

CHAPTER ELEVEN

FINANCING ECONOMIC AND SOCIAL RIGHTS

PART A: OVERVIEW

1 INTRODUCTION¹

The challenges of financing and delivering economic and social rights in South Africa can only be understood in the context of the history of colonialism, racial discrimination, and the legacy of apartheid. Not only were the overwhelming majority of the population subjected to gross human rights violations but were also deprived of accessing the material benefits of society. The results of past discriminatory practices are evident in uneven income distribution, availability and delivery of social and basic services, distribution of infrastructure, and access to economic opportunities necessary for an adequate standard of living. When the democratic government came into power in 1994, in addition to inheriting vast backlogs in housing, health care, welfare, the provision of basic and other social services, it also inherited an inefficient and discriminatory budget system in which allocations were spread over fifteen budgets (for the four provinces and the 'homelands').²

One of the stated goals of the Reconstruction and Development Programme (RDP) instituted by the new democratic government was the alleviation of poverty through the material advancement of the previously disadvantaged sections of the population. The re-prioritisation of social services in the RDP required the redistribution of the total revenue pool between the national and the newly formed nine provincial governments so as to enable them to carry out their functions. This called for major budget reforms to reflect the new priorities of government.

It is the aim of this chapter to firstly assess whether progress has been made by the national and provincial Treasuries³ (Departments of Finance) *vis a vis* the Government's constitutional obligations when formulating budgetary policy, and secondly, to determine what monitoring mechanisms were put in place and whether these were effective in overseeing expenditure by service agencies. The assessment will be based on the responses to the protocols sent by the South African Human Rights Commission (SAHRC), in compliance with its mandate to monitor,

¹ The Department of Finance is not responsible for service delivery. The protocol sent to this department therefore, posed a different set of questions relating specifically to financial matters, which is reflected in this chapter. From 1st of April 2000, the national Departments of Finance and State Expenditure merged to form the National Treasury.

² I Abedian *The Budget Book, Challenge and Change* (1995) IDASA 21.

³ The responses received by the SAHRC were sent by the then 'Departments of Finance', now known as the National and Provincial Treasuries. For the purpose for this Report, these names will be used interchangeably.

annually, the measures adopted by organs of State to advance economic and social rights.⁴

In the last reporting period, 1998-99, the then national Department of Finance (DoF) stated that it was not responsible for service delivery and had therefore not instituted any policies aimed at respecting, protecting, promoting and fulfilling social and economic rights. It indicated that the budgetary process had been reformed by the introduction of the Medium Term Expenditure Framework (MTEF), which was a tool to assess and plan expenditures for a three-year period. Many of the provincial Departments were of the view that they were responsible mainly to oversee financial management and ensure efficient financial practices. Although a few of the provinces had instituted measures to advance economic and social rights, most did not indicate the criteria used to allocate funds for various programmes.⁵

This chapter is divided into three parts. Part A serves as an introduction to the South African fiscal system. The State's Constitutional obligations in financing economic and social rights is discussed in the light of Constitutional provisions for the creation of financial authorities and mechanisms for making budgetary allocations. The responses from the Treasuries will be summarised to provide a bird's eye view of developments that have taken place in the fiscal year 1999/2000.

Part B consists of a more detailed analysis of the responses received from national and provincial Treasuries, followed by a critique and recommendations.

Part C is an appendix outlining the budgetary process to highlight points where the Treasuries play a key role. Since the vast majority, including the national Treasury, reiterated the view that they were not directly responsible for setting spending priorities, it would be useful therefore to review the budgetary process to examine their roles in determining policy priorities and the allocation of budgets for the delivery of services. This will be done so as to identify key points in the budget process where these Departments are able to influence the decision-making process in setting government's priorities regarding the delivery of economic and social rights.

2 CONSTITUTIONAL OBLIGATIONS

2.1 Economic and social rights and the State's obligations⁶

In order to address the vast backlogs inherited from the previous regimes, the new democratic government entrenched economic and social rights in

⁴ Section 184 (3) of the Constitution of the Republic of South Africa Act 108 of 1996.

⁵ See the *2nd Economic & Social Rights Report (1998-1999)* 2000 265.

⁶ The Constitutional provisions for economic and social rights are discussed in other chapters of this Report.

the Bill of Rights of the South African Constitution.⁷ Section 7 (2) obliges the State to 'respect, promote, and fulfil the rights in the Bill of Rights.' This implies that all the rights including economic and social rights be given priority status. Since many of the economic and social rights are also internally limited by the 'availability of resources', the State is obliged to 'progressively realise' them over time.⁸ The inclusion of economic and social rights in the Bill of Rights obliges the State to take all the necessary steps to ensure maximum and effective use of all the resources available to it. It is, therefore, incumbent on the State to devise sound macroeconomic, fiscal and monetary policies so as to maximise the revenue pool earmarked for the delivery of economic and social rights. It also requires organs of State, responsible for financial matters to manage public finances in an efficient and accountable manner so as to maximise the ability of service agencies to deliver services.

2.2 Constitutional provisions relating to financial matters⁹

Fiscal federalism

South Africa has a fiscal federalist system where the pool of revenue is collected nationally into a central fund and then divided equitably between the three spheres of government. The Constitution provides for the establishment of National and Provincial Revenue Funds into which all funds must be deposited. Section 213 of the Constitution provides for the establishment of a National Revenue Fund. Similarly, s 226 provides for establishing a Provincial Revenue Fund. Money can only be withdrawn from these Funds by an Act of Parliament and in the case of the provinces, the Provincial Legislatures.

The vertical division of the national revenue pool must be preceded by the enactment of The Division of Revenue Bill, a non-money Bill, which therefore allows Parliament to amend it. The National Revenue Fund is divided into equitable shares between the three spheres of government.¹⁰ Once the vertical division of the nationally collected revenue pool into national, provincial and local shares have taken place, individual transfers are made to Departments at the provincial and local spheres of government. This process is known as the horizontal division of revenue.

The National Treasury

The Constitutional provisions governing the fiscal system are as follows. Section 216 (1) provides for legislation to establish a National Treasury and

⁷ The Constitution of the Republic of South Africa Act 108 of 1996.

⁸ When interpreting the Bill of Rights, the State is also obliged to take cognisance of international law as stipulated in subsection 39 (b) and foreign law subsection 39 (c) when interpreting the Bill of Rights.⁸

⁹ Chapter 13 of the Constitution is devoted to financial and fiscal matters.

¹⁰ In South Africa, the government consists of three spheres: national, provincial and local.

to 'prescribe measures to ensure both transparency and expenditure control in each sphere of government by introducing generally accepted accounting practices'.¹¹ The National Treasury is responsible for, amongst other things, advising Cabinet on economic trends, the overall level of spending within the macro-economic and fiscal framework, advising the Minister's Committee on the Budget (MinComBud) and Cabinet, on the division of revenue between the spheres. The National Treasury thus plays a vital role in the budgetary process where key decisions are made regarding policy priorities and allocations for the following fiscal year.

The Financial and Fiscal Commission (FFC)

Section 220 makes provision for legislation for the establishment of the Financial and Fiscal Commission. The Financial and Fiscal Commission Act of 1997 established the FFC, an independent technical advisory body on financial and fiscal matters relating to the spheres and specifically tasked with advising Parliament. This provides Parliament with an independent assessment of the manner in which the vertical split is determined and can potentially equip it to play a more active role in supporting the prioritising of economic and social rights in the budget process.

