CHAPTER 13

PUBLIC FINANCE

1. INTRODUCTION

As part of public finance, the budget allocation process is key to the government's roles of allocation, redistribution of resources, and economic stabilisation. As an emerging economy with a wide gap in the distribution of public goods, South Africa still needs government to play the three roles mentioned above.

The aim of this chapter is to analyse the responses received from both the Provincial Treasury and the National Treasury. Sufficient funds have to be allocated for the achievement of policy priorities set out by the provincial departments and the national departments South Africa uses a budgeting system known as the Medium Term Expenditure Framework (MTEF), which is a three-year budgeting cycle. Like any other budgeting system, the MTEF has to have policy priorities that go with it, and these are articulated in various government programmes.

A report on all the various policy and programmatic measures instituted and legislative measures enacted during the reporting period by the National and Provincial Departments of Finance will be given. An assessment of all the policy, programmatic and legislative measures relevant to the realisation of the economic and social rights will also be undertaken. The assessment exercise should enable the Human Rights Commission (HRC) to determine whether the departments referred to in this chapter have achieved the progressive realisation of economic and social rights, and if not, establish the challenges that could have confronted the government departments. Both domestic and international reports such as the United Nation's Human Development Report, 2002, the Copenhagen Declaration, 1995, and the Report of the Auditor General (on Audit Outcomes for the Year ended 31 March 2001), and/or applicable legislation such as the Public Finance Management Act (PFMA) 1, 1999, will be used to analyse the various Provincial and National Treasuries' reports.

Other sections that are covered in this chapter comprise:

- Budgetary Measures;
- The State's obligation to 'respect, protect, promote and fulfil' the other economic and social rights (other than education, health and welfare);
- Provincial influence on budget allocation,
- The government departments' understanding of available financial resources required for the realisation of economic and social rights; and
- The monitoring of financial resources and its related sections.

2. POLICY AND PROGRAMMATIC MEASURES

None of the Provincial Treasuries, including the National Treasury, instituted policy measures that directly sought to advance the economic and social rights during the reporting period.

3. LEGISLATIVE MEASURES

None of the Provincial Treasuries instituted any legislative measures that sought to advance the economic and social rights during the reporting period.

National Sphere

The National Treasury cited a number of legislative measures taken during the reporting period. However, none of these had a direct bearing on the realisation of the economic and social rights.[1]

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[1] Most of these legislative measures should by law be enacted on a yearly basis to enable the national Treasury allocate the budget to the three spheres of government, i.e., the national, provincial and local. See pages 384 to 388 in Chapter 11 of the HRC's 3rd Economic & Social Rights Report, 1999/2000. The following are some of the legislative measures referred to above:

The Division of Revenue Act, 2001

This Act is passed every financial year; it is part of the budget allocation process. It determines the equitable division of revenue between the three spheres of government, and the horizontal division among provinces, in accordance with section 214 of the Constitution. The importance of the Act lies in it being used as a tool to finance government programmes used as mechanisms to realise the government's policies that seek to progressively realise all the economic and social rights enshrined in the Bill of Rights of the Constitution.

The Appropriation Act, 2001

The Act provides for the appropriation of money out of the National Revenue Fund for the executive's requirements in respect of the financial year ending 31 March 2002. The Act is supported by the 2001 *Estimates of National Expenditure*, which details the spending outcomes and plans of national departments in order to strengthen the accountability of government. These are reflected alongside provincial and local government expenditure in the MTEF. For instance, during the reporting period, an amount of R328 million was appropriated from the National Revenue Fund to local government for the following purposes:

- to help some local municipalities implement the policy on free basic services;
- to fund councilor allowances following the promulgation of new remuneration scales; and
- to offer relief to municipalities that lack sufficient tax capacity to perform basic functions.

4. BUDGETARY MEASURES[2]

Division of Revenue

Table 1 Total Budget allocations for provinces

Name of Province	Year	Total transfer to the province (including conditional grants) R'000	% Allocated for Housing	% Allocated for Food	% Allocated for Water	% Allocated for the Environment	% Allocated for Land
Eastern Cape	1999/2000	16 718 537	-	-	-	-	-
	2000/2001	18 710 610	-	-	-	-	-
	2001/2002	19 823 598	-	-	-	-	-
Free State	1999/2000	6 687 560	-	0.59	-	0.16	-
	2000/2001	7 601 089	2.87	0.52	-	0.41	-
	2001/2002	8 625 771	3.02	0.46	-	0.46	-
KwaZulu-Natal	1999/2000	21 348 020	2.49	0.82	-	-	0.04
	2000/2001	23 651 334	2.75	0.60	-	-	0.05
	2001/2002	26 462 477	2.61	0.58	-	-	0.05
Limpopo	1999/2000	14 621 932	1.88	-	0.02	0.50	-
	2000/2001	15 987 160	2.22	-	0.02	0.45	-
	2001/2002	17 662 618	2.69	0.01	0.01	0.58	-
Mpuma-langa	1999/2000	6 339 975	-	-	-	-	-
	2000/2001	6 858 216	17	-	-	-	-
	2001/2002	9 661 341	30	-	-	9	-
Northern Cape	1999/2000	25 404 28	0.3	0.4	-	0.2	-
	2000/2001	28 583 71	2.9	0.4	-	0.3	-
	2001/2002	32 509 22	2.8	0.4	-	0.3	-
North West	1999/2000	9 216 855	0.7	0.45	-	0.19	0.07
	2000/2001	10 054 603	2.96	0.42	-	0.15	0.04
	2001/2002	10 944 903	2.99	0.40	-	0.18	0.03
Western Cape	1999/2000	11 908 349	0.4	0.3	-	0.5	0.05
	2000/2001	12 604 734	3.2	0.2	-	0.5	0.04
	2001/2002	13 678 161	3.1	0.2	-	0.6	0.05

The (-) dash denotes that the information requested was not made available to the Commission.

The National Treasury made a submission that it augments provincial financial resources from the equitable share through conditional grants. The submission further stated that the grants system was introduced in the Division of Revenue Act of 1998, and that the criteria for the allocation of grants and the allocation of revenue between

[2] The aim of this section is to establish if the financial resources allocated to the rights in the table during the reporting period were sufficient.

provinces are based on concerns of equity, capacity building, and the phasing in of programmes depending on capacity at sub-national government.

The Eastern Cape and Limpopo Treasuries did not respond to the questions posed in this section. The Free State Treasury indicated that it had a difficulty determining whether the financial resources were sufficient to enable it to deliver services for the economic and social rights. It cited the fact that funding for the rights listed in the table comes from national departments. Both the Gauteng and KwaZulu-Natal Treasuries indicated that the financial resources allocated to their treasuries were sufficient to provide adequate service delivery for the economic and social rights listed in the table.

Both the Northern Cape and North West Treasuries reported that their needs exceed the allocated budget. However, the former went even a step further pointing out specifically the areas that need additional financial resources. The rights to have access to sufficient food, adequate housing and the right to environment were but some of the rights that were said to be in need of additional financial resources. Briefly, the following was said on each right:

The right to have access to sufficient food:

Additional financial resources are needed to make some more food gardens part of the feeding scheme programme to assist needy learners in schools.

The right to have access to adequate housing:

Additional funding is needed to provide retail infrastructure in new houses.

The right to environment:

Additional funding is required for the extension and promotion of environmental education. The Work for Water Programme needs additional funding for the eradication of alien vegetation.

The Western Cape Treasury also indicated that the public needs always exceed available financial resources. Despite this, the Western Cape Department of Planning, Local Government and Housing made some headway in addressing the housing backlog during the reporting period. The department spent R341 million of a conditional grant creating 23 505 ‘housing opportunities’. At the time of reporting, a submission was made that the backlog in housing for the poor stood at 316 000 which, according to the department, will not be sufficiently covered by the medium-term funds. However, the department is positive about their strategic housing delivery plan; it is viewed as a tool that has the potential to assist in improving the housing delivery system in the Western Cape.

Budget Analysis[3]

The following graphs show the trends in the budget allocation from the financial year 1999/2000 to 2001/2002. The budget analysis includes the following economic and social rights:

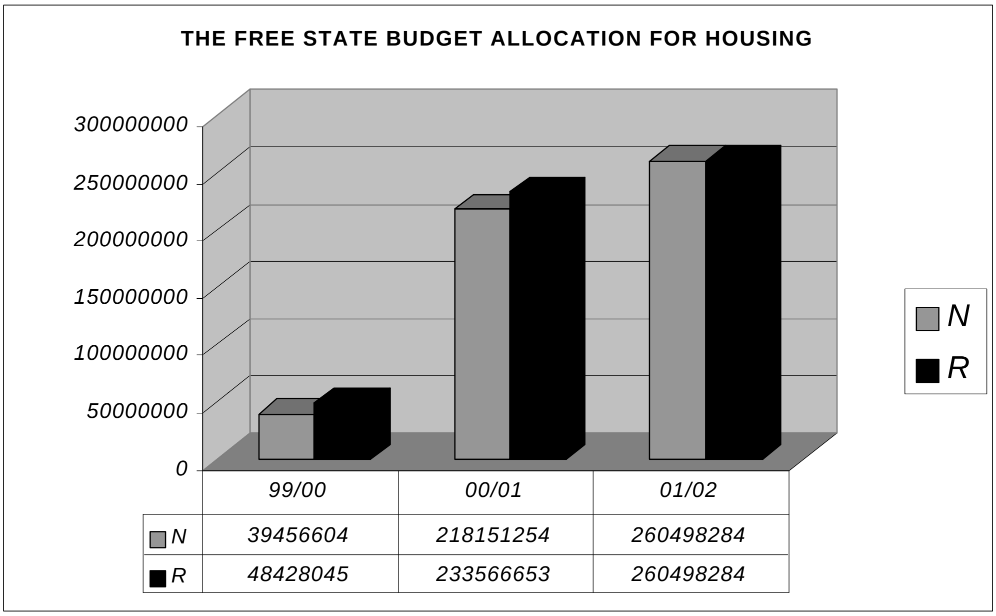
- The right to adequate housing
- The right to of access to sufficient food;
- The right to environment; and
- The right to land.

