

The Government Budget

A critical appraisal with reference to
transparency and accountability

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1. Background

Primary function of the legislature (parliament) is enactment of legislation (laws) for governance based on the rule of law. In Sri Lanka, in the post-republican (post-1972) period, the capacity of the legislature to enact sound laws has been severely eroded due to the changed composition of parliamentarians in the past 35 years or so. In the pre-republican days bulk of the parliamentarians (from all political parties) were from the legal profession and therefore were conversant with the process of lawmaking and could understand the merits and demerits of different legislation under consideration for parliamentary approval. Unfortunately, the professional composition of parliamentarians has undergone a change in the past 35 years or so, whereby representation of legal professionals in parliament has steadily declined.

Compounding this is the steady erosion of the quality of legal education in Sri Lanka in the post-republican times. That is, technical, moral, and ethical standards in legal education and profession have declined over the decades. The foregoing factors have steadily eroded the standard of parliamentary debates in general, especially on enactment of new laws or amendment to existing laws. This is typified by the fact that Sri Lankan Constitutions of 1972 and 1978 have undergone one of the highest numbers of amendments in the world since their enactment. In addition to the declining standards on the knowledge of law, technical knowledge of parliamentarians on socio economic matters is meagre.

2. Objectives

In the aforementioned circumstances, the objective of the Legislative Advisory Service (LAS) of the Pathfinder Foundation is to empower the parliamentarians with sound relevant knowledge about impending legislation on economic policy matters due to be taken up for debate in the parliament. The LAS would provide a critical appraisal of impending legislation and existing legislation on economic policy issues that are of utmost importance to the well being of the people of Sri Lanka. It would be a professional and non-partisan advisory service that would weigh in the pros and cons of certain legislation and strive to layout a range of options that could be advocated by the parliamentarians of their own choice.

A series of briefing papers on legislation that have a bearing on socio economic policy would be produced in order to sensitise and empower the members of parliament from all political parties to actively and productively participate in and contribute to the parliamentary debate prior to the enactment. Under this series, the objective of the present briefing paper is to critically appraise the modality/process/mechanism of the government budget formulation, enactment, implementation, and monitoring & auditing.

This briefing paper would mainly (though not exclusively) address the following questions with reference to Sri Lanka:

1. What is a government budget?
2. What are the laws governing the budget (national, provincial & local)?
3. How is it prepared, enacted, implemented, and monitored & audited?
4. What are the best practices in budget formulation, enactment, implementation, and monitoring & auditing internationally?

5. How can the government improve the accountability and transparency of the budget?
6. What could be done to improve the technical capacity of people's representatives in parliament to effectively and efficiently contribute to budget debates?

3. Rationale

Budget is the major economic policy document of the government for a particular year and perhaps beyond. Therefore, it is imperative to study the processes, institutional mechanisms, and decision-making criteria of the national budget. Since 'money talks' (and perhaps walks as well) budget attracts the attention of people from all walks of life, because it affects every citizen of the country either directly or indirectly, consciously or unconsciously. Budget is the 'rule of law' in public finance¹.

Since the citizens, through direct and indirect taxes, finance the running of the state machinery it is imperative for the governments to reveal why and how public money is spent on public goods and services in order to enhance the welfare of the people. Therefore, representatives of the people in parliament are duty bound to properly understand the nature, extent, and implications of budget proposals presented to parliament prior to approval.

4. Introduction

Budget is a major event in the legislative calendar of democratic countries. Almost all the countries in the world have to get their budget approved by the legislature (parliament in the case of Sri Lanka) in order to be implement-able. This financial control of the public purse by the legislature is a salient feature of democracy². A government's budget has two sides, viz. government expenditure and government revenue, both of which have to be approved by the parliament. That is, every appropriation (allocation) of public funds and taxation (revenue raising) by the government has to be approved by the parliament. The budget procedure of the parliament is enshrined in the constitution of the country.

In practice, in most Westminster type of democracies, parliaments (including in Sri Lanka) have become mere rubber-stamping institution of the budget. Because under the Westminster model any successful amendment to budget proposal/s could be construed as a vote of no confidence in the government. Only the Congress (parliament in commonwealth terminology) in the United States has the power to rewrite the budget and only few other legislatures do make considerable changes to budget presented by the executive branch of the state³. That is, although the President of the United States submits a draft budget to the Congress, the latter can reject it and rewrite the budget altogether.

Some legislatures have the power only to reduce overall public expenditure but not to increase it. Some legislatures have power to increase expenditure of a particular ministry/department if and only if commensurate cut is made on other ministry/department so as not to increase the overall budget deficit. Budget in most countries is approved without any change or with minor change/s only. In the case of Sri Lanka the author is unaware of any changes made to the budget proposals by any government since becoming a republic in 1972.

