local Authorities and Funds Committee (LAFC). PAC scrutinizes audit reports on accounts of government ministries departments and law courts, PIC on the other hand monitors and oversees operations of public government owned corporations and statutory agencies whereas LAFC examines audit reports of local authorities. Moreover, in strengthening parliament's role in the budget process, a select committee designated as Budget Committee was established similar to the Estimates Committee abolished in 1997, to engage in the budget formulation through a review and reporting of the Budget Policy Statement, ensure budget link to development goals and ensure budget compliance. Therefore, parliament scored a rating of 4, implying that due to the existence of focused oversight committee it has high capacity to perform all sector related committee and other special committee oversight functions as well.

⁶ Sees Kenya National Assembly Standing Orders 2008 Part XXII Article 189

⁷ Institute of Economic Affairs (2009) The Parliamentary Budget Oversight in Kenya



Oversight committees have investigative powers over budgetary issues or government spending as enshrined in the National Assembly Powers and Privileges Act that requires ministers to provide documents and information on appropriations. Additionally there are other laws in place, including the new Constitution and the FMA, 2009 that ensure information can be obtained from ministries. However these investigative powers are not regularly enforced hence both parliamentarians and CSOs giving a score of 3 on this indicator. With regard to oversight of spending by state enterprises, parliament oversight committees can invite officers of respective state owned enterprises to testify before them but cannot at any point in time call for special audits. It is explicit from the National Assembly Power and Privileges Act Cap, 6 Laws of Kenya to parliament that departmental committees have the power to travel within Kenya to gather evidence, call or summon witnesses and order the production of papers and documents. They currently rely on Auditors General reports and their advice. Indeed there exist sufficient mechanisms for oversight committees to obtain information from the executive but these mechanisms are rendered not sufficiently efficient as they are not fully followed. It is reported that there are cases of delays in provision of information requested in effect scoring 3.5. Equally, they are adequately resourced to undertake their activities but do not have their own separate budget but have to apply for funds as the budget for Kenya National Assembly is centralized. The committees have adequate legal powers to follow up on recommendations given to the executive, but they do not receive frequent updates on action taken hence they are moderately capacitated in that respect. It is however expected that with the establishment of a select committee to be known as Implementation Committee⁸, scrutiny and follow-up with the implementation of House resolutions will improve.

Composition of oversight committees need to be representative from a cross-section of political parties, with parliament as the appointing authority in order to enjoy legitimacy and command trust. Of course, the membership criterion that is adopted for these committees is a factor in regard to the extent of exercising their oversight as well as the system of government, parliamentary or presidential. By tradition and practice and also according to the Standing Orders, the composition of these committees provides meaningful opportunities for backbenchers, minority parties and opposition parties. Also of importance is the fact that membership to Oversight Committees requires certain skills and competencies in the relevant sectors to enable the committees discharge their functions effectively. However, political parties are responsible for committee selection and may not necessarily make selections based on the skill set criteria alone.

There existed In Kenya for a long time, the traditional oversight committees; namely PAC and PIC, as a result the assessment yielded an average score of 3.4 and a weighted score of 8.4 against a target of 10. This is a reflection that this function is adequately played.

⁸ Kenya National Assembly , 2008 Article 196



3.5.2 Public Accounts Committee

Parliament, working through its committees of PAC and PIC, exercises the ultimate oversight role on the budget at two levels inter alia: debate and approval of the budgeted proposals on revenue and expenditure and analysis of the audit report before making recommendation to the government⁹. Parliament utilizes ex-post scrutiny opportunity to hold government to account by reviewing budget implementation on the basis of audit findings. This entails reviewing whether the budget as approved by the legislature was properly implemented and whether value for money was obtained.¹⁰ Under this sub function the main areas assessed were:

- (a) Existence of a Public Accounts Committee (PAC)
- (b) Chair of the Public Accounts Committee (PAC)
- (c) Rights and Powers of PAC
- (d) Attendance by Ministers
- (e) Openness of the PAC Proceedings
- (f) Consideration of reports of the Auditor General (A-G)
- (g) Independent Investigations
- (h) Recommendations of the PAC
- (i) Mechanisms for Tracking Recommendations of PAC
- (j) Resourcing the PAC
- (k) Collaboration with Anti-corruption Institutions

Indeed PAC is established by Standing Orders unlike best practices in some other countries where it is established by the constitution or an Act of Parliament and thus scoring a moderate capacity rating of 3.

The chair of the PAC has traditionally been preserved for the leader of the official opposition in the House and where there is no official opposition, a member elected by the Committee from a party outside government qualifies. In the tenth Parliament however, this rule was compromised because of the special circumstance of a coalition government where there is no official opposition. It was based on this reasoning that a low score of *“basic level of capacity or 1”* was assigned to this indicator. According to parliamentarians’ assessment the chairperson of the PAC is elected by members of the committee and can be from the party in government or outside. Conversely the CSOs assessment was different from parliamentarians as they gave a score of 4 indicating that PAC is chaired by a member who does not belong to the party in government as provided in the Standing Orders 187 (2). Further, as provided for in the NA powers and Privileges Act, the PAC has power to subpoena witnesses and documents to discharge its role and function. This is emphasized by FMA 2009 impoundment clause or withdrawal of approval of estimates as a sanction or disciplinary measure.

⁹ IEA (2007). The Citizens, Handbook on the Budget. A Guide to the Budget Process in Kenya Second Edition

¹⁰ IPU (2004) Parliament, the Budget and Gender



Both parliamentarians and CSOs were in concurrence that ministers may attend PAC sittings but this is not mandatory scoring a 3. Similarly they agreed in their assessment that PAC may hold its proceedings in public if the Chairperson and members so decide but the public cannot make input during such proceedings.

PAC is responsible for examining all the reports prepared by the Auditor General after the audit of government ministries, departments and state corporations. The committees prepare a report with comments and recommendations or formulate a draft resolution for Parliament. This helps shorten and focus the subsequent debate in the plenary. However consideration of A-G reports is not done in a timely manner. See box 1 for an expose on consideration of audit reports.

Box 1: Michael Itote's presentation on Oversight Committees as reflected in the Pre-Budget Workshop for Departmental Committees report May 2009, Naivasha-Kenya

By December 2007, PAC had only considered reports to 2003. Attendance of meetings was poor (including that of the chairman), with fewer than half the committee members actively involved in committee deliberations. The committee considered CAG reports for various state corporations between 1994 and 2005. The attendance of PIC meetings was on average higher than that for PAC meetings. In particular the Chairman's attendance was very good. However, the matters/reports considered during PIC meetings were not as structured as those of PAC meetings. It is therefore unclear how PIC ensures that it has reviewed all the reports relating to state corporations for all the relevant years.

Indeed PAC has powers stipulated in Standing Orders to initiate independent investigation into any matter of public interest but this is subject to the approval of the House. The Standing Orders avoid procedural matters with regard to the mandate of oversight committees. The role of the committees is to examine accounts but there is no attempt to deal with how often the examinations should take place and whether outside of the annual audit process, the Committee can call upon the A-G to audit any particular accounts. The PAC should be empowered to ask the CAG to examine any particular accounts and to furnish a report to be specified by the committee. However, the committees would have to secure a resolution of the House before they are able to exercise this power. The cases in question that PAC initiated included the Goldenberg scandal and the Anglo leasing scam. Apparently PAC is adequately resourced to undertake its activities but it has no separate budget. The committee applies to PSC for funds as National Assembly budget is centralized.

According to parliamentarians, the Executive is bound by law to implement the recommendations of the PAC but this is not strictly enforced whereas CSOs' assessment reveals the contrary that the executive is not bound by law but nonetheless implements some recommendations, thus scoring a



1.5. The work of the A-G and Oversight Committees will only have practical value if the government implements the recommendations of the committees. With regard to collaboration with Anti-corruption institutions, PAC has an informal collaboration with a limited number including African Parliamentary Network Against Corruption (APNAC) and has a departmental committee that crusades anti-corruption deeds.

With the existence of an Implementation Committee and the reporting requirements for the executive as stipulated in FMA 2009, imply that there exist adequate mechanisms for the PAC to track implementation of its recommendations but this cannot be accessed and verified by the public. Owing to the existence of a strong PAC in Kenya, it exhibits moderate capacity in the following indicators:

- Attendance by Ministers
- Consideration of reports of the Auditor General (A-G)
- Independent Investigations
- Recommendations of the PAC
- Mechanisms for Tracking Recommendations of PAC
- Resourcing the PAC

With the exception being that PAC proceedings are not as open as the public is not allowed to make input during such proceedings and that PAC has an informal collaboration with a limited number of Anti-Corruption institutions.

In sum, there exists a strong Public Accounts Committee where it has rights and powers to summon Ministers but the collaboration with anti corruption Institutions is weak. Hence the overall score under this sub function of 2.8 compared to that given by CSOs of 2.7. and a weighted score of 6.3 against a targeted point of 9 adequately represents the situation.

3.6 Audit

In the audit function, parliament determines whether there was misuse of the money allocated by the government, by determining whether spending by government ministries and departments complies with the Legislature's intentions and expected standards and whether value for money is obtained. It does this by working with the Auditor General's (A-G)'s office, as one of the agencies including Anti-corruption Commission and Ombudsman office that invaluable complements its oversight function. Under this sub function the key areas of focus were:

- (a) Appointments of the A-G
- (b) Submission of reports of the A-G
- (c) Regularity and Timeliness of Reports
- (d) Publication of reports of the A-G
- (e) Request for Audit
- (f) Resources and Authority of the A-G



Originally the audit office was referred to as the Exchequer and Audit department which with time changed to the Office of the Controller and Auditor-General (C&A-G). During this period, the Office derived its mandate from the Exchequer and Audit Act Cap 412 which provided for the audit of the Central government, by C& A-G. Later the Act was amended to provide for audit of Local Authorities and state corporations. The Public Audit Act 2003 which became effective on 9th January 2004 established a more independent office of the C&A-G and named it Kenya National Audit Office (KENAO)¹¹. The process of appointment of the current C&A-G was by the President in consultation. However the office of the A-G¹² draws its mandate from the Constitution of Kenya, Chapter 12, Part 6 and specifically Article 229. It states that there shall be an A-G who shall be nominated by the President and, with approval of the National Assembly, appointed by the President.

It is a constitutional requirement that all the reports of the A-G are submitted to the Legislature. Specifically, the A-G is supposed to report to parliament at least once every year on public accounts of the government and thus the legislature receives regular and timely reports in line with international best practices according to parliamentarians' assessment. The CSOs however differ on the timeliness on the reports. According to the Public Audit Act 2003, the Auditor-General is legally supposed to submit to the Minister of Finance audited report of public accounts not later than 6 months after the end of the fiscal year but in practice the time lag is within 24 months. The latest audit report is for 2007/08. In addition to annual reports, the A-G is empowered to present special reports to the parliament at any time on any matters related to his/her powers and function¹³. It is only after the A-G reports have been laid before the House that they are deemed public hence this indicator scoring a 3.

In exercising oversight, parliament can request the A-G to conduct special audits at any time on its behalf as provided for in the Public Audit Act 2003. Indeed KENAO is highly capacitated to meaningfully conduct audits in a timely manner since it has sufficient resources, for instance, sufficiency of staff and adequate legal authority. With the establishment of Kenya National Audit Commission with powers to determine KENAO budget, KENAO has a staff capacity of 915 (722 Auditors and Examiners and 193 Administrative and Support Staff). The members of staff are deployed in five departments, namely; Finance, Administration and Human Resource, Central Government, State Corporations, Local Authorities, Specialized Audits¹⁴. To this end, the Act not only provides for constitutional independence but also financial independence.

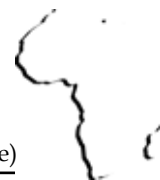
The overall average score was 3.5 from the point of view of parliamentarians just minimally higher than that from CSOs assessment by 0.1 points indicating both assessors feel that the level of capacity of the audit function is above moderate. Evidently, there is a mutual dependence between oversight committees and A-G's office.

¹¹ Via <http://www.kenao.go.ke/about%20us.html>

¹² According to the new Constitution Articles 228 and 229 the former office of C&A-G was split into A-G to be in charge of audit function and Controller of Budget to be in charge of the financial control function

¹³ IEA (2007) The Citizens, Handbook on the Budget. A Guide to the Budget Process in Kenya Second Edition

¹⁴ <http://www.kenao.go.ke/about%20us.html>



The committees rely entirely on the work of the A-G since they have no independent capacity to carry out the parliamentary functions of financial oversight of public accounts. Indeed A-G has no other forum through which to express opinion on public accounts, or through which to follow up on the response to findings. Furthermore, Oversight Committees can engage in political debate from which A-G is excluded. This can assist in ensuring change in financial management by public institutions and in the behavior of public officers¹⁵.

Whereas the weighted score was 7.9 against a target of 9; other than the issue of the appointment of the A-G, on other areas the performance of parliament of Kenya is good in this area.

3.7 Institutional Capacity of Parliament

Parliament is not effective in serving the electorate without confronting the issue of capacity. This is interpreted to imply the degree of legal rights and resources including financial, human and organizational for parliament to discharge its roles. On the other hand, the relationship between parliament and the executive and how to strike a balance in terms of parliament having sufficient power and independence and yet oversee the executive effectively is imperative. Under this function the main focus was on Financial and Material Resources and Human resource.

3.7.1 Financial and Material resources:-

Under this sub function the areas of assessment were:

- (a) Power of the Legislature to determine its own budget
- (b) Logistics available to the Legislature
- (c) Resources for MPs' Constituency Development and Activities
- (d) Mechanism for Receiving and Co-coordinating Technical Assistance.

Parliamentary autonomy is becoming widely accepted in terms of parliament being in charge of its staffing; control over its own budget and in general organization of its business are key ingredients for a strong and effective parliament. With regard to the power of legislature to determine its own budget, Kenyan parliament is in clear need of increased capacity as its budget is determined by the Minister for Finance according to parliamentarians. Interestingly CSOs scored the capacity of parliament's power to determine its own budget at 3.3. Article 126 (6) of the new constitutions, vest the power of determining the parliament's budget in the Parliamentary Service Commission. It is the authority that is responsible for providing services and facilities to ensure the efficient and effective functioning of parliament. Equally, although parliament has basic logistics, it lacks adequate office space and equipment to enable it to function effectively according to parliamentarians' observation which was contrary to the perception of CSO rating capacity logistics available to the legislature as moderate. Moving forward to the bicameral parliament as provided for in the new constitution will require more institutional capacity.

¹⁵ Michael Itote's presentation on Oversight Committees as reflected in the Pre-Budget Workshop for Departmental Committees report May 2009, Naivasha-Kenya



On the brighter side parliamentarians have a Constituency Development Fund that is used for development projects in their respective constituencies and is managed jointly by the legislature and the parliamentarians through the proxy of CDF Board. In enhancing capacities of parliamentarians their access to external sources to complement their internal sources is critical. Both parliamentarians and CSOs feel that there is no mechanism in place for receiving technical assistance as this is done on an ad hoc manner. Besides it is difficult to have a complete overview of technical assistance. Under this sub function the average score was 2.0 by parliamentarians and 2.8 CSOs and the weighted score was 4.0 against a target of 8.0. The low performance was on account of the legislature not being able to determine its own budget. Whereas the PSC Act gave autonomy to parliament, the Treasury continues to override the will of parliament with regard to the determination of its own budget.

3.7.2 Human Resources

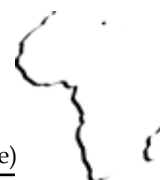
Parliament has to be empowered to independently analyze the budget if they are to play a meaningful role in the process. Even when the legislature has legal powers and the political space to share the budgets, analytical capacity is necessary to make sound budgetary choices¹⁶. Therefore it is important for parliament to have its own internal capacity and have access to independent analysis of the budget by attracting the right parliamentary staff competitively and with the requisite skills in budget analysis. Under this sub function the main areas assessed included:

- (a) Equal Opportunity Employment
- (b) Research and other support staff

Indeed Kenyan parliament demonstrates moderate capacity according to the extent to which it offers equal opportunity employment as it does not discriminate in its recruitment of staff. However there is a perception that the ruling party has a strong influence in the recruitment process. The research department and other support play a key role in strengthening parliament's internal capacity to engage in budget review and scrutiny. In this respect, Kenyan National Assembly has identified the need to institutionalize and strengthen the parliamentary research capacity where parliament budget office will be domiciled. In addition there are plans to expand the other directorates of legislative and committee services; directorate of finance and accounting and the one on administration in order to improve on its moderate capacity level score to high capacity level in building a strong parliament. The average score by CSOs and parliamentarians for these indicators was 3 implying that parliament has moderate level of capacity when it comes to human resources that would equip it to perform its oversight roles.

Whereas the weighted score was 5.3 against a target of 7 which meant that the parliament has opportunities to allow for equal opportunities for employment for all.

¹⁶ Inter-Parliamentary Union (2004) Parliament, the Budget and Gender: Handbook for parliamentarians



3.8 Transparency and Integrity

For the public to feel confident that their views and needs are being represented well then it is imperative that Kenya has a parliament that is open to the nation and transparent in the way it conducts its business as well as uphold integrity. The following indicators were assessed under this theme to establish the extent of Kenya's parliament capacity with regard to transparency and integrity, including:

- (a) Existence and Compliance with a code of conduct
- (b) Maintenance of High standards of Accountability, Transparency and Responsibility
- (c) Mechanisms for Anti- corruption activities
- (d) Mechanisms to Prevent, Detect and Discipline MPs and Staff engaged in Corrupt Practices
- (e) Declaration of assets and Business interest.

On the question of whether parliament of Kenya has an existing code of conduct for its legislators and staff and whether this is being enforced, it scored a 2. This implies that there is no specific code of conduct. On the contrary there are some provisions in the National Assembly Powers and Privileges Act section 89 that guide the conduct of legislators as well as other laws such as the Public Officers Ethics Acts that apply to them as well. Increasingly parliamentarians are taking their work seriously as evidenced by their participation and use of various oversight tools and mechanisms such as questioning of Ministers and their work in committees. Besides, their engagement in African Parliament Network Against Corruption (APNAC) points to an improvement in maintaining some standards of accountability and transparency and responsibility in the conduct of public and parliamentary work and hence scoring 2.7 by CSOs' assessment but parliamentarians feel that since these are all informal networks they gave a score of 2.

Further, members come together on anti corruption issues through APNAC and Justice and Legal Affairs Committee but there is no formal anti corruption network that exist perhaps due to little motivation for networking. There are mechanisms to prevent, detect and discipline MPs and staff engaged in corrupt practices in the works. For instance, Staff committee on corruption, advisory body on integrity testing for staff have been established as well as court cases for MPs involved in misappropriation of CDF. All these demonstrate the presence of disciplinary measures designed to mitigate corrupt practices. However, there is room for improvement in terms of making these mechanisms more efficient and effective.

Lastly, on the question of declaring of assets and other financial or business interests by Members of Parliament and staff, there is a law, Public Officers Ethics Act to advance the ethic of public officers by providing a code of conduct requiring them to declare their financial interests. A few MPs have complied with this laws that as public officers more as a matter of public relation exercise. As such there is no law that specifically requires MPs to declare their assets but they are encouraged to do



so through the Public Officer Ethics Act, 2003. To this end parliamentarians scored a 1 implying that there is a clear need for increased capacity for enactment of a law or Rules of Procedures that requires them to declare their wealth although CSOs felt that the existence of Public Officers Ethics Act is a sufficient requirement for assets declaration. The challenge, in the view of CSOs, has been the palpable lack of enforcement of the law. The average score was 2.1 and a weighted score of 4.7 against target of 9.

The matrix below presents a graphic representation of the scores assigned by members of parliament and parliamentary staff.

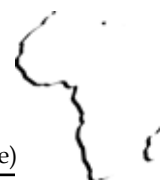
SELF – ASSESSMENT BY THE NATIONAL ASSEMBLY OF KENYA

Name of Parliament National Assembly of Kenya		Total Assessed Score for Capacity Area	Capacity Rating Average (Scale 1- 4)	Capacity Rating Weighted Average	
1	Representation Function				
1.1	Accessibility (Weighting Coefficient = 4)		2.3	1.2	
	The legislature is open to citizens and the media.	3.0			
	The Legislature has a non-partisan media relations facility.	4.0			
	Mechanisms to Promote Public Understanding of the work of the Legislature.	3.0			
	Timely provision of Information to the Public on the Budget	1.0			
	Promoting Citizens' Knowledge and Understanding of the role of MPs in the Budget Process.	1.0			
	Relationship between Parliament, CSOs and other related Institutions	2.0			
2	Legal Function				
2.1	Legal Mandate (Weighting Coefficient =13)		2.9	9.3	
	Law Making including the Appropriations Act	4.0			
	Power to amend the Appropriations Bill.	2.5			
	Opportunities for Public input into the Legislative Process.	3.0			
	Mechanisms to Track Legislation	2.0			
3	Financial Function				
3.1	Budget review and hearing (Weighting Coefficient = 10)		2.6	6.5	
	Period for the Review of the Budget by the Legislature.	1.0			
	Existence of an Appropriations/Budget Committee.	3.0			
	Public Hearings on the Budget	2.0			
	Process for Citizens Participation in the Budget Process	1.0			
	Authority to Amend Budget Presented by the Executive.	4.0			
	Power to send back proposed Budget for Review	3.0			
	Amendments on Spending and Revenue Proposals.	3.0			
	Information in the Appropriation Approved by the Legislature.	4.0			
3.2	Budget act and budget office (Weighting Coefficient =12)		3.0	9	
	Existence of a Budget Act	4.0			
	Existence of a Budget Office	4.0			

	Resourcing the Budget Office	1.0			
	Access to Information from Central Government Departments and the Private Sector	3.0			
	Consideration of Estimates for Defence and Intelligence Services by the Legislature	3.0			
3.3	Periodic review of the budget (Weighting Coefficient =9)		2.3	5.25	
	Budget Reviews	4.0			
	Legislative Approval of Reviews	2.0			
	Time allocated for Approval of Reviewed Budget	1.0			
4	Oversight Function				
4.1	Oversight committees (Weighting Coefficient = 10)		3.4	8.4	
	Existence of Oversight Committees	4.0			
	Investigative Powers of Oversight Committees.	3.0			
	Oversight of Spending by State Enterprises.	3.0			
	Mechanisms for Oversight Committees to obtain information from the Executive	3.5			
	Power of Oversight Committees to follow up on Recommendations	3.0			
	Access to resources by Oversight Committees	3.0			
	Opportunities for Minority/Opposition Parties	4.0			
4.2	Public accounts committee (Weighting Coefficient =9)		2.8	6.3	
	Existence of a Public Accounts Committee (PAC).	3.0			
	Chair of the Public Accounts Committee (PAC).	2.0			
	Rights and Powers of the PAC	4.0			
	Attendance by Ministers	3.0			
	Openness of the PAC Proceedings	2.0			
	Consideration of Reports of the Auditor-General (A-G)	3.0			
	Independent Investigations	3.0			
	Recommendations of the PAC.	3.0			
	Mechanisms for Tracking Recommendations of PAC	3.0			
	Resourcing the PAC.	3.0			
	Collaboration with Anti-corruption Institutions.	2.0			
4.3	Audit(Weighting Coefficient = 9)		3.5	7.9	
	Appointment of the A-G	2.0			
	Submission of Reports of the A-G.	4.0			
	Regularity and Timeliness of Reports	4.0			
	Publication of Reports of the A-G.	3.0			
	Request for Audit.	4.0			
	Resources and Authority of the A-G.	4.0			



5	<i>Institutional Capacity of Parliament</i>			
5.1	Financial and material resources (Weighting Coefficient = 8)	2.0	4.0	
	Power of the Legislature to determine its own budget.	1.0		
	Logistics available to the Legislature	2.0		
	Resources for MPs Constituency Development and Activities	3.0		
	Mechanism for Receiving and Coordinating Technical Assistance	2.0		
5.2	Human resources (Weighting Coefficient =7)	3.0	5.3	
	Equal Opportunity Employment	3.0		
	Research and other Support Staff.	3.0		
6	<i>Transparency and Integrity</i>			
6.1	Transparency and Integrity (Weighting Coefficient =9)	2.1	4.7	
	Existence and Compliance with a Code of Conduct.	2.0		
	Maintenance of High Standards of Accountability, Transparency and Responsibility.	2.8		
	Mechanisms for Anti-corruption Activities.	2.0		
	Mechanisms to Prevent, Detect and Discipline MPs and Staff engaged in Corrupt Practices.	2.7		
	Declaration of Assets and Business interests.	1.0		
	TOTAL SCORE OF RAO	158	30.3	69.52
	MAXIMUM SCORE	44.0	100.0	



CHAPTER 4

4.0 Recommendations

Deepen Parliament's capacity to exercise its representation function

The results from the assessment exercise indicate that of the various functions of parliament, the extent of parliament's accessibility to the public and the efforts of parliament to get the public to understand its role registered the lowest average capacity score. Additionally the accessibility indicator received the least priority in terms of the importance parliamentarians accorded the representation function. Evidently low score for accessibility, a subset under *representative* function meant a clear need of increased capacity in this area for the Kenyan parliament. This therefore calls for the need to incentivize and educate members of Parliament in Kenya on the importance of their representative function in terms of connecting with the electorate. Further there is need for parliament to amplify and publicize the existing mechanism open to citizen and the media to engage as well as partner with the media and civil society to educate the public on the role of MPs in the budget process. For instance, the media and public relations outfit of parliament should step up publicity of the agenda of Parliament. Parliament does not only need to come up with a comprehensive structure and mechanism for promoting public understanding of its work but also establish clear guidelines of its relationship with civil society organizations, media and other institutions.

Strengthening Legislative budget capacity in the budget process

Studies on parliament engagement in the budget process have shown that some of the weaknesses include little time for parliament to adequately scrutinize budget approval before their approval is due; lack of amendment powers on the executive budget proposals, weak committee system, and lack of independence from the executive among others. It is recommended that the committee system is strengthened by focusing on capacitating the staff numbers quantitatively and qualitatively with regard to the following committees:

- a) Standing committee
- b) Sessional Committee
- c) Select departmental Committees and
- d) Oversight Committee

Legal framework and enabling environment for legislative participation: As much as the oversight function for parliament of Kenya registered average capacity of 3.2, the highest relative to the other API core functions, there is need to open them up to the public to make input. This will ensure that parliament's general capacity to exercise oversight moves from moderate to high capacity. The creation of the implementation Committee is welcome opportunity to strengthen the accountability of government to parliament.



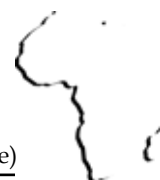
Organic budget law: The constitution has prioritized legislation to implement the new democratic dispensation and provides for a democratic budget and finance laws. For example the Fiscal Management Act should be overhauled to provide for enhanced public participation. The Budget Bill for Kenya provided for the involvement of the public service by creating a Budget Committee for the Public Service. At the validation workshop, members recommended that the law should spell out rules of engagement with the anti-corruption institutions and the CSOs. There are adhoc and not structured engagements fortified by organic law or by the Standing Orders.

Increasing parliamentary capacity for independent research and resourcing of Budget Committee and Budget Office: Parliamentary committees need to have access to independent research expertise to complement their own legislative powers in order to be able to scrutinize the budget and make detailed analysis of its proposals. Following parliamentary reforms that led to establishment of a Budget Act called FMA 2009 and revision of Kenya National Assembly Standing Orders in 2008, a Budget Office was created together with the establishment of a Budget Committee. These institutions have increasingly enhanced parliament capacity to understand the budget and make informed changes based on detailed scrutiny. However for parliament to be more effective and especially in moving to bicameral system as per the new constitution there is need to enhance the capacity of the Budget Office by adequately resourcing it with requisite and highly trained staff as well as adequately equipping the office. It is also important that parliament has access to independent research institutions to complement its own internal resources.

Interaction of parliament with Kenya National Audit Office (KENAO)

Follow up mechanisms: PAC/PIC/ LAFC should receive solid technical support from the A-G and research staff. The role of the technical support teams for Oversight Committees (OC) involves reading, interpreting and summarizing the A-G's reports and ensuring that these committees focus on critical issues. The team also compiles the OC reports of recommendations to Parliament and ensures that the recommendations address the root causes of problems; ensures that the reports to Parliament are proactive in stipulating the measures/controls required to prevent the recurrence of problems; and follows up to ensure that the relevant ministries and departments implement recommendations in support from the recently created Implementation Committee.

Institutional Capacity of Parliament: The parliamentary service is organized in directorates led by a director who reports directly to the clerk. Their work is coordinated through Senior Deputy Clerk. Each director is supported by senior managers and their deputies down to the level of office superintendent. The Directorates were intended to become center of excellence. This cannot be achieved without fidelity to the implementation of scheme of service that gives equal opportunity for training to promote vertical mobility. As a political institution there is need to strike proper and fair balance in terms of geographical and ethnic balance that gives opportunities to majorities and minorities to make the parliamentary service a truly national institution.



Transparency and Integrity function: There was acknowledgement that the legal framework exist to provide for the integrity of members and the staff of parliament, the constitution, FMA, the Parliamentary Service Act; public Officer Ethics Act. But there is lack of enforcement. For example, the declaration of assets by members is a mere formality; there is lack of enforcement and hence low standard of accountability, transparency and responsibility.



APPENDIXES

ASSESSMENTS BY CIVIL SOCIETY ORGANISATION HELD ON FEBRUARY 9TH 2011

Name of Parliament National Assembly of Kenya		Total Assessed Score for Capacity Area	Capacity Rating Average (Scale 1-4)	Capacity Rating Weighted Average
1	Representation Function			
1.1	Accessibility (Weighting Coefficient = 4)		1.8	1.8
	The legislature is open to citizens and the media.	1.0		
	The Legislature has a non-partisan media relations facility.	1.5		
	Mechanisms to Promote Public Understanding of the work of the Legislature.	1.8		
	Timely provision of Information to the Public on the Budget	1.3		
	Promoting Citizens' Knowledge and Understanding of the role of MPs in the Budget Process.	2.6		
	Relationship between Parliament, CSOs and other related Institutions	2.3		
2	Legal Function			
2.1	Legal Mandate (Weighting Coefficient =13)		3.4	11.0
	Law Making including the Appropriations Act	3.7		
	Power to amend the Appropriations Bill.	3.8		
	Opportunities for Public input into the Legislative Process.	3.0		
	Mechanisms to Track Legislation	3.0		
3	Financial Function			
3.1	Budget review and hearing (Weighting Coefficient = 10)		3.4	8.6
	Period for the Review of the Budget by the Legislature.	4.0		
	Existence of an Appropriations/Budget Committee.	3.0		
	Public Hearings on the Budget	3.5		
	Process for Citizens Participation in the Budget Process	1.0		
	Authority to Amend Budget Presented by the Executive.	4.0		
	Power to send back proposed Budget for Review	4.0		
	Amendments on Spending and Revenue Proposals.	4.0		
	Information in the Appropriation Approved by the Legislature.	4.0		
3.2	Budget act and budget office (Weighting Coefficient =12)		2.8	8.4
	Existence of a Budget Act	4.0		
	Existence of a Budget Office	3.5		



	Resourcing the Budget Office	2.0		
	Access to Information from Central Government Departments and the Private Sector	1.0		
	Consideration of Estimates for Defence and Intelligence Services by the Legislature	3.5		
3.3	Periodic review of the budget (Weighting Coefficient =9)		4.0	9
	Budget Reviews	4.0		
	Legislative Approval of Reviews	4.0		
	Time allocated for Approval of Reviewed Budget	4.0		
4	Oversight Function			
4.1	Oversight committees (Weighting Coefficient = 10)		3.3	8.2
	Existence of Oversight Committees	3.0		
	Investigative Powers of Oversight Committees.	4.0		
	Oversight of Spending by State Enterprises.	3.0		
	Mechanisms for Oversight Committees to obtain information from the Executive	4.0		
	Power of Oversight Committees to follow up on Recommendations	2.0		
	Access to resources by Oversight Committees	4.0		
	Opportunities for Minority/Opposition Parties	3.0		
4.2	Public accounts committee (Weighting Coefficient =9)		2.7	6.1
	Existence of a Public Accounts Committee (PAC).	4.0		
	Chair of the Public Accounts Committee (PAC).	4.0		
	Rights and Powers of the PAC	3.0		
	Attendance by Ministers	2.0		
	Openness of the PAC Proceedings	3.0		
	Consideration of Reports of the Auditor-General (A-G)	3.0		
	Independent Investigations	1.5		
	Recommendations of the PAC.	2.7		
	Mechanisms for Tracking Recommendations of PAC	2.8		
	Resourcing the PAC.	1.0		
	Collaboration with Anti-corruption Institutions.	3.0		
4.3	Audit(Weighting Coefficient = 9)		3.5	7.8
	Appointment of the A-G	4.0		
	Submission of Reports of the A-G.	3.0		
	Regularity and Timeliness of Reports	3.0		
	Publication of Reports of the A-G.	4.0		
	Request for Audit.	3.5		
	Resources and Authority of the A-G.	3.3		



5	Institutional Capacity of Parliament		
5.1	Financial and material resources (Weighting Coefficient = 8)	2.8	5.5
	Power of the Legislature to determine its own budget.	3.0	
	Logistics available to the Legislature	3.0	
	Resources for MPs Constituency Development and Activities	2.0	
	Mechanism for Receiving and Coordinating Technical Assistance	3.0	
5.2	Human resources (Weighting Coefficient =7)	3.0	5.3
	Equal Opportunity Employment	3.0	
	Research and other Support Staff.	3.0	
6	Transparency and Integrity		
6.1	Transparency and Integrity (Weighting Coefficient =9)	2.5	5.7
	Existence and Compliance with a Code of Conduct.	2.0	
	Maintenance of High Standards of Accountability, Transparency and Responsibility.	2.0	
	Mechanisms for Anti-corruption Activities.	2.7	
	Mechanisms to Prevent, Detect and Discipline MPs and Staff engaged in Corrupt Practices.	3.0	
	Declaration of Assets and Business interests.	3.0	
	TOTAL SCORE OF RAO	30.3	77.3
	MAXIMUM SCORE	44.0	100.0



**AFRICA PARLIAMENTARY INDEX (API) KENYA NATIONAL ASSEMBLY ASSESSMENT
MEETING ON 5TH NOVEMBER 2010**

LIST OF PARTICIPANTS

NO.	NAME	MP/STAFF
1	Hon. Elias Mbau	Chairman, Budget Committee
2	Hon. Peter Mwathi	MP
3	Hon. Abdul Bahari	MP
4	Hon. Danson Mungatana	MP
5	Hon. Emilio Kathuri	MP
6	Hon. Nelson Gaichuhie	MP
7.	Hon. Ahmed Shakeel Shabbir	MP
8.	Hon. Omari Zonga	MP
9	Hon. Ekwee Ethuro	MP
10	Hon. Ndiritu Murithi,	MP
11	Mrs. Phyllis Makau	Staff
12	Mr. Nicodemus Odongo	Staff
13	Mr. Frederick Muthengi	Staff
14	Ms. Vena Akama	Staff
15	Mr. Martin Masinde	Staff
16	Ms. Linnet Misati	Staff
17	Ms. Mirale Sande	Staff
18	Mr, Julius Ariwamoi	Staff
19	Ms. Anne Musandu	Staff
20	Ms. Lucy Wanjohi	Staff
21	Mr. Peter Andika	Staff
22	Ms. Wanjiru Ndindiri	Staff
Also in Attendance		
23	Dr. Rasheed Draman	Parliamentary Centre Staff
24	Mr. Elvis Otoo	Parliamentary Centre Staff
25	Ms. Mercy Akwamuwor	Parliamentary Centre Staff
26	Ms. Charity Wakaba	Parliamentary Centre Staff
27	Peter Oloo Aringo	Independent Assessor

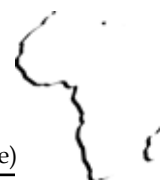


API CIVIL SOCIETY ASSESSMENT AND VALIDATION WORKSHOP 9TH FEBRUARY 2011

No.	PARTICIPANTS	CIVIL SOCIETY ORGANISATION
1.	Catherine Gitonga	Institute of Economic Affairs
2.	Raphael Muya	Institute of Economic Affairs
3.	Maureen Kariuki	African Open Center for Governance
4.	John Okinda	Kenya Alliance for Advancement of Children
5.	James Kiplimo	Voluntary Service Overseas (VSO)
6.	George Ogutu	Center Of Legislative Agenda
7.	Mukami Kago	African Youth Trust
8.	Paul Okumu	Sisa Center for Corporate Partnership
9.	Christine Ajulu	Consumer Information Network
10.	Anne Christine Mwaniki	Abantu for Development
11.	Bernard Owuor	FIDA - KNYA
12.	John Mutua	Institute of Economic Affairs
13.	Peter Oloo Aringo	Independent Assessor
Also in Attendance		
14.	Issifu Lampo	Parliamentary Centre Staff
15.	Adams Fusheini	Parliamentary Centre Staff
16.	Philip Boafu	Parliamentary Centre Staff
17.	Charity Wakaba	Parliamentary Centre Staff

API -NATIONAL ASSEMBLY VALIDATION MEETING HELD IN NAIROBI FEBRUARY 10TH 2011

No.	List of Participants
1	Hon. Farah Maalim, M.P. Deputy Speaker, KNA
2	Hon. Martin Otieno Ogindo, M.P.
3	Hon. Abdul Bahari, M.P.
4	Hon. Nelson Gaichuhie, M.P.
5	Hon. Emilio Kathuri, M.P.
6	Hon. Nemesys Warugongo, M.P.



7	Hon. Jackson Kiptanui, M.P.
8	Hon. James Rege, M.P.
9	Hon. P. Ochieng, M.P.
10	Hon. Yusuf Chanzu, M.P.
11	Hon. Danson Mungatana, M.P.
12	Mrs. Phyllis Makau Director, Parliamentary Budget Office
13	Mr. Nicodemus Odongo
14	Mr. Frederick Muthengi
15	Mr. Martin Masinde
16	Mr. Peter Kitheka
17	Ms. Millicent Ojiambo
18	Ms. Rosemarie Irungu
19	George Ogutu
20	Peter Kithaka
21	Hassan Odhowa
22	Ms. Alice Thuo
23	Hon. Peter Oloo Aringo- Independent Assessor
24	Mr. John Mutua – Institute of Economic Affairs
Also in Attendance	
25	Adams Fusheini, Parliamentary Centre
26	Philip Boafo, Parliamentary Centre
27	Issifu Lampo, Parliamentary Centre
28	Charity Wakaba, Parliamentary Centre

CHAPTER 4



AFRICAN PARLIAMENTARY INDEX COUNTRY SELF ASSESSMENT REPORT FOR THE PARLIAMENT OF TANZANIA

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EXECUTIVE SUMMARY

The Parliament of the United Republic of Tanzania like other legislators is formed to play three main functions. These are: to make laws, oversee the activities of the judiciary and the executive and oversee governmental agencies as well as ensuring that representational roles of the elected members of parliament are performed. Unlike in other legislative set-ups, the President of the United Republic is part of the Parliament of Tanzania. The legislature as a branch of government aims at promoting good governance by enhancing the rule of law, accountability, participation, and transparency.

Given its law making functions, the role of the legislature in the budget process cannot be over emphasized. Parliament through its Members scrutinize the annual budget through various standing committees; adopting or rejecting the budget; monitoring the implementation of the budget and the performance of the MDAs; and overseeing the use of public funds.

The African Parliamentary Index (API) is designed to assess the performance of the Tanzanian Parliament and that of six other Parliaments in Africa on the above mentioned functional areas in as far as the annual budget is concerned on the basis of a set of indicators that show the level of engagement. The self assessment tool covers 5 core areas including ; (i) representation, (ii) legislation (iii) financial oversight, (iv) institutional capacity, (v) institutional integrity.

The Tanzania assessment was organized in two forms, beginning with a self assessment by MPs with the support of key parliamentary staff in February 2011 and facilitated by an independent assessor. This was followed by a Civil Society Organizations (CSOs) validation workshop in March 2011 which sought to assess the perception of citizens and citizens groups about performance of Parliament.

On the whole MPs and CSO representatives were happy with the exercise but thought parliamentary performance in areas such as accessibility, the legal mandate and budget review and oversight needed some more improvement and strengthening. Capacity building for parliament was recommended to support efforts at improving governance systems for effective and efficient oversight of the annual national budget. As much as civil society groups agreed with Parliament on a number of indicators, they also thought Parliament has to open up more to citizens and citizen groups. The following specific recommendations were made;

- Improve Parliamentary Capacity to Better Represent the Public
- Improve the Legal Framework and Enabling Environment for Legislative Participation
- Strengthen Parliamentary Budget Capacity to Actively Participate in the Budget Process
- Improve Institutional and Human Resources to Promote Efficiency
- Improve Transparency and Integrity of Parliament



CHAPTER 1

1.0 Introduction

The National Assembly of Tanzania was formed during the colonial era as the Legislative Council of Tanzania Mainland – then known as Tanganyika – in 1926. The Council was formed under a law enacted by the British Parliament called the Tanganyika Legislative Council Order and Council. The law was gazetted in Tanganyika on 18th June 1926. The Council consisted of 20 members when it was formed on the 7th of December 1926 under the Chairmanship of the Governor of Tanganyika, Sir Donald Cameron. The first Speaker was appointed to replace the Governor as the Chairman of the Council in 1953.

In 1958, the Council got a few elected representatives for the first time. This was the first election allowed in the colony. Of the three political parties which participated in the elections, namely Tanganyika African Union (TANU), United Tanganyika Party (UTP) and African National Congress (ANC), only TANU won in some constituencies, thus becoming the first party to have elected members on the Council. A second election was held in 1960 which formed part of the preparations made to make Tanganyika an independent nation. The appointment system which allowed Governors to appoint representatives to the Council was abolished and the people of Tanganyika were allowed to elect all members of the Council. The Council was renamed the Legislative Assembly after independence which also allowed the President of independent Tanganyika to enact all laws instead of the Queen of England. There have been few changes after this, especially on the number and type of members. Nevertheless, parliament's role and mandate has remained the same.

1.1 Mandate and Functions of the Tanzania Parliament

The Tanzania Parliament derives its mandate and functions from the Constitution of the United Republic of Tanzania of 1977, the laws of Tanzania and its own rules of procedure. Chapter 3 of the Constitution of the United Republic of Tanzania contains Articles that provide for the establishment, composition and functions of the Parliament.

Tanzania Parliament like other developing countries is the Supreme Legislature of the country. It consists of the President of the United Republic of Tanzania and the National Assembly. It grants money for running the administration of the country and is a very effective instrument for overseeing Government programmes and plans. It can also oversee the action of the Executive by being a watchdog to ensure that government is accountable for its administration.

