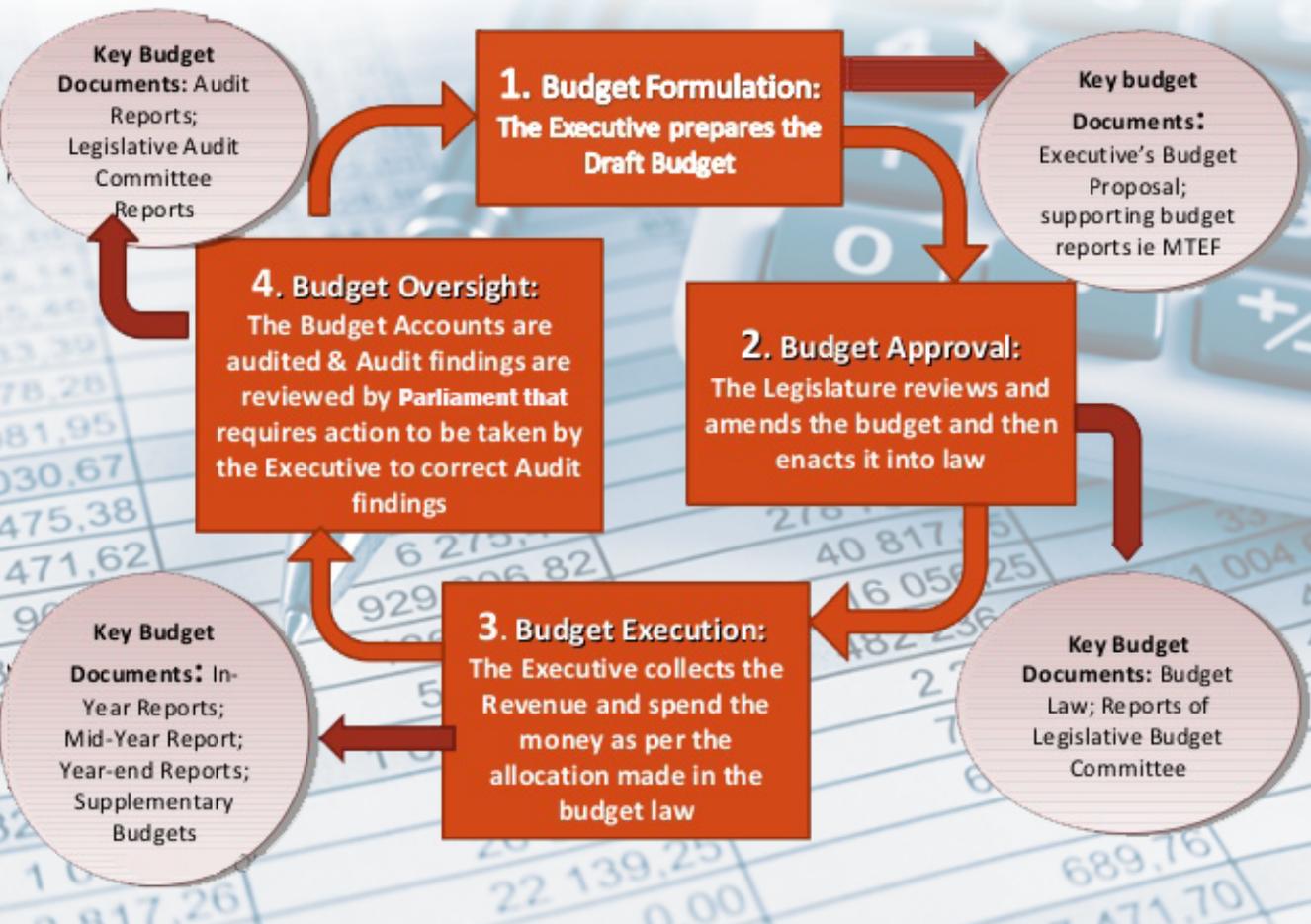


# THE LEGISLATURE AND BUDGET OVERSIGHT

## A Comparative Study of Selected Countries in the East Africa Community



Elijah Dickens Mushemeza

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## ABBREVIATIONS

AEC	Africa Economic Community
AFRICOG	African Centre for Open Governance
AG	Attorney General
ANC	African National Congress
APRM	African Peer Review Mechanism
APSA	American Political Science Association
APSP	The Africa Parliamentary Strengthening Programme
AU	African Union
AWEPA	Association of European Parliamentarians with Africa
BOT	Bank of Tanzania
CAG	Controller and Auditor General
CCM	Chama Cha Mapinduzi
CID	Centre for International Development
COMESA	Common Market for East and Southern Africa
CSOs	Civil Society Organisations
DP	Democratic Party
EAC	East African Community
ECOWAS	Economic Community of West African States
GOPAC	Global Organisation of Parliamentarians Against Corruption
IBEACO	Imperial British East African Company
IEA	Institute of Economic Affairs
IFMS	Integrated Financial Management System
IGAD	Inter-Governmental Authority on Development
IGG	Inspector General of Government
KACC	Kenya Anti-Corruption Commission
KENAO	Kenya National Audit Office
KNA	Kenya National Assembly
KRA	Kenya Revenue Authority
KY	Kabaka Yekka
LEGCO	Legislative Council
MP(s)	Member(s) of Parliament
MTEF	Medium Term Expenditure Framework
NAOT	National Audit Office of Tanzania
NEPAD	New Partnership for Africa's Development
NGOs	Non-Governmental Organisations
NIMES	National Integrated Monitoring and Evaluation System
NRM	National Resistance Movement
NSSF	National Social Security Fund
OAU	Organisation of African Unity
PAC	Public Accounts Committee

PAP	Pan African Parliament
PBO	Parliamentary Budget Office
PER	Public Expenditure Review
PFMRS	Public Finance Management Reform Strategy
PNoWB	Parliamentary Network on the World Bank
SADC	Southern African Development Community
SOs	Standing Orders
SUNY	State University of New York
TANU	Tanganyika African Union
ToRs	Terms of Reference
TRA	Tanzania Revenue Authority
UN	United Nations
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
UPC	Uganda People's Congress
URA	Uganda Revenue Authority
USAID	United States Aid for International Development
UTP	United Tanganyika Party

## EXECUTIVE SUMMARY

This paper takes a comparative perspective in which the legislative arms of government and their oversight role on the budget process in the selected countries forming the East African Community is unraveled. It was conceived that the budgetary oversight function is part of a checks-and-balances system that ensures presence of accountability in the utilisation of scarce resources. It was expected that at the end of the study, lessons for good governance and particularly a more effective legislature in terms of budget oversight would be brought out.

The central thesis of this paper is that the legislature and its budget oversight function is critical for democratic governance in East Africa. This central preposition is supplemented by two subsidiary prepositions: (i) that government accountability becomes successful when public officials are answerable for their actions and their unbecoming behavior is corrected well in advance and (ii) for the government to manage public resources efficiently and effectively, parliamentary oversight committees as well as the national audit institution, both entrusted by the people should work independently but complementary. It was found that positive outcomes on democratic governance are achievable if the administration of the legislature focuses on continuous training and other capacity- building activities for the MPs and Parliamentary technical staff on how to analyse budget documents and audit reports; provides the necessary IT infrastructure for quick access to information; fights corruption; and timely checks the executive from crossing its boundaries. It was also found that such above actions would positively affect utilisation of scarce financial resources and service delivery; and provide the overall socio-economic transformation that is urgently needed in East Africa.

The comparative analysis perspective in this study was done following these themes: (i) parliamentary strengthening as a pre-requisite to effective oversight; (ii) the budget process (legal and institutional framework, role of oversight committees e.g. PAC) and the budget cycle; (iii) effectiveness of East Africa Parliament in budget oversight; (iv) challenges that legislatures face in East Africa.

On the whole, the research established that attempts have been made by the legislatures to carry out their budget oversight function amidst numerous challenges and shortcomings. These were found to range from; capacity and competence limitations; interference by other branches of government, to limited financial resources for operations purposes. In particular, the public accounts committee (PAC), one of the leading budget oversight committee in the

three parliaments of selected East African countries was widely perceived by the citizens as an institutional organ that 'barks more and bites less'. This is in spite of the fact that in order for PAC and other oversight committees to effectively deliver on their responsibility, the other organs of the state – the Controller and Auditor General, Police, Inspectorate of Government, Courts of Judicature - must do their part to ensure value for money and where appropriate enable the tax payers to recover the resources wasted by corrupt officials.

Last but not least, the paper recommends continuous update of parliamentary websites as a way of improving public accessibility to parliamentary activities and information; strengthening the Parliamentary Budget office; exchange of visits to learn from each other's good practices, training of Members of parliament and support staff on basic skills – document analysis (budget, audit etc.) and quality report writing. Similarly, as matter of fact, MPs should appreciate and exercise their mandate and authority for effective budget oversight.

## **I.0 INTRODUCTION**

### **I.1 Parliamentary strengthening: a prerequisite for legislative oversight**

It is widely known that responsive and effective elected bodies are the foundation of good governance (Inter-parliamentary Union 2004; Bainomugisha and Mushemeza 2006). However, these bodies need to be buttressed in order for them to carry out their roles as effectively as possible. The world over, parliaments need support in order to carry out their work. The principle behind legislative oversight is to ensure that public policy is administered in accordance with the legislative intent, and by inference, the citizens' aspirations. In this context, the legislative function does not cease with the passage of a Bill. It is, therefore, only by monitoring the implementation process that Parliamentarians uncover any defects and act to correct misinterpretation or maladministration. In this sense, the concept of oversight exists as an essential corollary to the law making process (Institute of Economic Affairs 2009).

This paper analyses the nexus between budget oversight function of parliament and democratic governance in East Africa. It takes a comparative perspective and argues that a better functioning of a legislature through budget oversight contributes to democratic governance. This central preposition is supplemented by two subsidiary prepositions: (i) that government accountability becomes successful when public officials are answerable for their actions and their unbecoming behavior is corrected well in advance and (ii) for the government to manage public resources efficiently and effectively, parliamentary oversight committees as well as the national audit institution, both entrusted by the people should work independently but complementary..

Tsekpo and Hudson (2009) observe that traditionally, parliaments have three primary roles; legislation, representation and oversight. Legislation deals with passing laws which make up a country's legal framework. Representation is about collecting, aggregating and expressing the concerns, opinions and preferences of the country's citizens. Oversight is about keeping an eye on the activities of the executive and holding the executive to account on behalf of the country's citizens. Oversight may take different forms; including summons and hearings in established Committees. Parliament's oversight of the budget process involves monitoring and review of the entire budget process including the broad fiscal challenges facing government, expenditure controls and budgetary tradeoffs that affect present and future spending. Overall, the budgetary oversight function is part of a checks-and-balances system that ensures that there is accountability in the utilisation of financial resources (Madhidha 2011).

The world over, an accountable state is one that responds to its citizens, particularly in situations where they demand appropriate action to promises previously made. In the budget process, the Executive has the responsibility of drafting and implementing the budget but the role of checking whether this responsibility is successfully fulfilled rests with parliament. Parliament has potential to assist Government departments to plan and implement budgets more effectively and efficiently through provision of the checks and balances. It has potential to help in curbing corruption, reducing gaps between planned and actual budgets, and even leading to greater efficiency in Ministries/Departments' delivery of services within the shortest time possible (Institute of Economic Affairs 2009). Ideally, parliaments are key institutions of the state that promote democratic governance which is achieved through legislation, oversight and representation. In practice, parliaments in many developing countries are always seen as being weak, ineffective and contributing little to good governance (UNECA 2005).