¹ <http://www.internationalbudget.org/themes/LEG/index.htm>, pp 4.

² *ibid*, pp 1.

³ *ibid*, pp 5.

Accountability and transparency⁴ are two cornerstones of the budget process, and indeed democratic governance. Budget process has four stages - formulation of budget proposals, legislation (approval of every single appropriation and revenue mobilisation), implementation, and auditing. Government spends the money provided by the people in terms of direct and indirect taxes. Therefore, government is accountable to the people, and people have the right to know how government spends their money. Since the members of parliament represent the people, the government presents the budget in the parliament. Transparency is *sine qua non* for the budget to be accountable. Transparency could facilitate public scrutiny of policies, foster sound decision-making, improve efficiency in public spending (allocative efficiency), and arrest corruption. Besides, transparency in the budget process could forestall build-up of an impending crisis, and thereby fosters fiscal and macroeconomic stability to the economy⁵.

In the case of Sri Lanka, there are two parliamentary oversight committees, COPA (Committee on Public Accounts) and COPE (Committee on Public Enterprises), to monitor the public finances of the country. The former evaluates government finances and the latter evaluates semi-government finances. It is the practice in many democratic countries that member of the main opposition party heads the parliamentary oversight committee/s on public finances. However, it is not the case in both the COPA and COPE, although in some years it has been the case. Auditor General is the supreme authority to audit the public accounts in Sri Lanka. Unfortunately, both COPA and COPE meetings are held in camera and not open to public or media persons. This is a major drawback in the accountability of national budget in Sri Lanka.

The International Budget Project (IBP) of the Center on Budget and Public Priorities⁶ (Washington, D.C. based non-partisan, non-profit research institution) compiles an Open Budget Index (OBI) for a number of countries, both developed and developing. The OBI draws heavily from the Report on the Observance of Standards and Codes (ROSC) of the IMF⁷. Like most other such indices it has limitations of its use. The OBI is based on quantity of information provided to citizens in the seven key budget documents that all governments should make public during the course of the fiscal year⁸. In 2006 Sri Lanka has scored 47% in the Open Budget Index⁹, i.e. some openness in the budget process¹⁰. This score indicates scope for much improvement in the budget process in Sri Lanka.

⁴ There are different notions of transparency and accountability. For a conceptual discussion see Fox (2007).

⁵ <http://www.internationalbudget.org/themes/BudTrans/transp.htm>

⁶ <http://www.internationalbudget.org/>

⁷ <http://www.imf.org/> In May 2007, the IMF introduced nine new good practices and broadened the coverage of others (see Finance and Development, June 2007, pp5) www.imf.org/fandd

⁸ Pre-Budget statement, Executive's Budget proposals, Citizens' Budget, In-year reports, Mid-year review, Year-end report, and Auditor's report.

⁹ The range of the score is 0-100%; 0% means no openness at all and 100% means total openness. This score is split into five groups - 1-20% (little or no openness), 21-40% (minimal openness), 41-60% (some openness), 61-80% (substantial openness), 81-100% (extensive openness).

¹⁰ <http://www.openbudgetindex.org/CountrySummarySriLanka.pdf>

5. Modalities of budget formulation

Drafting stage of the budget is largely confined to the executive with no role for the legislature. In few countries there is formal consultation between the executive and the legislature at the drafting stage of the budget¹¹. The OECD and the World Bank have jointly undertaken a budget practices and procedures survey in 40 developed, developing, and transitional countries¹².

Budget formulation in Sri Lanka is not based on collective decision of the cabinet. Budgets are largely based on the demands made by individual ministries and finalised by the bureaucrats in the Ministry of Finance. Even within individual ministries it is the senior bureaucrats who determine the budgetary requirement each year with very little participation of the ministers. In essence, budgeting in Sri Lanka is largely relegated to a book keeping exercise. Involvement of external sources outside the executive branch of the government in the budget making process could improve policy decisions and allocative efficiency by providing different perspectives and thinking out of the box.

The budget formulation process in Sri Lanka is largely based in terms of inputs rather than outputs. That is, budget is based on how much money is required for salaries, equipment, capital goods/investment, etc, rather than what the output would or should be for the required budgetary allocation. Budgetary resource allocation decisions need to be based on economic rationality and 'value for money' criteria rather than on past expenditure trends. In some countries, like in the UK, public expenditure surveys are undertaken periodically to review public expenditures in order to make optimal resource use that provides value for money¹³.

