5. Kenya

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I. Introduction and background

Kenya, like many other African nations, is a product of the contradictions of colonial rule; this is manifested in an ethnically fractured populace and a feeble economy. In the face of scarce and ever-shrinking resources, how those resources are distributed among the various competing priority areas and the factors which affect the process and determine the outcomes represent legitimate and fruitful areas of study.

This case study analyses the processes through which money is allocated to the Kenyan armed forces and the mechanisms for controlling such funds. The chapter begins with an overview of the history, politics and economy of the country. This is followed in section II by a description of the structure and composition of the military sector in Kenya. Section III describes the national budgetary process, highlighting the various actors and the underlying guidelines, especially the Medium-Term Expenditure Framework (MTEF). The military budgetary process is discussed in section IV, starting with a brief overview of the military budget, including its composition, and followed by an account of the mechanisms for controlling, monitoring and evaluating the military budgets. Section V presents an overall assessment of the military budgetary process by juxtaposing the formal mechanism with actual practices. In the concluding section VI recommendations for improving the military budgetary process are made.

History, politics and economy

Kenya gained independence from the United Kingdom in December 1963, following years of unrest caused by the Mau Mau armed rebellion. Shortly after independence, Kenya became a de facto one-party state ruled by the Kenya African National Union (KANU) of President Jomo Kenyatta. Kenyatta ruled until his death in August 1978, when he was succeeded by Daniel arap Moi. In 1982, amid growing political dissatisfaction and in order to silence the opposition, President Moi made Kenya a de jure one-party state. In 1992, however, Kenya caved in to Western and domestic pressure and permitted multiparty politics.

Other political parties were able to compete with KANU in the national elections of 1992 and 1997 and, for the first time since the early years of independence, members of opposition parties became Members of Parliament, introducing a system of checks and balances. A new parliamentary practice was established requiring that the official leader of the opposition in the House is also the chairman of the Public Accounts Committee, one of the most important committees of Parliament. The Public Accounts Committee examines the appropriation accounts and the report of the Controller and Auditor-General.

Kenya maintains a unitary constitution with a structure of government that has hardly changed since independence, despite some 29 piecemeal constitutional amendments.[1] Under pressure from the opposition parties (as well as international institutions and governments such as the International Monetary Fund, the World Bank, the USA and the UK), the Constitution of Kenya Review Commission was established in 1991 in order to reform the constitution through a process of constructive engagement with civil society. After much delay,[2] the new constitution, which reduces the powers of the President and creates a new office of Prime Minister to head government,[3] will be voted on in a referendum in October 2005.

According to the current constitution, executive power is in the hands of the President, who is also the head of state and commander-in-chief of the armed forces, and the Cabinet of 15 ministers, responsible for the day-to-day running of the country. The current President, Mwai Kibaki, was elected in December 2002, ending KANU's monopoly on power. The legislature is the unicameral Parliament or National Assembly. Of the 222 seats in Parliament, 210 are directly elected for a five-year term while the remaining 12 are filled by presidential appointees nominated by the parties in proportion to their electoral support. President Kibaki's National Rainbow Coalition holds 125 of the directly elected seats.

The Kenyan economy is basically agriculture-orientated, with that sector accounting for over 70 per cent of the total employed population.[4] The main cash crops are coffee, tea, pyrethrum and horticultural produce, especially flowers. Closely following agriculture are the manufacturing, tourism and general services sectors. Since independence, the Kenyan economy has had a chequered record of economic growth. It grew rapidly during the first decade after independence: between 1964 and 1971 the economy registered annual gross domestic product (GDP) growth averaging 6.5 per cent.[5] Throughout the 1970s and 1980s Kenya was showcased as a capitalist development success story in Africa. This economic development was, however, fuelled by massive

[1] Republic of Kenya, *Constitution of Kenya* (Government Printer: Nairobi, 1998), URL <http://www.kenyaconstitution.org/>.

[2] See, e.g., 'Kenyan constitution chief resigns', BBC News Online, 1 July 2004, URL <http://news.bbc.co.uk/2/3857457.stm>.

[3] National Constitutional Conference, 'Revised zero draft of a bill to alter the constitution', 27 Feb. 2004, URL <http://www.kenyaconstitution.org/>.

[4] Van Buren, L., 'Kenya: economy', *Africa South of the Sahara*, 30th edn (Europa Publications: London, 2000), p. 618.

[5] Van Buren (note 4).

Western aid,[6] and by the late 1980s the structural defects in the system became glaringly obvious. The defects were compounded by the short-term dislocation caused by a donor-inspired structural adjustment programme, inadequate macroeconomic management and political uncertainty.[7] A major deficiency in the system has been the absence of any noticeable link between budgets and policy goals owing to a combination of factors that are discussed in section VI.

II. The military sector

The military sector in Kenya consists of the army, the air force and the navy. However, for the purposes of this chapter, the General Services Unit (GSU), a paramilitary force, is also discussed briefly. The armed forces are managed by the Department of Defence (DOD), which, rather than constituting a separate ministry, is located in the Office of the President. There is a minister of state in the Office of the President who is in charge of matters pertaining to the DOD and also acts as the chairman of the Defence Council under powers delegated by the commander-in-chief (the President). Responsibility for the day-to-day running of the armed forces is assigned to the Chief of General Staff (CGS), who is in charge of command and control of the DOD. The position of CGS is established as the most senior in the military under the 1968 Armed Forces Act.[8] There is also a deputy secretary in the Office of the President who serves as the accounting officer of the DOD. Each of the three services has a commander who is responsible for command and control of the respective service and is answerable to the President through the CGS. The GSU is within the police force but is classified as a separate force. It plays a largely internal role in the country.

The army

The Kenya Army has a strength of some 20 000 personnel,[9] which remained essentially unchanged throughout the 1990s. The army is the oldest of the services in the Kenyan armed forces, with its origins in the 19th century when the Imperial British East Africa Company hired some *askaris* (the Swahili word for uniformed guards) to guard its investments on the coast. This small entity evolved over the years to become the King's African Rifles (KAR), the pre-independence predecessor of the Kenya Army.