The budget allocation for the right to water was not analysed as only one provincial department, in Limpopo, filled in the table the required budgetary information. The graphs below show that during the financial years 1999/2000 and 2000/2001 the real value[4] of the budget allocated to the Provincial departments of Housing was higher than the nominal value.[5] However, the graphs show that in the financial year 2001/2002, the real value and the nominal value of the budget allocated to the Provincial departments of Housing were equal. This means that during the financial years 1999/2000 and 2000/2001 the budget allocated to the Provincial Departments of Housing had more buying power than the budget allocated to the same departments in 2001/2002.

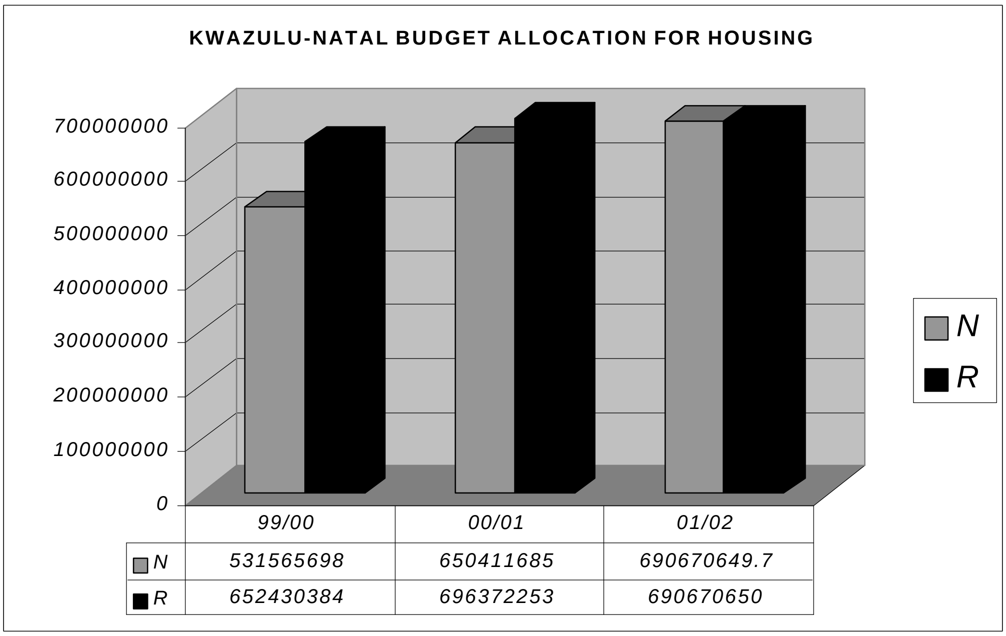
It should be noticed that the same trends prevailed in the same financial years for other economic and social rights. The ideal situation would be the one where the real value exceeds the nominal value of the financial resources allocated to government departments to deliver on the economic and social rights. The financial years 1999/2000 and 2000/2001 show the upward trend in the real value whereas in the financial year 2001/2002 a downward trend in the real value of the financial resources allocated to government departments charged with delivering on the economic and social rights.

[3] The budget analysis only includes those provincial departments that furnished the HRC with the budgetary information it required on each economic and social right.
[4]. Real value refers to the buying power of the financial resources allocated to a department. This is represented by an "R" on the graph.
[5] Nominal value refers to the absolute amount of the financial resources allocated to a department. This is represented by an "N" on the graph.

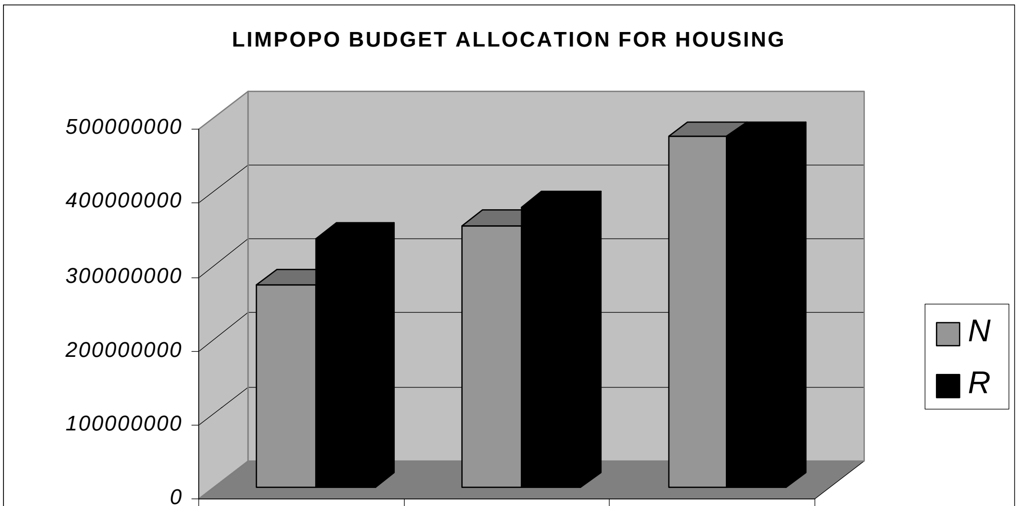
The right to adequate housing



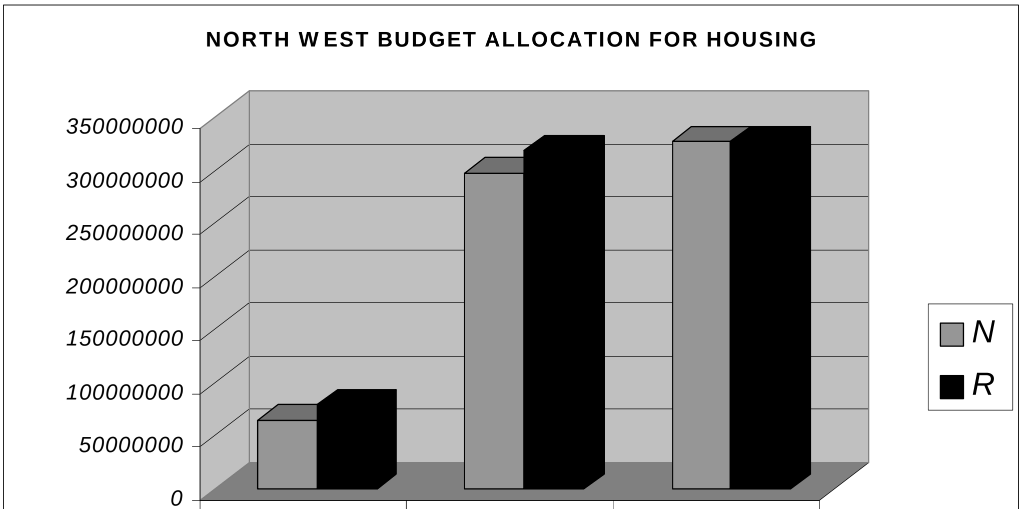
	99/00	00/01	01/02
N	39456604	218151254	260498284
R	48428045	233566653	260498284



