IPSAS WORKSHOP

Key Provisions of the PFM Act 2012 and Mwongozo Code of Governance

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Session Objectives

The aims of the Session:

- To outline the significance of PFM 2012 Act, Regulations 2015 and NT circulars
- To discuss the Implementation Challenges
- Explore options towards compliance with PFM 2012 Act & Regulations 2015

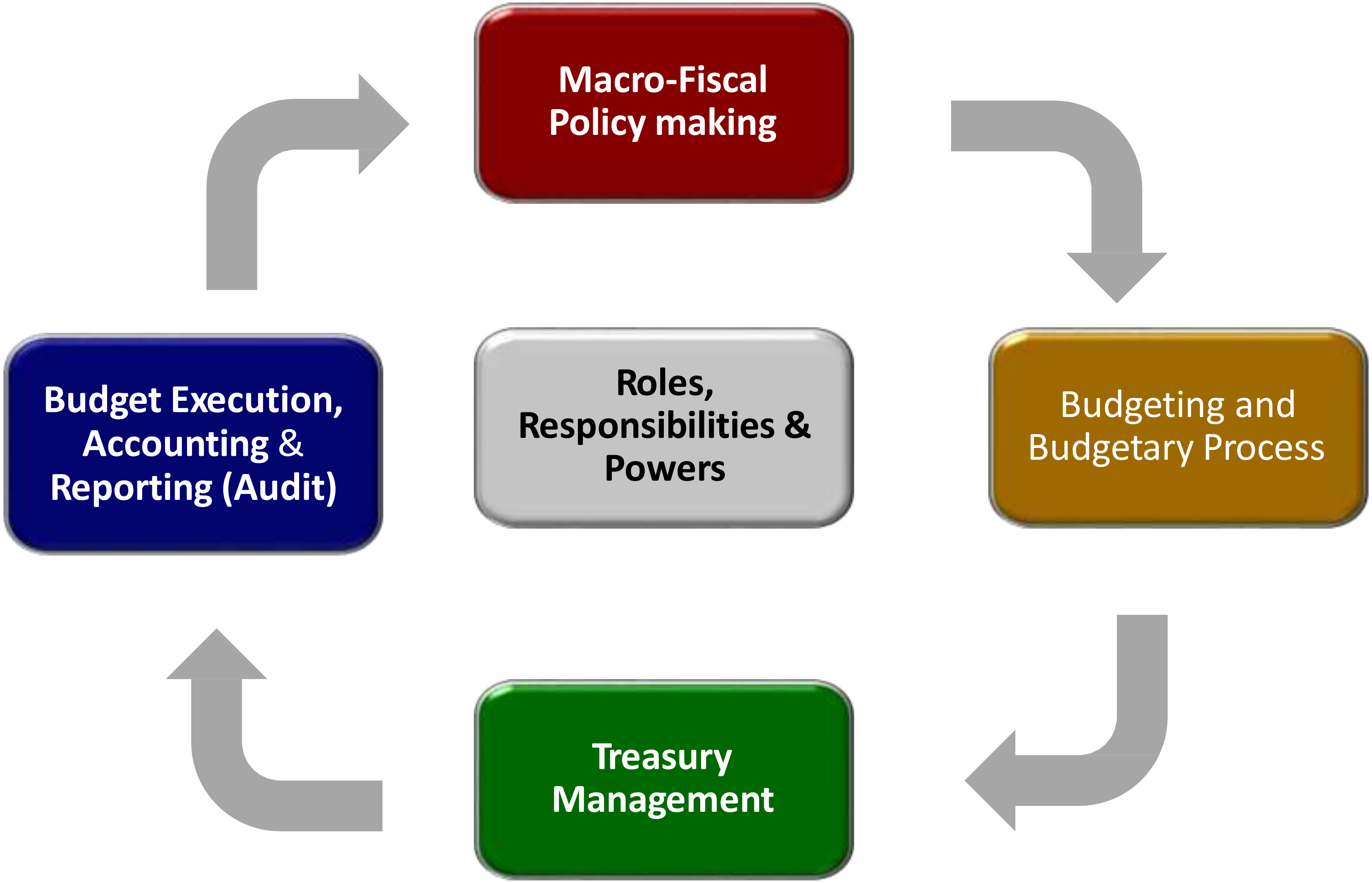
Our understanding of PFM

- PFM is an essential part of the national development process.
- PFM includes all phases of the budget cycle, including planning, the preparation of the budget, budget execution, internal control and audit, procurement, monitoring and reporting arrangements, and external audit.