[6] Between 1980 and 2001 Kenya received a total of $15 billion in development assistance. O'Brien, F. S. and Ryan, T. C. I., 'Kenya', eds S. Devarajan, D. Dollar and T. Holmgren, *Aid and Reform in Africa: Lessons from Ten Case Studies* (World Bank: Washington, DC, 2001), p. 514.

[7] Economist Intelligence Unit (EIU), *Country Profile: Kenya* (EIU: London, 1998).

[8] Armed Forces Act, Chapter 199 of the Laws of Kenya, *Kenya Gazette Supplement*, 29 Nov. 1968.

[9] International Institute for Strategic Studies (IISS), *The Military Balance 2004/2005* (Oxford University Press: Oxford, 2004), pp. 236–37.

The army was formed to respond to external threats, but it was soon faced with internal problems such as the Shifta secessionist movement,[10] banditry and cattle rustling. In addition to its primary assignment of defending the nation against external land-based aggression, the army has acquired a secondary, largely internal, assignment—the provision of aid and support to civil authority in the maintenance of law and order during national disasters and emergencies. As well as the commitments of national defence and internal security, the Kenya Army has continuously participated in international peace-support initiatives of the United Nations (UN), and the Organization of African Unity (OAU) and its successor, the African Union (AU).

The air force

The Kenya Air Force (KAF) was established in June 1964 and currently has a strength of some 2500 personnel.[11] It is descended from the former British Royal Air Force station at Eastleigh in Nairobi, which was used as a staging post for the British Middle East Command during World War II. The primary roles of the KAF are to establish supremacy in the defence of Kenyan air space, provide aid to civil authority and support the army and the navy during operations. Like the Kenya Army, the air force participates in peace support operations worldwide.

Following the attempted military coup of August 1982, in which mainly KAF officers were implicated, the force was disbanded. The rump of the force was an appendage of the army until 1994, when it was restored as an independent service.[12]

The navy

As with the army and the air force, the Kenya Navy is an offshoot of colonial administration, being descended from the Royal East African Navy (REAN). The REAN served the four former British East African colonies—Kenya, Tanganyika, Uganda and Zanzibar—with its headquarters in Mombassa, Kenya.

The navy has two bases, in Mtongwe (Mombassa) and Manda (near Lamu). Like the other services, the navy contributes officers and men to UN peacekeeping missions in addition to its primary role of defending the country

[10] The Shifta separatist movement consisted of ethnic Somalis who wanted to be part of Somalia upon Kenya's independence. For a number of years the Kenyan security forces had to engage them in a low-intensity guerrilla war.

[11] IISS (note 9).

[12] Willis, D. (ed.), 'Kenya Air Force', *Aerospace Encyclopedia of World Air Forces* (Aerospace Publishing: London, 1999), p. 139.

against seaborne aggression. The current strength of the navy stands at some 1620 men.[13]

The General Service Unit

The General Service Unit is technically a unit of the police force, but for specific tactical, bureaucratic and, especially, historical reasons it is classified as a separate force. It was established in 1948 (before independence) as an emergency company, the Regular Police Reserve, to deal specifically with insurgency in the country and was re-designated in 1953 as an independent unit that was fully equipped to deal with the Mau Mau insurgency.

The GSU is still an independent unit headed by a commandant and with a strength of 5000 men.[14] It is a highly trained paramilitary force, reputed to be capable and firm in dealing with matters of internal security (such as anti-riot operations), and has been deployed mainly to deal with the Shifta insurgency (in joint operations with the other security forces) in the North-Eastern Province and other areas of the country in the recent past.

III. The national budgetary process

The Kenyan government budgetary process is a deliberate and systematic attempt to allocate public resources to various ministries and departments in order to finance activities and programmes within their respective mandates. The principal law on public finance is the constitution, with more specific provisions in the 1995 Exchequer and Audit Act.[15] This act specifies modalities for raising revenue for government (including the military) and managing expenditure. The act, together with the Paymaster-General Act,[16] also specifies procedures for releasing money from the consolidated fund to the accounts of operating ministries.[17]

The Minister of Finance has an obligation under the constitution to provide Parliament with draft estimates of revenue and expenditure for approval before the start of the financial year.[18] The constitution distinguishes between mandatory expenditure, the consolidated funds and public debt. In view of the fact that authority to withdraw from the consolidated fund is granted annually, the government must seek and obtain approval to raise revenues and incur expenditure before 30 June each year (i.e., before the start of the financial year), as

[13] IISS (note 9).

[14] IISS (note 9).

[15] Exchequer and Audit Act, Chapter 412 of the Laws of Kenya, *Kenya Gazette Supplement*, 1 June 1995, available at URL <http://www.cagindia.org/mandates/>.

[16] Paymaster-General Act, Chapter 413 of the Laws of Kenya, *Kenya Gazette Supplement.*

[17] Kirira, N., 'Kenya', ed. A. Fölscher, *Budget Transparency and Participation: Five African Case Studies* (Idasa: Cape Town, 2003), URL <http://www.idasa.org.za/>.

[18] Republic of Kenya (note 1), Section 100; and Kirira (note 17).

outlined in Parliamentary Standing Order Number 133. Parliament cannot, however, introduce any new expenditure or tax measures, nor can it increase those already approved. The government's request to Parliament is presented in a speech by the Minister of Finance in which proposed policy changes in the coming financial year are outlined; this is recognized as symbolizing the beginning of the legislative process.[19]

Organization

The national budgetary framework is composed of five levels and actors (see figure 5.1). At the apex is the Cabinet, which formulates national policies and objectives, followed by the Planning and Budgeting Steering Committee, which consists of permanent secretaries and coordinates policies and objectives. At the remaining levels are the Macroeconomic Working Group, which makes the economic forecasts and determines the resources available, and the sector working groups (SWGs), serving as coordination hubs for groups of ministries whose functions overlap; the MTEF Secretariat; and, lastly, the line ministries and departments.

The Medium-Term Expenditure Framework facilitates the full participation of line ministries and departments in the SWGs. In addition, the MTEF Secretariat within the Ministry of Finance (MOF) draws up the lists of ministries and departments that are to participate in each SWG, along with the terms of reference for each SWG. There are eight sector working groups: (*a*) agriculture and rural development; (*b*) physical infrastructure; (*c*) human resource development; (*d*) trade industry and tourism; (*e*) public administration; (*f*) public safety, law and order; (*g*) national security; and (*h*) information and technology.

