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Policy Notes

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Who really holds the "power of the purse?"

It has always been the popular belief that Congress has the "spending power" or the sole authority to appropriate public funds. Of the three branches of government in a democratic system such as the Philippines, the executive holds the power of the "sword" and the judiciary the "pen" while the legislature has the power of the "purse." In particular, the House of Representatives is designated by the 1987 Constitution as the chamber of Congress where "all appropriations"[1] should exclusively originate, with the Senate having the right to propose amendments. The President only proposes the budget but it is still Congress that supposedly has the final say on where that budget should go.

That is the ideal. But often, the ideal is not quite what is real. In this regard, does Congress really hold the power of the purse?

This *Policy Note*, as based on an analysis written for the *2008/2009 Philippine Human Development Report* (PHDR) by Emilia Boncodin, probes more deeply into this question and traces its root and the answers' implications. Toward the end, it poses possible actions that may effect a revision in the current state of affairs.

The reality on the ground

In a nutshell, Congress' power of the purse has been significantly diminished. And in reality, it is the executive branch that, in law and in practice, wields more power over the purse.

This state of affairs came to being with the issuance of Presidential Decree (PD) No. 1177 of the Marcos regime which revised the budget process supposedly to "institutionalize the budgetary innovations of the New

[1] Section 24, Article VI, 1987 Philippine Constitution.

PIDS Policy Notes are observations/analyses written by PIDS researchers on certain policy issues. The treatise is holistic in approach and aims to provide useful inputs for decisionmaking.

This *Note* was recast and repackaged by Barbara F. Gualvez based on the section on the national government budget in Chapter 1 of the *Philippine Human Development Report 2008/2009*. The views expressed are those of the author and do not necessarily reflect those of PIDS or any of the study's sponsors.

Society" but which virtually arrogated the budgetary powers of the legislature unto the executive. Further loosening the hold of the legislature on the purse are two more Marcos laws, namely, PD 1967 and PD 81 which automatically appropriated funds for debt payment. The Revised Administrative Code (RAC) of 1987 or Executive Order (EO) No. 292, which is now in effect, defines the powers and limitations of both the executive and the legislature in the preparation, authorization, and implementation of the annual General Appropriations Act (GAA). Unfortunately, it did not undo the intent of PD 1177 but even largely upheld it, contrary to the principle laid out in the 1987 Constitution, which took effect after EO 292, of Congress having an active, not passive, participation in the budget process.

An instrument for efficient management and accountability

The budget cycle

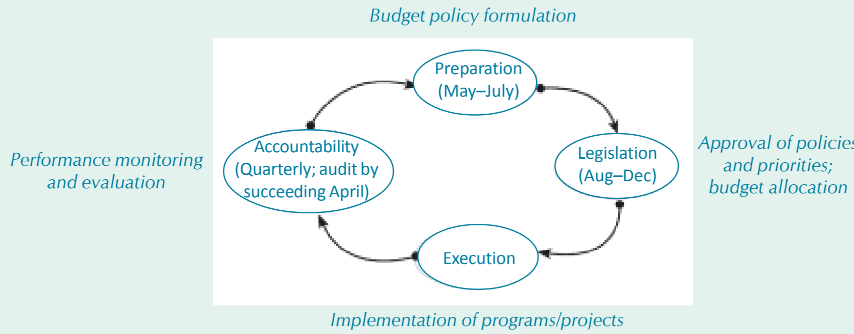
The government's budget cycle is divided into four stages: preparation, legislation, execution, and accountability (Box 1). The process is supposed to embody the relationship between the branches of government in planning, coordinating, and prioritizing the spending of resources while checking the others' powers. For instance, budget preparation is the domain of the executive, budget legislation belongs to Congress where the House of Representatives then the Senate and, finally, the two chambers in a bicameral committee review the proposed budget, make their own adjustments, and pass the GAA. The executive takes the lead once again for budget execution and control while a third party, the Commission on Audit (COA), assumes the lead for budget accountability.

Each stage represents opportunities to optimize the use of government resources and exact results for development. However, they are either not fully implemented or are passed up. For instance, results-based or policy-based budgeting is not fully implemented or exercised. There is no effort by the executive and Congress to determine whether deliverables from the previous year(s) have in fact been delivered or not. Part of the problem is that audit and accomplishment reports of previous years are not used intensively during budget preparation and debate. Moreover, budget preparation and defense within the executive are scheduled from May to July, well before the programs and projects of the previous budget are delivered. Thus, agencies are not held accountable for performance.

Furthermore, Congress fails to adequately validate the performance of agencies or the constituency of proposed budgets with state policies. Congress is given four months to debate the budget. But more often than not, debates—particularly in the House of Representatives—deal not with policy but with parochial concerns. Agencies are rarely and only superficially questioned on performance; cost estimates of budget proposals are rarely challenged.

