CHAPTER 4

Scrutiny of Public Finance

The aim of financial, or fiscal accountability is to keep citizens informed of the mobilisation of financial resources and their use in meeting the needs of the community and, ultimately, to avoid institutional recidivism and improve financial management. The impetus for enhancing financial accountability may come in large part from distrust of the government and/or its officials. With the shift in responsibility to representatives of the people or indeed to the people themselves, legislatures have become one of the most important governmental institutions for achieving financial accountability and transparency. Legislative scrutiny of public finance is thus an obligation for legislatures the world over, and is a fundamental requirement enshrined in many constitutions. Legislative scrutiny of budget proposals and other financial measures is particularly important in jurisdictions in which electoral accountability is weakly developed because such scrutiny is conducive to improving budget transparency and establishing broad-based consensus.

The budget process comprises four distinct stages: the draft, legislative, execution and audit stages. There is also a clear distinction between the oversight of future performance and that of past performance, that is, between ex ante scrutiny and ex post scrutiny. Ex ante scrutiny focuses on the content and

2 Ibid., 152.
3 Ibid., 172–173.
5 Ibid.
direction of budget policy, whilst \textit{ex post} scrutiny focuses on the quality of that policy’s implementation.\footnote{Westminster-style legislatures usually stress audit examination. In Britain, for example, the Public Accounts Committee, one of the most important financial committees of the House of Commons, exercises \textit{ex post} scrutiny of public finance.\footnote{Some researchers use terms of ‘post facto’ check and ‘a priori’ control, Nevil Johnson, ‘Financial Accountability to Parliament’, in Bruce L.R. Smith and Douglas Chalmers Hague (eds.), \textit{The Dilemma of Accountability in Modern Government: Independence versus Control} (London: Macmillan, 1971), 283–291.} In practice, the legislative scrutiny approach adopted varies by country, and generally corresponds to the country’s constitutional structure, party politics and other country-specific elements.\footnote{Wehner (n 7), 6.}

Westminster-style legislatures usually stress audit examination.\footnote{Ibid., 8.} In Britain, for example, the Public Accounts Committee, one of the most important financial committees of the House of Commons, exercises \textit{ex post} scrutiny of public finance.\footnote{Ibid.} However, this kind of \textit{ex post} approach is less widely accepted in other countries, most notably the United States, which focuses on \textit{ex ante} scrutiny.\footnote{Johnson (n 7); Premchand (n 1).} Both Houses of the \textit{US} Congress have unfettered powers to amend the President’s draft annual budget.\footnote{Johnson, ibid., 284.} Further, enactment of the Congressional Budget and Impoundment Control Act of 1974 saw the founding of a non-partisan Congressional Budget Office to support budget-related analyses and compile other budget information.\footnote{Ibid.}

Hong Kong’s legislature has inherited most of the structural arrangements of the British parliament, including a standing Public Accounts Committee (\textit{PAC}) and a passive role in approving budget proposals. The Finance Committee is the only Legco organ that examines budget proposals. In addition, most of the financial proposals submitted by the government need to be approved by the Finance Committee which receives recommendations from its two sub-committees: the Establishment Subcommittee (\textit{ESC}) and Public Works Subcommittee (\textit{PWSC}).

This chapter first discusses the constitutional restrictions on and institutional framework for financial scrutiny by Legco. It then analyses Legco’s role at the budget and audit stages using data on the results of financial proposals and public hearings held by the \textit{PAC} to show how and to what extent Legco affects public expenditure and supervises public finance.

\begin{thebibliography}{9}

\bibitem{8} Wehner (n 7), 6.
\bibitem{9} Ibid., 8.
\bibitem{10} Johnson (n 7); Premchand (n 1).
\bibitem{11} Johnson, ibid., 284.
\bibitem{12} Ibid., 283.
\bibitem{14} Ibid.
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