A typical SWG consists of a chairman, a secretary (both of these from the MOF) and members drawn from line ministries or departments that have programmes and activities in the sector. However, a sector working group can incorporate other stakeholders from the sector when necessary. The main terms of reference of the SWGs include identifying sector objectives and core priorities; analysing the cost implications of the policies and strategies within the sector; identifying programmes and activities and their outcomes, along with output benchmarks within the sector; and streamlining the programmes' activities with the national spending limits and overall finance strategies.

While a ministry or department can participate in more than one SWG, the Department of Defence participates in only one—the National Security Sector Working Group (NSSWG). The DOD's Chief Finance Officer, its Chief of Finance and the 'Colonel, Budget' are members of the technical working team of the NSSWG, while the Senior Deputy Secretary and the Vice-Chief of General Staff are members of the NSSWG itself.

[19] Kirira (note 17), p. 117.

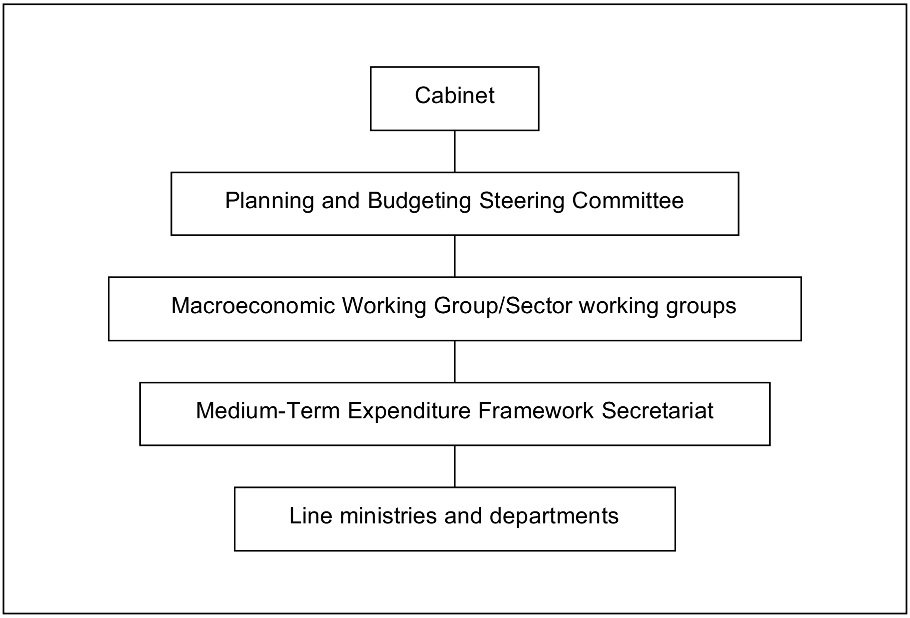

Figure 5.1. Actors in the Kenyan national budgetary framework

The Medium-Term Expenditure Framework

The current budgetary process is guided by the Medium-Term Expenditure Framework that was introduced in financial year 1999/2000 to replace the Forward Programme Review and Forward Budget System. The MTEF is defined as a deliberate strategic policy and expenditure framework within which the main organs of government are given greater autonomy in the selection and prioritization of their activities and the allocation of resources.[20] It is an effort to overcome the problems of the previous poor linkages between policy, planning and the budgetary process.

The overall aim of the MTEF is to impose discipline in the management of national resources by establishing an explicit link between the annual budgetary process, agreed national policies and long-term national development objectives. The MTEF was adopted to meet the need for sectoral planning with clearly articulated sectoral priorities; the need to link planning to budgeting; the need to improve the level of participation in the budgetary process; the need to

[20] Kirira, N., MOF Financial Secretary, 'Kenya's national economy, its capacity and performance and the implications of the MTEF budgetary process on military expenditure', Paper presented to the Senior Military Officers Seminar, Karen, Nairobi, 7 Aug. 2002.

plan ahead, say, for three years, with high predictability of resources; and the need for a method of monitoring and evaluation by linking input to output.[21]

The calendar of events for the MTEF activities of a financial year (1 July–30 June) starts early in the year, often in February, with the finalization of a revised budget for the outgoing year. This is followed in March with the submission of sectoral reports and the dispatch of Treasury Circulars and sectoral spending limits. The month of April is reserved for the bidding for resources by each sector, the submission of itemized budgets to the Treasury, the review and consolidation of MTEF budget estimates, and the submission of draft budget proposals to the Treasury for approval. The budget estimate is printed by mid-May. The MTEF calendar ends in June with the submission of estimates to Parliament for formal approval. This calendar applies to all line ministries, including the DOD. The main objectives of the MTEF are: (*a*) to improve the macroeconomic balance by developing a consistent and realistic resource framework; (*b*) to improve the allocation of resources to agreed strategic priorities both between and within sectors; (*c*) to secure the commitment of ministries and departments to increased predictability in resource allocations so that spending agencies can plan ahead; (*d*) to increase incentives for more effective (i.e., better targeted) and more efficient use of resources by ministries and departments by providing them with predicable funding levels and increased autonomy; (*e*) to link the annual budget to long-term development policies, objectives and plans; (*f*) to assess the actual cost of programmes, particularly new ones, and the likely financial implications in the long term; and (*g*) to review in detail all projects, particularly in the development vote and including those financed by external resources, vis-à-vis the benefits being generated and the consistency of project and sectoral objectives with national development objectives.[22]

IV. The military budgetary process

Any discussion of the military budgetary processes in Kenya should take into account the country's domestic and international security environment. Apart from the low-key insurgency operations in the North-Eastern Province, which have continued for over three decades, Kenya has never been involved in a conventional war; it has therefore never required heavy expenditure on war efforts, as have its neighbouring states. The military has, however, played a crucial role in ensuring the stability of the country since independence.

The most immediate potential security threats to any country are from its neighbours; therefore, based on the external threat analysis, a substantial

[21] Republic of Kenya, *National Development Plan 2002–2008: Effective Management for Sustainable Economic Growth and Poverty Reduction* (Government Printers: Nairobi, 2002), p. v.

