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**Power of the Purse in Singapore:
Who Controls the Controllers?**

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Power of the Purse in Singapore: Who Controls the Controllers?

“If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself”.

– James Madison, *The Federalist* No. 51.

INTRODUCTION

The origins of legislative oversight in public finance can be traced back to ancient Greece. Aristotle was the first to highlight the necessity of protecting public funds from embezzlement, the obligation to disclose financial activity to the people, and the commitment to deposit copies of accounts for public inspection.¹ Since that time, legislative oversight has waxed and waned. Whether between the Monarch and the House of Commons in England, the King and the États généraux in France, or the President and Congress in the US, struggles have ensued over who controls the nation’s purse strings.

The result of the historical struggle between the executive and legislature that spanned 800 years² is that the legislature controls the power of the purse. That is, in most modern democracies, the legislature controls the executive’s ability to tax and spend. This function, typically referred to as oversight, remains today one of the three main functions of a legislature (the other two being law-making and representation). While

¹ Aristotle, *The Politics*.

² Dating from the Magna Carta in 1215, when King John covenanted with the barons not to levy any tax without their assent.

various legislatures exercised varying degrees of oversight throughout history, the consensus in modern times – with the exception of the US – is that there has been a general decline in national legislature’s oversight over budgets, particularly in parliamentary systems.³

This general decline has led to a resurgence of academic interest in examining legislative oversight in public finance in the last thirty years. The resurgence is driven in part by a desire to deal with the increasingly precarious fiscal position of many countries,⁴ which was compounded by the global recession in 2008. Studies have been performed at both an international and domestic level. On the international level, the World Bank Institute has done extensive comparative analysis on legislative oversight and budgeting.⁵ The OECD has also compiled a comprehensive database of International Budget Practices and Procedures, which includes information on budget transparency and legislative participation.⁶ On the domestic level, while early studies focused on the US⁷,

³ Allen Schick, *Can National Legislatures Regain an Effective Voice in Budget Policy?* 1 OECD Journal on Budgeting No. 3, 22-23 (2002); DAVID COOMBES, *THE POWER OF THE PURSE: THE ROLE OF EUROPEAN PARLIAMENTS IN BUDGETARY DECISIONS* (1976); A. PREMCHAND, *CONTROL OF PUBLIC MONEY: THE FISCAL MACHINERY IN DEVELOPING COUNTRIES* (2000) at 463; Bruce I. Oppenheimer, *How Legislatures Shape Policy and Budgets*, 8 Legislative Studies Quarterly 551, 557 (1983).

⁴ *Id.* Schick at 6.

⁵ WORLD BANK INSTITUTE, *LEGISLATIVE OVERSIGHT AND BUDGETING, A WORLD PERSPECTIVE* (Rick Stapenhurst et al. eds., 2008).

⁶ OECD, *International Budget Practices and Procedures Database*, <http://www.oecd.org/governance/budgeting/internationalbudgetpracticesandproceduresdatabase.htm> (last visited March 4, 2019).

⁷ ALLEN SCHICK, *THE FEDERAL BUDGET* (3rd ed. 2007).

the past decade has seen a surge of country-specific studies, including on South Africa⁸, Israel, Brazil, Italy, France and Indonesia.⁹

To date, no jurisprudence has examined in detail the Singapore system.¹⁰ I believe a critical examination is overdue and useful for at least three reasons.

First, academics agree that legislative oversight must be examined against country-specific constitutional, historical, political and cultural backdrops.¹¹ More specifically, as Singapore's governance system presents a unique hybrid of Westminster parliamentarism and presidentialism, studies on legislative oversight in terms of the UK or US models cannot fully apply.¹² In this regard, a brief word about the differences between parliamentary and presidential systems may be helpful. In presidential systems such as the US, the head of the executive, i.e. the president, is elected directly by the people. The legislature, whose representatives are voted directly into office, is completely independent from the executive. In contrast, in parliamentary systems, the legislature is voted into office, but the executive is derived from the legislature. The political party that

⁸ Warren Krafchik and Joachim Wehner, *The Role of Parliament in the Budget Process*, Institute for Democracy in South Africa: Budget Information Service (1999).

⁹ The various country specific studies can be found in Part III of World Bank Institute *supra* note 5.