Parliamentary strengthening enhances the effectiveness of parliaments through institutional development, builds the capacity of parliamentary staff, Members of Parliament and committees, and puts in place the nuts and bolts of infrastructure and equipment. It also involves improving staffing needs to be rigorously linked to size, typologies, membership, composition, mandate and investigatory requirements of specific committees. In addition, changes in the reporting mechanisms, the drafting of quality reports and implementation of parliamentary resolutions are necessary (AFRICOG 2012). An effective parliamentary committee system also ensures that different parliamentary interests and points of view are taken into account when the House makes its decisions. They provide avenues for meaningful probe and debates; management of complex parliamentary business, and above all, mechanisms for parliamentary accountability (Institute of Economic Affairs 2009).

There is a wide variety of approaches to parliamentary strengthening (The World Bank Institute 2014). Whatever approach is taken the objective is to help parliament to improve its capacity as a law-making body that represents citizens' interests by passing appropriate legislation and exercising effective oversight over executive actions and the budget.

## **1.2 The Paris Principles**

One of the major instruments of parliamentary strengthening is The Paris Principles. The Paris Principles were defined at the first International Workshop on National Institutions for the Promotion and Protection of Human Rights held in Paris on 7-9 October 1991, and were adopted by the United Nations Human Rights Commission by Resolution 1992/54 of 1992, and by the UN General

Assembly in its Resolution 48/134 of 1993. These internationally agreed principles relate to the status and functioning of national institutions for the protection and promotion of human rights. The principles also set out the minimum standards required by national human rights institutions to be considered credible and to operate effectively. Among these principles is the legislature's role of oversight.

Over time, many developing countries have worked out a relationship with development partners particularly from western countries of Europe and North America. In brief, the Paris Principles entails an encouragement to an institution that develops its own strategy to achieve efficiency, effectiveness and accountability. With a clear strategy, development partners would then find it appropriate to give support that is demand driven. The Paris Principles have been instrumental in cementing this partnership.

### **1.3. Parliamentary Strengthening in East Africa**

A number of international agencies have shown great interest in parliamentary strengthening in East Africa. These include development partners such as the United States, United Kingdom, Canada, Sweden, Austria, Belgium, Denmark and Germany, inter alia. This is alongside multilateral organizations such as the World Bank, the United Nations (UN) and European Union. In addition, there are a number of national and international parliamentary organizations and networks including the Parliamentary Centre, the Inter-Parliamentary Union, the Commonwealth Parliamentary Association, and European Parliamentarians for Africa (AWEPA), the Parliamentary Network on the World Bank (PNoWB) and the Global Organization of Parliamentarians Against Corruption (GOPAC). All these have contributed to parliamentary strengthening and providing support to the Parliaments in the three East African countries in order to enhance their oversight roles over budgets, along with the Constitutions of the respective countries (Uganda Constitution 1995; Kenya Constitution 2010; Tanzania Constitution 1977; Tsekpo and Hudson 2009).

In Uganda, a number of development partners have engaged in parliamentary strengthening since 1996, with international organizations such as United Nations Development Programme (UNDP) and United States Agency for International Development (USAID) playing particularly important roles. From 1996, the focus was on the provision of equipment and training for MPs and parliamentary staff while from around 1998, considerable efforts were made to put in place some key parliamentary institutions including the Parliamentary Commission, the Parliamentary Service and the Parliamentary Budget Office. There were also efforts to set out Parliament's vision and ensure that the various development partners aligned their support with it – the Parliamentary Strategic Investment

and Development Plan and the Parliamentary Development and Coordination Office (SUNY/CID 2003; Tsekpo and Hudson 2009).

In Kenya, USAID is one of the very active international agencies that are promoting parliamentary strengthening in the country. For instance, the agency, together with The Department for International Development have funded a Parliamentary Strengthening Programme to further enhance the Kenya National Assembly's (KNA's) key legislative, budget oversight and representation functions and to consolidate the body's growing links to academic and civil society expertise and resources. Implemented by the State University of New York and the Centre for International Development (SUNY/CID), the project has some achievements :

- Drafting and implementing progressive and transparent parliamentary Standing Orders;
- Creating strong institutionalized budget and oversight functions by establishing a Budget Office, passing the Fiscal Management Act, and conducting regular pre and post-budget workshops;
- Developing a strong, specialized and fully staffed committee system;
- Establishing professional staff departments, doubling the number of professional staff and improving staff knowledge and skills through training and mentoring;
- Linking civil society groups, think tanks and experts to Parliamentary Committees to facilitate effective analysis and passage of key reforms, including those required under Agenda 4 of the National Accord and Reconciliation Act of 2008 and under the New Constitution of Kenya 2010;
- Instituting live broadcast of legislative proceedings, developing an ICT department and learning lab and establishing a media centre for news conferences and media support (**Source: SUNY/CID Website: <http://www.cid.suny.edu>**).

In Tanzania, The Africa Parliamentary Strengthening Programme (APSP) is one of the many initiatives started in order to boost parliamentary strengthening in the country. The APSP is a five-year (2011 – 2015) capacity strengthening programme for seven partner parliaments including Benin, Ghana, Kenya, Senegal, Tanzania, Uganda and Zambia. The programme supports partner parliaments to develop and implement strategies to strengthen their overall role and engagement in the national budget process (Parliamentary Centre 2014). The aim of APSP is to strengthen partner parliaments' financial accountability, through training to enhance their role and authority in the budget process, as well as provide space for increasing participation of citizens. Additionally, the project aims to increase the capacity of African parliaments on budget oversight. Indeed as part of its achievements, APSP has overseen the improved Capacity of MPs and staff towards providing them with the requisite skills to make them more effective in

performing their roles in the budget process (Parliamentary Centre 2014). It is evident therefore, that efforts have been made in Kenya, Tanzania and Uganda to strengthen parliament vis-a-viz institutional development, capacity building of MPs and staff; and infrastructure. These developments have enabled visible outputs, which are pre-requisites to legislative oversight.

#### **1.4 Research Methodology**

The research for this paper was primarily document analysis. However, limited interviews were conducted with key senior staff of parliament and other government departments in the study area. The research therefore relied on data from interviews, written and printed sources. Documents were obtained from libraries in Kenya, Tanzania Uganda and from the Parliaments of East African websites. Data analysis was done thematically. Themes were developed at the beginning of the study while considering history, the need to strengthen parliament as a prerequisite for oversight, the budget process and the challenges the legislatures face as basis of assessment. The integration of the information generated took the form of arguments, deductions and conclusions in relation to the research issue under study. The comparative analysis clearly delineates the key factors that explain why there is much more to be done in budget oversight in EA to enhance democratic governance.

One limitation for this study is that the researcher, (because of limited time) did not have an opportunity to interview Members of Parliament who sit on accountability Committees in selected countries in order to verify information in the documents. It required making appointments several months before actual interviews could be carried out. Nevertheless, the interaction with the Assistant Clerks some of whom sit on PAC as ex-officio members was a valuable encounter (Kenyan and Tanzanian). In spite of this limitation, the available data enabled me to make an analysis that brings out the necessary interventions for the legislature to carry out effective oversight function for good governance.

## **2.0 THE LEGISLATURE IN EAST AFRICA: A HISTORICAL PERSPECTIVE**

### **2.1. The colonial period**

The idea of representation through a legislature dates back to the colonial era. The British who occupied the original three East African countries introduced representation in the legislatures of the time in order to control the natives and have an orderly process of extraction of economic resources. Therefore, the idea of oversight was never in the political equation of the colonialists who dominated the legislature at the time.

#### **2.1.1. Tanzania**

In Tanzania, the National Assembly was first established before independence in 1926 as Legislative Council of Tanzania Mainland, and then known as Tanganyika. This council had 20 members, all appointed by the Governor who acted as Chairperson of the Council. The Governor remained working in this position until 1953 when the first Speaker was appointed to replace the Governor as chairperson. It was not until 1958 when for the first time members were directly elected by the people. This marked a very big change in the politics of Tanganyika because it was the first election to be allowed in the colony as well as the first time political parties – that were already registered – participated in elections. According to the Tanzanian parliament website (<http://www.parliament.go.tz>) three political parties participated in those elections namely, Tanganyika African Union (TANU), United Tanganyika Party (UTP) and African National Congress (ANC). However, only TANU won in some constituencies to become the first party to have members in the Legislative Council.

Another major change to the Legislative Council occurred in 1960 when the second elections of the council were held. The changes were part of preparations for the independence of Tanganyika. For the first time in the history of Tanzania, the people elected all members of the council after abolition of all members appointed by the Governor. In addition, the name of the Legislative Council was changed to National Assembly (<http://www.parliament.go.tz>).

#### **2.1.2 Uganda**

In Uganda, the first elements of a legislative organ can be traced as far back as 1888 when the then Imperial British East African Company (IBEACO) started

some kind of administration in Uganda. Hence, the first traces of legislation were manifested in the various pieces of regulations passed by the company.

At the turn of the new century, in 1902, a very important landmark was made. In that year, an Order-in-Council was passed. Under this ordinance, a new provision for the administration of Uganda was made. Article 12 of the ordinance empowered the Commissioner to make ordinances for the administration of justice, raising of revenues and generally for the peace as well as order and good governance of all persons in Uganda. In effect, the 1902 ordinance established a system of legislation through the promulgation of personal decrees by the representatives of the British Crown, namely the Commissioner (<http://www.parliament.go.ug>).

It was not until a legislative body was created and even designated its own membership that the legislature in the country began to take shape. The body was to be called the Legislative Council, otherwise known as the LEGCO. At the time, all seven members were to be Europeans (<http://www.parliament.go.ug>). Henceforth, personal decrees ceased and laws were made by the governor assisted by the council.

However, the composition of the council remained a European affair until quite later. For example, the first non-European to make it to the council, an Asian, was sworn in as a member in 1926 while it was not until 1945 that three African members were nominated to the LEGCO, representing Buganda; Eastern, and Western Provinces. In 1948, the Northern Province was reconstituted and allowed its own representative in the House. The late 1950s saw increased pressure by Ugandans for self-governance in the Protectorate as a whole, leading to a series of constitutional changes, notably an electoral law which provided for direct elections culminating in the holding of the first ever direct elections for the greater part of the Protectorate in 1961 (<http://www.parliament.go.ug>). This election returned an African majority into the Legislative council. The Democratic Party (DP) led by Ben Kiwanuka, formed the majority party while the Uganda People's Congress (UPC), led by Apollo Milton Obote, formed the opposition (<http://www.parliament.go.ug>). The UPC was later to form an alliance with Kabaka Yekka (YK) to form a unity government in early 1962.

### **2.1.3 Kenya**

In Kenya, the colonial history of the country dates back to the Berlin Conference of 1885, when East Africa was first divided into territories of influence by the European powers. The British Government founded the East African Protectorate in 1895 and soon after, opened the fertile highlands to white settlers who were

allowed a voice in government, while the Africans and the Asians were banned from direct political participation until 1944 (<http://www.kenyarep-jp.com>). Because Kenya was subjected to direct colonial rule (unlike Uganda, for example, which was being governed as a mere protectorate), the colonial period was characterized by numerous uprisings by the indigenous ethnic groups who were against direct white domination and fought for self-rule. The most prominent and 'notorious' of these was the Mau-Mau uprising mainly composed of members from the Kikuyu ethnic group. As a result, Kenya was put under a state of emergency from October 1952 to December 1959, during which thousands of Kenyans were incarcerated in detention camps. The pressure exerted onto the British (together with the wave of independence that was sweeping the African continent at the time) saw African participation in the political process increase rapidly and in 1954 all three races (European, Asian and African) were admitted into the Kenya Legislative Council on a representative basis (<http://www.kenyarep-jp.com>). Indeed, in 1957, the first ever direct elections for Africans to the Legislative Council were conducted. In 1963, Kenya became a Republic with Jomo Kenyatta, who had been detained by the colonialists for being the leader of the Mau-Mau, as its first President.