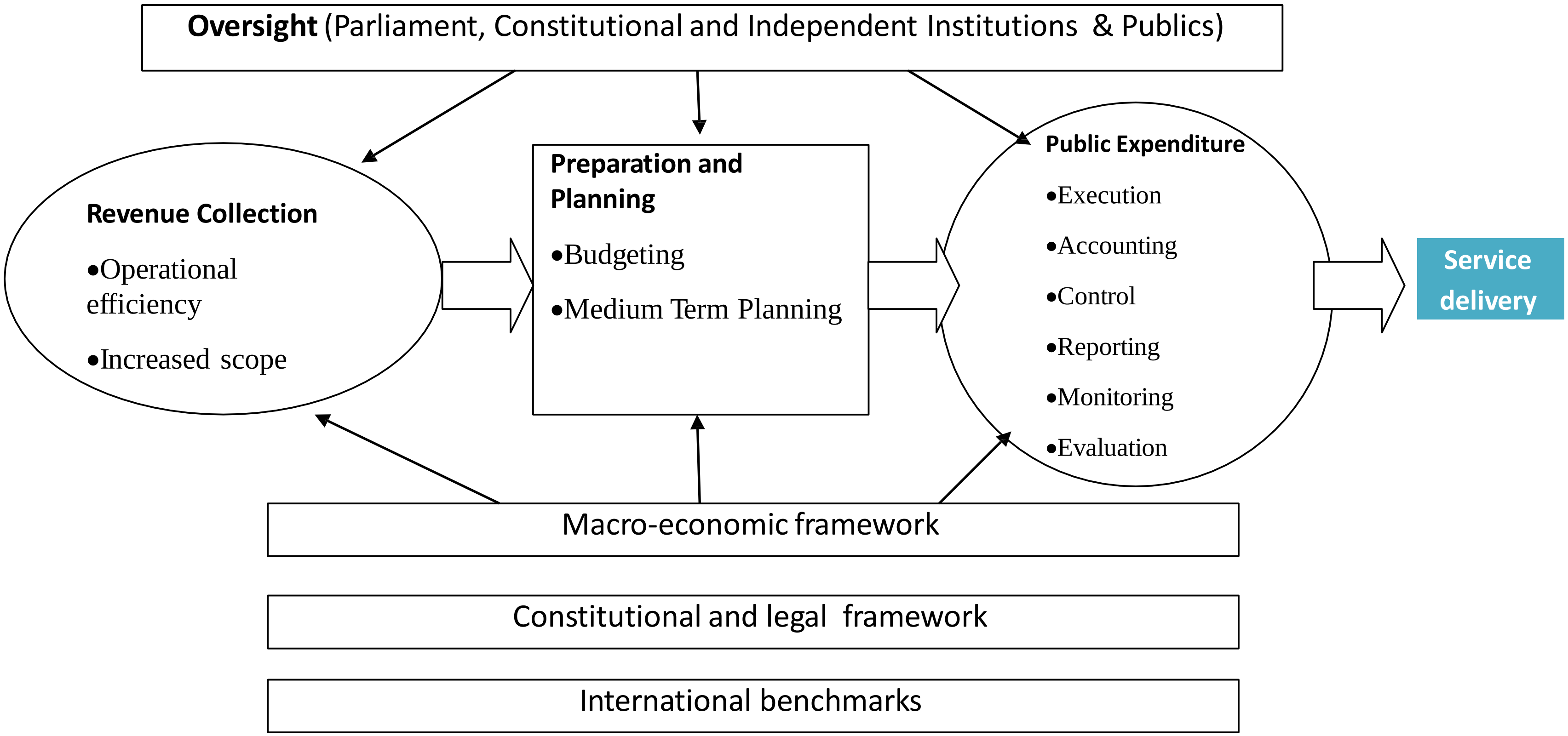
Our understanding of PFM

- The PFM reforms witnessed is meant to increase transparency and accountability in the way public finances are managed
- In the legal overview - the Constitution provides the framework for the PFM reforms
- Since introduction, there have been gains as well as challenges - the future also has opportunities