The National Treasury and the FFC are responsible for financial and technical matters relating to the budget. They also play an advisory role to Cabinet and to Parliament in the budget process and thus play a pivotal role at key points in the budgetary process where they can influence policy decisions in setting priorities on budget allocations.

The equitable division of revenue

As stated previously, in a fiscal federalist system the total revenue pool is collected at the national sphere and is then divided into equitable shares between the three spheres. Each of these enjoys a certain degree of autonomy, requiring a secure stream of revenue to enable it to carry out its constitutionally defined responsibilities. The division of revenue into equitable shares is provided for in section 214(1)(a) of the Constitution which states that 'An Act of Parliament must provide for the equitable division of revenue raised nationally among the national, provincial and local spheres of government. This is the Division of Revenue Act. Subsection (1)(b) provides for the 'determination of each province's equitable share of the provincial share of that revenue;' Subsection (2) stipulates that the Act may be enacted only:

after the provincial governments, organised local government and the Financial and Fiscal Commission have been consulted and must take into account certain conditions, amongst others, the national interest; the

¹¹ The National Treasury is comprised of the national Departments of Finance and State Expenditure that have recently merged, and is headed by the Director-General of the Department of Finance.

national debt; the needs and interest of the provinces; the need to ensure that the provinces and municipalities are able to provide basic services and perform the functions allocated to them; the fiscal capacity and efficiency of provinces, local government and municipalities; development needs of the provinces; economic disparities amongst the provinces, obligations of the provinces in terms of national legislation; the desirability of stable and predictable allocations of revenue shares and the need for flexibility in responding to emergencies or other temporary needs ...based on objective criteria.

This means that the vertical division should be done in such a way so as to ensure that the sub-national governments have sufficient resources to carry out their functions, in line with national legislation and obligations. Furthermore, such considerations as a province's, and local municipality's respective capacities to deliver basic services are to be taken into consideration. Although this provision does not specifically prioritise the delivery of economic and social rights, subsection (2) (h) makes provision for national legislation to be taken into account. In this regard, s 7(2) of the Bill of Rights, which obliges the State to 'respect, promote, protect and fulfil the rights in the Bill of Rights', can be interpreted to imply that priority should be given to economic and social rights and that policy decisions and budget allocations should reflect this at the crucial stage of deciding the vertical division of the total revenue pool.

The vertical division of revenue takes place *after* taking into consideration the national interest and the national debt, which means that Cabinet can set different priorities at the national level, which will impact on the total revenue pool available for the vertical division.

The horizontal division of revenue

Once the vertical division has taken place, the provincial and local shares are subdivided into individual transfers for each unit of government in both these spheres. This latter process is called the horizontal division of revenue. The funds transferred to sub-national governments may be conditional or unconditional. The latter gives provincial governments some discretion over the allocation of resources allowing them to utilise their budgets according to their needs and priorities with regard to service delivery. On the other hand, conditional grants allow the central government to exercise a degree of control of how the funds are utilised and accounted for. Recently though, block transfers to provinces have been introduced where they exercise greater autonomy over spending decisions that reflect their individual needs.

National sources of provincial and local funding

Section 227 of the Constitution provides for national sources of provincial and local government funding whereby each receives an equitable share. It defines the fiscal capacity of these organs of state to refer to potential revenue, which they can generate. Importantly, allocation to provinces or municipalities cannot be related to other revenues they raise nor can they expect to be reimbursed for failure to raise revenue 'commensurate with

their fiscal capacity and tax base.’ Provinces are also expected to raise their own revenue and provide their own resources to fulfil their requirements.

National, provincial and municipal budgets and the budgetary process ‘must promote transparency, accountability, and effective financial management of the economy, debt, and the public sector’ in terms of s 215 (1). Subsection (2) (c) requires each sphere of government to show ‘in which way proposed expenditure will comply with national legislation’. Organs of state are also required to disclose intended borrowing, which might incur public liability.

The Constitution makes provision for economic and social rights and also provides for the establishment of bodies and mechanisms to finance and to exercise control over expenditure. The mobilisation and efficient utilisation of funds is therefore crucial in enabling the State to fulfil its mandate. The National Treasury plays a pivotal role in this regard. It plays a technically supportive role and advises Cabinet on whether realistic budgets are allocated to national and provincial departments when the vertical division of national revenue takes place. The National Treasury also plays a role at the provincial sphere.

Budgeting authorities and budgeting agencies

The central budgeting authority consists of the national Cabinet, the Extended Cabinet, and the Minister’s Committee on the Budget (MinComBud). At the provincial sphere, the Budget Council and the Budget Forum are the key budgeting authorities. The budgeting authorities exercise political oversight of the decision-making process, which determines the vertical and horizontal division of revenue. A number of government level budget authorities and budgeting agencies may also be involved in the decision making process. The former consists of Provincial Executive Councils (PECs) and legislatures and at the local level, the municipal councils. The National Treasury and its provincial counterparts act as budgeting agencies.

The budget authorities, for example, the Provincial Executive Councils recommend priority areas to the central budgetary authority and the level and type of expenditure they should support. Budget agencies, then advise the authorities on the implication of different types of expenditure. Since priorities are constantly changing and spending needs of departments compete with one another, there is a need to trade-off the benefits of different services against each other.¹² It is at this level that re-prioritisation takes place.

¹² P Whelan ‘Evaluating the Vertical Division of Revenue’ IDASA Discussion Paper (2000) 4.

The assignment of functions to the spheres is complex since several functions may be concurrently assigned across spheres. In general national government determines norms and standards while sub-national governments are responsible for implementing key social services such as health, welfare and education, and basic utilities such as water, sanitation and electricity. The level of authority, however, differs across spheres. For instance, housing subsidies set by the national Department are facilitated by the provincial Departments of Housing whereas provincial Departments of Education enjoy greater authority.¹³

A broad range of inter-governmental co-operation has been defined in the Constitution whereby spheres consult with one another and co-ordinate their actions and legislation. Sub-national spheres are also involved in the law making process through the National Council of Provinces (NCOP). They can thus influence the nature of legislation enacted to advance socio-economic rights.

Budget Reform

As stated earlier the Apartheid budget required extensive reform. One of the most important reforms was the introduction of the Medium Term Expenditure Framework (MTEF). The MTEF details a three-year rolling plan for expenditure and revenue budgets for national and provincial departments. Provincial spending plans in the MTEF take into account transfers from the National Revenue Fund as well as additional funds that provinces raise. The MTEF also includes transfers from national and provincial spheres to local government. Budgeting within this framework is based on principles governing policy priorities linked to public expenditure, political oversight of the budget process, and budgeting for service delivery.

Medium-term budgeting has the following advantages:

- greater certainty of policy priorities which are set out in advance allowing departments to plan their budgets for delivery of services in line with policy priorities
- affordable spending for the medium term as departments plan and spend on programmes according to an agreed three year expenditure envelope
- strengthened political decision making and accountability as policy choices may be linked to agreed spending commitments
- improved management of public finances

The budget for any current fiscal year must be seen in the context of the three-year MTEF. Every year this framework is reviewed to reflect changing priorities, revenue and expenditures for that fiscal year before the budget is tabled in Parliament.

¹³ Ibid

The Public Finance Management Act 1 of 1999 (PFMA)

The PFMA introduced generally recognised accounting practices; uniform treasury norms and standards; prescribed measures to ensure transparency and expenditure control in all spheres of government; and set the operational procedures for borrowing, guarantees, procurement and oversight over the various national and provincial revenue funds. This legislation enables the Treasuries to monitor expenditures over the medium term and also includes an Early Warning System whereby any anomalies in spending may be picked up on a monthly basis.