## **2.2 Post-colonial developments of new legislature**

### **2.2.1 Uganda**

In early 1962, general elections were held in Uganda. The Uganda Peoples Congress (UPC) won with 37 seats against 24 for the Democratic Party (DP) excluding Buganda. Buganda region had opted for indirect election; hence its Lukiko (parliament) nominated 21 representatives to the National Assembly. The Buganda representatives (under the umbrella Kabaka Yekka) struck an alliance with the UPC known as UPC/KY Alliance which gave it the necessary strength to form a coalition government with Apollo Milton Obote as the Prime Minister and DP led by Ben Kiwanuka in opposition.

It was under these circumstances that the first post-independence legislative assembly was formed. This continued until the Independence Constitution was abrogated and replaced by a Republican Constitution in 1967. Parliament under the Republican Constitution was the Second Parliament of Uganda and lasted until Idi Amin Dada took over power in a military coup in 1971. Parliament was to later resume with the fall of Amin. The Third Parliament ran as an Interim Parliament from 1979 until the general elections of 1980. The Fourth Parliament operated under the Obote II government from 1980-1985 and again went into abeyance because of the civil war that eventually terminated it.

When the National Resistance Movement (NRM) and President Yoweri Museveni took over power in 1986, the National Resistance Council worked as the Fifth Parliament until 1996 when the Sixth Parliament came into place after the birth of a new Constitution. Since then, there has been a new parliament every five years – 2001, 2006 and 2011 – the Seventh, Eighth and Ninth Parliaments respectively. The Rules of Procedure stipulate that parliament operate through a number of Standing, Sessional and Ad Hoc Committees. The Public Accounts Committee, the Local Government Accounts Committee, Committee on Government Assurances and the Committee on Statutory Authorities and State Enterprises all enhance parliament's oversight role. Indeed, since 1996, Parliament has operated in committees as well as in plenary, a method of work which is seen by many as having greatly increased its effectiveness (APRM 2007).

To improve on the governance of the legislature, the Parliamentary Commission was established in 1997 by the Administration of Parliament Act. The Commission is chaired by the Speaker with the Leader of Government Business (the Prime Minister), the Leader of the Opposition, a representative of the Ministry of Finance, Planning and Economic Development, four elected back-benchers and the Parliamentary Clerk as members. The Commission is responsible for ensuring that Parliament is able to fulfill effectively its constitutional mandate to be an independent arm of Government.

### **2.2.2 Kenya**

Kenya has had several parliaments since independence. The country's first post-independence parliament was from 1963 – 1969 and operated under a multi-party regime until the president banned the opposition party, the Kenya People's Union, formed by the dissenting former first Vice-President, Jaramogi Oginga Odinga. The 1969 general election was also the first election since independence. The Second Parliament came into being in 1969 after the country's first general election and operated up to 1974 when general elections once again ushered in another parliament, the Third Parliament. It was during the Third Parliament that the first president of the country, Jomo Kenyatta passed on in August 1978 and was succeeded by Daniel Arap Moi who was his vice-president. The Fourth Parliament (1979 – 1983) was of particular importance in the country's history, for it brought into being one-party rule by changing the Constitution. This trend of events was triggered by a failed attempted military coup against President Moi. The Fifth Parliament was from 1983 – 1988 followed by the Sixth Parliament (1988 – 1992) that saw an increase in the number of parliamentary seats to 188 elected members, 12 nominated members and 2 ex-officio members totaling to 202 members. The next parliament, the Seventh Parliament (1992 – 1997), yet again saw the rebirth of multi-party politics when political parties were allowed

to operate again for the second time since independence. The Eighth Parliament sat from 1997 – 2002 when another set of elections were held. President Moi won in both elections largely due to disunity among the various political parties that were participating in the elections, until 2002 when he stepped down. The Ninth Parliament ran from 2002 – 2007 under Mwai Kibaki, the third president of Kenya since independence. The Tenth Parliament (2007 – 2012) formed a major landmark in the history of the country as it oversaw the birth of the country's new Constitution. One of the major events leading to this change of the Constitution was the violence that marred the aftermath of the 2007 general elections that unfortunately degenerated into an unprecedented loss of lives, displacement of some citizens, destruction of property and general disruption of social and economic life (Calas 2008; Inskeep and Thompkins 2008). The Eleventh parliament is still on up to 2017 and is widely believed as an active institution implementing the new constitution.

### **2.2.3 Tanzania**

From independence in 1961 until the mid-1980s, Tanzania was a one-party state, with a 'socialist model' of economic development. Beginning in the mid-1980s, under the administration of President Ali Hassan Mwinyi, Tanzania undertook a number of political and economic reforms. In January and February 1992, the government decided to adopt multiparty democracy, with 11 political parties registering. Two parliamentary by-elections in early 1994 were the first-ever multiparty elections in Tanzanian history (IBP 2010). These were followed by the second multiparty elections in the country that took place in 2000 that ushered in the Eighth Parliament.

The Ninth Parliament ran from 2005 to 2010 under the presidency of Jakaya Kikwete. The Tenth Parliament (2010 – 2015) was ushered in following the 2010 general election of Members of Parliament to the National Assembly. The CCM party has won every election since 1992 with a huge majority. In 2005 President Kikwete was able to improve upon the results of his predecessor, Benjamin Mkapa (72 per cent) with 80 per cent of the vote. According to International observers, the fourth presidential and parliamentary elections since the reintroduction of a multi-party system in 1992 were held in a peaceful, orderly and transparent way (Reith 2011).

In summary, the introduction of new constitution and subsequently multi-party politics has come with new demands of accountability and oversight mechanisms. The legislature under multi-party democracy in East Africa is beginning to exercise its mandate in areas such as budget oversight functions.

## 3.0 THE BUDGET PROCESS

This section analyses the significance of parliament's role in a budget process. A strong narrative is given on why parliament takes a leading role, the prerequisites for effective parliamentary involvement, the role of parliamentary committees, and the desire for a transparent process.

World over, it is believed that the State budget is in fact a tool to implement the State's duty to promote and protect human rights of the people living within its territory. It does so by setting public spending priorities, including to those who are most in need of protection. The importance of ensuring due scrutiny so that people's needs are met to the best of the state's ability is paramount (Chamberlain 2014). With rapidly growing state budgets, growing public debt, the National Assembly is facing tremendous capacity challenges in budget scrutiny, decision-making and oversight. This challenge requires the National Assembly to assert its budget oversight function more strongly by being involved from the early stages in budget estimates planning, assessing priorities for resource allocation and systematically analysing the impact of budget decisions on people's lives (Chamberlain 2014).

Parliament is therefore an important institution for formulating laws and policies that are geared towards national development and good governance. If the budget is to reflect truly national priorities, as opposed to only the ruling party's priorities, then parliamentary debate and review of the budget are necessary. Parliamentary committees can monitor, review, assess and make suggestions during the formulation, implementation and audit phases of the budget. In addition, parliamentarians can question ministers and hold special meetings to probe government policy. The Inter-Parliamentary Union (2004) details how the budget process takes place. It identifies the stages in the process, it answers the question why parliament should be involved in the process, and outlines prerequisites for effective performance of oversight over the budget by the legislature and how parliament brings implementers of the budget to account.

### 3.1. Stages of the process

The Inter-Parliamentary Union (2004) identifies four stages through which the budget passes that can be conventionally discerned in more or less all public budgeting systems in the world. First, is the drafting stage that is mostly done by the executive and second is the legislative stage where parliament comes in for the first time – i.e. when the budget has been drafted and tabled in parliament by the Minister of Finance. Experiences in East Africa however, show how other stakeholders outside the executive (e.g. the Budget committee, Parliamentary

Budget Office officials) are involved at the stage of formulation to generate consensus on key policy issues and vote ceilings. Parliament can review, perhaps amend or even reject the budget. Third is the implementation stage after parliament has approved the budget. The fourth stage is the evaluation and audit stage where a supreme audit institution assesses whether the budget as approved was actually implemented and whether it was done efficiently and effectively.

According to the inter-parliamentary union narrative, there are at least five reasons as to why parliaments should be involved in the budgetary process. First, in most countries world over, it is a constitutional requirement for legislative approval of the budget. Second, as the representative body of the people, parliament is the appropriate forum to ensure that the budget reflects the priorities of the nation. Third, parliament's involvement in the budgetary process provides a system of checks and balances, which, in turn, support transparency in government. Fourth, parliament is a platform for public debate; it can help to build the consensus that is needed to make tough and sometimes painful choices and, fifth, participation can improve policy if it is well designed and structured. A budget is not just mere presentation of figures; it is a technical and political process with many intricate issues to be seriously dealt with (Inter-Parliamentary Union 2004).

Effective parliamentary oversight of public budgets is therefore central to democratization and improved budget management. It also ensures that there are checks and balances that are crucial for transparent and accountable Government and hence ensures there is efficient and effective delivery of goods and services to the citizens. As a representative of the citizens, parliament has a role to ensure that the nation's priorities are adequately reflected in the nation's major fiscal plan, the budget (Institute of Economic Affairs 2009).

In order for parliament to play an efficient role in the budget process a number of conditions need (IPU 2004) to be fulfilled:

- An appropriate constitutional and legal framework (constitution, laws, rules of procedure, standing orders)
- Available financial, material and human (professional support staff, experts, analysts from civil society and academic) resources
- Parliamentary oversight of the execution of the budget should be entrusted to a committee of MPs in which the opposition is well represented.
- Receipt of accurate information from the executive branch of government as well as other public entities that enables it to take the right decisions.
- Capacity of parliamentarians and parliamentary staff to analyse the budget, scrutinize relevant reports and understand general economic issues

through capacity-building initiatives such as training and professional development activities.

- Parliamentary staff and chairs of committees trained in analysis of policies and budgets is essential.

Parliament therefore scrutinizes the budget itself as well as its implementation. It also scrutinizes and approves budget proposals and authorizes the expenditure necessary so that governments can be held to account for their spending. Generally, parliament plays an authorisation, oversight and supervisory role, which fosters transparency and accountability. How have the East African countries under study fulfilled the above conditions? I now turn to the existing legal and institutional framework, the budget cycle and how the actors have executed their roles particularly the Public Accounts Committees and other accountability committees of parliament.

## **3.2 The legal and institutional framework**

### **3.2.1. Uganda**

The Parliament of Uganda derives its mandate and functions from the 1995 Constitution, the Laws of Uganda (such as the Local Government Act CAP 243, the Budget Act 2001 and the Public Finance and Accountability Act 2003) and its own Rules of Procedure. Chapter Six of the Constitution Article 77 establishes Parliament, Article 78 details its composition while Article 79 spells out its functions (The Constitution 1995). The Local Government Act, Cap 243 provides the legal basis for local government budget process. This is supported by the Local Government Financial and Accounting Regulations 2007. The Public Finance and Accountability Act 2003 provides for the development of fiscal policy framework, regulation of public financial management, prescribes the responsibilities of persons entrusted with financial management and provides for public borrowing, audit of Government accounts, state enterprises and other authorities of state.