Core Areas of Good PFM System



The Public Financial Management Process



Public Finance Legal Framework

There are four main components in government: Planning , Budgeting, Recording, Accounting and Reporting. The legal framework comprise of:

1. **The Constitution** highest in the legal hierarchy. The Constitution clarifies:

   - *Relative powers of the arms of Gov't with respect to public finance;*
   - *The financial relations between national & County levels of government; and*
   - *Principles of public finance- article 201.*

2. **Public Finance Management Act, 2012 and Regulations 2015** -main vehicle for establishing principles of public financial management. Provides the basis for budget preparation, approval, execution, control, accounting & auditing;

3. **Public Audit 2015 and guidelines 2016**: Underlines the public audit process and detailed instructions on public audit arrangements

4. **Public Procurement and Asset Disposal Act 2015 and Regulations**

Understanding - Planning , Budgeting, Recording, Accounting and Reporting

To understand Planning , Budgeting, Recording, Accounting and Reporting, it is important to:

i. Assess the basic soundness by judging the Planning , Budgeting, Recording, Accounting and Reporting system against international accepted standards and principles;
ii. Know the rules governing the accounting and reporting preparation process; and
iii. Who is responsible for what elements of the process.

Understanding - Planning , Budgeting, Recording, Accounting and Reporting

The soundness of the systems can be judged by;

i. **Comprehensiveness**:-is the coverage of the entity operations complete?
ii. **Transparency:-**how useful and clear is the reporting? Does it meet international standards?
iii. **Realism:-** is the system based on a realistic framework? Are the financing provisions realistic? Is there a clear separation between present and new policies?
iv. **Relevant:-** Timeliness?

PFM Act and Regulations – Expected Gains

- Openness, accountability, and public participation in PFM;
- Equitable sharing of revenues;
- Equitable sharing of burdens and benefits of public borrowing;
- Observation of fiscal discipline;
- Social Economic development & Prosperity;
- Accelerated & Sustained Economic growth; and
- Enhanced Debt Financing Management

PFM Regulations 2015

- The PFM Act 2012 is to be read in conjunction with the PFM regulations, 2015, which give the guidelines on how to apply the Act.

- The Opportunities and Challenges lie both in the interpretation and application of the law or lack of it.

PFM ACT 2012

The PFM Act 2012 shall prevail in the case of any Inconsistency between it and any other legislation on the following matters:

a) **Preparation and submission of budget** estimates, including the time for doing so;
b) **Preparation and submission of accounts for** audit, including the time for doing so;
c) **Borrowing, lending and loan guarantees;**
d) **Raising of revenue and making of** expenditures;
e) **Banking arrangements, including** opening of bank accounts and investment of moneys;
f) **Establishment and management of** public funds;
g) **Establishment and dissolution of state** corporations.

Corporate Governance

- …..is the structure and system of rules, practices, and processes by which an organization is directed, controlled and held accountable.
- Entails structures used to direct and manage business affairs of the national/county government entities towards enhancing prosperity and good governance to realize national long-term value while taking into account the interest of all stakeholders.
- To enhance Corporate governance, The code of governance for state corporations (“Mwongozo") was issued by PSC and State Corporations Advisory Committee (SCAC) in January 2015.