[22] DOD Chief Finance Officer, 'DOD budget', Paper presented to the Senior Military Officers Seminar, Karen, Nairobi, 9 Aug. 2002.

Table 5.1. Military expenditure of Kenya, 1990–2004

Figures in US$ are in constant 2003 prices and exchange rates.

	Military expenditure		
Year[a]	$ m.	m. shillings	as a % of GDP
1990	390	5 684	*2.9*
1991	304	5 279	*2.4*
1992	224	5 027	*1.9*
1993	187	6 131	*1.8*
1994	156	6 577	*1.6*
1995	180	7 668	*1.6*
1996	210	9 756	*1.8*
1997	200	10 327	*1.7*
1998	188	10 381	*1.5*
1999	183	10 684	*1.4*
2000	197	12 614	*1.6*
2001	226	15 349	*2.2*
2002	244	16 844	*2.0*
2003	246	18 676	*1.9*
2004	237	20 158	. .

GDP = Gross domestic product.

[a] Years are calendar years, not financial years.

Source: SIPRI military expenditure database.

amount of military expenditure has been related to these threats. The level of military spending, at an average over the period 1990–2003 of 1.9 per cent of GDP (see table 5.1), correlates with the rate of economic growth and can therefore be termed optimal.[23]

The most important determinant of peacetime military spending is the expenditure level of neighbouring states and the need to maintain spending on a par with them, or slightly higher depending on the perception of the threat (see table 5.2, which presents Kenyan Government figures). The situation in the eastern Africa region has, however, been stabilized by the reconciliation of the states through cooperative endeavours such as those of the Intergovernmental Authority on Development (IGAD) and the East African Community (EAC).[24]

Historically, Kenya's peace and tranquillity have been challenged by the many conflicts in East Africa, the Horn of Africa and the Great Lakes region. Protracted armed conflicts in Ethiopia and Uganda in the past have had a direct

[23] Kirira (note 20).

[24] The IGAD's mandate is to coordinate the efforts of the member states—Djibouti, Eritrea, Ethiopia, Kenya, Somalia, Sudan and Uganda—in the priority areas of economic cooperation, political and humanitarian affairs, and food security and environment protection. The EAC was re-formed in 1999 by Kenya, Tanzania and Uganda with the aim of widening and deepening coordination in political, economic and social fields.

negative impact on Kenya. The collapsed state of Somalia, which neighbours Kenya to the east, has had a significant impact on Kenya's internal security situation owing to a huge influx of refugees and the proliferation of small arms in the country.

As Kenya is a developing country, the level of technological advancement is still very low. The country does not develop or manufacture any military hardware and, hence, only insignificant funds are budgeted or spent on research and development. Each of the services operates a mix of systems. In the case of the KAF, for example, this means that maintenance of the front-line fighters, radar systems and missiles is scattered worldwide and the life span of this equipment is largely dependent on factors that are beyond the operator's or the country's control. Essentially, all the equipment in use by the military, such as tanks, aircraft, ships, communications systems and even vehicles, is purchased from developed countries and its maintenance alone takes over 20 per cent of the annual military budget. However, the bulk of DOD expenditure is on personal emolument, which takes about 45 per cent of the budget.[25]

Preparing the budget

The Department of Defence prepares its MTEF budget in line with guidelines given in Treasury Circulars issued by the Permanent Secretary of the Ministry of Finance. The exercise is carried out under the direction of the DOD's Departmental Budget Committee. The committee is chaired by the Chief of General Staff, with the Chief of Finance (usually a brigadier) as its secretary. The other members include the Vice-CGS, the Senior Deputy Secretary (the accounting officer), the service commanders (of the army, the air force and the navy), the assistant CGSs and the Chief Finance Officer (a civilian).

The Departmental Budget Committee reports to the National Security Sector Working Group, which is comprised of representatives of the Treasury, the DOD and the National Security Intelligence Service. The committee is serviced by the Budget Secretariat, which is a technical team that works on the details of the planning and preparation of the budget. The secretariat is headed by the Chief Finance Officer, assisted by the Chief of Finance, with the Colonel, Budget serving as the secretary. Other members of the Budget Secretariat are the chiefs of the DOD branches, directors of logistics (of the army, the air force and the navy), and the DOD's Administrative Under-secretary, Accounts Controller and Principal Personnel Officer.

[25] The exact percentage of the budget taken by personal emoluments is believed by experts to be more than the 45% suggested here; in fact, some believe it to be as much as 80%. Omitoogun, W., *Military Expenditure Data in Africa: A Survey of Cameroon, Ethiopia, Ghana, Kenya, Nigeria and Uganda*, SIPRI Research Report no. 17 (Oxford University Press: Oxford, 2003), p. 73; and MacDonald, B. S., *Military Spending in Developing Countries: How Much is Too Much*? (Carleton University Press: Ottawa, 1977), pp. 138–40.

Table 5.2. Military expenditure by Kenya and its neighbours as a share of gross domestic product, 1991–99

Figures are percentages.

Country[a]	1991	1992	1993	1994	1995	1996	1997	1998	1999
Eritrea[b]	. .	. .	*21.4*	*13.0*	*19.9*	*22.8*	*13.5*	*29.0*	*22.9*
Ethiopia	*2.0*	*2.7*	*2.9*	*2.4*	*2.0*	*1.9*	*3.4*	*5.1*	*9.0*
Kenya	*2.4*	*1.9*	*1.8*	*1.6*	*1.6*	*1.8*	*1.8*	*1.9*	*1.9*
Tanzania	*2.0*	*1.9*	*1.2*	*1.2*	*1.5*	*1.4*	*1.3*	*1.3*	*1.3*
Uganda	*2.2*	*1.5*	*1.8*	*1.6*	*1.5*	*1.8*	*1.9*	*2.1*	*2.1*

[a] Somalia does not appear in the table since it has not had a central government since 1991.

[b] Eritrea became an independent state in 1993.

Source: Kenyan Ministry of Finance, Nairobi.