¹⁰ The only study I am aware of is by Jon R Blondal (Jon R. Blondal, *Budgeting in Singapore*, 6 OECD Journal on Budgeting 1 (2006)) but Blondal's objective was to review Singapore's budget process in general – his examination of the role of Parliament and the Elected President in performing oversight is fairly brief.

¹¹ Ian Lienert, *Who Controls the Budget: The Legislature or the Executive?* IMF Working Paper No. 05/115 (2005); Joachim Wehner, *Legislative arrangements for financial scrutiny: Explaining cross-national variation*, in THE ROLE OF PARLIAMENTS IN THE BUDGET PROCESS (R Pelizzo, R Staphenhurst and D Olson eds., World Bank 2005) at 14.

¹² Lienert concludes that while one can be categorical that legislative influence over the budget is strong in a presidential form of government and particularly weak in countries with Westminster parliamentary monarchies, it is difficult to reach conclusions regarding intermediate forms of government: *id.* at 18; Wehner posits that the US Congress and the UK Parliament are not typical legislatures – the US Congress is clearly exceptional among presidential systems, whereas the Westminster system is distinct with regard to its pattern of financial scrutiny: *id.* at 14.

obtains the greatest number of seats in parliament forms the government – that party elects a member as its leader, and such member becomes the prime minister. The prime minister is the head of the executive, and is also a member of the legislature.

Accordingly, in parliamentary systems, the executive and the legislature are not fully independent of each other.

Second, the Singapore model is particularly compelling because the President, who is part of the legislature and who otherwise has a purely ceremonial role, has been conferred specific powers over the executive budget. That is, he can veto the *entire* budget in certain circumstances. In the public budgeting context, this presents a radical departure from traditional Westminster systems. It is worth examining how the *sui generis* nature of the Singapore President's role has affected the extent of legislative oversight over public budgeting in Singapore – in particular, whether this has led to a departure from weak legislative oversight generally prevalent in Westminster systems.

Third, a critical examination allows us to evaluate whether there is room for reform. While legislative oversight increases transparency and accountability, more is not necessarily better. As discussed below, there is an inherent tension between executive prerogative and legislative oversight in budgeting – increasing legislative oversight may lead to suboptimal fiscal and allocation outcomes. Discussion on how increasing legislative oversight may affect the achievement of other budgetary outcomes is often missing from oversight jurisprudence. I argue that this is an important consideration in

deciding whether reform to increase legislative oversight is necessary, and if so, what type of reform is appropriate.

My aim in this paper is four-fold: (a) to present a framework to assess legislative oversight in public budgeting, (b) to situate legislative oversight in the broader budgetary context, in particular, to examine how strong legislative oversight affects the achievement of various budgetary outcomes, (c) to evaluate the Singapore system against the framework, and (d) given the trade-offs inherent in the achievement of budgetary outcomes, to consider whether there is value in strengthening legislative oversight in Singapore. Briefly, my conclusion is that to optimize budgetary outcomes, the optimum balance for Singapore lies in the continuation of strong executive *ex-ante* powers in formulating the budget, coupled with strong legislative *ex-post* powers in overseeing and scrutinizing budget execution. The former ensures strong fiscal discipline and efficient resource allocation, while the latter ensures transparency and political accountability.

PART I – A BROAD OVERVIEW OF THE SINGAPORE MODEL

Singapore is a former British colony and gained independence in 1965. Due to its colonial roots, Singapore's system is substantially modeled on the Westminster parliamentary system. There are three branches of government: the legislature, the executive and the judiciary. Executive power is vested in the Cabinet, which is drawn from a unicameral chamber.

Under the Constitution, the government proposes the budget, and the legislature must then approve the budget before it has legal effect.¹³ This is consistent with

¹³ CONSTITUTION OF THE REPUBLIC OF SINGAPORE, art. 148A.

budgetary systems in traditional Westminster parliamentary models. The government heavily dominates the budget process. Singapore's fiscal year starts on 1st April. The budget formulation cycle begins in earnest the previous June, and involves extensive discussions between various branches of the executive – Parliament is not at all involved in these deliberations. The budget is only presented to Parliament in February. Although parliamentary debate on the budget then ensues, Parliament typically passes the entire budget without amendments.