Furthermore, the Budget Act was put in place to provide for and regulate the budgetary procedure for a systematic and efficient budgetary process (The Budget Act 2001). The Act in Section 19 (1) establishes a Parliamentary Budget Committee. And Section 20 further establishes a Parliamentary Budget Office (PBO).

The Parliamentary Budget Office therefore plays an important role in supporting parliamentarians to scrutinize the national budget and provides technical support to Parliament in its legislative and oversight functions.

In Uganda there is a parliamentary component of Deepening Democracy which focuses on strengthening the institution of Parliament and the work of key oversight committees. Expected results include: more effective oversight over the Executive by selected committees; enhanced parliamentary support services to these committees and parliamentarians; and, the selective enhancement of administrative capacity and infrastructure. Nevertheless, oversight does seem to have improved in some regards, with the budget committee, budget office and accountability committees (e.g. Public Accounts Committee; Government Assurances Committee, etc.) asking searching questions from Ministries and Departments and with Parliament engaging more effectively with the budget process as the subsequent sections will show.

Although the Parliamentary Budget Office has proved valuable in demystifying the budget process for Parliament, it still faces a number of operational and institutional challenges such as trained personnel and adequate financial resources. These need to be overcome in order to strengthen its role and improve the quality of parliamentary scrutiny of the budget.

### **3.2.2. Kenya**

Chapter Eight of the Constitution of Kenya establishes the Legislature. Article 93 of the Constitution states that 'There is established a Parliament of Kenya,' (Parliament) 'which shall consist of the National Assembly and the Senate.' The two Houses of Parliament shall perform their respective functions in accordance with the Constitution as stated in Article 93 (2) of the Constitution.

The Kenyan Constitution mandates openness, transparency and public involvement in the budget process. However, the achievement of this depends on effective implementing legislation; proper administrative structures; nature, number, powers and capacities of committees, and leadership and technical capabilities of parliamentary committees (AFRICOG 2012).

Unlike the parliaments of its counterparts as discussed in this paper, the Kenyan Parliament is bicameral i.e. it consists of two Houses: The Senate (Upper House) and the National Assembly - - Lower House ([www.parliament.go.ke](http://www.parliament.go.ke)). The Parliamentary Committees in the country fall into six broad categories. First are the Standing Legislative Committees which are permanent committees with departmentally relevant mandates for scrutinizing government policies. These committees are the tools for on-going scrutiny of government, and public participation and involvement in the work of such committees is imperative. Second are the Standing Non-Legislative Committees which are also permanent committees but they do not have policy relevant departmental responsibilities.

Rather, they are mostly related to internal affairs of the Parliament and hence deal with house-keeping issues or with the internal management of the house. They include, for instance, the Library Committee; the House Business Committee; Parliamentary Pensions Committee; the Catering and Health Club Committee; Procedure and House Rules Committee; the House Broadcasting Committee and the Speaker's Committee.

Third are the Ad Hoc Committees of Inquiry which are need-based committees established by resolution of either house (or both) to address a specific issue under Terms of Reference (ToRs) set out by the House. Fourth are the Special Purpose Committees which are created for special purposes e.g. the constitution gives the Senate the option to create a special committee on impeachment. Indeed, there exists an optional committee on impeachment. Fifth are the Joint Committees whose mandates would be in the instrument that creates them e.g. mediation committees which are created to resolve issues on which the houses are deadlocked. Lastly are the Sub-committees of Parliamentary Committees. Under the Standing Orders committees may appoint sub-committees to assist in the discharge of their functions ([www.parliament.go.ke](http://www.parliament.go.ke)).

## **The Parliamentary Budget Office**

The Parliamentary Budget Office (PBO) is created by an Act of Parliament; the Fiscal Management Act, 2009. Established in May 2007 as a result of the need to enhance the oversight role of parliament by creating the necessary capacity for scrutiny of the national budget and the economy, its primary function is to provide timely and objective information and analysis concerning the national budget and economy. The Office therefore provides technical support on matters relating to Public Financial Management and financial oversight to all Members of Parliament, Departmental Committees and Select Committees in addition to being a secretariat to the Budget Committee of Parliament. The PBO therefore helps in bridging the information gap in budgetary and economic matters in Parliament. This office is also expected to network with other similar institutions in East Africa and the Common Wealth. Networking is critical for sharing experiences and good practices for Budget oversight (Usman Cholan 2013).

In February 2014, the PBO published a report entitled: 'Keeping the Promise: Budget Options for 2014/2015 and the Medium Term'. The key themes in the report namely; An Economy in Transition: Outlooks, Prospects and Opportunities; Fiscal Performance and Outlook; Strategic Interventions for long term, pro-poor growth; Devolution and Economy; provide the legislators an opportunity to debate the budget from an informed position. Kenya therefore enjoys a

rich legal and institutional framework concerning legislative oversight of the budget. However, like its sister countries in East Africa, the legislature still faces challenges in executing this role as I will show later.

### **3.2.3 Tanzania**

The Tanzania Parliament derives its mandate and functions from the Constitution of the United Republic of Tanzania of 1977, the laws of Tanzania and its own rules of procedure. Chapter 3 of the Constitution contains Articles that provide for the establishment, composition and functions of Parliament. Article 62 (1) states that 'there shall be a Parliament of the United Republic which shall consist of two parts, that is to say, the President and the National Assembly' while 62 (2) states that 'the National Assembly shall consist of all categories of members specified in Article 66 of this Constitution, who shall all be designated as Members of Parliament.'

Parliament is also accorded legislative powers in Article 64 (1): 'Legislative power in relation to all Union Matters and also in relation to all other matters concerning Mainland Tanzania is hereby vested in Parliament.'

Tanzania's Parliament, known as the Bunge, is unicameral i.e. it has only one legislative or parliamentary chamber. Of its 357 members, 239 are elected by direct popular vote from single-member constituencies, 102 are reserved for women representing their political parties on the basis of proportional representation, five are elected by the Zanzibar House of Representatives, and up to 10 members may be appointed by the President. One seat is reserved for the Attorney General. Members serve for five-year terms. However, Zanzibar has its own House of Representatives, composed of 50 members elected by universal suffrage for five-year terms ([www.parliament.tz](http://www.parliament.tz)). Tanganyika and Zanzibar merged on 26 April 1964 to form the United Republic Tanzania. However, Zanzibar enjoys semi-autonomous status, with its own government made up of the Revolutionary Council and House of Representatives.

The Speaker of the Bunge appoints MPs to the Standing Committees, which are convened for the duration of each five-year parliamentary term and consist of 17 accounting and sectoral committees. The Sectoral Committees match government departments, or clusters of departments and ministries, to enhance parliamentary oversight. These Committees are responsible for reviewing progress in the implementation of plans and programmes. Budget matters are coordinated by the Finance and Economic Sector Committee (Inter-Parliamentary Union 2009).

The process is backed by a strong legal framework, including the Public Finance Act 2001, the Appropriation Act, the Annual Finance Act, Planning Commission Act 1989 and the Presidential Instrument 2000. Together the above acts outline the roles and responsibilities of the various actors involved at the different stages of the budget cycle. As is general practice, responsibility for the planning, formulation and implementation stages lies largely within the Executive. Parliament's role comes in with the approval of the budget and oversight of budgetary processes.

It must however be noted that unlike Uganda and Kenya, Tanzania does not yet have in place a Parliamentary Budget Office. The debate for the establishment of a PBO is going on in Tanzania. One member of parliament is quoted to have observed that 'the proposed independent Parliamentary Budget Office would have technical capacity to analyse the budget and to help parliamentarians and other stakeholders to better understand what are otherwise complex technical documents, once established. This would help increase credibility, promote transparent, provide elaborate options for spending cuts and promote accountability'.

### **3.3. The budget cycle in the three East African countries combined**

In the three East African countries, the budget cycle is a very participatory process and runs through the entire financial year. It begins with the public expenditure review (PER), consultations on the macroeconomic framework and a review and update of the Medium Term Expenditure Framework (MTEF). Theoretically this review forms the basis of the budget guidelines. The budget cycle also involves other major activities namely; budget formulation, adoption, execution, oversight and control. Apart from the policy makers (parliamentarians), policy implementers in government ministries and departments also play key roles. In particular is the centrality of the ministries of finance, office of the Controller and Auditor general and the accountability committees. Table 1 highlights the sequence of activities in the three countries of East Africa and brings out similarities and harmonization that have been made in the spirit of East African integration.

**Table I: The Budget Cycle: Major activities involved in Selected East African Countries**

STAGE	KENYA	UGANDA	TANZANIA
Budget formulation	<p><b>Nov-May:</b> Public expenditure review, consultations on the macroeconomic framework. Review and update of the MTEF.</p> <p>Issue of Budget guidelines (budget strategy, key spending priorities and programmes, proposed allocation of resources – ceilings etc.)</p>	<p><b>Nov-May:</b> Public expenditure review, consultations on the macroeconomic framework. Review and update of the MTEF.</p> <p>Issue of Budget guidelines (budget strategy, key spending priorities and programmes, proposed allocation of resources – ceilings etc.)</p>	<p><b>NOV-MAY:</b> Formulation of Budget policy and resource projections.</p> <p>Issuance of planning and Budget guidelines. Estimating revenues and expenditure. Scrutiny of estimates by Parliamentary sub-committee &amp; inter-Ministerial Technical committee.</p> <p>Cabinet approval of Budget estimates.</p>
Adoption of the budget	<p><b>JUNE- AUGUST:</b> Tabling in Legislature.</p> <p>Budget speeches presented (Budget day).</p> <p>National Assembly Committees review budgets and budget performance of Ministries under their jurisdiction.</p> <p>Review of Bills and Budget voted into law</p>	<p><b>JUNE- AUGUST:</b> Tabling in Legislature.</p> <p>Budget speeches presented (Budget day).</p> <p>Sector Committees review budgets and budget performance of Ministries under their jurisdiction.</p> <p>Review of Bills and Budget voted into law</p>	<p>JUNE-AUGUST: Tabling in Legislature.</p> <p>Budget speeches presented (Budget day).</p> <p>Budget voted into law</p>

<p style="text-align: center;">Budget Execution</p>	<p><b>JULY-JUNE:</b> Funds allocated to accounting officers of various spending agencies by MoF. The Executive through the National Audit Office audits public expenditures.</p> <p>The office monitors the budget by ensuring that all withdrawals from the consolidated Fund are within the Appropriation Act. Spending agencies are expected to periodically submit their vote book balance to MoF which publishes the quarterly monitoring reports.</p>	<p><b>JULY-JUNE:</b> Ministry of Finance allocates money consistent with approved budget. Monitoring expenditures through IFMS mechanism by the Accountant General.</p> <p>Public sector performance management systems track the implementation of Departmental strategic plans. MoF publish Execution Reports to maintain transparency on actual use of public funds.</p>	<p><b>JULY-JUNE:</b> Ministries, Departments, Agencies (MDAs) prepare action plans (Work plans). Budget executed by cash budget system.</p> <p>Central Government releases money to Districts. Services delivered.</p>
<p style="text-align: center;">Oversight and Control</p>	<p><b>Within – year monitoring</b></p> <p>State Departments put their Books in order, share with the Controller and General (CAG). CAG compile reports and forward to Parliament.</p> <p>PAC, Public Investments Committee analyses reports, make summons, conduct hearings and make recommendations for action including censure for Government Departments that fail to account for money or found to have misused the money.</p> <p>National Assembly has three months (Jan-March) to debate and dispose-off reports. Follow –up on action expected to be taken.</p>	<p><b>Within –year monitoring.</b></p> <p>External Audit conducted by the Auditor General.</p> <p>Audit reports tabled in parliament</p> <p>PAC, analyses them, summons accounting officers, conduct public hearings and make recommendations for action.</p> <p>Parliament (plenary) debates and disposes-off reports.</p> <p>Follow-up on action expected to be taken</p>	<p><b>Within – year monitoring.</b></p> <p>External Audit conducted by Controller and Auditor General.</p> <p>Audit reports tabled in Parliament</p> <p>PAC, Local Authorities Accounts Committee, and the Parastatal Organisation Committee analyses the reports, make summons, conduct hearings and makes recommendations</p> <p>Follow-up on action expected to be taken.</p>

Compiled by the Author from various parliamentary Reports and field interviews with the officials from the Office of the Clerk of the three Parliaments

### **3.4. Public Accounts Committees and parliamentary budget oversight in East Africa**

This section examines the role of PAC in three East African countries in comparative terms and responds to the proposition made earlier that government accountability becomes successful when public officials are answerable for their actions and their unbecoming behavior is corrected well in advance. World over, PAC plays a key role in public sector accountability. The committee examines the government's use of resources and the financial operations of state agencies. The committee also looks at both financial probity and regularity and focuses on whether agency programmes are achieving their objectives. Similarly, the committee looks at reports from Auditor General to ensure that agencies respond appropriately to the AG's recommendations.