Budget has three interrelated core functions, viz. planning, management, and expenditure control¹⁴. Unfortunately, all the foregoing three core functions of budget are lacking in Sri Lanka. That is, lack of planning, management, and expenditure control are the hallmarks of government budget in Sri Lanka. For example, capital expenditure entails maintenance cost during future stream of years, which is not built into budget planning. Further, no review is made on the existing lines of expenditure and request for new lines of expenditure, which leads to *fait accompli*.

Many countries prepare a rolling expenditure plan stretching over several years as part of the annual budget-making process. For example, UK produces a multiyear budget with a three-year departmental expenditure limits¹⁵. In Sri Lanka, the National Planning Department (NPD) of the Ministry of Finance and Planning used to prepare a roll-on Public Investment Programme (PIP) for ten-years (lately for five-years). The erstwhile PIP has been done away by the late-1990s due to shrinking public investments as a result of resource constraints. Although in terms of the FM(R)A the government presents a medium-term fiscal policy statement along with the budget it does not contain any elements of multi-year budgeting. During the time of PIP there have been sustained and intense consultations between the NPD and line ministries, which is lacking presently.

Considerable measures have been taken to improve government budget preparation in many countries in the past decade. For example, French parliament in 2001 introduced a law to reform the budget making process, implementation, and

¹¹ <http://www.internationalbudget.org/themes/LEG/index.htm>, pp 4.

¹² <http://ocde.dyndns.org/>

¹³ Bagchi (2006: 5323).

¹⁴ *ibid.*

¹⁵ *ibid.*, pp 5324.

monitoring & evaluation¹⁶. Recently, budget has been positioned as a tool for fulfilling the economic, social, and cultural rights of citizens. That is, a rights-based approach to budget formulation is advocated¹⁷. Gender budgeting has also been on vogue recently¹⁸.

In many countries budget committee or finance committee takes overall responsibility for the budget process. Many legislatures do have specialised budget research offices that help legislators to get expert analysis on the budget. The Congressional Budget Office (CBO) tops such offices having 245 specially trained staff. Among the other smaller scale ones the Parliamentary Budget Office (PBO) in Uganda has 13 economists, Polish legislature has a small research unit that specialises on budget analysis, and German Bundestag has a Scientific Services unit that is capable of providing some budget analysis to legislators¹⁹.

6. Budget laws

The Constitution, Parliamentary standing orders, and the Fiscal Management (Responsibility) Act [FM(R)A] govern the national budget of Sri Lanka. The finance section of the Constitution (Article 146) outlines the consolidated fund of the budget.

The following laws and statutes govern public finances in Sri Lanka (national, provincial, and local government): (i) The Constitution of the Socialist Democratic Republic of Sri Lanka 1978, (ii) Finance Act No.38 of 1971, (iii) Pradeshiya Sabhas Act No.15 of 1987, (iv) Provincial Council Act No.42 of 1987, (v) Sri Lanka Accounting and Auditing Standards Act No.15 of 1995, (vi) Municipal Council Ordinance with subsequent amendments, (vii) Urban Council Ordinance with subsequent amendments, (viii) Fiscal Management (Responsibility) Act No.3 of 2003, (ix) Annual Appropriation Act, (x) Government Financial Regulations 1992, (xi) Statutes of Provincial Councils, (xii) Regulations of Local Authorities / By Laws.

7. Budget cycle, procedures, and guidelines

The fiscal year in Sri Lanka is the same as the calendar year, i.e. January to December. The budget process begins at the beginning of the year. The Fiscal Policy Department (FPD) and the Treasury of the Ministry of Finance and the Central Bank of Sri Lanka jointly start discussing the macroeconomic framework in the month of January of every year. Based on the macroeconomic outlook the Department of National Budget (DNB) prepares expenditure ceilings for each Department and Ministry. Budget ceilings are made in terms of nine broad clusters (beginning with the Budget 2007), viz. (1) pro-poor, pro-growth livelihood and regional development, (2) human resource development, (3) infrastructure development, (4) production, services & environment, (5) science, technology, research & development, (6) social protection, (7) art, culture & religion, (8) governance, operations & monitoring, and (9) public order & safety. In the month of May the DNB sends circulars to government departments and ministries requesting their expenditure requirements. A process of consultations between the departments, ministries, DNB and the treasury takes place between the call for requirements and the presentation of the Appropriation Bill in parliament based on the Annual Appropriation Act. Guidelines and directions for the preparation of the annual budget are sent to all departments, ministries, and semi-

¹⁶ *ibid.*

¹⁷ <http://www.internationalbudget.org/themes/ESC/index.htm>

¹⁸ Stotsky (2007: 12).

¹⁹ <http://www.internationalbudget.org/themes/LEG/index.htm>, pp 7.

government institutions in the National Budget Circular ('Budget Call') during July of each year, which is posted on the Treasury website and available to the public²⁰.