As a matter of practice, the government generally runs a balanced budget.¹⁴ This is in part a function of exercising fiscal discipline, as well as a result of constitutional strictures limiting the executive's ability to spend. These constitutional strictures, enacted into the Singapore Constitution in 1991, caused the nation to depart significantly from the Westminster model. Their effect was to confer on the President – who had hitherto only played a ceremonial role – specific powers to check executive spending. In particular, the President can veto any supply bill if he thought that the budget would likely draw on the nation's past reserves. The term "past reserves" generally refers to the reserves accumulated during previous terms of government.¹⁵ When the President exercises his veto right, the supply bill does not come into force. This mechanism effectively forces the government to maintain a balanced budget during its term (maximum 5 years).

I will examine the Singapore model in greater detail in Part V. At this stage, it is sufficient to note that despite her colonial roots, the Singapore model does *not* resemble

¹⁴ Singapore's growth strategy has in fact resulted in persistent structural budget surpluses: Mukul G Asher, Azad Singh Bali and Chang Yee Kwan, *Public Financial Management in Singapore: Key Characteristics and Prospects*, 60 *The Singapore Economic Review* 3, 7 (2015); Blondal *supra* note 10 at 50.

¹⁵ CONSTITUTION OF THE REPUBLIC OF SINGAPORE, art. 142.

the traditional picture of legislative oversight in Westminster systems. In terms of oversight, the Presidency was transformative in that it effectively tilted the balance away from the executive and in favor of the legislature.

PART II – LEGISLATIVE OVERSIGHT AND PUBLIC BUDGETING

In this part, I examine the concept of legislative oversight, both generally and specifically in the context of public budgeting.

Legislative Oversight in General

Apart from making laws and representing the public, oversight is one of the main functions of a legislature. John Stuart Mill, the renowned British philosopher, emphasized that the legislative branch's task is primarily to oversee the government, that is, to "*watch and control the government: to throw the light of publicity on its acts; to compel a full exposition and justification of all of them which anyone considers questionable; to censure them if found condemnable*".¹⁶ The objectives of legislative oversight – to shed light on the government's actions and hold it accountable to the citizens – remains applicable today.

Through oversight, the legislature holds the executive accountable. Accountability, or the agreement by the government to give an account, and to be checked by the people's representatives, underpins contemporary democracies.¹⁷ In ancient Greece, democracy meant participation. Participatory democracy in modern nations is, of course, impossible. Individuals do not expect to participate in the business

¹⁶ JOHN STUART MILL, CONSIDERATIONS ON REPRESENTATIVE GOVERNMENT 42 (1875).

¹⁷ Malcolm Jack, *Parliament's Role as a Check on Government*, 38 Parliamentary Affairs 296 (1985).

of government. Instead, in exchange for surrendering their individual freedoms to a government, the people expect the government to accept responsibility for its actions, explain what it is doing, and allow discussion and criticism of policy to take place freely.¹⁸ This expectation – that our governments are accountable to us – is implicit in our constitutional arrangements.

Legislative Oversight in Public Budgeting

Accountability in the context of public finance is typically discussed with reference to the legislature’s power of the purse. The power of the purse ensures an effective check by the people’s representatives (the legislature) over the executive, by controlling the funds available to the executive and the mode in which the funds are spent. The power of the purse is best encapsulated in Madison’s famous quote: “*This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure*”.¹⁹ Indeed, the power of the purse is a power of utmost importance: finance enables the machinery of government to run – without finance, there can be no government.

The twentieth century presented particular challenges to the legislature’s ability to influence the budget: the expansion of government and bureaucracy, increased technical complexity and the nagging persistence of international conflicts solidified and reinforced

¹⁸ *Id.* 297.

¹⁹ JAMES MADISON, THE FEDERALIST NO. 58 (Clinton Rossiter ed., 1961) at 359.

executive responsibility for the budget.²⁰ Coupled with the rise of disciplined political parties²¹, the colossal escalation in public spending and the burgeoning of entitlement expenditure, most legislatures have been stripped of the independence and control they once possessed.²² Allen Schick candidly observes that most legislatures today have been reduced to debating clubs – having freedom to deliberate but not to decide.²³

Legislative oversight over public finance is as – or if not more – important today as it was 800 years ago. The enormous power wielded by the executive in the modern state, coupled with the expansive breadth and complexity of budgeting, effectively means that ordinary citizens cannot be expected to hold the executive accountable in any meaningful way. After all, a citizen cannot be expected to understand the intricacies of budgetary procedure or pore through copious budget documents (assuming he is able to

²⁰ Paul Posner and Chung-Keun, *Role of the Legislature in the Budget Process: Recent Trends and Innovations*, 7 OECD Journal on Budgeting No. 3, 5 (2007). Concurrently, legislatures voluntarily yielded budgetary power to the executive because they accepted that parliamentarians could not control their political inclination to tax less and spend more: Schick *supra* note 3 at 16.