3 SUMMARY OF RESPONSES FROM THE DEPARTMENTS OF FINANCE

Since budget allocations are fundamental to the delivery of economic and social rights, the national Department DoF and the nine provincial Departments of Finance were required, in terms of the Commission's mandate, to answer four questions as set out in the protocols prepared by the SAHRC:

- to describe in which manner they take into account the government's constitutional obligations when formulating budgetary policy
- what criteria they employed in deciding budgetary allocations to various government departments responsible for the realisation of economic and social rights
- what mechanisms are used in monitoring and assessing the utilisation of these funds, and
- to describe the manner in which the effectiveness of these mechanisms is assessed

The national DoF, including the majority of provincial departments of Finance did not provide adequate responses to the first two questions relating to the manner in which they take into account the Government's constitutional obligations when formulating budgetary policy and what criteria they used in deciding budgetary allocations to various government departments responsible for the realisation of economic and social rights. The key theme of the responses was the reiteration of the view that they were not responsible for the delivery of economic and social rights, and that Cabinet was responsible for setting priorities. Provincial departments typically regarded their function as implementation of financial policies set at national level and the provision of technical assistance in preparing budgets and accounting services. Although several provincial governments stated that the budget for 'the three social services, namely, education, health care and welfare grants, was set at the national sphere by Cabinet' and amounted to 85 percent of the allocated funds while only 15 percent remained for the delivery of other basic services. Only Gauteng and KZN provided details of their spending envelopes.

As to the question referring to the mechanisms used in monitoring the utilisation of funds most of the departments cited the Early Warning System and auditing practices, which had been put in place. The effectiveness of the monitoring systems was measured by staying within budget while over-spending or under-spending was considered inefficient use of allocated budgets by nearly all the departments.

4 CONCLUSION

The responses of the Departments of Finance to the first two questions were inadequate in that they made a disclaimer as regards taking government's Constitutional mandate into account when setting priorities. They also did not stipulate what criteria they used when deciding budgetary allocations. Instead they provided an outline of the budgetary process without indicating at which points they are involved in the process, nor what role they play. Furthermore, no details of budget allocations were provided for the realisation economic and social rights. This suggests that many of the departments were unaware of their Constitutional obligations since they cited Cabinet as the principal authority in deciding budget priorities.

In general, the questions relating to monitoring mechanisms and their effectiveness, received better treatment, in that most departments outlined accounting practices as set out by the MTEF and the Early Warning System as effective mechanisms to stay within budgets. However, it was difficult to judge if these monitoring mechanisms were effective since only two provinces supplied details of their budgets for the fiscal year.

PART B: ANALYSIS OF REPORTS FROM ORGANS OF STATE

1 NATIONAL SPHERE

The national Department of Finance provided inadequate responses to the first two questions pertaining to the manner in which constitutional obligations were taken into account and what criteria they used when deciding budgetary allocations to various government departments responsible for the realisation of economic and social rights. Instead, the response outlined the budget process and provided information relevant to the fiscal year 2000-01. Furthermore the information supplied did not follow the format of the protocol.

1.1 State obligations

The DoF reiterated its position that Cabinet was responsible for formulating policy and for budget allocations. The DoF stated that its main role was a supportive one, namely the provision of 'quality' documentation to the Minister's Committee on the Budget and Cabinet regarding policy priorities and spending pressures across national, provincial and local governments. It further indicated that the MTEF details a three-year rolling expenditure and revenue plan for national and provincial departments that allows Government to strengthen the link between policy priorities and choices for resource allocation decisions across government.

1.2 Criteria

Although, the DoF provided some information on policies and programmes, only one programme, the Poverty Relief Programme was relevant to the period under review. In 1999 Cabinet instituted a special programme to address poverty and implement the recommendations of the Job Summit. The intended beneficiaries of the programme were rural women, young people and the disabled. One billion Rand was set aside for poverty relief, infrastructure investment, and Job Summit projects.

The criteria for the allocation of these funds were that projects should:

- target the poorest area in the provinces, particularly rural areas and households with single women as the main breadwinners
- promote human development and capacity building among the poor and the unemployed
- provide jobs and community involvement
- be sustainable in the long term

A supplementary estimate for poverty relief funds was tabled in 1999 as shown in Table 1 below.

Table 1 Poverty Relief and Job Summit Allocations

	R Millions (1999)
Agriculture - Land care	20
Environment & Tourism	70
Health	23
Housing	75
Labour	59
Provincial & Local Govt. Affairs	45 45
Public Works	377
Transport	100
Water Affairs & Forestry	200
Welfare	40
Total allocated	1000
Unallocated	0

1.3 Monitoring mechanisms

In response to the question as to what internal departmental mechanisms were used to monitor and assess the utilisation of funds by various government departments for the realisation of economic and social rights, the DoF replied that the management of the Department of State Expenditure was responsible for monitoring and evaluating expenditure by departments which included the evaluation of budget inputs and expenditure to ensure that Government's priorities are achieved within the MTEF. It also evaluated practices in cost management, which contributed to a reduction of roll-over funds and the initiation of a culture of adherence to effective and efficient management of public finances in the departments. It also assisted in monitoring and reporting on national and provincial trends by comparing actual and projected expenditure on a monthly basis. Any under or over-reporting is brought to the attention of the Cabinet, for the responsible Minister to take appropriate action. This minimises cash borrowing by Government.

The DoF further stated that the departments of Finance and State Expenditure have developed and implemented the Public Finance Management Act No1 of 1999, which provides the legislative framework for strengthening financial accountability while devolving managerial responsibility to accounting officers and departmental managers. This is part of a broader strategy to improve financial management in the public sector, including improving budgetary systems, reform of public sector procurement, support for public-private partnerships and enhanced corporate governance and financial risk management across the public sector.

1.4 Effectiveness of monitoring mechanisms

The effectiveness of these mechanisms was assessed by implementing the PFMA, which requires departments to report on the state of their expenditure on a monthly basis. During this reporting period they utilised

the Early Warning System, which relied on estimated actual spending by departments on a monthly basis. A special PFMA unit has been formed in The National Treasury to steer the implementation of the PFMA. In turn, the Parliamentary Committees on Finance and Public Accounts will be monitoring the activities of the National Treasury to ensure that monitoring systems are operational and accountable.

2 PROVINCIAL SPHERE

2.1 *State obligations*

In response to the question in what manner the Department of Finance take into account the Government's constitutional obligations in terms of economic and social rights when formulating budgetary policy, most of the provincial Departments pointed out that they were not directly responsible for formulating policy which is circumscribed in practice and in statute by National policy and convention set by Cabinet. It has been a long-standing convention between the Provinces and the National Treasury as articulated in the Budget Council resolution, that Provinces will allocate at least 85 percent of their appropriated budgets to the three social service departments of education, health and social welfare, in view of the fact that it is in these areas that the backlogs and current needs are the greatest. These 'three social rights are accorded the highest priority' and receive the lion's share of the available funds in accordance with the 85:15 percent ratio set by Cabinet.

Although most of the provinces referred to this ratio, hardly any provided details of how the allocated budgets were spent except for KwaZulu-Natal and Gauteng provinces. The latter overspent its budget by R1million and provided no reasons for this.