Corporate Governance Principles

The Corporate Governance framework developed into the Mwongozo code embodies six principles of good governance developed by OECD as global benchmarks:

1) Ensuring the basis for an effective corporate governance framework
2) The rights of shareholders and key ownership functions
3) The equitable treatment of shareholders
4) The role of shareholders
5) Disclosure and transparency
6) Responsibility of the Board

Areas of focus for the Code

The code is organized into 8 chapters as below:

- Chapter One - The Board of Directors
- Chapter Two - Transparency and Disclosure
- Chapter Three - Accountability, Risk Management and Internal Control
- Chapter Four - Ethical Leadership and Corporate Citizenship
- Chapter Five - Shareholder Rights and Obligations
- Chapter Six - Stakeholder Relationships
- Chapter Seven - Sustainability and Performance Management
- Chapter Eight - Compliance with Laws and Regulations

Potential Benefits of Mwongozo

- Enhance competitiveness
- Provide critical infrastructure, financial, commercial & social services in cost efficient manner
- Reduce fiscal burden/risks
- Improve SCs access to external sources of finance
- Strengthen transparency & accountability (reduce corruption)
- Improve economic growth

Potential Benefits of Mwongozo

- Improves the GoK ownership role
- Improves performance monitoring system for accountability
- Enhances financial & fiscal discipline
- Rationalizes SC Boards
- Enhances transparency & disclosure
- Ensures stakeholders protection
- Builds support & capacity for implementation

Fiscal Strategy and Macroeconomic Framework

- Fiscal responsibility principles.
- Budget Policy Statement.
- Macroeconomic framework.
- Contents of a fiscal framework.
- Revisions to a fiscal framework

Budget Preparation

PFMA Opportunities:

- Budget preparation process.
- Budget guidelines
- Budget estimates,
- Appropriation Bills,
- Vote on Account,
- Approval by National Assembly

The Budget Process

National Government

- **Budget circular** issued by National Treasury by **30th August**
- **Budget Review and Outlook Paper (BROP)** is prepared and approved by Cabinet by **30th September.**
- Submit BROP to Parliament 7 days upon approval by Cabinet.
- **6 months** before the commencement of the financial year or at a later date agreed between CRA and Cabinet Secretary (finance), CRA shall submit **recommendations on vertical and horizontal division of revenue**.
- National Treasury prepares and submits the **BPS** to Parliament by 15th February.
- **Division of Revenue Bill (DoRB)** and **County Allocation of Revenue Bill (CARB)** are submitted together with the BPS.

County Government

- **Budget Circular** issued by County Treasuries by **30th August.**
- **Budget Review and Outlook Paper (BROP)** is prepared and approved by County Executive Committee (CEC) by **30th September**
- Submit BROP to county assembly 7 days upon approval by CEC.
- County Executive Committee member (planning) to submit a **development plan** to the county assembly for approval by **1st September**.
- Urban areas and cities shall prepare a **strategic plan** consistent with the County Fiscal Strategy Paper.
- County Treasury prepares and submit the **County Fiscal Strategy Paper** to county assembly by 15th February **(28 Feb).**

The Budget Process – cont'd

National Government

- Parliament to approve the annual DoRB and CARB not later than 30 days after they are submitted (Art 218).
- **Budget Estimates** and other Bills (except Finance Bill) submitted to National Assembly by **30th April**
- Cabinet Secretary (finance) to submit to NA **comments on budget estimates of Parliament and Judiciary** by **15th May**.
- The National Assembly approves the budget estimates and passes an **Appropriation Bill** and the President assents to the Bill by **30th June.**

County Government

- **Budget Estimates** and other Bills (except Finance Bill) submitted to County Assembly by **30th April**
- County assembly approves the budget estimates and passes a county **Appropriation Bill** by **30th June**.
- Cash flow projections by 30th of April when submitting the budget

The Budget Process – cont'd

National Government

- Cabinet Secretary (finance) to make **public pronouncement of budget policy highlights and revenue raising measures** on a date agreed with the other EAC governments.
- National Assembly to approve **Finance Bill** not later than 90 days after the passing of the Appropriation Bill.
- Submit **Debt Management Strategy** to Parliament by **15th February**.

County Government

- County Executive Committee member (finance) to make a **public pronouncement of revenue raising measures** on the date the County Finance Bill is submitted to Parliament.
- County Assembly to approve **Finance Bill** not later than 90 days after the passing of the Appropriation Bill.
- Submit **Debt Management Strategy** to county assembly by **28th February**.