²¹ Rockman pithily comments that the rise of powerful and disciplined political forces “*makes for a system of relatively few sheep herders and relatively many sheep; it makes, in short, for Government dominance bolstered by a lock of party organizations on members’ political careers*”: Bert A. Rockman, *Legislative-Executive Relations and Legislative Oversight*, 9 *Legislative Studies Quarterly* 387, 422 (1984).

²² Schick *supra* note 3 at 23.

²³ *Id.*

obtain all the information he needs in the first place). The legislature, in place of its constituents, is the only real body that has the power to hold the executive accountable.

Accountability is channeled, in the main, through the budget process. Despite the wide variety of budget systems in the world, the modern purposes of public budgeting are not controversial. Very broadly, they serve the following interrelated functions:²⁴

- (a) **Allocation and management of resources:** Budgets allocate scarce resources amongst competing concerns to achieve policy and program goals.
- (b) **Raise Funds:** Budgets set out plans to raise the funds necessary to support expenditures, via taxes, fees or loans.
- (c) **Tool of economic management:** Budgets stabilize the economy through fiscal policy in tandem with monetary policy; they also serve as a mechanism for achieving planned social and economic goals.
- (d) **Oversight and Accountability:** In democratic countries, budgets are approved by legislatures before they are effective. The executive is accountable to the public, through the legislature, for the collection and expenditure of public funds.

Budgeting, in its early stages of evolution, was primarily concerned with the last of these functions – legislative accountability.²⁵ England was one of the earliest countries to impose legislative control of the purse. Having wrested control over taxation from 1251,²⁶ the English Parliament started from the early 18th century to assert its control

²⁴ DONALD AXELROD, *BUDGETING FOR MODERN GOVERNMENT* 7 (2nd ed, 1995).

²⁵ A. PREMCHAND, *GOVERNMENT BUDGETING AND EXPENDITURE CONTROLS THEORY AND PRACTICE* 36 (1983); Aaron Wildavsky, *A Budget for All Seasons? Why the Traditional Budget Lasts*, 38 *Public Administration Review* 501, 501 (1978).

²⁶ Pursuant to the Magna Carta in 1251, King John agreed not to levy any tax without assent of the people's representatives.

over spending. Until that stage, the King enjoyed broad latitude in spending granted funds as he wished.²⁷ From 1782, Parliament started requiring the government to present detailed annual civil estimates of expenditure. Ministers were answerable for the estimates, and could not depart from the appropriations made thereon.²⁸ Thus, the purpose of budgeting, from the beginning, was to ensure that the legislature could exert control over the executive.

Even today, oversight and accountability remains a central pillar of good budgetary governance. The OECD Principles of Budgetary Governance 2015²⁹ (“**OECD Principles**”), an influential document coalescing the views of senior budget officials from OECD countries, recommends that budgets should present a comprehensive and reliable account of public finances.³⁰ Budget systems should provide for an inclusive, participative and realistic debate on budgetary choices,³¹ and budget data should also be open, transparent and accessible.³²

Types of Oversight: ‘Strong’ and ‘Weak’ Sense

Thus far, the concept of legislative oversight has been discussed in the abstract. What, exactly, does legislative oversight mean in practice, particularly in the budgetary context?

Legislative oversight can be understood as oversight in the ‘strong’ sense or ‘weak’ sense. This classification is borrowed from Roy Gregory’s analysis of

²⁷ PAUL EINZIG, THE CONTROL OF THE PURSE 164 (1959).

²⁸ *Id.*

²⁹ Recommendation of the Council of Budgetary Governance (OECD, 2015).

³⁰ *Id.* Principle 6.

³¹ *Id.* Principle 5.

³² *Id.* Principle 4.

parliamentary control powers over the executive³³ – while Gregory’s focus was the English Parliament, his analysis can be applied more generally. In essence, Gregory argues that parliamentary control over the executive can be understood in the ‘strong’ sense and ‘weak’ sense.