The KwaZulu-Natal department sent two responses to the SAHRC's protocol, one signed by the Head of the Department of Finance and the other by the provincial MEC for Finance.¹⁴ The HOD of Finance provided tables to show that the 85:15 percent ratio for the three social rights had been progressively realised and that in fact for the year under review the actual expenditure on these three social services was 85.02 percent of the total provincial expenditure. He also indicated that other services for which the provincial government is primarily or jointly responsible for, were funded within the limitations of available resources. This breakdown was in line with policy decisions which require social services (health, education and welfare) jointly share 85 percent of available resources and the balance of the budget is to be allocated to the rest of the Province's activities. The MEC indicated that all departments must give priority to meeting personnel expenditure before funding other programmes. He pointed out that excessive spending on personnel constitutes the

¹⁴ Although the two reports concurred on the first question, they differed in the content of the information provided and also in the assessment of the ability and effectiveness of the Department to fulfil its mandate.

overwhelming constraint in the effort to provide social and economic rights. This is attested to by an analysis of the budget as shown in Table 2. Of a total expenditure of R18, 959,76,000, R11, 329,767,000 went to personnel expenditure while only R7, 630,209,000 was available to fund services. Independent research shows that approximately 92 percent and 65.2 percent of the budget for education and health respectively go to personnel expenditure.

However, the major portion of the welfare allocation goes towards transfer payments.

Table 2 Summary of estimated actual expenditure for 1999/2000 for KwaZulu- Natal

Sector	Estimated Actual Expenditure in R' 000
Education	
Personnel Expenditure	6 721 253
Other	610 774
<i>Total Education</i>	<i>7 332 027</i>
Health	
Personnel Expenditure	3 332 485
Other	1 777 899
<i>Total Health</i>	<i>5 110 384</i>
Welfare	
Personnel Expenditure	149 115
Transfer Payments	3 716 400
Other	181 824
<i>Total Welfare</i>	<i>4 047 339</i>
Other Expenditure	2 470 416
Improvements in Conditions of Service Delivery	0

A surplus of R770, 525,000 was tabled with no explanation of why these monies were not spent. While both parties pointed to the unavailability of resources they nevertheless did not account for under-spending of the budgetary allocation.

Gauteng Province responded that the Provincial Executive Council determined the priority areas, which were social services and social infrastructure and to which 90 percent of the budget had been allocated – a trend over the past five years. An analysis of the budget revealed that the Department had overspent by approximately R1 million of its allocation for the fiscal year. No reasons for this were provided.

The North West province provided an outline of the budgetary process. It stated that responsibility of the Department was to advise the Executive Council on whether the priorities they set were in line with budgetary policy set by the Minister of Finance and the Provincial MECs for Finance.

The Western and Eastern Cape did not follow the protocol at all. The Western Cape, instead, provided lengthy extracts from its Budget Statements of 2000.

The Free State Department's response indicated that provincial political priorities were reviewed and confirmed every budget cycle and that due consideration was given to ensure the fulfilment of economic and social rights through 'inadequately catering for service delivery, so as to ensure that acceptable minimum standards are accessible to all.' It further indicated that when instituting new programmes a principle of non-discrimination was applied, priority being given to vulnerable groups such as women, the disabled and the rural poor.

The Northern Province indicated that 'In formulating policy the department ensures that available resources are channelled towards housing, primary health care, social security and education as required by s 27 of the Constitution'.¹⁵ It further stated that budgetary policy is guided by the following principles: the needs of the people, developing human resources, building the economy and creating jobs. This was done in line with directives from the National Treasury.

The Northern and Eastern Cape's response was that they follow the inter-governmental policy framework - where education, health and welfare receive 85 percent of the budget allocation. Mpumalanga and the North West Province provided irrelevant responses. The Mpumalanga Department also pointed out that it is not responsible for service delivery but provides financial services to other departments and that it had stayed within its approved budgetary allocations.

2.2 Criteria

In response to the question on what criteria were used in deciding budgetary allocations to departments responsible for the realisation of economic and social rights, most of provincial Departments stated that they were not responsible for political decisions which were taken at the level of the provincial executive, who in turn abide by national priorities set by Cabinet. They were also of the view that Departments of Finance merely facilitate the budgetary process, by putting forward recommendations for the approval of Cabinet.

¹⁵Section 27 does not provide for housing and education as stated in the response but for health care, food, water and social security.

Only the Free State, the North West and KZN provinces attempted to answer this question. The Free State indicated that block allocations to various departments responsible for the delivery of economic and social rights are informed by demographics, backlogs in service delivery to vulnerable groups and institutional capacity to redress past imbalances. The department of Finance did not set hard criteria but utilised its business plans to assess the affordability and sustainability of projects that were specifically directed to eradicating backlogs on service delivery.

The HoD of the KZN Department of Finance listed the following criteria for allocation of funds: past performance in spending funds, the amounts of roll-over funds requested, pre-determined conditional grants, the amount of available funds, national and provincial policies which include employment creation, economic growth, equity and social development. In contrast, the MEC noted that 'independent criteria were not used, it was a case of how to limit expenditure rather than realise all the economic and social rights obligations as outlined in the Constitution.'

The North West Province indicated that the criteria employed were the economic and social rights mandate, the magnitude of input costs, the priorities set by the Executive Council and legislative requirements. No details were provided by either of these departments.

2.3 Monitoring mechanisms

In response to the question on what internal mechanisms were used to monitor and assess the utilisation of funds allocated to various departments for the realisation of economic and social rights, most of the provinces provided a similar response. They indicated that internal auditing mechanisms were in place to review expenditure patterns and account for variances in spending. Departments were required to submit weekly, monthly, quarterly, and annual expenditure reports to the provincial Departments of Finance. Several provinces noted that the monthly meetings serve as an Early Warning System.

Only the KwaZulu-Natal department provided details of the process whereby the Provincial Treasury via the Treasury Committee exercise strict control over departmental spending through regular expenditures review with departmental accounting officers.

The Free State department noted that the responsibility for economic and social rights lies with functionary departments whose business plans define measurable outputs. The DoF's responsibility was to ensure that they were costed as accurately as possible. The North West reported that a monthly assessment was made to gauge whether set targets were met. In addition the Batho Pele Standards of Service Delivery were utilised to assess whether services rendered met set standards. It however, failed to demonstrate exactly what was assessed and how these this was done. Only the Mpumalanga and KwaZulu-Natal governments indicated that funds allocated for the delivery of socio- economic rights were 'ring

fenced' so as to ensure that they were not utilised for non-prioritised services. The latter province further added that those funds allocated to the 'larger social services departments' (presumably education, social services and health care) were reported separately to the Provincial Treasury and the transferring department or agency at the National level to ensure that conditions attached to the grant funding were adhered to.

2.4 Effectiveness of monitoring mechanisms

The departments were requested to describe the manner in which the effectiveness of these mechanisms was assessed. KwaZulu-Natal's HOD of Finance indicated that 'heavily qualified audit reports tend to indicate inadequate or poor control mechanisms whereas unqualified ones confirmed their effectiveness'. The MEC responded that a budget was considered effective if spending was 'within budget'. He also indicated that 'fraud, corruption, inefficiency and incompetence make the task of extracting value from the resource envelope even more difficult' in the effort to deliver economic and social rights.

Several other departments echoed the sentiment expressed by the MEC, that staying within budget was a measure of the effectiveness of the measures to monitor spending. The Eastern and Western Cape did not respond to the question while most others cited auditing procedures, public perception, and inter-departmental forums that serve as monitoring mechanisms. The North West province included NGOs, business and other stakeholders who assess effectiveness of performance. It also indicated that a citizen's Report incorporated all programmes relating to economic and social rights.