The most important function of Parliament is to make laws. The subjects on which Parliament can legislate have been laid down in the Constitution. Parliament is sovereign in the sphere of Legislation. The scheme of the Constitution, the United Republic of Tanzania's parliament which is a Union



Parliament exercises autonomous powers in the sphere of both Union and non Union matters which are not under the purview of the Zanzibar Government.

Following from the above, Parliament can assume the following generic roles including;

- To pass laws to foster good governance.
- Pass legislation and sanction to taxation and acquisition as a means to carrying out the work of government.
- To scrutinize government policy and administration including proposal for expenditure

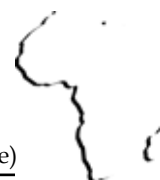
Functions of Tanzania Parliament

The legislature as a branch of government aims at promoting good governance by enhancing the rule of law, accountability, participation, and transparency. The legislature performs three main functions.

The legislative oversight function enhances accountability and transparency. By elected members of parliament performing their constituency and legislative work, the accountability and transparency are strengthened. Parliament exercises other financial powers as provided for by Chapter 7 of the Constitution of the United Republic of Tanzania (1977) which outlines the legislative function and the role of various bodies involved in the management of public finances, specifically Parliament (the legislative), the President (the executive) and the Controller and Auditor General (CAG).

The Parliament scrutinizes the performance of the Executive. It plays this oversight role in order to ensure that the implementation of public policy conforms to the approved developmental agenda of the state and that expenditure incurred is in accordance with parliamentary authorizations. In parliament grievances are vented with the aim of seeking remedy. Nonetheless this ought to be supported by continuous consultation so as to foster participation.

The Parliament of Tanzania's legislative functions are derived from article 135 – 144 of the (1977) United Republic Tanzania (URT) Constitution as well as Section 18 (1) of the PFA No. 6 of 2001 (As amended in 2004). Under the same constitution, additional powers are assigned to the legislature through its varied committees. Parliament also plays deliberative functions in which it debates an array of policy issues some of which result in the passage of resolutions. Deliberations may throw light on underlying tensions in society and help foster consensus building and reconciliation. All these roles as stated are achieved through parliamentary proceedings, otherwise referred to as parliamentary business. Parliamentary business is conducted in plenary and in committees.



Parliament Committees

The Parliamentary business of the URT parliament is largely executed by the parliamentary Committees, which monitor government policies in detail on a continuous basis. These committees produce reports on varied subjects, which they feel deserve the attention of the entire house. Specialized committees have emerged as fundamental tools for legislative oversight.

Public Accounts Committee

The Public Accounts Committee (PAC) serves as the Audit Committee of Parliament, making it a core institution of public financial accountability. On the other hand, the Constitution vests in the Speaker the responsibility of summoning Parliament. Most matters in Parliament are determined through votes of the majority of members present and voting. Matters cannot be determined unless half of all the members of parliament are present.

Particular committees and or Commissions of Inquiry

In the event of need for detailed information, the Parliament may set up particular committees and/or Commissions of Inquiry (COI), e.g., the case of Richmond saga¹ and invite the relevant members of the public and interested parties to come and state their views or give explanations before them. The opinions, reports as well as resolutions of the Parliament, prepared by the specialist committees, often influence Parliament's proposals and hence common policies.

Under the rules of procedure as well as the Administration of Parliament Act, the Office of the Speaker, the Deputy Speaker are provided for and stipulated. The same legal instruments provide for the Office of the Clerk to Parliament, the Deputy, the various committees and their respective chairpersons. Further still, the same legal instruments stipulate the seating arrangements².

Parliamentary "supreme" status

It is imperative to note that in performing its legislative function as provided for in the constitution, Parliament is responsible for ensuring that propositions that are put forward by the executive are duly studied and scrutinized. In that regard, Parliament as an institution has "supreme" status. In theory, this implies that Parliament is independent and assumes a great degree of rationality in going about its work. In effect and in principle the executive cannot be certain to get its policies enacted into legislation although many times, this contradicts practice.

¹ The Speaker of the URT Assembly formed a special committee to investigate the dubious deal between Tanzania Electrical Company over the Richmond Company supplied an additional Electric grid to the National Grid. The verdicts from the special committee led to three Ministers resigned include Premier Minister.

² When Tanzania changed from Movement system of governance to Multi-Party politics in 1995, the office of the leader of opposition was created.



Besides various provisions of the Standing Order, Members of the above Committees enjoy the same rights and powers enjoyed by the Members of Parliament with regard to the effective functioning of committees as provided by (Act No.3. of 1988) the Parliamentary Immunities, Powers and Privileges.

Members of Parliament

Membership of the Tanzanian Parliament is acquired in three main ways: there exist democratically elected Parliamentarians who are voted for by their constituents, special seats acquired proportionally from the parties and ten parliamentarians appointed by the President from various clusters such as vulnerable groups. This makes Parliament an institution that is accessible and informative to the public. It serves as a forum with the Member of Parliament serving as the communication link between her/his constituents and government. She / He is able to draw attention to socio-economic challenges dogging his/her constituents through motions, debates, questions etc. In summary Tanzania Parliament consists of the following categories of members: (Article 66 of the Constitution)

- Members elected to represent constituencies.
- Women members whose number shall increase progressively starting with twenty per cent of the members named in sub-paragraphs (1), (3) and (4) of this paragraph, to be elected by the political parties that are represented in the National assembly in terms of Article 78 of the Constitution and on the basis of proportional representation amongst those parties.
- Five members elected by the Zanzibar House of Representatives from among its members,
- The Attorney General.
- Not more than ten members appointed by the President

Civil Society and the Parliament

By civil society, we include the entire range of organized groups and institutions that represents the interests of households, firms and other social economic entities. These are independent of the state, voluntary, and at least to some extent self-generating and self-reliant. This of course includes non-governmental organizations; independent mass media; policy think tanks; professional associations; academic and research institutions; and social and religious groups etc. To be part of civil society, groups must meet some other conditions as well. In a democracy, civil society groups have respect for the law, for the rights of individuals, and for the rights of other groups to express their interests and opinions. An aspect of the meaning of the word “civil” implies tolerance and the accommodation of pluralism and diversity in policy processes. Guided by the principles of seeking the common good of all people in Tanzania, Parliament has found it useful to engage civil society organizations to work together by advocating for the supply of better goods and services to ordinary citizens.



1.2 Overview and Purpose of the Africa Parliamentary Index

The African Parliamentary Index (API) is an assessment tool designed and developed under the Parliamentary Centre's APSP for Budget oversight to show the level of engagement of the Tanzanian and six other select African Parliaments in the budget process. The API presents a simplified and standard tool that communicates the ability of selected Parliaments to carry out their legislative, financial, oversight and representative functions. This is done in ways that engender good governance and the values of accountability, transparency and participation, especially in the budget process.

This is premised on the fact that the budget process is a key area of focus for Parliaments and relates closely to poverty reduction because government budgets are about the allocation of scarce resources that affect the lives of citizens who parliamentarians in democratic states represent. It is therefore imperative that parliamentarians are equipped with the necessary tools with which to perform their role in the budget process and increase their understanding of the salient elements that are of direct relevance to poverty reduction in their respective countries.

Whilst the APSP strives to assist partner Parliaments in developing and implementing plans that strengthen their role in providing effective oversight of the national budgeting process, it also recognizes that the organization, powers and effectiveness of Parliaments vary widely. This recognition has reinforced the need for a set of indicators against which the performance of partner Parliaments can be measured. These indicators would be aggregated into an index to describe different Parliaments in terms of the key indicators of APSP.

1.2.1 Core Objectives of the African Parliamentary Index

The key objectives of the API are:

- a) To assess national Parliaments against international best practice for budget oversight
- b) To present a standard and simplified system for assessing the performance of selected Parliaments on budget oversight
- c) To identify priorities and entry points for strengthening partner Parliaments
- d) To stimulate Parliamentary progress towards achieving the goals of the programme

1.2.2 Scope and Areas Assessed

The self assessment tool covers 5 core areas including; (i) representation, (ii) legislation (iii) financial oversight (iv) institutional capacity (v) institutional integrity. The areas of assessment directly affect Parliamentary financial and oversight roles and in line with best practice indicators. The line of questioning is largely qualitative with an overall intention of giving greater clarity in response. In effect, the assessment tool allowed each area of Parliament's responsibility to be assessed separately.



1.3 Approach and Methodology

The Tanzania API assessment was held for Parliament and CSOs on two different occasions. The Parliamentary self assessment which took place at the Ubungu Plaza, Dar es Salaam on the 4th February 2011, was attended by eleven (11) MPs who were assisted by eight (8) staff. Given that the 10th Parliament is what is being assessed, care was taken to select participants who are very experienced in parliamentary work and had not less than one full term in office. Participants were put in two working groups which were backstopped by an “independent observer”, who provided clarification on issues that looked ambiguous. Each of these groups worked on different sections of the assessment tool, with one group working on the weighing index. This was to ensure that members participated fully in answering the questions on all the issues under review. Indeed the groups discussed and assessed Parliament on the sections of the tool assigned to them by the moderator who also acted as the chairperson. The results of the group work were shared in a plenary session at the end of the exercise. The exercise was facilitated by an independent assessor.

Each group discussed extensively the issues under review and scored each indicator on a scale of 1 to 4. The scale is defined as follows:

- 1 High level of capacity in place
- 2 Moderate level of capacity in place
- 3 Basic level of capacity in place
- 4 Clear need for increased capacity

During the assessment, every indicator under review was clearly described in terms of parliament’s standing. This was done with the aim of providing a guide to members while assessing and subsequent award of scores. In areas where the status of issues in parliament was the same, a relevant score was assigned. Yet in some particular circumstances, the group awarded scores that were in between the assigned score. For instance it was common to find score of N/A. Nonetheless evidence was provided by the group to justify the reasons for such scores.

The Prioritization Matrix

The prioritization matrix is completed with a weighting system which is a determination of the Parliament’s reality in relation to the indicators. In the matrix, the indicators are listed vertically on the y-axis and horizontally on the x-axis to show the interaction between them. Members assess the level of importance of each indicator in relation to the others and allocate a total of ten (10) points between the two to show which one is more important. For instance in a comparison of accessibility and legal mandate, a parliament may consider accessibility and its legal mandate as equally important. In that case, the group would score 5 for accessibility; 5 for legal mandate. In another scenario where a group is comparing the relative importance of human resources and financial / material resources and the group considers financial resources as so important as to score 7, human resources would gain a score of 3 and vice versa. The interaction between the same indicator on the x and y-axis is nil.



The total scores for each variable and the relationship between them will be summed up to provide a status of capacity needs for the Parliament under assessment. It also shows the strengths and gaps of the Parliament from the perspective of the assessors (MPs).

The discussion should lead to a shared vision of the priorities for parliamentary development and then to recommendations for action to address these priorities. While there is great value in the democratic debate of the issues, the effectiveness of the self-assessment should be judged against the outcomes that emerge in terms of Parliament becoming more representative, transparent, accessible, accountable and effective.

Civil Society Organization and API Assessment in Tanzania 2010/2011

The CSO-API workshop was more of a validation exercise to seek the perception of citizen groups about the work of parliament and how effective they thought parliamentarians were at executing their mandate. This exercise took place at the Southern Sun Hotel, Dar es Salaam on the 4th March 2011 and was participated by eight (8) CSO representatives. The CSO used the same approach as the MPs self assessment but this time given the small number of participants the whole group appointed a chairperson who chaired the session with the assistance of the independent assessor who provided clarifications on issues when it was needed.



CHAPTER 2

2.0 The Budget Process in Tanzania

The budget process is part of the country's specific political, economic and institutional framework. The budget in many ways represents the process of decision-making regarding the revenue and expenditure guidelines developed by the country. It is through this process that the government plans and determines how and what to spend on the various Ministries, Departments and Agencies (MDAs), supported by the available and expected finances. This is not exceptional to Tanzania but rather a process that all countries undertake. Figure 1 is an illustration of the Budget process in Tanzania.

In Tanzania this is reinforced by Chapter 7 Article 137 of the 1977 URT Constitution and amplified by Section 18 (1) of the Public Finance Act No. 6 of 2001 (as amended in 2004) and its subsidiary legislation of 2004 which stipulates that; the Minister shall cause to be prepared and laid before the National Assembly as soon as practicable before the commencement of each financial year³. The Minister⁴ among other things will submit; (i) estimates of the revenues, expenditure and financing requirements for the Government of Tanzania for that year; (ii) for each vote⁵ of expenditure a statement of the classes of outputs expected to be provided from that vote during the year and the performance criteria to be met in providing those outputs.

2.1 Time and Institutional Framework for Planning and Budgeting


The Ministry of Finance and Economic Affairs (MoFEA) with Central Ministries⁶ organizes a consultative workshop that brings together all key stakeholders and organizations involved in the budget process in September of every year. These include: The Parliament, representatives of the varied ministries, the donor community, the Civil Society Organizations and the Private Sector and the Local Governments among others. This forum of stakeholders discusses and shares information on Government's economic performance as well as the available resources for the Medium Term Expenditure Framework (MTEF). It also involves goal and objective setting based on prioritized policies such as Agriculture first, Energy, Road construction and water, as well as discussions on the modalities for allocation of resources. Efforts are also made to understand the challenges and bottlenecks encountered in the previous year and how these can be avoided in the succeeding year.

³ The Government, other than a local government authority, a period of twelve months ending on 30th June each year.

⁴ Minister means the Minister of for the time being responsible for matters relating to finance.

⁵ Vote mean a group of estimates of expenditure for which an appropriation Act or Supplementary Appropriation Act.

⁶ Central Ministries are MoFEA, The President's Office- Planning Commission, Prime Ministries Office- Regional Administration and Local Government and President's Office- Public Service Management.

**Figure 1. The Government Budget Cycle**


July 1	Beginning of Fiscal Year 2008/09
Sep	Ministry of Finance and Economic Affairs, The President's Office-Planning Commission, PMO-RALG and PO-PSM starts planning for FY
Nov-Jan	Government budget frame is approved by IMTC, The Cabinet and PBG tabled in Parliament
Jan-Feb	Government budget guidelines are distributed to MDAs, RSs and LGAs
Feb-Mar	MDAs, RSs, and LGAs budget preparation
April-May	Budgets are submitted to MoFEA for scrutinisation and thereafter data entry and submitted to PSCs
June	Parliament approves government budget
July 1	Beginning of Fiscal Year 2009/10 and Budget execution for fiscal year 2009/10
July 1- June 30	Budget plans are executed: revenues are collected, grants are disbursed and expenditures are made
July 1- June 30	Monthly and quarterly financial reports are produced
July 1	Beginning of Fiscal Year T+1 and Financial auditing for fiscal year T-1

Source: M. Mponzi. Assistant Commissioner for Budget, MoFEA: Planning and Budget process in Tanzania

2.2 The Role of President and Cabinet in Budget Process

An Inter Ministerial Technical Committee (IMTC) meeting is held by the Ministry of Finance and Economic Affairs between January and March each year to prioritize and agree on resource distribution among different sectors of the Economy. This process culminates into the finalization of MDAs reports which are then consolidated into what is referred to as the Cabinet Paper (CP). The CP is handed to the cabinet chaired by the President of the URT for subsequent ownership and approval. The Cabinet has the responsibility of defending the budget and ensuring that it is passed by the Legislature.

MDAs, Local Government Authorities (LGAs) between the months of March and April submit their budgets to MoFEA for scrutiny and consultations with MDAs. Once MoFEA are satisfied with the submission from MDAs, the draft estimates are printed in books and presented to respective Parliamentary committees for review, comments and suggestions. This process provides critical opportunities for legislative oversight. After this preliminary approval by Parliamentary Committees,



the budget is taken for the final Cabinet Approval and submitted to Parliament by the Finance Minister and Economic Affairs. Parliament debates and approves the Budget before the funds can be spent by Government.

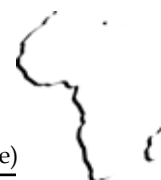
The Parliament Responsibility on Budget Process

The main responsibilities of Parliament in relation to the budget process are: scrutinizing the budget through various standing committees; adopting or rejecting the budget in Parliament; monitoring the implementation of the budget and the performance of the MDAs; and overseeing the use of public funds. Parliament does not have power to amend the budget in Tanzania or to reallocate funds. Although Parliament can refuse to adopt the budget presented by the executive, the consequences of this step are profound; the president has the constitutional power to dissolve Parliament in response.

CSO Role and Responsibilities in Tanzania

The Tanzanian Civil Society Organisations engage in advocacy aimed at promoting accountability of its members, government and other implementing entities to citizens and citizen groups. Some CSOs work closely with Government MDAs and local authorities to ensure that cross-cutting issues are considered and implemented in the sectoral and district plans. The central and local government authorities have recognized the vital role of CSOs and have in some instances collaborated with them in the areas of policy formulation, planning, budgeting, implementation, monitoring and evaluation of public resources.

The Tanzanian legal, institutional and operational system facilitates the formation and operation of different types and forms of civil societies. However, many of these civil societies have limited analytical capacities to participate in collegial policy dialoguing, planning, implementation, monitoring and evaluation of national development policies.



CHAPTER 3

3.0 Analysis of Indicators and Presentation of Results

3.1 Representation

Legislators act as mediators for constituents in dealing with government ministries, departments and agencies. They act individually or collectively to represent constituents' interest in the policy-making process. Elected Members of Parliament (MPs) give citizens an opportunity to voice their concerns, issues and interests. The Parliamentary representation offers citizens the single most important platform to participate in the affairs of their country and in holding the government to account for its actions. When citizens vote for an MP, they inadvertently think that there will be someone to present issues on their behalf and when they ask questions of national, regional and local significance, someone will be there to represent them.

Parliament embodies the will of the citizens and therefore provides the space for the expression of that will. In that regard effective representation requires MPs to continually interact with their constituents in order to understand their views and perspectives and to use various legislative or parliamentary processes such as questions, motions, resolutions and other oversight mechanisms to bring these to the attention of implementing institutions to put right. Therefore, MPs make a difference by contributing to the making of legislations that enable their constituents to overcome certain challenges that pertain to a certain region or locality. By working with the varied structure of Parliament and through their parties they help to make decisions for those they represent.

On the whole, the effectiveness of the representational role of the MP and for that matter the Legislature depends to a large extent on the quality of the interaction between constituents and MPs. The API for Tanzania assessed the extent to which Parliaments represented the views of citizens in the budget process. To this extent the API assessed the degree to which the legislature is accessible to the public and the efforts of the Legislature to get the public to understand its role.

The following issues were assessed. These included: a) The Legislature is open to citizens and the media; b) Opportunities exist for the media to access proceedings of the Legislature and other information in a timely manner, c) The Legislature has a non-partisan media relations facility; d) The Legislature has mechanisms to promote the public's understanding of its work. Information is provided to the public in a timely manner regarding budgets under consideration by the Legislature; e) The Legislature promotes citizens' knowledge and understanding of legislators' roles in the budget process. The results of the discussion are hereunder presented and the score assigned by the respective respondents are tabulated below



3.1.1 Accessibility

1. It was found out that the Legislature is accessible to citizens, civil society organizations and media in general. This is guided by a framework and communication strategy of the legislature. This is evidenced by Parliamentary press association, live broadcasts, access to regulations of parliament and invitation made to visitors/student and/or voters to be present during sessions of Parliament.
2. The Tanzania Legislature has non-partisan media relations. The Legislature has a non partisan media centre. This media centre gives access to all media representatives/houses which is perceived to be non partisan. This is guided by a code of conduct and is also guaranteed by the Parliamentary Non- Partisan Policy.
3. In regard to mechanisms to promote public understanding of the work of the Legislature, it was found that there exist a department on Civic Education, Information and International Corporation in Parliament whose duty is to ensure that the general public is sensitized to understand the work of the Legislature. Parliament in recent times enhanced the public understanding of its work through live TV broadcast.
4. Timely provision of Information to the Public on the Budget. It was revealed that information is not timely available to the public as it is received late from the MoFEA. It was also observed that there is no legal requirement that binds Parliament to provide information.
5. As far as promoting citizens' knowledge and understanding of the role of MPs in the budget process is concerned, a Directorate of Civic Education and Public Relations exist to educate citizens. Its role among others is to educate, inform and sensitize citizens on budget issues. Civil Society Organizations like the Policy Forum, Haki Elimu on their part also assist with the dissemination of the budget by converting the budget technical language into one that ordinary citizens can understand. Sometimes the translation is done in Swahili of which majority of Tanzanians can speak, write and understand.
6. Regarding the relationship between Parliament, CSOs and other related Institutions, participants' indicated the existence of some provisions in Parliament's Standing Orders that regulate Parliament's relationship with stakeholders such as CSOs and other related institutions.



Table 1

Name of Parliament Parliament of Tanzania		Assessed Score by Parliamentary Participants	Assessed Score by CSOs Participants
1	<i>Representation Function</i>		
1.1	<i>Accessibility</i>		
	The legislature is open to citizens and the media.	4.0	3.0
	The Legislature has a non-partisan media relations facility.	4.0	4.0
	Mechanisms to Promote Public Understanding of the work of the Legislature.	4.0	3.0
	Timely provision of Information to the Public on the Budget	1.0	2.0
	Promoting Citizens' Knowledge and Understanding of the role of MPs in the Budget Process.	3.0	1.0
	Relationship between Parliament, CSOs and other related Institutions	4.0	2.0
	Average Scores	3.3	2.5

CSOs views on the Representation role of Parliament

The CSOs' assessment only agreed with Parliament on the existence of a non-partisan media relation but differed in opinion on the other indicators as indicated above. Though CSOs thought Parliament was quite open to citizens and the media, they did not think Parliament's communication strategy if it existed, focused on accessibility. CSOs seem not to be aware that there is a communication strategy. The coverage of Media favors those who have capacity or ability to access data and information from Parliament. They however acknowledge invitations to citizens to attend important Parliamentary sessions. They also thought the relation between Parliament and CSO groups is ad hoc and even this is determined by parliament. It is interesting to note also that CSOs graded Parliament's ability to provide timely information to the public higher than how parliament graded itself. CSOs in a nutshell scored Parliament on the accessibility indicator 2.5 out of 4 compared to Parliament's score of 3.3. They recommended the need for Parliament to take serious dissemination and sensitization policy measures to promote the general public understanding of its roles and responsibilities and make their communication strategy known to the public.

3.2 The Legislative Function

Lawmaking is a core function of the Legislature which in most jurisdictions is vested by the constitution of that country. In other jurisdictions the legislative power is vested by an Act of Parliament. The legislative function of parliament refers to the process of initiating, considering and enacting laws. Various legislatures develop various steps through which legislation proceeds to be enacted into law. The legal mandate of Parliament offers it power to ensure that a proposed



legislation is sufficiently considered and deliberated upon. It is important therefore to emphasize that MPs require knowledge and expertise in a myriad of technical areas. The Index assessed all the factors that affect the effectiveness of the Legislature in executing its legislative function. The assessment covered Parliaments' legal mandate with emphasis on the source of the authority of the legislative power, whether the public has access to input into the legislative process and whether the Legislature has a mechanism to monitor the impact of laws passed. The result of the assessment is discussed below and the table indicates the scores by both groups.

3.2.1 Legal Mandate:

1. *On the power to amend the Appropriations Bill*, Parliamentary participants thought they did not have power to amend the Appropriations Bill. They thought there was clear need for increased capacity in this area and recommended the need to have the explicit powers which they would advocate for in forthcoming Constitutional review.
2. *Mechanisms to Track Legislation*. Some mechanisms exist for the Legislature to track legislations that have been enacted, but this is not adequate and needs to be reviewed. The tracking system is provided for in parliamentary Standing Orders. The MPs need training to create awareness and understanding of the subject matter as most of them are coming from various body of professions.
3. *Opportunities for Public input into the Legislative*. Adequate opportunities exist for citizens to input into any legislative process. These are provided for by the parliamentary Standing Order, Rules of procedure and the Constitution. Nonetheless it is important to improve on the gazetting of Bills, and sensitization of the public about their rights and responsibilities in contributing to the law making process.

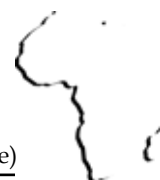


Table 2

Name of Parliament Parliament of Tanzania		Assessed Score by Parliamentary Participants	Assessed Score by CSOs Participants
2	Legislative Function		
2.1	Legal Mandate		
	Law Making including the Appropriations Act	4.0	4.0
	Power to amend the Appropriations Bill.	1.0	3.0
	Opportunities for Public input into the Legislative Process	3.0	2.0
	Mechanisms to Track Legislation	3.0	2.0
	Average Score	2.8	2.8

CSOs views on the Legislative Function

CSO participants agreed with Parliament on their mandate to make laws and which they reckon are granted by the Constitution of the URT and other regulations like the Standing Orders of Parliament and PFA. CSOs on the contrary thought Parliament had enough powers and mandate to review and suggest changes to bills presented before it. They however reckoned the existence of some political and /or technical challenges which may hinder parliament's ability to amend the Appropriation Act. They thought opportunity exists for citizens to make an input into the legislative process from village assembly to the full council but a lot more consultations with the general public need to be done at all levels of governance on many development and legal issues. Participants did indicate that some mechanisms exist for the legislation to track its legislations but recommended the need for a lot more resources to be committed to tracking the outcome of legislations and open up more to citizens to participate in the process. On the average, CSOs and Parliament assigned the same score of 2.8 out of 4 to this indicator.

3.3 Financial Function

Parliamentary financial function is one of the major responsibilities of the Legislature. Also known as the Parliamentary power of the purse, it allows Parliament to control the raising of resources/ finances for the State and the disbursement of such resources. As representatives of the people, Parliament approves taxes and also determines how those taxes are expended. Thus the financial function transcends the mere allocation of funds but it encompasses a general understanding of economic indicators and how decisions of the Legislature such as increases in taxes and the imposition of levies impact on economic activity generally.



Among others, the following issues were assessed: a) the time-frame available to the Legislature to review the budget once submitted to the House. b) Whether the Legislature has an Appropriations/Budget Committee and whether the budget review function is performed by a single Committee or a number of Committees. c) Whether Legislative Committees hold public hearings on the budget estimates, d) extent of public participation in the budget process; e) whether the Legislature has power to amend the budget after submission by the Executive; and f) Authority to send back budget to the Executive for revision. Table 3 below presents indicative scores by the two groups of participants and discussions under each indicator.

Table 3

Name of Parliament Parliament of Tanzania		Assessed Score by Parliamentary Participants	Assessed Score by CSOs Participants
3	<i>Financial Function</i>		
3.1	Budget review and hearing		
	Period for the Review of the Budget by the Legislature.	1.0	3.0
	Existence of an Appropriations/Budget Committee.	2.0	4.0
	Public Hearings on the Budget	1.0	3.0
	Process for Citizens Participation in the Budget Process	1.0	3.0
	Authority to Amend Budget Presented by the Executive.	4.0	3.0
	Power to send back proposed Budget for Review	4.0	3.0
	Amendments on Spending and Revenue Proposals.	4.0	4.0
	Information in the Appropriation Approved by the Legislature.	3.0	3.0
3.2	Budget act and budget office		
	Existence of a Budget Act	2.0	2.0
	Existence of a Budget Office	2.0	1.0
	Resourcing the Budget Office	N/A	N/A
	Access to Information from Central Government Departments and the Private Sector	N/A	N/A
	Consideration of Estimates for Defence and Intelligence Services by the Legislature	4.0	4.0
3.3	Periodic review of the budget		
	Budget Reviews	4.0	4.0
	Legislative Approval of Reviews	2.0	3.0
	Time allocated for Approval of Reviewed Budget	2.0	1.0
	Average Score	2.5	2.9

3.3.1. The Budget Review and Hearing

- *Period for the Review of the Budget by the Legislature.* Parliament scored 1 out of 4 marks for this indicator because the members thought the current practice where Committees meet for only two weeks to review the budget is inadequate. Parliamentary participants advised that sector committees should at least be given 1 month to review the preliminary Medium Term Expenditure Framework (MTEF) budget.



- ▶ *Existence of an Appropriations/Budget Committee.* There is an Appropriations/Budget Committee but shares the mandate of the review of the budget with other standing/select committees. Parliamentary participants thought the current practice where the Finance and other Standing Committees review the budgets seems to work but also thought the system could work better with establishment of the budget Office.
- ▶ *Public Hearings on the Budget.* The Appropriations Committee and other Committees only hold public hearings when the Chairpersons and members so decide. There is no provision for public hearing on budget. Nevertheless the Parliamentary participants argue for the need to introduce procedures that would allow for public hearing.
- ▶ *Process for Citizens' Participation in the Budget Process.* Citizens through the O&OD planning and budgeting system participate in the budget process at the local level. At the central level citizens' participation is limited. Within Parliament budget sessions are held in camera. There is need for clarity on how citizens and citizen groups can participate at the central government level.
- ▶ *Authority to Amend Budget Presented by the Executive.* The Legislature has the authority in law to make amendments to the budget but may sometimes negotiate with the Executive for amendments to be made. This authority is embedded in the Constitution, the PFA 2004, and the Rules of procedure. It thus important that the legal framework is reviewed to allow parliament to make upward review of budget within a given range
- ▶ *The power to send back proposed Budget for Review:* It was noted that the Rules of Procedure and/or other laws empower the Legislature to send back the budget to the Executive for review. This provision is often not exercised. There is need for Parliament to exercise its mandate where necessary.
- ▶ *Amendments on Spending and Revenue Proposals.* Amendments made by the Legislature on spending and revenue proposals are binding on the Executive. The Constitution, the PFA 2004, the Rules of procedure, and the Appropriation Act, provide for the same. Nevertheless, Parliament should strengthen the mechanism and the capacity to follow-up its recommendations.
- ▶ *Information in Appropriation Approved by the Legislature.* The Appropriations approved by the Legislature has information on all MDAs, but it was noted that the budget books are not detailed as it is done in MTEF books. The members recommended for the executive to table before the Legislature the detailed books in order to improve their understanding of what the executive want to do with the approved funds.

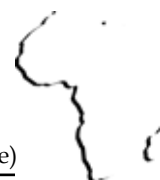


3.3.2 Budget Act and Budget Office

1. *Existence of a Budget Act.* There is no Budget Act in Tanzania that explicitly/ clearly defines the role for the Legislature in the budget process. Parliamentary participants were of the view that though a Budget Act does not exist, the current arrangements somehow serves the purpose of regulating the passing of the Appropriation Act. They also recognize the need for the enactment of the Budget Act to properly regulate the role of parliament in the budget process.
2. *Existence of a Budget Office.* There is no Budget Office but there exists a unit that provides research support on the budget to Parliament. Participants gave a score of 2 out of 4 on this indicator. The indicator on resourcing the Budget Office is not applicable in view of this.
3. *Access to Information from Central Government Departments and the Private Sector.* With the non existence of the Budget Office this question may not be relevant. Parliamentary participants however noted the fact that when relevant departments/ research department in Parliament required budget information from central government departments they are most often cooperated with.
4. *Consideration of Estimates for Defence and Intelligence Services by the Legislature.* The Legislature (or the appropriate committee) considers and approves the budget estimates for Defense and Intelligence Services and is given full disclosure on the budget estimates/ figures. This is provided for in the URT Constitution, PFA 2004 and the Rules of procedure. This indicator scores 4 out of 4 maximum points.

3.3.3. Periodic Review of the Budget

- ▶ *Budget Reviews.* The budget is reviewed every year by the Executive. There are annual reports on the state of the economy, bi-annual budget performance reports and even occasional quarterly reports.
- ▶ *Legislative Approval of Reviews.* Parliamentary participants noted sadly that budget reviews were presented to the Legislature as and when the executive deems necessary. There is need to harmonize the framework for budget reviews and adherence of the laws regarding presentation of reviewed documents to the legislature.
- ▶ *Time allocated for Approval of Reviewed Budget.* Parliamentary participants noted that where budget reviews are submitted to it, only limited time is allocated for legislative consideration of budget reviews at both plenary and at committee sitting. Participants recommended that more time should be allocated for reviews.



CSOs views on the Financial Function of Parliament

CSO participants also thought parliamentary financial function was a major function of the Legislature and agreed with Parliament on 5 out of the 14 indicators as can be seen in Table 3 above. They scored parliament more than parliament scored itself on such indicators including public hearings on the budget, legislative approval of review, process for citizens' participation in the budget process and others. Where they scored lower marks than Parliament, they explained for instance that Parliament does not have absolute power to amend the budget presented to it by the Executive. Amendment proposals must be backed by funding sources in the case of an upward review. CSOs again thought that the legislature's power to send back to the executive proposed budget for review is usually not exercised. Contrary to what Parliament said, CSO participants agreed about the fact that there exist processes for citizens to participate in the budget process but these processes are not published and therefore not known to the general public. This limits the extent to which citizens can participate in the process. On the whole CSOs scored parliament performance on this indicator 2.9 out of the maximum score of 4. This is higher than the 2.7 parliament scored itself.

3.4 The Oversight Function

Parliamentary Oversight involves the legislature monitoring and holding executive accountable for its actions, this also includes the process whereby the legislature and executive work together to ensure that laws regarding effective public financial management are working as planned. By this explanation, one would not be wrong to say Parliamentary oversight is the cornerstone of parliamentary democracy and an indicator of good governance. The purpose of Parliamentary Oversight is to hold the government accountable for the policies that it implements. In that regard the following issues were assessed 1) whether oversight is conducted by a single committee or a number of committees 2) Powers of oversight committee(s) and the source of that power, 3) Power and effectiveness of oversight of committee(s) of State Enterprises, 4) Mechanisms for oversight committee(s) to obtain information from the Executive branch and other institutions. 5) Follow-up on recommendations of oversight committee(s). 6) Resourcing oversight committee(s). 7) Opportunities for minority/opposition parties to exercise oversight of the Executive and its agencies. Below are the issues discussed with an indication of which Parliamentary participants responded with significant agreements on firm issues.

1. *Existence of Oversight Committees.* Parliamentary participants confirmed the existence of Standing Committees and other special Committees which perform the oversight function of the Legislature. Sometimes an Ad-hoc, Sector/Sessional and other Parliamentary fora are called to sit where it becomes necessary to do so.
2. *Investigative Powers of Oversight Committees.* Oversight Committees have investigative powers over budgetary issues/Government spending and these are enshrined in the Rules of Procedure or other laws but are not regularly enforced. -there have been reports of



appropriated funds not being spent on activities originally programmed for. There is need to enforce the laws such as the PFA and regulations that would ensure that the oversight committees' recommendations are carried out by the executive.

3. *Oversight of Spending by State Enterprises.* Oversight Committees exercise sufficient oversight of the expenditures of state owned enterprises. The Committee on State Enterprises can for instance call for special audits or invite officers of respective state owned enterprises to testify before them. Further, a number of officers have been summoned to appear before such committees. Nonetheless, the law should be more punitive than it actually is. There is also a need to have set timeframes for such special audits that would help check postmortem audits. And lastly, the treasury memorandums should be made more periodic.

4. *Mechanisms for Oversight Committees to obtain information from the Executive.* Mechanisms exist for Committees to obtain information from the Executive to exercise its oversight function but these mechanisms are not sufficient. Some ministers have turned down summons to appear before committees. The Audit Act for instance provides for reports to be submitted to Parliament. Access to information Act provides a basis for committees to obtain information from the executive. These are sometimes not adhered to in a timely manner. As much as parliamentary committees are aware of the need to demand for information they also recognize the need to review the constitution to help resolve the problems with information acquisition from the Executive.

5. *Oversight Committees have adequate powers* to request and receive responses on actions taken by the Executive on recommendations but often they do not receive updates on the action(s) taken. Though the Audit Act, the rules of procedure and the access to information Act provides a platform for such information to be given, there are no mechanisms for making follow-up on recommendations of committees. There is need therefore for Committees to demand compliance.

6. *Access to resources by Oversight Committees.* Oversight Committees are adequately resourced but do not have separate budget to undertake their activities. The Committees have no separate budgets hence they apply to the Speaker/ leadership for resources for activities. This can limit the extent of budget oversight work the Committee can undertake especially when there are competing needs for Parliaments resources.

7. *Opportunities for Minority/Opposition on Parties.* Oversight Committees provide meaningful opportunities for minority/opposition parties to engage in effective oversight of Government expenditures. This is provided for in the Standing Order and Rule of procedures.



3.4.1. The Public Accounts Committee (PAC)

1. *Existence of a Public Accounts Committee (PAC).* The Legislature has a Public Accounts Committee that examines the expenditures of Government and is established by the Rules of Procedure (Standing Orders).
2. *Chair of the Public Accounts Committee (PAC).* The Public Accounts Committee is chaired by an opposition Member of Parliament who does not belong to the party in Government and this is provided for in the Standing Order.
3. *Rights and Powers of the PAC.* The PAC has power to subpoena witnesses and documents and this is backed by the Rules of Procedure and Parliamentary Privilege Act of 1988.
4. *Attendance by Ministers.* Ministers may attend the meetings of the PAC but this is not mandatory. It is not mandatory but upon summons they appear before committees. -The constitution provides for any public figure to be held personally accountable for abuse of office.
5. *Openness of the PAC Proceedings.* The PAC may hold its proceedings in public if the Chairperson and members so decide but the public cannot make input during such proceedings. -The rules of procedure guide the proceedings of PAC in relation to public involvement.
6. *Consideration of Reports of the CAG.* The PAC considers all reports of the Controller and Auditor General and in a timely manner.
7. *Independent Investigations.* The PAC can initiate an independent investigation into any matter of public interest but this must be approved by the Speaker. The PAC has conducted a number of investigations as per the rules of procedures.
8. *Recommendations of the PAC.* The Executive is bound by law to implement the recommendations of the PAC but this is not strictly enforced. There are some examples of the PAC's recommendations not being complied with. Some of which is evident in Parliament's Hansard. Participants recommend the need for relevant laws to be reviewed to ensure the Executive enforcement of PAC recommendations.
9. *Mechanisms for tracking recommendations.* Participants confirmed the existence of some mechanisms for tracking implementation of PAC's recommendations but this is rarely done.



10. *Collaboration with Anti-Corruption Institutions.* The PAC has good collaboration with PCCP, the anti-corruption institution in Tanzania but this has not been formalized. -PAC works closely with office of the Controller and Auditor General and the Audit Act.

3.4.2. Audit

1. *Appointment of the A-G.* The A-G is appointed by the President and reports to the President. This is provided in the URT Constitution of 1977 and PFA 2004. Participants agreed on the need to review this as part of the upcoming constitutional review exercise.
2. *Submission of Reports of the A-G.* Reports of the A-G are not submitted to the Legislature. The CAGs reports are submitted to the Legislature through the President of the URT. There is need for review through the upcoming constitutional review exercise.
3. *Regularity and Timeliness of Reports* -The Legislature receives regular and timely reports from the CAG. The Audit Act ensures the timelines are met.
4. *Request for Audit.* The Legislature can request the CAG to conduct special audits on its behalf and the CAG is obliged to comply. All requests made so far have been complied with. The enforcement of the Audit Act and PFA 2004 ensure compliance.
5. *Resources and Authority of the CAG.* The CAG has adequate resources and legal authority to conduct audits in a timely manner. The office is now a self accounting entity.- The audit act provides the legal authority of the CAG. The CAG currently has adequate resources to conduct Audits in a timely manner.

CSO view on Parliamentary Oversight

CSO participants unanimously agreed that Parliament has largely been effective in its ability to carry out its oversight function. They assigned Parliament's oversight function a near perfect score of 3.6 out of 4. They acknowledged Parliament's power to form investigating committees to investigate issues of public interest. They cited the Richmond Saga⁷ which was investigated and the recommendations of the PAC being carried out by the Executives. They also gave the example of the National Muhimbili Hospital where public officials were taken to task. CSOs' participants however recommended that the Executive should work on recommendations and furnish its reports to Parliament before the parliamentary session resumes. They advocated for the Oversight Committees to be properly resourced by providing them with a separate budget to enable PAC and other such committees exercise their functions effectively.



Table 4

Name of Parliament Parliament of Tanzania		Assessed Score by Parliamentary Participants	Assessed Score by CSOs Participants
4	Oversight Function		
4.1	Oversight committees		
	Existence of Oversight Committees	4.0	4.0
	Investigative Powers of Oversight Committees.	3.0	4.0
	Oversight of Spending by State Enterprises.	2.0	4.0
	Mechanisms for Oversight Committees to obtain information from the Executive	3.0	4.0
	Power of Oversight Committees to follow up on Recommendations	3.0	4.0
	Access to resources by Oversight Committees	3.0	3.0
	Opportunities for Minority/Opposition Parties	4.0	4.0
4.2	Public accounts committee		
	Existence of a Public Accounts Committee (PAC).	3.0	3.0
	Chair of the Public Accounts Committee (PAC).	4.0	4.0
	Rights and Powers of the PAC	4.0	4.0
	Attendance by Ministers	3.0	4.0
	Openness of the PAC Proceedings	2.0	2.0
	Consideration of Reports of the Auditor-General (A-G)	4.0	3.0
	Independent Investigations	2.0	3.0
	Recommendations of the PAC.	3.0	3.0
	Mechanisms for Tracking Recommendations of PAC	2.0	4.0
	Resourcing the PAC.	3.0	2.0
	Collaboration with Anti-corruption Institutions.	2.0	3.0
4.3	Audit		
	Appointment of the A-G	1.0	1.0
	Submission of Reports of the A-G.	1.0	4.0
	Regularity and Timeliness of Reports	4.0	3.0
	Publication of Reports of the A-G.	4.0	4.0
	Request for Audit.	4.0	4.0
	Resources and Authority of the A-G.	4.0	4.0
	Average Score	3.1	3.4

⁷ In this investigation the Premier Minister and other two ministers resigned as the result of the Parliamentary Committee recommendations led by MP Dr H Mwakymbe



3.5. Institutional Capacity of Parliament

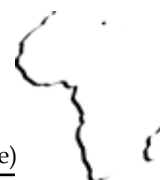
Institutional capacity resources are vital to ensuring the effectiveness of any human institution. With adequate institutional resources Parliaments are more likely to achieve the objectives of their mandates for the betterment of citizens. In this regard, this indicator accessed the financial and material, and human resources of the Tanzanian Parliament.