In the ‘weak’ sense, parliamentary control entails scrutiny and criticism, but with no power to direct outcomes. This includes the activities of verification, examination, inspection, censure, challenge, questioning and calling to account. Here, control merely entails *influence* – not direct power; *advice* – not obstruction; *scrutiny* – not initiation.³⁴ In the ‘strong’ sense, parliamentary control implies the exercise of *direct* power. That is, parliament has the power to direct the executive to act in a specific manner, or can visit retributive sanctions on the executive if the executive acts in a way that parliament disapproves.

Extending Gregory’s classification more generally, legislative oversight in budgetary systems can also be understood in the ‘strong’ sense or ‘weak’ sense. In the ‘weak’ sense, the legislature’s role entails at least: (a) inspection of governmental accounts to ensure they comply with law, (b) examination of financial transactions to ensure administrative compliance with statutory intent, and (c) examination of and debate over the budget, but with no real power to examine the policies or projections underlying the budget, or to direct the government to change such policies or projections. In sum, the

³³ Roy Gregory, *Parliamentary Control and the Use of English*, 43(1) *Parliamentary Affairs* 59 (1990).

³⁴ *Id.* at 59.

legislature's role is merely to scrutinize and influence, and if necessary, call to question or censure.

Conversely, in the 'strong' sense, the legislature has direct power to effect changes to the budget, including the policies and projections underlying the budget. Here, the legislature's role is not confined to mere influence or scrutiny: it has the power to direct and initiate. A prime example of legislative oversight in the 'strong' sense is the US Congress, which enjoys unparalleled powers to amend and rewrite the President's budget, based on its own projections.

Two points of clarification on this classification are necessary. First, on terminology: the use of the adjectives 'strong' and 'weak' is apt to mislead insofar as it suggests that legislative oversight in the 'strong' sense is always preferable to legislative oversight in the 'weak' sense. On the contrary, this classification makes no normative assumptions about which type of oversight is superior. Indeed, in a budgetary context, there may be good reasons why oversight in a 'strong' sense may *not* be optimal. As discussed below, excessive interference by representatives who often advance their own partisan interests may hamper administrative efficiency and impair the achievement of national goals. Ultimately, having a 'strong' or 'weak' system boils down to a political choice that carries ramifications. There is no right answer – while it may be easier to set clear direction and unified policy in a 'weak' system, that does not necessarily mean that the greater efficiency and clarity in policy is worth the price that might be paid in a given country. Many nations, for historical, cultural or political reasons, consciously choose

messier power-sharing arrangements over arrangements in which the government acts as a powerful agenda-setter.³⁵

Second, there is no consensus on the optimum level of oversight. It is certainly not obvious that more is necessarily better. The issue is one of balance – legislatures must control with enough certainty of touch to guarantee a responsible and responsive public service, but must refrain from impairing the capacity of the public service to achieve social objectives.³⁶ It is not the intent of this paper to comment on the optimum level of legislative oversight in budgeting (in fact there appears to scarce jurisprudence attempting to do so). Arguably, this is a decision that is highly contextual and will depend heavily on the political, constitutional and social makeup of a particular country.

PART III – A FRAMEWORK TO EVALUATE LEGISLATIVE OVERSIGHT

There is no single, agreed framework to evaluate legislative oversight over public finance. The two major comparative studies done in recent times are the 2003 OECD/World Bank Survey on Budget Practices and Procedures, and the 2001 Inter-Parliamentary Union/World Bank Institute survey on legislative-executive relations in 83 jurisdictions. These studies poll respondents on a wide range of questions, including how budgets are formulated, approved and executed, and on the nature of legislative-executive

³⁵ Philip G. Joyce, *Linking Performance and Budgeting Under the Separation of Powers: The Three Greatest Obstacles Created by Independent Legislatures*, in PERFORMANCE BUDGETING: LINKING RESULTS AND FUNDING (Marc Robinson, ed., 2007) at 447.