Budget Execution

PFMA Opportunities:

- Budgetary control, variation, reallocations
- Release of Funds/Quarterly requests
- Commitment control
- Quarterly reporting

Management of Grants and Donations

PFMA Opportunities

- Definitions and administration,
- Accounting and reporting,
- Project accounts,
- Project selection
- Responsibilities of NGOs

Treasury and Cash management

PFMA Opportunities:

- The Consolidated Fund,
- Cash and banking arrangements,
- Cheques & EFT,
- Cash Management Advisory Committee,
- Bank Reconciliation
- Imprest Management
- Treasury Single Account

Accounting and Reporting

PFMA Opportunities:

- Form & Structure provided,
- Books of Account defined,
- Automation (IFMIS),
- Public Sector Accounting Standards Board (PSASB)

ACCOUNTING AND REPORTING:

National Government

- National Treasury shall prepare a **consolidated annual financial statement** of NG and submit to the Auditor-General with copies to the CoB and CRA not later than 4 months after end of financial year.
- Accounting officer to prepare an **annual financial statement** of NG entity and submit to the Auditor-General with copies to CoB, CRA and NT not later than 3 months after the end of the financial year.
- Not later than 15 days after the end of each quarter, accounting officer for a NG entity will prepare a **quarterly report** and submit to the Cabinet Secretary for that entity with copies to CS (finance) and CoB.

County Government

- County Treasury shall prepare a **consolidated annual financial statement** of CG and submit to the Auditor-General with copies to the CoB, CRA and NT not later than 4 months after end of financial year.
- Accounting officer to prepare an **annual financial statement** of CG entity and submit to the Auditor-General with copies to CoB, CRA and CT not later than 3 months after the end of the financial year.
- Not later than 15 days after the end of each quarter, accounting officer for a CG entity will prepare a **quarterly report** and submit to the County Treasury.

ACCOUNTING AND REPORTING:– cont'd

National Government

- National Treasury will **consolidate the quarterly reports** of NG entities and submit the consolidated report to the National Assembly, with copies to CoB, Auditor- General and CRA not later than 45 days after end of each quarter.
- Not later than 3 months after the end of the financial year, a receiver of revenue shall submit a **annual report of revenue received and collected** in that financial year and submit to the Auditor-General with copies to NT, CoB and CRA.
- Not later than 3 months after the end of each financial year, each Receiver of Revenue shall submit to the Auditor-General a **report of waivers and variations in taxes, fees and charges**.

County Government

- County Treasury will **consolidate the quarterly reports** of CG entities and submit the consolidated report to the county assembly, with copies to the CoB, CRA and NT not later than 1 month after that end of each quarter.
- Not later than 3 months after the end of the financial year, a receiver of revenue shall submit a **annual report of revenue received and collected** in that financial year and submit to the Auditor-General with copies to NT, CT, CoB and CRA.
- Not later than 2 months after the end of each financial year, Receiver of Revenue shall submit to the county assembly a **report of waivers and variations in taxes, fees and charges**.

ACCOUNTING AND REPORTING:– cont'd

National Government

- Not later than 3 months after the end of a financial year, an administrator of a national public fund shall prepare an **annual financial statement of the public fund** and submit it to the Auditor-General with a copy to the Cabinet Secretary responsible for the fund.
- Administrator of a public fund to prepare a **quarterly report of a national public fund** in a form prescribed by the Public Sector Accounting Standards Board.
- Separate reporting by **State Corporations** (sections 88 and 89)
- **Pre-election report** not earlier than 4 months before polling day.
- **Post-election report** – not later than 4 months after the polling day.

County Government

- Not later than 3 months after the end of a financial year, an administrator of a county public fund shall prepare an **annual financial statement of the public fund** and submit it to the Auditor-General with a copy to the County Executive Committee member responsible for the fund.
- Administrator of a public fund to prepare a **quarterly report of the county public fund** not later than 15 days after the end of the each quarter and submit the report to the CT with a copy to the CoB.
- Separate reporting by **County Corporations** (sections 184 and 185)

Scope and Authority of IPSASs

- IPSAS are designed to guide the preparation and presentation of general purpose financial statements of public sector entities.

- Public sector entities include national (central), regional and local governments, and their component entities such as departments, agencies, boards, commissions et cetera.