3.5.1. Financial and Material Resources

1. Power of the Legislature to determine its own budget. The Legislature determines its budget for the year but the Executive makes funds available as and when funds are available. The Executive has occasionally reduced the budget allocation of parliament due to low revenue mobilization and pressure to conform to the limits set within the macroeconomic framework. Parliamentarians thought this contrary to law and suggested that Parliament's budget be categorized into special expenditure vote in order to curb the irregularity of cash flow of funds.
2. Logistics available to the Legislature. The Legislature has basic logistics including office space to enable it perform its functions. There is however the need for increased office space and a new chamber for the parliament.
3. Resources for MPs Constituency Development and Activities. MPs have a constituency development fund which in Tanzania is called the Catalyst Development Fund that is used for development projects in the constituency and is independently managed by the MP and local authority. Participants thought the administration of these funds however needs improvement, to be more accountable.
4. Mechanism for Receiving and Coordinating Technical Assistance. The Legislature has a structured system for receiving technical and advisory assistance from external sources. A fully staffed donor coordination unit exists under the Planning Department of Parliament to administer technical and external resources. There are concerns however about the utilization of resources and advocated for the need for the unit to be transparent in the planning and management of resources and also proposed for it to be resourced adequately.

3.5.2. Human Resource

- 1 Equal Opportunity Employment. The Legislature does not discriminate in its recruitment of staff on the basis of race, ethnicity, religion, gender, disability or party affiliation. Recruitment is done by public service and adheres to non partisan policy.



2. Research and other Support Staff. The Legislature has some support staff but these are not specialists and only provide basic information needs to MPs. There is need for more qualified professionals to be employed to do research and analyze public policy and inform parliamentarians on various subject areas. It was concluded that the performance of the parliament is a reflection of the quality of its staff.

Table 5

Name of Parliament Parliament of Tanzania		Assessed Score by Parliamentary Participants	Assessed Score by CSOs Participants
5	<i>Institutional Capacity of Parliament</i>		
5.1	Financial and material resources		
	Power of the Legislature to determine its own budget.	3.0	3.0
	Logistics available to the Legislature	3.0	4.0
	Resources for MPs Constituency Development and Activities	2.0	2.0
	Mechanism for Receiving and Coordinating Technical Assistance	4.0	3.0
5.2	Human resources		
	Equal Opportunity Employment	4.0	3.0
	Research and other Support Staff.	2.0	2.0
	Average Score	3.0	2.8

CSOs Views on Institutional Capacity of Parliament

Tanzania CSOs thought Parliament generally had the capacity to perform its representational, law making and oversight functions. Participants on the average scored parliament 2.8 out of 4 which is point two (0.2) short of what Parliament scored itself. They specifically perceived Parliament to be adequately resourced, and advocated for Parliament to be granted more power to determine its own budget, and also recommended for an effective M&E system to be put in place to monitor the effective/efficient use of the funds. On human resources, CSO participants were of the view that the legislature does not discriminate in its recruitment of staff however there is the perception that the ruling party has a strong influence in the recruitment process. They called for an improved capacity building for staff in relevant subject areas of public policy.



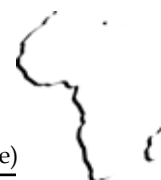
3.6 Transparency and Integrity

As representatives of the public, parliamentarians are expected to be honorable men and women of society, that is, people who would not condone wrong doing. They are expected to be transparent, honest and of high integrity. To this end, Parliament was assessed on the following indicators:

- i. *Existence and Compliance with a Code of Conduct.* Parliamentary participants confirmed the existence of a code of conduct that guides the behavior and actions of MPs. The code which is explicit in the Standing Orders is backed by legislation and strictly enforced.
- ii. *Maintenance of High Standards of Accountability, Transparency and Responsibility.* MPs scored themselves 3 out of 4 on this indicator. They were of the view that some standards of accountability, transparency and responsibility is maintained in the conduct of public and parliamentary work. But this requires more improvement.
- iii. *Mechanisms for Anti-corruption Activities.* Anti-corruption networks exist and members are free and encouraged to join. MPs are motivated to participate in anti corruption activities.
- iv. *Mechanisms to Prevent, Detect and Discipline MPs and Staff engaged in Corrupt Practices.* Mechanisms exist to detect and prevent corrupt practices among MPs and Staff and to bring to justice any person engaged in such activities. These mechanisms are known to all. This is provided for in the Anti corruption laws.
- v. *Declaration of Assets and Business interests.* MPs are required by law and the Rules of Procedure to declare their assets and business interests and this is strictly complied with especially since the Leadership code and ethics Secretariat are in place.

Table 6

Name of Parliament Parliament of Tanzania		Assessed Score by Parliamentary Participants	Assessed Score by CSOs Participants
6	Transparency and Integrity		
6.1	Transparency and Integrity		
	Existence and Compliance with a Code of Conduct.	4.0	4.0
	Maintenance of High Standards of Accountability, Transparency and Responsibility.	3.0	2.0
	Mechanisms for Anti-corruption Activities.	4.0	3.0
	Mechanisms to Prevent, Detect and Discipline MPs and Staff engaged in Corrupt Practices.	4.0	3.0
	Declaration of Assets and Business interests.	4.0	3.0
	Average Score	3.8	3.0



CSOs' Views on Transparency and Integrity

The CSO participants scored parliament 3 out of 4 on this indicator compared to 3.8 by parliamentarians themselves. Participants agreed with parliament on the existence of a code of conduct but disagreed with the other four indicators. They were of the view that the code of conduct was not strictly enforced. There is need therefore to enforce the code and improve the disciplinary machinery. Participants again recommended for MPs to be motivated to join Anti Corruption networks to uphold their moral and ethical standards, and like their counterparts in the Executive, Parliament should enforce and comply with the laws concerning the declaration of assets.



CHAPTER 4

4.0 Prioritization Matrix and Analysis of overall Index

4.1 Prioritization Matrix

As you may have read in the earlier section about the approach of the API, Parliamentary participants especially were also expected to compare and weigh between two indicators to determine the level of importance. The weighting system is a determination of the Parliament's reality in relation to the indicators. By scrutinizing and interrogating each indicator in relation to the other, the Tanzanian parliament was able to review and create a matrix that represents a level of importance of each of the variables in this assessment by allocating a total of ten points between two indicators. The discussions led to a shared vision of the priorities for parliamentary development. The statistic that is generated at the end of the exercise for each of the indicators is the weighting factor for the indicator in the index. The results of the prioritization matrix are presented in appendix 1.

With a computed average weight of (nine) 9 points, and given the current governance environment, Parliament prioritized indicators such as the Legal mandate, Periodic review of the budget, the work of the Public accounts committee, Financial and material resources and Human resources as very important to their work. An above average point of ten (10) was computed for these indicators. Indicators such as Accessibility, Budget review and hearing, the work of Oversight committees and Budget Audit were found to be moderately important as an average point of nine (9) was computed. Of less importance were the Budget act and budget office, and Transparency and Integrity which scored below average points at seven (7). The reasons for this are not farfetched. As was stated in the earlier sections, Tanzania has no budget law which regulates parliamentary involvement in the budget process. The budget office therefore does not exist.

4.2 Analysis of overall Index

An analysis of the overall index showed some interesting results. The results show highly prioritized indicators had relatively low capacity than moderately prioritized indicators. Though highly prioritized, the analysis shows parliament has low average capacity of 2.8 and weighted average capacity of 6.9. This compared with accessibility which was moderately rated by parliament. It was found that Parliament has the human, financial and material resources to do its work and was adequately capable of being accessible to its citizenry. The lowest weighted capacity area is budget act and law (4.7), followed by the capacity to do Budget review and hearing (6.2), Periodic review of the budget and budget Audit with a weighted capacity average of 6.7. See table below for the summary of the analysis.

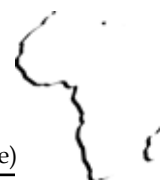


Table 7

Name of Parliament Parliament of Tanzania	Capacity Rating Average (Scale 1-4)	Capacity Rating Weighted Average
Accessibility (Weighting Coefficient = 9)	3.3	7.5
Legal Mandate (Weighting Coefficient =10)	2.8	6.9
Budget review and hearing (Weighting Coefficient = 9)	2.5	5.6
Budget act and budget office (Weighting Coefficient =7)	2.7	4.7
Periodic review of the budget (Weighting Coefficient = 10)	2.7	6.7
Oversight committees (Weighting Coefficient = 9)	3.1	7.1
Public accounts committee (Weighting Coefficient =10)	2.9	7.3
Audit(Weighting Coefficient = 9)	3.0	6.8
Financial and material resources (Weighting Coefficient=10)	3.0	7.5
Human resources (Weighting Coefficient =10)	3.0	7.5
Transparency and Integrity (Weighting Coefficient = 7)	3.8	6.7
TOTAL AVERAGE SCORE	32.8	74.1
MAXIMUM SCORE	44.0	100.0



CHAPTER 5

5.0 Conclusions and Recommendations

The importance of the Legislature as the supreme law making body of the land cannot be over emphasized. Along with this function of the legislature as we have read above, are the functions of presentation and oversight. In a democratic dispensation such as ours, the ability of the legislature to effectively perform its functions is very imperative and a good recipe for ensuring good governance, political and economic prosperity. It is for these reasons that the Tanzanian Parliament welcomed the use of the API tool to assess its capacities in the various subject areas concerning the national budget that includes the legal mandate, financial oversight, accessibility, integrity and transparency among others.

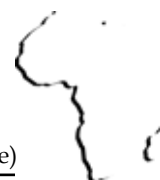
As the independent assessor for Tanzania, it is my candid opinion that the self-assessment method was found to be very useful as it offered parliamentary participants the opportunity to voluntarily reflect and assess their capacities, and the extent to which parliament is carrying out its constitutional mandate to the satisfaction of citizens. It also created some sense of ownership of the process and the desire to improve low rated areas of their work. The API tool however has to be improved in certain areas where definitions of the indicators were quite ambiguous. A number of interventions had to be made to explain a few indicators to the understanding of both MPs and CSO participants. On the whole MPs and CSO representatives were happy with the exercise and made the following recommendations towards improving the capacity of parliament:

- **Improve Parliamentary Capacity to Better Represent the Public**

Though Parliament graded itself high on this indicator, the grading by CSOs was low. This probably means there is some miscommunication somewhere. Parliament would have to make itself more accessible and visible to citizens by communicating its strategy for engagement and making known its role and responsibilities to ordinary Tanzanians. MPs should be encouraged to amplify their important role at every platform and not only indicate where citizens can locate information relating to parliament but also how they can access information. The media is an important partner in communicating governance issues and would be prudent therefore for the public relations department of parliament to actively engage the media.

- **Improve the Legal Framework and Enabling Environment for Legislative Participation**

There is need to improve the legal framework and environment to enable Members of Parliament make meaningful contributions and amendments to the Appropriation Act and other legislations that are brought before the House. As seen in the analysis in chapter 3, this may require a revision of the Constitution, PFA and related documents, supported by laws such as the Budget Law to regulate what Parliament can and cannot do in so far as legislations are concerned. There is need also to increase parliament's capacity to track the outcome of legislations and open up more to citizens to participate in the process.



- **Strengthen Parliamentary Budget Capacity to Actively Participate in the Budget Process**

There is need to strengthen Parliament's capacity to effectively carry out its oversight functions. Some of the challenges that came up during the assessment and as discussed in chapter 3, is the limited time at the disposal of Parliament to review and approve budget proposals and other legislative instruments put before them. They have restricted powers of amendments and lack of independence from the Executive resulting from the constitutional requirement to appoint some members of the executive from Parliament. It is recommended that parliamentary committees are strengthened by staffing them with specialized persons who can analyze proposals and generate good reports. Capacity building on the tools and skills for effective budget oversight should be provided for MPs. The whole budget time table also has to be revised to provide adequate time for parliamentary committees to review and approve. The constitutional provision on appointment may also have to be reviewed to make parliament more independent and unbiased in the execution of their oversight functions.

- **Improve Institutional and Human Resources to Promote Efficiency**

It is recommended for parliament to employ qualified and skilled professionals, taking into consideration geographical, gender and ethnic balance, to support specialized committees like the budget committee office (if it is established), PAC, and even standing committees in order to improve their efficiency in their service to the citizens. This must come with improvement in the conditions of service and equal opportunity for training to promote vertical mobility. This will help maintain skilled staff and ensure continuity of the parliamentary service.

- **Improve Transparency and Integrity of Parliament**

The existence of a code of conduct and other mechanisms does not guarantee transparency and integrity of the institution of parliament. There is need therefore to enforce the codes and improve the disciplinary machinery. It was again recommended for MPs to be motivated to join Anti Corruption networks to uphold their moral and ethical standards, and like their counterparts in the Executive, Parliament should enforce and comply with the laws concerning the declaration of assets.

Appendixes

Appendix 1: Weighting Table.

	Accessibility	Legal Mandate	Budget Review & Hearing	Budget Act & Budget Office	Periodic Review of the Budget	Oversight Committee	Public Accounts Committee (PAC)	Audit	Financial & Material Resources	Human resources	Transparency	Total	Computed Weight
Accessibility		4	4	6	5	4	4	5	4	5	6	47	9
Legal Mandate	6		4	6	4	7	6	6	3	6	7	55	10
The Budget Review and Hearing	6	6		6	4	5	6	6	4	4	5	52	9
Budget Act and Budget Office	4	4	4		4	4	4	4	4	4	4	40	7
Periodic Review of the Budget	5	6	6	6		5	6	6	4	4	5	53	10
Oversight Committee	6	3	5	6	5		5	4	6	5	6	51	9
Public Accounts Committee	6	4	4	6	4	5		6	6	5	7	53	10
Audit	5	4	4	6	4	6	4		7	6	6	52	9
Financial & Material Resources	6	7	6	6	6	4	4	3		5	7	54	10
Human resources	5	4	6	6	6	5	5	4	5		7	53	10
Transparency	4	3	5	6	5	4	3	4	3	3		40	7
Total												550	100

Appendix 2a: Summary Score for Parliamentary Assessment

Name of parliament	Total Assessed Score for Capacity Area	Capacity Rating Average (Scale 1-4)	Capacity Rating Weighted Average	Capacity Area Rating and Observation
Parliament of Tanzania				
REPRESENTATION FUNCTION				
Accessibility (Weighting Coefficient = 10)				
The legislature is open to citizens and the media.	4	3.3	8.3	
The Legislature has a non-partisan media relations facility.	4			
Mechanisms to Promote Public Understanding of the work of the Legislature.	4			
Timely provision of Information to the Public on the Budget	1			A clear structure should be in place for MPs and public on timely budget information
Promoting Citizens' Knowledge and Understanding of the role of MPs in the Budget Process.	3	2.8	6.2	Adequately funded Staffing and documented structure
Relationship between Parliament, CSOs and other related Institutions	4			
Legislative Function				
Legal Mandate (Weighting Coefficient = 9)				
Law Making including the Appropriations Act	4	2.8	6.2	
Power to amend the Appropriations Bill.	1			Review the power of MPs
Opportunities for Public input into the Legislative Process	3			Needed legalized
Mechanisms to Track Legislation	3			Training MPs to create sense of responsibility
Financial Function				
The Budget Review and Hearing (Weighting Coefficient = 9)				
Period for the Review of the Budget by the Legislature.	1	2.5	5.6	Improve time for review at least one month
Existence of an Appropriations/Budget Committee.	2			Establishment of budget committees and budget

Public Hearings on the Budget	1			office
Process for Citizens Participation in the Budget Process	1			Rules of procedure to allow public hearing
Authority to Amend Budget Presented by the Executive.	4			Rules of house should allow
Power to send back proposed Budget for Review	4			
Amendments on Spending and Revenue Proposals.	4			
Information in the Appropriation Approved by the Legislature.	3			Detailed budget books needed
Budget Act and Budget Office (Weighting Coefficient = 7)				
Existence of a Budget Act	2		3.3	Enact budget Act
Existence of a Budget Office	4		5.8	Other laws assume the role of Budget Act however the same is needed
Resourcing the Budget Office	N/A			Resourced as per Budget Act
Access to Information from Central Government Departments and the Private Sector	N/A			Improve communication formalized by MoU
Consideration of Estimates for Defence and Intelligence Services by the Legislature.	4			
Periodic Review of the Budget (Weighting Coefficient = 10)				
Budget Reviews	4		2.7	
Legislative Approval of Reviews	2		6.7	Adhere to the laws of the land
Time allocated for Approval of Reviewed Budget	2			Time for approval should be available
OVERSIGHT FUNCTION				
Oversight Committee(s) (Weighting Coefficient = 9)				
Existence of Oversight Committees	4	3.1	7.1	
Investigative Powers of Oversight Committees.	3			More enforcement needed
Oversight of Spending by State Enterprises.	2			Strengthen oversight function
Mechanisms for Oversight Committees to obtain information from the Executive	3			Review the constitution
Power of Oversight Committees to follow up on Recommendations	3			Review the constitution
Access to resources by Oversight Committees	3			Adequate funding and financial autonomy
Opportunities for Minority/Opposition Parties	4			
Public Accounts Committee (PAC) (Weighting Coefficient = 10)				
Existence of a Public Accounts Committee (PAC).	3	2.6	6.6	Need to be recognized by Act and not rule of

					procedure
Chair of the Public Accounts Committee (PAC).	4				
Rights and Powers of the PAC	4				
Attendance by Ministers	3				Public Finance Act requires it. The Accounting Officer is the known by this Act Review the rule of House
Openness of the PAC Proceedings	2				Improve independent investigation
Consideration of Reports of the Auditor-General (A-G)	4				Reinforcement needed
Independent Investigations	2				Laws have to be enforced
Recommendations of the PAC.	3				Need adequately resourced, however the question was wrongly framed
Mechanisms for Tracking Recommendations of PAC	2				Review the collaboration strategy
Resourcing the PAC.	0				Training MPs on Anti Corruption Strategy
Collaboration with Anti-corruption Institutions.	2				
Audit (Weighting Coefficient = 9)					
Appointment of the A-G	1	3.0	6.8		Review the Constitution
Submission of Reports of the A-G.	1				Review the Constitution
Regularity and Timeliness of Reports	4				
Publication of Reports of the A-G.	4				
Request for Audit.	4				
Resources and Authority of the A-G.	4				
INSTITUTIONAL CAPACITY OF THE INSTITUTION OF PARLIAMENT					
Financial and Material Resources (Weighting Coefficient = 9)					
Power of the Legislature to determine its own budget.	3	3.0	6.8		Parliamentary budget be categorized into special expenditure vote
Logistics available to the Legislature	3				More space needed for MPs and staff
Resources for MPs Constituency Development and Activities.	2				Need improvement
Mechanism for Receiving and Coordinating Technical Assistance	4				
Human resources (Weighting Coefficient = 10)					
Equal Opportunity Employment	4	3.0	7.5		
Research and other Support Staff.	2				More staff required
TRANSPARENCY AND INTEGRITY					
Transparency and Integrity (Weighting Coefficient = 7)					
Existence and Compliance with a Code of Conduct.	4	3.8	6.7		

Maintenance of High Standards of Accountability, Transparency and Responsibility.	3				Need more improvement in their performance Need training through exposure visit
Mechanisms for Anti-corruption Activities.	4				
Mechanisms to Prevent, Detect and Discipline MPs and Staff engaged in Corrupt Practices.	4				
Declaration of Assets and Business interests.	4				
TOTAL SCORE	175.0	33.4	73.8		
MAXIMUM SCORE		44.0	100.0		

Appendix 2b: CSOs Summary Assessment Score

Name of parliament Parliament of Tanzania	Total Assessed Score for Capacity Area	Capacity Rating Average (Scale 1-4)	Capacity Rating Weighted Average	Capacity Area Rating and Observation
REPRESENTATION FUNCTION				
Accessibility (Weighting Coefficient = 10)				
The legislature is open to citizens and the media.	3	2.5	5.6	Communication strategy in place and published
The Legislature has a non-partisan media relations facility.	4			
Mechanisms to Promote Public Understanding of the work of the Legislature.	3			Improve information sharing with the public Simplified documents for public better understanding
Timely provision of Information to the Public on the Budget	2			Budget guidelines should be available online

					Executive budget proposal to be provided one month in advance
Promoting Citizens' Knowledge and Understanding of the role of MPs in the Budget Process.	1				Training for CSOs on budget process Improve knowledge of MPs on budget process
Relationship between Parliament, CSOs and other related Institutions	2				
Legislative Function					
Legal Mandate (Weighting Coefficient = 9)					
Law Making including the Appropriations Act Power to amend the Appropriations Bill.	4	2.8	7.6		Establish independent board of budget in the Legislature to analyze the budget MPs have an opportunity to give input to the budget process Clear rules and Procedures known to Public Create adequate mechanism on tracking legislation Training for MPs to give more responsibility
	3				
Opportunities for Public input into the Legislative Process Mechanisms to Track Legislation	2 2				
Financial Function					
The Budget Review and Hearing (Weighting Coefficient = 9)					
Period for the Review of the Budget by the Legislature.	3	3.3	7.3		Time for review must be at less than two months
Existence of an Appropriations/Budget Committee.	4				
Public Hearings on the Budget	3				Public hearing should be open to all and not practiced through a camera
Process for Citizens Participation in the Budget Process	3				Improve education to the citizens on budget process
Authority to Amend Budget Presented by the Executive.	3				Enhance legal capacity on MPs roles
Power to send back proposed Budget for Review	3				Exercise the rules and procedure where applicable
Amendments on Spending and Revenue Proposals.	4				
Information in the Appropriation Approved by the Legislature.	3				Improve publicity on the same

Budget Act and Budget Office (Weighting Coefficient = 7)			1.8	3.2	
Existence of a Budget Act	2				Enact budget Act
Existence of a Budget Office	1				Establish budget office
Resourcing the Budget Office	1				Improve resourcing as per envisioned budget Act
Access to Information from Central Government Departments and the Private Sector	1				Transparency has to be improved
Consideration of Estimates for Defence and Intelligence Services by the Legislature.	4				
Periodic Review of the Budget (Weighting Coefficient = 9)			2.7	6.0	
Budget Reviews	4				
Legislative Approval of Reviews	3				Review to be approved by Legislature
Time allocated for Approval of Reviewed Budget	1				Review oversight function to give MPs powers on it.
OVERSIGHT FUNCTION					
Oversight Committee(s) (Weighting Coefficient = 9)			3.9	8.7	
Existence of Oversight Committees	4				
Investigative Powers of Oversight Committees.	4				
Oversight of Spending by State Enterprises.	4				
Mechanisms for Oversight Committees to obtain information from the Executive	4				
Power of Oversight Committees to follow up on Recommendations	4				
Access to resources by Oversight Committees	3				Sub votes needed by oversight committees
Opportunities for Minority/Opposition Parties	4				
Public Accounts Committee (PAC) (Weighting Coefficient = 9)			3.2	7.2	
Existence of a Public Accounts Committee (PAC).	3				Improve committee autonomous
Chair of the Public Accounts Committee (PAC).	4				
Rights and Powers of the PAC	4				
Attendance by Ministers	4				
Openness of the PAC Proceedings	2				Improve openness
Consideration of Reports of the Auditor-General (A-G)	3				Reports should be considered by PAC timely
Independent Investigations	3				Apply to all matters that are in public interest

Recommendations of the PAC.	3			Recommendations by PAC enforced
Mechanisms for Tracking Recommendations of PAC	4			
Resourcing the PAC.	2			Adequately resourced
Collaboration with Anti-corruption Institutions.	3			Strengthen the collaboration and formalize it
Audit (Weighting Coefficient = 9)		3.3	7.5	
Appointment of the A-G	1			CAG should be appointed by president and confirmed by Legislature
Submission of Reports of the A-G.	4			
Regularity and Timeliness of Reports	3			Legislature access reports 6 months as per international best practices
Publication of Reports of the A-G.	4			
Request for Audit.	4			
Resources and Authority of the A-G.	4			
INSTITUTIONAL CAPACITY OF THE INSTITUTION OF PARLIAMENT				
Financial and Material Resources (Weighting Coefficient = 9)		3.0	6.8	
Power of the Legislature to determine its own budget.	3			Improve it
Logistics available to the Legislature	4			
Resources for MPs Constituency Development and Activities.	2			Effective M & E in place
Mechanism for Receiving and Coordinating Technical Assistance	3			Establish coordinating Unit
Human resources (Weighting Coefficient = 10)		2.5	6.3	
Equal Opportunity Employment	3			Act neutrality during recruitment process
Research and other Support Staff.	2			train technical staff on research
TRANSPARENCY AND INTEGRITY				
Transparency and Integrity (Weighting Coefficient = 7)		3.0	5.3	
Existence and Compliance with a Code of Conduct.	4			
Maintenance of High Standards of Accountability, Transparency and Responsibility.	2			Enforce the code of conduct strictly
Mechanisms for Anti-corruption Activities.	3			MPs motivated to join the networks
Mechanisms to Prevent, Detect and Discipline MPs and Staff engaged in Corrupt Practices.	3			Improve discipline machinery
Declaration of Assets and Business interests.	3			MPs should comply to the laws of the land
TOTAL SCORE	183.0	31.8	71.2	
MAXIMUM SCORE		44.0	100.0	

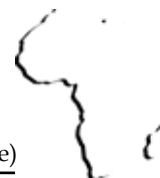


Appendix 3

List of Participants for Parliamentary Self Assessment Session

February 3, 2011

No	Name	MP/Staff
1	LIMBU FESTUS B	MP
2	MPINA LUHAGA JOELSON	MP
3	ZAMBI GODFREY W	MP
4	CHEYO JOHN M	MP
5	ABDALLAH ANNA M	MP
6	KOMU MAULIDAH A	MP
7	MOHAMMED HAMAD RASHID	MP
8	NDUGAI YUSTINO JOB	MP
9	KADAMS HUMPHREY S	MP
10	LIKOKOLA DEVOTA	MP
11	SAKAYA MAGDALENA	MP
12	PALLANGYO PAMELA	Staff
13	KITOSI LINA	Staff
14	MBISE ELISA	Staff
15	CHIKOKOTO MICHAEL	Staff
16	ELIUFOO DANIEL	Staff
17	KADEBE MICHAEL	Staff
18	HANCHA ABDALLAH	Staff
19	BEREGE HERMAN	Staff
Also in Attendance		
20	Dr. Rasheed Draman	PC staff
21	Dr. Anthony Tsekpo	PC staff
22	Mrs. Cynthia Arthur	PC staff
23	Ms. Agnes Titriku	PC staff
24	Dr. Haji H. Haji Semboja	Independent Assessor
25	Mr. Beatus Silla	Independent Assessor



**List of CSOs Participants and Organizations,
March 4, 2011**

No	Name	Organisation
1	KAYAGE JOHNSON	Policy Forum
2	BONIVENTURA GODFREY	HakiElimu
3	KILONZO SEMKAE	Policy Forum
4	BWEMELO JOHNSON JOEL	Movement of Poverty Eradication
5	YOBU NEEMA	Foundation for Civil Society
6	KAPONA AYOUB	Foundation for Civil Society
7	SICHALWE EVANS	Legal and Human Right Centre
8	REUBEN ROSE	Tanzania Media Women Association
Also in Attendance		
9	CYNTHIA A. ARTHUR	Parliamentary Centre
10	MBISE ELISA	Parliament of Tanzania
11	Dr. HAJI H. HAJI SEMBOJA	Independent Assessor
12	SILLA BEATUS	Independent Assessor



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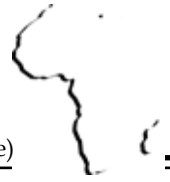
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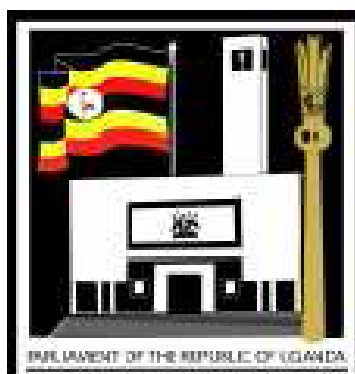
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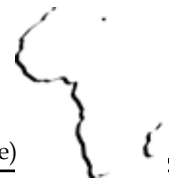
CHAPTER 5



AFRICAN PARLIAMENTARY INDEX COUNTRY SELF ASSESSMENT REPORT FOR THE PARLIAMENT OF

UGANDA

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CHAPTER 1

1.0 BACKGROUND

1.1 The Legislature - An Overview of the functions of the Parliament in Uganda

In Uganda, the Parliament is constituted by the elected representatives to Legislative Assembly with the Speaker as the head. Parliament has power to make or amend laws for the "peace, welfare and good government" of the State. This power is referred to as the "plenary power" of the Parliament. One of the principal functions of any Legislative Assembly, therefore, is to be an integral part of the law-making or legislative process. It is in the Legislative Assembly where Bills (law-making instruments) are introduced, debated, amended and passed. When a Bill is passed it is given presidential Assent by the president and, at that time, converted to an Act - a new law or an amendment to an existing law. In that regard the functions of the Parliament of Uganda are:

- I. To pass laws for the good governance of Uganda.
- II. To provide, by giving legislative sanctions, taxation and acquisition of loans, the means of carrying out the work of Government.
- III. To scrutinize Government policy and administration through the following:
 - a. Pre-legislative scrutiny of bills referred to the Parliamentary committees by Parliament
 - b. Scrutinizing of the various objects of expenditure and the sums to be spent
 - c. Assuring transparency and accountability in the application of public funds
 - d. Monitoring the implementation of Government programmes and projects
- IV. To debate matters of topical interest usually highlighted in the President's State of the Nation address.
- V. To vet the appointment of persons nominated by the President under the Constitution or any other enactment.

In essence and in view of the above enumerated functions, the legislature as a branch of government aims at promoting good governance by enhancing the rule of law, accountability, participation, and transparency. The legislature performs three main functions: these are to (i) make laws (ii) oversee the activities of the judiciary and the executive (iii) oversee governmental agencies as well as ensuring that representational roles of the elected members of parliament are performed. The legislative function of the parliament is integral to the rule of law. The legislative oversight function enhances accountability and transparency. By elected members of parliament performing their constituency and legislative work, the accountability and transparency are strengthened. Parliament exercises other financial powers as provided for by articles by the 1995 Constitution as well as the rules of procedure among others. Parliament scrutinizes the performance of the executive. It plays this oversight role in order to ensure that the implementation of public policy conforms to the approved developmental agenda of the state and that expenditure incurred is in accordance with parliamentary authorizations. In parliament grievances are vented with the aim of seeking redress. Nonetheless this ought to be supported by continuous consultation so as to foster participation.



The Parliament of Uganda's legislative functions are derived from article 77 of the 1995 Uganda Constitution as well as Article 94 of the rules of procedure. Under the same constitution, additional powers are assigned to the legislature through its varied committees. The legislative activities of the Uganda parliament are largely executed by the Parliamentary Committees that monitor the policies in detail on a continuous basis. These committees produce reports on varied subjects, which they feel deserve the attention of the entire house.

Specialized committees have emerged as fundamental tools for legislative oversight. For example the Public Accounts Committee (PAC) serves the audit function of parliament, making it a core institution of public financial accountability. On the other hand, the constitution vests in the speaker the responsibility of summoning parliament. Most matters in parliament are determined through votes of the majority of members present and voting. Matters cannot be determined unless half of all the members of parliament are present.

In the event of need for detailed information, the Parliament sets up particular committees and/or Commissions of Inquiry (COI) and invites the relevant members of the public and interested parties to come and state their views or give explanations before them. The opinions, reports as well as resolutions of the Parliament, prepared by the specialist committees, often influence Parliament's proposals and hence common policies.

Under the rules of procedure as well as the Administration of Parliament Act, the office of the speaker and the deputy speaker are provided for and stipulated. The same legal instruments provide for the office of the clerk to parliament, the deputy, the various commissioners of parliament as well as the varied committees and their respective chairpersons. Further still, the same legal instruments stipulate the seating arrangements¹.

In performing its legislative function as provided for in the constitution, Parliament is responsible for ensuring that propositions that are put forward by the executive are duly studied and scrutinized. In that regard, Parliament as an institution has "supreme" status. In theory this implies that parliament is independent and assumes a great degree of rationality in going about its work. In effect the executive cannot be certain to get its policies enacted into legislation although many a time, this contradicts practice.

In Uganda, there exists a democratically elected Parliament. This makes parliament an institution that is accessible and informative to the public. It serves as a forum with the Member of Parliament serving as the communication link between his constituents and government. He/she is able to draw attention to socio-economic challenges dogging his constituents through motions, debates, questions etc. Parliament also plays deliberative functions in which it debates an array of policy issues some of which result in the passage of resolutions.

¹ When Uganda changed from Movement system of governance to Multi-Party politics, the office of the leader of opposition was created.



Deliberations may throw light on underlying tensions in society and help foster consensus building and reconciliation. All these roles as stated are achieved through parliamentary proceedings, otherwise referred to as parliamentary business. Parliamentary business is conducted in plenary and in committees.

1.2 The Parliament and the Budget Process in Uganda

The budget process is part of a country's specific political, economic, and institutional framework. The budget in many ways represents the process of decision-making regarding the income and expenditure guidelines available for the country. It is through this process that the government plans and determines how and what to spend on the various sectors, basing it on the available and expected resources. This is not unique to Uganda but rather a process that all countries undertake. In Uganda this is reinforced by Article 115 of the 1995 Constitution and augmented by Article 5(1) of the Budget Act which stipulates that; all accounting officers are required to submit preliminary budget estimates for the subsequent year to the office of the president by 15th February.

Furthermore, Article 5(2) of the same Act stipulates that estimates prepared and submitted under subsection (I) shall be handed to the parliament by the President. By implication the Budget Act sets out key dates for delivering key documentation related to the budgetary process as well as availing the legislature enough space to contribute to the budget process. In view of the above, the Budget Act makes it compelling to the Executive to make the budget process more open, transparent and consultative through the involvement of all stakeholders.

1.2.1 The Budget Consultative process

Every October, the Ministry of Finance, Planning and Economic Development (MoFPED) organizes a consultative workshop that brings together all relevant stakeholders involved in the budget process. These include: The Parliament, representatives of the varied ministries, the donor community, the Civil Society Organizations and the Private Sector and the Local Governments among others. They come together to discuss and share information on the government's economic performance as well as the available resources for the Medium Term Expenditure Framework (MTEF). The same forum also discusses the modalities for resource allocation. This involves goal and objective setting, as well as review of progress made in terms of service provision over the previous year. In addition, the same meeting makes an effort to understand the challenges and bottlenecks that were encountered in the preceding year and how these can be avoided in the subsequent year.

1.2.2 Drafting of the Budget Framework Paper

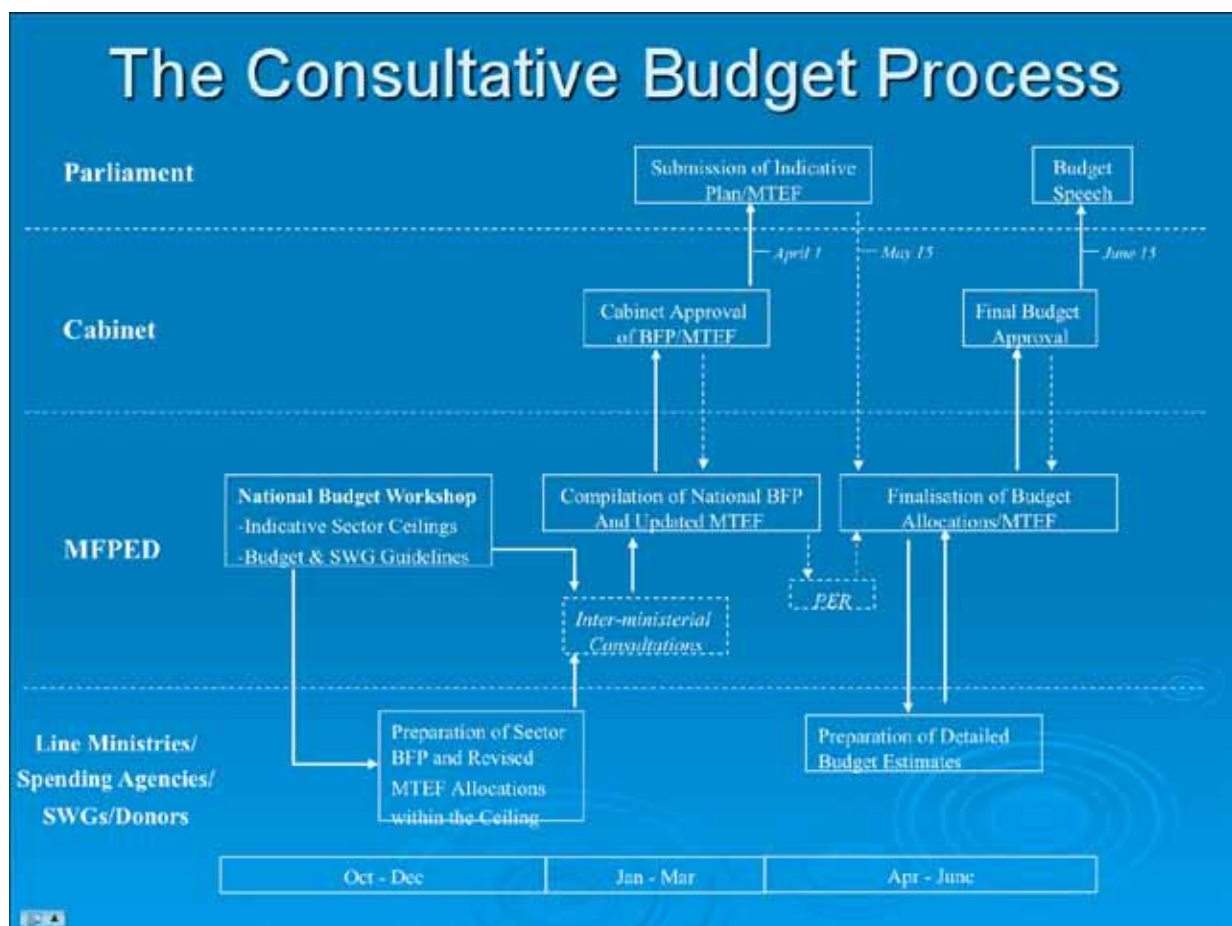
Between January and March the Ministry of Finance holds a meeting with other ministries to prioritize as well as agree on resource distribution among different sectors. This process culminates into the finalization of sector reports which are then consolidated into what is referred to as the Budget



Framework Paper (BFP). The BFP is handed to cabinet for subsequent ownership and approval. The approval and/or endorsement process is presided over by the Head of State.

Between the months of March and April, Ministries, Districts Local Governments (DLG) as well as line government commissions submit their budget to the Ministry of Finance which further conducts consultations with ministries and other institutions. It ought to be pointed out that Ministry of Finance concludes this process by meeting the respective Parliamentary committees so as to harmonize and debate the proposed budgets. This process provides critical opportunities for legislative oversight. The process is crowned with a national budget speech, presented to Parliament by the Finance Minister. Parliament debates and approves the Budget before the funds can be spent by Government.

An illustration of the Budget process in Uganda



*Adopted from Magona, M. Policy, Budgeting and Oversight:
The Role of the Legislature in Uganda*



CHAPTER 2

2.0 Overview of the purpose of the Africa Parliamentary Index

The African Parliamentary Index (API) is a set of indicators that show the level of engagement of selected African Parliaments in the budget process in their respective countries. Through the Africa Parliamentary Strengthening Programme (APSP) for Budget Oversight, partner parliaments' ability to carry out their legislative, financial, oversight and representative functions are enhanced. This is done in ways that engender good governance and the values of accountability, transparency and participation, especially in the budget process.

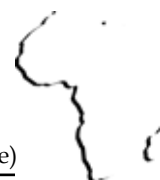
This is premised on the fact that the budget process is a key area of focus for Parliaments and relates closely to poverty reduction because government budgets are about the allocation of scarce resources that affect the lives of citizens who parliamentarians in democratic states represent. It is, therefore, imperative that parliamentarians are equipped with the necessary tools with which to perform their role in the budget process and increase their understanding of the salient elements that are of direct relevance to poverty reduction in their respective countries.

It is imperative to point out that although the APSP strives to assist partner Parliaments in developing and implementing plans that strengthen their role in providing effective oversight of the national budgeting process, the APSP also recognizes that the organization, powers and effectiveness of Parliaments vary widely. This recognition has reinforced the need for a set of indicators against which the performance of partner Parliaments can be measured. These set of indicators would be aggregated into an index to describe different Parliaments in terms of the key indicators of APSP.

2.1 Objectives of the Index

As earlier pointed out, the purpose of the African Parliamentary Index is to present a standard and simplified system for assessing the performance of Parliaments in Africa, especially Parliaments in the seven core countries that make up the APSP project. In that regard, The API provides a simplified way of assessing different Parliaments engaged in the APSP on the key objectives of the programme. In light of the above, the core objectives of the API are:

- a) To assess partner Parliaments against international best practice for budget oversight
- b) To present a standard and simplified system for assessing the performance of selected Parliaments on budget oversight
- c) To identify priorities and entry points for strengthening partner Parliaments
- d) To stimulate Parliamentary progress towards achieving the goals of the programme.



2.2 Approach and Methodology

During the exercise, self-assessment method was used to generate information from a cross section of Members of Parliament (MPs) that were divided in three working groups constituting twelve (12) people. The MPs were joined by members of the Parliamentary Commission staff. Each group was moderated by a chairperson who was chosen by the members. Each group was also backstopped by an “independent observer”, who also took notes. Each of these groups worked on different sections of the assessment tool, while one group worked on the weighing index. The results of the group work were shared in a plenary session at the end of the exercise.

The aim of working in small groups was to ensure that each member of the self assessment team participates fully in answering the questions on all the issues under review. Indeed the groups discussed and assessed the Parliament on the sections of the tool assigned to them by the moderator who also doubled as the chairman.

The self-assessment method was found to be useful because the participants were given an opportunity to voluntarily reflect and assess their responses. This was also premised on the fact that the highest authorities of Parliament are convinced that self-assessment against best practice criteria can help to strengthen the legislature. Further still, self assessment is the best way of ensuring that Parliament assumes ownership of whatever findings and conclusions that would emerge from the exercise.

Each group discussed extensively the issues under review and scored each indicator on a scale of 1 to 4. For instance, each of the scales was defined as follows:

- ▶ 4 High level of capacity in place
- ▶ 3 Moderate level of capacity in place
- ▶ 2 Basic level of capacity in place
- ▶ 1 Clear need for increased capacity

During the assessment, every indicator under review was clearly described in-terms of parliament standing. This was done with an aim of providing a guide to members while assessing and scoring. In areas where the status of issues in parliament was the same, a relevant score was assigned. Yet in some particular circumstances, the group awarded scores that were in between the assigned score. For instance it was common to find score of 2.5, or 3.5. Nonetheless evidence was provided by the group to justify those scores.