#### **Uganda**

The Parliament of Uganda's Rules of Procedure provide for The Public Accounts Committee (PAC). Under Rule No.148 of the Rules, PAC is mandated to examine the audited accounts showing the appropriation of the sums granted by Parliament to meet the public expenditure of government (<http://www.parliament.go.ug>). The law also provides that the Committee be chaired and deputized by members designated by the Official Opposition Party in parliament. PAC comprises of 20 members designated by Party Whips on basis of proportional Party Membership in the House taking into consideration the interests of Independent Members.

In its line of work, PAC scrutinizes the accounts of different government departments, and if any inconsistencies are found, they summon the accounting officers of these departments to provide an explanation. Accounting officers are required to present valid documents like statutory instruments that authorize transactions, receipts, and account books, among others. The committee also relies on information it gets from public complaints sent through a subcommittee instituted by it. It specifically deals directly with the public through scrutinizing their complaints and investigating them (Yemima 2008). PAC then exposes those government officials who have been implicated in abuse of office by making recommendations in a report, which is then forwarded to Parliament for debate. By doing this, the committee in effect ensures that public officials are identified, cautioned and where appropriate exposed for other relevant state organs to take action – particularly those responsible for prosecution. To most Ugandans, PAC is one of the most outstanding committees (Yemima 2008). This is because the committee is well known for grilling public officials to account for funds. From the accountant, Permanent Secretary to the Minister, PAC has not left any stone unturned in investigating and exposing misappropriation of public money.

Whether PAC has succeeded in effectively executing this oversight role remains a matter of debate. While sections of Ugandans believe that PAC has done its best in ensuring proper accountability in government, others are concerned that the committee's work has not been fully appreciated since not much has been returned from allegedly corrupt officials to the public purse. The Chairperson of PAC (2014 -2016) has been quoted in the media for lamenting on little output from this committee in terms of producing reports by her predecessors. 'The previous leadership held public hearings but with no recommendations. In 2009-10, they listened to everybody and wrote no report. In 2011 to 2012, they listened to everybody and made no report...' (**Alaso, Alice, Saturday Monitor, 30 August 2014**). One other commentator observed that 'PAC is a merely barking but toothless dog'.

*Apart from a minister being grilled for missing funds or detaining a Permanent Secretary for 30 minutes for failure to produce documents showing accountability of funds, what more do Ugandans have to thank PAC for? With much talking and little biting, PAC still needs to prove that it is important in the fight against corruption (Yemima 2008).*

In addition to PAC, the Uganda parliament has another Standing committee that has been instrumental in the budget oversight function. The Government Assurances Committee tracks the promises of government and alerts the House to bring the executive to explain the delays or inconsistencies in implementation. This process enables government officials to correct their shortcomings in order to improve service delivery.

## **Kenya**

The Kenyan Parliament's Public Accounts Committee (PAC) is established pursuant to the provisions of Standing Order No. 205. The committee is mandated to examine accounts showing the appropriations of the sum voted by the House to meet the public expenditure and of such other accounts ([www.parliament.go.ke](http://www.parliament.go.ke)). It consists of 27 members, including the chairperson.

Since independence, the Public Accounts Committee (PAC), traditionally chaired by the leader of the official opposition in the House, has been the key watchdog tool of budgetary oversight of Government ministries and departments. However, the Committee has had its share of challenges in terms of its effectiveness. For example, over these years the accounting officers in government delay to submit their papers to the Controller and Auditor General and this delay the subsequent

submissions to PAC. Public Accounts Committee Chairperson Ababu Namwamba recently, October, 2014, expressed disappointment over this in the media.

'A Parliamentary watchdog committee has issued a warning to government officials that they will be taken to have stolen public money if they fail to provide audit documents to the Auditor General within set deadlines. The Public Accounts Committee Chairperson Ababu Namwamba has lamented that many officials often rush to provide critical documents only after they have been adversely mentioned in reports by the Auditor-General. "We wonder why people don't provide the required documents in good time to the auditing officials. From now on, we will be very strict on such individuals and will take them to have misused public money". "We need to see government officials demonstrate enthusiasm for accountability just as they often display enthusiasm when they appeal for more funds from Parliament." We will strictly enforce the audit timelines set for the government agencies. According to the constitution, state departments have July, September to put their books in order and share them with the Auditor-General, who then has October, November and December to compile reports to forward it to Parliament. The National Assembly also has three months (January, February and March) to debate and dispose off the reports, recommending censure for government departments that fail to account for money or are found to have misused the money'. ([www.standardmedia.co.ke](http://www.standardmedia.co.ke)).

Executive branch has not always implemented resolutions of the House faithfully (Institute of Economic Affairs – IEA 2009). Upon the review of the reports of the Controller and Auditor general and after hearing evidence from relevant officials, PAC compiles a report and presents it to Parliament, clearly highlighting the action to be taken on those who misappropriate public funds and resources. Despite the good work of the PAC the same issues arise year in year out, reason being that there are no mechanisms to enforce the recommendations of PAC and there are no penalties to deter commitment of the same crime (IEA 2009). There is also no statutory requirement setting any time limits as to when the Government should make response to a report of a select Committee. In any case a formal government response does not always ensure that the committee's recommendations are acted upon. **But how can the PAC effectively follow-up on the implementation of recommendations?** Makumure John a Kenyan scholar observes and proposes constructively on this matter and I quote him extensively:

'First and foremost, the PAC reports should be prepared as soon as possible after the committee concludes an inquiry, while the proceedings are still fresh in everyone's mind. Reporting on completion of each inquiry has the advantage of getting implementation started sooner and facilitates easier monitoring by

the committee. The same applies to the Auditor-General reports themselves that must be produced on time. Implementation of recommendations becomes challenging if audit reports are produced several years later when the culprits might have left government. He further **suggests that:** ‘Enforcing Section 11 of the Audit Office Act can assist in the implementation of recommendations. This provision says if at any time it appears desirable to the PAC that any matter relating to public monies or State property should be reported upon by the Comptroller and Auditor-General, the committee shall direct the Comptroller and Auditor-General to prepare a special report thereon for transmission to the committee and to the Minister of Finance and to an appropriate minister if it relates to a public entity, designated corporate body or statutory fund’.

On **legislative reform** Makumure submits that: ‘Parliament should review the Audit Office Act and Public Finance Management Act to determine if the provisions are adequate to ensure implementation of PAC recommendations and corrective action for Auditor-General findings. These statutes must be aligned to reflect the letter and spirit of the constitutional provisions on principles of sound public finance management. There must be penalties for non-compliance with financial reporting requirements. The PAC should establish a follow-up schedule, for example three or six months after the report is tabled. If the committee is unable to hold hearings on all the reports of the Auditor-General, it may send a follow-up letter to the rest of the departments and entities audited asking for a progress report on the reports and recommendations the committee has not reviewed. The PAC should insist on the preparation of action plans by ministries and departments to be used to monitor and report on implementation. The action plans must include targeted dates for implementing the actions’.

The other committees that deal with oversight functions in Kenya are the Public Investments Committee and the Budget and Appropriations Committee. The Public Investments Committee examines the reports and accounts of the public investments. Similarly, the Budget and Appropriations Committee investigates, inquire into and report on all matters related to coordination, control and Monitoring of the national budget ([www.parliament.go.ke](http://www.parliament.go.ke)).

## **Tanzania**

The Parliament of Tanzania has three Parliamentary oversight committees each specialized in the oversight of a particular section of the public sector. These include The Public Accounts Committee, The Local Government Accounts Committee and The Parastatal Organization Accounts.

The Public Accounts Committee consists of not less than eight and not more

than twelve Members appointed by the Speaker.

In addition of the overall general responsibilities of the Parliamentary Oversight Committees, the Public Accounts Committee has two unique responsibilities in accordance with Sections 44 and 46 of the Public Audit Act (2008). Section 44 charges the Public Accounts Committee with the responsibility of discussing the Office budget and recommend such budget for the appropriation of Parliament, while Sect 46 on the other hand gives the Committee the mandate to appoint an external auditor to audit the accounts of the office whose report ultimately finds its way to the National Assembly.

For this study the question that arises is in relation to the effectiveness of PAC. Does PAC in the Bunge execute its role effectively? With regard to accounts and operations, commentators indicate that the Tanzanian PAC has a fairly wide range of powers. It has the power to examine accounts and financial affairs, the efficiency, economy and effectiveness of government policy, the efficiency and economy of policy implementation (value for money), and the effectiveness of policy implementation (delivery of outcomes). PAC also enjoys on a conditional basis the power to undertake self-initiated inquiries and to consider the budget estimates. In addition, with regard to the relationship with the Audit Office, its budget is discussed in a consultative meeting between the PAC members, the Minister of Finance and the Controller and Auditor general (CAG) under the leadership of the Chairperson of PAC. Once the budget had been discussed and agreed by the consultative meeting, it tabled before the National Assembly for approval. The National Audit Office of Tanzania (NAOT) is audited by an auditor appointed by PAC through a competitive process under the office of parliament. Although the two organs operate independently, they complement each other. It was established that the NAOT carries out studies and subjects the reports to the critical reviews of experts in the relevant fields. This reports posted on the website are as recent as of March 2014.

In regard to its effectiveness in the execution of its budgetary oversight role, Pelizzo and Kinyondo (2014) observe that the Bunge's PAC is above regional averages with respect to several organizational features and is the most active in the number of hearings held. In 2012, the 'Tanzania PAC began championing a change of the Budget year so that they could receive the budget in April and complete its review by the end of June. The PAC proposal was accepted and since 2013 the budget year has been amended in May the same year, the President dismissed the ministers of finance, energy, tourism, trade, transport and health amid allegations of government corruption under pressure following reports tabled in the National Assembly by the PAC, Parastatal Organisations Accounts and Local Authorities Accounts Committees. Actions taken by PAC

members based on the Controller and Auditor General's annual report tackled big corruption that is believed to hamper economic growth' (World Bank Institute 2013).

However, like most other PACs in Sub-Saharan Africa, the committee faces undue influence from the executive in the execution of its duties. The committee also faces among other challenges inadequate finances for its operations. In the end, some sections of the population believe that 'the committee barks more and bites less'.