	99/00	00/01	01/02
N	531565698	650411685	690670649.7
R	652430384	696372253	690670650

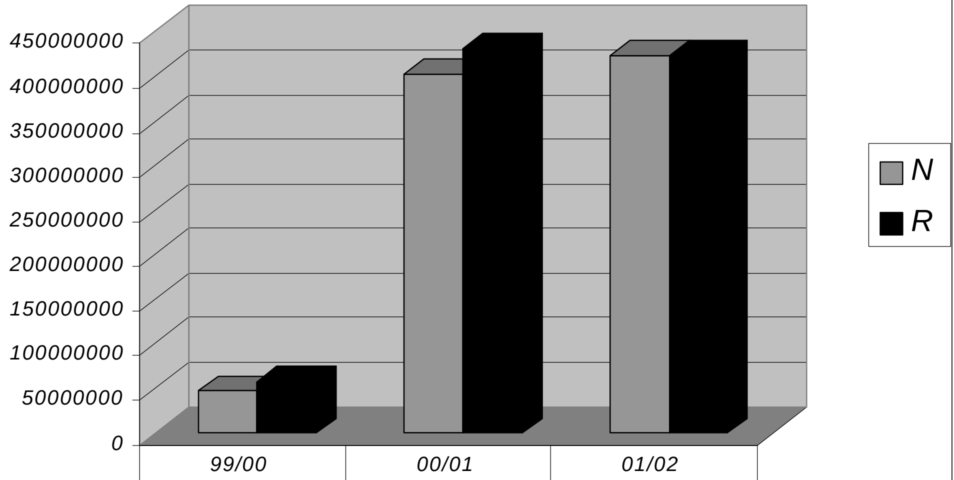


	99/00	00/01	01/02
N	274892322	354914952	475124424
R	337395930	379994595	475124424



	99/00	00/01	01/02
N	64517985	297616249	327252599.7
R	79187754	318646947	327252599.7

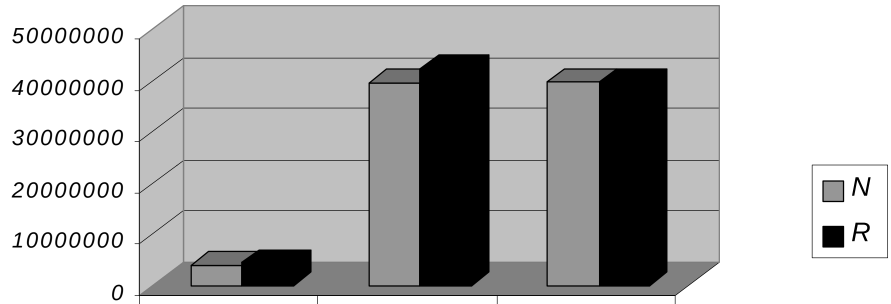
WESTERN CAPE BUDGET ALLOCATION FOR HOUSING



	99/00	00/01	01/02
N	47633396	403351488	424022991
R	58464034	431853841	424022991

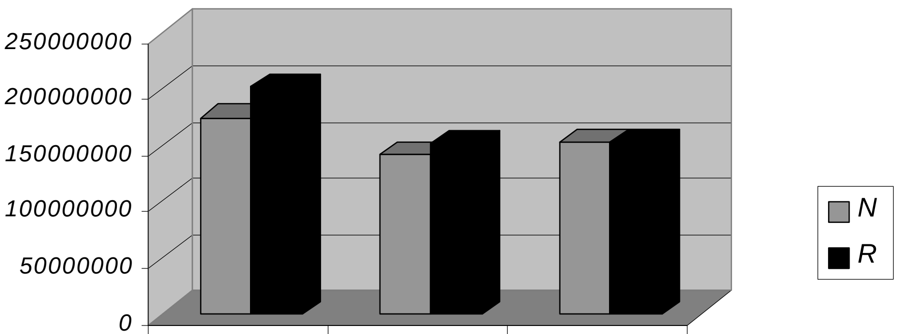
The right of access to sufficient food

THE FREE STATE BUDGET ALLOCATION FOR FOOD

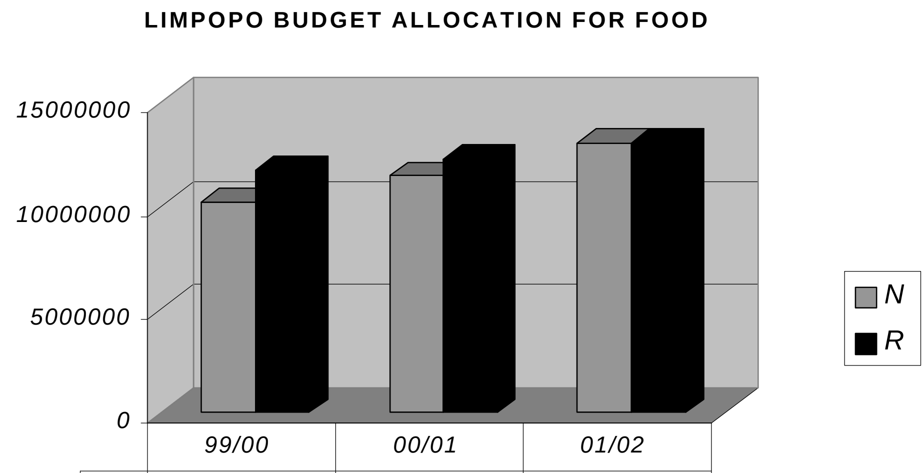


	99/00	00/01	01/02
N	3945660	39525662.8	39678546.6
R	4552236.8	42318696.7	39678546.6

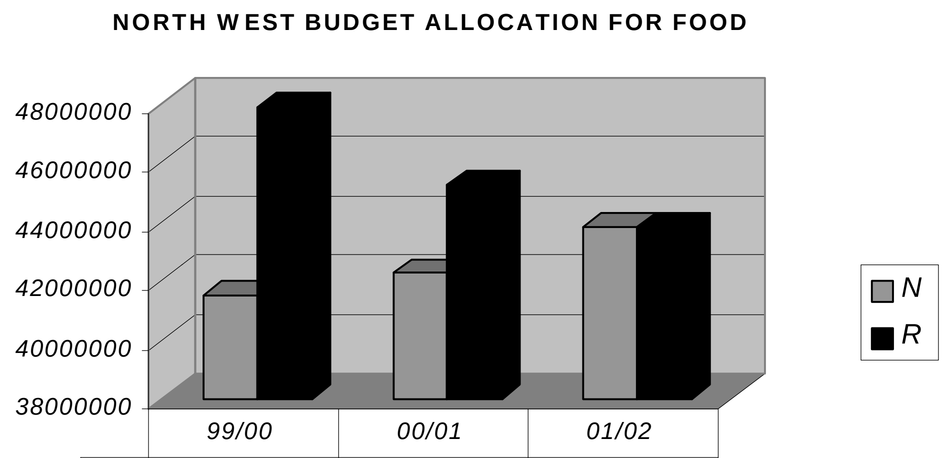
KWAZULU-NATAL BUDGET ALLOCATION FOR FOOD



	99/00	00/01	01/02
N	175053764	141908004	153482366.6
R	201965226	151935764	153482366.6

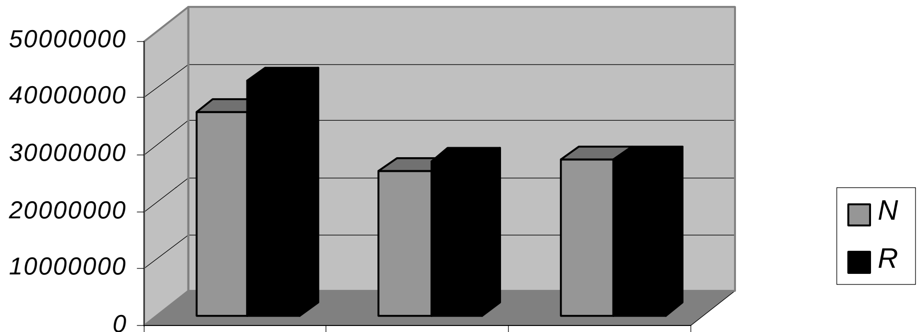


	99/00	00/01	01/02
N	10161712	11433484	13003688
R	11723897.9	12241417.5	13003688



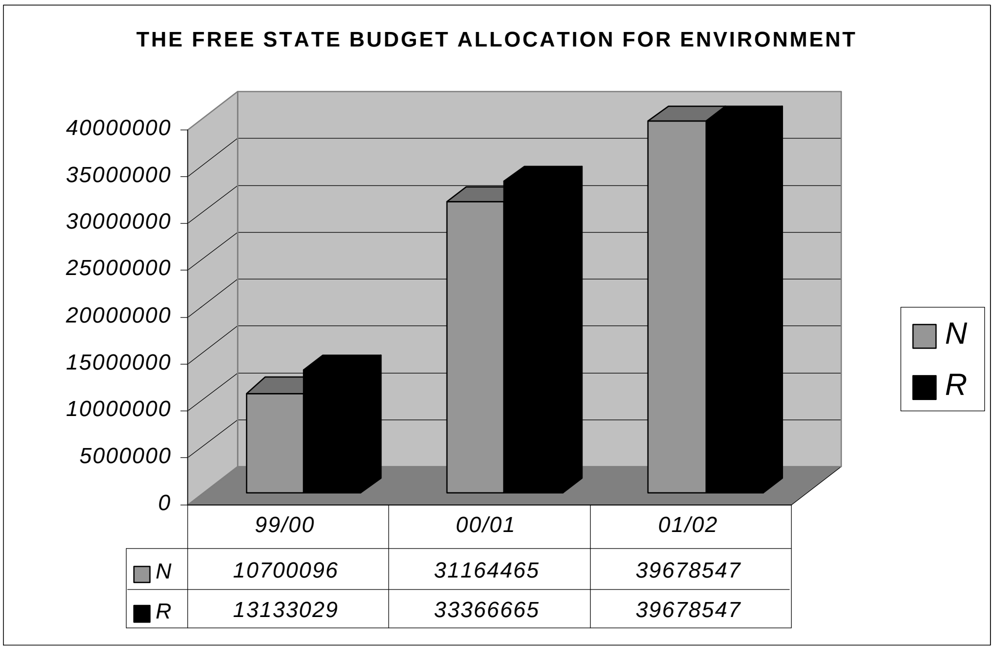
	99/00	00/01	01/02
N	41475847.5	42229332.6	43779612
R	47852035.5	45213418	43779612