The secretariat collects and analyses the proposals from the services' holders of authority to incur expenditure (AIE). It prepares and presents proposals to the Departmental Budget Committee, which in turn discusses and approves them, with or without amendments. The following subsections cover the strategic phases involved in preparing the military budget.

The formulation phase

In the preparation of the MTEF budget for the financial year, the Budget Secretariat considers submissions from the services and other units controlled by the DOD. The requirements are analysed and rationalized to produce an agreed figure that is presented to the Departmental Budget Committee and subsequently submitted to the NSSWG for further discussions.

As soon as the Treasury Circular, addressed to all accounting officers and giving guidelines for the preparation of the MTEF budget, is received, the DOD accounting officer writes to the chairman of the Departmental Budget Committee to instruct the services and the branches of the DOD to commence the exercise. The Vice-CGS in turn instructs the service commanders to commence the preparation of their inputs in the form of budget proposals. He also instructs the Budget Secretariat to coordinate the preparation exercise.

After several meetings, the NSSWG settles on a figure indicative of the DOD requirements for the year. However, the Treasury may finally fix a different ceiling after factoring in other sources of funding, such as appropriation in aid, during the bidding exercise, and this is what is eventually reflected in the printed estimates for the financial year. While preparing the itemized military budget, the components of the DOD budget are each considered. They include personal emoluments, pending bills carried over from the previous financial year and the contractual obligations that have to be met before the end of the financial year, and the operational requirements that must be met by the DOD. Other issues include increasing the tempo of infrastructure development, modernization programmes and new projects to be undertaken by the department; and the regular support that the DOD continues to provide to its troops deployed on UN and AU missions.

On the basis of the printed estimates, the Budget Secretariat prepares an itemized budget and a proposed distribution of funds to the services and DOD controlled units for approval by the Departmental Budget Committee and the Treasury. In recent years, the Treasury has declined to include the pending bills (most of which were accumulated over a number of years) in the approved budgets, hence creating a problem for the budget holders: they are unable to manage the allocations according to the financial year plans. The DOD receives about 90 per cent of the exchequer issues (i.e., cash flow) from the Treasury as well as some reimbursements from the UN. It has also managed to generate a substantial amount of income in the form of appropriation in aid. However, the latter two sources of revenue are required to be surrendered to the Treasury and therefore cannot be used in reducing the pending bills, which are at times huge.

Over the past few financial years, the DOD has had carryover (pending) bills amounting to about 13 per cent of the allocated budgets. Their payments are spread over the next two or three financial years against each expenditure item, and those that are uncleared because of a lack of provision or are time-barred are paid as a first charge by the respective AIE holders. The bills are generally categorized as: (*a*) bills undeclared prior to the end of the previous financial year; (*b*) bills incurred because of a lack of exchequer issues; (*c*) bills incurred because of a lack of provision; (*d*) bills that had provisions but are time-barred; and (*e*) bills incurred due to unplanned emergencies or national operations.

Before the estimates are presented to Parliament for final approval, they are presented to the Departmental Budget Committee. Upon approval of the proposed budget, the accounting officer forwards it to the Permanent Secretary of the MOF. The DOD is usually invited to a series of meetings at the Treasury for bidding and for final preparation of the printed estimates of revenue and expenditure for all the government ministries, departments and state corporations. Budget ceilings for the DOD are therefore arrived at through sector bidding at the Treasury. The proposed budget, as amended during this process, is then presented to Parliament by the Minister of Finance in mid-June.

The approval phase

The Kenyan military budget for each financial year is usually approved by Parliament as a one-line budget item, under the following priority clusters: morale and motivation; infrastructure and development; operations and maintenance; modernization; and human resource development and training. Occasionally, funds can be appropriated under the headings of aid to civil authority and the poverty-reduction strategy.

The parliamentary Committee on Foreign Affairs and Defence is expected to deliberate on the military budget, after which it passes on its recommendation.

Once Parliament grants approval, usually along with other portions of the national budget, the Treasury can start releasing the approved funds to the DOD.

The implementation phase

The preparation of the military budget for each financial year and the distribution of funds to the services and DOD controlled units are carried out by the Budget Secretariat and approved by the Departmental Budget Committee. The Treasury takes into consideration the requirements of all the stakeholders vis-à-vis the resources made available by the government to the DOD. However, it is important to note that the bulk of the DOD budget goes to meeting expenditure related to personal emoluments, utilities (water, electricity and telephone bills), contractual payments, unbudgeted UN peace operations and, importantly, pending bills. Central to the discussion on the implementation of the military budget is the procurement procedure, which is considered in detail below.

The funds appropriated are adequately monitored by both internal and external regulatory systems, managed by civilian government employees who are completely independent of the DOD's military administration set-up. Both of these systems are in addition to the DOD internal regulatory system, an in-house function performed, regulated and administered by uniformed personnel.

The internal system was established in accordance with powers bestowed upon the Treasury by the 1995 Exchequer and Audit Act.[26] Under the act, the Permanent Secretary of the Treasury, or any other officer in the Treasury authorized by the Permanent Secretary, is entitled to inspect all offices and to have unlimited access to 'all official books, documents and other records as may be necessary for the exercise of the powers and duties of the Treasury'. The internal auditors are deployed in the ministries and departments and they report directly to the Audit Inspector-General, who is based at the Treasury. Their main duties include: (*a*) evaluating the effectiveness of the internal control systems in relation to the government's financial objectives; (*b*) carrying out spot checks on revenue and appropriation in aid collection points, projects, pay parades, and supply and delivery sites to ensure compliance with government procedures and financial regulations; (*c*) periodically reviewing budgetary controls on the issue of AIEs, the collection of revenue and appropriation in aid, and accounting; (*d*) reviewing and evaluating the reliability and integrity of record keeping and reporting of financial and operating information; (*e*) reviewing the budgetary re-allocation process to ensure legislative and administrative compliance; (*f*) ensuring that revenue, appropriation in aid and other receipts due to the government are accounted for following proper procedure; (*g*) verifying and certifying periodical financial returns, such as pending bills returns,

[26] Exchequer and Audit Act (note 15), Section 4(2) and (3).

expenditure returns, and revenue and appropriation in aid returns among others; (*h*) reviewing and pre-auditing annual appropriation accounts, fund accounts and other statements prepared by accounting officers for submission to the Controller and Auditor-General, with a view to ensuring that accurate accounts are prepared to the required standards; and (*i*) carrying out investigations into irregularities identified or reported and reporting on any wastage of public funds resulting from general misuse or misappropriation of financial resources and government property.