³⁶ Rockman *supra* note 21 at 418.

relations. Questions were also posed on the oversight tools and powers legislatures had at their disposal. Pertinent papers capitalizing on this data include works by Joachim Wehner,³⁷ Riccardo Pelizzo and Rick Staphenhurst.³⁸

Scholars perform analysis primarily by examining the oversight powers and tools legislatures have in their arsenal.³⁹ Thus, Ian Lienert examined the authority of the legislature to shape the budget by looking at *ex-ante* and *ex-post* oversight powers.⁴⁰ *Ex-ante* oversight refers to oversight performed *prior* to the budget being approved; *ex-post* oversight refers to oversight performed *after* the budget is executed. For example, *ex-ante* tools include the legislature's ability to question the executive on the budget, and *ex-post* tools include the legislature's power to follow-up on audit recommendations. Wehner adopted an analogous approach, and constructed a composite index of legislative budgeting based on the presence of similar oversight powers.⁴¹

As a starting point, it is therefore in keeping with existing scholarship to examine the number of *oversight tools* a legislature has to check the executive. These tools give us a *general* indication on where the legislature stands in its ability to check the executive.

An examination of the availability of oversight tools, however, does not paint a full picture of legislative oversight. After all, the simple presence of tools does not

³⁷ JOACHIM WEHNER, *LEGISLATURES AND THE BUDGET PROCESS: THE MYTH OF FISCAL CONTROL* (2010).

³⁸ Riccardo Pelizzo and Rick Staphenhurst, *Tools for Empirical Oversight: An Empirical Investigation* in World Bank Institute *supra* note 5 at 9-28; Rick Staphenhurst, *The Legislature and the Budget* in World Bank Institute *supra* note 5 at 51; RICCARDO PELIZZO AND FREDERICK STAPENHURST, *PARLIAMENTARY OVERSIGHT TOOLS: A COMPARATIVE ANALYSIS* (2012).

³⁹ Pelizzo and Staphenhurst *id.* at 30; Erik Damgaard, *Representation, Delegation and Parliamentary Control* (European Consortium on Political Joint Sessions of Workshops, 2000).

⁴⁰ Lienert *supra* note 11.

⁴¹ Wehner *supra* note 11.

guarantee that the legislature will use them effectively, or at all.⁴² In fact, legislatures in parliamentary systems generally have more oversight tools than in presidential systems⁴³; yet, there is consensus that legislative oversight is generally stronger in presidential systems. How can this be explained?

Scholars agree that the efficacy of tools in shaping oversight effectiveness depends substantially on the legal, constitutional, political and structural contexts in which they operate⁴⁴ (I will refer to these as “**Contextual Variables**”). For example, even if the legislature has the power to amend the budget, does the political backdrop influence how such power will be employed? Quite possibly so – in parliamentary systems legislatures are extremely reluctant to voice any disapproval of the budget because this signals a loss of confidence in the government.⁴⁵ Contextual Variables thus play an important role in shaping oversight effectiveness. In fact, Pelizzo has claimed that

⁴² Pelizzo in World Bank Institute *supra* note 5 at 31.

⁴³ *Id.*, at 20.

⁴⁴ *Id.* at 31; Lienert *supra* note 11 at 19.

⁴⁵ Posner *supra* note 20 at 11.

Contextual Variables *determine* the effectiveness of legislative oversight, and that internal factors such as the presence of oversight tools, are merely supportive.⁴⁶

In summary, a framework for evaluating legislative oversight over public finance contemplates two parts: (a) what oversight tools does a legislature possess? (b) how do the Contextual Variables affect how such tools are employed?

First Part of Framework – What oversight tools does a legislature possess?

The oversight tools most commonly discussed and analyzed in oversight literature, in the context of budgeting,⁴⁷ are:

- (a) **Committees and Committee hearings:** Are there legislative committees to examine the budget? Do committees hold hearings to question the government? Are the hearings conducted privately or open to public? The US Congress is a preeminent example of having a strong oversight committee system – both the House of Representatives and Senate possess approximately 20 permanent

⁴⁶ *Id.*

⁴⁷ Pelizzo, in World Bank Institute *supra* note 5 at 10-13, setting out results of the survey by the Inter-Parliamentary Union and the World Bank Institute on executive-legislative relations, in which 83 legislatures were polled; Chen Friedberg and Reuven Y. Hazan, *Legislative Oversight* (State University of New York/ Center for International Development, Comparative Assessment of Parliaments Note 2012) at 11-16; National Democratic Institute, *Strengthening Legislative Capacity in Legislative-Executive Relations* (Legislative Research Series 2001).