WESTERN CAPE BUDGET ALLOCATION FOR FOOD

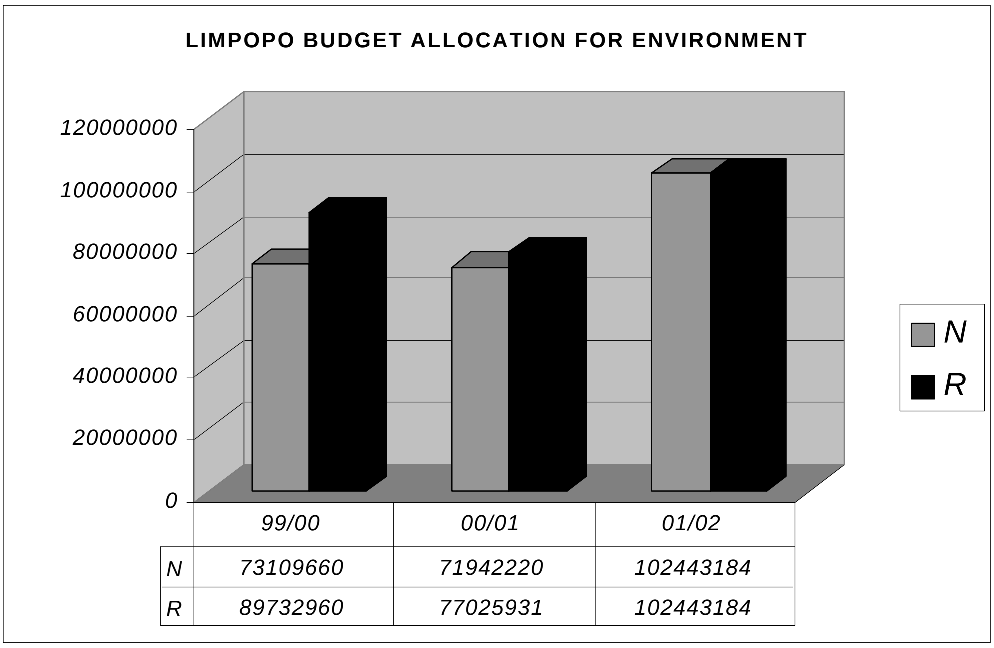


	99/00	00/01	01/02
N	35725047	25209468	27356322
R	41217149.7	26990865	27356322

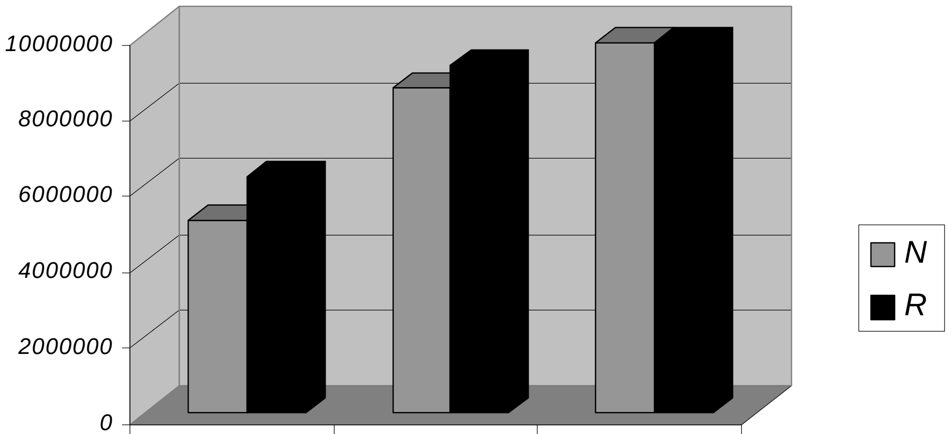
The right to the environment



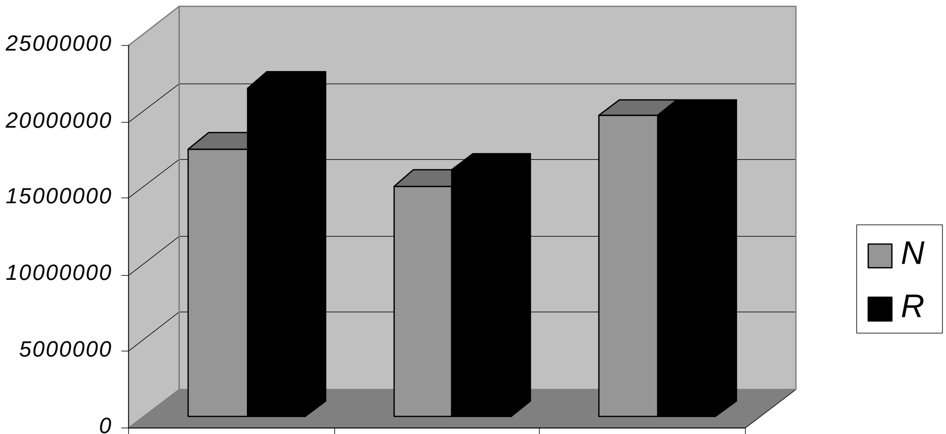
	99/00	00/01	01/02
N	10700096	31164465	39678547
R	13133029	33366665	39678547



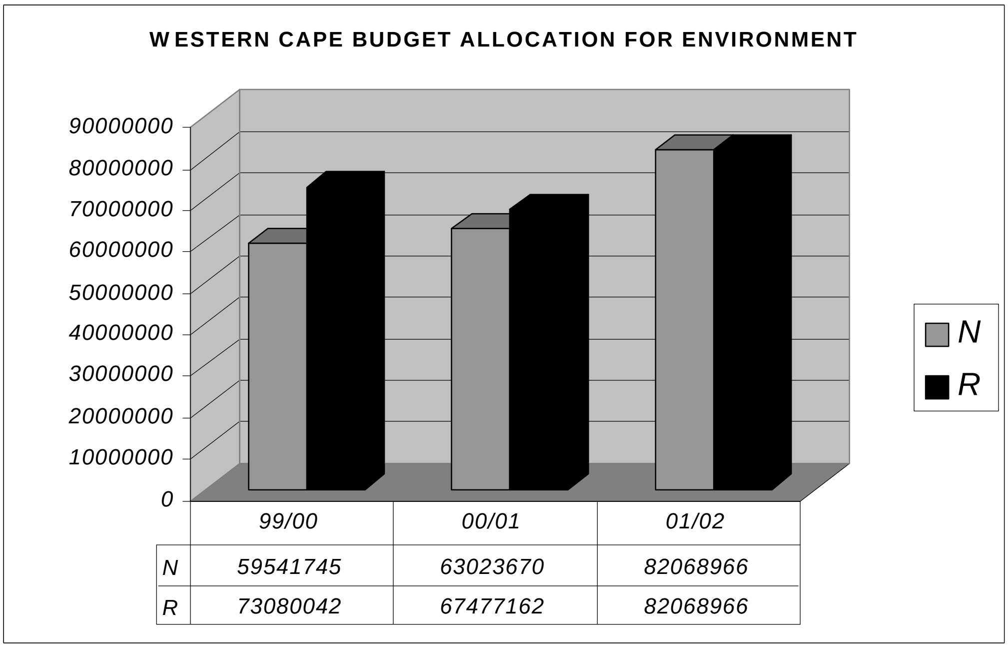
	99/00	00/01	01/02
N	73109660	71942220	102443184
R	89732960	77025931	102443184



	99/00	00/01	01/02
N	5080856	8575113	9752766
R	6236115	9181063	9752766



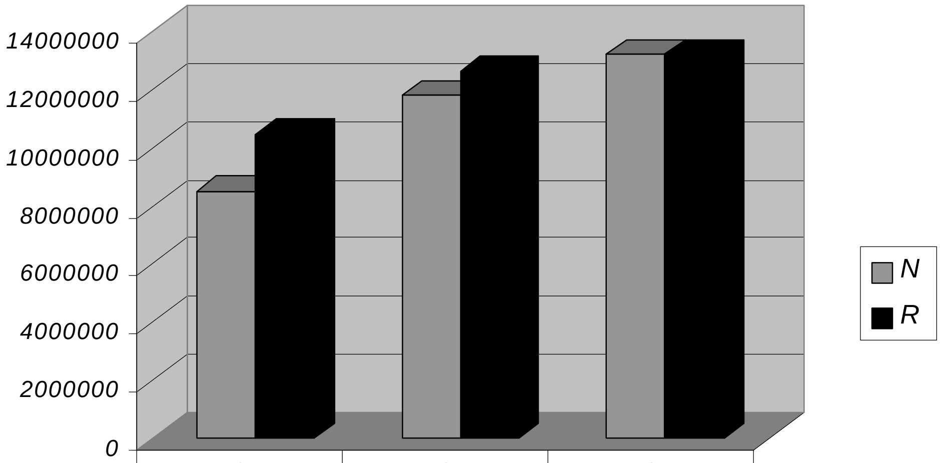
	99/00	00/01	01/02
N	17512025	15081905	19700825
R	21493819	16147649	19700825



	99/00	00/01	01/02
N	59541745	63023670	82068966
R	73080042	67477162	82068966

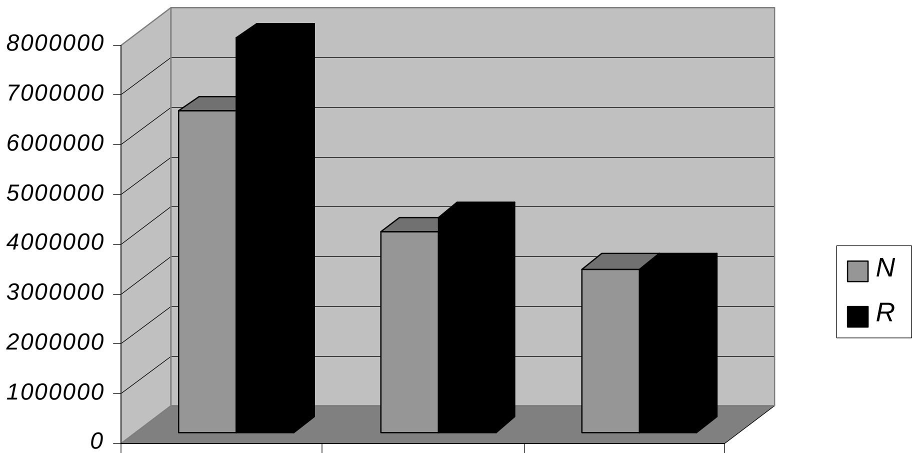
Right to land

KWAZULU-NATAL BUDGET ALLOCATION FOR LAND



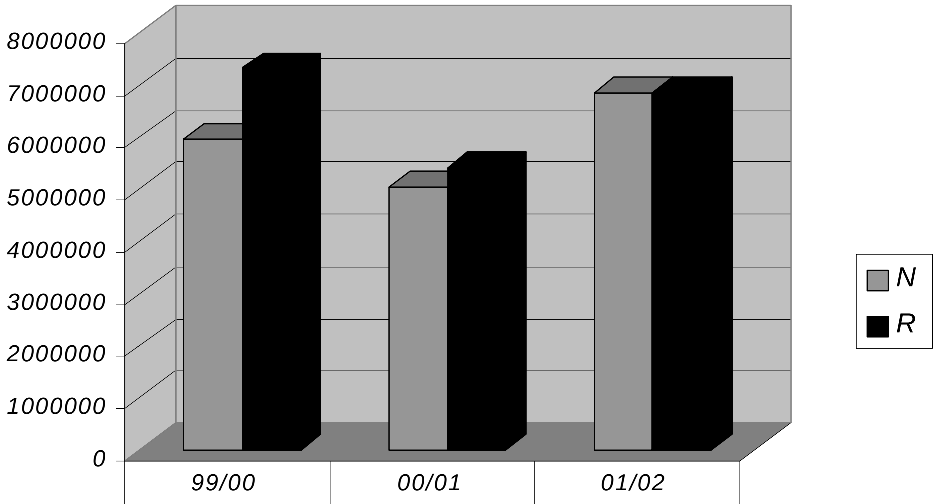
	99/00	00/01	01/02
N	8539208	11825667	13231239
R	10480809	12661314	13231239

NORTH WEST BUDGET ALLOCATION FOR LAND



	99/00	00/01	01/02
N	6451799	4021841	3283470.9
R	7918775	4306039.6	3283470.9

WESTERN CAPE BUDGET ALLOCATION FOR LAND



	99/00	00/01	01/02
N	5954175	5041893.6	6839080.5
R	7308004	5398173	6839080.5

5. CONSTITUTIONAL OBLIGATIONS[6]

National Sphere

The National Treasury referred to section 214 (a) to (j)[7] of the Constitution as the section that helps it ensure that during the budget allocation process it respects, protects, promotes and fulfils the other economic and social rights (besides education, health and welfare).

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[6] The question posed here intended to find out if the Departments of Finance took into account the obligations to 'respect, protect, promote and fulfil' the other economic and social rights (other than education, health and welfare) during the division of revenue.

According to the United Nations Committee on Economic, Social and Cultural Rights *Report on the Twentieth and Twenty-First Sessions* (26 April –14 May 1999, 15 November – 3 December 1999), the constitutional obligations mean the following:

The obligation to respect requires states parties to avoid measures that hinder or prevent the enjoyment of a right. The obligation to protect requires states parties to take measures that prevent third parties from interfering with the enjoyment of a right. The obligation to fulfil (facilitate) requires states parties to take positive measures that enable and assist individuals and communities to enjoy a right. Finally, states parties have an obligation to fulfil (provide) a specific right. As a general rule, states parties are obliged to fulfil (provide) a specific right in the Covenant when an individual or group is unable, for reasons beyond their control, to realise the right themselves by the means at their disposal.