Most steps of the budget cycle needs to be submitted to the cabinet for approval by law. Thus, the macroeconomic framework, budget ceilings, and the appropriations need to be presented to the cabinet for approval. The finalised Appropriation Bill is required to be presented to parliament at least six weeks before the presentation of the budget²¹. The allocations made in the Appropriations Bill could be amended at the committee stage of the budget debate in parliament. However, all amendments to the Appropriations Bill should be finalised before end of December and the Minister of Finance has to issue the warrants authorising expenditures from January 01st of the following year.

The budget calendar varies from year to year. A tentative calendar for 2006 is given below. However, there were changes to this tentative timetable. For instance, budget 2007 was presented to parliament on November 18th and not on the 09th November as noted in the following table.

Tentative Budget Calendar²²

Stages	Targeted date
1. Preparation of the medium term macroeconomic framework by the fiscal policy committee & approval by the Minister of Finance	31 st July 2006
2. Briefing note to the cabinet on 2007 budget outline and priorities by the Ministry of Finance.	10 th August 2006
3. Deadline for the submission of draft budget estimates by the line ministries and departments to the DNB.	11 th August 2006
4. Review of budget requests with the spending agencies on sector basis	25 th Aug - 08 th Sep 2006
5. Finalisation of the Appropriation Bill (programme-wise summary of expenditure)	22 nd September 2006
6. Submission of the Appropriation Bill to the cabinet	27 th September 2006
7. Presentation of the Appropriation Bill to the parliament	05 th October 2006
8. Budget speech by the Minister of Finance	09 th November 2006
9. Expenditure authorization (issue of warrants by the Minister of Finance)	27 th December 2006
10. Release of the cash flow statement for 2007	29 th December 2006

Source: Department of National Budget, *2007 Budget Call*, National Budget Circular No:131, pp14.

²⁰ <http://www.treasury.gov.lk/>

²¹ This is a legal requirement.

²² This timetable is given in the 'Budget Call' and posted on the Treasury website sometime during July.

8. Consolidated fund

Consolidated fund is the single fund of the budget. All government revenues and expenditures are deposited and expended from the consolidated fund. The provision for the consolidated fund is given in the Constitution of the Democratic Socialist Republic of Sri Lanka (article 146). The consolidated fund includes the central government finances.

Types of accounts: Consolidated fund has three broad sub-accounts, viz. expenditure, revenue, and advance accounts. The limits of these sub-accounts will be determined by the parliament. Under each sub-account there could be number of special accounts. Special laws govern special accounts and therefore parliamentary approval is mandatory. Special accounts may change from year to year depending on the need. Usually, special accounts are established for foreign funded projects. However, in certain circumstances special accounts can be created for other purposes as well. For instance, a special account was created for tsunami relief and reconstruction. In the past (perhaps at present as well) special accounts have been created for defence procurement.

Off budget expenditure: Foreign grants may sometimes be given directly to the ministries, departments, or authorities/boards/commissions, which may not be accounted for in the budget, if no counterpart fund from the government is required. This is what is called “off budget” expenditures. The extent of off budget expenditures could vary from year to year.

Contingent liabilities: Contingent liabilities are bank guarantees issued by the Treasury, letters of comfort issued to local banks, and commitments by the Central Bank (Department of State Accounts, 2006b: 31-32; Lorie and Miranda, 1991: 174). Contingent liabilities are significant in Sri Lanka, over LKR.100 billion (approx USD.1 billion) by the end of 2005

Accounting system: A cash accounting system is used for the public accounts at present and in the past. However, efforts are being made to shift to accrual accounting system, but how long it would take for the shift is not known. Cash accounting is based on the actual flow of cash. If there is no revenue, expenditure cannot be made. Whereas accrual accounting is based on what revenue & expenditure is due in a given period of time. That is, accrual accounting is time bound. Accrual accounting is more realistic and efficient because actual cost of services can be worked out. However, very few countries in the world practice accrual accounting system, New Zealand being one.