2.3 Scope and Areas Assessed

The self assessment tool covered 5 core areas – (i) representation, (ii) legislation (iii) financial, oversight (iv) institutional capacity (v) institutional integrity. The areas assessed related to the Parliamentary budget oversight and other core functional areas that directly affect Parliaments’



financial and oversight roles. The questions were largely qualitative with an overall intention of giving greater clarity in response. In effect, the assessment tool allowed each area of Parliament's responsibility to be assessed separately.

2.4 The prioritisation matrix

During the assessment, one group worked on the prioritization matrix. Here each identified indicator was prioritized in relation to the other indicators in the matrix. By scrutinizing and interrogating each indicator in relation to the other, the group was able to review and create a matrix that represents a level of importance of each of the variables in the assessment. In the matrix, the indicators were listed vertically on the y-axis and horizontally on the x-axis. The intention was to demonstrate the interaction that exists between them. Yet members had the task of assessing the level of importance of each indicator in relation to the others and allocate a total of ten points between the two to show which one is more important. The discussions led to a shared vision of the priorities for parliamentary development. The results of the prioritization matrix are presented in the appendix II



CHAPTER 3

3.0 A Detailed analysis of the Index

3.1 Representation

Legislators act as mediators for constituents in dealings with government agencies; and they act individually or collectively to represent constituent interests in the policy-making process. Electing Members of Parliament (MPs) gives citizens an opportunity to voice their concerns, issues and interests. Parliamentary representation offers the citizens the single most important platform to participate in the affairs of their country and in holding the government to account for its actions. When citizens vote for an MP, they inadvertently think that there will be someone to present issues on their behalf and when they ask questions of national, regional and local significance, someone will be there to represent them.

Parliament embodies the will of the citizens and therefore provides the space for the expression of that will. In that regard effective representation requires MPs to continually interact with their constituents in order to understand their views and perspectives and to use various legislative or parliamentary processes such as questions, motions, resolutions and other oversight mechanisms to bring these to the attention of implementing institutions for redress. Whence, MPs make a difference by contributing to the making of legislations that enable their constituents to overcome certain challenges that pertain to a certain region or locality. By working with the varied structures of parliament and through their parties they help to make decisions for those they represent.

By and large, the effectiveness of the representational role of the MP and for that matter the Legislature depends to a large extent on the quality of the interaction between constituents and MPs. The API assesses the extent to which Parliaments represent the views of citizens in the budget process. To this extent the API assesses the degree to which the legislature is accessible to the public and the efforts of the Legislature to get the public to understand its role.

The following issues were assessed: a) The Legislature is open to citizens and the media; b) Opportunities exist for the media to access proceedings of the Legislature and other information in a timely manner; c) The Legislature has a non-partisan media relations facility; d) The Legislature has mechanisms to promote the public's understanding of its work; e) Information is provided to the public in a timely manner regarding budgets under consideration by the Legislature; f) The Legislature promotes citizens' knowledge and understanding of legislators' roles in the budget process. The results of the discussion are hereunder presented in the subsequent section.

3.1.1 Accessibility

It was found out that the *Legislature is accessible to citizens and the media*. This is guided by a framework and communication strategy of the Parliament. Parliamentarians and staff were



in agreement that there exists a parliamentary press association, which gives live broadcast of parliamentary sessions. Indeed, such live sessions are usually broadcasted twice a week between 3pm and 5pm every week on Wavah Broadcasting Service (WBS). While this effort is laudable, citizens tend to pay more attention only during budget readings and the State of the Nation address. These two are widely broadcasted on almost all television and radio stations in the country. Nonetheless, this represents a high level of capacity in place according to the index.

In spite of this, citizens often complain of not being able to access their legislators until election time when they go back to ask for more votes. It is common to hear such complaints during phone in radio talk shows. It is also worth mentioning that the live parliamentary broadcasts can only be accessed by a few people who have access to television, and radios, and given that the proceedings are in English- only the literates are able to follow through. Communication strategy exists but does not focus on accessibility by citizens and media. The CSOs recommended that the legislature should come up with a public awareness framework which should be printed out and disseminated to people in their local languages. The CSOs also recommended that people should be sensitized about their rights. In light of the above, the MPs recommended an improvement of their communication strategy and documentary framework to improve accessibility to enable improved and increased flow of information related to budget planning and oversight function of parliament. Important to note is that such information can be simplified and passed on in languages that can be understood by the citizenry. One can therefore argue that although the Legislature is accessible to citizens and media and guided by a framework and communication strategy of the legislature, representing a high level of capacity, information and recommendation from the assessment seems to suggest there is a clear need to build more capacity in this area.

1. The *Legislature has non-partisan media relations* represented by a non-partisan media association. This parliamentary media association which gives access to all media houses and is perceived to be non partisan, is guided by a code of conduct. This is guaranteed by the constitution of the Parliamentary press association. The evaluation from the CSOs was in agreement with this rating and pointed out that on the whole the media has not complained. They also called for upholding of the status quo. It is worth pointing out however that no independent media centre exists for parliament. There is indeed a government run media centre which parliament sometimes uses for communications raising questions about the objectivity of reportage. Policies which are aimed at giving government clout are more hyped. On the whole however, there exists a balanced and non-partisan media relations environment, demonstrating a high level of capacity 3.
2. In regard to *mechanisms to Promote Public Understanding of the work of the Legislature*, it was found out that No mechanisms exist to promote the public's understanding of the work of the Legislature. However the Legislature makes an attempt to promote public understanding of its work sometimes. It was thus noted that the Parliamentary Public Relations Officer (PRO) rarely goes to the media, thus



the public, a fact that creates a misconception and limited understanding about work of parliament. Parliamentarians noted that no mechanisms exist to make the work of parliament understood to the public. As a result, many citizens only have a vague idea about the legal mandate of their parliamentarians. It is little wonder that citizens place unrealistic demands on members of parliament. On the other hand the CSOs believe that mechanisms exist to promote public understanding of the Legislature's work. But they added that these are not followed and not well structured. They pointed out that procedures do exist but they are not followed. They called for an enforcement policy framework that can raise public awareness about the roles of the legislature.

MPs recommended that the public relations officer of parliament needs to be in regular contact with the public via media channels so that a proper line of communication and understanding is established. This clearly demonstrates a low level of capacity in this area.

3. ***Timely provision of Information to the Public on the Budget.*** It was revealed that information is provided to the public as and when the Legislature deems it necessary regarding budgets under consideration by the Legislature. It was also observed that there is no legal requirement that binds parliament to provide information. The CSOs' assessment reveals that information is provided to the public as and when the Legislature deems it necessary regarding budgets under consideration by the Legislature. They said that such information is provided especially when there is need to promote special interests. The CSOs emphasized the need to enforce the legal framework under the budget process.

The absence of regulation compelling them to do so compromises the capacity of parliament to being accountable to the citizens on the budget. The only avenue of letting the public in on the budget is through its reading. Such a situation may lead to citizens' views being left unheard on budgetary allocations. There is therefore need for regulations that make it mandatory for regular dissemination of budgetary proceedings so that the citizens can hold their representatives accountable. Also, there is a clear need to increase parliamentary capacity in this area.

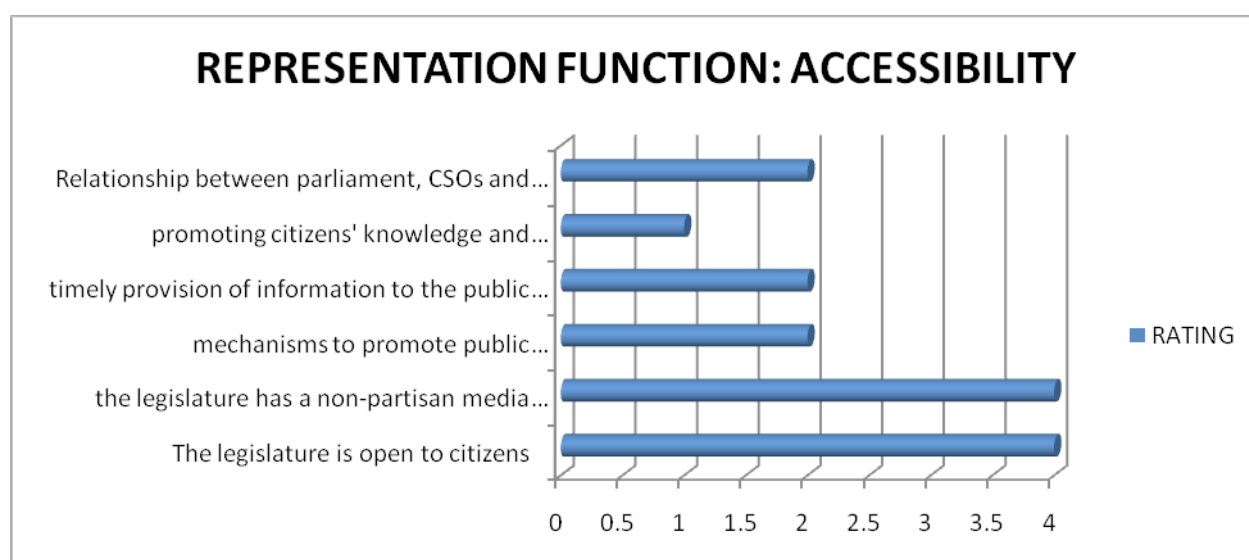
4. ***Promoting Citizens' Knowledge and Understanding of the role of MPs in the Budget Process.*** No mechanism exists to promote citizens' knowledge and understanding of the role of MPs in the budget process. Very little attempt is made to promote this interest among the public. What this results in is ignorance of citizens of their rights regarding access to information on the budget, and it also creates loopholes for MPs not to be accountable to the public regarding the budget allocations. Indeed it is interesting to note that CSOs feel that Mechanisms exist to promote citizens' knowledge and understanding of the role of MPs in the budget process. Nonetheless CSOs believe that these are not well structured and not followed. Hence they recommended that mechanisms should be followed and information disseminated to the general public.



In view of the above MPs recommended that mechanisms be put in place to encourage regional sessions of parliament, so that the public can follow and understand the roles of their representatives in the budgetary process. In terms of the Index, parliament is evaluated as having no capacity in this area and this reflects negatively on parliament. Hence there is a clear need to increase parliamentary capacity in this area.

5. As regards the *relationship between Parliament, CSOs and other related Institutions*, it was found out that there are no clear guidelines in the Rules of Procedure and/or other laws governing the relationship between the Legislature and CSOs and other institutions. The relationship is ad hoc and determined by the Legislature. Nevertheless, CSOs believe that there are clear guidelines in the Rules of Procedure and/or other laws governing the relationship between the Legislature and CSOs and other institutions. The guidelines provide entry points for CSOs' input into the work of the Legislature. This is evidenced by a good relationship and structures in place between parliament and CSOs. They recommended that such a relationship should be upheld. This demonstrated a varied view of how the CSO and Parliament view the relationship between them. However, given that CSOs play a major role in bridging the gap between the populace and the leadership, low levels of capacity as admitted by the legislature in this area affect the level of input from the public. And yet we are aware that CSOs play a leading role on voicing citizens' issues and demands as well as contributing to parliamentary debate. It also affects the responsiveness of parliament to public needs. It was recommended that clear guidelines be developed and put in place to allow CSOs to systematically interface with parliament as a way of ensuring that the needs of the general population are catered for.

Figure 2: Representation Function: Accessibility





Source: MPs and parliamentary staff self assesment, 2010

The above graph demonstrates that in evaluating the representative function of Parliament, it is discernible that all respondents were in agreement that the legislature is open to citizens, and that the legislature has a non partisan media center. There is no doubt these two Indicators exhibit the true features of representation. What is however important to note is indicators such as promoting citizens' knowledge and understanding of MPs in the budget process as well as building the relationship between parliament, CSOs and other related institutions were lowly rated, an indication of very low parliamentary capacities in these areas.

Equally evident is the fact that there are weak mechanisms for promoting public understanding of the work of the legislature. In that regard, the low scores exhibited by the above indicators overall represent a weak accessibility function by the Ugandan Parliament in as far as the budget oversight function of parliament is concerned. And yet we are aware that the legislature is an institution where different interests and preferences are expressed and transformed into policy, marking a point at which people engage their national governments. While the Ugandan Parliament has clearly made efforts to provide equal access to all, the low score combined with a number of examples cited earlier paint a picture of "barriers" relating to legislative accessibility, and though one can rightly argue that the Ugandan parliament meets the minimum requirements for accessibility, there is need to increase and adopt guidelines to improve accessibility not only to re-enforce democracy but also make public choices work.

**Table1.Comparative Rating of Parliament by CSOs and Parliamentarians.
Representation Function.**

REPRESENTA TION: Accessibility	Ratin g by parlia ment	Ratin g by CSOs	Evidence	comments /way forward
The legislature is open to citizens and the media.	4	3	Live broadcasts of parliamentary sessions, and presence of parliamentary Press Association	There is need for all committees to be opened to the public. There should be a publicized legal framework for communication for the public.
The Legislature has a non-partisan media relations facility.	4	4	Existence of the parliamentary press association, and there are no comments from the media.	Maintain status quo.



Mechanisms to Promote Public Understanding of the work of the Legislature.	2	3	PRO rarely goes to the media and there is misconception about parliaments work. Procedures exist but are not followed	Raise public awareness about legislature's role and improve public relations.
Timely provision of Information to the Public on the Budget	2	2	No legal requirement by parliament to provide information, information only provided to promote special interests.	Enforce the legal framework under the budget process and regulations for dissemination are required.
Promoting Citizens' Knowledge and Understanding of the role of MPs in the Budget Process.	1	3	Mechanisms exist but they are not well structured and followed	Encourage regional sessions of parliament. Mechanisms should be put in place for information dissemination to the public.
Relationship between Parliament, CSOs and other related Institutions	2	4	Parliament does not provide clear guidelines on the relationship with CSOs nevertheless there is a good working relationship between parliament and CSOs.	Relationship should be well structured. Maintain the good relationship.

3.2 The Legislative Function

Lawmaking is a core function of the Legislature and is in most jurisdictions vested by the constitution of that country. In other jurisdictions the legislative power is vested by an Act of Parliament. The legislative function of parliament refers to the process of initiating, considering and enacting laws. Various legislatures develop various steps through which legislation proceeds to be enacted into law. Legal mandate of the Parliament offers it power to ensure that the proposed legislation is sufficiently considered and deliberated upon.

Therefore it is needless to emphasize that MPs require knowledge and expertise in a myriad of technical areas. In that regard, the Index assessed all the factors that affect the effectiveness of the



Legislature in executing its legislative function. The assessment covered Parliaments' legal mandate with emphasis on the source of the authority of the legislative power, whether the public has access to input into the legislative process and whether the Legislature has a mechanism to monitor the impact of laws passed.

3.2.1 Legal Mandate

1. *Law making including the appropriations bill:* The parliament has power to make laws including those that pertain to the appropriations bill. This is provided for in the constitution, Article 79 of the constitution which gives the parliament powers to enact laws for the good governance of the state of Uganda. The CSOs were also in agreement with the above rating. They indeed justified their assessment by citing article 79 and article 156 of the 1995 Ugandan constitution. Indeed there is a high level of capacity in this area, and parliament duly carries on its function of making laws, even those regarding the appropriations bill.

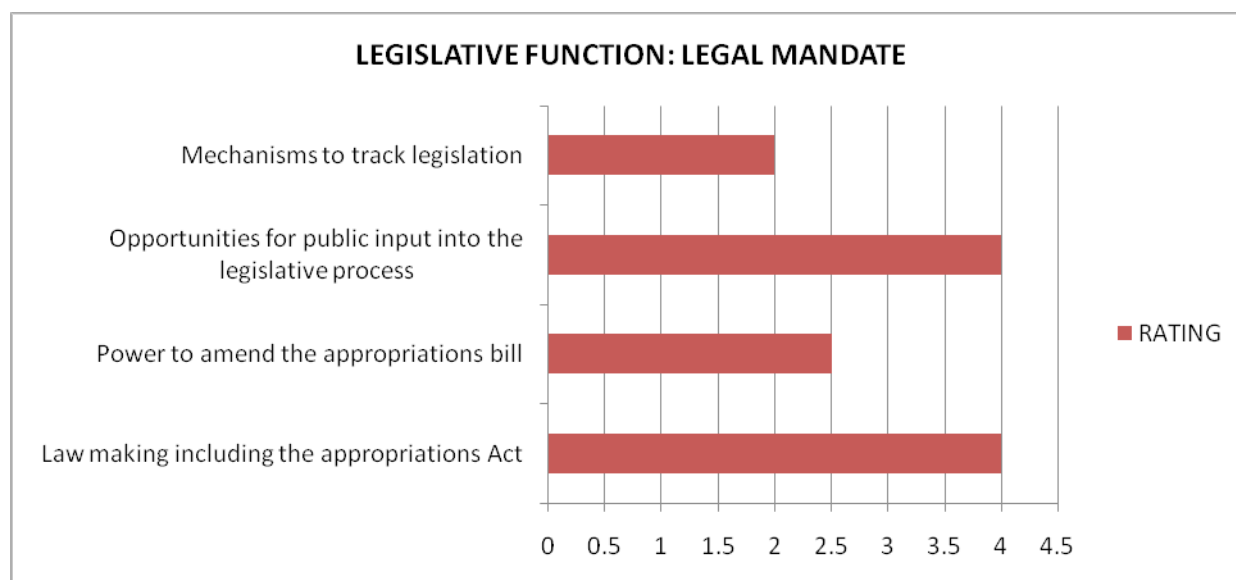
2. About the *power to amend the Appropriations Bill*, it was found out that the Legislature has power to amend the Appropriations Bill but the budget ceiling/total appropriation cannot be exceeded. This is provided for in the Constitution, in the Rules of Procedure and Budget Act. The CSOs were somewhat in agreement with the assessment. They pointed out that article 155 and 156 of the 1995 Ugandan constitution provided for the same. They however recommended that there should be efforts to limit the executive's influence and efforts must be made to uphold the constitution. In light of the above, MPs recommended that it would be imperative to amend article 154 of the constitution to remove the seal on changing the consolidated fund. This indicates a moderate level of capacity in this area. For, changes need to be made to give parliament more powers of amending the appropriations bill.

3. *Mechanisms to Track Legislation.* It was found that some mechanisms exist for the Legislature to track legislations that have been enacted, but this is not adequate enough and needs to be reviewed. CSOs on the other hand believe that mechanisms exist for the Legislature to track legislations that have been enacted. For some resources exist to provide evidence on the impact of specific legislations but this is not adequate. Their point of evidence is that mechanisms do exist but there is limited capacity on the side of MPs, hence the need to strengthen mechanisms for tracking legislatures including the human resource. MPs on the other hand argue that there is lack of resources to provide evidence on the impact of legislation. This is evidenced by a bill tracking system. They point out that although a bill tracking system exists, it needs to be updated for members to be able to track legislation. Overall this indicates a low level of capacity in this field and therefore shows inadequacy in the ability of the legislature to follow up on the laws it enacts. Clearly there is a need to build and improve capacity in this area.



4. ***Opportunities for Public input into the Legislature.*** Adequate opportunities exist for citizens to input into any legislative process. These are provided for in the Budget Act, in section 6(4) where a member of the government or public may appear before parliament to give evidence on an item in the budget, Rules of procedure and the Constitution. Members indicated that there is a high level of capacity in this area. CSOs seem to agree that adequate opportunities exist for citizens to input into any legislative process. These opportunities are contained in the Rules of Procedure or other laws/instruments and are made public. They point out that opportunities are there although the public seems to be unaware. They recommended that parliament should publicize the rules of procedure. MPs however pointed out the need to improve on gazetting of Bills. The MPs also underscored the need for more sensitization about the powers of the public based on the Constitution and Law.

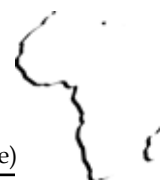
Figure 3: The Legislative Function: Legal Mandate



Source: API Assessment 2010

In the above figure, it is noticeable that the participants assessed the Ugandan parliament to be strong on two indicators relating to legal mandate. Needless to mention, the legal mandate of any legislature is rooted in the national constitution. It must also be pointed out that this mandate also enables the legislature to fulfil its functions in democracy – that is representing people or groups and rule making. Hence rule-making is an important undertaking of the legislature in the country.

The above graph reveals that the Ugandan Parliament is ranked strong when it comes to law-making including the Appropriations Act. The graph also shows that the parliament was also ranked to have strong capacity in providing opportunities for public input into the legislative process. This is very critical and instrumental in rule application and rule functioning especially in democratic societies. The parliament was ranked moderately when it came to power to amend the appropriations Bill. The lowest ranking was given to the mechanisms to track legislations. The two lowly ranked indicators



imply that the failure of the parliament to track legislation demonstrates weaknesses in the rule-management and/or rule functions process. Tracking of legislations is important in smooth rule-function and strengthening. Hence it is imperative for the Ugandan Parliament to establish strong mechanisms in tracking legislations.

Table 2. Comparative Rating of Parliament by CSOs and Parliamentarians. Legal Mandate

Legal Mandate	Rating by parliament	Rating by CSOs	Evidence	Comments/way forward.
Law Making including the Appropriations Act	4	4	Provided for in the 1995 constitution, article 79 and 156.	Maintain status quo.
Power to amend the Appropriations Bill.	2.5	3.5	Provided for in the constitution, article 155 and 156 and in the rules of procedure.	Limit the influence of the executive, and amend article 153 to remove a seal on the consolidated fund.
Opportunities for Public input into the Legislative Process.	4	3.8	These are provided for in the Budget Act, rules of Procedure and the constitution, but the public is largely not aware of them.	The practice of inviting public input should be further encouraged; and improve on the gazetting of bills.
Mechanisms to Track Legislation	2	3	A bill tracking system exists but is not updated, and MPs lack capacity.	Strengthening of research department of Parliament and strengthen parliamentary mechanisms for tracking legislation.



3.3 Financial Function

The Legislature's financial function is one of its major responsibilities. It is referred to as the Legislature's power of the purse in parliamentary parlance. The power of the purse implies that it is the Legislature that controls the resources/finances of the State and therefore its responsibility to disburse such resources. As representatives of the people, it is the Legislature that must approve of taxes and also determine how those taxes are expended. Thus the financial function transcends the mere allocation of funds to encompass a general understanding of economic indicators and how decisions of the Legislature such as increases in taxes and the imposition of levies impact on economic activity generally.

Among others, the following issues were assessed: a) the time-frame available to the Legislature to review the budget once submitted to the House; b) Whether the Legislature has an Appropriations/Budget Committee and whether the budget review function is performed by a single Committee or a number of Committees; c) Whether Legislative Committees hold public hearings on the budget estimates; d) extent of public participation in the budget process; e) Whether the Legislature has power to amend the budget after submission by the Executive; f) Authority to send back budget to the Executive for revision.

3.3.1 The Budget Review and Hearing

1. *Period for the Review of the Budget by the Legislature.* The Legislature has at least 3 months to review the budget according to the Constitution Budget Act 2001 and Rules of procedure. On the other hand the CSOs were not in a position to give an assessment as all groups were not sure of whether the time given was adequate or not. Nonetheless, the members of parliament advised that there is need to increase the review period of the Medium Term Expenditure Framework (MTEF) to 2 months. There was indication of strong level of capacity in this area, given that the members of the legislature have enough time to review the budget.
2. *Existence of an Appropriations/Budget Committee.* There is an Appropriations/Budget Committee but it shares the mandate of the review of the budget with other standing/select committees. These are provided for in the Constitution, the Budget Act of 2001 (19)1 and the Rules of procedure. In agreement with the MPs, members from the civil society were of the view that the committee has the sole mandate. The CSOs however pointed out that the committee should be made up of very competent people who should make the right decisions. Members of parliament however observed that the status-quo should be maintained. In this area, there is evidence of strong level of capacity.
3. *Public Hearings on the Budget.* It was pointed out that The Appropriations Committee and other Committees only hold public hearings when the Chairperson and members so decide. These are provided for in the Constitution, Budget Act 2001 and the Rules of procedure. The CSOs were in agreement with the rating and they too referred



to the constitution and the Appropriations Act to attest to this but called for more public awareness on the same. Indeed the members of parliament also argued that there is a need to institutionalize the public hearings implying the need to increase some level of capacity.

4. ***Process for Citizens Participation in the Budget Process.*** The process for the participation of citizens in the budget process is effective indicating a high level of capacity in this area. The process is well documented and is an integral part of the communication strategy of the legislature and known to the public. The Constitution, the Budget Act 2001 (12)³ as well as the Rules of procedure clearly stipulate this. The CSOs on the other hand argue that although the Process for the participation of citizens in the budget process exists and is well documented it is not well publicized and therefore not known to the public. This demonstrates the limited citizens' participation in the budget process. Hence like the members of the CSOs, MPs also believe that there is need to improve the communication strategy underlining some improvements needed in spite of the high level of capacity.

5. ***Authority to Amend Budget Presented by the Executive.*** The Legislature does not have the authority in law to make amendments to the budget but may sometimes negotiate with the Executive for amendments to be made. This authority is embedded in the Constitution, the Budget Act 2001 (5)², and the Rules of procedure. The budget Act 2001 has made the budget process more open, transparent and consultative involving all stakeholders. On the other hand the members of the CSOs believe that the legislature have the authority to make amendments to the budget presented by the executive. For the CSOs, members feel that the constitution provides the legislature with this mandate. Analysis from the assessment done by the MPs demonstrates that the legislature does not have this power implicitly conferred upon them although they can negotiate with the executive for amendments to be made. Arising from this, they point out that it is, however, important that the Executive reviews the legal framework to allow parliament make upward review of budget within a given range. This area shows that the parliament has a relatively low level of capacity and needs to be reframed to give the legislature more power to influence the budget.

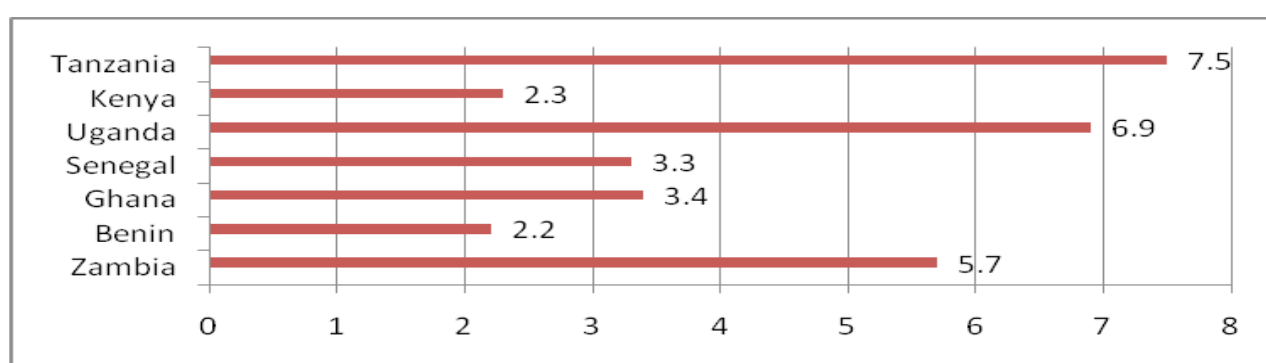
6. ***Power to send back proposed Budget for Review.*** The Rules of Procedure and/or other laws empower the Legislature to send back the budget to the Executive for review. This provision is usually not exercised. The CSOs also agree that the Rules of Procedure and/or other laws empower the Legislature to send back the budget to the Executive for review although this power is not exercised because of politics and hence called for the separation of powers between the legislature and executive. On the other hand the MPs noted that the Constitution, the Budget Act 2001, and Rules of procedure do provide for this power and there is need for Parliament to exercise its mandate where necessary, indicating the need for improving level of capacity.

7. ***Amendments on Spending and Revenue Proposals.*** Amendments made by the



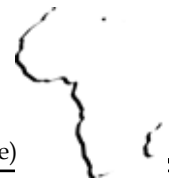
Legislature on spending and revenue proposals are binding on the Executive but the Executive usually finds an excuse not to implement the amendments. The Constitution, the Budget Act 2001, the Rules of procedure, and the Appropriation Act provide for the same. The members from the CSOs also think that amendments made by the Legislature on spending and revenue proposals are binding on the Executive but the Executive usually finds an excuse not to implement the amendments. Therefore this represents a low level of capacity in this area given that the executive rarely implements the proposed amendments. Nevertheless, Parliament should strengthen the mechanism and the capacity to follow-up its recommendations.

Figure 4: The Financial Function: Budget Review and Hearing



Source: API Assessment, 2010

The above graph gives an overall view of the budget review and hearing by the legislature. This graph demonstrates that the parliament scored strongly on three critical sub-indicators. These include the period for the review and hearing of the budget by the legislature, the information on the Appropriation and budget committee as well as the process for citizen participation in the budget process. These three highly scored indicators exhibit a very strong capacity in the realm of budget review and hearing. But the parliament was scored moderately on the authority to amend budget presented by the Executive, the power to send back the proposed budget for review as well as amendments for spending.



While the legislature was ranked highly on the previous three sub-indicators, the weaknesses exhibited in the latter three sub-indicators represents a major challenge in its budget oversight functions especially in issues that relate to budget review and hearing. Such challenges may be seen in the form of investigations to detect waste and corruption, formal audits, or evaluations to assess programme effectiveness and efficacy as well as hearings to air out issues of concern. Overall, in spite of the above weakness, this subsection was well scored, an indication that there is a higher capacity in this area of budget review and hearings.

3.3.2 Budget Act and Budget Office

1. ***Existence of a Budget Act.*** There is a Budget Act that clearly defines a role for the Legislature in the budget process. The CSOs agree with this rating, and confirm the fact that there is a budget act, but call for a review of the budget act to reflect the issues of supplementary ceiling. In the same view, MPs also note that the Budget Act (2001) should be reviewed to match the planning framework and harmonize it with other legal frameworks.

2. ***Access to Information from Central Government Departments and the Private Sector.*** The Budget Office has power to call for information and documents from Government Departments and the private sector and in good time (Power of Subpoena). The Access to information Act, the 2001 Budget Act (20) and the Constitution do make provisions. What is needed is to maintain the status-quo. This represents a high level of capacity.

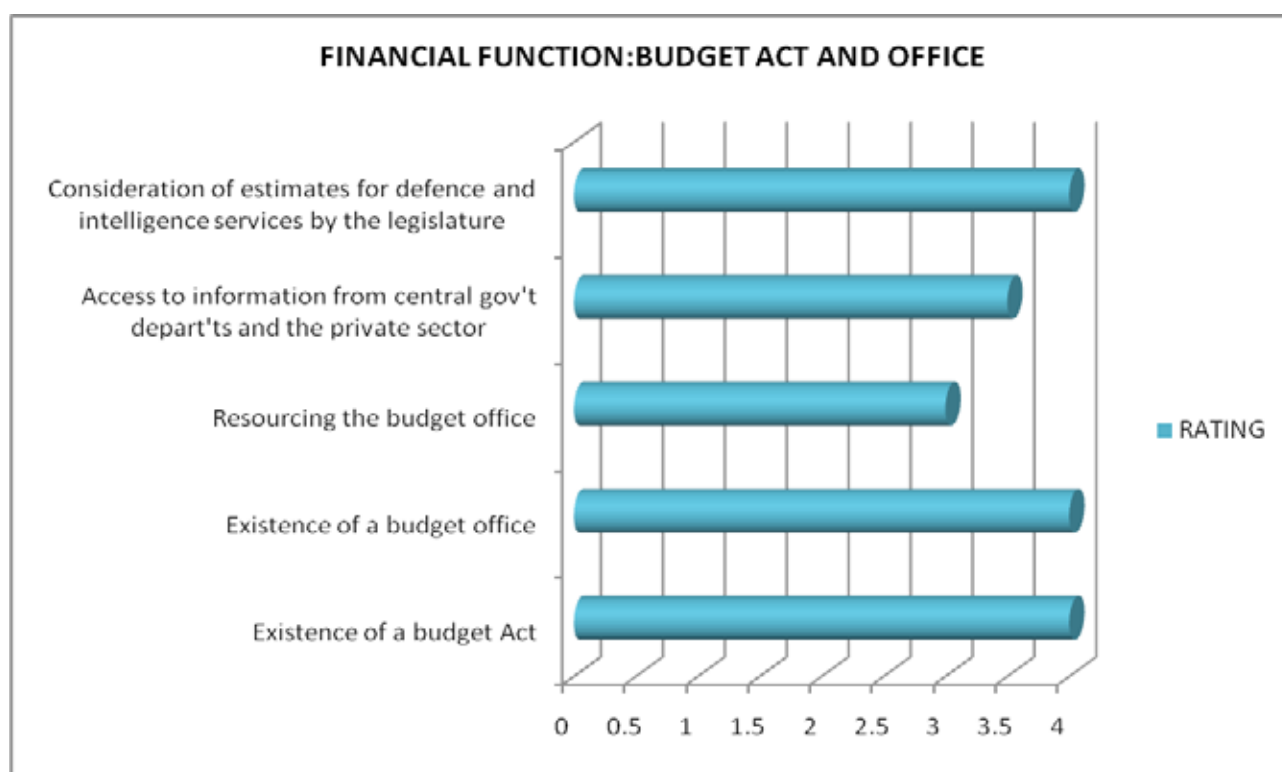
3. ***Consideration of Estimates for Defense and Intelligence Services by the Legislature.*** The Legislature (or the appropriate committee) considers and approves the budget estimates for Defense and Intelligence Services and is given full disclosure on the budget estimates/figures. This is provided for in the Budget Act and the Rules of procedure and the status quo should be observed. Indeed, the ministry of defense prepares policy documents on the expenditure and presents them to parliament in accordance with the Budget Act, 2001, section 6(1), which requires each minister to prepare and submit to parliament a policy statement of the relevant ministry on the preliminary estimates under sections 3 and 4 of the budget act by the 30th of June each year. Members clearly pointed out that this is adhered to by the Defense and Intelligence Services. Hence, this shows a strong level of capacity in this area and as the parliamentarians noted, it should be maintained. Nevertheless, the CSOs feel that although the Legislature considers and approves the budget estimates for Defense and Intelligence Services, there is no full disclosure on the estimates. They argue that in most cases the figures that are submitted are never broken down completely

In the graph below we present results from the overall assesment of the Budget Act and the Budget Office. There are strong indications of high levels of capacity in three distinct areas. These areas include the presence of a Budget Act that clearly defines a role for the legislature in the budget process. This is clearly laudable and points to the legitimacy of the legislature in its legislative role



relating to national budget oversight and analysis. The other key element relates to the existence of a budget office which is established by law, indicating the capacity and power of the budget office to perform its roles.

Figure 5: The Financial Function: Budget Act and Office



Source: API Assessment 2010

The third and most interesting areas of high capacity relates to the capacity of the legislature to consider estimates for defence and intelligence services by the legislature. This is not only interesting but also demonstrates a high level of adherence to both the National Constitution (Act. 210) and the legal mandate of the legislature. Lower rating was found in the realm of access to information from central government departments and the private sector. This is critical given the fact that in the absence of clear information especially in the view of central government departments, the legislative oversight function is blurred. There is little doubt that limited information has far reaching impact on decision-making and overall budget oversight. The lowest ranked issue was the resourcing of the budget office. Needless to emphasise that an under resourced budget office is likely to affect smooth functioning of the budget office including detection of waste and corruption.



Table 3: Comparative Rating of Parliament by CSOs and Parliamentarians; Budget Act and Budget Office

Budget Act and Budget Office	Rating for Parliament	Rating for CSOs	Evidence	Comments/ way forward.
Existence of a Budget Act	4	4	Existence of the Budget Act 2001	Review the Act to reflect supplementary ceiling. Review to match planning framework and harmonize it with other legal frameworks.
Existence of a Budget Office	4	4	Budget office exists in parliamentary premises.	Maintain status quo.
Resourcing the Budget Office	3	4	It is provided for in the budget Act, the office has competent officers but they are not final decision makers.	Recommendations of the budget office should be implemented, and prioritize resource allocation to the budget office.
Access to Information from Central Government Departments and the Private Sector	3.5	N/A	Access to Information Act 2008	Maintain status quo.
Consideration of Estimates for Defense and Intelligence Services by the Legislature.	4	3	Provided for in Budget Act (6) ¹	Parliament called to maintain status quo, but CSOs recommended that the budget estimates be broken down.

3.3.3 Periodic Review of the Budget

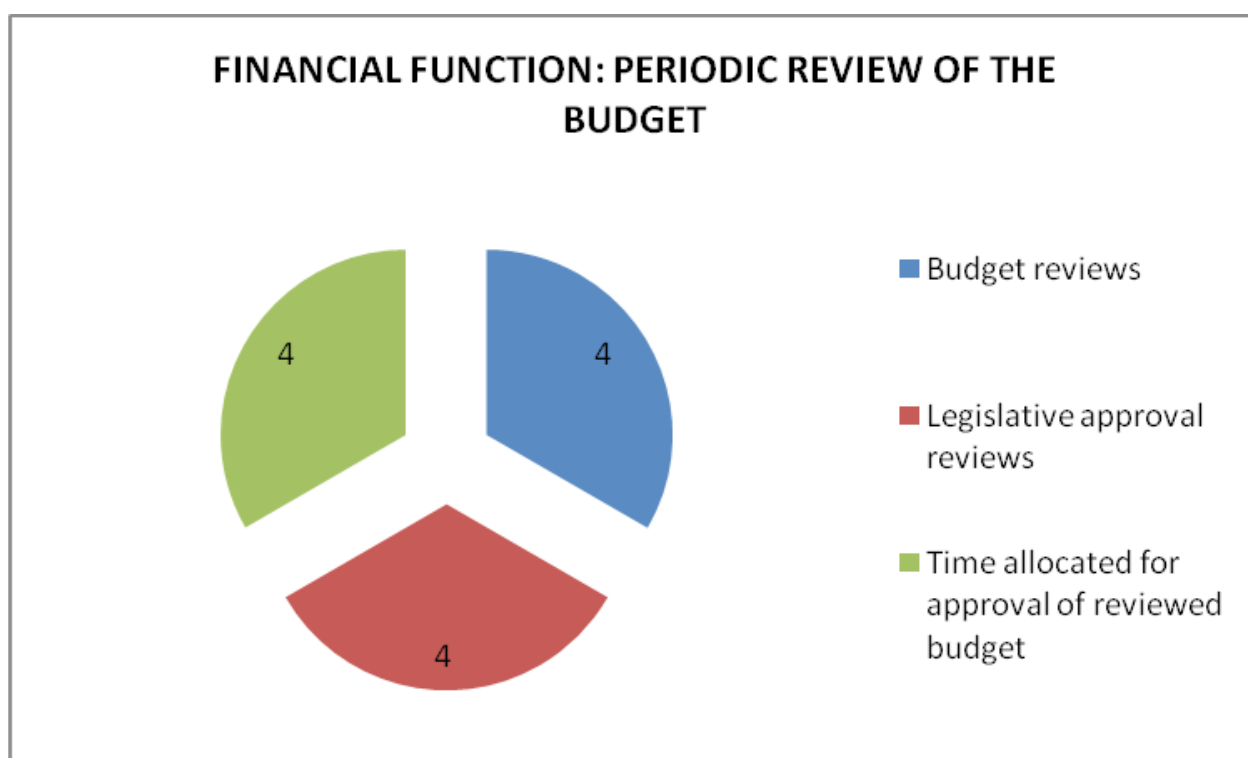
1. Budget Reviews. The budget is reviewed every year by the Executive, the parliamentary budget committee, and by sectional and budget committees (Budget Act, 7). Budget performance reports, Background to the budgets, supplementary schedules and policy



statements are also carried out. The parliamentarians recommended that the status quo should be maintained, and this indicates a strong level of capacity in this field. The same position was upheld by the members of the CSOs.

2. **Legislative Approval of Reviews.** All reviews of the budget are presented to the Legislature and approved by the Legislature. The Appropriation Act, Budget Act, Supplementary Act and the Constitution (Article 156) provide the basis for these reviews. The same position was upheld by the members of the CSOs. The MPs argue that what is needed is harmonizing the framework for budget reviews, and timely presentation of review reports by MDAs.
3. **Time allocated for Approval of Reviewed Budget.** Adequate time is allocated for the consideration of the reviewed budget both at plenary and at committee levels. This is embedded in the Appropriation Act, the Budget Act, section (7) the Constitution, Public Finance and Accountability Act (9). The status quo should be maintained.

Figure 6: The Financial Function: Periodic Review of the Budget



Source: API Assesement 2010



Table 4: Comparative Rating of Parliament by CSOs and Parliamentarians; Budget Review and Hearing

The Budget Review and Hearing	Rating by parliament	Rating by CSOs.	Evidence	Recommendations
Period for the Review of the Budget by the Legislature.	4	-	Provided for in the rules of procedure, in the constitution and the Budget Act 2001.	Increase the review period of the Medium Term Expenditure framework to 2 months.
Existence of an Appropriations/ Budget Committee.	3	4	Budget Act 2001 provides for this and there is a budget committee.	Parliamentarians recommended maintaining status quo, but CSOs insisted that the committee should be made up of very competent people.
Public Hearings on the Budget	2	4	Provided for in Rules of Procedure and the Appropriations Act.	Institutionalize public hearings and improve public awareness of these hearings.
Processes for Citizens' Participation in the Budget Process	3.5	3	It is provided for in the Constitution and Rules of Procedure, but there is limited participation by citizens in the budget process.	Increase public awareness of the budget process through improving communication strategies.
Authority to Amend Budget Presented by the Executive.	2.8	4	It is a constitutional mandate but only made to amend downwards.	Executive should review legal framework to allow parliament make upward amendments review within a given range, and the legislature should be strengthened to make independent decisions.



Power to send back proposed Budget for Review	3	3	Not exercised because of political interference	Separation of powers should be encouraged, and the legislature should exercise its mandate where necessary.
Amendments on Spending and Revenue Proposals.	3	3	Provided for in the constitution, the budget Act and Appropriations Act.	Monitoring and parliament should strengthen the mechanisms and its capacity to follow up its recommendations. Improve on the integrity of parliament.
Information in the Appropriation Approved by the Legislature.	4	-	Provided for in the Budget Act, Rules of Procedure.	Maintain status quo

3.4 The Oversight Function

Parliamentary Oversight refers to the legislature monitoring and holding of the executive accountable for its actions and spending and includes the process whereby the legislature and executive work together to ensure that laws are operating as designed. Accordingly, Parliamentary oversight is the cornerstone of parliamentary democracy and an indicator of good governance. The purpose of parliamentary oversight is to hold the government accountable for the policies that it implements. In that regard the following issues were assessed 1) whether oversight is conducted by a single committee or a number of committees 2) Powers of oversight committee(s) and the source of that power, 3) Power and effectiveness of committee(s)' oversight of State Enterprises, 4) Mechanisms for oversight committee(s) to obtain information from the Executive branch and other institutions. 5) Follow-up on recommendations of oversight committee(s). 6) Resourcing oversight committee(s). 7) Opportunities for minority/opposition parties to exercise oversight of the Executive and its agencies. Below are the responses:

1. ***Existence of Oversight Committees.*** The oversight function of the Legislature is performed by all sector related committees and other special committees. Existence of committees i.e. Standing, Ad hoc, Sector/Sessional and other Parliamentary Fora. There are 12 standing committees and 13 Sessional committees. The representatives of the CSOs agreed to the rating and advised that the status quo should be upheld just as the parliamentarians recommended that the status quo be maintained. There is strong level of capacity in this area.