- specialized committees, and committee hearings are frequently publicly broadcasted.
- (b) **Parliamentary Questions⁴⁸/Interpellations⁴⁹:** Can legislatures request information from executive leaders and call them to account for policy actions? Parliamentary questions are best known in their oral form, where opposition members interrogate cabinet leaders during a public process called “question time”.⁵⁰ In the US, Congress does not have the power to compel the President to testify.
 - (c) **Parliamentary/Congressional Debates:** Are budgetary matters debated in plenary sessions?
 - (d) **Ombudsman:** Is there an independent and impartial officer who can investigate complaints of government malfeasance? The ombudsman is typically appointed by, and reports directly to, the legislature.⁵¹
 - (e) **Audit:** Is there an auditor, typically an Auditor-General, who audits receipts and disbursements of public funds? The Auditor-General is typically independent of the executive and reports directly to the legislature.
 - (f) **Public Accounts Committee:** Is there a legislative committee that oversees the integrity, economy, efficiency and effectiveness of government financial management?⁵² In Commonwealth countries, these committees are known as

⁴⁸ This refers typically to oral questions brought forth during permanent questioning periods and written questions which are not asked in plenary: Friedberg *id.* at 13.

⁴⁹ This represents a more demanding form of questions asked by members of parliament because they deal with fundamental subjects that lie within the general public interest and initiate broad and deep discussion in the legislature: Friedberg *id.* at 13.

⁵⁰ National Democratic Institute, *supra* note 47 at 25.

⁵¹ *Id.* at 29.

⁵² *Id.* at 24.

Public Accounts Committees. In the US, part of the Government Accountability Office's function is to examine the efficiency, effectiveness and economy of agency activities.⁵³

- (g) **Independent Budgetary Expertise**⁵⁴: Is there a unit, independent of the executive, that can provide the legislature with objective, non-partisan analysis on budgetary matters? Where legislatures lack the financial, technical and legal resources, oversight ability is compromised.⁵⁵ In sprawling and complex modern bureaucracies, budgetary expertise and knowledge is concentrated in the executive. In contrast, legislators are typically not equipped with the necessary skills and knowledge to scrutinize voluminous and complex estimates and projections. Some countries have established non-partisan units that provide legislatures with independent budget and economic information and analysis. The most famous example is the US Congressional Budget Office (“**CBO**”).

To reiterate, the mere availability of the above tools does not automatically ensure effective oversight. That is, oversight *potential* (as a function of the number of tools) does not equal oversight *effectiveness*.⁵⁶ Instead, the Contextual Variables play a significant

⁵³ 31 USCS § 705.

⁵⁴ In the literature, independent budgetary analysis units are frequently discussed together with the other Contextual Variables. However, as these units are effectively a tool available to the legislature in evaluating the budget, I have classified them together with the other tools in the first part of the framework.

⁵⁵ Krafchik *supra* note 8 at 13.

⁵⁶ Pelizzo in World Bank Institute *supra* note 5 at 31.

role in determining the relative budgetary powers of the legislature and executive. I shall now explore these variables.

Second Part of Framework – What Contextual Variables apply?

Oversight literature discusses a whole host of Contextual Variables that affect the effectiveness of legislative oversight.⁵⁷ Here, I elaborate on the factors that tend to be commonly cited across the literature. Contextual Variables can be grouped into three baskets: (a) Constitutional Variables, (b) Political Variables, and (c) Structural Variables. In discussing each of these variables, where relevant I will juxtapose the UK parliament with the US Congress to reflect how each variable affects oversight.

(a) Constitutional Variables. The constitutional division of responsibility inherent in the form of government affects legislative oversight in budgetary matters. In particular:

(i) Form of Government. Scholars agree that the most influential factor in legislative oversight over public finance is the form of government.⁵⁸ Due to the different constitutional divisions of power between the executive and legislature, legislatures in presidential systems employ far greater oversight than in parliamentary systems. In presidential systems, the legislature draws its authority directly from the public, and is independent from the executive. The legislature functions as a powerful agenda-setter and decision-maker.⁵⁹ The US Congress is a prime example – Congress sets its own budget resolutions; Congressional appropriations committees enjoy full discretion in allocating

⁵⁷ For example see Lienert *supra* note 11; Posner *supra* note 20; Wehner *supra* note 11.

⁵⁸ Posner *supra* note 20 at 4.