9. Provincial and local government budget

The provincial system of governance was instituted as an outcome of the 13th amendment to the Constitution made in 1987 as a result of the Indo-Sri Lanka Peace Accord (aka Indo-Lanka accord) as a second tier of government in Sri Lanka. The Finance Commission was set up under Article 154 R3 of The Provincial Councils Act No.42 of 1987 in order to take charge of fiscal devolution. The Finance Commission (FC) acts as an intermediary between the central government and the provincial governments as regards financial matters (both revenue and expenditure). The FC makes recommendations, based on certain criteria²³, to the Department of National

²³ Review of current basis for allocation of funds and agree on criteria to be used for the following year, forecast on nationally recruited provincial cadres, approved provincial cadres to be recruited by the provinces, estimation of donor funded capital flows to the provinces in respect of provincial subjects,

Budget through the President²⁴ about the requirements of the provinces in the national budget in line with the timeframe mentioned above for ministries and departments of the central government. Although the Finance Commission recommends the amounts to be allocated for the provinces it is the Treasury that determines the final allocation depending on the availability of funds. At present the FC makes an aggregate demand for resources for all the provinces and negotiates with the DNB. This process restricts negotiations based on the needs of individual provinces.

There are four categories of fund transfers from the centre to the provinces (Finance Commission, The, 2005: 14):

1. Block grants to meet the current expenditures of the provinces. The difference between the total recurrent expenditures of the province and the provincial revenue collected by that province is met by block grants from the central government.
2. Matching grants to reward revenue collection over and above the revenue generated in a base year ('benchmark revenue').
3. Criteria-based grants on the basis of set of socio economic indicators such as the per capita income.
4. Province Specific Development Grant (PSDG) for identified provincial capital investments.

The functions of the FC has evolved overtime not only to make recommendations as regards financial requirements of provincial councils but also to monitor the expenditures of provincial councils since 2001. Although by law²⁵ the provincial councils are allowed to borrow money, laws pertaining to the extent of borrowings have not been passed by the parliament even after nearly 20 years of provincial system of governance. Therefore, in practice provincial councils cannot borrow in the domestic financial market like the central government.

Local government budget: Local governments/councils come under the jurisdiction of the respective provincial governments/councils. Local government finances are partly incorporated in the provincial government finances, and therefore under the jurisdiction of the Finance Commission. Respective provincial governments/councils pay the salaries of local government/council staff. However, respective provincial governments/councils and/or the line ministry could fund the development activities of local governments²⁶. Local governments are the third tier of government in Sri Lanka.

The financing of the provincial budgets has come under stress in recent years due to the gap between the recommendations made by the FC and the actual allocation in the national budget and long delays in releasing cash to the provinces by the Treasury because of lack of cash. The Department of State Accounts does not report the provincial finances (revenue and expenditure) in its annual report. However, the Central Bank annual report does incorporate provincial finances in order to fulfill the requirement of the IMF.

review of needs of the provinces, and assessment of needs of the provinces (Finance Commission, The, 2005: 15)

²⁴ The Finance Commission comes directly under the purview of the President.

²⁵ The Provincial Councils Act No.42 of 1987.

²⁶ If the line ministry funds certain development activity of local government it is from the ministry budget.

10. Semi-Government budget

Statutory boards (Ceylon Electricity Board (CEB), National Water Supply and Drainage Board (NWS&DB), etc), authorities (Road Development Authority (RDA), Child Protection Authority (CPA), etc), corporations (Ceylon Petroleum Corporation (CPC), State Engineering Corporation (SEC), etc), commissions (Human Rights Commission (HRC), Bribery Commission, etc), and institutions (Institute of Policy Studies (IPS), Lakshman Kadirgamar Institute for International Relations and Strategic Studies (LKIIRSS), etc) are semi-government organisations. There is a distinction made between (supposedly) profit making (e.g. CEB, NWS&DB, CPC) and non-profit making (e.g. RDA, CPA, HRC) semi-government organisations. For profit making institutions (CEB, NWS&DB, etc) only development funds (capital expenditures) are allocated in the budget and no recurrent expenditures are met by the budget. On the other hand, for non-profit making institutions (CPA, HRC, RDA, etc) both the recurrent and capital expenditures would be met by the budget²⁷.

In the case of government departments and ministries the budget has much tighter direct control over the nature of expenditures incurred at a very disaggregated level as given in the annual budget estimates. Whereas in the case of semi-government institutions and public enterprises the budget makes allocations towards recurrent and/or capital expenditures of those institutions/enterprises, beyond that it has no control. It is the line ministries that monitor the nature of recurrent and/or capital expenditures incurred by the semi-government institutions and public enterprises. The Auditor General audits the accounts, *ex post facto*.

11. Criteria used for budget allocations

There are several factors taken into account by the DNB in the annual allocation of funds for departments and ministries in the budget. Past expenditure trends would be one factor. Secondly, proposed expenditure for new projects (if any) is another factor taken into account. Thirdly, past performance of departments or ministries are “sometimes” taken into consideration for allocation in the budget. Fourthly, allocations are made on the basis of priority sectors/areas of the government in power. Currently, infrastructure development and development of rural areas are given priority.