Box 1. The budget cycle

The budget cycle is a four-stage process that is generally consistent with international standards and practice in democracies. It is designed in accordance with law, primarily the Constitution, Book VI of the Revised Administrative Code of 1987 (Executive Order No. 292), and relevant Supreme Court rulings.



- *Budget preparation* (May–July). This involves the updating of macroeconomic targets and assumptions, formulating a budget policy and strategy, issuing a budget call, preparing budget proposals by agencies, reviewing budget proposals, presenting the budget to the Cabinet and the President, and, finally, submitting the proposed budget to Congress. The proposed budget is guided by, among others, the Medium-Term Philippine Development Plan (MTPDP), Medium-Term Public Investment Plan (MTPIP), Comprehensive and Integrated Infrastructure Program (CIIP), the Local Government Code (LGC), and other appropriations laws. The President's budget is transmitted to Congress in the form of the President's Budget Message (PBM), Budget of Expenditures and Sources of Financing (BESF), National Expenditure Program (NEP), Staffing Summary, and the Organizational Performance Indicator Framework (OPIF).

- *Budget legislation* (August–December). The proposed budget is first reviewed by the House of Representatives, which drafts a General Appropriations Bill (GAB) and endorses this to the Senate, which may make its own adjustments. Any disagreeing provisions and amendments between the House and Senate are discussed in a Bicameral Committee. Ratification of the Bicameral Committee Report and the GAB by the two chambers signals its finalization, after which the House would submit the budget to the President, who signs it into a General Appropriations Act (GAA).

  Congress cannot increase appropriations proposed by the President, but may reduce it. The Chief Executive in turn may veto expenditure items in the GAA (line item veto power), although Congress may override this veto. If Congress fails to pass the GAA, the GAA of the immediately preceding year shall take effect.

- *Execution and control*. This stage entails the preparation of a National Budget Program based on the GAA, agency work and financial plans, and quarterly allotment and cash programs; fund releases indicated by Special Allotment Release Orders (SARO), Notices of Cash Allocation (NCA), and Notices of Noncash Availment Authority (NCAA); implementation of programs and projects by agencies; and the review of financial and physical reports. The President, Senate President, Speaker of the House, Chief Justice, and heads of constitutional commissions may use savings to augment other authorized appropriations. The President may also impose reserves to cover contingencies.

- *Accountability*. This entails the conduct of reviews and audits, and the preparation of several reports, including budget utilization summary reports, agency performance reviews, agency annual reports (which include financial and physical accomplishments), audit reports by agency (to be completed by April of the succeeding year), and the Consolidated Annual Financial Reports covering the national government, all local governments, and government corporations. These are legally mandated reports, which are required by Congress, the Commission on Audit, the Department of Budget and Management, and the Office of the President. In addition, programs and projects are monitored, and official development assistance or ODA performance is reviewed.

Source: Human Development Network (HDN), 2009. *Philippine Human Development Report 2008/2009*, Box 1.9.

The executive branch has opportunities to monitor performance during the execution and accountability stages of the budget cycle. But it fares no better in this regard. Spending agencies are required by law to submit quarterly work and financial reports to Congress, COA, the Department of Budget and Management (DBM), and the Office of the President (OP). But they fail to meet this requirement in a complete and timely manner. Congress, in turn, fails to pursue the matter.

Compliance and financial audits

The COA also reports many instances of unresolved recurrent adverse audit findings among national government agencies and corporations. There is, however, no mechanism for systematic legal or administration sanctions against agencies with such findings. It is also unclear whether or how these findings have any bearing on future agency budgets.

An instrument for (partisan) politics

Much of the imbalance in the power of the purse pertains to budget execution (Table 1). Congress does not have the power to increase appropriations proposed by the President, but it can reduce them or realign allotments as long as the total is maintained. The executive, however, can override the mandate of the GAA as enacted by Congress in a number of ways:

- By not releasing or by delaying the release of authorized appropriations. Some opposition legislators and local government officials complain that their allocations are not released to their constituency simply because they oppose the President.
- By transferring "unused" (unreleased) appropriations to "savings" and using this amount for other purposes within the executive branch. Senator Edgardo Angara, during his speech at the launching of the *2008/2009 Philippine Human Development Report*, pointed out this power of the President to align savings as what he called as "tremendous mischief." He stated that this power of the President renders any congressional judgment virtually meaningless.[2]
- Through the use of discretionary, intelligence, or confidential funds—over

Table 1. Balance of powers over the purse

Executive Branch	Legislative Branch
Submits budget of expenditures and sources of financing as basis for general appropriations.	✓ Approves general appropriations and other appropriations laws. Cannot increase appropriations proposed by the President, but can reduce it or realign allotments.
Exercises line-item veto power.	✓ Exercises "override" of vetoed items.
Implements appropriations laws: ● Power to impose reserves ● Power to suspend expenditures of appropriations ● Releases appropriations of agencies with fiscal autonomy in full	✓ Exercises oversight function over implementation of budget.
● Transfers unused appropriations through use of savings within executive branch.	✓ Transfers unused appropriations through use of savings within its own jurisdiction.