In comparative terms, PAC and other accountability committees play key roles in the budget oversight. The above analysis shows that there have been positive attempts in examining the governments' use of resources, financial operations of the state agencies and scrutinizing the AG's reports. Although there are cases where political leaders and public officers have been fired, there is no evidence that the implicated individuals have returned the misappropriated funds to the public purse after dismissal or convictions in courts of law. The general perception of the people is that PAC as a central committee of accountability in the legislature and promotion of democratic governance is negative; and that it barks more and bites less.

### **3.5. East African Parliaments: Are they executing their budget oversight role?**

Tsekpo and Hudson (2009) and Hudson and Wren (2007) spell out a number of reasons why parliaments are greatly seen as ineffective in developing countries. First, parliaments are in a weak position in many political systems, where they are marginalised by the executive and constrained by a constitution which fails to provide for parliamentary independence. Second, the authors argue, parliaments often lack institutional capacity and resources and are dependent on the executive for access to resources. Third, parliaments are often by-passed in the policy process, both by dominant executives and by bilateral and multilateral development partners that deal with the Executive rather than Parliament. Fourth, the authors add, MPs often lack knowledge, experience, skills and resources. And fifth, voters – as a result of social and cultural norms – are often more concerned that their MPs provide them and their constituencies with school and hospital fees, funeral expenses, roads and electricity, than the MPs legislating, overseeing and representing their interests effectively in Parliament. ***We now take a look at how legislatures in East Africa in comparative terms are executing this role.***

### **3.5.1. Uganda**

Since 1986, Uganda has transformed from a nearly failed state as a result of various dictatorships, to a country that has achieved consistently high economic growth rates, significant reductions in poverty, and steady improvements in health and education status (Joint Assistance Strategy Development Partners 2005; NRM Secretariat 2010). These great leaps in general national development have greatly portrayed the country with a fond relationship with the west, describing president Museveni at one time as one of the new crop of African leaders. This is not without its challenges, though, such as rampant corruption, a poor health sector, violations of human rights, and state crackdown on the opposition organized rallies. These shortcomings have made some countries of the west slapping aid cuts in some sectors of the economy.

In terms of legislature, while it is argued that the executive always interferes with parliament's work, it is not necessarily true that parliament is constrained by constitutional provisions. For, the Ugandan parliament is greatly bolstered by strong constitutional and other legal provisions that spell out its independence from the other arms of government and its legislative, representation and oversight roles. These include the 1995 Constitution, the Local Government Act CAP 243, the Budget Act 2001, the Public Finance and Accountability Act 2003 and its own Rules of Procedure. Nevertheless, Tsekpo and Hudson (2009) and Hudson and Wren's (2007) assertions do hold some water. For one, the current Ugandan electorate has developed a habit of looking up to MPs for material gain than asking the MPs to effectively represent them in parliament. For instance, it is on record that there exist MPs in parliaments who have hardly spoken a word in the three years of the Ninth Parliament, yet the electorate do not find fault with these MPs. One of the reasons for this is that these MPs focus on giving handouts to their respective constituents who are in turn blinded by the small gifts and thereby fail to hold their MPs to account. Four out of ten (41 percent) Ugandans say a candidate or someone from a political party offered them food, a gift or money in return for their vote at the general elections in 2011, according to Afrobarometer pollsters (Black Monday, 2015).

In terms of access to resources, the Ugandan parliament has access to resources; in any case, it is the institution that scrutinizes and approves all resources that government intends to use, including determining their own salary and other emoluments in addition to the national budget. In fact, this role of budgetary approval has always caused the Ugandan parliament to have run-ins with the executive, with the latter tabling supplementary budgets for approval and the former refusing to budge. In 2013, parliament and the executive were involved in political blows when parliament swore not to approve the national budget until

government found money for other critical needs in the health and educational sectors.

In addition, these two otherwise independent arms of government always have disagreements when the executive usually brings in supplementary budgets to parliament for approval, the most common of which being state house spending. It is therefore not necessarily true that the Ugandan parliament always depends on the executive for access to resources, although it is also true that the executive always says there are not enough funds available to run government programmes. Many authors and commentators, therefore, remain convinced that Parliament remains beholden to the executive in terms of finances, which severely compromises parliamentary autonomy and leaves Parliament vulnerable to under-funding, to the politically-motivated interruption of funding or to corruption (Tsekpo and Hudson, 2009; Africa All Party Parliamentary Group 2008).

Assessing the performance of the Parliament of Uganda is, as in many other countries, extremely challenging (Tsekpo and Hudson 2009). The authors justify this statement by arguing that this is because neither Parliament itself nor its Development Partners have as yet put sufficient effort into establishing frameworks for performance assessment or into collecting data on performance. According to them, they deem the independence of previous parliaments as having been compromised, and, on occasion, bought, but they nevertheless express some hope of the eighth and subsequent parliaments.

It has been argued further that the legacy of one or no-party rule in Uganda (1986-2005), and the continuing dominance of the NRM party, the Executive and President Museveni continue to shape the functioning and performance of the Ugandan Parliament. This view is supported by Bainomugisha and Mushemeza (2006) who argue that the executive at times treats the other branches, Parliament and Judiciary, as appendages. Whether this assertion made years back is true or not remains a subject for debate, since time and again, parliament has been known for stamping down its feet and passing resolutions/bills which the executive is not particularly keen on passing.

The oversight function has also been improved by the establishment and functioning of the PBO.

While the Parliamentary Budget Office operates under serious resource constraints, its support to the Budget Committee has certainly made a difference to the quality of parliamentary engagement in the budget process. The Executive is now required to share the budget proposals with Parliament well in advance,

and all external borrowing has to be authorized by Parliament, meaning that the budgetary process has been much improved and that Parliament has been given a significant and constructive role in decision-making on national spending and oversight over the Executive (Tsekpo and Hudson 2009; APRM 2007b). The Ugandan Parliament has also made efforts to control the executive in terms of accepting supplementary budgets. In the financial year 2013/2014, the executive presented very few supplementary budget requests to parliament.

The occupation of a Parliamentarian in East Africa has very limited requirement, largely to citizenship, minimum age, average academic qualifications and electoral support. Hence, it is often presumed that scholarly learning and training need not be compulsory. However, it is a fact that newly elected members rarely have an understanding of the full range of the requirements relating to their appropriate performance, irrespective of prior occupation or professional background. It is presumed that new Parliamentarians would learn parliamentary procedures and other work dynamics from long-serving experienced colleagues through observation and on-the-job training. But this is not always the case. Therefore, equipping of Parliamentarians as well as their staff with the appropriate skills and requisite knowledge for effective service is a formidable task, and one which must be done appropriately (Murumba Werunga 2013).

In an effort to strengthen parliament in its role of budgetary oversight, the Ugandan Parliament in 2012 launched The Institute of Parliamentary Studies (IPS) (<http://www.parliament.go.ug>; Namutebi 2012; Nalugo 2012; Katamba 2012). This was after the realization that after election to parliament, MPs immediately start legislative work without any training or experience in parliamentary studies. This is because members come from different backgrounds and professions such as law, medicine, education, civil society, business and converge in the House to immediately legislate, oversee the activities of the Executive and represent the people in a wide range of issues.

The institute is supported by Parliament's development partners including the Westminster Foundation for Democracy, Democratic Governance Facility, Makerere University, African Centre for Media Excellence, the Foundation for Human Rights Initiative and the Economic Policy Research Centre.

Fully-equipped with video-conferencing and other facilities, IPS provides a more cost effective way of training MPs and staff. The institute also targets former MPs and staff of Parliament, who are tapped for their knowledge and wisdom they have had of parliamentary business. This initiative if strengthened and sustained will go a long way in equipping legislators with knowledge in handling parliamentary work.

### 3.5.2. Tanzania

The independence of parliament is essential for enabling parliament to fulfill its oversight and budgetary roles. In Tanzania, the establishment of the National Assembly Fund in 2007 significantly increased the autonomy of the national assembly. The Bunge has therefore gained considerable strength and independence over the past few years following its crucial role in raising awareness about and investigating major corruption scandals (Inter-Parliamentary Union 2009; World Bank Institute 2013).

In addition, the Bunge has implemented several reform measures to improve its independence and its performance. The Inter-Parliamentary Union (2009) lists them to include:

- Revisions to the standing orders that allow MPs to introduce legislation through private member bills, increase MPs' ability to amend draft legislation, allow the Speaker to appoint select committees to investigate public controversies, and require that the Public Accounts Committee's reports be debated by the Bunge;
- The introduction of Prime Ministers' Questions, which improves the legislature's oversight role;
- The establishment of new Accounting Committees and ad hoc select committees to investigate recent scandals; and peer reviews with other African parliaments;
- The establishment of the National Assembly Fund in 2007 – a budget line ear-marked for parliament in the national estimates is an evidence of the government's acceptance of parliament's independence. Before the Fund was created, parliament received funding through the Treasury and Ministry of Finance and MPs were treated as civil servants.

In budget monitoring and implementation, a mid-year budget review takes place in November-December each year. Public Expenditure Reviews are conducted annually for each of the three budget clusters: growth and economic development, improvement of quality of life and social well-being, and governance and accountability (Inter-Parliamentary Union 2009). All parliamentary committee chairpersons attend these meetings.

As is with most third world countries, Tanzania faces a problem of corruption and embezzlement of public funds. One scholar recently submitted that 'It is a widely held perception among the country's populace that the Tanzanian government is a toothless dog when it comes to bringing its officials to account' (Madhidha 2011). Nevertheless, parliament has made attempts to bite. There are two cases

in point, one was a corruption scandal that involved Bank of Tanzania - illegal payments in the range of US\$ 120 million were made to a number of small firms, many of which were fictitious and linked to prominent government officials. As a result of parliament's involvement, there was a second external audit of the Bank resulting into the central bank governor's resignation and a deadline set for repaying the stolen funds. The second case centred on the purchase of power generators using an irregular bidding and contracting process. According to the findings of that case, the contract cost Tanzania's taxpayers US\$ 140,000 a day in payments remitted to the Texas-based Richmond Development Company, a company that had no valid registration in the US or in Tanzania when the contract was signed in 2006. The scandal led to the resignation of the prime minister and several other cabinet ministers in January 2008 (Inter-Parliamentary Union 2009). It must be noted that Parliaments do not operate in a vacuum; rather, their functioning and effectiveness is shaped very much by the country context and in particular the political context (Hudson and Wren, 2007). The above cases and the one of 2012 pointed out earlier illustrate that the Bunge has demonstrated in recent times that with evidence it can bite and force political leaders to resign and at the same time public officials are held accountable because of their mistakes (failure to supervise and monitor).

### **3.5.3. Kenya**

Kenya emerged from its colonial masters with strong institutions that were based on the British model. It had a constitution that gave sweeping powers to parliament to approve the budget. The review of the constitution in the late 2000s and various other pieces of legislation however has continued to strengthen the Executive at the expense of Parliament and this weakened over the years the role of parliament in the scrutiny of the budget (Institute of Economic Affairs 2009).

In spite of the above observations, my research established that there exist various mechanisms and instruments for Parliaments' budget oversight. These include:

1. Constitutional and legal provisions, including the House's Standing Orders
2. Parliamentary Committee probes and inspection visits – PAC and Public Investments Committee and Budget and Appropriations Committee.
3. Questions and motions, Ministerial statements and petitions
4. Extra-parliamentary institutions established to support Parliament's watchdog functions, for example the Kenya National Audit Office (KENAO), and Kenya Anti-Corruption Commission (KACC) among others.