In "*A Compilation of Essential Documents on the Right to Education*", Economic and Social Rights Series, Volume 2, Mashamba defines the obligation to promote in the following manner:

This duty requires that the state actively inform people of their right to education and explain how they can gain access to this right. This duty is related to the whole idea of bringing human rights the people. It would include activities such as workshops, seminars, and publications in the written media and other medium, such as radio and television.

[7] This section of the Constitution requires that an annual Act of Parliament, the Division of Revenue, determine the equitable division of nationally raised revenue between the three spheres of government, and the horizontal division of revenue among provinces. It also spells out the criteria for determining the division of revenue and consultations necessary before enactment of Division of Revenue Bill. The criteria that are spelt out in section 214 of the Constitution are made up of the following matters:

(a) the national interest ;
(b) any provision that must be in respect of the national debt and other national obligations;
(c) the needs and interests of the national government, determined by objective criteria;
(d) the need to ensure that the provinces and municipalities are able to provide basic services and perform the functions allocated to them;
(e) the fiscal capacity and efficiency of the provinces and municipalities;
(f) developmental and other needs of provinces, local government and municipalities;
(g) economic disparities within and among provinces;
(h) obligations of the provinces and municipalities in terms of national legislation;
(i) the desirability of stable and predictable allocations of revenue shares; and
(j) the need for flexibility in responding to emergencies or other temporary needs, and other factors based on similar objective criteria.

Provincial Sphere

The Eastern Cape Treasury cited the following programmes as indications that it respects, protects, promotes and fulfils the rights other than education, health and welfare:

- Integrated Rural Development (with specific attention devoted to infrastructure development);
- Food production and food security;
- Capacity-building at the local level of government; and
- Transformation and development of the public service (to ensure effective and efficient financial management in the sector).

The Limpopo Treasury reported that one of its programmes is aimed at reducing poverty and unemployment levels and improve economy growth. The Mpumalanga Treasury made a submission that funds are also allocated to other areas such as road construction and maintenance.

The Northern Cape Treasury had its expenditure prioritised for infrastructure backlogs: maintenance, rehabilitation and expansion to 'stimulate economic growth. Other sectors that were also prioritised included Public Order and Safety (allocated 1,0 percent of budget); Economic Affairs (allocated 7,6 percent of budget); Housing and Community Amenities (allocated 4,4 percent of budget); and Recreation, Culture and Religion (allocated 0,9 percent of budget).

In the case of the North West Treasury the Provincial Executive Committee (PEC) identified five priorities two of which have to do with the 'development of infrastructure (social and economic) and job creation.' It was reported that an amount of R250 million per annum, was 'topsliced for the reporting period to address infrastructure' backlogs. Furthermore, the province implemented a rural development programme to address unemployment in the rural areas.

Other initiatives included the upliftment of the SMME sector. Two Community Entrepreneurial Support Centres were established to help promote budding entrepreneurs.
Housing was one sector that was given attention as well, during the reporting period. In 2000/2001 the housing sector was allocated R265 million and R277 million in 2001/2002.

The Gauteng Treasury designed programmes to deal with HIV/AIDS, environmental issues, poverty and unemployment. Other programmes that have been implemented during the reporting period comprise the Alexandra Urban Renewal Strategy, Expanded HIV/AIDS Campaign, *Zivuseni*, Elimination of backlogs of Water and Sanitation Services and Air and Water Pollution Control.

The new Western Cape Cabinet set up a Strategic Framework for Policy Formulation in December 2001, which forms the basis for resources allocation. According to the Provincial Treasury, the 2002 budget seeks, within the above-mentioned framework, to promote people-oriented service delivery. The following are some of the areas that the framework seeks to address:

- HIV/AIDS: To fight HIV/AIDS and other diseases in a co-ordinated and comprehensive manner which includes the provision of anti-retroviral drugs, lifestyle intervention and sustained action against poverty;
- To develop the capacity of local government to ensure the rapid and comprehensive implementation of Integrated Development Programmes (IDPs) and free basic services;
- To stimulate economic growth – both in the traditional and emerging sectors – with appropriate infrastructure development, and to the benefit of all through, amongst others, procurement reform;
- To focus on agriculture and tourism towards rural development so that all inhabitants can live harmoniously and in safety;
- To promote policies which maintain a healthy balance between protecting the environment and developing the economy;
- To contain and eradicate crime through good intergovernmental co-operation so that the Western Cape can be a safe and secure home, especially for its own women and children; and
- To nurture diversity and promote various cultures, religions and languages to become the source of our unity and strength.

The KwaZulu-Natal Cabinet developed a policy framework that it uses as a tool to analyse and assess the 2002/2003 provincial budget proposals, and particularly requests submitted by various provincial departments for additional funding for the 2002/2003 – 2004/2005 MTEF years.

In determining the policy priorities for the 2002/2003 MTEF budget, the Provincial Cabinet identified the following six strategic policy priorities:

- Reducing poverty and inequality;
- Addressing the impact of HIV/AIDS;
- Re-engineering service delivery in government
- Investing in infrastructure;
- Strengthening governance; and
- Human capability development.

In support of the above policy priorities, some provincial departments were given additional funding. The Department of the Premier, for example, was allocated additional funding in the amounts of R13, 6 million, R11, 32 million and R11, 6 million over the MTEF period. Amongst other things, the department would capacitate a specific programme to promote human rights in the province. The programme would focus on youth, gender and disability- related issues.

The Department of Economic Development has secured additional funding for empowerment, capacity-building and job creation projects. The Department of Agriculture allocated additional funding specifically to promote food security and emerging farmers and farmers' settlement campaigns whilst the Department of Traditional and Local Government Affairs was allocated additional funding to improve administrative facilities for traditional leaders.

6. PROVINCIAL INFLUENCE ON BUDGET ALLOCATION

The Eastern Cape Treasury reported that it advises the Budget Council[8] and that four of the PEC members form the Cabinet Budget Committee. This Committee gives political guidance to the budgeting process, holds budgeting hearings and budget achievability meetings with other departments.

The Free State Treasury reported that it advises the Budget Council and Budget Forum[9] through the Technical Committee on Finance. The response further said that the department puts a particular emphasis on ensuring that constitutional obligations with respect to economic and social rights, are adequately catered for by ensuring:

- the continuation of a formula-driven revenue-sharing as well as formula-driven rather than discretionary grants;
- a transparent process for setting grants;
- avoidance of bailouts resulting from ineffective management of resources that could negatively impact on basic service delivery in or between provinces and other spheres of government;
- that new policy announcements, are as far as possible, based on costed norms and standards that takes into account the reality of differing demographic features of provinces; and
- that constitutional principles and legal mandates are strictly adhered to in respect of intergovernmental fiscal relations.

Gauteng Treasury emphasized the point that provincial priorities are determined at a political level by the PEC, which consequently influences budget allocation. Gauteng Treasury made the point that it performs the advisory role to the Member of Executive Committee (MEC) for Finance and Economic Affairs. The MEC is a member of the Technical Committee for Finance that also forms part of the Budget Council.

The KwaZulu-Natal Treasury engages with the Budget Council and Budget Forum through the Office of the MEC for Finance and Economic Affairs. The Treasury plays a technical and advisory role to the MEC assisting with the preparation of input to national forums on issues related to horizontal and vertical division of revenue. The Treasury asserts that it had tremendous influence, through the Budget Council, on the adjustment of the social welfare component from 17 percent to 18 percent. Another prominent player in the budget allocation process this used, was the Technical Committee to which regular inputs on issues such as HIV/AIDS, cholera and malaria were made.
According to the KZN Provincial Treasury, these inputs have been premised precisely on the need to reprioritise the State's constitutional obligations with respect to basic social rights in the field of social security and health care. Limpopo reported that it advises the Provincial Medium Term Expenditure Committee (PMTEC) and Budget Council. It was further reported that the prioritization of the economic and social

[8] This body was established by the Fiscal Relations Act 97, 1997 as a consultative intergovernmental forum representing the provincial sphere of government in the budget allocation process.
[9] This body was established by the Fiscal Relations Act 97, 1997 as a consultative intergovernmental forum representing the local sphere of government in the budget allocation process

rights is, in most cases, based on the PGDS. Mpumalanga reported that the PMTEC submits its recommendations to the PEC.

The Northern Cape Treasury reported that the Budget Council considers the departmental MTEF budgets and the PMTEC -consisting mainly of National Treasury officials and the MEC: Finance, discuss departmental inputs enabling the MEC to compile recommendations to the PEC. The PEC then thoroughly debates the inputs and decides on allocations.

The accounting officer of each department, together with finance staff and programme managers, appear before the Provincial Budget Council when their departmental inputs are discussed. The evaluation and recommendations of the Provincial Budget Council and the PMTEC are based on the MTEF budgets as submitted by the departments to the Provincial Treasury including an indication of the consequences of the indicative MTEF allocations. The final allocations to each department are determined after a thorough process led by the executive political office-bearers to ensure government's policy choices are indeed addressed.

The North West Treasury reported that it advises the Budget Council which is supported by a Technical Committtee on Finance. The Technical Committee on Finance formulates and analyses policy to ensure that top government priorities receive first preference in the division of revenue. The Budget Council's recommendations are taken into consideration during the division of revenue.

The Western Cape Treasury reported that the MEC for Finance, in his capacity as the Head of Treasury, is a member of the Budget Council and Budget Forum. The MEC for Finance participates actively in the above-mentioned forums to reach agreements on spending priorities, the vertical division of revenue, the horizontal division of revenue, adjustments to the equitable share formula after taking due cognisance of inputs from the Technical Committee on Finance as well as in the recommendations of the Financial and Fiscal Commission (FFC). The inputs are based on government's policy directions, findings from research, socio-economic indicators, spending trends, sectoral analysis, affordability and the macro-economic environment.