Source: Human Development Network (HDN), 2009. *Philippine Human Development Report 2008/2009*, Table 1.12.

[2] Angara, Edgardo (2009). Speech during the launching of the PHDR 2008/2009, 20 May, Crowne Plaza, Pasig City.

which the legislature has no oversight—as well as "unprogrammed" funds in the budget.

The President also has power to decide on debt service, which can significantly affect the total amount of resources in play over the year. Senator Angara surmised that with all the powers of the executive over the budget, the President, as seen by some legislators, effectively has control over one-third of the entire GAA.

How significant are the amounts involved in the allocation of these resources as exercised by the executive? Lump sums in the 2009 National Expenditure Program defined as one-liner appropriations amounting to P100 million or more, comprised 16 percent (P224.44 billion) of the proposed national budget. Confidential and intelligence funds amount to another P1.12 billion. "Savings" between 2004 and 2007 ranged from P11.4 billion in 2004 to P117.5 billion in 2007. Presidents can, and have, restored programs scrapped by Congress by using "savings," lump sums, or contingency funds.

Ironically, Congress plays a major part in undermining its own powers (Table 2). Aside from inadequately exercising its technical oversight functions, it has, on three occasions (2001, 2004, and 2006), failed to pass a GAA. And when Congress fails to do so (despite four months given it), the previous year's budget is automatically reenacted. A fully reenacted budget means identical appropriations for program priorities of the previous year, which may, however, be different from the priorities of the coming year. Agencies cannot reprogram 100 percent of their reenacted budget but they can use savings to augment other items. And there are larger-than-average savings when a budget is reenacted because of money reserved for previous year's project that may have been completed since. For instance, if a capital outlay (CO) was budgeted to construct a building this year, a reenacted budget would consider the budget alloted for the building "savings" and reassigned to a different project, as long as the money is spent within the agency and within the same CO category. Thus, a reenacted budget benefits the President, since it has more funds to disburse at his or her discretion.[3]

Table 2. Major budget issues due to Congress

Problems	Implication/Impact
• Delay in the enactment by Congress.	Public services delayed. Previous year budget reenacted.
• Inclusion of automatic appropriations in the GAA.	Increase in total expenditures beyond what the executive proposed. This violates the Constitutional provision that Congress cannot increase the appropriations for general operations of the government as submitted by the President.
• Inadequate technical oversight.	Poor agency compliance to budget rules

Source: Human Development Network (HDN), 2009. *Philippine Human Development Report 2008/2009*, Table 1.14.

Transactional politics, manifested through "pork barrel," also impacts on the budget. Pork may

[3] Ibid

be explicit—Countryside Development Fund (CDF from 1990 to 2000) or the Priority Development Assistance Fund (PDAF from 2000 onwards)—or embedded in the budgets of the Department of Public Works and Highways (DPWH) and the Department of Transportation and Communication (DOTC). The highest levels of PDAF released by the executive occurred in 2004 and 2007 (both election years) at P8.3 billion and P11.4 billion, respectively. Pork embedded in the DPWH and DOTC amounts to more in absolute terms than the CDF/PDAF. For 2009, the House of Representatives proposed that pork in the DPWH budget amount to P19.6 billion or roughly 18 percent of the agency's total budget of P120.53 billion.

Policy implications: Is the budget enabling or constraining?

Given the above observations, the question is: Is the national budget enabling or constraining human development outcomes? The following sums up the issues regarding this raised by the *2008/2009 Philippine Human Development Report*:

- The budget is constraining of human development and good government. The budget is inflexible as regard both allocation and procedural rules. Inflexibility arises as a result of both binding budget ceilings and mandatory obligations, but it also seems to derive from an overall bias for administrative conformity and simplicity in budget rules. Affected by such inflexibility are agencies like the Department of Education that require room to plan strategically and achieve long-term outcomes.
- The lack of headroom in the budget also engenders dependence on foreign funds or ODA for critical projects, including reform initiatives. Weak congressional oversight over these funds, combined with inherently powerful spending powers of the executive, has invited corruption, weakening government institutions even further.
- The power to relax the constraining features of the budget process is lodged more with the executive than with Congress. Given its powers over the purse, the executive can engage in strategic, policy-based, and performance-based budgeting as well as clamp down on leakages if it desires. Without a change in norms on the part of the executive as regards critical collaboration with and respect for Congress, the loopholes in the current budget laws are, however, easily exploited.

So who holds the power of the purse? Congress likes to believe it does. But clearly, that power has shrunk. Thus, to uphold the intention of the 1987 Constitution and restore to Congress the power of the purse, major amendments to the budget law contained in Book VI of Executive Order 292 have been proposed.

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