There are no specific yardsticks used for evaluating past performance. Performance evaluation may also depend on higher authorities’ concerns and interests and could also vary from year to year. Although Auditor General’s report and the reports of the parliamentary Committee on Public Accounts (COPA) and Committee on Public Enterprises (COPE) could be useful guides to budgetary allocations, since they are released very late (long after the end of the fiscal year) they are usually not taken into consideration. Nevertheless, for future allocations the foregoing reports may be taken into account.

In some countries legislatures could cap the total public spending for any particular year. This could be done through the budget committee. That is, ceiling of public expenditure for any particular year should be determined by an all-party budget committee and not by the treasury or the executive of the government.

²⁷ These are written in the laws setting up these semi-government institutions.

12. Supplementary budget

It is not mandatory to release all the funds allocated to a particular department or ministry. Revenue constraints may warrant cuts on unimportant expenditures, i.e. paying less than budgeted for. Further, if there is lack of progress on a particular project disbursement of funds may be withheld. However, if more money than budgeted is required by a particular department or ministry then a supplementary budget needs to be presented to parliament and approved. Financial regulation section 56-63 in the Constitution stipulates the conditions under which funds can be reallocated within a department or ministry. For example, reallocation from the recurrent expenditure fund to capital expenditure fund is possible but *vice versa* is not possible.

If the total public expenditure is expected to exceed the approved budget expenditure then a supplementary budget has to be presented by the Minister of Finance to the parliament and get it approved. In the past few years, except the Ministry of Finance, no other ministry was allowed to present supplementary budgets. However, in 2007 all the ministries are allowed to present supplementary budgets if required. This is because, instead of ministries approaching the Ministry of Finance for additional funds, ministries are allowed to directly obtain cabinet approval and present supplementary budgets in the parliament for approval. It is claimed that since approaching the Ministry of Finance was easier ministries have been (ab) using that channel. From this year (2007) onwards ministries are required to directly seek cabinet and parliamentary approvals for their respective supplementary budgets.

13. Government revenue

Some of the legal provisions covering government revenue are the following: Finance Act, Income Tax Act 11 of 2006, VAT Act, Customs Ordinance, Economic Service Charge Act, Regional Infrastructure Levy Act, Excise Ordinance (applicable to alcohol), Excise Special Provisions Act (applicable to tobacco products & vehicles), Stamp Duty Act, and the EDB Act (which covers cess). Cess revenue is supposed to be spent on the same sector/sub-sector. For example, cess imposed on tea exports is supposed to be given to the Sri Lanka Tea Board for promotional activities. Similarly, cess on tourist industry is supposed to be given to the Sri Lanka Tourist Board for promotional activities. However, in practice the Treasury does not handover the entire amount of cess collected to respective sectors/sub-sectors. This is a constant contention between the Treasury and the sectors/sub-sectors.

The parliament is supreme in all matters pertaining to government finances. Under the Finance Act 44 (2) all laws pertaining to government revenue have to be approved by the parliament within four months after it is gazetted. A draft bill is prepared and kept for fourteen days before tabling in parliament. Once tabled in parliament the bill has to be kept for seven days before taking up for debate. In special circumstances finance bills can be fast tracked. That is, the Finance Minister can refer a proposed bill to the Supreme Court and seek its consent (verify constitutionality) within 3 days. Even in these special circumstances parliamentary approval has to be obtained after the Supreme Court approval. Parliament has powers to make amendments or even reject the bill in spite of the Supreme Court approval.

The Finance Minister has powers to provide duty waivers or concessions under the Customs Ordinance, Excise Act/Ordinance, and the VAT Act. In addition, the VAT Act has a schedule that explicitly makes provision for exemptions, which can be granted directly by the Director General of the Department of Fiscal Policy without the

approval of the Finance Minister or the parliament. However, whatever exemption the Finance Minister provides has to be approved by the parliament within a stipulated time period. If parliament disapproves then such exemption/concession has to be withdrawn. In the case of the VAT Act the schedule for exemptions includes VAT exemptions for foreign funded disaster relief goods and services (for example).

14. Consultation

Consultation in the process of budget formulation even within the government appears lacking, especially in the preparation of the Budget 2007. It is very much a top down approach. That is, the Finance Minister and/or the Head of State lay down the priority sectors, sub-sectors, and geographical areas of the government. Few top bureaucrats at the Ministry of Finance (MoF) make budgetary allocations keeping in view of the priority sectors/sub-sectors/areas. Although ministries and government departments are asked to submit budgetary requirements it is the top bureaucrats at the MoF who ultimately decide what each ministry or department gets on the basis of priorities of the government. However, in some instances the political clout of particular minister/s may influence budgetary allocations.