The role of the internal auditors is complemented in the DOD by three internal control branches created to detect fraud, theft, wastage and other kinds of misuse. These branches, each headed by a brigadier, are directly answerable to the CGS as part of a conscious effort to manage the scarce resources allocated to the armed forces in a result-oriented way. The first of these branches is the Inspectorate, responsible for maintaining standards and the operational readiness of the armed forces through judicious use of resources. The Chief of Inspectorate also undertakes project inspection, monitors the institutional capacity of the armed forces and actively works to reconcile projects and standards with operational readiness. Second is the Chief of Audit and Inspection, empowered to audit public and non-public funds, stores, equipment and personnel in the armed forces. More importantly, the Chief of Audit and Inspection oversees adherence to accounting procedures; inspects account records, stores and personnel records; evaluates internal control systems to minimize fraud or loss of funds; inspects projects and contract documents in the interest of the armed forces; and investigates irregularities, either discovered or reported, in funds management. Third is the Provost Marshal, who is responsible for monitoring the operational needs and readiness of the military police.

Military procurement procedure[27]

In response to the numerous challenges that the Kenyan armed forces have experienced in the management of their affairs, a new approach to procurement was required. In early 1997 Defence Headquarters (DHQ) introduced the New Management Strategy (NMS), the main goal of which has been the prudent management of expenditure by enhancing value for money through delegation of financial authority to line managers. The core principles of the NMS include efficient accounting and transparency; specification of clear objectives where commanders are responsible for determining the means of delivery; a focus on output of activities as opposed to monitoring individual resource inputs; and the delivery of responsibility and authority to the lowest possible level.

[27] The procurement procedure outlined in this subsection are subject to changes made by the 2005 Public Procurement and Disposal Act, *Kenya Gazette Supplement*, 2005, URL <http://www.treasury.go.ke/ppd/>. In particular, Section 133 of the new act makes special provision for the classified audit of the procurement of certain items by the security sector.

In order that the NMS guiding principles could be fully embraced, DHQ established the Directorate of Systems and Procurement to procure the equipment and systems needed by the three services to the right specifications, within an agreed time-scale and cost, and in the most cost-effective manner within the overall military resources. The directorate is also involved in the preparation and monitoring of long-term plans and long-term costing associated with new defence acquisitions, refits and the management of long-term payments.

Two main committees are involved in the procurement process: the Equipment Committee, which is steered by the Directorate of Systems and Procurement; and the Equipment Approval Committee, whose chairman is the CGS. The task of the Equipment Committee is, having received the user requirements, to research, formulate and determine priorities on equipment policies and eventually forward its recommendations to the Equipment Approval Committee.

The Equipment Approval Committee is the final authority and has the ultimate responsibility for military equipment programmes, which include those for procurement, replacement or modification of defence systems, equipment and plants. The committee ensures that no major expenditure is committed without thorough and independent scrutiny to establish the military, technical, financial and managerial validity of projects both in their own right and in relation to other projects in the equipment programme. It also authorizes expenditure on major defence systems and plants. Defence policy, resources and manpower availability are also taken into account. The overall thrust of the current procurement arrangement is: (*a*) to procure the right quantity of the right equipment and systems at the right time, place and price by advocating bidding (selective tendering), both local and international, thereby attempting to obtain best value for money; (*b*) to expand domestic industry by giving priority to locally produced goods, thereby creating employment with a view to poverty alleviation; and (*c*) to advance the local technological base by insisting on technology transfer in line with the national objective of attaining new industrialized country status in the near future.

Five important factors influence the armed forces' procurement policy. First is the national defence policy. Although there seems to be no clearly articulated defence policy at the moment, there are related policy statements, presidential speeches and practices that constitute an 'informal' defence policy (see section V). Of importance here is the linking of defence policy, however informal and fragmented, to domestic and foreign policy and to government defence plans. Second is the operational environment, which determines the context, the force's mission and the equipment available to the military. Third is the technical advancement of the defence industry, especially in the form and sophistication of weapon systems appropriate for meeting the perceived threats; this is also shaped by the operational environment. Fourth is the considerable attention given to user requirements, as defined by operational experience and progressive improvements in design and materials. Finally, the life-cycle costing of weapons is taken into account; this covers trial and testing performance; production and introduction into service; industrial operation and maintenance; and disposal cost, as well as manpower needs.

Also central to the arms procurement process is the so-called ‘Downey procedure’ introduced as part of the NMS framework. It is essentially a stage-by-stage approach to procurement, with clear guidelines for each of the steps in a procurement cycle. Each stage is assessed after the project is re-endorsed and before further military expenditure is authorized. This is important for limiting technical risks that may lead to unnecessary costs and time overruns. It also limits the continuance of projects that have become obsolete or have been superseded by new technology.

The first stage of the arms-project life cycle is concept formulation and the feasibility study, which covers the period from the emergence of the idea for a project to the initial formal statement of an operational need. The concept-formulation stage is essentially a technical study to ensure that all new equipment is compatible with the principles of DHQ concept papers. Some of the factors that can contribute to the emergence of an idea include a need to modernize obsolete equipment or acquire advanced weapon systems, changes in defence policy requiring new capabilities or roles, intelligence relating to a new, actual or potential threat, and needs informed by participation in a foreign defence project. Other factors are the needs arising from new tactical concepts or a deficiency in existing inventory identified in operations, training, war gaming or operational research; a proposal by industry, possibly derived from commercial or export considerations; and work being done on the development of an existing project that stimulates the idea for its successor or some new use.

In theory, every equipment project should pass through each stage of development sequentially. In practice, however, the system is flexible and some stages may overlap or even be omitted, particularly in the case of small projects. Major equipment procurement is normally subjected to a rigorous application of the formal stages.