7. DEPARTMENT'S UNDERSTANDING OF AVAILABLE FINANCIAL RESOURCES REQUIRED FOR THE REALISATION OF ECONOMIC AND SOCIAL RIGHTS

National Sphere

According to the National Treasury, budgeting within the MTEF requires that the level of available resources, or the 'resources envelope for available expenditure', be determined by sustainable, consistent macro-economic and fiscal policies. The response further elaborated that the government's aggregate revenue, borrowing and spending plans have an important impact on the macro-economy, and contributes to the wider policy framework for growth and social development. However, the National Treasury is satisfied with the limited financial resources made available to the provinces during the course of the annual division of revenue. The National Treasury further advised that maximum funding is being made available to the provincial departments mandated to address basic economic and social rights as an integral part of their core functions.

Provincial Sphere

The Eastern Cape Treasury reported that the economic and social rights inform the division of revenue. Further, the distribution of resources is mainly guided by the number of the province's population, which was estimated at 6,7 million in 1999 based on the 1996 population census.

The Free State Treasury reported that it finds it difficult to cost the full realisation of economic and social rights that should inform the division of revenue. Its response further explained that policy is often announced without proper pre-planning around the following areas:

- Envisaged minimum norms and standards;
- Infrastructure and services backlog between provinces;
- Phasing in of policy measures with costed service delivery targets for each phase of implementation;
- Agreed service levels necessary for each expenditure programme executed in reaching the envisaged service delivery goal;
- Unavoidable trade-off between policy options, emanating from the reality of a given fiscal envelop; and
- A simple and generally acceptable yardstick for measurement, and accountability for meeting declared service standards.

However, the Free State Treasury ensures that each department costs its mandated functions so that they are able to establish the actual cost of the services to be executed. According to the Free State Treasury's report, this exercise helps the department to ensure that the actual cost of the mandated services are reflected in the Treasury's budget inputs.

The KwaZulu-Natal Treasury reported that it has a very clear understanding of the limited financial resources available to address the spectrum of economic and social rights enshrined in the Bill of Rights. The Limpopo Treasury reported that all the provincial departments are allocated financial resources equally, however, needs always exceed financial resources. The Mpumalanga Treasury understood 'department's available resources', as resources that are available within a financial year and must be prioritised for service delivery.

The Northern Cape Treasury reported that revenue sharing is informed by the constitutional assignment of revenue-raising and expenditure responsibility. Its response further said that the province has significant requirements that exceed the available revenue resources. The following were cited as areas that cause increased budgetary pressures: HIV/AIDS; Child Support Grant (CSG); the need to increase infrastructure spending, including maintenance backlogs to enhance job creation; and poverty alleviation. The North West Treasury reported that the division of revenue is informed by provincial priorities. It said that funds are available in line with provincial priorities.

The Western Cape Treasury reported that the Provincial Fiscal Policy 2002-2005 does not only describe funding possibilities available to the province, but also contain the Sequential Priority Framework that influences the budget allocations. The Treasury further reported that its budget aims to be pro-growth (anti-poverty), disparity and vulnerability-reducing, in line with both the provincial and national governments' objectives.

8. MONITORING

National Sphere

The National Treasury reported that it is using the In-Year Monthly (IYM) reporting system as a requirement of section 32 of the PFMA[10] since 1 April 2000. The specified formats for monthly reporting require managers to indicate and explain variances between the actual result for the period and that budgeted, and a revised projection of expenditure to the end of the financial year.

Provincial Sphere

The Eastern Cape Treasury reported that the Early Warning System was introduced to help them monitor and assess the utilisation of funds allocated to provincial departments responsible for the realisation of the economic and social rights.

The Free Sate reported that monthly expenditure reports are published for all departments. These reports show levels of expenditure against budgeted expenditure as well as projected full-year expenditure investment returns on all expenditure programmes, including infrastructure and conditional grants. The response further explained that the monthly expenditure reports are also tabled in the PEC and distributed to all members of the Provincial Legislature so that they can measure expenditures against output delivered.

The Gauteng Treasury reported that its involvement in the monitoring and assessment of the utilisation of funds is at the macro-level. Provincial departments are asked to submit their monthly reports to Provincial Treasury. The Provincial Treasury reviews and consolidates these reports and then forwards them to the National Treasury. The Provincial Legislature receives the quarterly reports. In addition to the reports already mentioned, the department has to submit Annual Reports to the Legislature at the end of each financial year.

The KwaZulu-Natal Treasury reported that it has a Budget Monitoring and Evaluation component in the Budget Office with the specific task of monitoring and evaluating

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[10] This section of the PFMA focuses on the publishing of reports on the state of the budget Section 32 (1) provides that within 30 days after the end of each month, the National Treasury must publish in the national Government Gazette a statement of actual revenue and expenditure with regard to the National Revenue Fund.
(2) After the end of a prescribed period, but at least quarterly, every provincial treasury must submit to the National Treasury a statement of revenue and expenditure with regard to the Revenue Fund for which that treasury is responsible, for publication in the national *Government Gazette* within 30 days after the end of each prescribed period.

departmental expenditure, including the utilisation of funds allocated to the realisation of human rights.

The mechanisms used by the Treasury include the preparation of a monthly departmental budget evaluation report. This report is compiled on the basis of information submitted by provincial departments. In these reports major cash flow projections and actual expenditure are analysed and explained, be they under or over-expenditure of allocated funds. This information is then aggregated into an Early Warning System report and submitted to the National Treasury on a monthly basis.

Quarterly bi-lateral meetings are also held between the Provincial Treasury and provincial departments to analyse and discuss expenditure and revenue trends. As part of the annual budget preparation and allocation process, the Provincial Treasury meets with individual departments in the months of September and October to assess and analyse budget proposals and requests for additional funding. This process culminates in the publication of the Annual Budget Statements in which departments report on their achievements and plans in respect of their core functions. The Budget Statements are in turn subjected to scrutiny of the relevant portfolio committees in the Provincial Legislature as part of parliamentary oversight function.

In the review period, the Provincial Treasury has also co-ordinated the implementation of a performance budgeting and reporting system in provincial departments. *Inter alia*, the aim of the performance budgeting is to measure and report on the effectiveness of service delivery in meeting the provincial government's responsibilities in the area of economic and social rights.

The Provincial Treasury also reported that it has developed a management tool (a monthly management reporting format) to assist accounting officers of provincial departments in meeting their financial management and reporting responsibilities in terms of the PFMA. The reporting tool provides information on both qualitative and quantitative aspects and includes information on general ledger reporting, risk management and service delivery indicators.

The Limpopo Treasury reported that its main mechanism is the Early Warning System (monthly expenditure report). For grants, it uses monthly conditional grants expenditure reports. The Mpumalanga Treasury uses the Early Warning Reports as well. The Northern Cape Treasury reported it has an IYM and early warning system and an on-going analysis of expenditure trends.

The North West Treasury reported that provincial departments prepare activity/performance reports for the various portfolio committees. Its response further explained that the role of the National Treasury is to assess whether these reports are in line with the strategic plans of departments and also whether funds are used for the purpose for which they are requested.

The Western Cape Treasury reported that it uses section 40 (4) (c) of the PFMA[11] as a mechanism that monitors and assesses the utilisation of funds allocated to various

[11] Section 40 (4) (c) of the PFMA stipulates that the accounting officer of a department must, within 15 days of the end of each month submit to the relevant treasury and the executive authority responsible for that department-

government departments responsible for the realisation of economic and social rights. The Treasury advised that, for this purpose, the Provincial Treasury utilises the IYM, which is prescribed by the National Treasury.

The response further clarified that after executive authorities and accounting officers approve of their provincial departments' monthly IYM- reports on actual and projected expenditure and revenue, the reports are submitted to the Provincial Treasury. In turn the reports are submitted to the National Treasury by the 22nd of the month.

Reporting does not only end with the financial resources that are allocated as part of the equitable share, it extends to grants as well as per the Annual Division of Revenue Act, and as part of the IYM-report. Departments have to report on the cash received from national department, actual and projected expenditure, compliance with conditions and funds delayed. Virement[12] that results in increases in personnel expenditure and transfer payment to other institutions, as well as the introduction of new transfers, are subject to National Treasury approval.

The Western Cape Treasury reported that, in terms of the PFMA the Provincial Treasury must prepare a provincial budget, exercise control and ensure that its fiscal policy does not prejudice national economic policy. Given the provincial strategic goals, departments were asked (for the 2002/2003 financial year) to formulate explanatory documents and develop service delivery key measurable objectives (KMOs) that take into account existing planning documents, develop service delivery programmes, set service delivery indicators, identify monitoring and reporting requirements, categorise spending plans with respect to the new Cabinet goals, and take cognisance of sectoral provincial policies.

To assist accounting officers in compiling their KMOs, the Provincial Treasury prepared a generic format for strategic plans. Departments were requested to develop minimum service level indicators, adequate performance measures and indicators, monitoring and reporting mechanisms, benchmarks and linkages to the desired outcomes.

Departments will also have to monitor their own performance on an-ongoing basis against the objectives set in the provincial budget 2002/2003 and their own departmental strategic plans. In turn the Provincial Treasury will monitor progress during 2002/2003. At the end of 2002/2003 all provincial departments will compile annual reports. According to the Western Cape Treasury, despite the progress made, much remains to be done to further develop and improve measurable service delivery objectives, to effectively link these with set strategic objectives, sectoral policies and actual requirements to enhance and measure service delivery. A new approach has

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i) the information for that month
ii) a projection of expected expenditure and revenue collection for the remainder of the current financial year; and
iii) when necessary, an explanation of any material variances and a summary of the steps that are taken to ensure that the projected expenditure and revenue remain within budget.

[12] The transfer of resources between different programmes within the same department vote during the financial year. In terms of section 43.2 of the PFMA not more than 8 per cent of what was originally budgeted for a programme may be moved to another in the same vote.

thus already started during 2001/2002 for 2002/2003 to further transform budgeting and its evolution.

The Effectiveness of Monitoring Mechanisms[13]

Given the fact that the other monthly IYM and reporting systems, were recently introduced the National Treasury reported that the system is to be reviewed. The Eastern Cape Treasury reported it does not use any mechanism or mechanisms to assess the effectiveness of the Early Warning System which it said it uses as a tool to monitor and assess the utilisation of funds allocated to various government departments.

The Free State Treasury reported that it executes quarterly budget credibility exercises together with the National Treasury to ensure that methods of tracking delivery are adequate and that observed expenditure trends reflect the policy priorities of the provincial government.