3 CRITIQUE OF THE RESPONSES

3.1 National Sphere

The national DoF's response to the first two questions was inadequate. It made a disclaimer regarding its constitutional obligations regarding economic and social rights. It also reiterated its previous position that Cabinet was responsible for setting priorities and that it only played a supportive role. It also did not state what criteria were used in the allocation of funds to departments towards realising economic and social rights. The DoF indicated that Cabinet had to make trade-offs against competing political, social and economic needs in making affordable spending decisions and that budgetary allocations do take into consideration the Government's constitutional obligations pertaining to economic and social rights. No information on how this was done was provided.

The DoF also omitted to supply any details of the current budget, which might have provided useful information on the vertical division of revenue and what allocations had been made for the provision of economic and social rights.

The disclaimer by both national and provincial spheres, regarding their roles in setting priorities and criteria for the realisation of economic and social rights is not consistent with research conducted independently which shows that they play a crucial role in advising budgetary authorities at both national and provincial spheres. Key officials of both national and provincial Treasuries participate in several committees in the budgetary process and influence both Cabinet and the Budget Council where Provincial Executive Members make policy decisions.

The National Treasury plays a key role in the Medium Term Expenditure Committee (MTEC) where its Director-General (DG) chairs the committee. Senior officials together with DGs of other departments, including the Presidency, review the budget submissions from provincial departments. The National Treasury is also responsible for drawing up a memorandum and submitting it to one of the most powerful committees in the budget process, the Minister's Committee on the Budget (MinComBud), which determines the vertical split. The National Treasury plays a secretariat role here and it is at this level that the Department can advise and influence Cabinet on prioritising economic and social rights. The National Treasury provides government with technical details on the feasibility of programmes within realistic allocations and also advises government on spending priorities for the MTEF.

Although the Poverty Relief Programme targeted such areas as housing, health, social welfare and water, the monies allocated to various sectors were to create jobs and not for the provision of services.

The National Treasury's response to its constitutional obligations and what criteria it used to decide on allocations, did not throw any light on its role and influence in the budget process. It did, however, respond to the last two questions in some detail although no actual data was provided to show that the monitoring system was in fact efficient, transparent and accountable. No data was provided for provincial spending patterns, of how and which programmes were targeted and whether these were cost effective.

3.2 Provincial Sphere

One of the main weaknesses of both the national and provincial Departments of Finance's response to the SAHRC's protocol was the failure to respond to the questions relating to the manner in which these departments take into account their constitutional obligations relating to the provision of economic and social rights and what criteria they utilised when making spending decisions. Most departments outlined the budget process and the Medium Expenditure Framework but failed to detail how the economic and social rights mandate impacted on setting the expenditure framework for the realisation of these rights. Even though, several provincial governments stated that Cabinet had set the 85:15 percent ratio for education, social welfare and health, it is clear, from the

responses, that the delivery of other economic and social rights is not seen as a priority which they are obligated to fulfil. None of the other economic and social rights were referred to.

Gauteng and KwaZulu-Natal must be commended for the effort they put into the responses even though two responses were received from KwaZulu-Natal.

The disclaimer by almost all the Departments of Finance that they were not responsible for service delivery, nor for setting priorities in terms of allocation of budgets, can be viewed in the light of the belief that they play mainly a supportive role in assessing the feasibility of proposed budgets and offer auditing services within the MTEF. Whilst it may not be their task to directly manage health care or welfare services it is the Departments' responsibility to mobilise resources for service delivery in terms of their Constitutional mandate. Furthermore, no indication was given on how the other economic and social rights were prioritised. No details of budget allocations received nor additional revenues raised for their provision were provided.

The identification of key points at which the provincial MEC's for Finance and the members of the PEC are involved in the budget process, will serve to show the pivotal role they actually play in deciding priority spending areas and also how they can influence both the vertical and horizontal division of revenue. After government departments have submitted their initial baseline budgets to the MTEC, they are involved at the stage of the division of revenue with senior officials of Finance Departments. Budget priorities are decided upon, in line with national priorities. During this phase the Budget Council, which is comprised of the Minister of Finance and the provincial MECs for Finance, decide on the vertical split of projected revenue and the allocations available for the three spheres of government. Based on the division of revenue, bidding processes take place at the national and provincial spheres. At the national sphere, bids are made to the MTEC, which consists of DGs from departments with crosscutting functions such as that of Finance. It is here that trade offs are made and reprioritisation takes place and where the Treasuries can play an influential role.

During the bidding process the MTEC makes recommendations to the Cabinet Committee on the Budget for final approval. Based on these allocations Departments draw up their final budgets and re-submit them to the National Treasury, which prepares the Budget for publication on budget day.

The national and provincial departments of Finance clearly play an important role in the budgetary process and have the power to influence policy decisions taken at both provincial and Cabinet level. Economic and social rights issues can further be highlighted at key nodal points in the budget process: at the stage where policy priorities are set by political authorities, when the fiscal framework is determined, at the Division of

Revenue stage, and at the bidding process (MTEC) and lastly at Cabinet, level. Clearly, national and provincial Departments of Finance are involved at the level of their own spheres and also influence the intergovernmental process where they exert considerable influence.

Parliament can also play a more active role in scrutinising the Budget to see that it complies with the State's constitutional mandate. Although the Budget is a Money Bill, which Parliament can only amend through an Act of Parliament, two provisions in the PFMA might increase the oversight of Parliament regarding the vertical division. Firstly, Parliament will now receive information on the fiscal implications for provincial government of any national legislation set before it. Should Parliament wish, it could avoid creating new un-funded mandates by not passing the legislation until appropriate financial mechanisms are put in place (section 35). Secondly, Parliament has to pass each 'main division of vote' i.e. each programme. This allows Parliament a slightly sharper device to review national budgets (section 43). As this oversight device applies within Parliament exclusively to national programmes, it can impact on the vertical division in only a limited manner. For instance conditional grants may be reviewed through this provision. In addition, the Medium Term Budget Policy Statement (MTBPS) is released in August, which gives Parliament enough time (six months) to study the implications of allocations made for service delivery.¹⁶

As regards mechanisms for monitoring of funds by spending agencies, although most Departments gave a general outline of procedures followed in auditing expenditures, they were not explicit as to what measures were in place to monitor funds specifically earmarked for the purpose of delivering socio-economic rights. Furthermore, only two Departments provided budgets and did not account for over-spending or under-spending which indicates that their accounting practices for monitoring expenditures are not as effective as they could be.

Hardly any of the provincial Departments cited the PFMA, which is aimed at reforming and improving the quality of managers and accountability in the public sector. It includes the monitoring of expenditure on a monthly basis, improving financial reporting, appointing qualified personnel, training financial managers, and improving software systems. Neither did they refer to the National Expenditure Survey (NES), which empowers Parliament and the nation to monitor delivery against available resources. The NES is a detailed account of spending and service delivery by national Departments and spending agencies. It sets out policies and goals and the resources that have been allocated to achieve them. It links departmental expenditure with outputs, enabling assessment of whether spending trends meet the policy priorities set by government. It also includes information on the impact of government spending on women and the

¹⁶ The MTBFS is available to civil society which enables them to take a more active role in influencing the policy decisions in the budget process.

redistribution of resources in favour of the poor. By emphasising the link between spending, service delivery, and outputs the NES provides a powerful tool with which to call the government to account. The NES should contribute to informed debate about the outputs delivered by government and thereby promote more effective use of public money.