2. *Investigative Powers of Oversight Committees.* Oversight Committees have investigative powers over budgetary issues/Government spending and these are enshrined in the Rules of Procedure or other laws but are not regularly enforced. Budget Act, Rules of procedure, the 1995 constitution, (90) c. legislators were not happy that recommendations are not always followed. Government funds continue being spent on activities which are not approved. Like MPs, CSOs also believe that oversight Committees have investigative powers over budgetary issues/Government spending and these are enshrined in the Rules of Procedure or other laws but are not regularly enforced. The CSO gave examples of the CHOGM probe committee that was instituted by the PAC, but whose report was thrown away. The CSOs called for enforcement by the Inspector General of Government and the Police. The legislators recommended that there is need to enact laws that ensure that committee recommendations are enforced by the executive. This area needs to be improved because capacity is still lacking.

3. *Oversight of Spending by State Enterprises.* Oversight Committees exercise sufficient oversight of the expenditures of state owned enterprises. The Committees can call for special audits or invite officers of respective state owned enterprises to testify before them. Committees like COSASE do currently exist (Committee Reports, The Hansard). A temporary confinement of such officers has been made. For example, investigations into misuse of NSSF funds by parliament led to arrest of its officials who are currently answering charges in court. Further, a number of officers have been summoned to appear before such committees. Nonetheless, the law should be more punitive than it actually is. There is also a need to have set timeframes for such special audits that is, avoiding postmortem audits. And lastly, the treasury memorandums should be made more periodic. These represent the need to improve capacity in this area. The CSOs rating and suggestions were in line and in agreement with those proposed by the members of parliament.

4. *Mechanisms for Oversight Committees to obtain information from the Executive.* Mechanisms exist for Committees to obtain information from the Executive to exercise its oversight function but these mechanisms are not efficient. Some ministers have turned down summons to appear before committees. In the CHOGM probe for example, some persons called by the probe committee had refused to appear before it. The CSOs do agree with this state of affairs and argue that the executive has been a major pariah in this regard even when the budget act provides for reports being provided to parliament. Nonetheless, audit reports & other reports are provided to committees. Access to information Act provides for basis of committees obtaining information from the executive. However, MPs should be fully oriented on their oversight roles. The committees should learn to demand for information and the timeliness should be respected. This implies that although there exists a high level of capacity as per the legislative mandate, it is also evident there is need for some level of capacity improvement to make the legislature perform its complete oversight role.



5. *Oversight Committees do not have adequate powers to request and receive response on actions taken by the Executive* on recommendations but sometimes receive reports from the Executive on actions taken. The budget Act, the rules of procedure and the access to information Act provides a platform for the power to request for information. But there are no mechanisms for making follow-ups on recommendations of committees. CSOs also believe indeed that mechanisms do exist for Committees to obtain information from the Executive to exercise its oversight function but these mechanisms are not efficient. Both CSOs and MPs recommend that committees should demand compliance with the reporting time lines. Lastly the recommendations of parliament should be made resolutions that are binding. This represents a low level of capacity and a clear need to improve capacity as demanded and recommended by the MPs.

6. *Access to resources by Oversight Committees.* Oversight Committees are adequately resourced to undertake their activities. The Committees have separate budgets. This is provided for in the parliamentary commission Budget Act. The members representing the CSOs also believe that committees are adequately resourced to undertake their activities. It should also be noted that the Budgets are separate but committees have sometimes failed to perform their role. Hence budgets should be activity based and each activity should be adequately funded. On the other hand CSOs suggested that the committees should have one complete budget.

**Table 5: Comparative Rating of Parliament by CSOs and Parliamentarians; the Oversight Function**

Oversight Committee(s)	Rating by Parliament	Rating by CSOs	Evidence	Comments/ way forward.
Existence of Oversight Committees	4	4	Existence of Select Committees and standing committees, PAC, local Government and many others.	Some committees need to be strengthened and empowered to be able to perform effectively providing adequate resources. There should also be a separate committee to handle corruption.
Investigative Powers of Oversight Committees.	3	3	Committees undertake oversight activities for example the Temangalo land investigation, Chogm investigation	Provision should be made for reports to be laid on the floor of parliament of the house otherwise it becomes an exercise in futility. MPs recommended that there should be enforcement of findings from the committees.
Oversight of Spending by State Enterprises.	3.2	3.5	This function is well done. Oversight over NSSF, AGOA, and Railways.	There should be rigorous orientation for members appointed to these committees to enable them perform efficiently.
Mechanisms for Oversight Committees to obtain information from the Executive	3	3	Mechanisms exist but only through cabinet ministers. MPs could not agree on whether this is in place or not.	Need for orientation of parliamentarians in this field to be able to understand their roles and responsibilities.
Power of Oversight Committees to follow up on Recommendation	2	1	Committee reports are always shelved, waiting for action to be taken by the	Committee recommendations should be turned into resolutions so that they become



s			executive.	binding.
Access to resources Oversight Committees	3.5	3.5	MPs pointed out that Committees are not adequately resourced but CSOs say that they are, giving an example of vehicles.	Committees should be adequately resourced. Budgets should be activity based and adequate.
Opportunities for Minority/ Opposition Parties	4	4	Some committees are chaired by members of opposition parties for example Public Account Committees and Local Government Committee.	More collaboration should be encouraged for effective performance. But overall, maintain status quo.

3.4.1 The Public Accounts Committee (PAC)

1. Existence of a Public Accounts Committee (PAC). The Legislature has a Public Accounts Committee that examines the expenditure of Government and is established by the Rules of Procedure (Standing Orders). PAC exists in parliament by the rules of procedure. The existence and legal mandate of the PAC, including its capacity to execute its mandate illustrates a moderate level of capacity. The CSOs do agree with this position.

2. Chair of the Public Accounts Committee (PAC). The Public Accounts Committee is chaired by a member who does not belong to the party in Government and this is provided for in law or the Rules of Procedure (rule 148). The chair of the PAC is a member of the Forum for Democratic Change (FDC), one of the main opposition parties in the country, and has been consistent in tracking down misuse of government funds. The rules of procedures stipulate it and this is the practice. This represents a high level of capacity. The CSOs are in agreement with this position.

3. Rights and Powers of the PAC. The PAC has power to subpoena witnesses and documents and this is backed by law. Rule No. 148 of the rules of procedure provides for the PAC to examine the audited accounts showing the sums granted by parliament to meet the public expenditure of government. It also has judicial powers of the high court, stipulated in article 90 (4) c of the constitution of the republic of Uganda, demonstrating a high level of capacity.

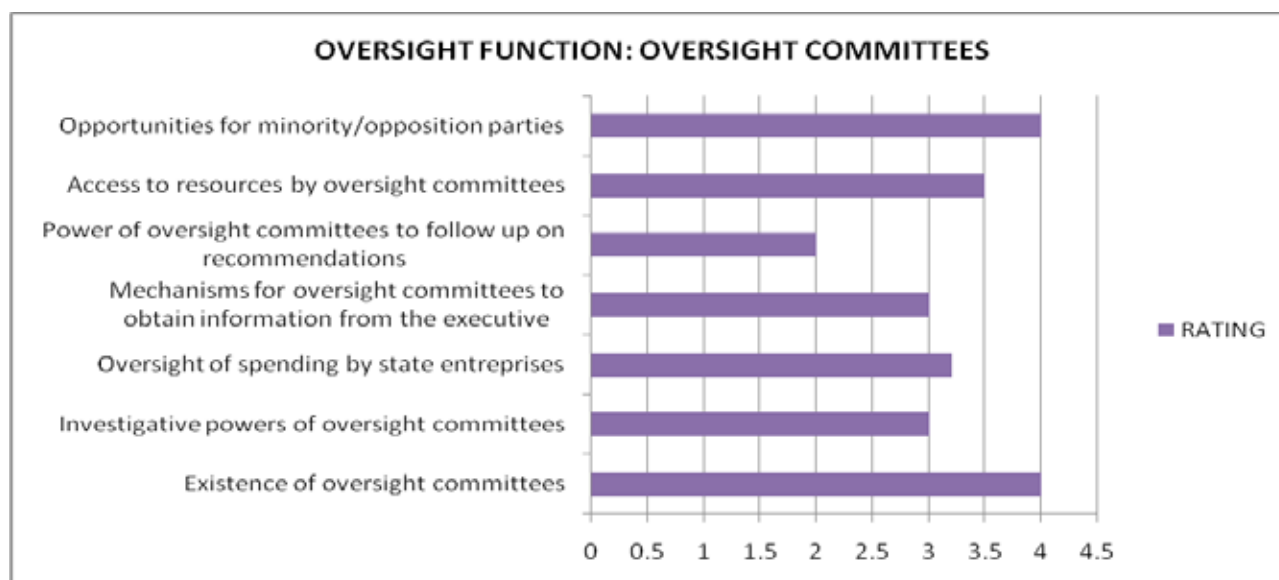


4. Attendance by Ministers. Ministers may attend the meetings of the PAC but this is not mandatory. It is not mandatory but upon summons they appear before committees. Under article 90(4a) of the constitution. -The constitution provides for any public figure to be held personally accountable for abuse of office. Indeed all ministers including the Vice President have appeared before the PAC once summoned for questioning or clarifications on issues regarding accountability. A case in point is the recent PAC probe into the use of CHOGM funds where various ministers appeared for questioning and offered to clear their names regarding the abuse of public funds. Their adherence to this constitutional provision demonstrates a high level of capacity in this area.
5. Openness of the PAC Proceedings. The PAC may hold its proceedings in public if the Chairperson and members so decide but the public cannot make input during such proceedings. The rules of procedure guide the proceedings of PAC in relation to public involvement. Public input during the committee proceedings can only be made through a committee member. Although the CSOs do agree that the PAC is required by law to hold its proceedings in public but the public cannot make input during such proceedings, they do believe that the public should be given a chance to have an input in the PAC proceedings. The MPs also think that the public should be allowed to make an input to the committee where necessary. In the context of the Ugandan parliament and in the context of the index, this represents a moderate level of capacity.
6. Consideration of reports by the Auditor General. The PAC considers all reports from the Auditor General in a timely manner. This is provided for in the Parliamentary rules of procedure. Hence demonstrating a high level of capacity. The CSOs on the other hand think that the PAC considers all reports of the A-G but not on time. They cite an example of the 2007 CHOGM report which was debated in 2010. The CSOs recommended that it would be helpful if there is timely consideration of reports in a space of at least six months.
7. Independent Investigations. The PAC can initiate independent investigation into any matter of public interest. On the other hand CSOs think that PAC cannot initiate independent investigations. They argue that their mandate is only to examine proceedings of accounts. Nonetheless PAC has conducted a number of investigations as per the rules of procedures. For instance, the CHOGM Report and the Hansard. Although this demonstrates a high level of capacity, MPs recommended that more vigilance should be put on all issues even those beyond public interest.
8. Recommendations of the PAC. The Executive is not bound by law to implement the recommendations of the PAC but in some cases the Executive implements the recommendations made by the PAC. Indeed the members of the CSOs are in agreement with this evaluation. Although this demonstrates a high level of capacity, MPs pointed out that there are many reports tabled in parliament but recommendations of parliament have not been implemented. There is evidence to this effect in the Hansard. In that regard, MPs recommended that a law be put in place to ensure that, the recommendations of the PAC are implemented.



9. Collaboration with Anti-corruption Institutions. The PAC has good collaboration with anti-corruption institutions but this has not been formalized. PAC works closely with the office of the Auditor General, the Inspector General of Government (IGG), and the Police Criminal Investigations Department (CID) among others. In unison with the MPs, the members of the CSOs were in agreement with this rating. Indeed they argued that the legislature had no binding law to institutionalize its relationship with the anti corruption institutions. . Although this represents a moderate level of Capacity, the MPs argued that there is need to harmonize the Audit Act and the IGG Act, as well as formalizing their relationships with the PAC.

Figure 7: The Oversight Function: Oversight Committees



Source: API Assessment, 2010

The above graph displays the purpose of the parliamentary oversight function which is related to providing linkage roles regarding various structures for the smooth operation of the legislature. The structures emphasize democratic representation taking into consideration the principles of fair hearing of concerns and issues. The findings from the assessment show that the Uganda legislature's oversight function offers opportunities for minority opposition parties. This is a strong pointer to democratic principles of governance.

The other issue pointed out is the high capacity relating to the existence of oversight committees. The high capacity in these two indicates that the Ugandan legislature is able to detect and correct problems. It is, however, evident that those oversight committees have to follow up on recommendations. This indicates that the parliament's capacity to oversee the executive programmes and activities is characterized by functional and structural limitations. Overall, improvements were reportedly needed in three areas. These include oversight spending by the state enterprises, obtaining information from the executive as well as investigative powers of the oversight committees.



Table 6: Comparative Rating of Parliament by CSOs and Parliamentarians - Public Accounts Committee

Public Accounts Committee (PAC)	Rating by Parliament	Rating by CSOs	Evidence	Comments/ way forward.
Existence of a Public Accounts Committee (PAC).	4	4	Committee exists, and it is provided for in the Rules of Procedure.	Maintain status quo.
Chair of the Public Accounts Committee (PAC).	4	4	Chairperson is from main opposition party FDC	Maintain status quo.
Rights and Powers of the PAC	4	4	Powers of committees in the constitution and rules of procedure, for example PAC was able to summon the Vice President during CHOGM Investigations.	No recommendation given.
Attendance by Ministers	-	3	Ministers attend, but CSO members were not sure whether that's mandated in the law.	N/A
Openness of the PAC Proceedings	3	3	Sometimes it is televised and also put in newspapers.	MPs and CSOs agreed that public should be given opportunity to Input on proceedings.
Consideration of Reports of the Auditor-General (A-G)	2	3	There is a backlog of reports. The 2007 CHOGM report was debated in 2010	Auditor General should submit report on time for the PAC should also work on it in time, at least in 6 months.
Independent Investigations	N/A	1	Their mandate is only to examine the proceedings of accounts.	N/A
Recommendations	1	1	No law binding the	Executive should facilitate



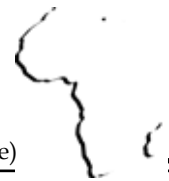
of the PAC.			Executive to implement the recommendations of the PAC, like CHOGM report was ignored by executive.	the implementation of recommendations made by parliament as quickly as possible
Mechanisms for Tracking Recommendations of PAC	1	1	No mechanisms exist for this.	Recommendations by the PAC should be implemented
Resourcing the PAC.	4	N/A	Parliament usually falls on donors for support due to inadequate funds	Provision of adequate resources, members also recommended that PAC should provide accountability for its resources just like other committees.
Collaboration with Anti-Corruption Institutions.	3	3	There are occasional workshops and meetings but no binding law.	There should be better collaboration with anti-corruption institutions and this should be formalized.

3.4.2 Audit

1. ***Appointment of the A-G.*** The office of the AG is stipulated under article 163(1) of the constitution of the republic of Uganda. The A-G is appointed by the President and approved/ confirmed by the Legislature and is responsible to the Legislature. Auditor General is under parliament by means of the Audit Act, 2008, the public finance and accountability Act, 2003 and the Local Authorities Act, 1997. This represents a moderate level of capacity; hence the legislators recommended that the President should consult widely to ensure that they have the best candidate. Reasoning in agreement with the MPs, the CSOs recommended that the AG should be appointed by the public service commission and approved by parliament.

2. ***Submission of Reports of the A-G.*** All reports of the A-G are submitted to the Legislature. This is a requirement under article 163(4) of the constitution, and the Audit Act. This rating was upheld by the CSOs and they argue that this is mandated by law. This represents a high level of capacity although members noted that reports of the AG submitted to the Legislature Reports should be exhaustive and conclusive.

3. ***Regularity and Timeliness of Reports*** -The Legislature receives regular and timely reports from the A-G. At the time of this assessment, the committee had the report of 2010.

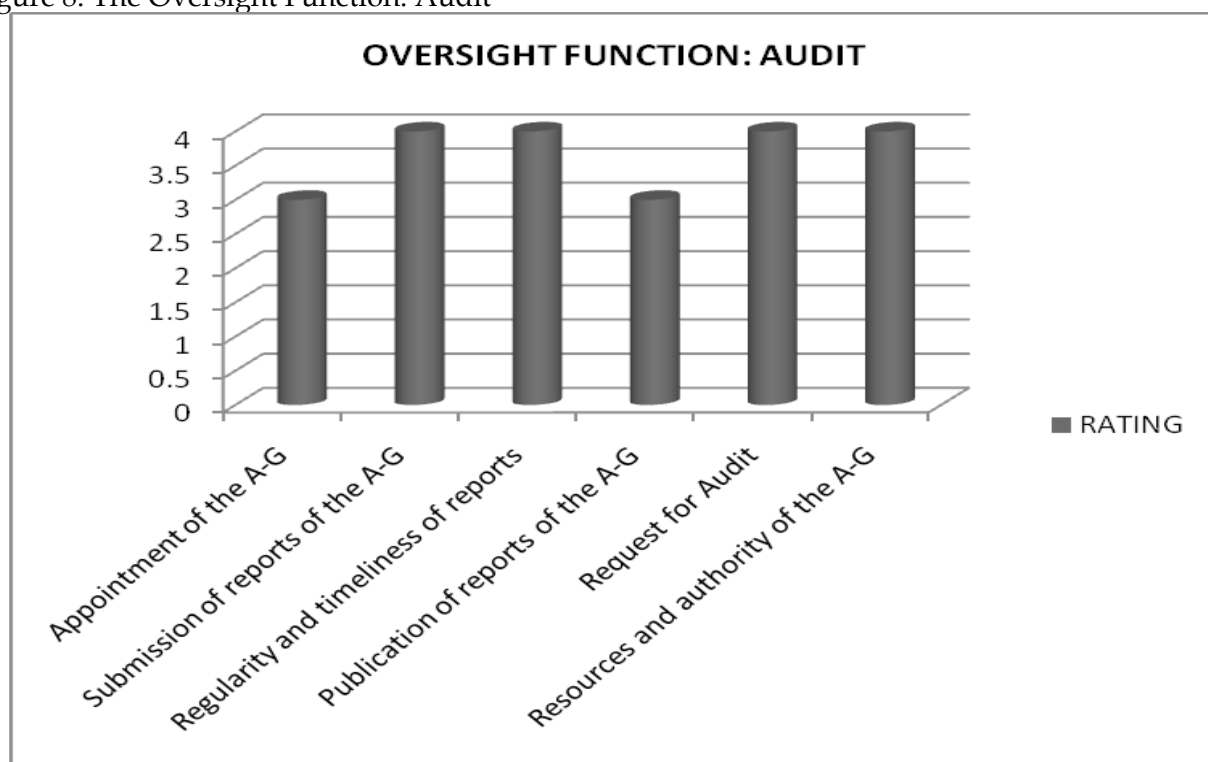


In effect, this demonstrates a high level of capacity. Nonetheless, the CSOs think that the reports are not received on time.

4. ***Request for Audit.*** The Legislature can request the A-G to conduct special audits on its behalf and the A-G is obliged to comply (article 163)7. All requests made so far have been complied with by the AG. One of the most recent audits was the special audit on CHOGM expenditure which uncovered a number of anomalies in government spending. Although the CSOs believe that Legislature can request the A-G to conduct special audits on its behalf and the A-G, the representatives of CSOs point out that parliament ought to improve on the measures for public accountability. Accordingly this reveals a high level although the legislators felt that the culprits named have not fully been prosecuted.

5. ***Resources and Authority of the A-G.*** The A-G has adequate resources and legal authority to conduct audits in a timely manner. The allowances and salaries of the AG are charged to the Consolidated Fund as stipulated under article 163(8) of the constitution. The office is now a self accounting entity. The audit act provides the legal authority of the AG. The office of the AG currently has adequate resources to conduct its activities, and this demonstrates a high level of capacity in this field. The members of the CSOs also agreed that the A-G has adequate resources and legal authority to conduct audits in a timely manner.

Figure 8: The Oversight Function: Audit



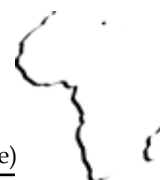
Source: API Assessment, 2010



In terms of audit role of the oversight function, it emerged that there are four indicators that demonstrate a high level of capacity. These include resources and authority of the Auditor General, the capacity to request for audits, the submission of requests to the Auditor General and the regularity and timeliness of the reports. Moderate capacities were found to be in Appointment of the Auditor General (A-G) and the Publication of the reports of the A-G.

Table 7: Comparative Rating of Parliament by CSOs and Parliamentarians; Audit

Audit	Rating by parliament.	Rating by CSOs.	Evidence	Recommendation
Appointment of the Auditor-General	3	3	Appointment by president as provided for in the constitution (article 163(1) of the constitution of the republic of Uganda.	Recommended that AG should be appointed by the Public Service Commission to get the best candidate.
Submission of Reports of the Auditor-General's Department	4	4	This is a requirement under article 163(4) of the constitution, and the Audit Act and it is strictly upheld	Maintain status quo.
Regularity and Timeliness of Reports	4	3	The Legislature receives regular and timely reports from the A-G. At the time of this assessment, the committee had the report of 2010. CSOs pointed out however that there are sometimes delays and late submission of reports	Efforts must be made to facilitate timely submission of reports.
Publication of Reports of the Auditor-General's Department.	3	4	N/A	Called for mechanisms to ensure that the reports are accessible to the public for review.
Request for Audit	4	4	The Legislature can request the A-G to conduct special audits on its behalf and the A-G is obliged to comply (article 163)7	Maintain status quo.
Resources and Authority of the Auditor-General	4	4	The allowances and salaries of the AG are charged to the Consolidated Fund as stipulated under article 163(8) of the constitution. The office is now a self accounting entity.-	N/A.



3.5 Institutional Capacity of the Institution of Parliament

A strong, dynamic, and effective Parliament cannot exist without a parliamentary administration of equal quality. The organization of the parliamentary administration is a key component of a successful parliamentary institution. Parliamentary information management requires documenting the activities of Parliament and ensuring the availability of all relevant information in good time to people who seek such information. It is noticeable that this is critical to fulfilling the responsibilities of the parliamentary administration. Effective decision-making relies on a Legislature having strong policy analysis and research capacities.

The legislature usually derives its legitimacy from the national constitution, which stipulates the powers and relationships of the political institutions and actors. The details of these relationships are outlined in this supreme legislation as well as other internal rules of Parliament such as the Parliamentary Administration Act and the Rules of Procedure. Accordingly, the institutional and legal framework delineates the basic organization of Parliament, the tools it can use to carry out its functions among others. This framework also guarantees the general democratic structure (i.e. the electoral law, freedom of information, freedom of assembly, independence of media, etc.) and the immunities available to Parliament and its members. To this end the API assessed the institutional capacity of Parliament, which includes access to resources – human, material, as well as financial – to support MPs in the budget process

3.5.1 Financial and Material Resources

1. *Power of the Legislature to determine its own budget.* The Legislature determines its budget for the year but the Executive makes funds available as and when funds are available. This represents a moderate level of capacity. The legislators observed that the parliament budgetary allocations have been decreased contrary to the constitution. Parliamentarians argued that the Executive should stick to the existing Laws as far as budget is concerned. The above observation reveals that there is need to harmonize the executive and legislative powers regarding budgetary allocations. CSOs observed that there is a strong level of capacity in this area since the parliamentarians determine their own salary. They recommended that there should be an outside party to determine the salaries so as to control the spending of members of parliament.

2. *Logistics available to the Legislature.* The Legislature has basic logistics including office space to enable it perform its functions. However, there is need for increased office space and a new chamber for the parliament. In that regard, while on one hand the indicator presents a high level of capacity, the recommendation by both legislators and parliamentary staff does reveal need to improve capacity. The CSOs noted that there is a strong level of capacity in this area, citing that parliament is well facilitated, but they proposed a special body should be formed to overlook their expenditure, and also recommended that the numbers in parliament should be reduced.



3. ***Resources for MPs Constituency Development and Activities.*** MPs have a Constituency Development Fund (CDF) that is used for development projects in the constituency and is independently managed by the MPs. In addition MPs also get a subsistence allowance, a mileage allowance, the constituency allowance, and a town running allowance. All these resources are received monthly and each MP has a right to prioritize them independently. We ought to point out that these resources are provided by The Parliamentary Commission. There is no doubt this presents a high level of capacity as far as this sub-indicator is concerned. CSOs however called for the scrapping of this allowance, especially the CDF since MPs do not account for it, reflecting dissatisfaction on the side of the society in this area.

4. ***Mechanism for Receiving and Coordinating Technical Assistance.*** The Legislature has a structured system for receiving technical and advisory assistance from external sources. A fully staffed Donor Coordination Unit (DCU) exists. This unit is referred to as the Parliamentary Development and Coordination Office Department (PDCO). Indeed PDCO's role is to coordinate support from donor partners, and provide support in strategic planning as well as assisting the accounting officer to ensure that the basket fund facilities conditions are complied with. The other role is to mobilize resources and oversee the implementation of the parliamentary strategic investment and development plan (PSIDP). While this shows a high level of capacity in the area as per the index, Legislators called for the need to be transparent in the planning and management of resources, including enlisting more participation of stakeholders. Other issues of concern include finding out how the resources are utilized. Legislators also called for restructuring of the PDCO for super efficiency. The CSOs were in agreement with this assessment, and called for popularizing the system to the public.

The graph below displays the institutional capacity of the Ugandan Parliament, which is related to the organization and capacity of the parliamentary administration to deliver related services to enable the smooth running of the parliamentary institution. Accordingly, high capacity was observed in two areas. These include: the capacity of the legislature to determine its own budget. The other aspect includes mechanisms for managing and receiving Technical assistance. On the other hand two areas were found to have moderate capacity. These include resources available for the MPs' constituency development as well as logistics available for legislation. This evaluation nonetheless depicts a variation between the index and what the legislators think in totality. For instance under the index, they present these last two areas as areas in which Parliament has high capacity and yet the MPs' own assessment puts parliament in a place of moderate capacity.

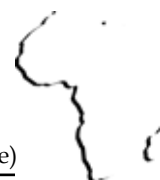
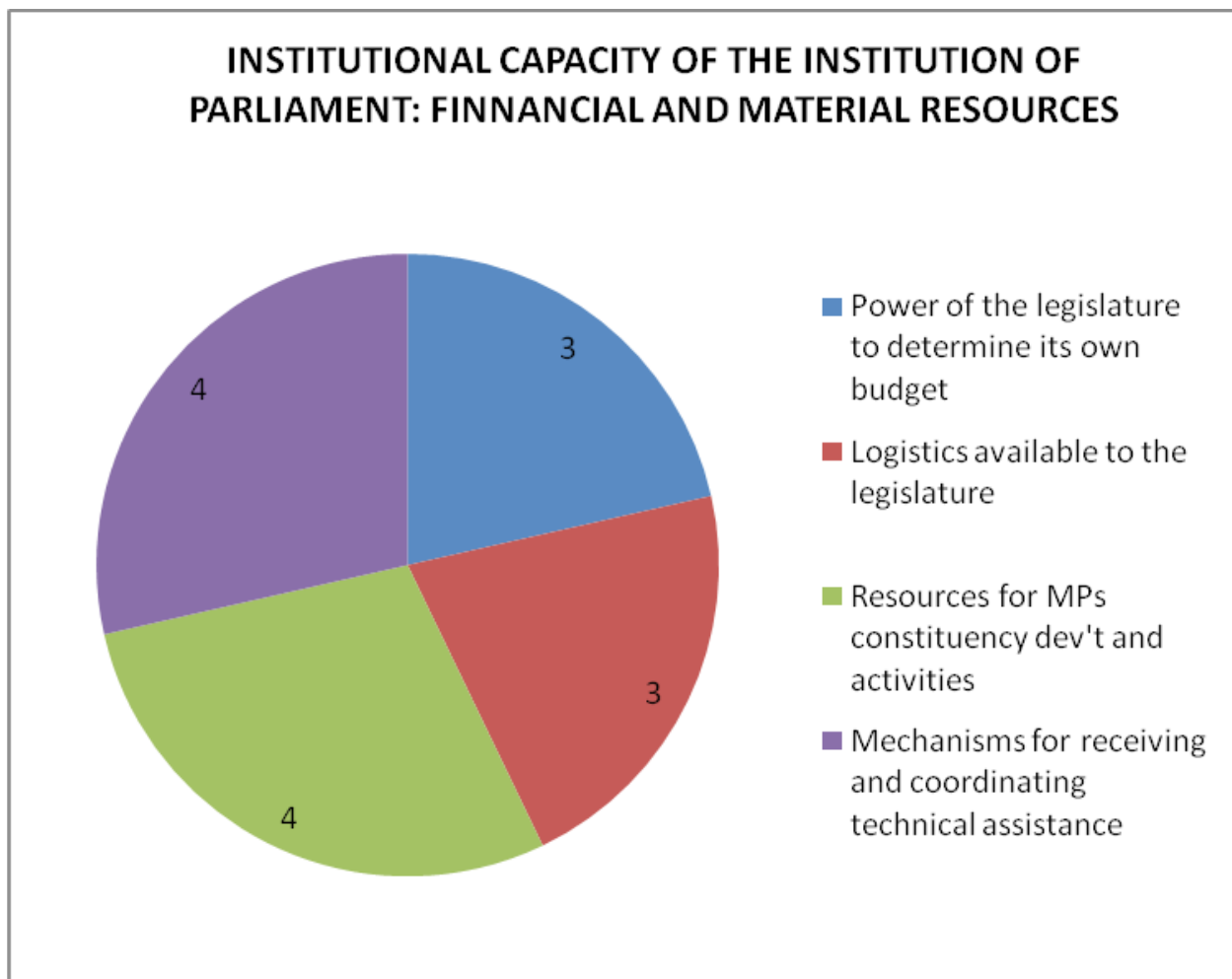


Figure 9: Institutional Capacity: Financial Resources



Source: API Assessment, 2010



Table 8: Comparative Rating of Parliament by CSOs and Parliamentarians; Financial and Material Resources

Financial and Material Resources	Rating by Parliament	Rating by CSOs	Evidence	Recommendation
Power of the Legislature to determine its own budget.	3	4	Parliamentarians have the power to determine budget and it is in the constitution	Parliament should stick to existing laws in determining the budget, and minimize ruling party influence.
Logistics available to the Legislature	3	4	Internet, parking space and computers and printers available.	Increase office parking space, and reduce the number of parliamentarians.
Resources for MPs Constituency Development and Activities.	4	4	CDF availed	Parliamentarians called for an increment in CDF but CSOs say it should be scrapped because they don't account for it.
Mechanisms for receiving and coordinating technical assistance.	4	3.5	Existence of Parliamentary Development and Co-ordination Office Department, and AWEPA.	There is need for transparency in management of resources. Need for more participation of stake holders.

3.5.2 Human Resource

1 *Equal Opportunity Employment.* The Legislature does not discriminate in its recruitment of staff on the basis of race, ethnicity, religion, gender, disability or party affiliation. Indeed, like all other branches of government, recruitment for the parliament service is done by the public service which ensures the highest level of merit and equality in opportunity distribution. This in itself represents a high level of Capacity. CSOs however noted that there is moderate level of capacity in this area, pointing out that recruitment should be done on merit other than party affiliation.

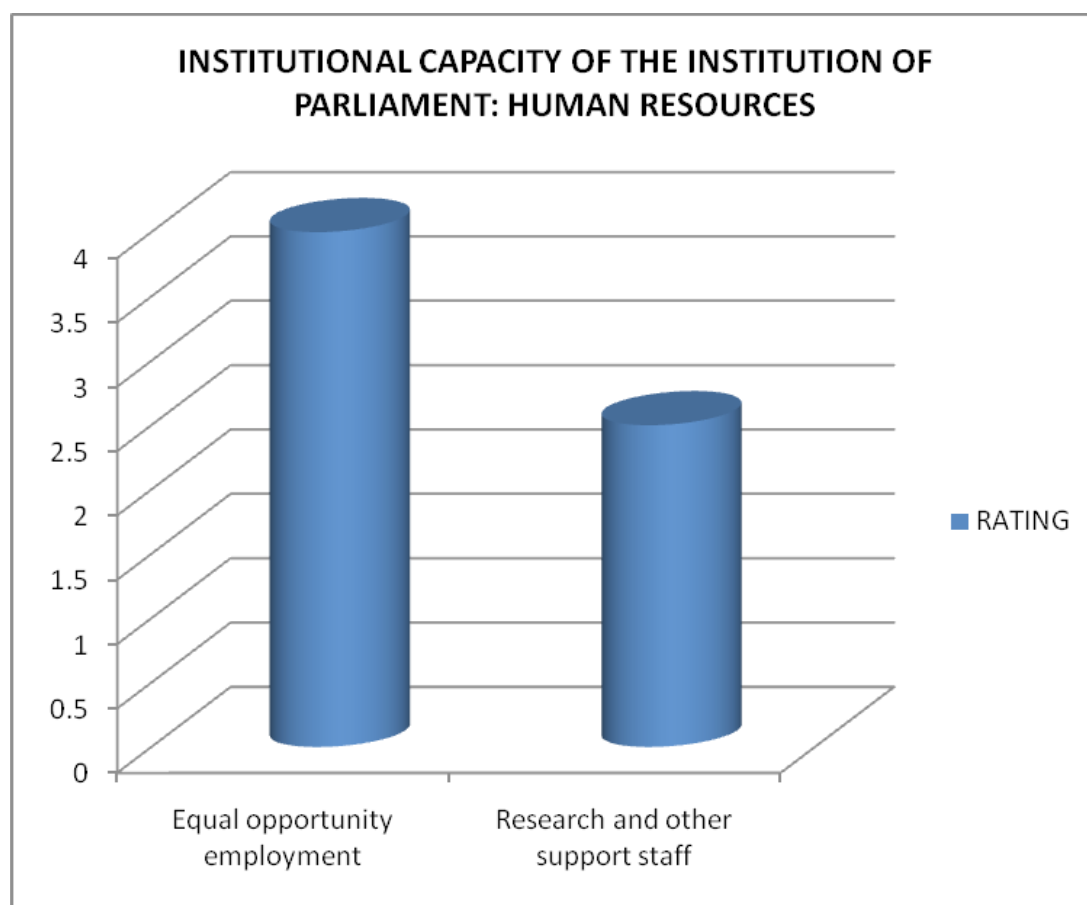
2. *Research and other Support Staff.* The Legislature has some support staff but these are not specialists and only provide basic information needs for MPs. Parliament has specialized staff. The department of Library and Research established in 1999 comprises the Library Division and Research Division; responsible for provision of Library and Information



Services; and provision and coordination of Research Services respectively. It is currently staffed with 8 librarians and 20 research staff. The Staff provide information services and products and access to sources of information; assist MPs in analyzing bills and policies; assist Parliament to monitor and evaluate government programmes; assist Parliament to ensure that government is held accountable for its activities; and conduct Legislative Research. The CSOs however noted that there are competent specialists, but that they need to be facilitated to deliver their reports in time.

The outputs of the department include generation of written reports of specialist subject information that is required in connection with the duties performed by Parliamentary Committees, individual Members and Staff of Parliament; Briefing papers on major topics of current interest; Registers of official sources of specialized collections and other subject area material; Efficient Library reference services for Members and Staff of Parliament; and up to-date relevant collections of official publications, books and other reading materials. An overview of the above demonstrates that there is a basic level of capacity and clearly a need for capacity strengthening in this area.

Figure 10: Institutional Capacity: Human Resources



Source: API Assessment, 2010



Under the above human resource indicator, two items were weighed. These include: Equal Opportunity Employment and the Research and other Support Staff. While the Ugandan legislature demonstrates high levels of capacity in terms of equal opportunities in as far as employment is concerned, it also demonstrated weak capacity with respect to research and other support staff. As pointed earlier, parliament lacks specialized research staff, a fact that presents limitation with regard to the interpretation and analysis of policy in the parliament. Accordingly, this demonstrates the need for capacity improvement.

Table 9: Comparative Rating of Parliament by CSOs and Parliamentarians; Human Resources

Human resources	Rating by Parliament	Rating by CSOs	Evidence	Comments/ way forward.
Equal Opportunity Employment	4	3	Members of the Parliamentary Service are recruited by the public service commission of Uganda. Therefore, people are recruited on merit through interviews and not discriminated against on the basis of race, ethnicity, religion, gender, disability or party affiliation.	CSOs however expressed that recruitment should be done on merit practically.
Research and other Support Staff.	2.5	4	There is a research department and parliament has specialized research staff.	Specialists should be well facilitated and there is need for more skills development.

3.5.3 Transparency and Integrity

1 *Existence and Compliance with a Code of Conduct.* The Legislature has no specific code of conduct. There are, however, some provisions in the Rules of Procedure that guide the conduct of MPs. Rules of procedure have some provisions but no code of conduct. This area demonstrates low levels of capacity and needs to be addressed to ensure integrity of parliamentarians. This represents a clear need for increased capacity. In that regard the legislators recommended that there should be a code of conduct developed to guide behavior. The CSOs pointed to the existence of the IGG as being able to enforce the code of conduct. They recommended strict compliance with IGG orders and resisting selective application of the law. Therefore, there is a low level of capacity in this area.



2 Maintenance of High Standards of Accountability, Transparency and Responsibility.

MPs maintain some standards of accountability, transparency and responsibility in the conduct of public and parliamentary work. MPs have to account for Constituency Development Fund (CDF). The rules of procedure of parliament Appendix F, rule 71 also stipulates as follows; (b) Integrity: Members should not place themselves under any financial or other obligation to outside individuals or organizations that might influence them in the performance of their duties; (c) Objectivity: In carrying out business, including making recommendations on public appointments, awarding contract, or recommending individuals for rewards and benefits, Members should make choices on merit; (d) Accountability: Members are accountable for their decisions and actions to the electorate and must submit themselves to whatever scrutiny is appropriate; But there is need to develop a code of conduct. Although there are provisions which relate to parliamentary integrity, an overall evaluation according to the index illustrates a moderate level of capacity. The CSOs indicated a clear need for improvement of capacity in this field. They pointed out that there should be administrative sanctions to force MPs with Constituency Development Funds

3 Mechanisms for Anti-corruption Activities. No formal anti-corruption networks exist but members come together on anti-corruption issues. It is worth noting that Uganda was one of the first chapters of the African Parliamentarians Network against Corruption Uganda Chapter (APNAC) established in Africa in 2000. It mainly focuses on networking and advocacy, especially with regard to the implementation of the UN and AU anti-corruption conventions. A Parliamentary Budget Office has also been established to strengthen the capacity of the Parliament Account Committees (PAC) to carry out its budget oversight responsibility. As budget processes are overly complex and Members of Parliament (MP) often lack the technical capacity to fully play their oversight role. Uganda has created an independent Parliamentary Budget Office (PBO) which supports parliamentarians throughout the budget process with expertise, analysis and reports on key budget related issues. In spite of the above developments the index shows that the Ugandan legislature only has a basic level of capacity in place. Hence this area still requires capacity building. Accordingly the parliamentarians noted that the limitations in this area also explain the little motivation for networking. The CSOs noted that there is moderate level of capacity in this area. They also pointed to the presence of the APNAC.

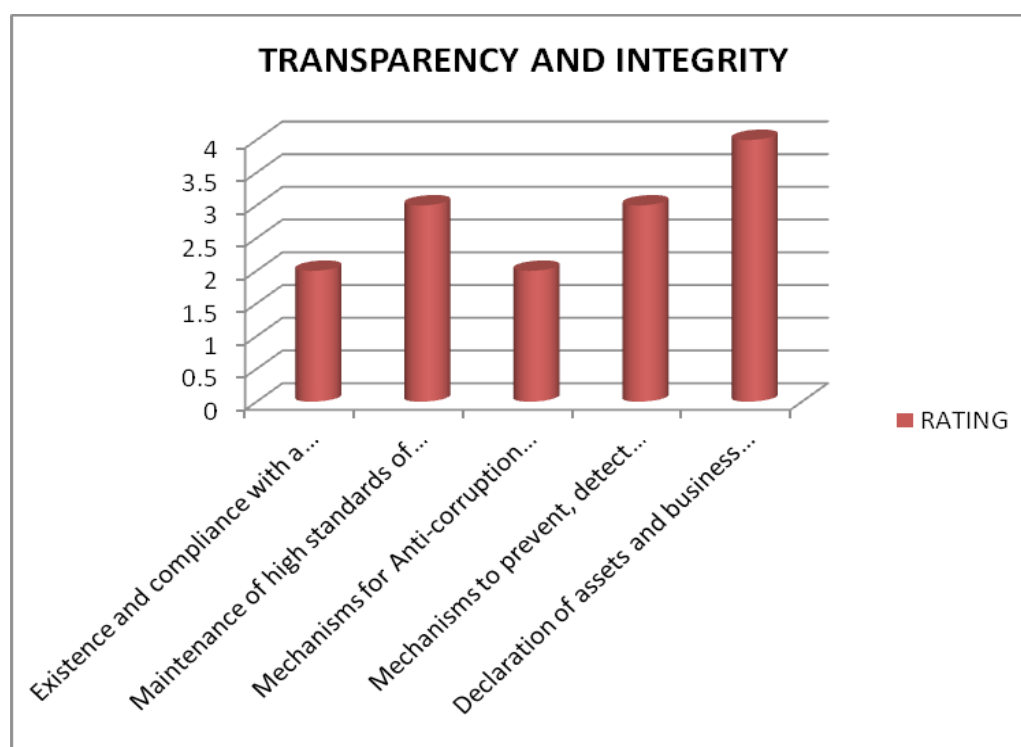
4. Mechanisms to Prevent, Detect and Discipline MPs and Staff engaged in Corrupt Practices. Mechanisms exist to detect and prevent corrupt practices among MPs and Staff and to bring to justice any person engaged in such activities but these are not efficient and effective. A committee on rules, discipline and privileges exist as provided for under rule No. 149 of the Rules of Procedure. It is mandated to inquire into any complaints or violation of privilege by members and to recommend appropriate action to the house. Accounting procedures also exist. Without doubt, this represents a high level of capacity. The CSOs noted that there is moderate level of capacity in this area, citing the presence of the IGG Act, code of Conduct and rules of procedure.