All these mechanisms have gone a long way in ensuring relatively effective legislative oversight of the budget in the country. Recent developments in the budget process have however demanded for more involvement of parliaments in budget making. The legislators and other stakeholders have also been at the forefront in demanding for more involvement of parliament in the budget issues. A lot of efforts have therefore been made towards reforming the budget process concurrently with concerted efforts made by civil society to support change in the budget process, particularly focusing on the scrutiny and approval of the budget. This has seen several attempts by Parliamentarians to pass legislation on the budget, including the Fiscal Management Bill and more importantly revised Standing Orders that came to effect in 2009.

In addition, over the last decade, the Government of Kenya has commendably undertaken various reform measures aimed at improving governance and management of public resources at various levels with varying degrees of success. For example, since the commencement of implementation of the Medium Term Expenditure Framework (MTEF) in 2003/4, various public finance management reform measures to enhance budget implementation, audit and oversight have been put in place by the Executive as well as parliament. Among the notable strategies include: the launch of the Public Finance Management Reform Strategy (PFMRS), and the National Integrated Monitoring and Evaluation System (NIMES) in 2007; review of Standing Orders (SOs) and strengthening of parliamentary Committees including the establishment of a Fiscal Analysis and Appropriations Committee (Institute of Economic Affairs 2009). All these have culminated in making the national budget process more open and consultative than never before.

In a more effort to scale up budget oversight function activities, the Center for Parliamentary Studies and Training (The CPST) was established by the Parliament Service Commission (PSC) in December 2008. It was legalized by the publication of the Parliamentary Service Regulations, 2011 in the Kenya Gazette, Subsidiary Legislation, Legal Notice No. 95 of July 22, 2011. In addition, the establishment of The CPST was incorporated in the Strategic Plan of the (PSC) for 2008 to 2018. The objective of establishing the CPST was to have a one-stop specialized resource centre for the training and capacity development of both the Members and staff of Parliament. It was also established to serve other stakeholders who may be interested in gaining an appreciable understanding of the Parliament and to the Parliaments in the East African Community, the Great Lakes Region and the Continent of Africa at large ([www.parliament.go.ke](http://www.parliament.go.ke)). According to the clerk to parliament this centre started its operations with effective from January 2013. This means not much has been done in terms of offering training services to the targeted officers.

However, some commentators are still of the view that despite all these mechanisms and reforms put in place to strengthening parliament's role in overseeing the budget process, the budget process in the country significantly remains an exclusive activity of the treasury and the bureaucrats in the Ministry of Finance. The Institute of Economic Affairs (2009) observed:

*Members of Parliament as representatives of the people have had no visible role in the formulation, implementation and audit of the budgetary processes before and since independence. Even parliament's legislative involvement in the budgetary processes has been and remain only a formality and ritualistic.*

Such was the opinion held by a section of the public before the new constitution was promulgated. Nevertheless, parliament still exudes some level of independence and ability to bite. In 2010 the Kenya Parliament approved the provision in its new constitution for the Controller and Auditor general to send all of its reports, including performance audit reports directly to Parliament for oversight. The parliamentary website publishes 'the Appropriation Accounts, Other Public Accounts and the Accounts of the Funds of the Republic of Kenya' for particular year ended by 30 June. An analysis of the report/accounts for the year ended 30 June 2009 and 2010 all published in 2014 show the following: a) analysis of the issue/concern b) Recommendation(s) made c) Suggested action to be taken; who should take action in the event the accounting officers fail to comply. This is positive budget oversight by the accountability committees in particular and the legislature as a whole.

In summary, the three institutions of parliament show positive trends in their budget function. But in the eyes of the citizens, parliament still has more to offer to save tax payers money, improve service delivery supervision and generally contributing to democratic governance. Like in Uganda a strong legislation on anti-corruption is needed to be put in place. Although we are yet to see its implementation, such a legislation that was initiated by a private members bill is the way to go.

## 4.0. THE CHALLENGES LEGISLATURES FACE IN EAST AFRICA

This section focuses on major challenges facing the legislature in Uganda, Kenya and Tanzania during the execution of their budget oversight role: namely the interference by other arms of government and corruption; Capacity building of human resource; and inadequate time and information.

In any functioning democracy, it is important to divide governmental power between different organs of the state. This is done in an attempt to guard against the centralisation of power in one branch of government, which may lead to its abuse. This separation aims to separate the functions of the three branches of government so that no single branch is able to operate alone, assume complete state control and amass centralised power. While every branch performs a number of different functions, each also plays a ‘watchdog’ role in respect of the other. This helps to ensure that public power is exercised in a manner that is accountable to the general public and in accordance with the constitution (Limpitlaw 2003).

Parliament plays an important role in the running of a country as its oversight duties contribute to the crucial role of effectively monitoring and reviewing the legislature, policy and fiscal administration by government on behalf of the citizens. The oversight role is achieved when the parliament keeps an eye on the activities of the executive and holds the executive to account on behalf of the general populace. However, for this to be achieved, parliament’s oversight role of the budget process has to be effective.

In executing this very crucial role of oversight, the legislature faces a plethora of challenges world over. As has already been noted, theoretically, parliaments are supposed to be one of the key institutions of democracy and good governance, playing an important role in terms of legislation, representation and oversight (Bainomugisha and Mushemeza 2006). Unfortunately, in many developing countries – as well as in many developed countries – parliaments are weak, ineffective and marginalized (Tsekpo and Hudson 2009). In addition, parliaments in many countries often lack the independence, knowledge and resources to perform their mandated oversight, legislative, and representative functions (Inter-Parliamentary Union 2009).

Furthermore, there is little systematic research or analysis about the effectiveness

of parliaments. An effective and responsible Parliament is therefore very critical in establishing functioning and enduring democracy. Good governance and sustainable development are only possible under an accountable political system where Parliament enjoys authority, autonomy and independence to perform its legislative responsibilities (Bainomugisha and Mushemeza 2006).

## **4.1. Uganda**

### **4.1.1 Interference by other Branches of Government and Corruption**

Parliaments do not operate in a vacuum; their functioning and effectiveness are shaped very much by the context – and particularly the political context – of which they are part (Tsekpo and Hudson 2009). While Uganda opted for multi-party democracy in 2005 and held elections under the new multi-party system in 2006 and 2011, some commentators have argued that ‘Parliament remains overwhelmingly influenced by the legacy of the Movement system and the continued dominance of President Museveni, and is taken as incapable of being no more than provide “a mere rubber stamp” to the budget’ (Kiraso, 2008). One researcher observed:

*President Museveni is an exceptionally skilled and influential political actor. There is an argument that since the President has called for strict party discipline, and given his influence, his actions are likely to water down the legislative freedom and autonomy that Uganda experienced under the Movement with the Individual Merit principle (Tsekpo and Hudson 2009).*

Such observation calls in to scrutinize the principle of separation of powers. Uganda, like most African post-Cold War countries, has experienced constitutional challenges over the principle of separation of powers.

Although the quality and effectiveness of parliamentary oversight depends very much on the ability of Parliament to engage in the budget making process, the Executive sometimes tends to regard Parliament as a merely advisory body whose recommendations can be brushed aside. This is common in situations where there is lack or insufficient evidence to back such resolutions. For instance, one of the alleged corruption scandals that rocked the country was in which a top politician of the land was accused of having been involved in Temangalo land purchase controversy. Parliament instituted a commission of inquiry to establish the truth. The Parliamentary Committee on Commissions, Statutory Bodies and State Enterprises held a high profile inquiry, and while the majority of the Committee members concluded that the Minister involved in

the sale of his land at a price the accusers claim was exorbitant to a government body – NSSF, should be censured; there ensued intensive lobbying by the President and others led by six Committee members to insist on producing a minority report that absolved the Minister and the management of the NSSF of any wrong-doing. Such instances as these remain some of the reasons as to why some sections of the society believe that Parliament remains, ultimately, subordinate to the Executive and to the person of the President. On the other hand, there has been a tendency within parliament for members to accuse their colleagues without sufficient evidence. In situations where the president has information of witch-hunting a member of his cabinet or party, it is only natural for him to defend such a person. Indeed, the president has defended individuals in instances where there has been lack of evidence pinning them, while he has also let others face the wrath of parliament if evidence against them exists.

There are also other concerns relating to perceived executive's interference in parliament's work as a watchdog over the budget. In the Sixth Parliament four ministers were censured for abuse of office. The president later reappointed them as ministers, much to a lot of public disapproval. Therefore, much as Parliament has been seen as being quite vocal, the Executive and the President are perceived to have remained very much in control. Despite this, some commentators look back fondly at the Sixth Parliament as a model of parliamentary independence (APRM, 2007), attributing its effectiveness in part to the fact that MPs were not controlled by party whips and to an influx of young, energetic and idealistic MPs. But how would multi-party democracy work without political parties enforcing discipline and cohesion? In situations where the opposition and errant ruling party members work to bring down the sitting government other than providing alternative policies, the executive is likely to work hard to influence the decisions of parliament – as is reflected during party caucusing.

Similarly, the ruling party has a manifesto to implement which calls for a budget that is enabling. It would therefore be quite naïve on the part of the executive that is controlled by the ruling party to ignore the dynamics of the budget process including oversight. That is why the caucus of the ruling party in Uganda harmonises the thinking of its membership before the plenary sessions of parliament.

In terms of corruption, Uganda is a country that is fairly riddled with the vice which also comes in at a high cost for service delivery. This is despite the fact that even President Museveni has time and again advocated for zero-tolerance to corruption (NRM Manifestos, 2011-2016; 2016-2021). This is also despite the fact that Uganda has a variety of legislations and government bodies focused on eradicating corruption, which in some limited instances have ably prosecuted

implicated individuals. However, these bodies have been largely slow in curbing grand-scale corruption.

Parliament has nevertheless tried to play its role in various scandals exposed. In 1998, Parliament impeached ministers for abuse of office, although the president reappointed them later. In the Common Wealth Heads of Government Meeting (CHOGM) scandal, accused former Vice President was briefly incarcerated in Luzira Prison, although the case was later dropped. In the Global Fund scandal, the implicated ministers lost their ministerial positions although they were never imprisoned. In the HABA Group of Companies compensation scandal, parliament succeeded in seeing to it that two implicated ministers lost their ministerial posts, although they failed to impeach the Governor Bank of Uganda. These and many more examples show that parliament has fairly played its part in exposing corrupt leaders. What remains to be done is to have more public officers prosecuted and their loot returned to the public purse.

## **4.2 Kenya**

### **4.2.1. Interference by other Branches of Government and corruption**

The true test of a democracy is the extent to which Parliament can exercise oversight of the Government by holding it answerable to the people for its policies and actions (Kerrow 2014). Indeed, as one of the three core democratic roles of Parliament, oversight requires parliamentarians in performance of this function to summon anyone before its committees to provide information or documents. However, in Kenya, there have been instances in which other arms of government have interfered with this role. For instance, in November 2008, a Justice of the High Court issued orders to restrain Parliament from passing a bill to disband the defunct Electoral Commission of Kenya. Although this was rendered inconsequential by the House Speaker, who ruled it as unconstitutional, this has been seen as an attempt by another arm of government to interfere in parliament's work.

Similarly, in another case where MPs wanted to impeach the Embu governor over allegations of corruption and abuse of office, court stopped the process. Equally, court also stopped parliament from summoning governors to answer queries in the reports that were submitted to the Senate by the Controller of Budget. These actions have been interpreted by some commentators to be a growing trend in judicial activism and interference, arguing that courts can only determine the constitutionality of a piece of legislation by Parliament after it is assented to, or determine whether the Constitution was followed in the process of its deliberation (Kerrow, 2014).