While it appears that there are internal auditing mechanisms in place to monitor and assess expenditures, it is not clear whether staying within budget is the only useful criteria for assessing the effectiveness of these mechanisms. In addition none of the provincial Departments provided any statistics or tables to show the amounts they were allocated and how these were spent. Neither did they provide any evidence of what information was collected to effectively deliver economic and social rights to the most needy. All the Departments without exception quoted only education, social welfare and health care as the three areas prioritised by Cabinet. None mentioned any of the other rights such as the right to food, water, the environment and others stipulated in the Bill of Rights. This may be an oversight or it could be interpreted to mean that they are not aware that these too, constitute economic and social rights. The Minister of Finance in his Budget Speech delivered to Parliament in February 1999, identified, besides the three social services of education, welfare and health care, other key priorities to include housing, clean water, and sanitation. In spite of this all the Departments only referred to the first three as high priority social spending areas, which seems to suggest that the other economic and social rights do not receive priority status at the time of the vertical or the horizontal division of national revenue. The Minister did not delineate access to food, land, and environment rights as priority areas in his Budget Speech.

The Minister also indicated that in spite of the Asian melt down of 1998 and the financial crises which affected emerging markets like South Africa, the State had maintained its strategy towards redirecting its spending towards core public services: education, health, welfare, and social infrastructure. He emphasised that it was a strategy that recognised the enormity of the inherited backlogs but it also recognised the limited resources available and the need to maximise service delivery within the available resources.

The 1999 Budget Review cites revenue of R191, 7 billion, including grants and recoveries, and a budget deficit of R25, 1 billion. It also provides for expenditure of R216, 8 billion or 30.6 percent of the Gross Domestic Product (GDP). From this R48, 2 billion (22,3 percent) is deducted for servicing the debt, R750 million of donor financed projects and R1, 1 billion as a contingency reserve, leaving R166, 7 billion to be shared equitably between national, provincial and local governments.

The equitable division in 1999 was as follows: The national government received R78, 7 billion or 47 percent of the total, while provincial government received R86, 3 billion or 52 percent of the total, and local government received R1, 7 billion or one percent of the total. This is clearly

insufficient to finance the provision of economic and social rights in the medium term.

In line with priorities, national and provincial governments were earmarked to spend R103, 7 billion of the available resources on social services, which account for 61 percent of non-interest spending. R1 billion or 0.6 percent would also be set aside for poverty relief programmes, giving effect to several Job Summit commitments.¹⁷ Education expenditure in 1999 was set to be R48, 5 billion, Health at R24 billion, and Welfare and social grants, at 19,8 billion.¹⁸ However, the major portion (more than 80 percent of the education and health envelopes) was spent on personnel expenditure rather than on infrastructure, books, and educational material and in the case of health, drugs, facilities and equipment for treating clients. Furthermore it is apparent from an analysis of the budget breakdown that the spheres responsible for service delivery received inadequate funding.

Independent research shows that although budget reform has to some degree addressed inefficiencies in the system, however several provinces still had large rollover funds, which were not accounted for, while yet others were racked by corruption and misuse of public money.

4 RECOMMENDATIONS

Both the national and provincial Departments of Finance are advised to provide information requested by the protocols so as to enable the Commission to fulfil its mandate. They should also provide details of revenue and expenditure to show what percentage of their budgets was allocated to the realisation of economic and social rights, which programmes were funded, and how they were monitored to determine cost efficiency.

In order to highlight the constitutional provisions for the prioritisation of economic and social rights, it would be preferable that the MTEC and their provincial counterparts include and account for how their recommendations for allocations is informed by their constitutional obligations to deliver of economic and social rights. They should also be required to show how and which new programmes would advance these rights in the most cost effective manner. This process should feed into Cabinet's policy priorities, which should also reflect economic and social rights. Furthermore, the National Assembly and the National Council of Provinces should play a more critical role when commenting on the MTBPS. They also have powers to amend allocations to specific programmes of the Division of Revenue Bill. They should exercise their powers to ensure that programmes are aimed at advancing delivery of services to the most needy sections of the population.

¹⁷ *Budget Speech of the Minister of Finance. (1999) 7*

¹⁸ *Ibid 14*

It has been noted that there is an asymmetry during the division of revenue, which results in provinces and local governments, who are responsible for service delivery, receiving a smaller share. Budget allocations should be made on objective criteria using benefit-incidence analyses. Input costs should be based on real expenditure for individual programmes. This would entail budget authorities setting targets in terms of outputs and outcomes and that spending agencies report on the extent the targets have been met, and account for the costs. This would measure performance and also serve as a monitoring mechanism.

There also exists an asymmetry in information between the national and provincial budgetary authorities in so far as information collected by the provinces on projected budgets is not available to the national budgetary authority when the vertical division of revenue is made. Cabinet and MinComBud should have more detailed information when making priority choices. Furthermore, it is essential for service departments to collect and analyse data regarding projects and programmes to enable them to make more informed choices. Reliable data would enable them to lobby for funding to service areas of greatest need. Departments should prepare the best policy, budget and service delivery information in their MTEF budget submissions in order to influence policy decisions in their favour.

PART C: APPENDIX¹

KEY PLAYERS IN THE BUDGET PROCESS

The medium-term spending plans are prepared within the government's macroeconomic and fiscal framework set out in the previous budget, which outlines the 'resource envelope.' Projections are revised during the year from the National Treasuries model. Strengthening the link between Government's policy priorities and public expenditure is at the core of medium-term budgeting. Public expenditure translates Government's policy priorities into the delivery of services to communities, and is therefore a key tool for accomplishing public goals.

Budget authorities

The budget process is complex and involves budgeting authorities and budget agencies. Budgeting authorities include the Minister of Finance and the National Treasury, the Extended Cabinet, and the Ministers Committee on the Budget. At the provincial and local levels, the key players are the Budget Council, The Budget Forum, MEC's of Finance, senior officials, and members of South African Local Government Association (SALGA).

Budget agencies

There are two types of sector-based agencies: sectoral review teams and 4x4s. The main function of these is to identify, describe and quantify the cost pressure facing sectors and develop solutions, although, recently the 4x4s have concentrated on developing strategies for managing specific policy issues.

The key players are:

- National and provincial departments
- National Treasury and the nine provincial treasuries (Departments of Finance)
- The national and provincial Medium Term Expenditure Committees (MTECs)
- The Financial and Fiscal Commission (FFC)
- The Technical Committee on Finance and the joint sectoral technical committees ("4x4"s)
- Budget Council and the Budget Forum
- Sectoral MinMECs
- The Minister of Finance and the provincial Members of Executive Council for Finance
- The Ministers' Committee on the Budget (MinComBud)
- Treasury Committee

¹ Most of the information in the Appendix was obtained from the National Treasury publication: *Medium Term Expenditure Framework Treasury Guidelines 2001*.

- Cabinet and Provincial Executive Councils

The table below provides a summary of the composition of and the agencies at the national and provincial spheres and their roles.