Auditing phase

The office of the Controller and Auditor-General, established by the constitution,[28] is empowered by the 1995 Exchequer and Audit Act to, first, authorize the issue of money from the exchequer account in the form of a ‘grant of credit’ within the overall sum appropriated by Parliament and, second, to audit public accounts as prescribed in the act to ensure that all appropriated monies are applied to the purposes for which they were appropriated and that the expenditure conforms with the authority that governs it.

The Controller and Auditor-General is answerable to Parliament through the Public Accounts Committee and has legal access to all documents (vouchers

[28] Republic of Kenya (note 1), Section 105.

and other accounting documents), stores, warehouses and cash which may be considered necessary to conduct the audit of the accounts presented to him or her by accounting officers. All queries concerning irregularities detected by the Controller and Auditor-General are directed to the relevant accounting officer. In the exercise of his or her functions and in accordance with the constitution, 'the Controller and Auditor-General shall not be subject to the direction or control of any other person or authority'.[29] The Controller and Auditor-General therefore has a secured tenure of office.

V. Assessment of the military budgetary process

The formal process of military budgeting is guided by a good legal framework for obtaining and accounting for funds. The formal process has also been improved by the introduction of the MTEF, which has made roles and responsibilities clearer. Moreover, openness seems to have been structurally enhanced by open parliamentary hearings, which by design are geared towards facilitating the participation of civil society—the press, individuals, companies and private institutions. However, it is still important to investigate the extent to which the actual process mirrors extant rules and regulations; that is, to investigate the extent of derogation from formal rules. In addition, it is imperative to look for missing links, even within the existing formal structures. This is the focus of this section.

Defence policy

Beyond the general recognition that the role of the Kenyan armed forces is the defence of the nation against external aggression and to assist the police in the maintenance of law and order, there is no documented articulation of the basis for military budgeting in Kenya: the country has no official defence policy. This renders the strategic assessment phase of the budgetary process rather elastic and fluid.

There have been official statements which give a general direction to Kenya's geo-strategic concerns and priorities. As far back as 1966, President Kenyatta stated that: 'Kenya wishes to live in harmony with her neighbours, we covet no inch of their territory. We will yield no inch of ours. We stand loyal to the OAU and its solemn decision that all African states shall adhere to the boundaries inherited at independence.' Speaking in 1978, President Moi affirmed that: 'The safety and security of our people and the integrity of our nation comprise the first responsibility of the government, but let me remind you that the defence of this country will depend on the loyalty and devotion of all our people just as much as the uniformed forces.' Moi's statement seems to indicate that Kenya

[29] Republic of Kenya (note 1), Section 105(5).

favours a broad-based defence policy, predicated on a human security perspective. However, a clear, documented codification of such a defence policy remains palpably absent. Empirically, it would appear that Kenya's grand strategy is to achieve peace and security through good neighbourliness, non-aggression, and internal peace and security.

Transparency

From 1969 to 1992, Kenya was a single-party state, with direct negative consequences for transparency in the budgetary process. Communication within government and between government and the larger society was highly dependent on the whims of the rulers. National security was seen as being synonymous with regime security. Despite the adoption of a multiparty political system in 1992, the single-party tradition and practice in government, including among technocrats, appear to be very resilient.[30] Specific oversight of military budgeting is constrained by the (mis)perception that military matters are 'state secrets'. Although a legal framework for transparency and accountability exists, in practice its applicability is suspect. For example, it has been noted that 'in some instances many of the officials who are required to follow these laws are unfamiliar with or unaware of their existence'.[31]

The ingrained negative attitude towards military matters, including budgeting, is compounded by the improper application or complete negation of formal rules on tendering and contract award, widespread corrupt practices and gross indiscipline in the public sector.[32] In 2004 the DOD was ranked as the second most corrupt organization in Kenya by Transparency International.[33]

Oversight

The exercise of an oversight function by the various agencies, actors and institutions, especially Parliament, is weak in practice. This weakness arises mainly from inadequate or absent information on budget and financial matters across government departments, including the DOD. In addition, material and information relating to budget matters are relatively expensive and are given in

[30] Kirira (note 17), p. 113.

[31] Kirira (note 17).

[32] Mwenda, A. K. and Gachocho, M. N., 'Budget transparency: Kenyan perspective', Institute for Economic Affairs (IEA) Research Paper Series no. 4, IEA, Nairobi, Oct. 2003, pp. 59–61; and Brzoska, M. *et al.*, 'Einbeziehung von Verteidigungshaushalten in public expenditure management: Einschätzung der Situation in Äthiopien, Burundi, Kenia, Tansania und Uganda' [Incorporation of defence expenditure into public expenditure management: short assessment of the situation in Ethiopia, Burundi, Kenya, Tanzania and Uganda], Bonn International Center for Conversion (BICC) Paper no. 38, BICC, Bonn, May 2004, URL <http://www.bicc.de/publications/>, p. 18.

[33] Transparency International, *The Kenya Bribery Index 2004* (Transparency International: Berlin, 2004), p. 8, URL <http://www.transparency.org/>. See also Brzoska *et al.* (note 32), p. 19; and 'Clay's feat', *Africa Confidential*, vol. 45, no. 15 (July 2004), p. 7.

formats that make their scrutiny difficult for parliamentarians, civil society and the press.[34] Publications on the budget are often sold only through the Nairobi-based Government Printer, effectively keeping it out of the reach of Kenyans living outside the capital city.

A 2004 report on military expenditure of countries in eastern Africa revealed serious oversight inadequacies in Kenya.[35] This report noted that the Controller and Auditor-General is seriously limited by inadequate power of prosecution and an acute institutional incapacity as evidenced by late submission of audit reports. Invariably, the formal deterrence function of audit reports to check budget mismanagement is severely compromised. The report also noted that the control measures in the Treasury are ineffective as a result of its structural link to the executive. Even the involvement of civil society and public debate on budget matters are limited, given that budget planning is restricted to a small group of high-ranking government officials and given the inadequacy of information about the planned distribution and use of resources.