The KwaZulu-Natal Treasury reported that the effectiveness of the various mechanisms used by the Provincial Treasury to monitor the utilisation of financial resources by departments is regularly reviewed and refinements are made when necessary. Examples are the introduction of the monthly management reporting pack, introduced on the Provincial Treasury's own initiative. The Annual Departmental Budget Review Hearings have also been restructured to provide for a more detailed assessment and scrutiny of the effectiveness of service delivery in the various provincial departments.

The Limpopo Treasury only reported on the conditional grants' assessment mechanisms. It said that conditional grants are no longer rolled over but are spent within a financial year. So, that in itself is a mechanism that assesses the use of conditional grants. Mpumalanga reported that it relies on the monthly monitoring of the expenditure by the PEC as a mechanism that assesses its expenditure.

The Northern Cape Treasury reported that expenditure is monthly-controlled; expenditure trends are analysed to ensure that funds are utilised for the programmes/ activities they were budgeted for. North West reported that the effectiveness of the mechanisms is assessed by the cabinet committees appointed by the Premier. The Western Cape reported that the assessment of the reporting mechanisms centers around the ability to, *inter alia*, identify:

- Under-spending per programme, resulting in request for roll-over of funds to the following financial years, in advance;
- Over-expenditure (projected or actual), with possible remedial steps that are to be implemented to curb such over-expenditure;
- Shifts between programmes;
- Expenditure trends per programme; and
- Spending on programmes related to the provincial government.

[13] Gauteng did not respond to the question.

Difficulties with Monitoring of Funds at Departmental Level

National Sphere

The National Treasury reported that the system does not necessarily monitor the effectiveness of expenditure in terms of the realisation of economic and social rights. It was said that rather, the system monitors deviations of actual expenditure to budgeted expenditure by programme on a monthly basis, and departments are required to explain the deviations that occur

Provincial Sphere[14]

The Eastern Cape Treasury reported that it experienced problems since it depends on the provincial departments' reports. The Free Sate Treasury reported that it has not yet experienced serious difficulties during the reporting period regarding the monitoring of funds. However, the Free State Treasury referred to bottlenecks in the areas of infrastructure investment (which is one of the vehicles used to create jobs and thus contribute to economic growth). In particular, it referred to the slow pace at which both the national and provincial grants were being spent.

The response further said that the Free State Treasury, in collaboration with the National Treasury, has embarked on the process of reviewing and assessing the public infrastructure delivery mechanisms in the province to address the problems of roll-overs and under-spending in the two areas already referred to in the preceding paragraph.

The KwaZulu-Natal Treasury cited the poverty alleviation programmes and projects as areas of difficulty regarding the utilisation of funds during the review period. The lack of clearly identifying some of the sub-programmes made it difficult for people charged with the responsibility of implementing these, as they could not be ring-fenced. Consequently, reporting and monitoring progress on this area became 'problematic'. The following were cited as the causes of the said difficulties:

- The absence of measurable objectives, clearly defined targets, performance targets and performance measures;
- Poor reporting, monitoring and evaluation standards and protocols in some instances;
- The absence of accurate, consolidated data on poverty relief projects and results; and
- The lack of project management capacity in departments.

However, it was mentioned in the response that both the Provincial Treasury and line departments were addressing these challenges in a 'systematic way'. It was further mentioned that the introduction of the Cabinet Cluster should assist greatly in eliminating the monitoring difficulties.

[14] Gauteng did not respond to this question.

The Limpopo Treasury reported that it experienced the following difficulties in monitoring the utilisation of funds:

- Late awarding of tenders delay the rolling-out of conditional grants projects.
- The long distance between the Head Office and the location of projects make frequent project sites visits difficult.

The Northern Cape Treasury reported that it did not experience any difficulties in as far as the utilisation of funds was concerned. The North West Treasury reported that some provincial departments utilised funds for other things other than what they were initially intended for. Another problem cited was under-spending, mainly on capital projects. This consequently delayed infrastructure development.

The Western Cape Treasury reported the following difficulties it experienced during the reporting period in the area of monitoring the utilisation of funds:

- Greater emphasis placed on quantitative monitoring and less on qualitative monitoring;
- Lack of capacity with the emphasis on analytical and interpretive skills within the Provincial Treasury;
- The prescribed tight reporting time-frames that do not allow for qualitative analysis of expenditure;
- Key measurable objectives which are only a requirement in strategic plans/ budgets with effect from 2003/ 2004; and
- Service delivery indicators, more especially in the social sector require further development.

8. CRITIQUE

Budgetary Measures

The Free State Treasury’s response that it is not in a position to determine whether the funds allocated for the realisation of the economic and social rights are sufficient is inappropriate. Regardless of the reasons given by the Free State Treasury, it is a fact that public needs will always exceed government revenue. However, departments are expected to respond to the question relating their responses to the MTEF giving an idea of their achievements as well as financial and other challenges. The fact that the allocation of budget in the form of the equitable share and conditional grants, comes from the national sphere of government through the process of vertical division of revenue.

There are constitutional structures that were established to perform a variety of roles in as far as the budgetary and financial-related matters are concerned. To mention but a few, the FFC[15], the Budget Council, the Budget Forum and others, all contribute to the allocation of budget to the three spheres of government. All the departments are

[15] Section 220 of the Constitution provides for the establishment of the FFC, which is an independent technical advisory body whose role is to ensure that an effective, equitable and sustainable system of intergovernmental fiscal relations is created and maintained.

represented in the processes that lead to the final stage of the budget allocation process. For any department to say that it is not in a position to determine whether it was allocated sufficient financial resources is inappropriate. Each department should be in a position to point out where it feels it is lacking as well as where it has made some headway. This is important, as it is noticeable that more often than not, each financial year the nominal value of the financial resources allocated to departments increases.

Whilst it is understood that the government budget allocation process is a process that seeks to achieve a rational allocation of financial resources, the MTEF as a budgeting tool does somehow assist government departments to at least establish whether the financial resources allocated to them in the beginning of each financial year are sufficient to enable them to meet the targets they set themselves before the beginning of the financial year. It is common knowledge as well, that government cannot meet all the needs of the people in one financial year, hence the economic and social rights have to be progressively realised within the available resources.

Amongst other things, the PFMA provides for departments to have strategic planning as part of an informed distribution of public finance to help them achieve, amongst many other goals, the progressive realisation of economic and social rights. This as well, involves a number of stakeholders such as Provincial Legislatures since they assess the provincial departments' proposed programmes and funding which in turn assist departments in prioritising policy objectives.

> Strategic planning cannot be developed in isolation but should rather be the result of thorough consultation with all relevant stakeholders. The reporting cycle begins with the strategic plan of the department. During the strategic planning process, strategic objectives must be determined which must be in line with the vision of the department. These objectives are reflected in the annual budgets and the performance of the department will be measured against these set objectives.[16]

Constitutional obligations

Despite the effort some of the Provincial Departments of Finance made to demonstrate their observance of the constitutional obligations to respect, protect, promote and fulfil the economic and social rights, their responses fell short of a clear demonstration. The departments referred to a number of programmatic measures to demonstrate their observance of the economic and social rights enshrined in the Bill of Rights, however, this was not followed by any explanation as to how such programmatic measures observe the four obligations. Such a demonstration is important to ensure that in their quest to deliver services to the public, government departments do not violate related human rights.

Provincial influence on budget allocation

[16] David Fourie, *Annual Reports and the Public Finance Management Act*, South Africa, Health Systems Trust, 2001.

It appears in the departments' responses that in one way or another, each Provincial Department of Finance does have a certain degree of influence on the budget allocation process through the various structures such as the PEC, Budget Council, and others. However, it is important that independent research agencies are created either in provincial parliaments or in the national parliament to strengthen the work of the National Treasury and the FFC.

The FFC's recommendations on the costed norms approach give a clear indication that such agencies are desirable. Having studied the provincial transfer system (for the 2001 budget) that takes into account the variations among the provinces, the FFC recommended that the budget system be based on a costed norms approach to determine the cost of constitutionally mandated basic services. This approach entails estimating the cost of basic services in education, health and welfare based on each sector's norms and standards.[17] The government has not been able to implement the costed norms approach for two reasons. One, the government lacks the precise information to determine the cost of basic services for each sector. Two, the government still has to come up with a clear definition of constitutionally-mandated basic services.

Departments' Understanding of Available Financial Resources Required for the Realisation of Economic and Social Rights that Informs the Division of Revenue

Principles 24, 25 and 26 of the Maastricht Guidelines on the Implementation of the International Covenant on Economic, Social and Cultural Rights help explain the phrase "available resources":

> Progressive implementation can be effected not only by increasing resources, but also by the development of societal resources necessary for the realisation by everyone of the rights recognised in the Covenant. "*to the maximum of its available resources*" States parties are obligated regardless of the level of economic development, to ensure respect for minimum subsistence rights for all. "Its available resources" refers to both the resources within a state and those available from the international community through international co-operation and assistance.

Again, the *Grootboom* judgment[18] throws some light on the phrase "within available resources":

> …the obligation to take the requisite measures is that the obligation does not require the state to do more than its available resources permit. This means that both the content of the obligation in relation to the rate at which it is achieved as well as the reasonableness of the measures employed to achieve the result are governed by the availability of resources.

[17] Treasury Guidelines on Preparing 2002 Budget submissions.
[18] *Government of the Republic of South Africa and others v Grootboom and Others* 2000 (11) BCLR 1169 (CC). p. 1192.

It is clear from both the Maastricht Guidelines and the *Grootboom* judgment that the Provincial Departments of Finance should ensure that they do not under spend make use of the budgeting tool, the MTEF, which spans over a three-year period. It is equally important to understand that economic and social rights should be progressively realised.

> The obligation "to achieve progressively the full realisation of the rights" requires states parties to move as expeditiously as possible towards the realisation of the rights. Under no circumstances shall this be interpreted as implying for states the right to defer indefinitely efforts to ensure full realisation. On the contrary all states parties have the obligation to begin immediately to take steps to fulfil their obligations under the Covenant.

According to the United Nation's Human Development Report 2002:

> The financial flows that developing countries receive from exports dwarf those from other sources, indicating how integrated many of these countries already are. And during the 1990s foreign direct investment grew faster than other financial flows to developing countries, from 0,9% of their GDP to 2,5%. Developing countries – especially the poorest countries – still receive only a tiny fraction of total foreign direct investment, but that inflow is now greater than official development assistance.