- IPSAS do not apply to Government Business Enterprises (GBE) or also known as Commercial Public Sector Entities

Government Business Enterprises (GBEs)

GBEs use IFRS and not IPSAS.

A GBE is an entity that has meets the following criteria,

a) Is an entity with the power to contract in its own name;
b) Has been assigned the financial and operational authority to carry on a business;
c) Sells goods and services, in the normal course of its business, to other entities at a profit or full cost recovery;
d) Is not reliant on continuing government funding to be a going concern (other than purchases of outputs at arm’s length); and
e) Is controlled by a public sector entity.

General purpose financial statements

- General purpose financial statements are those intended to meet the needs of users who are not in a position to demand reports tailored to meet their specific information needs, e.g taxpayers and ratepayers, members of the legislature, creditors, suppliers, the media, and employees.

- Such reports provide information about an entity’s assets, liabilities, changes in net assets/equity, revenue, expenses, and cash flows and may be presented separately or within another public document such as an annual report.

Responsibility for Financial Statements

- The responsibility for the preparation and presentation of financial statements varies within and across jurisdictions with some drawing a distinction between the responsibility for preparing and responsibility for approving or presenting the financial statements.
- These may be the heads or chief executives for the individual entities and the finance minister or the head of the central finance agency (e.g., controller or accountant-general) for the government as a whole.

Components of Financial Statements

A complete set of financial statements comprises:

(a) A statement of financial position;

(b) A statement of financial performance;

(c) A statement of changes in net assets/equity;

(d) A cash flow statement;

(e) When the entity makes publicly available its approved budget, a comparison of budget and actual amounts either as a separate additional financial statement or as a budget column in the financial statements; and

(f) Notes, comprising a summary of significant accounting policies and other explanatory notes.

Expenditure Management and Control

PFMA Opportunities:

- Consolidated Fund Services,
- Accountable Documents,
- Procurement Plans

Challenge:

- Compliance?
- What controls are there then?

Monitoring and Reporting

PFMA Opportunities:

- Responsibility for monitoring, evaluation and reporting
- Special National Government public Funds,
- State Corporations additional reporting

Asset Management

PFMA Opportunities:

- Inventories of Assets,
- Transfer of assets,
- Register of Assets,
- Losses and Write-offs

Opportunities for the entities to develop and maintain assets

INTERNAL AUDIT AND AUDIT COMMITTEES

PFMA Opportunities:

- Mandate of internal auditors.
- Compliance with professional standards and code of ethics.
- Independence of the internal auditor.

New dawn for audit function (audit committee Guidelines issued June 2016)

Public Debt Management

- Country borrowing strategy - domestically, foreign debts vs Interest rates
- The country's external debt has increased from Sh361.73 billion in 2003 to Sh1.8 trillion in 2013, Sh 3.77 trillion in 2016 (54.8% of GDP)
- The country's public debt currently estimated at Sh 4 trillion (2017)

- PFM required levels?

Intergovernmental fiscal relations

- Financial autonomy supported by Articles 6 and 189 of the Constitution:
  - Art. 6 (2) The governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation.
  - Art. 189 (1)(a): Government at either level shall perform its functions, and exercise its powers, in a manner that respects the functional and institutional integrity of government at the other level, and respects the constitutional status and institutions of government at the other level.

- Role of institutions and fiscal responsibility principles

Way Forward

No easy answers in addressing the challenges and seizing the opportunities.

- Government needs to have more and better regard for the Constitution- and PFM reforms
- Corruption and impunity have undermined the gains expected of the reforms in the PFM Act.
- The functions of the Auditor General, Controller of budget should not be undermined.
- Fiscal reforms should be targeted at propping the economy
- Government should check its spending spree
- Government should communicate better
- Only then, might we start seeing the fruits of the reforms.

Way Forward - Questions

- Can Counties bring more prosperity to the people?
- Can public participation be made more effective?
- Can devolution take resources closer to the people?
- Can Government cut waste in spending?
- Can we prioritize spending on projects with catalytic value?
- Can we maintain macro-economic stability with low inflation, low fiscal deficit and fiscal space?

Conclusion

- Discussion and Questions?