The Medium-Term Expenditure Framework: defence planning and policy output

It is fair to conclude that Kenyan defence planning and practices hardly reflect overall operational needs or approved budget spending plans. First, the budgets are unrealistic, given the inadequate or ineffectual information available to oversight institutions. This is evidenced by the continued refusal of the Treasury to include 'pending bills' in the approved budget, thus creating serious implementation problems. Second, research by the Institute for Economic Affairs (IEA, a Nairobi-based think tank) has found that the military budget, as well as the overall national budget and the budgetary process, only marginally reflects national policy priorities.[36] Third, despite the euphoria that greeted the inauguration of the Kibaki Government, the age-old practice of diverting public funds for unbudgeted, covert political purposes continues unabated. According to the 2003 Public Expenditure Review (PER), even six years after the introduction of the Medium-Term Expenditure Framework there has been only minimal improvement in the administration of public finance. Moreover, the DOD, despite having received the third largest budget allocation, was both directly and indirectly exempted from the 2003 PER process.[37] Fourth, the DOD continues to overspend its budgetary quota, recording a large deficit of 6 per cent of its approved budget in 2003.[38]

[34] Kirira (note 17), p. 113.

[35] Brzoska *et al.* (note 32), p. 17.

[36] Mwenda and Gachocho (note 32), pp. 54–56.

[37] Ministry of Planning and National Development (MPND), *Public Expenditure Review 2003* (MPND: Nairobi, 2004), URL <http://www.planning.go.ke/pdf/per.pdf>, pp. 122–24.

[38] MPND (note 37).

Of the civil society groups surveyed by the IEA in 2003, a majority severely criticized the performance of the MTEF for the lack of public knowledge about its operational mechanisms and its intended purposes. Other criticisms include its poor coordination and linkages with complementary initiatives, such as poverty-reduction strategies; the lack of local ownership of, and the overbearing external influence on, the MTEF; and the relative lack of capacity building prior to and after its implementation.[39]

The introduction of new and apparently clearer rules for procurement has hardly stemmed the tide of procurement scandals; this is not unexpected, given the flagrant derogation from rules and procedures and the corrupt practices in the public sector, including the military. There have been various media reports on military expenditure in Kenya, such as the over-inflation of contracts for the procurement of four Russian military helicopters in 2001, the botched procurement of Czech military aircraft in 2003 and persistent rumours of corrupt practices in a $100 million purchase of military communication equipment.[40] Similarly, the October 2003 IEA report on budget transparency in Kenya concluded that the procurement procedure is ineffective because of a lack of transparency and openness, corruption, overpricing and outright theft. The process continues to be heavily influenced by informal, neo-patrimonial networks in which government officials routinely award contracts to certain favoured firms and individuals.[41] Indeed, some government officials have formed companies with their friends in order to apply for tenders.[42]

Finally, the MTEF has not stopped off-budget and extra-budgetary spending. Kenya is a major contributor to regional and UN missions, but the DOD does not provide a separate or special budget to meet this additional and quite expensive undertaking. The huge expenditure on these tasks is therefore met through the regular budget at the expense of planned projects that are often suspended. However, when these sums are repaid to the armed forces by the UN, it is difficult to determine whether they are actually returned to the Treasury.

VI. Conclusions and recommendations

Military budgeting in Kenya cannot be looked at in isolation from the country's economic and political frailty. The end of single-party rule and the adoption of multiparty democracy in 1992 did not lead to an immediate improvement in transparency and efficiency in the military budgetary process. In the absence of an officially articulated and recognized defence policy, the strategic evaluation

[39] Mwenda and Gachocho (note 32), p. 56.

[40] 'Opposition leader and minister clash over helicopter deal', *East African Standard*, 19 July 2001; and Muiruri, S. 'Military split on deal for Sh29b jet fighters', *Daily Nation* (Nairobi), 28 May 2003, URL <http://www.nationmedia.com/dailynation/>. For a more recent security-related corruption scandal see 'Clay's feat' (note 33).

[41] Mwenda and Gachocho (note 32), p. 58.

[42] Mwenda and Gachocho (note 32), p. 61.

phase has been vulnerable to a high degree of arbitrariness. The tendency has been to equate regime security with national security. The audit system is functional, although not at optimal levels of efficiency. Civil society and parliamentary oversight continues to be hampered by various factors.

The MTEF programme as contained in the national development plan for 2002–2008, however, promises to address some of these constraints.[43] The plan clearly indicates that with the new century may come opportunities in the form of increased regional (EAC and IGAD) and international cooperation and improved communication and information flow. The programme therefore inspires hope for greater progress. One of the advantages of the establishment of the EAC in 1999 by Kenya, Tanzania and Uganda is the anticipated scaling down of military expenditure in the region given that the organization's main objective is the development of policies and programmes aimed at widening and deepening cooperation among partner states in political, economic, social and cultural fields, research and technology, defence, security and legal affairs for the mutual benefits of the three countries.[44]

In the light of the preceding discussion, the following recommendations can be made.

1. There is an ever-present need for Kenya to adopt a well-articulated people-based defence policy. Efforts in this direction should be speeded up.

2. The DOD should embrace modern management techniques to enhance efficiency in the use of the department's allocated resources and budget. This could be achieved by the modernization of equipment and the maintenance of a small but highly effective and efficient force capable of maintaining the equipment and facilities but still able to fulfil its core primary and secondary roles.

3. The Kenyan economy is heavily dependent on agriculture because the manufacturing sector is still in its developing stages. There is, therefore, a need for the security forces to maintain an environment that is more conducive to the progressive development of tourism and an increased in-flow of foreign investment.

4. There is an urgent need for the Treasury to relieve the DOD of the heavy burden of pending bills, especially those incurred as a consequence of the Treasury not issuing funds, as they have a drastic negative effect on the plans for the financial year.

5. As the Treasury makes no separate financial provision for the DOD's peacekeeping missions, there is a need to channel UN reimbursements and other military-related revenue (appropriation in aid, for example) directly to the DOD account without surrendering it to the Treasury.

[43] Republic of Kenya (note 21).

[44] Treaty Establishing the East African Community, 30 Nov. 1999, URL <http://www.eac.int/>, preamble.

6. All personnel who handle the DOD budget at all levels should be professionally trained and retrained in order to minimize audit queries and wastage.

7. It is also important to improve the capacities of oversight institutions, strengthen internal and external control mechanisms, and enhance information dissemination and participation by civil society groups.