In the case of budgetary allocations to semi-government institutions or provincial governments the process is even less consultative. In the case of semi-government organisations, not only the MoF, even the line ministry may not consult these institutions. Although, in the Budget 2007, the second highest allocation was for the Ministry of Provincial Councils & Local Government (LKR.104 billion or almost USD.1 billion) after the Ministry of Defence, Public Security, Law & Order (LKR.139 billion or approx. USD1.33 billion), there was hardly any discussion or consultation with provincial governments or provincial councils. There was only limited consultation with the Finance Commission. Although the Finance Commission recommends the quantum of resource transfers from the central government to provincial governments for recurrent expenditures, it is the Ministry of Provincial Councils & Local Government that makes request for capital expenditures in the provinces.

The national budget department does not consult outside stakeholders in the preparation of the budget. However, the Secretary to the Treasury does consult outside stakeholders such as the chambers of commerce, industrialists, and traders. However, private sector sources revealed that though they collectively present their budget proposals to the government every year, very few of them are incorporated in the budget. Even the incorporated proposals are inadequately implemented.

In addition, the Secretary to the Treasury calls for budget proposals from the general public sometime in July or August through newspaper advertisement. Apparently it received about 700 proposals from the general public for the Budget 2007. How many of them are actually incorporated in the budget is unknown. Given the fact that there is lack of consultation within various departments, ministries, semi-government institutions, and sub-national and local governments, the call for proposals from the general public seems to be eyewash.

15. Suggestions for enhancing transparency and accountability of the budget

Firstly, the Executive President should be made ineligible to hold the portfolio of Minister of Finance. According to the present Constitution of Sri Lanka the Executive President is above the law (i.e. no one can challenge the President in a court of law or the President cannot be called to testify in any litigation during the period of tenure). This privileged position undermines transparency and accountability. The Executive President concurrently holding the position of Finance Minister undermines the supremacy of parliament on matters of public finance as enshrined in the Constitution of Sri Lanka. In terms of the Constitution, the parliament has “full” control of public finances. Therefore, it is inappropriate for an authority that is not answerable to the parliament to hold the portfolio of finance. The Chief Executive Officer (CEO) of a company does not hold the position of Chief Financial Officer (CFO) concurrently. The same principle should be adopted in the government as well.

President D.B.Wijetunge introduced the practice of holding the portfolio of the Minister of Finance in 1993, which continues to date (barring December 2001 to November 2005 when Mr. K.N.Choksy and Mr. Sarath Amunugama were Finance Ministers). As the Executive President is not required to attend parliament, the Deputy Minister of Finance has been presenting the annual budget in parliament since 1993, which is a travesty of justice because in terms of the constitutional provisions pertaining to the national budget it is the Minister of Finance who is obliged to present the national budget in parliament. However, the incumbent President has been personally presenting the Budget 2006 (in December 2005) & 2007 (in November 2006), which is an improvement on the earlier practice of Deputy Minister of Finance presenting the budget. Nevertheless, the fact that the President does not participate in budget debate nor make the winding up speech at the conclusion of the budget debate falls short of the legal requirement in terms of the Constitution.

Secondly, a Budget Committee should be set up in parliament comprising members from all political parties represented in parliament. This would make the budget formulation, implementation, and monitoring & evaluation participatory than at present, which is heavily concentrated in the hands of a coterie surrounding the President and the Treasury Secretary.

Thirdly, the current practice of presenting the budget in November before the beginning of the fiscal year in January is an attempt to stifle wider and in-depth critical debate among stakeholders. Since the budget proposals should be approved by the parliament before the end of the fiscal year on December 31st there is barely a month to discuss and debate the budget proposals, which is inadequate to have a meaningful participatory and informed debate. Because of the short time available budget debates are rushed through making it a mere rubberstamping exercise. According to international experience at least three to four months is required for meaningful scrutiny of draft budget by the legislature²⁸. Therefore, budget in Sri Lanka should be tabled in parliament by mid-year (July/August) instead of current practice of tabling it in November.

Fourthly, legislators’ capacity to engage in effective, constructive, and informed budget debate should be enhanced by way of providing in-house research assistance or by enabling them to seek external expert knowledge from the academia, private research institutions, think tanks, and/or individual specialists.

Fifthly, COPA and COPE proceedings should be open to the public and the media. Further, tangible actions should be taken on the findings of the COPA and COPE.

²⁸ <http://www.internationalbudget.org/themes/LEG/index.htm>

That is, legal action should be taken against persons suspected of being guilty by the COPA and COPE. The latest COPE report reveals rampant corruption and abuse of power in public sector enterprises and institutions. Legal action should be instituted against identified perpetrators of economic crimes. One way of preventing corruption in public enterprises and institutions is by abolishing the power vested on the President to make appointment to the heads of public enterprises.