5. ***Declaration of Assets and Business interests.*** MPs are required by law and the Rules of Procedure to declare their assets and business interests and this is strictly complied with. By enacting the Leadership Code Act, 2002, Parliament intended to put in place an effective enforcement mechanism to ensure that leaders adhere to the minimum standards of behavior and conduct provided for in the Code and, indeed, prevent corruption through improving the detection of illicit gain. This duty was, as already illustrated, handed to the Inspectorate of government. Needless to emphasize that there is high level of capacity in this area. The CSOs however observed that there is only a moderate level of capacity in this area, citing selective targeting of opposition parliamentarians. They recommended that declaration of assets should be strictly complied with, but without being selective.

The overall picture painted by the figure below is that the best performing sub-indicator according to the Transparency and Integrity indicator is the declaration of Assets and business. A high level of capacity was demonstrated by the legislature. This was followed by mechanisms to detect and Discipline MPs and Staff engaged in Corrupt Practices. On the other hand there were three areas where capacity improvement was clearly illuminated. These included: Mechanisms for Anti-corruption Activities as well as Maintenance of High Standards of Accountability, Transparency and Responsibility

Figure 11: Transparency and Integrity



Source: API Assessment, 2010



**Table 10: Comparative Rating of Parliament by CSOs and Parliamentarians;
Transparency and Integrity**

Transparency and Integrity	Rating by parliament	Rating by CSOs	Evidence	Comments/ way forward.
Existence and Compliance with a Code of Conduct.	2	4	The rules of procedure have provisions but there is no code of conduct, IGG office also exists.	Parliament should come out with a specific code of conduct, and they should stop selective application of rules.
Maintenance of High Standards of Accountability, Transparency and Responsibility.	3	1	There is an attendance register and CDFs have to be accounted for.	CSOs recommended that there should be administrative sanctions to force committees to account for CDFs.
Mechanisms for Anti-corruption Activities.	2	3	Existence of APNAC-African Parliamentarians Network Against Corruption. (parliament of Uganda is a member) But there are no formal networks.	N/A
Mechanisms to Prevent, Detect and Discipline MPs and Staff engaged in Corrupt Practices.	3	3	IGG Act, Accounting Procedures exist and a disciplinary committee exists. Committees on members holding offices of rights and privileges	Strict Enforcement-Issues should not be left hanging. There should be clear enforcement because it borders on the credibility of parliamentarians
Declaration of Assets and Business interests.	4	3	Leadership Code Exists.	Parliaments generally comply but CSOs recommended that it should be applied without bias against opposition MPs.



CHAPTER 4

4.0 Recommendations

Resulting from the assessment and discussions with Parliament and CSOs, the following recommendations have been proposed for stakeholders in parliamentary development to consider.

4.1 It was recommended by both MPs and CSOs representatives about the need for an improvement of Parliament's communication strategy and documentary framework to improve accessibility to enable improved and increased flow of information related to budget planning and oversight function of parliament. Such information can be simplified and passed on in languages that can be understood by the citizenry. Given that CSOs play a major role in bridging the gap between the populace and the leadership, it was recommended that clear guidelines be developed and put in place to allow CSOs to systematically interface with parliament as a way of ensuring that the needs of the general population are catered for.

4.2 In as much as the sources of legislative powers or authority of the Ugandan Parliament is not in doubt, it is recommended that strong mechanisms in tracking legislations be established.

4.3 On financial oversight, it is recommended that since effective oversight thrives when there is access to relevant and timely information, central government departments and agencies be mandated to provide information. MPs called for proper harmonisation of the framework for budget reviews, and timely presentation of reports by MDAs. It is also recommended that the Budget office be adequately resourced to promote efficiency and effectiveness in the execution of financial oversight function.

4.4 Improve capacity of Parliament to undertake their oversight functions. In this regard, it is recommended for MPs to be fully oriented on their oversight roles and for a law to be enacted that will ensure that committees including PAC recommendations are enforced by the executive. In terms of Audit oversight, it is recommended that the AG be appointed by the Public Service Commission and improve efforts at facilitating timely submission of audit reports to the legislature. It is also recommended for mechanisms to be put in place to make reports accessible to the public.

4.5 On institutional capacity of the institution of Parliament, it is recommended that steps be taken to improve accountability mechanisms for the use of the CDF, improve transparency in the management of public funds and introduce a framework that would invite stakeholders to participate in the process. In terms of human resource, it is recommended that there should be well-tailored skills development and capacity enhancement training for both parliamentary staff and MPs.

4.6 It is recommended for Parliament to enact a code of conduct aimed specifically at improving transparency and integrity of parliament and the avoidance of selective justice. There is need for strict enforcement of rules in as fair a manner as possible, and to avoid using it as an instrument for targeting political opponents.



Appendixes

Appendix 1: Summary Score for the Assessment (M.Ps and Parliamentary Staff)

Accessibility (Weighting Coefficient = 11)		2.5	6.9	
The legislature is open to citizens and the media.	4.0			
The Legislature has a non-partisan media relations facility.	4.0			
Mechanisms to Promote Public Understanding of the work of the Legislature.	2.0			
Timely provision of Information to the Public on the Budget	2.0			
Promoting Citizens’ Knowledge and Understanding of the role of MPs in the Budget Process.	1.0			
Relationship between Parliament, CSOs and other related Institutions	2.0			
Legislative Function				
Legal Mandate (Weighting Coefficient =8)		3.1	6.3	
Law Making including the Appropriations Act	4.0			
Power to amend the Appropriations Bill.	2.5			
Opportunities for Public input into the Legislative Process.	4.0			
Mechanisms to Track Legislation	2.0			
Financial Function				
Budget review and hearing (Weighting Coefficient = 10)		3.2	7.9	
Period for the Review of the Budget by the Legislature.	4.0			
Existence of an Appropriations/Budget Committee.	3.0			
Public Hearings on the Budget	2.0			
Process for Citizens’ Participation in the Budget Process	3.5			
Authority to Amend Budget Presented by the Executive.	2.8			
Power to send back proposed Budget for Review	3.0			
Amendments on Spending and Revenue Proposals.	3.0			
Information in the Appropriation Approved by the Legislature.	4.0			
Budget act and budget office (Weighting Coefficient = 8)				
Existence of a Budget Act	3.5			
Existence of a Budget Office	4.0			
Resourcing the Budget Office	3.0			
Access to Information from Central Government Departments and the Private Sector	3.5			
Consideration of Estimates for Defense and Intelligence Services by the Legislature	4.0			
Periodic review of the budget (Weighting Coefficient = 10)		4.0	10	
Budget Reviews	4.0			
Legislative Approval of Reviews	4.0			
Time allocated for Approval of Reviewed Budget	4.0			



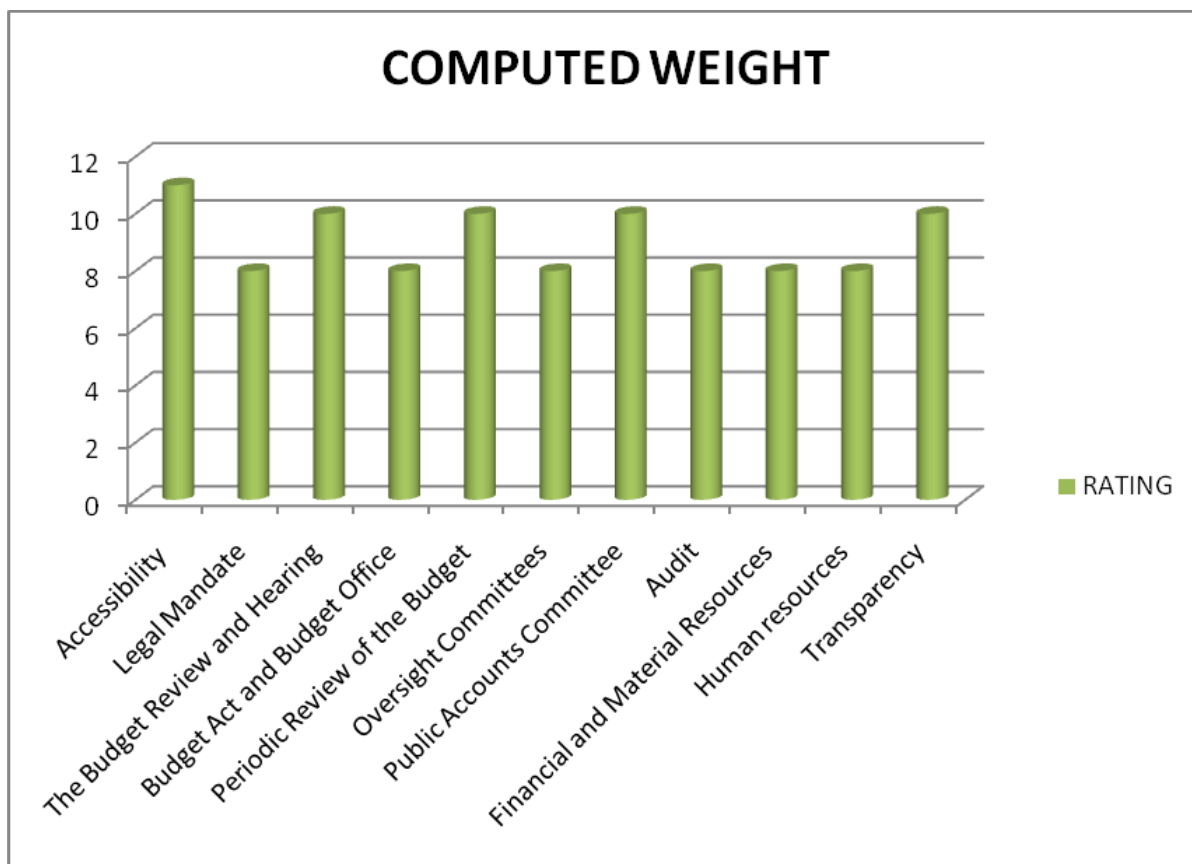
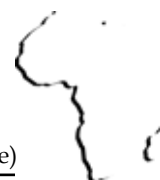
Oversight Function				
Oversight committees (Weighting Coefficient = 8)		3.2	6.5	
Existence of Oversight Committees	4.0			
Investigative Powers of Oversight Committees.	3.0			
Oversight of Spending by State Enterprises.	3.2			
Mechanisms for Oversight Committees to obtain information from the Executive	3.0			
Power of Oversight Committees to follow up on Recommendations	2.0			
Access to resources by Oversight Committees	3.5			
Opportunities for Minority/Opposition Parties	4.0			
Public accounts committee (Weighting Coefficient =10)		3.1	7.8	
Existence of a Public Accounts Committee (PAC).	3.0			
Chair of the Public Accounts Committee (PAC).	4.0			
Rights and Powers of the PAC	4.0			
Attendance by Ministers	3.0			
Openness of the PAC Proceedings	2.0			
Consideration of Reports of the Auditor-General (A-G)	3.0			
Independent Investigations	4.0			
Recommendations of the PAC.	2.0			
Mechanisms for Tracking Recommendations of PAC	2.0			
Resourcing the PAC.	4.0			
Collaboration with Anti-corruption Institutions.	3.5			
Audit(Weighting Coefficient = 8)		3.7	7.3	
Appointment of the A-G	3.0			
Submission of Reports of the A-G.	4.0			
Regularity and Timeliness of Reports	4.0			
Publication of Reports of the A-G.	3.0			
Request for Audit.	4.0			
Resources and Authority of the A-G.	4.0			
Institutional Capacity of Parliament				
Financial and material resources (Weighting Coefficient = 8)		3.5	7.0	
Power of the Legislature to determine its own budget.	3.0			
Logistics available to the Legislature	3.0			
Resources for MPs Constituency Development and Activities	4.0			
Mechanism for Receiving and Coordinating Technical Assistance	4.0			
Human resources (Weighting Coefficient =8)		3.3	6.5	
Equal Opportunity Employment	4.0			
Research and other Support Staff.	2.5			
Transparency and Integrity				



Transparency and Integrity (Weighting Coefficient = 10)		2.8	7.0
Existence and Compliance with a Code of Conduct.	2.0		
Maintenance of High Standards of Accountability, Transparency and Responsibility.	3.0		
Mechanisms for Anti-corruption Activities.	2.0		
Mechanisms to Prevent, Detect and Discipline MPs and Staff engaged in Corrupt Practices.	3.0		
Declaration of Assets and Business interests.	4.0		
TOTAL SCORE OF RAO	196.5	36.0	80.4
MAXIMUM SCORE		44.0	100.0

Appendix 2: Weighing Table.

	Accessibility	Legal Mandate	Budget Review and Hearing	Budget Act and Budget Office	Periodic Review of the Budget	Oversight Committee	Public Accounts Committee	Audit	Financial and Material Resources	Human resources	Transparency	Total	Computed Weight
Accessibility		6	4	7	5	6	7	7	6	8	5	61	11
Legal Mandate	4		3	4	3	5	4	4	5	5	4	41	8
The Budget Review and Hearing	6	5		6	4	5	5	6	6	7	5	55	10
Budget Act and Budget Office	3	5	4		4	5	4	5	5	5	4	44	8
Periodic Review of the Budget	4	6	5	6		6	6	6	5	6	5	55	10
Oversight Committee	2	4	5	5	4		3	5	5	5	5	43	8
Public Accounts Committee	4	5	4	6	5	6		6	7	5	5	53	10
Audit	3	6	4	5	3	5	4		5	5	5	45	8
Financial and Material Resources	4	5	3	5	4	5	3	5		5	4	43	8
Human resources	2	5	3	5	3	5	4	5	5		3	40	8
Transparency	4	6	4	6	4	5	5	5	6	7		52	10
												532	100



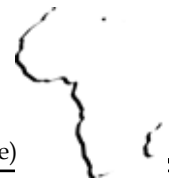
CHAPTER 6



AFRICA PARLIAMENTARY STRENGTHENING PROGRAMME (APSP) FOR BUDGET OVERSIGHT

ZAMBIA REPORT

**Lloyd Chasa Sichilongo
Independent Assessor**



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EXECUTIVE SUMMARY

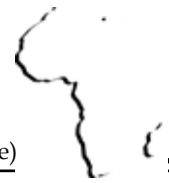
The African Parliamentary Index (API) is the major constituent part of the Africa Parliamentary Strengthening Programme (APSP) for budget oversight. It is designed to provide a scientific tool for the assessment of the performance of the partner Parliaments in the APSP as they engage with the budget process. The APSP's objective is to strengthen the capacity of partner Parliaments to perform their legislative, financial, oversight and representative functions to ensure good governance, accountability, transparency and participation in the budget process.

The determination of the API was done through a self-assessment process carried out by a select group from Parliament comprising members of Parliament's Committee on Estimates, the chairpersons of other related oversight committees, and staff from the National Assembly. The self-assessment exercise was based on a Toolkit developed by the Parliamentary Centre. The toolkit contains questions covering the six core areas of Parliament's engagement with the budget process: (i) representation; (ii) legislation; (iii) financial scrutiny; (iv) oversight; (v) institutional capacity; and (vi) transparency and integrity. The questions require respondents to make their judgements and score each variable or indicator on a four-point scale where: 4 denotes a high level of Parliament's capacity in place; 3 shows a moderate level of capacity; 2 indicates the existence of a basic level of capacity; and 1 signals a clear need for increasing capacity.

An assessment meeting was held for selected MPs from the above mentioned committees to assess Parliament's performance and their scores were tabulated. Weights were assigned to determine the relative importance of each variable and were used to construct the Index for Zambia which worked out to be 62.6 percent. The assessment was led and driven by Parliament and facilitated by an Independent Assessor in the person of Mr. Lloyd C. Sichilongo. The Parliamentary Centre provided technical advisor.

Following the process described above, there was need for a validation meeting with civil society organizations (CSOs) as a follow up to the self-assessment by parliamentarians. The civil society organizations which took part in the validation meetings are those that work very closely with Parliament in their advocacy assignments. Their assessment confirmed most of parliament's assessment and differed in opinion in a few areas.

The findings of the validation assessment show that generally, civil society organizations have less confidence in Parliament's effectiveness in its engagement with the budget process. While appreciating the notable strides Parliament has made regarding openness and accessibility, borne out of their interaction with the institution, they are also not fully satisfied with Parliament's engagement with the public in budgetary issues. The areas of accessibility, audit and human resources were given high capacity rating weighted averages. However, under human resources, the CSOs gave a moderate capacity score for Parliament's research capacity which they regard as an essential service that MPs do not seem to use as they should to improve their individual and collective performance in Parliament.



It was thought that absence of a Budget Act and Parliamentary Budget Office weakened the capacity of Parliament in the budget process. Budget reviews and the time allotted to these aspects are also considered as requiring a substantial increase in capacity. As an outcome, CSOs provided a comprehensive set of recommendations for each indicator as a way of contributing to improvements in Parliament's role in the budget process.

The scores arising from the findings of the validation meeting were analysed and applying the same weights as were used in the self-assessment by parliamentarians, the Index was calculated and found to be 58.9 percent, less than 4 points below that based on the parliamentarians' assessment. Detailed discussions of the Index are presented in sections of this document.



CHAPTER 1

1.0 INTRODUCTION

1.1 Background and Context

The Parliamentary Centre (Africa), through the Africa Parliamentary Strengthening Programme (APSP) for budget oversight aims to increase the capacity of partner Parliaments to carry out their legislative, financial, oversight and representative functions to enhance good governance, accountability, transparency and participation, particularly in the budget process. The APSP is cognizant of the fact that the organization, powers and effectiveness of participating parliaments vary from country to country across the continent.

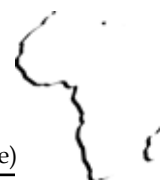
Because of this reality, the need has been established for a set of indicators to provide a comparative framework in which to assess and measure the performance of partner parliaments. These indicators are derived from a series of variables and are combined into an index to measure cross-country variation in legislative budgeting and to facilitate empirical application based on a survey designed by the Parliamentary Centre (Africa). This has been done through a participatory process that includes consultation with a wide spectrum of stakeholders. Such consultation was to ensure ownership of and participation of partner parliaments in the design of the index.

The choice of indicators relies heavily on work on governance issues by such institutions as the National Democratic Institute (NDI), the World Bank Institute (WBI), the Commonwealth Parliamentary Association (CPA), Inter-Parliamentary Union and experience of the Parliamentary Centre in Canada.

Central to a legislature's constitutional position is the "Power of the Purse". This refers to Parliament's ultimate authority to authorise public expenditure. Without this authorization, a government spending public funds will be doing so unlawfully and illegitimately. Parliamentary approval of the budget is essential to the legitimacy of government. The legislative power of the purse is widely regarded as fundamentally important for democratic government.

However, there still remain some questions of how this power of the purse is exercised in the real world. Question one: is the legislature's approval a genuinely contested approval? Question two then is: or is it a rubber-stamping of decisions taken elsewhere in the executive? Question three is: to what extent do parliaments and their committees examine and challenge government expenditures and on what grounds can they do so? The final question is: Do legislatures have the capacity to do so?

There is a political dimension to parliament's financial scrutiny and oversight. A simple comparison of legislative arrangements for financial scrutiny leads to the conclusion that legislatures differ



widely in the way with which they exercise the ‘power of the purse’. The political dimension can be expressed as the divide between “Congressional” and “Westminster” parliamentary systems.

In congressional systems, (the most significant being in the United States), the executive and legislative branches of government are separate. The executive is elected directly in different elections to legislative elections. Cabinet ministers are not, or do not necessarily have to be, members of the legislature and the government does not need to maintain a majority in it.

The Westminster system stands in contrast to the congressional system. In the Westminster parliamentary framework, there is a large degree of fusion between the executive and legislative branches. Election is solely to the legislature and a government is formed out of its results. The government will remain in power as long as it retains the support (or confidence) of the majority in the legislature. Cabinet ministers are members of Parliament and participate fully in its work. In the U.K., parliament has largely abdicated the right to financial initiative to the executive; it does not have a specialized budget committee and has no parliamentary budget office to provide analytical support.

1.2 The Legislature in Zambia

Parliament in Zambia comprises the Presidency and the National Assembly with 150 elected members and 8 nominated members. The nominated members are appointed by the President. The parliamentary term of office is five years. Currently the ruling party has a dominant presence in Parliament. This complexion of Parliament, the domination of Parliament by one political party has implications for the budget process. The voting pattern in the Zambian Parliament show that Members of Parliament (MPs) always vote along party lines.

The ultimate authority in the budget process lies with Parliament. The fiscal powers of the government are laid down in a series of specific constitutional provisions. The significant major provisions which are specifically fiscal have been modified several times since Independence.

An abridged version of the legal framework for the budget process is given as follows:

- The general enabling statute for taxing and spending powers is contained in Articles 114-121 of the Constitution of Zambia which give Parliament powers to approve taxes and to authorize public expenditures through Appropriation Acts. Thus, Parliament has power to enable the executive branch to levy and collect direct taxes, duties and excises to pay the debts incurred on behalf of the republic. However, the constitutional provisions are not entirely explicit on such matters as paying for the common defence and general welfare of Zambia. By including “general welfare” as a legitimate objective of Zambia’s public finance, the constitution would refrain from setting specific limits to the government’s expenditure function. The term “general welfare” may be interpreted in a very broad sense and should be



understood to cover not only general objectives, such as national defence or the administration of justice, but also selective programmes aimed at particular regions or population groups, such as grants-in-aid, and certain transfer payments. In all, the taxation and expenditure powers granted by these articles are broad and subject only to specific constraints.

■ The articles also define the financial management role of the President as head of the executive branch of government; the role of the minister in charge of the finance ministry; and the role of the Auditor-General.

■ They define the framework for the estimates of government revenue and expenditure and other charges to the general revenues of the republic.

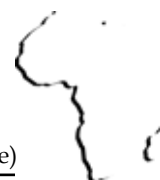
■ Under the Constitution, the executive, through the minister responsible for the finance ministry, must submit the public budget to the National Assembly for approval three months before the commencement of the new financial year.

The articles provide for the annual appropriation acts, supplementary and excess expenditure estimates and accompanying acts.

1.3 An Overview of the Role of Parliament in the Budget Process

On the basis of the four stages of the budget process, the role of the Zambian Parliament can be summarized as follows:

- The drafting stage is largely internal to the executive involving line ministries and other spending agencies agreeing with the Ministry of Finance and National Planning on how available funds will be allocated in the ensuing year's budget.
- Parliament's role is clearly most obvious during the second or legislative stage when it scrutinizes the executive's expenditure and revenue proposals and decides whether to approve or amend them. This approval must be comprehensive.
- After Parliament's approval, the third or implementation stage of the budget process is mainly in the hands of the executive, with the central budget office responsible for ensuring that funds are spent in line with the relevant approved budget. In theory, to ensure that its authority is not undermined by excessive adjustments, Parliament is expected to closely monitor implementation through scrutiny of information on actual spending during the budget execution stage. The drafting stage is largely internal to the executive involving line ministries.
- Following the implementation of the budget, government accounts and financial statements are audited by an independent audit institution under the Auditor General. This process is normally followed by the presentation of the audit report to Parliament and its consideration by the Public Accounts Committee (PAC).



(a) Committees of Parliament

Parliament has 15 Committees. The committees are able to summon Controlling Officers and other government officials, chief executives of state owned enterprises, and representatives of the private sector, to give evidence at meetings that are open to the media and the public. Committee reports are published and made readily available to both the government and the public.

The development of the annual national budget begins at the district level and ends with line ministries. The budget approval cycle has been reformed so that the budget is presented to Parliament three months before the commencement of the new financial year on 1st January running until 31st December.

The chairpersons of the sector committees join the Committee on Estimates into the Extended Committee on Estimates for an extensive analysis and discussion of the budget. The report from the Committee on Estimates is read in the National Assembly.

Parliament's influence over the budget is limited. In theory, it can only reject or accept the whole budget proposal. However, if Parliament rejects the proposal, it can be dissolved leading to new elections. This possibility acts as a major disincentive to the willingness of MPs to reject the budget proposal. Parliament is also unable to follow up on any budget recommendations made, reducing its ability to hold the government to account.

The budget is activity-based and is divided by sector headings and main budget lines. Each sector budget is organized into a central budget and separate provincial budgets. The activity-based approach is designed to make it relatively easy to track the alignment between the budget and the strategic goals in the Fifth National Development Plan (FNDP) and sector specific plans. However, the main items such as salaries are still grouped at an overall departmental level. In addition, the relationship between the budget and performance is not evident, and sector ceilings and overall sector allocations are not clearly defined.

Expenditure from the general revenues is authorized by the President through warrants that must be issued in accordance with the Appropriation Act. Presidential warrants may also be issued when authorized by Parliament through approved supplementary estimates. Supplementary estimates are presented once a year, usually late in the financial year and with substantial and retrospective changes of the original budget. Sometimes, MPs are unhappy with supplementary estimates because they feel it is a rubber-stamp procedure.

The auditor General is appointed by the President and ratified by the National Assembly. Within 12 months after receiving financial reports from ministries, parastatals and other statutory bodies, the Auditor General presents the audited report to the President who must table it in the National Assembly within seven days of receiving it. The Auditor General has initiated value-for-money



audits that will also be reported to Parliament. While the Auditor General's office has been reformed to improve its efficiency, the fact that its reports must first go through the President's office before reaching Parliament compromises the Auditor General's independence.

Parliament's Public Accounts Committee (PAC) is responsible for making recommendations based on the Auditor General's report. The PAC conducts hearings on all cases brought to its attention, and summons Controlling Officers to testify. The PAC issues recommendations, but responses from the executive are often delayed and implementation of recommendations is neither time-bound nor conclusive. While the PAC is able to report any misuse of funds, Parliament is not able to follow up by checking if actions were taken against those accused of misappropriation.

The Auditor General also reports on the government's use of external grants. However, external donors often employ their own auditors and procedures. As reports from these audits are not shared with Parliament, Parliament's oversight function and sense of ownership regarding these funds is limited.

Meanwhile the legal framework, based on the Constitution of Zambia and particularly those provisions on the budget, shape and constrain the manner in which Parliament engages with the budget process. The key issues here are the system of government established by the Constitution; and the limited nature of amendment powers granted to Parliament with regard to the budget as proposed by the executive.

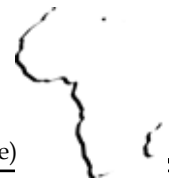
(b) The System of Government

In Zambia, the executive is directly dependent on majority support in the legislature. The composition of Parliament and the executive are inextricably intertwined, as are their electoral fortunes. This situation constrains parliament's ability to amend executive spending proposals during the approval or legislative phase. Often, the more technical and probably less politicized issues are dealt with through the Public Accounts Committee as the focus of financial scrutiny.

In Zambia's parliamentary system of the Westminster model, to fundamentally rewrite the entire executive budget would amount to a vote of no confidence in the government and it would have to resign.

(c) Parliament's Powers to amend the Budget

Parliament's powers to amend the budget are the second legal issue. Amendment powers are usually spelt out in the constitution and determined by ordinary legislation or spelt out in parliamentary rules. In the Zambian tradition of parliamentary government, reductions or restrictions apply: parliament may only reduce existing items of expenditure (i.e. those items included in the budget as proposed by the executive), but it may not introduce new ones or increase existing ones.



The Westminster tradition of amendment powers allows Parliament very little opportunity to shape budgets other than to cut them. This precludes any creative role for Parliament through the amendment process.

(d) The Political Dimension

Budgeting in Zambia takes place in a broader political environment in which political parties compete for power as they participate in the budget process. The legal framework and the constraints it establishes are long lasting while party political dynamics can change substantially from election to election, and possibly between elections. Two issues determine the party political balance of power in whose context parliament exercises its budgetary functions:

- Party political majorities. Stable majorities ensure predictability of voting outcomes.
- Party cohesion or party discipline. Party discipline entails voting to support the executive. Voting outcomes are strictly enforced by party whips, and support is assured because the electoral fortunes of their members are correlated with ruling party affiliation.

(e) Capacity and Resources of Parliament in Zambia

Parliament's greatest resource is its own members and support staff. As in most developing countries, Zambian legislators have substantially weaker technical capacity and resources to engage in budget work than does the executive branch, hindering their ability to be an assertive presence in budget policy.

Parliament in Zambia lacks independent research capacity to conduct rigorous budget analysis. There are many aspects of budget analysis which require a level of technical capacity that legislators may not have. In most mature democracies, parliaments will have at their disposal research units that are independent of the executive branch to assist in the tasks of budget analysis, and to monitor the effective use of disbursed funds and evaluating the impact of budget spending, (the best known example is the US Congressional Budget Office).

Members of Parliament are willing to be involved in financial oversight. But they will only be effective if the legislature supports them with resources comparable to resources available to the executive. It is therefore important that Parliament is better funded from the national budget.



CHAPTER 2

2.0 OVERVIEW OF THE AFRICA PARLIAMENTARY INDEX

While many writers and analysts have attempted to present comparative frameworks to assess legislative budget capacity, few have constructed quantitative measures. Some studies have presented indices of budget institutions, but these give little attention to legislative variables. Those dealing with fiscal issues concentrate on explaining fiscal performance, especially public debt and deficits, with the design of the budget process. Most of them focus not exclusively on the role of the legislature but on the broader selection of variables that are said to promote fiscal discipline in budget decision making.

Because of this gap, the need has been established for a set of indicators to provide a comparative framework in which to assess and measure the performance of partner parliaments in the APSP. These indicators are derived from a series of variables and are combined into an index to measure country variation in legislative budgeting and to facilitate empirical application based on a self-assessment toolkit designed by the Parliamentary Centre. This has been done through a participatory process that includes consultation with a wide spectrum of stakeholders. Such consultation was necessary to ensure ownership by and participation of partner parliaments in the design of the index.

Legislative budget capacity can be conceptualized in different ways. In more specific terms, the toolkit asks which institutional arrangements facilitate legislative control over budgets. It is therefore assumed that institutional arrangements reflect the budgetary control powers of a legislature. In this instance control is understood to mean the power to scrutinize and influence budget policy and to ensure that it is implemented.

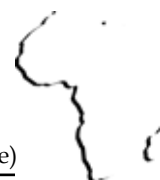
While taking account of the core functional areas of the budget process and oversight, the API also adopts a broad based capacity perspective that includes other central functional areas and institutional capacity issues that have a bearing on the oversight role of parliament: (i) the representation function; (ii) the legislative function; (iii) the oversight function; (iv) the financial function; (v) parliament's institutional capacity; and (vi) transparency and integrity.

2.1 Purpose of the API

In the words of the Parliamentary Centre (Africa), the “purpose of the Africa Parliamentary Index (API) is to present a standard and simplified system for assessing the performance of parliaments in Africa, especially parliaments in the seven core countries of the APSP project”.

The specific objectives of the API are summarized as follows:

- To assess partner parliaments against international best practices for budget oversight
- To provide a standard and simplified system for assessing the performance of selected parliaments on budget oversight



- To identify priorities and entry points for strengthening partner parliaments and
- To stimulate parliamentary progress towards achieving the goals of the APSP programme.

2.2 Scope and Areas Assessed

The scope of the API is defined by the objectives of the Africa Parliamentary Strengthening Programme (APSP) for budgetary oversight. These objectives include strengthening the ability of partner Parliaments taking part in the APSP to perform their legislative, financial, oversight and representative functions in order to promote good governance and the values of accountability, transparency and participation particularly as they engage in the budget process. The overall budget system is a continuing and integrated budget cycle process with legislatures playing a key role at different stages of the cycle. This cycle includes many institutions which, among others, form a country's governance system, namely the executive, public service, civil society and the legislature. Some aspects of the budget process – government accounting, reporting and internal audit – are primarily the responsibility of the executive and the public service. But for the overall budget system to work in a transparent, open and accountable way within the national economy, budget planning, revenue and expenditure allocation, financial reporting, external audit and evaluation and public accounting, should involve significant interaction with civil society and the public at large. It is here that legislatures in the APSP have a key role to play. The API self assessment tool covers six core areas:

- Representation;
- Legislation;
- Financial Scrutiny;
- Oversight;
- Institutional capacity and institutional integrity; and
- Transparency and Integrity.

2.3 The Process and Methodology of the Self-Assessment Exercise

(a) The Self-Assessment Process

The process of this self-assessment was initiated by Parliament in Zambia under the APSP. The authorities in Parliament are convinced that self-assessment will help strengthen its activities and make Parliament more efficient and effective. Because the initiative for change came from within Parliament, this process of self-assessment is best owned and conducted by Members of Parliament themselves. Moreover, it is expected that Parliament will further ensure that MPs truly assume ownership of the findings and recommendations that emanate from the exercise. Parliament is also aware that self-assessment is not meant to establish rankings of parliaments in the APSP group. Parliament's authorities know that in this self-assessment, Parliament itself is the main participant and ultimately the judge.



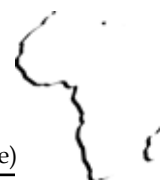
The main participants in this self-assessment were Members of Parliament grouped around one of the most important parliamentary committees, the Committee on Estimates. The composition of the self-assessment group included MPs from the opposition and governing political parties in Zambia, men and women, and senior officials from Parliament. To a large extent, this group reflected the broadest possible array of perspectives.

Throughout the self-assessment exercise, an Independent Country Assessor (ICA), appointed by Parliament, participated as an external facilitator. Where necessary, the ICA assisted members of the assessment group to find a common understanding of the purpose of the exercise and the roles each group member was expected to play in the process.

The API process was organized in five stages as follows:

- The first stage in the process was to appoint ad hoc committees that would be the principal focus for the self-assessment exercise. These committees had to be carefully balanced and representative of gender, and political party and other relevant factors. The ad hoc committees were large enough to be representative, but small enough to ensure thorough deliberation, discussion and decision making.
- Stage two in the self-assessment process was the discussion and adoption of the questions in the self-assessment toolkit.
- Stage three was for the committees to deliberate, mark their scores against the questions and discuss and debate their scores.
- Stage four involved the collation and analysis of the results. While the purpose of the Assessment Toolkit was to generate the variables and data for the construction of the African Parliamentary Index (API), the self-assessment survey was also used as a form of quantitative analysis, but not to provide opinion poll type of results.
- Stage five perhaps involved the most important aspect of the self-assessment process: the analysis and discussion of the results. This was conducted by the ad hoc committees. The purpose of this stage was to consider the reasons for the marks that were given, what this said about parliamentary performance and how any shortcomings could be addressed. The ad hoc committees first considered the average marks and discussed whether they were a fair reflection of their House, and then sought to understand why Parliament had been marked by Members in that manner. In other words, the ad hoc committees' understanding of their perceptions of their Parliament was as important as judging the effectiveness of the institution itself.

The results of the self-assessment survey provided a snapshot from which the African Parliamentary Index was constructed. The API provides a measure that gives an idea of what Parliament is like. The figures were all put into a spreadsheet and the average mark for each question was calculated.



(b) Methodology

The methodology used for this self-assessment exercise was based on a Self-Assessment Toolkit from the Parliamentary Centre in Accra. This toolkit provides the framework for Members of Parliament (MPs) to conduct discussions among themselves on a number of issues relating to Parliament's engagement in the budget process. The method used in this self-assessment involved MPs answering questions about the nature and work of Parliament in which they are the main actors on a daily basis. The questions are presented as a series; they are not designed as a questionnaire. Rather, the questions are framed in a way that facilitates discussions among MPs themselves. It is expected that in this way, they have the opportunity to examine differences of perception and judgement among them, and to come up with consensus on priorities for reform and improvement of their Parliament. The questions in the toolkit are grouped under six core functions of Parliament and as follows:

- Representation;
- Legislation;
- Financial Scrutiny;
- Oversight over the executive;
- Institutional capacity and institutional integrity; and
- Transparency and Integrity

Each of the questions in the self-assessment toolkit covers one aspect of the functions listed above. These constitute the role of a democratic parliament in the budget process. For each section, there is a list of questions framed in the comparative mode ("How effective, adequate, systematic, etc'). Individual participants were then invited to provide assessment answers on a four point scale:

- 4 = High level of capacity in place
- 3 = Moderate level of capacity in place
- 2 = Basic level of capacity in place
- 1 = Clear need for increased capacity

After studying each question, the respondents simply located the number of the question in the appropriate place and recorded their judgments. Thus, the self-assessment is based on value judgments of how parliament measures itself against each of the criteria. Respondents were also asked to identify what they considered to be recent improvements made in particular areas, current shortcomings and the measures required to improve performance. Many of these were expected to provide the basis for recommendations at the end of the self-assessment exercise.



CHAPTER 3

3.0 DETAILED ANALYSIS OF THE INDEX

3.1 Representativeness of Parliament

Broad-based parliamentary representation means an inclusive, fully representative Parliament across gender, ethnicity, political affiliation, religion, etc which is one of the main tenets of a democratic society. Effective representation requires MPs to be fully engaged with their constituents informing them about their role in the budget process. This interaction between MPs and their constituents defines the effectiveness of the legislature. Thus the API measures the extent to which Parliament represents the views of the public in the budget process. Hence the Index assesses the accessibility of Parliament to the public and the efforts of Parliament to make the public understand its role.

(a) Accessibility

Under the representation function, the API assesses Parliament's capacity through one sub-area, accessibility, focusing on 5 aspects of accessibility of Parliament. The assessment scores are given as follows:

A total of 5 aspects of accessibility were assessed. Three out of these were:

- the openness of Parliament to the public and the media;
- whether Parliament has a non partisan media relations facility; and
- existence of mechanisms to promote understanding of Parliament's work.

The other aspects evaluated were as follows:

- The aspect of timely provision of budget information to the public has a total assessed score of 3 on the scale of 1 to 4. This shows a moderate level of capacity of Parliament in this area, indicating that there is much room for improvement. The free and timely flow of information on the budget to the public, the media and civil society, is essential in a democratic society. The Bills and Acts of Parliament must be published regularly and should be freely available to the public. The public should also have access to the Parliamentary library.
- The weakest aspect of accessibility of Parliament is in respect of Parliament's relations with CSOs and other related institutions. The total assessed score for this aspect of legislative capacity is 1 on the scale of 1 to 4. This score reveals that there is clear lack of capacity in this area.

The CSOs scores of the above mentioned indicators do not always chime with that scored by parliament as evidenced below: The Legislature has a non-partisan media relations facility. The maximum score of 4.0 was given for this aspect of Parliament's accessibility and this was the strongest aspect. The evidence given for this score was that all media houses have access to Parliament. The CSOs contended that it is individual media houses which decide what is newsworthy and therefore



there should be no complaints because they all have all the access to Parliament. On mechanisms to promote public understanding of the work of the legislature, a score of 3.0 was assigned indicating only moderate capacity of parliament in this area. The evidence given included (i) Parliament Radio; (ii) Parliament's Website; and (iii) literature that is regularly distributed by Parliament on its work. The CSOs made some recommendations: (i) wider coverage of Parliament's Radio signal; and (ii) programme transmissions should also be conducted in local vernacular languages in addition to English.

Timely Provision of Information to the Public on the Budget Process

The CSOs posted a score of 3.0 for this aspect of accessibility giving the evidence that: (i) the Budget Speech is delivered live on radio and television; and (ii) that the Yellow Book (Estimates of Revenue and Expenditure for the fiscal year) is made available to the public through the Government Printer.

They recommended that the Yellow Book should be:

- Distributed at the time the budget is being announced;
- Made easily accessible by making it affordable to the common man in terms of the price it fetches;
- Produced for Provincial and/or sector levels; and
- Translated into the local languages.

The Relationship between Parliament, CSOs and other related institutions

The CSOs scored 2.0 for the relationship between Parliament, CSOs and other related institutions. This was the weakest aspect of Parliament's accessibility. The reasons for assessment of only basic capacity with respect to this aspect were given as:

- Limited correspondence between them and Parliament; and
- CSOs have always expressed their keenness to invite MPs to visit them to acquaint themselves with the advocacy work they do.

In light of this assessment, it will be important that Parliament establishes a continuous, open, and effective relationship with civil society organizations based on cooperation to achieve specific objectives: objective assessment of challenges facing Zambia society; to present to Parliament the broadest opinions of various groups of citizens; to promote more effective participatory democracy and the decision making process; to encourage civic initiatives; and to extend and improve the legal framework through broad participation of voters in the process. The civil society organizations shall be fully engaged in cooperation with Parliament by submitting clear and concise analysis of topics for consultation; recommendations and annexes where appropriate. Parliament and civil society organizations will ensure appropriate publicity of the consultation process involving all the mass media. The average capacity rating for the representation function on the scale of 1 – 4 is 2.8 while the overall weighted average capacity rating is 5.7. The Weighting Coefficient for accessibility of Parliament is 8.



3.2 The Legislative Function

The source of authority of the legislative power of Parliament is enshrined in the Constitution of Zambia. Article 62 of the Constitution states:

“The legislative power of the Republic of Zambia shall vest in Parliament which shall consist of the President and the National Assembly”

The legislative function was evaluated on the sub-area of the legal mandate of Parliament and four aspects of the function as follows:

- Law making including the passing of appropriation acts was assigned a total assessed score of 4.0 suggesting substantial legislative capacity in parliament’s core function. This was the strongest aspect of Parliament’s legislative function.
- The prevalence of opportunities for the public’s input into the budget legislative process and the availability of budget tracking mechanisms each had an assessed score of 3, showing moderate legislative capacity in these aspects.
- The powers to amend the Appropriation Bill received a total assessed score of only 2.0 on the scale of 1 – 4. This means that Parliament has only a basic level of legislative capacity in this area.

Parliament scrutinizes the expenditure and revenue proposals from the executive, and in the case of spending, it has to consider legislation for appropriations and changes to the tax code. In Zambia, Parliament passes separate legislation for appropriations. The nature of formal powers to amend the appropriations bills is determined by the ex-ante debates in the Committee of Supply where expenditure appropriations are decided, predominantly by the executive on the basis of the ‘restrictions only’ requirement. The low assessed score for capacity to amend appropriations bills clearly show that the scope for Parliament renegotiating and amending this legislation is limited.

This is the weakest aspect of Parliament’s legislative function and an area of great concern because as the assessed capacity score indicates, the present arrangements preclude a creative role for Parliament through the budget amendment process. Thus, the Westminster tradition of restrictions continues to prevail. The average capacity rating score for Parliament’s legislative function is 3.0 on the scale of 1 – 4. The overall weighted average capacity rating was computed to be 6.8, showing better overall capacity of Parliament in carrying out this function. The Weighting Coefficient for the legislature’s legal mandate is 9.