Table 1 Key agencies in the intergovernmental budgeting process¹⁹

Body	Constitution	Function	Outputs
Budget Authorities			
Cabinet	Executive of national legislature	Decides on vertical division and publishes MTPBS for discussion in Parliament	Medium Term Budget Policy Statement National White Book Division of Revenue Bill National Expenditure Review
Extended cabinet	Cabinet plus provincial premier	Consult on the vertical and horizontal division	
Minister's Committee on the Budget (MinComBud)	Committee of Cabinet	Inject policy priorities into 4 X 4 process; review work of the 4 X 4s; intersectoral prioritisation; advise Cabinet on budget; presumably intersectoral envelopes given by MTEF are relaxed to some extent here	Term of reference of the 4 X 4s Drafts of official budgeting outputs for cabinet approval
Budget Council	Finance MINMEC plus FFC and key finance officials	Recommend horizontal division to Cabinet at the provincial level	
Budget Forum	Finance MINMEC and organised local government and technical support	Receive from local government information on its financial requirements in relation to ES and conditional grants; discuss other fiscal issues in the local government sector	
Joint MINMECs: Health, Education	National minister and provincial MECs of the sector	Non-statutory (except for education);	

¹⁹ P Whelan 'The Vertical Division of Revenue in South Africa' *IDASA Discussion Paper (2000)*

Body	Constitution	Function	Outputs
	in question plus the equivalent for finance sector	Intrasectoral policy priorities within fiscal envelopes	
Provincial Executive Councils	Executive of provincial legislature	Intra-provincial focus: department priorities and resource allocation	Preliminary provincial budgets
Budget Agencies			
4 X 4s: Health, Welfare, Education, Public Works, Personnel, transport	Sector based officials from the national department and 3 provinces plus officials from national Department of Finance and provincial equivalents in three provinces	Non-statutory; advisory; ongoing exploration of spending trends in terms of MTEF baseline allocations (fiscal envelope); cost implications of alternative delivery approaches / policy	One annual report per team
MTEF Sector Review Teams: Health, Welfare, Education	Officials of national and provincial sector departments at national & provincial levels	More periodic work on particular aspect of budget reform e.g. in 1999 performance indicators; research and data collection	
Technical Committee on Finance	Officials from national and provincial departments of finance	Support Budget Council; Makes total revenue projections; compiles (preliminary) findings of 4X4s and sectoral review teams; help draw up proposal for vertical division	

The budget process in brief

The budget process is one with sequential overlapping loops between the spheres. It starts in January and ends in February of the following year when the budget is tabled in Parliament on Budget day. The process begins with Departments preparing and submitting their baseline budget proposals to their respective Medium Term Expenditure Committees (MTECs). Departments are responsible for preparing their MTEF budget submissions in line with Government and departmental policy and spending priorities. This is a key stage in the budget process as it determines the quality and extent of information provided to the budgetary decision-makers. It is important, therefore, that departments prepare and present the best possible policy, budget and service delivery information in their MTEF budget submissions.

At the national level, departments are also responsible for submitting the first draft of the relevant departmental chapter for the *Estimates of National Expenditure* and working with National Treasury spending teams and budget analysts to finalise the documentation. At the national sphere, the MTEC is chaired by the Director General (DG) of the National Treasury and includes senior members of the National Treasury and other DGs from other departments including the Presidency. The role of the National Treasury is to review the budget and submit a memorandum to the MinComBud. The National Treasury advises if baseline projections are realistic and in line with spending priorities. It is at this stage that it can influence MinComBud to reprioritise policy decisions and adjust spending envelopes to reflect Constitutional obligations for the delivery of economic and social rights.

A similar process occurs at the provincial level. Once the MTEC's recommendations are made the budget is discussed further by the Budget Council and the Extended Cabinet, which may include provincial Premiers and the MECs and senior officials of the departments of Finance. The preliminary division of revenue is decided upon and Departments make baseline changes.

The National Treasury collates all the information and submits a report to the Budget Council, the Joint MinMEcS and MinComBud. The National Treasury draws up the Medium Term Budget Proposal Statement and the medium term fiscal framework proposal. After the meeting of the nine provincial premiers and the Cabinet and after the division of revenue has been decided upon, the MTBPS is tabled in Parliament in August.

Between August and February, the National Treasury drafts the final Division of Revenue Bill, which is approved by the national Cabinet and is tabled before the National Assembly and the NCOP on Budget Day, usually in February.

Key decision stages in the budget process

Unpacking the budget process is simplified by viewing it as a series of decision stages that form the building blocks in preparing the Budget.

The process comprises seven overlapping stages that correspond to the critical decision nodal points:

- **The prioritisation stage** between April to September calls for the political executive to focus on the broad medium-term policy and spending priorities associated with Government's social, economic and developmental priorities
- **Preparation and review of the MTEF-** budget submissions of national and provincial departments take place between April to August
- **Review of the macroeconomic and fiscal framework and the division of revenue** between the three spheres of government is the subject of technical analyses and consultation between July and August, and is considered by the extended Cabinet in September.

- **The Medium-term allocation process: the recommendation stage is initiated during the Medium Term Expenditure Committee hearings and discussions at the national and provincial level between September and October**
- **Government's broad medium-term policy and spending plans are considered by Cabinet and tabled before Parliament in the Medium Term Budget Policy Statement (MTBPS).**
- **The Medium-term allocation process: Decision stage in November facilitates determination of the new medium-term allocations to national votes and those to provincial and local government**
- **Preparation for the Budget, between November to February sees national departments and provincial treasuries work closely with National Treasury to prepare the budget documentation that is tabled before Parliament and before provincial legislatures.**

National sphere

The National Treasury is responsible for:²

- ***Advising Cabinet on the economic trends and the overall level of spending that can be afforded within the macroeconomic and fiscal framework***
- ***Advising the Ministers' Committee on the Budget and Cabinet on the Division of Revenue between the spheres***
- ***Evaluating departmental budget submissions and policy options***
- ***Submitting comments and views to departments regarding proposed department 'options'***
- ***Negotiating allocations, reprioritisation and funding levels of programmes including savings therein***
- ***Developing and presenting the national MTEF for consideration by the MinComBud***
- ***Preparing and finalising budget document, including the "Estimates of National Expenditure", for Budget Day***

The Medium Term Expenditure Committee

The MTEC is chaired by the Director-General of the National Treasury and includes senior National Treasury officials and other Directors-General (or their representatives) from a number of departments including the Presidency and the Department of Public Service and Administration.

The MTEC Committee is responsible for:

- ***Evaluating departments' budget submissions based on policy and budgetary 'options', taking into account the available resources***

² Text in *italic* indicates key stages where the Departments of Finance play a crucial role in the budgetary process.

stated within the macroeconomic and fiscal framework and the set of medium-term policy priorities agreed to by Cabinet

- *Compiling recommendations on changes to the medium-term allocations to national votes to the MinComBud*
- *Identifying spending risk items that are not accommodated within the MTEC recommendations but pose potential claims on available resources*
- *Compiling a draft memorandum to Cabinet detailing the recommendations of the MinComBud on changes to the medium-term allocations to national votes, given Government's medium-term policy and spending priorities*

Provinces follow a similar approach. Provincial MTECs are typically chaired by the Member of Executive Council (MEC) for Finance or the head of the provincial treasury and comprise senior provincial treasury officials.

Improved policy and budgetary information submitted by departments to treasuries and to the MTECs allows the Committees to play more effective roles in the MTEF allocation process. In turn, the national and provincial MTECs are able to improve the quality of information submitted to the Ministers' Committee on the Budget, provincial Executive Councils and Cabinet. This contributes to more robust budgetary decision-making at the political level.