Sixthly, the Auditor General's Department should be made totally autonomous in terms of personnel, finance, etc. Capacity of the Auditor General's Department should be enhanced in terms of personnel, finance, and technical expertise. Auditor General's Department should not only highlight corruption, malpractices, and administrative lapses in the public service, but should be empowered to institute disciplinary action and/or litigation against perpetrators of the foregoing.

Seventhly, the Fiscal Management (Responsibility) Act should be amended to incorporate a clause that no government will be permitted to increase the total public expenditure over 50% of the rise in nominal Gross Domestic Product (GDP). That is, if the nominal GDP rises by 20% during the latest year for which data is available, the total public expenditure for next year could rise by maximum of 10% (from current year's total public expenditure).

Sri Lanka's public finances are in dire straits. Since 1988 the total government revenue has been inadequate to meet even the current expenditures of the government. The total public debt of the country was 94% of the GDP as at end of 2006. Hence, the only way to progressively reduce public debt is to curtail public spending. Therefore, as proposed above if we produce 1% higher output then public expenditure could be raised by 0.5%. By this way, over a period of time public debt as a proportion of the GDP could be curtailed.

The current way of preparing budget is regressive. That is, government first determines the likely public expenditure and then finds out ways of financing such predetermined expenditures by way of direct and indirect taxes, other government revenues, domestic borrowings, external borrowings, etc. The progressive way of preparing the budget would be to determine the likely government revenue first and then allocate such revenue to various expenditures. The foregoing method would pave the way for a balanced budget.

Eighthly, FM(R)A should be strengthened in order to be enforceable. According to this Act the government undertook to limit the budget deficit to 5% of the GDP and to reduce the total outstanding public debt to 85% of the GDP by end of 2006. However, at the end of 2006 the budget deficit was around 9% of the GDP and the total outstanding public debt was 94% of the GDP. The reason, for non-compliance with the law, given by the Ministry of Finance was that due to the tsunami reconstruction and recovery the government had to incur additional expenditure, which was not foreseen at the time of enactment of the Act. However, the author feels that tsunami was a convenient scapegoat for fiscal profligacy by the government since April 2004. Reintroduction of fertiliser subsidy, recruitment of unemployed graduates to public service, pay rise to public sector employees were the primary reasons for non-fulfillment of the targets set by the FM(R)A. Bulk of the tsunami relief, reconstruction, and recovery expenditures were borne by external donors. Besides, the G7 countries provided a debt moratorium for one year (2005), which was worth USD 500 million (or LKR 50 billion). In these circumstances, non-compliance with the FM(R)A is a clear violation of the law. When the government does not comply with its own law how can it expect the citizens to do? This is a very serious moral and ethical question that needs to be addressed.

Ninthly, there is a long felt need to enact a Freedom of Information Act (FIA) in Sri Lanka in order to foster greater transparency and accountability in public finances and public policy-making. A draft bill was prepared in 2003, but has not been presented to parliament so far due to changes in government. The Official Secrets Act from the British colonial era governs the access to information of the government. The proposed FIA would ensure greater information to the public and facilitate public scrutiny of government policies.

Although the government presents the mid-year fiscal position report and the medium-term fiscal strategy statement, they are not timely. In terms of the FM(R)A, a mid-year fiscal position report is presented to parliament in July, but the data therein covers only up to April, which is inadequate. Besides, a three-year fiscal strategy statement is presented along with the budget, which is too much to stomach at the same time. Therefore, the time of release of the medium-term fiscal strategy statement should be changed.

Further, the foregoing reports are not reader-friendly and loaded with technical jargons, which are hard for ordinary citizens to understand. Therefore, these reports should be made user-friendly. Besides, public availability of these reports is limited, because only a limited number of copies are printed. Just posting these reports on the website of the Ministry of Finance is inadequate, because less than 10% of the Sri Lankan population access the Internet. These reports have to be printed in all three languages (English, Sinhala, and Tamil) and distributed to the public and private libraries, school and university libraries throughout the country. A citizens' guide to the budget should be made available in all three languages.

Tenthly, Sri Lanka should move towards performance budgeting in order to ensure effective and efficient use of scarce public resources. That is, performance-based budget formulation, implementation, and evaluation should be instituted. Moreover, performance auditing should be carried out instead of the current practice of compliance or regulatory auditing.

Making the budget more transparent may not necessarily lead to better public policies. Nonetheless, if the policymaking process is not transparent then the likelihood of the persistence of bad policies is greater. Thus, even if a government pursues bad policies, it is better to be open so that citizens are aware of them.

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