Civil Society Organizations gave the maximum score of 4.0 for Parliament’s capacity to legislate. They indicated that Parliament has a high level of capacity in this aspect of its legal mandate. they made reference to the Constitution which vests all powers to make laws in Parliament. Regarding the power to amend the Appropriations Bill the score assigned to this aspect of Parliament’s legal



mandate was 3.0 indicating their judgment that Parliament only has moderate capacity to amend the Appropriations Bill. They pointed out that the legislature may only reduce expenditures/revenues, i.e. Parliament cannot increase existing items nor can it create new ones. They recommended that Parliament should have powers backed by constitutional provisions to amend the budget upwards just as the executive adjusts the budget upwards through supplementary estimates. The score for 'Opportunities for public input into the Legislative Process' was 2.0, by this score Parliament has a basic level of capacity in relation to this indicator. CSOs contended that lack of public awareness of any existing structures for submission of input accounts for the low score. The following recommendations were made to address the gap: Parliament should engage in the creation of awareness among the grass roots about the existence of opportunities to participate in the legislative process through appropriate structures; Government should complement civil society's sensitization activities; and The Ministry of Finance and National Planning should provide feedback on the budget submissions made by various stakeholders each year. A mechanism to Track Legislation was given a score of 2.0, meaning the existence of basic capacity of parliament. The example given for this indicator was the failure of mining companies to pay windfall tax, which was law at that time, and only paid reluctantly in 2011, long after the tax had been abolished. Their recommendation was that legislation must be tracked by Parliament to ensure that its relevance and impact are reviewed.

3.3 The Financial Function

This is one of the most important functions of Parliament in its engagement with the Budget process. Parliament is the custodian of public money. It controls the entire purse of the central government. In other words, Parliament controls the proverbial legislative 'Power of the Purse', which is said to be fundamentally crucial for democratic government. This power gives the MPs the representatives of the people, the means with which to ensure that the government attends to all the people's grievances and to ensure that all fair and just measures are taken to effect redress.

(a) Budget Review and Hearings

The API assessed Parliament's financial function through the sub-areas of Budget Review and Hearings, Budget Act and Budget Office and Periodic Review of the Budget. There were 8 aspects of this function which were assessed by the parliamentarians who gave their scores based on their value judgements of how Parliament measures itself against each of the aspects assessed. The critical aspects in the self-assessment are:

- The length of time allowed for budget review by the legislature; this aspect was assigned a total assessed score for capacity of 3.0;
- The existence of an appropriations or budget committee in Parliament with a total assessed score for capacity of 4.0;
- Public hearings on the budget, had the total assessed score for capacity of 4.0
- A process for citizen participation in the budget process with a total assessed score for capacity of 2.0;



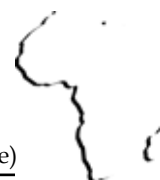
- Authority to amend the budget proposed by the executive was assigned the total assessed score for capacity of 3.0;
- Power to send back the proposed budget for review with a total assessed score of 1.0;
- Amendments of spending and revenue proposals with a total assessed score for capacity 4.0; and
- Information in the appropriation approved by Parliament with a total assessed score for capacity of 4.0.

From this description of this evaluation, it is evident that the strongest aspects of Parliament's execution of its financial function are in the areas of the existence of an appropriations/budget committee; the holding of public hearings on the budget; Parliament's ability to amend spending and revenue proposals; and information in the expenditure appropriations bills. There is evidence that Parliament is strong in these areas of the financial function.

International standards on budget transparency require that legislatures have sufficient time to review the proposed budget. Notably, the OECD Best Practices for Budget Transparency recommend the tabling of the budget at least 3 months prior to the start of the fiscal year and approval before the fiscal year commences. Parliament and the executive in Zambia adopted this system two fiscal years ago. While the total assessed score is 3 in respect of the period for the review of the budget by the legislature, it is clear that the current arrangements are adequate and in line with international best practice. Parliament's authority to amend the budget is rated at 3.0 on the scale of 1 – 4. This shows that Parliament only has a moderate level of legislative capacity in this important aspect of the budget process.

The Civil Society Organizations' representatives assigned a score of 4.0 to the length of the period during which Parliament reviews the budget. This is because Parliament now has three months in which to debate the budget, in line with the requirements of international best practice. On the issue of Public Hearings on the Budget, they scored 2.0 indicating that Parliament only has a basic level of capacity in this area. The evidence cited was that the existing Committee rarely publicizes its public hearings and the public are usually unaware of these meetings except in the case of those that are summoned as witnesses. CSOs recommended that the committee should be compelled by law to publicize their public meetings to enhance the opportunities for public participation.

Process for Citizens' Participation in the Budget Process was assigned a score of 2.0 indicating only moderate capacity in place. The evidence they cited was that few people know about the existence of structures like the Provincial Development Committees (PDCs) and the District Development Committees (DDCs) through which they can make submissions on the budget. Accordingly they recommended that sensitization activities especially by Parliament must be carried out about the existence of these structures. Existence of an Appropriations/Budget Committee was given 3.0 score, indicating an assessment of only a moderate level of capacity in place for this aspect of Parliament's work. The evidence given was the existence of the Joint Committee on Estimates comprising the



regular Committee on Estimates and the Chairpersons of the other portfolio committees of Parliament. Their recommendation was that the existing committee should concentrate on the budget and that they should show more effectiveness in their work on the budget throughout the financial year. Authority to Amend the Budget Presented by the Executive: The question was in regard to the formal powers of the legislature to amend the budget proposed by the Executive. In Zambia, the legislature may only decrease expenditures/revenues, but cannot increase existing items nor create new items. In view of this situation, the aspect of Parliament's authority to amend the executive's budget was given a score of 2.0, again signaling a basic level of capacity in place. Apart from the problems of a Westminster type of Parliament in budget matters, the CSOs also felt that Standing Orders do not allow the legislature to effectively amend the budget. Their recommendation was that Parliament should be given more powers in the Constitution to amend the budget in any way it believes is in the overall interest of the people of Zambia.

Power to send back the proposed Budget for Review: The Civil Society Organizations scored 1.0 for Parliament's ability to send the executive's proposed budget back for review. This showed that the CSOs believe that there is clear need for enhanced capacity of Parliament in this aspect of the budget process. They cited the evidence that Parliament has never sent the budget back to the executive for review in the entire history of independent Zambia. In addition, it was pointed out that in this parliamentary system, sending the budget back would be tantamount to a vote of no confidence in the government and it would have to resign. Their recommendation was that the law (Constitution) should be amended to allow Parliament to send the executive's budget back for review.

Amendments of Spending and Revenue Proposals: The aspect of amendments to spending and revenue proposals was given a score of 3.0 indicating a moderate level of Parliament's capacity in this area. The evidence of this was the example some years back, of the reduction in excise duty on fuel, a reduction which was effected by the executive. Their recommendation was that Parliament must have the ability to make such amendments in law and that these amendments must be implemented by the executive and that failure to do so should result in penalties and sanctions against the erring Controlling Officers concerned.

Information in the Appropriation Approved by the Legislature: With regard to information in the appropriations approved by the legislature the civil society organizations gave a score of 3.0, a moderate level of Parliament's capacity in this aspect of the financial function. The evidence they gave for this was that the Yellow Book is not detailed enough since certain expenditure entries do not provide sufficient information on the beneficiaries of these expenditure allocations. Their recommendation was that the Yellow Book should give more details and be more specific on beneficiaries to facilitate tracing public funds through the various layers of the bureaucracy for monitoring and evaluation of the activities financed through such expenditure allocations. Parliament's legislative budget capacity can only be enhanced when:



- It attains unfettered amendment powers;
- Spending is disallowed without legislative approval;
- The executive cannot unilaterally adjust the budget during implementation;
- The Committee on Estimates as well as the sectoral committees are effectively involved in the scrutiny of the budget; and
- Parliament has access to budget research capacity.

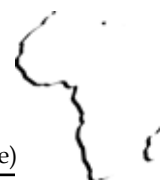
The API assessment gives a moderately low assessed score for capacity. But the legislature could score higher if it could achieve the requirements listed above. The assessment team attributed the current state of affairs to the absence of a budget act. Ultimately, there will be the need for legislation and a modernization of parliamentary rules and procedures to enable Parliament to amend the executive budget.

There is no mechanism in Parliament for citizens to participate in the legislative budget process by way of direct input into the legislative process or citizens being given any feedback from the legislature. Civil society organizations have no opportunity to provide an input into the legislative budget process and this is true of any other type of legislation. Civil society and the public are initially invited by the Ministry of Finance and National Planning to submit suggestions for the budget as their input into the budget formulation process. But there are complaints that the government largely ignores the suggestions, rendering the whole exercise academic. Parliament engages with citizens and civil society organizations when the Committee on Estimates and others are summoned as witnesses.

Amendments by Parliament on expenditure and revenue proposals are generally binding on the executive. This is true regardless of the nature and magnitude of such amendments. It is for this reason that the assessment team gave a total assessed score for capacity of 4, the highest on the scale of 1 – 4. Tax legislation is often straight forward while spending amendments are more difficult in the context of the restrictions on what is possible to adjust under the Westminster system of parliamentary rules and procedures.

Information in the expenditure budget is detailed and comprehensively presented in the ‘Estimates of Revenue and Expenditure’ for each fiscal Year and gives all details on all ministries, departments and other spending agencies including state owned enterprises. In Zambia, the publication is commonly known as the ‘Yellow Book’ and this is simply because it is bound in yellow covers. Because of its comprehensive nature, the assessment team gave this aspect the highest total assessed score for capacity of 4.0 on the scale of 1 – 4. This is another one of the strongest aspects of Parliament’s financial function.

The weighting coefficient for budget review and hearings was calculated at 9. The computed average capacity rating for the financial function came to 3.1. The overall weighted average capacity rating for this function was calculated at 7.0.



(b) Budget Act and Budget Office

There is no budget act in place. However, Parliament fulfils its expected role in the budget process on the basis of best practices. For a long time, parliamentarians have been calling for the passing of a budget act and have visited a number of African countries that have budget acts to learn what a budget act entails. However, enactment of a budget act will have to wait for the amended constitution to become law.

The evaluation results for a budget act and a parliamentary budget office were as follows:

- The issue of a budget act was given a total assessed score for capacity of 2.0 indicating a basic level of capacity of the legislature in this aspect;
- The existence of a parliamentary budget office was evaluated and assigned the total average score of 2.0 showing very moderate capacity in this aspect;
- Resourcing of the budget office was not evaluated for the obvious reason that none exists today;
- Access to information from central government departments and the private sector was also not given a score;
- The consideration of estimates for the ministry of Defence and for the intelligence services by the legislature was given the total assessed score of 4.0.

Parliament does not have an in-house budget office. It only has a research department that generally caters for the research needs of all Members of Parliament. For this reason, the assessment team gave the total assessed score for capacity of 2 implying the very basic level of capacity in place.

The CSOs scored 2.0 for the lack of a Budget Act. The reason given was that even though much work of drafting the relevant bill has been done, there is clear need for increased capacity in this aspect of the financial function. It is envisaged that a Budget Act will be enacted once the amended Constitution is adopted. The CSOs were informed that in the 2011 Budget, the government has made provision for the implementation of the envisaged Act. Their recommendation is that a Budget Act is long overdue and should be passed as soon as possible. The aspect of the non existence of a Parliamentary Budget Office was assigned a score of 1.0 because there is clear need for one to be established as soon as a Budget Act is passed. The obvious evidence given for this score was that at present there is no Parliamentary Budget Office. Their recommendation was that such an office should be set up as soon as possible.

Consideration of Estimates for the Defence and Intelligence Services: The aspect of consideration of estimates for the Defence and Intelligence Services by the legislature was given a score of 3.0 by the CSOs. Evidence for this score was that currently, there is no full disclosure of the budget estimates for the Defence and Intelligence Services.

Their recommendation was that the responsible committees must be allowed access to the estimates for these institutions.



The consideration of estimates for the Ministry of Defence and the Intelligence Service was assigned the total assessed score for Parliament's capacity of 4.0 by the parliamentarians. This is one of the highest scores indicating a high level of parliamentary legislative capacity in this area. Parliament considers these estimates on the basis of full disclosure of the details of the estimates in their budgets.

However, because of the sensitive nature of these ministries and departments, the scrutiny of the budgets of the Ministry of Defence and other security organizations is carried out by the Public Accounts Committee (PAC). In order to complement the role of the PAC in providing checks and balances, the Committee on National Security and Foreign Affairs provides checks and balances on policy matters since oversight is done by the PAC. Thus, every year, the Speaker appoints members to the Committee on National Security and Foreign Affairs for one session. The duties of the committee are determined by the Speaker or any other Standing Orders of the House to oversee the activities of the ministries of Defence, Home Affairs and Foreign Affairs.

In overseeing the activities of these ministries, the committee:

- Studies, reports and makes recommendations to the government through Parliament on the mandate, management and operations of the ministries of Defence, Home Affairs and other security organs;
- Conducts detailed scrutiny of certain activities undertaken by the ministries of Defence, Foreign Affairs and other agencies under their portfolios and makes recommendations to the House for ultimate consideration by the government ;
- Makes recommendations to the government on the need to review certain policies and/or certain existing legislation;
- Considers any bills that may be referred to it by the House; and
- Inspects selected projects and security institutions to examine their operations.

It should be noted that both the Committee on National Security and Foreign Affairs and the PAC are never involved in defence pre-budget consultations, which is an important component in the budget process. With a weighting coefficient of 9, the average capacity rating on the average scale of 1 – 4, for the area concerning the issue of a Budget Act and a parliamentary Budget Office is 2.7. The overall weighted average capacity rating score is 6.0.

(c) Periodic Review of the budget

For this sub-area of the financial function, the only aspect evaluated was budget reviews. The assessment team gave a total assessed score for capacity of 1.0 showing a clear need for increasing capacity for periodic budget reviews. This is because apart from the limited information contained in the annual Financial Report, there are hardly any budget reviews submitted to Parliament by the executive. This is an area that requires urgent attention. There is therefore a clear need to increase capacity by Parliament insisting that the executive should regularly submit the various listed reports. Legislative scrutiny and oversight throughout the budget cycle require comprehensive, accurate,



appropriate and timely information to be made available by the executive. The IMF Code on fiscal transparency (2007) spells out the types of budget documentation that should be available. It is therefore recommended that Parliament should ask the executive to make regular submissions of the following documents:

- A comprehensive budget that includes performance data and medium term projections;
- A pre-budget report that states explicitly the government's long-term economic and fiscal policy objectives, economic assumptions and fiscal intentions for the medium term (Medium Term Expenditure Framework, MTEF);
- Monthly reports that show progress in implementing the budget, including explanations of any differences between actual and forecast amounts;
- A mid-year report that provides a comprehensive update on the implementation of the budget, including an updated forecast of the budget outcome for the medium term;
- A year-end report that should be audited by the Auditor General and released within six months of the end of the fiscal year; and
- A long term report that assesses the long term sustainability of current government policies.

With a weighting coefficient of 8, the weighted average capacity rating score was 1.0. The overall weighted average capacity rating was computed to be 2.0.

For Periodic Budget Reviews, the CSOs gave a score of 2.0 on the evidence that in their view, the only time the budget is reviewed is during the Minister's Budget Speech to Parliament when he gives a review of the previous year's budget. They stated that there is no system compelling the executive to submit certain reports regularly. Yet, there is need for quarterly and mid-year budget reports to be submitted to Parliament for review. Their recommendation was that periodic reviews of the budget by Parliament should become routine if the legislature is to enhance its capacity to perform its financial function effectively.

Legislative Approval of Reviews

The area of legislative approval of reviews was given a score of only 1.0 indicating a clear need for increasing capacity in this aspect. The reason for this score was that there are no periodic budget reviews presented to Parliament by the executive. They therefore recommended that the executive should submit to Parliament at least quarterly and mid-year reviews of the budget for scrutiny and approval by the legislature.

The score given for the time allocated for approval of reviewed budgets was 1.0 on the evidence that no reviewed budgets are submitted to Parliament except for the review of the previous year's budget by the Minister responsible for finance in his Budget Speech. Their recommendation was that the executive should regularly submit budget reviews to Parliament which should have sufficient time to consider them.



3.4 The Oversight Function

The parliamentary oversight function is one of the cornerstones of democracy. Oversight by Parliament is a means for holding the executive accountable for its actions and for ensuring that it implements policies efficiently and effectively. The robust monitoring of the executive by Parliament is an indicator of good governance. Apart from Parliament's legislative function, it is through oversight that Parliament can ensure a balance of power and assert its role as defender of people's interests.

In most democracies, parliament is given the power to oversee the government through a number of tools and mechanisms. Typically, these tools and mechanisms are enshrined in constitutions and other regulatory texts such as parliament's own rules and procedures. The specifics of how a parliament can carry out its oversight prerogative depend on the existence of a legal framework, which consolidates the position of parliament as an oversight institution and guarantees its powers and independence within the political system. Parliament can improve its oversight capacity by reforming its own rules. For example, a good practice for the committee system would be to assign a single committee to each government ministry. With respect to its oversight function, Parliament conducts oversight to achieve objectives as follows:

- To ensure transparency and openness of executive activities. Parliament sheds light on the operations of the government by providing a public arena in which the policies and actions of government are debated, scrutinized, and subjected to public opinion.
- To hold the executive accountable. Parliamentary oversight scrutinizes whether the government's policies have been implemented and whether they are having the desired impact.
- To provide financial accountability. Parliament approves and scrutinizes government spending by highlighting waste within publicly funded services. The aim is to improve the economy, efficiency and effectiveness of government expenditure.
- To uphold the rule of law. Parliament should protect the rights of citizens by preventing arbitrary behaviour and illegal or unconstitutional conduct by government.

(a) Oversight Committees

In the sub-area of Oversight Committees of Parliament, seven aspects of oversight were evaluated by the assessment group to determine the capacity and effectiveness of Parliament's oversight of the executive. The strongest aspects of Parliament's capacity for oversight were in four sub-areas each of which was assigned the total assessed score of 4.0 on the scale of 1 – 4, implying high levels of capacity being in place.

These areas are:

- The existence of 15 oversight committees organized along functional, and portfolio or sectoral lines;



- The power of oversight committees to follow up on their recommendations; these committees do have the power and means for follow-up on the implementation of decisions and recommendations made. This is done through the mechanism of “Action Taken Reports” which every ministry, department and spending agency concerned must prepare within a prescribed time limit.
- Availability of access to resources by the oversight committees: the committees are fairly well funded given the scarcity of resources due to budgetary constraints.
- The existence of opportunities for minority and/or opposition parties to participate fully in the oversight activities of Parliament. Thus, all the oversight committees, including the Committee on Estimates and the Public Accounts Committee are chaired by MPs from the opposition parties.

These are the strongest aspects of Parliament’s oversight function, each with a total assessed score of 4.0

There are three that are the weaker aspects of Parliament’s Oversight Committees, each of which has the total assessed score of 3 on the scale of 1 – 4. In each aspect, there is only a moderate level of legislative capacity in place. These aspects are as follows:

- Investigative powers: Oversight Committees have these investigative powers over budgetary matters/and or government spending and these powers are enshrined in the rules of procedure but are not regularly enforced. The recommendation was that these rules should be strictly enforced;
- The oversight committees have sufficient oversight of the expenditures of state owned enterprises; the committees do summon the chief executives of the respective state owned enterprises to give evidence before them but cannot at any point in time call for special audits; hence there is a demand for a law giving powers to call for special audits; and
- The issue of the availability of mechanisms for oversight committees to obtain information from the executive is an important aspect of the oversight function of Parliament. Parliament needs to have access to comprehensive, accurate and timely information to effectively carry out its oversight function. Also crucially important, the supporting documentation for the budget figures must be broad and sufficiently detailed. These include the year’s revenue and expenditure updates as well as high quality audit reports, together with performance audits, which are vital information for legislative oversight of budget implementation. The current state of affairs is that mechanisms exist for the oversight committees to obtain information from the executive to exercise its oversight function, but these mechanisms are not efficient, partly because there is a strong element of resistance from Controlling Officers in the ministries.



The weighting coefficient for oversight committees was calculated at 7.0. The average capacity rating on the scale of 1 – 4 was 3.6. The overall weighted average capacity rating was evaluated at 6.3 percent. The CSOs assessment on the existence of oversight committees was 2.0, an indication of only a basic level of Parliament's capacity in this aspect of its oversight function. Their evidence was the existence of the Public Accounts Committee which to them is the only visible oversight committee. Their recommendation was that there should be sectoral committees. The CSOs do not seem to be aware of the existence of sector related committees that carry out oversight over the responsible ministries.

Investigative Powers of Oversight Committees

The representatives of the CSOs gave a score of 1.0 for this aspect. Their evidence was that these committees do not have investigative powers but can only make recommendations. Their recommendation was that these committees should have investigative powers enshrined in law.

Oversight of Spending by State Enterprises

The CSOs posted a score of 3.0 for this aspect. They pointed to the powers of the committees to summon the managements of state owned enterprises to appear before them to testify although the committees have no powers to call for special audits of the companies involved. They therefore recommended that committees should have the powers to call for special audits should the need arise and that such powers should be backed by law.

Mechanisms for Oversight Committees to obtain information from the Executive

The assessment of this aspect resulted in a score of 3.0 because such mechanisms do exist. The recommendation was that Parliament should ensure that the executive does not relax in providing information at the right time.

Power of Oversight Committees to follow up on Recommendations

The civil society organizations gave a score of 2.0 for this aspect of Parliament's oversight function. The evidence they gave was that the recommendations are more often not implemented and the same cases keep reappearing all the time. They recommended that oversight committees should have the power to ensure recommendations are acted upon and that these powers should be backed by law.

Access to resources by Oversight Committees

This aspect of the oversight function was given a score of 3.0. The CSOs gave the evidence that all the relevant committees do undertake tours around the country performing their oversight of government spending and this requires significant amounts of resources. Their recommendation was that more resources should be made available to ensure that such outreach activities such as tours around the country are intensified and extended to cover all parts of the country.



Opportunities for Minority/Opposition Parties

This aspect was assigned the score of 4.0 with the CSOs saying that MPs from the opposition have equal opportunities to become members of committees. They recommended that this arrangement should continue.

(b) The Public Accounts Committee

The Public Accounts Committee (PAC) is one of the instruments that Parliament uses to check the government's activities. The existence of the PAC is institutionalized by Article 86 (3) of the Constitution of Zambia. The size of the membership of the PAC is determined by the Standing Orders of the Parliament. To counterbalance the power of the majority in the PAC, the opposition is generally given the Chairmanship of the PAC and this performs two basic functions. First, it redistributes the balance of power between the government and the opposition. Second, it performs a symbolic function. The fact that the Chairperson of the PAC is a member of the opposition indicates the willingness of both the majority and minority to operate, within the PAC, in a perfectly bipartisan manner.

The PAC is a standing committee which helps Parliament oversee the activities performed by the government. The PAC like any other standing committee has the power to investigate and examine all the issues that are referred to it by Parliament. It can also investigate some specific issues such as the government's accountability to Parliament with regard to the expenses approved by the government; the effectiveness and the efficiency of the policies enacted by the government; and the quality of the administration.

To accomplish this, the PAC is given additional and more specific powers, such as the power to examine the public accounts, the comments on the public accounts and all the reports prepared by the Auditor General. The PAC also has power to conduct, directly or indirectly, some investigations; to receive all the documentation that it considers necessary to adequately perform its functions; to invite government members to attend the meetings of the PAC and to respond to the questions put to them by members of the PAC; to give publicity to their own conclusions; to report to Parliament and to suggest to government how to follow up on its recommendations.

In the sub-area of the PAC, the API assessed 11 aspects of the committee's work to determine the capacity and effectiveness of the Public Accounts Committee and these represented the main aspects regarding the functions of the PAC. These were:

- The Chairmanship of the PAC which was given the assessed score of 2.0;
- The rights and powers of the PAC which was assigned the total assessed score of 4.0;
- Attendance by ministers with the score of 2.0;
- Openness of the PAC proceedings which was given the total assessed score 4.0;
- Consideration of the report of the Auditor General with the score of 3.0;



- Independent investigations with the lowest score of 1.0;
- Recommendations of the PAC, another aspect given the lowest score of 1.0 out of 4.0.
- Mechanisms for tracking recommendations of PAC was assigned a highest score of 4.0;
- Resourcing the PAC with a total assessed score of 4.0;
- Collaboration with anti-corruption institutions assigned the very low score of 1.0; and
- Implementation of the recommendations of the PAC with the lowest assessed score of 1.0.

The weakest aspects clearly requiring increased capacity were those in respect of the near lack of collaboration with anti-corruption institutions, lack of capacity to conduct independent investigations, and the non existence of capacity to ensure that action is taken by the executive to implement the PAC's recommendations.

Two aspects of the effectiveness of the PAC were evaluated as having the basic level of capacity. These concerned the Chairmanship of the PAC. The assessment team felt that though the Chairman of the PAC is from the opposition, this is not provided for in law or Parliament's Rules of Procedure, but by convention and therefore recommended that there should be a law to give credence to the opposition holding the Chairmanship of the PAC. The other weak aspect is that the attendance of PAC meetings by Ministers is not satisfactory. The example is given that the Auditor General and the head of the Anti Corruption Commission are permanent witnesses on the PAC. Finally, the PAC is weak with respect to initiating any independent investigations.

The moderately strong aspect of the effectiveness of Parliament through the PAC is the area of the consideration of the reports of the Auditor General. It is a fact that the PAC considers all reports though these are not always on time.

The strongest aspects of the oversight Public Accounts Committee include the very existence of the PAC with a total assessed score of the maximum 4.0. The PAC is established by the Standing Orders of Parliament. This is followed by the rights and powers of the PAC, an aspect of the oversight function which received the total assessed score of 4.0. Under these powers, the PAC can subpoena witnesses and documents. This is backed by law. Another indicator of strong parliamentary oversight capacity is the area of the openness of the proceedings of the PAC. The total assessed score was also evaluated at 4.0 indicating that the proceedings are very open to the media and the public. Under the law, the PAC holds its proceedings in public, though the public cannot take part in these proceedings. The assessment team also gave the total assessed score of 4.0 for the existence of mechanisms for tracking recommendations of the PAC. There are adequate mechanisms to track the implementation of the recommendations of the PAC and this is supposed to be accessed by the public and verified. The PAC is adequately funded and for this, the assessment group gave the total assessed score of 4.0, thereby indicating the very highest level of oversight capacity in this aspect of Parliament's oversight over the executive.



The weighting coefficient for the Public Accounts Committee was calculated at 8. The average capacity rating score on the scale of 1 – 4 for the PAC was calculated at 2.7. The overall weighted average capacity rating for this aspect of Parliament's oversight function was computed to be 5.5. The score for this sub area of Parliament's oversight function by CSOs was given a score of 4.0 because the representatives pointed to the fact that the PAC is established under an appropriate provision in the Constitution and that the Committee is seen to be doing its work.

Existence of a Public Accounts Committee (PAC)

The score for this sub area of Parliament's oversight function was given a score of 4.0 because the representatives pointed to the fact that the PAC is established under an appropriate provision in the Constitution and that the Committee is seen to be doing its work.

Chairperson of the Public Accounts Committee

A score of 2.0 was given for this aspect. However, the CSOs said while they were well aware that the Chairperson of the PAC is from the opposition, they were not sure about how the appointment is made. They therefore requested that they be given more information on the matter. In reality, the Chairperson is elected by the membership of the PAC following the convention that the position should be held by an opposition Member of Parliament.

Rights and Powers of the PAC

This aspect of the oversight function was given a score of 4.0 signaling the existence a high level of Parliament's capacity. They pointed out that the rights and powers of the PAC are derived from constitutional provisions.

Attendance of PAC meetings by Government Ministers

The civil society organizations posted a score of 1.0 for this area giving the reason that they had never seen Ministers attending these meetings. However, it is true that Ministers rarely attend such meetings, but civil servants do attend since they are the ones who as witnesses have to provide answers to questions from committee members.

Openness of the PAC Proceedings

Civil Society organizations representatives scored this aspect at 2.0. They stated that while the media does air and write extensively about the proceedings, it was their recommendation that the proceedings should be held in public places as a way of building pressure to enable the public exact accountability of the government.

Consideration of the Reports of the Auditor General (A-G)

The CSOs assigned the score of 4.0 for this sub-area for the reason that these reports are brought before the PAC. However, they stated that they are not sure about the ability of the PAC (Parliament) to ensure that the recommendations in the reports are followed up or implemented. They recommended that the recommendations contained in the Auditor General's reports should be followed up, either



through the courts of law or through sanctions provided for in the Financial Regulations of the Public Finance Act.

Independent Investigations by the PAC

This aspect was given a score of 1.0 indicating the CSOs' judgment that Parliament clearly must increase its capacity in this area. They stated that they had not seen any independent investigations by the PAC. They therefore recommended that the PAC should have the power backed by law to initiate independent investigations. The CSOs gave a score of 1.0 for this aspect of Parliament's capacity for its oversight function, pointing out that they believe the situation calls for increasing capacity in this area. They gave the reminder that no recommendations are ever acted upon and the same cases of misappropriation and waste of public funds keep reappearing every year. It was their recommendation that the executive should be bound by law to implement recommendations of the PAC with regular progress reports being submitted to Parliament through the Committee.

Mechanisms for Tracking Recommendations of the PAC

The score by the CSOs for this aspect was 1.0 signaling that there is need to create and strengthen capacity in this area. They justified this score by pointing out that there had, at best, been haphazard follow up on recommendations on previous issues. Their recommendation was that a mechanism for tracking recommendations of the PAC should be put in place and that this mechanism should be backed by legislation and be strictly enforced.

Resourcing the PAC

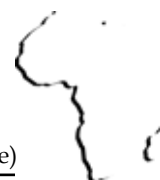
Following much discussion among themselves the representatives of the CSOs gave a score of 1.0 for this aspect of Parliament's oversight responsibilities. It was their considered recommendation that the PAC should be better resourced to increase its capacity in this area especially the capacity to hold public meetings in other towns of Zambia.

PAC Collaboration with the Anti-Corruption Commission

Civil Society Organizations posted a score of 1.0 for this aspect. They said that there had not been any indications that there is any collaboration with the Anti-Corruption Commission because there is hardly any action taken on the recommendations of the PAC. Their recommendation was that there should be established a structured system of collaboration between the PAC and the Anti-corruption Commission since they are involved in the same task of ensuring that public funds are properly utilized for the good of the nation.

Chairperson of the Public Accounts Committee

A score of 2.0 was given for this aspect. However, the CSOs said while they were well aware that the Chairperson of the PAC is from the opposition, they were not sure about how the appointment is made. They therefore requested that they be given more information on the matter. In reality, the Chairperson is elected by the membership of the PAC following the convention that the position should be held by an opposition Member of Parliament.



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This aspect of the oversight function was given a score of 4.0 signaling the existence a high level of Parliament's capacity. They pointed out that the rights and powers of the PAC are derived from constitutional provisions.

Attendance of PAC meetings by Government Ministers

The civil society organizations posted a score of 1.0 for this area giving the reason that they had never seen Ministers and civil servants at these meetings. However, it is true that Ministers rarely attend such meetings, but civil servants do attend since they are the ones who as witnesses have to provide answers to questions from committee members.

Openness of the PAC Proceedings

Civil Society organizations representatives scored this aspect at 2.0. They stated that while the media does air and write extensively about the proceedings, it was their recommendation that the proceedings should be held in public places as a way of building pressure to enable the public exact accountability of the government.

Consideration of the Reports of the Auditor General (A-G)

The CSOs assigned a score of 4.0 for this sub-area for the reason that though the A-G's reports are brought before the PAC they are not sure about the ability of the PAC (Parliament) to ensure that the recommendations in the reports are followed up or implemented. They recommended that recommendations should be followed up, either through the courts of law or through sanctions provided for in the Financial Regulations of the Public Finance Act.

Independent Investigations by the PAC

This aspect was given a score of 1.0 indicating the CSOs' judgment that Parliament clearly must increase its capacity in this area. They stated that they had not seen any independent investigations by the PAC. They therefore recommended that the PAC should have the power backed by law to initiate independent investigations.

Recommendations of the PAC

The CSOs gave a score of 1.0 for this aspect of Parliaments capacity for its oversight function, pointing out that they believe the situation calls for increasing capacity in this area. They gave the reminder that no recommendations are ever acted upon and the same cases of misappropriation and waste of public funds keep reappearing every year. It was their recommendation that the executive should be bound by law to implement recommendations of the PAC with regular progress reports being submitted to Parliament through the Committee.

Mechanisms for Tracking Recommendations of the PAC

The score by the CSOs for this aspect was 1.0 signaling that there is need to create and strengthen capacity in this area. They justified this score by pointing out that there had, at best, been haphazard



follow up on recommendations on previous issues. Their recommendation was that a mechanism for tracking recommendations of the PAC should be put in place and that this mechanism should be strictly enforced.

Resourcing the PAC

Following much discussion among themselves the representatives of the CSOs gave a score of 1.0 for this aspect of Parliament's oversight responsibilities. It was their considered recommendation that the PAC should be better resourced to increase its capacity in this area especially the capacity to hold public meetings in other towns of Zambia.

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(c) The Public Audit

The Office of the Auditor General is an independent expert institution designed to oversee the financial management of government bodies and thus help Parliament fulfil its oversight function. The supreme audit institution should be able to undertake four different kinds of audits:

- Financial audits, which assess the accuracy and fairness of accounting procedures and financial statements;
- Compliance audits, which scrutinize whether funds have been used for approved purposes. Here, auditors examine, whether funds were authorized by the correct institutions and whether all laws and regulations were complied with;
- Performance audits (also known as "value for money" audits), which analyse the operational efficiency and general effectiveness of government programmes; and
- Ethical audits, which assess the ethical environment of an institution with the goal of identifying high-risk areas. These are a recent trend introduced by Auditors General notably in the UK.

Article 121 (1) of the Constitution of Zambia provides for the appointment of the Auditor general by the President and ratification by the National Assembly. The duties or functions of the Auditor general are specified in Article 121 (2). These functions are:

- To establish whether public funds have been spent in accordance with the purpose for which they were appropriated by the Appropriation Act;



- To audit the accounts relating to the general revenues of the republic and the expenditure of public moneys appropriated by Parliament and that the expenditure conforms to the authority that governs it;
- To audit accounts relating to the general revenues of the republic and public expenditure, and the accounts of such other bodies as may be prescribed by or under any law; and
- To audit the accounts relating to any expenditure charged by the Constitution or any other law and to submit a report to the President not later than twelve months after the end of each financial year (the President must then submit the Auditor general's report to the National Assembly within seven days of receiving it). This includes any company outside central government which receives or handles government subsidies, grants, etc.

The role of the Auditor general is derived from the functions of Parliament. The role exists to provide Parliament with independently derived audit information about the executive arm of government. To be effective the Auditor General must be seen to be independent and competent. The Auditor General must be free from direction by the executive government and free from political bias; and have the means to acquire the resources necessary to do the job properly. To be further effective, the Auditor General must have appropriate functions, duties and powers to achieve the tasks of auditing and reporting on the range of matters on which Parliament seeks independent assurance. The Auditor General must be fully accountable for the performance and use of public resources in discharging the mandate of the office. The Auditor General must be primarily accountable to Parliament (not the executive) in a manner consistent with the office's independence. The Auditor General plays an important role in ensuring sound and proper accountability of the public sector. The Auditor General must expect the same high standards of accountability and scrutiny to apply to his/her own performance. The Constitution of Zambia defines:

- The process of appointment, suspension or removal from office of the Auditor General
- The term of office;
- The determination of the Auditor General's salary and conditions of employment;
- The process for determining the budget and work plans of the office.

The API assesses six aspects of the audit function to determine the effectiveness of the audit process in the oversight function of Parliament. The total assessed scores for each of these aspects were as follows:

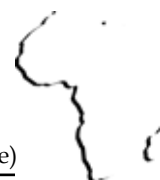
- The procedure for the appointment of the Auditor General was given the score of 1.0 indicating the need to increase Parliament's capacity in this aspect that is an important element its performance of its oversight function. Although the Auditor General's is a Constitutional appointment under Article 121, the reason for this low score is because the assessment team's judgement is that the Auditor General should report directly to Parliament



and not the President and that the Auditor General should submit the annual audit report simultaneously to the President and Parliament. Currently, under the Constitution, the report is submitted to the President who then sends it to the National Assembly within seven days of receiving it. This is one of the weakest areas assessed.

- The submission of the Auditor General's report to Parliament was evaluated at the high score of 4.0 indicating that there exists a high level of satisfaction with this aspect of Parliament's discharge of its oversight function. This is the strongest aspect of the audit function as part of Parliament's oversight function.
- The issue of the regularity and timeliness of submission of the Auditor General's reports to the legislature was given the total assessed score of 3.0, indicating only a moderate level of capacity of Parliament in this aspect, because though Parliament receives reports from the Auditor General, these are not regular. The reports are sometimes two years behind.
- The reports of the Auditor General become public after they are laid before the House. This is part of the powers of Parliament. This aspect was assigned the total assessed score of 3.0 implying a moderate level of capacity in this sub-area.
- Parliament cannot ask the Auditor General to conduct special audits. This aspect was given the total assessed score of 1.0; clearly another one of the weakest aspects of the assessment, and therefore showing that Parliament has no capacity regarding this sub-area in its performance of its oversight function. This is why there is a recommendation that arrangement be made to make it possible for Parliament to ask the Auditor General to carry out special audits.
- With regard to the adequacy of resources for the Auditor General and of the authority of the auditor General, the assessment team gave the total assessed score of 3.0 for this aspect. This shows the existence of a moderate level of capacity for this sub-area of the assessment. The situation today is that although the Auditor General has legal authority to conduct audits in a timely manner, the office is very much constrained in its work because resources available are very limited. In consequence, the Auditor General has serious shortages of skilled manpower which delays completion of reports. Hence, it is being recommended that the office of the Auditor General should be allocated more resources than the amounts available today. In an ideal situation, the Auditor General should have independent means of funding.

With respect to the audit aspect of Parliament's oversight functions, the weighted coefficient worked out to be 8 out of the possible maximum of 10. The average capacity rating on the scale of 1 – 4 was calculated at 2.5. The overall weighted average capacity rating was computed at 5.0.



CSO participants assigned a score of 3.0 to this aspect of Parliament's oversight function despite the fact that the A-G is appointed by the President under the Constitution with Parliament ratifying the appointment. Their recommendation was that this system should continue but that ratification should be by Parliament sitting as a Committee of the Whole and that tenure of office should be fixed for at least five years.

Submission of Reports of the Auditor General

The CSOs posted a score of 2 for the submission of the Auditor General's reports signifying their belief that there is only a basic level of capacity in this area. Their reason for this score was that they are only aware of the Auditor General's annual reports and none others produced in the course of the year. These other reports include those that are requested into specific issues such as recent thefts of public funds from external donors in several ministries. They therefore recommended that all reports in addition to the annual report should also be made public.

Regularity and Timeliness of Reports

The CSOs gave the score of 4.0 for this aspect of the oversight function signaling their satisfaction that there is a high level of capacity in this area despite a few problems once in a while. Their recommendation was that this good performance should be maintained.

Publication of reports of the Auditor General

The score given for this aspect was 4.0. The CSOs said that there was evidence that members of the public are able to have access to the report before the PAC commences its proceedings in each year. Their recommendation was that the timeliness of the publication of the reports should be maintained.

Request for Audit

The score of 4.0 was given for this aspect. The reason for this score was that the CSOs believed that the legislature can request for special audits to be carried out by the Auditor General.

Resources and Authority of the Auditor General

Representatives of civil society organizations assigned a score of 3.0 for this aspect indicating that there is a moderate level of capacity in this area of oversight. They pointed out that the Auditor General, like many other public institutions has the perennial problem of inadequate resources to carry out the assignments required of the office. The CSOs did acknowledge the fact that the Auditor General derives authority to conduct audits in a timely manner from specific provisions in the Constitution which also prescribes the manner in which the Auditor General's Office should be resourced. They therefore recommended that given the importance of the office, the executive should allocate sufficient funding to the Auditor General's Office since the government itself also does benefit from the work of the Auditor General.



3.5 Institutional Capacity of Parliament

Parliament's greatest resource is its own members and support staff. To have effective financial oversight, it is imperative that there be members with a passionate interest in detailed scrutiny of government operations. In most developing countries including Zambia, legislators have substantially weaker technical capacity and resources to engage in budget work than does the executive branch, hindering their ability to be an assertive presence in budget policy. It is claimed that most legislators perceive the budget-making process as an obscure technical process, driven by finance ministry economists, which they do not understand and to which they are unable to meaningfully contribute.

Parliament in Zambia has inadequate independent research capacity to conduct intensive budget analysis. But in a number of African countries, Parliaments have established Parliamentary Budget Offices dedicated to research to assist in the tasks of budget analysis, and to monitor the effective use of disbursed funds and evaluating the impact of budget spending on behalf of parliamentarians. Therefore the legislature is faced with the question of whether and how to establish its own dedicated resources. These can take the form of:

- Enhancing the staff of committee officials – with a mixture of perhaps permanent and temporary staff, supported by secondments and expert advisors such as consultants and academics.
- Creation of an office within the legislature, a Parliamentary Budget Office able to provide high-level in-house economic and financial advice to all MPs; this has obvious resource implications since it will require substantial financial commitment.

A strong, dynamic and effective parliament requires the support of an administration possessing similar qualities. Apart from running Parliament on a daily basis, the administration provides MPs with research and analysis, provides advice on legislative drafting, manages and archives information, and ensure that parliamentary rules are being respected.

An effective parliamentary administration requires strong management and research skills, as well as training capacity to continually update staff skills. High quality support of this kind ensures that parliamentarians have the information to analyze and make legislative decisions and adequately consider the long-term social and economic consequences of proposed legislation. Due to these needs, transparent and independent recruiting, evaluation and management procedures are vital to the daily functioning of parliamentary administration.

It should be mentioned here that to effectively engage in its tasks, Parliament in Zambia has its own library and a research department, as well as its own website, publication and radio transmission facilities. Parliament's administration is adopting the use of Information Communication Technology (ICT) tools to help facilitate its important and complex tasks. Through these tools, the administration seeks to enhance and strengthen the core functions and operations of Parliament. It is expected that ultimately, the use of advanced technology will have an important impact on parliamentary transparency and Parliament's representational function.