The underlying message in this statement is that developing countries do have the potential to achieve economic growth despite political challenges relating to trade, which of course cannot and must not be ignored for their serious negative impact on the developing countries economic development. However, the challenge still stands before the developing countries to revive their economies internally given that the current official development assistance from industrial countries is around $56 billion a year, and this is not enough to ameliorate the economic and social conditions of the developing countries. This $56 billion amounts to 0,5 percent of Gross National Product (GNP) of Development Assistance Committee (DAC) of the Organisation for Economic Co- operation and Development it is substantially less than the 0,7 percent agreed to at the United Nations General Assembly in 1970.[19]

It was agreed in the World Summit for Social Development held between the 6th and the 15th of March, 1995 in Copenhagen that the following action was going to be undertaken by the developed countries:

> Increasing official development financial assistance, both in total and for social programmes, and improving its impact, consistent with countries' economic circumstances and capabilities to assist, and consistent with commitments in international agreements, and striving to attain the agreed upon target of 0,7 percent of gross

[19] United Nations Human Development Report, 2002.

> national product for official development assistance and 0,15 percent to the least developed countries, as soon as possible.[20]

The reality is contrary to the agreements undertaken in both major conferences alluded to above. That is why under-expenditure on infrastructure investment is a serious under-investment for the country amidst the declining official development assistance. This state of affairs also has implications for the New Partnership for Africa's Development (NEPAD).

> One-way financial transfers will not be enough to build a global partnership, nor should they be. Developing countries need to compete and prosper in the world economy to drive their own development.[21]

One of the crucial points the Western Cape Treasury raised relates to the lack of capacity within their Finance Department. The department reported that its reports on the monitoring of funds put more emphasis on the quantitative aspect and nothing on the qualitative aspect of it. It is not sufficient for officials to report on the quantitative side of financial management only; the qualitative side also needs to be reported upon. This is where the public finds out whether they are getting value for money or not. Efficiency has to be balanced with effectiveness of services and goods provided by government.

> The information should reflect the key attributes of performance. For example, focusing only on the cost of outputs is not sufficient to describe the quality of performance. If costs are decreasing, what about quality – is it also decreasing? If the quantity or volume of goods and services is staying consistent, what about the population the programmes are servicing?[22]

Monitoring of Government Departments' Financial Resources

The Provincial Treasury uses the monthly expenditure reports as a monitoring tool to help guide spending in provincial departments. These reports are also tabled in the PEC and distributed to all members of the Provincial Legislature to enable them to measure expenditures against outputs delivered. Notwithstanding the monthly expenditure reports that help guide departments' spending, and quarterly budget credibility exercises that are used to delivery-tracking methods; there are still cases of over-/under-spending and other problems in some of the departments.

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[20] *The Copenhagen Declaration and Programme of Action: World Summit for Social Development*, 6-12 March, 1995, United Nations.
[21] *Ibid*.
[22] See note 18 above.

Whilst the Free State Treasury reported that it did not experience any problems, including monitoring utilisation of funds during 2000/2001, the Auditor-General's report (on Audit Outcomes for the year ended 31 March 2001) came up with the following audit outcomes:

- The Free State was one of the five provinces that overspent their budgets. It overspent by a total of R42 682 000.[23]
- The province was one of the two provinces that did not have an internal audit committee.[24]
- The province's financial statements could not be accepted for auditing[25] by the deadline of 31 May 2001.

It is important to know though that the Free State was one of the provinces, which made some progress with respect to both financial and compliance audits.[26] In 1999/2000 out of 13 budget votes it had nine financial audit opinions qualified and four compliance audit opinions qualified.[27] In 2000/2001, which falls within the reporting period for the HRC, out of 13 budget votes it had four financial audit opinions qualified and six compliance audit opinions qualified. Compared to other provinces, the Free State has done much better.

The Free State Treasury raises some concerns around the area of infrastructure development. It cites a slow delivery on infrastructure development as a result of the slow pace of spending both national and provincial infrastructure grants as well as the incidents of roll-overs. This scenario automatically impacts on economic growth and consequently job creation. The slow pace on infrastructure grants spending has a direct bearing on the realisation of the economic and social rights. Under-spending and/or slow pace of spending of infrastructure grants translate into deprivation of the basic services for some population segments. Deprivation of the basic services means that the progressive realisation of the economic and social rights is not achieved.

According to the Report of the Auditor-General (on Audit Outcomes for the year ended 31 March 2001), only four of the nine provinces complied with the legal requirement of having Internal Audit Committees in their departments. The said four provinces were: Eastern Cape, KwaZulu-Natal, Limpopo and the Western Cape. However, in none of the provinces reliance could be placed on the work done by the internal audit in respect of the 2000/2001 financial year.

It is ironical that some provinces overspent by such a magnitude and yet there is a system in place to address issues pertaining to the utilisation of funds, the IYM. It is important that government departments respect the provisions of the PFMA. The

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[23] In terms of the Public Finance Management Act 1 of 1999, overspending is regarded as illegal and may lead to charges of financial misconduct.
[24] According to the Auditor General's report, only four of the provinces complied with the requirement of establishing internal audit committees within their departments.
[25] General Report of the Auditor-General on *Audit Outcomes For The Year Ended 31 March 2001,* Pretoria, Government Printer, 2002.
[26] 'Financial audit' is concerned with financial statements only, whereas 'compliance audit' refers to compliance with financially related laws and regulations relating to other financial matters.
[27] See note six above.

following excerpt clearly elaborates on the specific responsibilities of accounting officers:

The PFMA confers specific responsibilities on accounting officers. The Act vests four key responsibilities, which are to:

- Implement effective, efficient, economic and transparent systems for controls in the department
- Eliminate unauthorised expenditure by ensuring that departments do not overspend their budget or a specific programme within the budget
- Report on expenditure and revenue against the budget on a monthly basis and submit annual financial statements two months after the end of a financial year
- Introduce performance reporting against pre-determined measurable indicators on a quarterly basis and Annual Report 5 months after the end of the financial year.

9. RECOMMENDATIONS

It is accepted that it is only ideal in an economy that the real value of the financial resources allocated to departments should always exceed the nominal value. By the same token, it is important that the financial resources allocated to government departments charged with delivering on the economic and social rights have a buying power to enable the government departments to discharge their duties. The question of sufficient resources is important. However, the table on the budgetary measures does not show over/under-expenditure incurred by government departments in each financial year. This is found in each chapter dealing with each specific economic and social right. A point could still be made, nonetheless, that it is important that government departments spend the financial resources allocated to them meaningfully and account for the management of such resources appropriately.

The area of public infrastructure investment is an important one as it is one of the highlights of the budget framework reflected in the 2001 Medium Term Budget Policy Statement. Public infrastructure investment is one of the instruments government uses to create jobs as it has a bearing on the acquisition of foreign direct investments (FDIs) as well as local investment, which the country needs for economic growth. Moreover, public infrastructure investment is important, as it is where delivery on economic and social rights starkly comes to be tested. One province referred to this area as one area in which their departments need capacity. The problems that were cited range from roll-overs to slow pace of spending both National and Provincial Infrastructure Grants.

Some of the skills needed in these government departments comprise project planning, project finance and project management. Like in other areas, the government collaborates with other organisations, including the Municipal Infrastructure Investment Unit (MIIU), which has expertise in the area of infrastructure investment. Such organisations should be made use of to expedite infrastructure investment in the country.

It would be advisable that those provincial departments experiencing problems in infrastructure delivery work hand in hand with the National Treasury as it is involved in a process of assessing and reviewing public infrastructure delivery mechanisms with a view to reforming and enhancing delivery on public infrastructure. Much as it is not so clear what causes problems in public infrastructure delivery, it would be recommended that municipalities make use of institutions such as the MIIU to help them improve capacity particularly in the areas of project preparation and planning as well as municipal financial management.

It is incumbent upon government, in conjunction with both the Budget Council and Budget Forum as sub-national government tiers representing provincial and local spheres of government, to do research and come up with a definition of 'constitutionally-mandated obligations including the basic services'. Initiatives such as the Municipal Infrastructure Investment Framework (MIIF) of 2000/2001 could go a long way in helping these tiers determine the number of backlogs in infrastructure as well as the costs involved. Basically, the MIIF provides national estimates of backlogs and corresponding costs. If the MIIF could be revised, taking into account the latest census delivery on the basic services could be fast-tracked. This would make the implementation of the costed norms approach possible.

10. CONCLUSION

Public finance-related processes should not be regarded as the preserve of the few, as it is currently the case. The budget allocation process in particular, should be a transparent process that takes the public opinion into account. Currently, the process is dominated by political structures. Whilst there is nothing wrong with this, there is a need for civil movements to influence the budget process. The national parliament has the powers to amend the budget, and should use it more. The Constitution[28] empowers the parliament to amend any money bill put before it. The exercising of such powers by parliament should at least advocate the channeling of more financial resources into economic and social rights-related programmes.

The actors involved in the budget allocation process must be well-informed about issues affecting their constituencies if these structures are to play a meaningful role in the process. The co-operative forums, the Budget Council and Budget Forum need to engage in research to influence policymaking and the budget process. These structures should be helping government in establishing what constitutes constitutionally-mandated basic services, for instance.

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[28] Section 77 (1) of the Constitution provides that a Bill that appropriates money or imposes taxes, levies or duties is a money Bill. A Money Bill may not deal with any other matter except a sub-ordinate matter incidental to the appropriation of money or the imposition of taxes, levies or duties.

(2) All money Bills must be considered in accordance with the procedure established by section 75. An Act of parliament must provide for a procedure to amend money Bills before parliament.

ABBREVIATIONS

CSG	Child Support Grant
DAC	Development Assistance Committee
FDIs	Foreign Direct Investments
FFC	Financial and Fiscal Commission
GNP	Gross National Product
IDPs	Integrated Development Programmes
IYM	In-Year Monitoring System
KMOs	Key Measurable Objectives
MIIF	Municipal Infrastructure Investment Framework
MIIU	Municipal Infrastructure Investment Unit
MTEF	Medium Term Expenditure Framework
NEPAD	New Partnership for Africa's Development
PFMA	Public Finance Management Act 1, 1999
PEC	Provincial Executive Committee
PMTEC	Provincial Medium Term Expenditure Committee