It is also suggested by some commentators that the review of the constitution after the 2007 post-election unrest and various other pieces of legislation have continued to strengthen the Executive at the expense of Parliament and this has weakened over the years the role of parliament in the scrutiny of the budget, being constrained on one side by the lack of resources and on the other by the erecting of powers by the Executive through the presidency (Institute of Economic Affairs 2009). Developments after the new constitution have however increased trust in Parliament since the separation of powers are well spelt; only requiring strict observance and practice.

### **4.3 Tanzania**

In Tanzania, like many developing countries, the parliament's budgetary oversight function is seen as almost ineffective and a rubber stamping occasion (Inter-Parliamentary Union 2009). It has been observed that government ranking in respect of its performance in budget transparency and parliamentary oversight is low. Parliament is therefore not seen as playing the important role that it should play in the budget cycle. It does not provide input into the planning phase of the budget as much as it should, it does not demand regular financial reporting from government, and all too often independent audits are late and parliamentary oversight committees do not have adequate resources to scrutinize public accounts (Inter-Parliamentary Union 2009). But what has transpired since 2009? Is it still 'businesses as usual'?

#### **4.3.1. Interference by other Branches of Government and Corruption**

In Tanzania, some commentators observe that the Executive, operating through the President and a small group of Ministers, is highly dominant in the national policy-making process (Lawson and Rakner 2005). Although it is agreed that Parliament has clearly defined powers of scrutiny, practice shows that the Legislature is more often than not unable to hold the Executive to account. This is mainly because Chama Cha Mapinduzi (CCM), the party holding the reins of power in the country, has such a large majority in Parliament that with the exercise of internal party discipline very well established, members have to tow the party line, thus resulting into control by the executive.

Like in most of the developing world, Tanzania has had its share of corruption scandals that have led the country to lose millions of shillings. Such cases have involved bigwigs in government. and have therefore generated difficulty in handling them due to executive's interference or deliberate keeping quiet. As I pointed out earlier, there is progress. The accountability committees have been able to prompt the executive to act on alleged cases of corruption. What

remains like in Uganda is for the appropriate organs of the state to prosecute the suspects and return their lot to the public purse.

#### **4.4 Other challenges in comparative perspective**

##### **4.4.1 Lack of a Parliamentary Budget Office in Tanzania**

Whereas Uganda and Kenya's parliaments have a budget office in their respective houses, Tanzania does not have this rather important office. Parliamentary Budget Offices (PBOs) are designed to prepare economic forecasts that are independent of the executive, analyse budget proposals submitted by the executive, develop budget projections and prepare spending-cut options for legislative consideration. Establishment of an independent, non-partisan Parliamentary Budget Office would therefore strengthen the legislature's oversight role in the budget process:

*An independent Parliamentary Budget Office, established under the structures of the legislature would, among other things, examine the draft annual budget proposed by the executive and provide analytical support to parliamentarians to be able to question the proposal in question and enable them to propose alternative budget proposals. Its key role is to produce objective budgetary, fiscal and programmatic information for legislators to be able to contribute, interpret, review and make concrete judgments regarding budget proposals – hence effectively exercising their oversight functions (Madhidha 2011).*

In many countries, PBOs are usually independent, non-partisan entities within the legislature that examine the draft annual budget proposed by the executive and provide analytical support to parliamentarians so as to enhance their ability to question the tabled proposal and enable them to propose alternative budget proposals. Establishment of this institution in Tanzania would significantly help the MPs in executing their oversight role. The parliament's budgetary oversight function is therefore deemed hindered due to lack of this office and hence, parliament's oversight role is often regarded largely as a routine scanning and rubber-stamping occasion (Madhidha 2011).

##### **4.4.2 Lack of Capacity**

The Inter-Parliamentary Union (2009) further observes that the Tanzanian Bunge also lacks resources to carry out its functions. In addition, the parliamentary staff lacks the skills necessary to support committees, conduct requested research,

and analyze legislation and budget and audit documents. Similarly, there is a shortage of offices for staff and MPs both at the Bunge and in the constituencies. Proposed bills and gazetted legislations are usually only available in English, even though Kiswahili is the country's national and official language. Publishing bills in both languages would require additional resources which parliament does not seem to have.

Furthermore, the Open Budget Survey 2010 unveils that Tanzania's budget process lacks adequate transparency, leaving citizens in the dark about how tax and donor monies are used (Uwazi 2010). In addition, audit reports from the Controller and Auditor General (CAG) show how the Government has failed to manage public resources well and taken little action to respond to audit queries.

#### **4.4.3 Lack of technical expertise**

Parliamentarians in the three East African countries lack the technical know-how when it comes to budget matters. This is due to the fact that they lack knowledge in Accounts as a subject. Indeed, MPs walk into parliament from all walks of life and academic spheres professional backgrounds such as engineering, medicine, education, social sciences and entertainment. The apparent lack of general knowledge of Accounts hence cripples their ability to effectively engage the executive on budgetary matters and in most cases they submit to some policies, not because they agree, but due to ignorance.

It is also expressed by commentators that the bulk of the MPs lack capacity in terms of appropriate technical skills to effectively participate in the budget process such as failure by parliament to hand over budget books within the stipulated time (Madhidha 2011). In Tanzania, parliament does not have full powers to change the executive's budget proposal at the start of the budget year; it does not have sufficient time to discuss and approve the executive's budget proposal (citing receipt of the budget in less than six weeks before the start of the financial year); and it does not hold open discussions at which the public can participate. Parliamentarians in East Africa also lack the expertise to adequately assess the budget documents or to carry out needed research on budget related issues, and the PAC's ability to examine the technical audit report is weak (Inter-Parliamentary Union 2009; Madhidha 2011). However, in Uganda, efforts have been made to avail each MP with an ipad to enable them stay connected to the internet and therefore access online resources in a timely and inexpensive manner, compared to the use of pigeon-holes to access information. This has immensely eased their work, although it comes amidst public outcries of the taxpayer meeting the cost of these expensive gadgets.

#### **4.4.4. Inadequate time and information**

Inadequate information for proper analysis also hinders the effective participation of parliamentarians in the budget process. Parliamentarians are handicapped in this regard unless the policy area happens to be one of their own expertise. Even with the information they get, there is never enough time for them to digest and develop credible arguments for debate. The practice is for government to overwhelm parliamentarians with information at the last minute such that they are made to submit to policies not because they agree with them but because of ignorance (Uganda's Parliamentary Budget Office 2010).

## 5.0 CONCLUSION

In theory, parliaments play a key role in the budget process. However, in practice, there exists a tremendous gap in many countries around the world between the potential for action by parliaments and the actual role they play. Yet the budget cycle is the key vehicle which allows parliamentary participation in the shaping of national policy priorities. Parliaments can debate the issues of economic and development policies and priorities, but it is the budget that shows provision of resources to those priorities, and parliament can play a key role if it wishes to (Inter-Parliamentary Union (2009) and I add if the political actors submit to democratic principles.

Greater parliamentary involvement results in greater transparency and better government accountability. Instead of budgets being prepared behind the locked doors of the ministry of finance, there can be wider public participation, better economic performance and greater focus on poverty reduction and gender issues. Here, once again, it is the parliamentary committees that can take the lead, with finance, budget and public accounts committees or their equivalents being particularly important (Inter-Parliamentary Union 2004).

This study found that the legislature in the three East African countries has made positive efforts in its budget oversight role and especially, demanding executives to account for the monies they spend and exposing corrupt leaders and public officers. The National Audit offices are doing a tremendous work while accountability committees have over time improved their methods of work and action oriented recommendations. However, despite these recognizable efforts, the need for better budget oversight and implementation for better service delivery is still needed. A lot of ground work needs to be done especially to allow Parliament exercise independence without losing the principle of cooperating with other branches of government – the executive and judiciary. The legislature in East Africa must focus on areas that enhance capacity and competences of MPs and staff for more effective service delivery within their mandate.

It has been established that one of the weaknesses in the Westminster system is that although there is public and parliamentary input to the budget formulation, if the executive does not actually do what parliament authorized, parliaments often lack the ability to check out what public officers do and what they have been directed to do at service delivery units. Parliaments approve the budget, monitor the budget, audit the budget, but if the executives and their technical staff do not spend as authorized in the first place, then the legislature is frustrated in the oversight function. Nevertheless, Parliament through its

established committees, Budget Committee, Parliamentary Budget Office, PAC and other accountability committees can keep the citizens informed about the Budget process. An informed citizenry is likely to develop a demand conscience that ultimately puts pressure on government for value for money. Similarly, the PAC together with the Auditor General can also follow-up on actions taken by the relevant Ministries/Departments/Accounting Officers in relation to recommendations/resolutions made. This ultimately affects service delivery and overall development of the country. The legislature and all the institutions established under parliament as alluded to cannot work alone, therefore cooperation between different actors of the state is a necessity.

Last but not least this study has ably demonstrated that EA countries are grappling with the management and use of scarce resources. The principles of separation of powers and checks and balances are still developing. It is therefore important to strengthen the legislature through institutional and infrastructure development; and training in order to enable MPs and technical staff to carry out oversight function better. This is critical for democracy, service delivery and overall socio-economic transformation that is urgently needed.

## 6.0 RECOMMENDATIONS

I have argued that the legislatures in the three East African countries play a very important role in overseeing the budget process. Despite their great effort, a number of hindrances still deter the parliamentarians from executing this role. I therefore make the following recommendations and hope that they will go a long way in helping the legislature in East Africa execute its oversight role as efficiently and effectively as possible:

- In this internet era, resources should be routinely allocated to parliamentary Commissions to maintain and update parliamentary websites to improve public accessibility to parliamentary activities and documents including reports and Hansard.
- Parliamentary exchanges with other partner and donor countries should continue to promote the sharing of best practices and experiences on governance and democracy. In this regard the Global Network of Parliamentary Budget Offices born in June 2013 in Montreal Canada provides hope for networking. This network is expected to bolster the technical capacity of PBOs through knowledge exchange, experience sharing and the identification of best practices.
- Parliamentary committees in East Africa, especially the watchdog committees such as public accounts committees, Public Investment Committee, Government Assurances Committee, Local Government Accounts Committee should increase visits and learn more from each other.
- There is need for greater involvement by parliament in scrutinizing cases of misappropriation of funds, and follow-up on allegations of misappropriation or questionable use of allocated development funds. This is possible and practical through monitoring actions taken by the relevant ministries after recommendations made by the Auditor General and the House resolutions. The PAC should insist on the preparation of action plans by ministries and departments to be used to monitor and report on implementation. The action plans must include targeted dates for implementing the actions.
- The public (whistle blowers, CSOs), other organs of government – judiciary, and state agencies (police, Ombudsman - IGG), Auditor General should scale up their actions in fighting corruption.
- Interference by the executive and judiciary branches of government in parliament’s work is one of the major challenges the legislature in East Africa faces. The other arms should respect the legislature as an independent arm of government and should stop interfering in its work. MPs also need to be made aware of their authority, as mandated by the constitution, and

push for non-interference but principled cooperation in their work. This is possible through training and capacity development. This would start with orientation, then induction and on to capacity development which refines and affirms the acquired knowledge while nurturing skills for optimum performance.

- Parliament's influence in the drafting of the budget should be a continuous process throughout the year, not just a seasonal affair.
- There should be recurrent training and other capacity-building activities on how to analyze budget documents and audit reports by all members of parliament rather than leaving it to the Public Accounts Committees and other accountability committees.
- There should be more training for Members of parliament on Documentary evidence analysis and quality Report writing.
- The above two recommendations are feasible by strengthening and equipping Centres of Parliamentary Studies and Training (CPSTs) as centres of excellence.

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