Much has been invested in these tools to assist MPs in conducting their core functions. The tools will include digital resources to help committees, an information system for tracking parliamentary work, increased communication and networking between MPs and citizens. The constituency offices under the auspices of parliament are a good beginning.

A very important aspect of Parliament's independence is control over its own budget to provide adequate resources to enable the legislature to perform its functions properly. Parliamentary independence and effectiveness to perform its functions is eroded when parliament lacks control over its own budget or has inadequate finances to fund its committees and carry out various other internal, administrative duties. Indeed, without sufficient resources for the training of new members; secretarial, office, library and research facilities; drafting assistance for bills, etc, Parliament will be handicapped. Parliament in Zambia is able to design its own budget based on its needs and to negotiate with the executive the amount allocated to it from the national budget. There should be sufficient autonomy over these finances by Parliament to protect its institutional independence and integrity.

It is understood that Parliament has an all-party committee of Members of Parliament which reviews and administers the parliamentary budget. In any case, the parliamentary budget should not be subject to amendment by the executive. It is the parliamentary budget which funds the training of parliamentary support staff; ensures that library and research facilities are properly and adequately equipped; guarantees that legislators have the necessary support staff to undertake their functions; and partially funds the security services. The API assessed and evaluated the capacity and effectiveness of Parliament in terms of its institutional capacity in two sub-areas as follows:

(a) Financial and Material Resources

In this sub-area, there were four aspects of capacity which were assessed by the assessment team. These aspects and the total assessment scores were as follows:

Power of the legislature to determine its own budget

This aspect of the institutional capacity of the institution of Parliament was assigned the total assessed score of 3.0 indicating a moderate level of parliament's capacity in this aspect. According to the judgement of the assessment group, the reason for this is that the Ministry of Finance and National Planning (MOFNP) cuts the proposed budget of Parliament on the basis of prescribed budgetary ceilings. The amount finally allocated is obviously a function of the negotiating abilities of the parliamentary officials involved; the recommendation was that MOFNP should increase its allocation of resources to Parliament.

The civil society organizations gave a score of 3.0 for Parliament's power to determine its own budget. Their main reason for assigning a moderate level of Parliament's capacity in this area was that Parliament like any other public institution has to be given its budgetary allocations on the basis



of the criteria embodied in the Yellow Book. Their recommendation was that the executive should closely align its allocation with the proposed budget from the legislature.

Logistics available to the legislature

This aspect was evaluated with the total assessed score of 3.0, again indicating a moderate level of capacity. The reason given was that the legislature has basic logistics but does not have adequate office space for its functions. The assessment team recommended a substantial improvement of logistics and expansion of office space.

CSOs assigned a maximum score of 4.0 to this indicator. This is based on the evidence of high capacity infrastructure developments including parliamentary constituency offices, the library, and the new offices of the committee department together with the new Committee rooms. They recommended that Parliament should accelerate the programme of infrastructure development.

Resources for MPs' constituency development and activities

This aspect was given the total assessed score of 2.0 indicating the existence of a very basic level of capacity in this area. The main problem here is in respect of what is called the Constituency Development Fund (CDF) which is allocated by the government and is managed jointly by the local authority and the MPs in their respective constituencies. There have been calls by MPs for an increase of this fund to K2 billion per constituency. But the constraint has always been inadequate funds from the Treasury.

CSOs posted a score of 2.0 for this indicator despite the existence of Constituency Development Funds which they recommended should be depoliticized and autonomous management structures put in place to run them on behalf of the beneficiaries, the constituents.

The mechanism for receiving and coordinating technical assistance

This was given the total assessed score of 3.0 by the assessment group of MPs and parliamentary staff. This shows a moderate level of Parliament's institutional capacity in this aspect. The current situation is that the legislature does have a structured system for receiving technical and advisory assistance from external sources, but there seems to be no specific department of Parliament for this. The Parliamentary Reform Project (PRP) was expected to address this aspect. However, the NGO which was involved in the original concept of the PRP withdrew and it is reported that the UNDP took over the project.

CSOs on the other hand assigned a score of 2.0 even though they did not seem to understand this question; nevertheless, they recommended the setting up of a specific unit for this aspect of Parliament's administrative responsibilities.



The weighted coefficient for the financial and material resources aspect of the institutional capacity of the institution of Parliament was calculated at 8 out of the maximum total of 10. The average capacity rating score for financial and material resources on the scale of 1 – 4 was 2.8. The computed overall weighted average capacity rating of this aspect was 5.5.

(b) Human Resources

The API assessed and evaluated two aspects of parliament's capacity with respect to human resources. These aspects were:

- Equal opportunity employment. The records show that this aspect was not assessed by the parliamentarians and staff. But it can be safely assumed that Parliament is an equal opportunity employer and the score would be the maximum of 4.0.
- Research and other support staff. This was given the total assessed score of 3.0 indicating that Parliament has only a moderate level of existing capacity in this aspect. The legislature has some research and support staff but these are grossly inadequate and they lack the requisite analytical tools to enable them provide MPs with timely and well researched information. Thus, there are times when MPs do not get their work done on time. It is therefore recommended that more appropriate staff should be employed.

The human resources weighted coefficient was established at 8 out of the maximum of 10. The average capacity rating score on the scale of 1 – 4 came to 3.0. The overall weighted average capacity rating was computed to be 6.0.

Equal Opportunity Employment

The score given for this aspect was 4.0 and the CSOs said that this is a matter handled satisfactorily by professionals. Their recommendation was that Parliament should maintain its policy of equal opportunity in employment.

Research and other Support Staff

The representatives of CSOs assigned a score of 3.0 for this area of institutional capacity, indicating a moderate capacity level in place. They observed that although Parliament has research and other support staff, MPs do not seem to be using these services fully and regularly. Their recommendation was that MPs should be encouraged to use the services of research and other support staff to improve their work in Parliament.



3.6 Transparency and Integrity

Parliament plays an important role in strengthening democracy and good governance. It also plays a key role in establishing an environment that is conducive to promoting growth and ensuring accountability and transparency of all state and government institutions. A democratically elected parliament represents a broad spectrum of public interests and aspirations. It is also a place where discussions take place on the public's preferences, which are then formulated into policies and programmes. This articulation of the public's interests and preferences is set forth in legislative decisions which become the national policies on collective problems.

Parliament as an institution that represents the people must be transparent in its legislative functions. A Parliament must be open to the nation and transparent in the conduct of its business:

- its proceedings should be open to the public;
- it should provide prior information to the public on the business before Parliament;
- parliament must make all documentation available to the public;
- it must ensure availability of user-friendly tools such as access to the internet; and
- it should pass legislation on freedom of and access to information.

Transparency and accountability are the main requirements for the establishment of democratic governance. Only through transparency and accountability can Parliament, as one of the institutional pillars of democratic governance, ensure that the operations of the state and the government are responsive and accountable to the people's needs and expectations.

Parliamentary transparency can also clarify the processes and procedures for proper and correct use of policy making authority. This will provide clarity of information and basic access for the people to participate in the making of political decisions in parliament. Integrity of Parliament is a continuum between accountability and transparency, which are synonymous with non-corrupt behaviour and honesty. This will increase the people's trust in and acceptance of the political decisions made by Parliament. To this end, it is necessary to develop forms of accountability and transparency that address the questions: "to whom, accountable for what, and how to be accountable".

At the institutional level, this relates to the mechanisms standardized in the Standing Orders of Parliament that stipulate the obligations of Parliament as an institution. At the individual level, transparency and accountability relate to the responsibilities and obligations of each Member of Parliament to provide information on their activities in order to prevent potential misconduct. MPs should conduct themselves with integrity to avoid legal problems relating to abuse of authority or corruption crimes.

The usual method for addressing potential misconduct on the part of parliamentarians is through a code of conduct enforced by appropriate institution acting on behalf of the public. Most public disquiet is focused on financial matters, and in particular, on the use of legislators' positions to



advance their own personal economic interests, or the interests of individuals and organizations being rewarded in some way for representation. Other concerns include levels of attendance, use of privileged information, and the misuse of parliamentary allowances.

The purposes of a parliamentary Code of Conduct are:

- to recognise that service in Parliament is a public trust;
- to maintain public confidence and trust in the integrity of Parliament and the respect and confidence that society places in Parliament as an institution;
- to assure the public that all parliamentarians are held to standards that place the public interest ahead of parliamentarians' private interests and to provide a transparent system by which the public may judge this to be the case;
- to provide for greater certainty and guidance for parliamentarians in how to reconcile their private interests with their public duties; and
- to foster consensus among parliamentarians by establishing common rules and by providing the means by which questions relating to proper conduct may be answered by an independent, non-partisan advisor.

As part of the process for ensuring institutional integrity, Parliament has a Register of Members' Interests. The Register requires MPs to disclose:

- shares and other financial interests in companies and other corporate entities
- remunerated employment outside Parliament
- directorships and partnerships
- consultancies
- sponsorships
- gifts and hospitality from a source other than a family member or permanent companion
- any other benefit of a material nature
- foreign travel (other than personal visits paid for by the MP, business visits unrelated to the member's role as a public representative and official and formal visits paid for by the state or member's party)
- ownership and other interests in land or property

Parliamentary approaches to corruption have mainly focused on establishing appropriate anti-corruption legal frameworks and strengthening the parliamentary oversight functions in sensitive areas such as monitoring budget processes. Parliament also has the duty and responsibility of adhering to the highest integrity standards. Using regional and global parliamentary networks has proved a very promising capacity building strategy. Members of Parliament also have a duty to set an example of incorruptibility to restore the trust of the public in political processes. In many countries, the legitimacy of political institutions has been undermined by political unresponsiveness, various forms of misconduct and corruption scandals. As stated elsewhere, developing and implementing a code of ethics and conduct that communicates visions and values to the electorate is a first essential



step in the process of restoring confidence in the political institutions. Such codes of conduct contain specific provisions with clear sanctions on what is considered inappropriate or morally unacceptable behaviour for elected officials. The codes typically require disclosure of all economic and financial interests and introduce certain restrictions regarding gifts, travel, hospitality, political activity, competitive bidding, outside or post employment as well as conflict of interest while still in office. They also promote values of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

The API evaluated five sub-areas starting with the existence of and compliance with a Code of Conduct for parliamentarians and whether it is enforced. There was further examination of whether the Code of Conduct is backed by legislation or is part of convention and whether it is published for the information of the public. The evaluation was as follows:

- It was established that under specific Standing Orders, Parliament has a Code of Conduct for MPs and other public officers in the institution. The assessment team gave this aspect the total assessed score of 4.0, a clear indication of a very high level of capacity in place. This is the strongest aspect of transparency and integrity.
- Regarding the maintenance of high standards of accountability, transparency and responsibility, the assessment team evaluated the total assessed score of 3.5 indicating moderate levels of transparency and integrity among MPs and staff. There have been questions raised about utilization of resources from the Constituency Development Funds and money for the operational requirements of Parliamentary Constituency Offices. However, there does not seem to have been any proven cases of misconduct. In the budget for 2011, the Constituency Development Fund has been increased from K660 million to K720 million per constituency.
- The aspect of whether Parliament has mechanisms for anti-corruption activities was assessed by the assessment team and was assigned the total assessed score of 3.0 showing that there is only moderate capacity in place. There are mechanisms in this aspect but Parliament tends to use the same approach as in the rest of the public service. Some officials have been disciplined especially with respect to cases to do with procurement. Hence, the recommendation has been made that erring MPs should be exposed by Parliament.
- The assessment group then considered Parliament's capacity regarding the aspect of whether Parliament has mechanisms to prevent, detect, and discipline MPs and staff engaged in corrupt activities. The team assigned the total assessed score of 3.0 to this aspect signaling that Parliament has a moderate level of capacity in this area. Members of Parliament and parliamentary staff are subject to prosecution under the national anti-corruption laws.



These last three sub-areas show moderate capacities in Parliament's transparency and integrity functions. There is therefore much room for improvement in these aspects of Parliament's transparency and integrity. The strongest aspect is the fact that Parliament has in place a code of conduct which seems, by and large, as being complied with by Members of Parliament.

The weakest aspect of Parliament's transparency and integrity functions is in respect of Members' declarations of their assets and business interests. The assessment team gave this sub-area the total assessed score of 2.0 indicating only a basic level of transparency and integrity in this aspect. This is very much in line with the observed business activities of most members. Many MPs go to the extent of using Parliament's time to conduct personal business. It is commonly believed that very few MPs have declared their assets and business interests in full.

The International Parliamentary Union (IPU) has called on the international community to support the efforts of Parliaments in developing countries to strengthen their capacity to fight corruption through awareness raising activities, the development of effective parliamentary structures and processes (committees and oversight mechanisms), and the promotion of access of parliamentarians to information on public affairs and ensuring greater transparency between Parliament and civil society. Promoting exchanges and regional and international cooperation to share best practices and lessons learned is also an important pillar of Parliament's anti-corruption capacity building initiatives. A number of programmes along these lines have been developed. Parliament in Zambia is a member of The African Parliamentarian Network against Corruption (APNAC), a regional chapter of The Global Organization Against Corruption (GOPAC). Awareness raising activities as well as information sharing and peer support activities to share information and lessons learned is an important element of the achievements of APNAC.

The weighted coefficient for Parliament's transparency and integrity function was calculated at 9.0. The average capacity rating on the scale of 1 – 4 was 3.1. The overall weighted average capacity rating was computed to be at the level of 7.0.

Existence and Compliance with a Code of Conduct

The CSOs scored 3.0 for this aspect because they said that the Code of Conduct is not adequately enforced. They therefore recommended that there should be strict but impartial enforcement of compliance with the Code of Conduct.

Maintenance of High Standards of Accountability, Transparency and Responsibility

The civil society organizations' representatives posted a score of 2 showing their conviction that there is only basic capacity in terms of accountability, transparency and responsibility. According to their observations, the evidence was that MPs sleep during debates; they report late for meetings, appear just before closing time and therefore participate erratically in debates. They therefore recommended that MPs should be serious, alert and should be compelled to actively participate in debates.



Mechanisms for Anti-corruption Activities

The maximum score of 4.0 was given for this area. The evidence for this score was stated to be Parliament's membership of APNAC. Their recommendation was that this should be continued with Parliament making information available to the media, CSOs and the public about the activities of APNAC in Zambia and elsewhere.

Mechanisms to Prevent, Detect and Discipline MPs and Staff engaged in Corrupt Practices

Civil Society Organizations gave a score of 3 for this aspect of Parliament's transparency and integrity. They gave the reason that Standing Orders do not seem to be very effective regarding MPs and the need for an efficient and effective mechanism to detect and sanction staff engaging in corrupt activities. Their recommendation was therefore that existing mechanisms should be applied efficiently and effectively to prevent, detect and discipline erring MPs and staff.

Declaration of Assets and Business Interests

The civil society organizations posted a score of 2.0 for this aspect of Parliament's transparency and integrity. Their evidence was that few MPs have made attempts to file in their declarations. It was therefore their considered recommendation that all MPs should be compelled to declare their assets and business interests annually without fail and that these declarations should be published for public scrutiny.



CHAPTER 4

4.0 IMPLICATIONS AND RECOMMENDATIONS

4.1 Implications

This self-assessment exercise was undertaken through the auspices of the Africa Parliamentary Strengthening Programme (APSP) for budget oversight in a selected group of countries in Africa. The APSP is designed to increase the capacity and authority of the selected parliaments as well as their accountability to citizens in the budget process, thereby increasing financial accountability and contributing to improved democratic governance. Parliamentary capacity building will include mainly services and training to enhance support for the daily work of Members of Parliament and parliamentary staff.

The self assessment process has implications beyond the computation of the African Parliamentary Index (API). The self-assessment process brought to the fore a number of issues for Parliament in Zambia. However, the exercise should not be regarded as exhaustive. Through the use of the self-assessment toolkit, the Members of Parliament and the staff addressed questions about the performance of the institution which they normally would not have ordinarily considered. This meant that their analysis did not focus solely on progress against existing measures, but recommended new activities and indicators.

The self-assessment toolkit has value in its adaptability as a tool to address a number of different issues of parliamentary performance. But it does not provide definitive answers. Its strength will depend ultimately on the willingness of the politicians in Parliament to engage with the issues. Thus, the process will likely highlight possible reforms or measures to address the weaknesses it has identified. But these then need to be discussed, developed and implemented by the full Parliament. It is the task of reflecting and accepting the lessons of the assessment which will determine the Zambian Parliament's future effectiveness. In this sense, the self-assessment process provides a baseline from which Parliament should examine its progress. Ultimately, this self-assessment should be regarded as the beginning of a very long-term process.

Another implication arising from the self-assessment exercise is that Parliament wants to use its constitutional powers to oversee budget formulation and implementation. But the challenge for parliament doing so is to ensure that its influence and impact reflect national and not partisan priorities, allowing for input from the broader civil society, and that fiscal discipline is maintained.

Thus, resourcing the legislature involves strengthening the committees dealing with money issues, the establishment of dedicated research staff, enhancing the capacity of the Auditor General's office and the encouragement of public input at the various stages of the budget cycle. In the case of committees dealing with public funds, this implies merging reform activities with broader efforts



to enhance government accountability and to strengthen public financial oversight and ensuring that training programmes include participants from other stakeholder organizations including civil society. All these have substantial financial implications for the Treasury. Parliament will therefore need to ensure that there will be adequate funding from the Ministry of Finance and National Planning (MOFNP).

Legislative strengthening is a long-term process, which requires long-term commitment. Self-assessment of parliaments also has direct implications for the donor community. Over the last ten years or so, donors have assisted legislatures in this regard. But it is important that donor support for parliamentary strengthening is based on a shared understanding of what constitutes a democratic parliament.

4.2 Summary of Recommendations

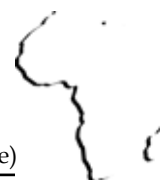
4.2.1 Improving the Representative Function of Parliament

The least scores in the assessment of parliament's representation function were assigned to issues relating to timely provision of information to the public on the budget process: This is the weak aspect of this function. It is therefore recommended that:

- There should be free and timely flow of information on the budget process to the public, media and civil society. This information should include the main proposals and economic background to the budget which should be explained clearly for the benefit of the general public; revenue, expenditure and financing should be reported and expenditure classified by economic, functional and administrative category; and the results of government programmes as presented to the legislature.
- All bills and acts of Parliament must be published regularly and be freely available to the public.
- The public should have access to the Parliamentary library.

The poor relationship between Parliament, civil society organizations and other related institutions is the weakest aspect. Therefore it is recommended as follows:

- Parliament should establish a continuous, open, and effective relationship with civil society organizations based on cooperation to achieve specific objectives including: objective assessment of challenges facing Zambian society; presentation to Parliament of the broadest opinions of various groups of citizens; promoting more effective participatory democracy and the decision making process; encouraging civic initiatives; and extending and improving the legal framework through broad participation of voters in the process.



- The civil society organizations shall be fully engaged in cooperation with Parliament by submitting clear and concise analyses of topics for consultation, with recommendations and annexes where appropriate. Parliament and civil society organizations should then ensure appropriate publicity of the consultation process involving all the mass media.

4.2.2 Improving the Legal Function

There are two weak aspects of this area. These are the need to improve opportunities for public input into the legislative process and the need for mechanisms to track legislation. It is recommended as follows:

- Parliament should devise a mechanism giving opportunities to the public to have a certain amount of input into the legislative process. Without such public input, Parliament's role in establishing national policy and representing citizen interests will remain limited. Thus, involvement of the public should ideally go beyond budget approval and include budget formulation, tracking and accountability.
- Parliament should ensure that it develops the skills and capacity among MPs and staff to effectively monitor the impact of legislation before and after it is adopted.
- The impact of legislation must also be monitored after its enactment. Such monitoring by Parliament must examine, among other things: unintended consequences of legislation, failure by the executive or other state institutions to take appropriate actions in response to legislation, and the extent to which the objectives and implementation targets of legislation is achieved.
- Parliament should call for an impact assessment report to be attached to each bill when it is tabled in the House. The executive should undertake such assessments before the bill is tabled in Parliament. The report must examine the relevant and likely budgetary, financial, economic, administrative, social, gender and other impacts if the bill is enacted and should further explain clearly the scope of any law-making and other powers being delegated to ministers or officials, and why it is thought necessary to delegate. Finally it should also clearly set out the criteria in terms of which any discretionary powers are to be exercised.
- Parliament should also strengthen the Committee on Government Assurances whose mandate is to ensure that government takes action on its promises to the legislature.

The weakest aspect of the legal mandate is in respect of Parliament's limited power to amend the appropriations bill. It is recommended as follows:

- Amendment powers of Parliament should be introduced to confer such powers within the framework of the configuration of powers vested in Parliament to amend the budget.



- An effective amendment system must combine conferred powers and an effective and resourced role for committees in the budget process.
- Amendment powers and associated information requirements should be part of the broader programme of budget reform.

4.2.3 Strengthening the Financial Function

(a) Budget Review and Hearings

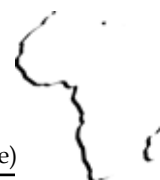
In this area, there are two weak aspects: the period for the review of the budget by the legislature and authority for Parliament to amend the budget presented by the executive. The period for review of the budget by Parliament was until two fiscal years ago a controversial issue. Today, there is an air of satisfaction in Parliament because the matter has been laid to rest. Parliament and the executive have already adopted International Best Practice whereby the budget is now presented to Parliament at the beginning of October, three months before commencement of the new financial year on 1st January, ending on 31st December. It was therefore surprising that the assessment group of MPs and staff judged capacity in this sub-area as being at a moderate level only instead of being substantially higher. MPs had always demanded the period of three months to give the executive the full year for implementation of the approved budget.

Authority to amend the executive budget: To ensure that such authority is effective, it is recommended that:

- Parliament attains unfettered amendment powers;
- Spending without legislative approval is disallowed;
- The executive cannot unilaterally adjust the budget during implementation;
- The Committee on Estimates as well as the sectoral committees are effectively involved in the scrutiny of the budget; and
- The committees are given sufficient time to scrutinize the budget before submitting their reports to the floor of the House, instead of the two weeks or so allowed.

The weaker aspect of budget review and hearings is the lack of a mechanism in Parliament for citizens to participate in the legislative budget process by way of direct input into the legislative process or citizens being given any feedback from the legislature. Civil society organizations have no opportunity to provide an input into the legislative budget process and this is true of any other type of legislation. It is therefore recommended that:

- If the budget in Zambia is to become truly pro-poor, i.e. its expenditure and revenue decisions are more sensitive to the interests of the poor, Parliament must establish a process for citizens especially the poor, to participate in its formulation, implementation and monitoring that is equal, and inclusive.



- Parliament should ensure that feedback is provided to members of the public and institutions that have made presentations to the legislature through any public participation processes.

Parliament has no power to send back the proposed budget for review. This is the weakest aspect of the budget review and hearings sub-area. It is recommended that:

- Parliament should, as part of the process of being conferred with more powers to amend the budget, be given authority to send back the proposed budget for review.
- Parliament should also have the power to demand from the executive, periodic comprehensive reviews of the budget including the provision of output and outcome targets.

(b) Budget Act and Budget Office

The non-existence of a Budget Act and a Parliamentary Budget Office are the weakest aspects of this sub-area of assessment. It is therefore recommended that:

- A Budget Act should be enacted as soon as the new amended Constitution becomes law.
- An independent Parliamentary Budget Office should be established to provide an independent parliamentary research service and dedicated committee research support.
- An analysis is urgently carried out to consider the options and determine the costs associated with establishing and adequately funding such an office at Parliament.

(c) Periodic Review of the Budget

The issue of periodic budget reviews is a very weak aspect of Parliament's financial function. To facilitate the periodic reviews of the budget, it is recommended that Parliament should require the executive to regularly submit the following documents:

- A pre-budget report that states explicitly the government's long-term economic and fiscal policy objectives, economic assumptions and fiscal intentions for the medium term (Medium Term Expenditure Framework, MTEF);
- Monthly reports that show progress in implementing the budget, including explanations of any differences between actual and forecast amounts;
- A mid-year report that provides a comprehensive update on the implementation of the budget, including an updated forecast of the budget outcome for the medium term.



4.2.4 Improving the Oversight Function

(a) Oversight Committees

The weaker aspects of Parliament's oversight committees are in three areas: investigative powers of the committees; oversight of spending by state owned enterprises; and mechanisms for oversight committees to obtain information from the executive. It is recommended as follows:

- The investigative powers of oversight committees enshrined in the rules of procedure should be strictly enforced.
- Parliament should enact legislation to strengthen the powers of oversight committees to call for special audits of state owned enterprises.
- Parliament should put in place a clear mechanism that will enable Oversight Committees have access to detailed, timely information from the executive.

(b) Public Accounts Committee

The Chair of the Public Accounts Committee: The Chairman of the PAC is from the opposition; but this is not provided for in law or Parliament's Rules of Procedure, but by convention. It is therefore recommended that:

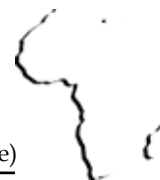
- There should be a law to give credence to the opposition holding the Chairmanship of the Public Accounts Committee.

The other weak aspect relates to the unsatisfactory attendance of PAC meetings by ministers. It is recommended that:

- Ministers should be made permanent witnesses to the PAC.

The weakest aspects clearly requiring attention to increase capacity are those in respect of the near lack of collaboration with anti-corruption institutions, lack of capacity to conduct independent investigations, and the non existence of capacity to ensure that action is taken by the executive to implement the PAC's recommendations. The PAC should be the driving force behind anti-corruption reforms. It is therefore recommended as follows:

- The Public Accounts Committee should have the power and ability to mobilize the necessary skills to initiate its own independent investigations and audits, not just to receive reports from the Auditor General.
- The PAC should design its recommendations for action following up on audit and investigation reports and present them to Parliament.
- There should be credible and effective follow-up activities after the discovery of inefficiencies or fraud and this is indispensable for actual reforms of the system and for the credibility of the parliamentary system of control.
- Since the PAC is Parliament's single most relevant institution for curbing corruption, its formal mandate should include the investigation of all government agencies and statutory corporations in close collaboration with the Anti-Corruption Commission (ACC), the Head of which is a permanent witness of the PAC.



(c) Public Audit

An independent Auditor General producing professional and timely reports fosters financial transparency and accountability in government actions. Therefore the Auditor General is a crucial national instrument in Parliament's oversight function.

The assessment group evaluated the aspect of the regularity and timeliness of the submission of the Auditor General's reports as being one of the weaker ones because the reports are not usually regular and are very often submitted late. The main reasons for this situation are: (i) the critical shortage of qualified manpower in the Auditor General's office; (ii) the serious constraint of funding from the national budget; and (iii) difficulties in getting the relevant information from government ministries and departments.

The other weak sub-areas in the evaluation are the timing of the publication of the Auditor General's reports and the resources and authority of the Auditor General. The Auditor General has the authority to audit the books of account of the government and all public institutions. But the Auditor General does not have the authority to implement his/her recommendations. This continues to be the role of the government. To date, there have not been any credible sanctions against erring public officers in respect of misappropriation of public resources or fraud that are uncovered by the Auditor General every year in Zambia.

To address these areas of weakness, it is recommended as follows:

- Parliament should take measures to ensure that the Auditor General abides by the constitutional requirement under Article 121 (4) that the report is submitted not later than 12 months after the end of each financial year, and that the ministry responsible for finance will submit to Parliament the financial report to be audited by the Auditor General not later than 9 months after the end of the financial year.
- The Auditor General's report must be published simultaneously with its submission to the President and the National Assembly and be made available to civil society and the public at large.
- There should be a constitutional amendment giving the Auditor General's office, as an oversight institution of Parliament, the power to implement his/her reports' recommendations and where necessary institute the prosecution of the culprits.

(d) Funding the Auditor General's Office

The issue of resources for the Auditor General's Office is a perennial problem. Little has been suggested as to how this problem can be resolved. In Zambia there is need to explore new methods to improve the financial independence of the Auditor General's Office as a result of the close involvement in the final budget decision making with the Treasury function of the government that the Office audits. The issue here entails a change from funding and reporting through the executive to funding and reporting directly to Parliament.



In some mature democracies such as that of Britain, the financial independence of the Auditor General's office is assured through a combination of funding through an appropriation from Parliament and substantial levels of direct charging to those being audited. There are criteria for assessing funding options:

- the solution should assure the financial viability of the Auditor General's Office;
- the solution should be simple and simple in its operation;
- it should assure the independence of the Auditor General's Office;
- the solution should create transparency of costs for external stakeholders;
- it should be sufficiently flexible to allow the Auditor General to manage dynamic changes to supply and demand factors; and
- the solution should promote efficiencies in the cost of auditing.

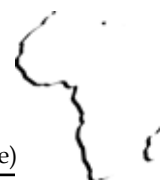
It is therefore recommended that the budget of the Auditor General's Office should be funded through a combination of a direct allocation through Parliament and fee recovery from auditees with market-oriented annual tariff increases.

The weakest aspects of the public audit as a function of Parliament's oversight function are the procedure for the appointment of the Auditor General and the issue of the request for audits.

The Auditor General is appointed by the President with Parliament giving it ratification. The evaluation group wants this process changed. The difficulty here is that the current arrangement is based on a constitutional provision which defines Parliament as the National Assembly plus the President who is at the same time the head of the Executive whose accounts the Auditor General audits. This means that changing this system can only be done through a constitutional amendment.

Apart from the mandatory audit of public finances, the Auditor General can also be requested by the government to carry out special audits in the event of serious fraud or embezzlement of public funds such as those from external donor grants. But legislators on oversight committees should also be able to request for special audits on issues they uncover in their oversight functions. It is therefore recommended as follows:

- The Auditor General should be appointed directly by Parliament and should report directly to Parliament.
- Legislators and Parliament, through the PAC and other oversight committees, should be able to make requests for the special audit of Parliament's audit priorities.
- The Auditor General should also be able to request for special audits, such as the expense claims of Members of Parliament.



4.2.5 Improving the Institutional Capacity of Parliament

(a) Financial and Material Resources

The assessment process evaluated the institutional capacity of Parliament first by making judgements about the state of financial and material resources. The weakest aspect was the limited amount of resources for MPs' constituency development activities. The problem here is what is considered as an inadequate level of funding for the Constituency Development Fund through which MPs organize development activities in their constituencies. It is recommended that:

- The executive should substantially increase the allocation to the Constituency Development Fund. (In the 2011 budget, the fund has been increased from K660 million to K720 million per constituency, an increase of 9 percent, which is in line with inflation trends.)

There are three weak aspects of this sub-area. These are the power of Parliament to determine its own budget, the logistics available to the legislature and the mechanism for receiving and coordinating technical assistance. The following recommendations are made:

- Since it is the duty of the state to provide adequate resources to enable Parliament to perform its functions properly, Parliament should be able to design its own budget based on its needs and negotiate with the executive the amount allocated to it from the national budget;
- Parliament should have sufficient autonomy over these finances to protect its institutional independence and integrity;
- Parliament should ensure that the executive fully funds its capital budget to provide the requisite logistics including adequate office space, library facilities, and other essential requirements to enable MPs carry out their functions more efficiently; and
- Parliament should ensure there is a strengthened, structured mechanism for the deployment and administration of technical assistance under a specifically designated department.

(b) Human Resources

In the sub-area of human resources, Parliament has moderate capacity. Yet, this is one of the most important aspects of Parliament's capacity as an institution. As it has been pointed out earlier, Parliament's greatest resource is its members and the staff. Resources must be allocated to training programmes for new legislators and for the continuing education of sitting legislators to develop skills required by parliamentary functions, exposing legislators to issues and developments affecting their legislative, oversight and representative functions.

The number and quality of staff is an issue that has affected Zambia's Parliament. It is critical to the legislature's effectiveness. Staffs are an essential source of technical and procedural advice for MPs, and they therefore need high-level skills in complex areas such as legislative crafting, financial



scrutiny and running committee inquiries. Staffs also perform a vital stabilizing role. For example, when there is a high turnover of MPs after an election, there will be little consistency and a limited institutional culture. Parliamentary staffs perform two vital functions: (i) they provide continuity between elections; and (ii) they are the principal source of independent and authoritative advice for new MPs on the rules of procedure.

Parliament should therefore be serviced by well compensated research, library and committee staff. They should be professional staff independent from other public service institutions. Because of the possibility of high turnover of parliamentary staff, they should be well paid to avoid undermining parliamentary work, resulting in misplacement of documents, errors and overall inefficiency that has sometimes manifested itself.

Parliament is an equal opportunity employer and hence was assigned the highest score by the assessment team. It is therefore recommended that:

- Parliament should devise credible training programmes for MPs; this should be part of continuing education to ensure that MPs develop the skills they require to better perform their legislative, oversight and representative functions.
- Parliament should be allocated sufficient resources to enable it to be serviced by well trained, well compensated research, library and committee staff.

4.2.6 Improving Transparency and Integrity

Regarding the maintenance of high standards of accountability, transparency and responsibility, there have been questions raised about the utilization of resources from the Constituency Development Funds and money for the operational requirements of Parliamentary Constituency Offices. There have been instances of waste but no proven cases of fraud or misappropriation of funds.

Parliament's approaches to corruption have mainly focused on establishing an appropriate anti-corruption legal framework and strengthening the parliamentary oversight functions in sensitive areas such as monitoring budget processes. Parliament also has the duty and responsibility of adhering to the highest integrity standards. Using regional and global parliamentarian networks has proved a promising capacity building strategy. There are mechanisms for anti-corruption activities including seminars, workshops and other related activities. Parliament is a member of APNAC with a local chapter at the National Assembly.

The aspect of whether Parliament has mechanisms to prevent, detect, and discipline MPs and staff engaged in corrupt activities is one of the weaker ones in the transparency and integrity function. However, Members of Parliament and parliamentary staff are subject to prosecution under the national anti-corruption laws. In this respect, Parliament tends to use the same approach as in the rest of the public service. Some officials have been disciplined especially with respect to cases to do



with procurement. Hence, the recommendation has been made that erring MPs should be exposed by Parliament. Accordingly, the following recommendations are made:

- Parliament should ensure that the Constituency Development Funds are subjected to regular and special audits to ensure that funds are properly utilized without waste or fraud.
- Parliament should intensify the programmes for anti-corruption activities through continuous education of MPs and staff using some of the resources of APNAC.
- Parliament should utilize the services of the PAC to detect, prevent and discipline erring MPs and staff; and
- The legislature should be able to call on the Auditor General to conduct special audits to help in the detection of corruption.

The weakest aspect of Parliament's transparency and integrity functions is in respect of Members' declarations of their assets and business interests. Many MPs go to the extent of using Parliament's time to conduct personal business. It is commonly believed that very few MPs have declared their assets and business interests in full. It is therefore recommended as follows:

- Parliament should make arrangements for the appointment of either an independent outside institution to monitor MPs' declarations of their assets and business interests and who will examine each declaration for accuracy and veracity (in some Commonwealth countries, this is contracted to a reputable Audit firm), or empower the proposed Parliamentary Service Commission to perform this function.
- Parliament should publish MPs' attendance or absenteeism in the House plenary and committee meetings as part of a new move of openness to be extended to cover information related to the use of public funds such as expenses and financial interests; and as a step towards the establishment of a register for the public to access data on the activities and participation of MPs in Parliament's work on a day to day basis.
- This information should be published in the media and posted on the internet.

4.3 Concluding Remarks

The APSP participating Parliaments in Africa show different degrees of engagement in their countries' budget processes, and particularly budget oversight. It has therefore been useful to devise the API, a yardstick against which to gauge each parliament's performance in carrying out their legislative, financial, oversight and representative functions. The fulfillment of these functions determines the quality of governance based on accountability, transparency, and the extent of participation particularly in the budget process.



The API provides a comparative framework in which to assess legislative budget capacity that can be applied to a national legislature such as the Parliament of Zambia. The construction of the API for the purpose of cross-national comparison required the identification and selection of relevant variables. The Self-Assessment Toolkit facilitated this.

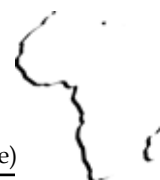
The Self-Assessment Toolkit provided the means with which to construct the African Parliamentary Index (API). There are many types of indices of legislative budget powers. But most of these have raised some methodological problems. The missing aspect has been a broader measure of legislative budget institutions based on a thorough discussion of relevant indicators and methodological issues. While the self-assessment survey was primarily used as a form of quantitative analysis for the construction of the African Parliamentary Index, the most important part of the process was in the analysis and discussion of the results by the participating Members of Parliament and parliamentary staff.

The self-assessment survey provides a snapshot and a basis from which to form a more considered judgement regarding the performance of the Parliament of Zambia. Because of this, all the scores were put into a spreadsheet to calculate the average score for each function. Using the responses to each question, the members of the ad hoc committees of the assessment team could judge, not only the average, but also the range of scores for each issue. It was from the summation of the weighted averages of these scores that the API for the Zambian Parliament was constructed.

The self-assessment process is not an exhaustive exercise. The process has some advantages over an internally conducted review. First, it provides an external perspective on the progress of Parliament. Second, by using the Self-Assessment Toolkit, the parliamentarians addressed questions about the performance of Parliament which they probably would not have otherwise considered. Third, their analysis did not focus only on progress against existing measures, but recommended new approaches.

The self-assessment group of parliamentarians and staff indicated their understanding that the value of the Self-Assessment Toolkit is in its adaptability as a tool to address a number of issues of parliamentary performance. However, its strength will ultimately depend on the willingness of the politicians in the Parliament of Zambia to engage with the issues of the budget process, a key area of focus for Members of Parliament.

It is expected that the process has highlighted possible reforms or actions to address the weaknesses that have been identified. But these need to be discussed, developed and implemented by the Parliament of Zambia itself. Parliamentarians have the task of reflecting and digesting the lessons of the assessment, and it is this which will determine Parliament's future effectiveness. The self-assessment therefore provides the baseline from which Parliament can examine its progress in the six core functions of the legislature. In the final analysis, the self-assessment exercise is really the beginning of a long-term process.



APPENDIXES

Appendix 1

Parliament of Zambia			Total Assessed Score for Capacity Area	Capacity Rating Average	Capacity Rating Weighted Average
1	Representative Function				
1.1	Accessibility (Weighting Coefficient = 8)		2.8	567%	
	The legislature is open to citizens and the media.	4.0			
	The Legislature has a non-partisan media relations facility.	4.0			
	Mechanisms to Promote Public Understanding of the work of the Legislature.	4.0			
	Timely provision of Information to the Public on the Budget	3.0			
	Promoting Citizens' Knowledge and Understanding of the role of MPs in the Budget Process.	1.0			
	Relationship between Parliament, CSOs and other related Institutions	1.0			
2	Legal Function				
2.1	Legal Mandate (Weighting Coefficient =9)		3.0	6.8	
	Law Making including the Appropriations Act	4.0			
	Power to amend the Appropriations Bill.	2.0			
	Opportunities for Public input into the Legislative Process.	3.0			
	Mechanisms to Track Legislation	3.0			
3	Financial Function				
3.1	Budget review and hearing (Weighting Coefficient = 9)		3.1	7.03125	
	Period for the Review of the Budget by the Legislature.	3.0			
	Existence of an Appropriations/Budget Committee.	4.0			
	Public Hearings on the Budget	4.0			
	Process for Citizens' Participation in the Budget Process	2.0			
	Authority to Amend Budget Presented by the Executive.	3.0			
	Power to send back proposed Budget for Review	1.0			
	Amendments on Spending and Revenue Proposals.	4.0			
	Information in the Appropriation Approved by the Legislature.	4.0			
3.2	Budget act and budget office (Weighting Coefficient =9)				
	Existence of a Budget Act	2.0			
	Existence of a Budget Office	2.0			
	Resourcing the Budget Office				
	Access to Information from Central Government Departments and the Private Sector				
	Consideration of Estimates for Defence and Intelligence Services by the Legislature	4.0			



3.3	Periodic review of the budget (Weighting Coefficient =8)		1.0	2	
	Budget Reviews	1.0			
	Legislative Approval of Reviews				
	Time allocated for Approval of Reviewed Budget				
4	Oversight Function				
4.1	Oversight committees (Weighting Coefficient = 7)		3.6	6.3	
	Existence of Oversight Committees	4.0			
	Investigative Powers of Oversight Committees.	3.0			
	Oversight of Spending by State Entreprises.	3.0			
	Mechanisms for Oversight Committees to obtain information from the Executive	3.0			
	Power of Oversight Committees to follow up on Recommendations	4.0			
	Access to resources by Oversight Committees	4.0			
	Opportunities for Minority/Opposition Parties	4.0			
4.2	Public accounts committee (Weighting Coefficient =8)		2.7	5.5	
	Existence of a Public Accounts Committee (PAC).	4.0			
	Chair of the Public Accounts Committee (PAC).	2.0			
	Rights and Powers of the PAC	4.0			
	Attendance by Ministers	2.0			
	Openness of the PAC Proceedings	4.0			
	Consideration of Reports of the Auditor-General (A-G)	3.0			
	Independent Investigations	1.0			
	Recommendations of the PAC.	1.0			
	Mechanisms for Tracking Recommendations of PAC	4.0			
	Resourcing the PAC.	4.0			
	Collaboration with Anti-corruption Institutions.	1.0			
4.3	Audit(Weighting Coefficient = 8)		2.5	5.0	
	Appointment of the A-G	1.0			
	Submission of Reports of the A-G.	4.0			
	Regularity and Timeliness of Reports	3.0			
	Publication of Reports of the A-G.	3.0			
	Request for Audit.	1.0			
	Resources and Authority of the A-G.	3.0			
5	Institutional Capacity of Parliament				
5.1	Financial and material resources (Weighting Coefficient = 8)		2.8	5.5	
	Power of the Legislature to determine its own budget.	3.0			
	Logistics available to the Legislature	3.0			
	Resources for MPs Constituency Development and Activities	2.0			
	Mechanism for Receiving and Coordinating Technical Assistance	3.0			



5.2	Human resources (Weighting Coefficient =8)		3.0	6.0	
	Equal Opportunity Employment				
	Research and other Support Staff.	3.0			
6	Transparency and Integrity				
6.1	Transparency and Integrity (Weighting Coefficient =9)		3.1	7.0	
	Existence and Compliance with a Code of Conduct.	4.0			
	Maintenance of High Standards of Accountability, Transparency and Responsibility.	3.5			
	Mechanisms for Anti-corruption Activities.	3.0			
	Mechanisms to Prevent, Detect and Discipline MPs and Staff engaged in Corrupt Practices.	3.0			
	Declaration of Assets and Business interests.	2.0			
	TOTAL SCORE OF RAO	162.5	30.3	62.6	
	MAXIMUM SCORE		44.0	100.0	



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