The MTEC's *recommendations on changes to medium-term allocations to national votes are reviewed by the Minister of Finance and considered by the MinComBud*, given Government's medium-term policy and spending priorities. At the provincial level *the MECs for Finance review the MTEC recommendations and advise the Provincial Executive Councils on proposed changes to medium-term allocations to provincial votes.*

The Ministers' Committee on the Budget (MinComBud) consists of eight ministers and deputy ministers who advise the Minister of Finance. It plays an important role in building the level of political involvement and participation in the process of policy review and budgetary prioritisation.

The Committee considers key policy and budgetary issues that pertain to the budget process before they are tabled in the Cabinet. These include:

- *Government's medium-term policy and budgetary priorities*
- *The macroeconomic and fiscal framework and the Division of Revenue between the three spheres of government*
- *The Medium Term Budget Policy Statement (MTBPS) which signals Government's broad policy priorities and spending commitments for the coming 3-year period months ahead of the detailed Budget presented to Parliament*
- *Recommended changes to the MTEF allocations to national votes*

The MinComBud is one of most powerful political bodies in the budgeting process. The Minister of Finance uses the body as a sounding board before introducing proposed allocations to Cabinet for discussion and authorisation. It is convened by the Minister and meets on an ad hoc basis when the need arises. Proposals for the vertical division of revenue, as well as the supplementary allocations in June and the allocations arising from the adjustments estimate in November, which both have implications for the vertical split, pass through this committee before being tabled in the Cabinet. *The national Department of Finance play the role of secretariat to the Committee and provides a conduit between specific sections in the Department at the Committee.* The Minister briefs the secretariat on what technical work is required. MinComBud meetings are closed and their minutes are confidential, so the details about its functioning are unknown. For deliberations on the vertical division provincial premiers are drawn into an 'Extended Cabinet.'³

The Treasury Committee

This committee is chaired by the Minister of Finance and comprises a selected number of Cabinet Ministers and meets during October every year to decide on allocations to national departments for unforeseen and unavoidable expenditure that has occurred during the current year, in terms of section 32(b) of the PFMA. The Committee also makes decisions on in-year allocations to provinces. These are included in the adjustments to the original budget and tabled in the Adjustments Estimate during October each year.

Cabinet

Cabinet considers and makes the ultimate decisions on Government's medium-term policy and spending priorities, the macroeconomic and fiscal framework and the Division of Revenue between national, provincial and local government, the Medium Term Budget Policy Statement and changes to the medium-term allocations to national votes.

The provincial and local government spheres

The Budget Council and the Budget Forum are key players in promoting intergovernmental co-operation between the spheres of government on fiscal, budgetary and other financial matters. These two statutory bodies were set up to support the decision of the central authority, to facilitate consultation between them and the other two spheres of government. The Technical Committees on Finance and the sectoral technical committees (known as the '4x4s') support the Budget Council.

Local Government

³ P Whelan 'Evaluating the Vertical Division of Revenue in South Africa' (2000) IDASA Discussion Paper 11

The Budget Forum is the equivalent body for fiscal and financial matters of concern to local government. Its membership includes the Budget Council, five members nominated by the South African Local Government Association (SALGA) and one representative from each of the provincial associations. Though not a member, the Minister of Provincial and Local Government is also invited to these meetings.

Sectoral Joint MinMecs, comprising the national ministers and MECs of a concurrent function including health, education, welfare and housing, meet during the year to review sectoral trends, clarify sectoral priorities and address the budgetary implications of national policies for provincial implementation.

Political oversight of the Budget

Political oversight of the budget process is essential to ensure that the political executive is responsible for policy, budget planning and prioritisation, which must be linked to departmental spending plans and the delivery of services. The budget process is primarily about the choices and trade-offs that Government has to make on how to meet the agreed set of policy priorities and objectives for service delivery. Political oversight of the budget process allows Government to manage the tension between competing policy priorities and budget realities. This helps to reprioritise spending and make more informed policy choices that are affordable in the medium term.

Cabinet, supported by the Ministers' Committee on the Budget, the Budget Council and the Budget Forum, plays a leading role in guiding the alignment of resource allocation with national priorities. At the provincial level, the MECs for Finance and the Executive Councils play a parallel role in guiding the alignment of resource allocation with provincial priorities. The Budget Forum also plays a role in advising Cabinet on the resource allocation for the local sphere.

GLOSSARY

Budget Council	A body established to coordinate financial relations between national and provincial government, comprising the Minister and Deputy Minister of Finance and the nine provincial MECs for Finance.
Budget Forum	A body established to coordinate financial relations between national, provincial and organised local government, comprising the Budget Council, five members nominated by the South African Local Government Association (SALGA) and one representative from each of the provincial associations. Though not a member, the Minister of Provincial and Local Government is invited to the meetings of the Budget Forum.
Conditional grants	Allocations of money from one sphere of government to another, conditional on certain services being delivered or on compliance with specified requirements. Conditional grants appear as expenditure in the budget of the department making the grant and as revenue of the province or municipality

Financing Economic and Social Rights

	receiving the grant. (See also agency payments)
Consolidated expenditure	Total expenditure by national and provincial government, including transfers to municipalities and other extra-budgetary agencies. Consolidated expenditure includes spending by provinces financed from own revenues. Consolidated spending is therefore the sum of national and provincial spending, excluding the double counting of transfers from national to provincial government.
Donor grant funding	Donor grants used to supplement MTEF allocated expenditure.
Division of revenue	The allocation of funds between the spheres of government, as required by the Constitution.
Equitable shares	The allocation of revenue to the national, provincial and local spheres of government, as required by the Constitution.
Financial and Fiscal Commission (FFC)	An independent body established by the Constitution to make recommendations to Parliament and provincial legislatures about financial issues affecting the three spheres of government
Financial year	The 12 months on which government budgets are based, beginning 1 April and ending 31 March of the subsequent calendar year.
Gross domestic product (GDP)	A measure of the total national output, income and expenditure in the economy. GDP per head is the simplest overall measure of welfare, although it does not take account of the distribution of income, nor of goods and services that are produced outside the market economy, such as work within the household.
GDP inflation	The rate of increase of prices across gross domestic product.
Option	Sets out a possible change in a department's baseline allocation.
Medium-term expenditure framework (MTEF)	The 3-year spending plans of national and provincial governments, published at the time of the budget.
Project loan	Strategy of debt financing using the project loan facilities of international lending institutions. Usually includes elements of technical support and capacity building.
Reprioritisation within baseline	The proposed re-allocation of resources to programmes and activities if the department were to receive the medium-term baseline as its allocation.
Rolling budgets	A budget system in which 3-year forward projections are revised annually.
Treasury (National)	The national departments responsible for financial and fiscal matters, that is, the Departments of Finance and State Expenditure
Treasury committee	Committee that evaluates all requests for additional funds for unavoidable and unforeseen expenditure during a financial year.
Vertical division of revenue	The division of revenue between spheres of government.
Vote	An appropriation voted by Parliament.

ABBREVIATIONS

DoF	- Department of Finance
FFC	- Financial and Fiscal Commission
GDP	- Gross Domestic Product
HOD	- Head of Department
KZN	- KwaZulu-Natal
MinComBud	- Minister's Committee on the Budget
MinMec	- Minister's & Member of the Executive Council
MTEC	- Medium Term Expenditure Committee
MTEF	- Medium Term Expenditure Framework
MTBPS	- Medium Term Budget Policy Statement
PEC	- Provincial Executive Council
PFMA	- Public Finance Management Act of 1999
PPP	- Public Private Partnership
RDP	- Reconstruction and Development Programme
SAHRC	- South African Human Right's Commission
SALGA	- South African Local Government Association

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