⁵⁹ Lienert *supra* note 11 at 3.

spending and are not bound by the President's budget. The US model is a prime example of legislative oversight in the 'strong' sense.

Parliamentary systems, such as the UK system, lie at the opposite end of the spectrum. As stated earlier, the Prime Minister, who is the effective head of the executive, is also a member of parliament (i.e. part of the legislature). Thus, the legislature is not fully independent from the executive. Although in *theory* parliament has supremacy over the government (which emanates from it), in *practice*, the government controls parliament through the integral (and disciplined) majority it commands.⁶⁰ Accordingly, although parliament votes on an annual budget, a government that controls a majority of parliament effectively determines the budget.⁶¹ Further, in Westminster systems, any successful amendment to the budget is considered a vote of no confidence in the government. Accordingly, there is immense reluctance for legislatures to amend budgets (assuming they have the power to do so).

In between presidential and parliamentary systems lie semi-presidential systems (e.g. France), parliamentary republics (e.g. Germany) and non-Westminster parliamentary monarchies (e.g. Sweden).⁶² Legislative oversight in these jurisdictions tend to fall somewhere in the middle.

(ii) *Bicameralism or Unicameralism*. The institutional composition of the legislature has a bearing on its ability to act. Generally, bicameral legislatures have

⁶⁰ Friedberg *supra* note 47 at 8; Lienert *supra* note 11 at 7.

⁶¹ *Id.*

⁶² *Id.*

greater possibilities for influence, particularly if one house has a political standing that is different from that of the government's majority.⁶³

(b) Political Variables. The political environment and the political makeup of the government also play a significant role in determining executive-legislature relations.

Three political variables, in particular, stand out:

(i) Political Parties. Legislative oversight is diminished in a strong and cohesive 2-party system,⁶⁴ particularly in the parliamentary context. In such systems, legislatures enjoy a working majority to push through executive initiatives. There is scarce incentive for the executive to bargain and for the legislature to disagree. In contrast, a coalition government generally strengthens legislative oversight. Here, the legislature has more power to influence budgetary outcomes as the executive is expected to bargain with more independent legislative actors to procure support.⁶⁵

(ii) Party Discipline. The use of the party whip to maintain party discipline ensures that representatives vote in line with their party. This diminishes legislative oversight, as representatives do not act or vote independently or objectively. In the UK,

⁶³ Posner *supra* note 20 at 4; Lienert *supra* note 11 at 10.

⁶⁴ *Id.*; Lienert *supra* note 11 at 9.

⁶⁵ *Id.*

the government whips take a dim view of government backbenchers tabling any amendments to government business.⁶⁶

(iii) *Disincentives for Representatives.* John D. Lees theorized that legislator motivation might be of crucial significance.⁶⁷ The political environment heavily influences legislator motivation. Very little incentive exists for legislators to engage in oversight that is inconsistent with government policy, particularly in strong two-party parliamentary systems, for three reasons. First, such moves tend to ire the legislator's own party, and there is typically little political capital to be gained. Second, exercising active oversight may affect a legislator's chances of advancement. For example, ministers in parliamentary systems typically see their tenure as members of parliament as a stepping-stone to coveted ministerial positions.⁶⁸ Third, legislative oversight rarely achieves tangible results – legislators prefer to focus on short-term activities with the potential for immediate reward.⁶⁹

In essence, effective oversight in parliamentary systems requires sufficient representatives to be prepared, at the expense of more politically rewarding causes, to resist the pressures of party loyalty and the attractions of promotion to criticize the executive.⁷⁰ One will not be surprised to see why this does not often happen. In contrast, in the US presidential system, US Congressional representatives may have significantly more incentive to influence the distribution of public resources in order to satisfy

⁶⁶ HOLDING THE EXECUTIVE ACCOUNTABLE: THE CHANGING ROLE OF PARLIAMENT IN THE BUDGET PROCESS (OECD, 2001) at 56.

⁶⁷ John D. Lees, *Legislature and Oversight: A Review Article on a Neglected Area of Research*, 2 *Legislative Studies Quarterly* 193, 205 (1977).

⁶⁸ National Democratic Institute *supra* note 47 at 9.

⁶⁹ *Id.* at 7.

⁷⁰ *Id.* at 204.

constituency demands. Further, unlike his parliamentary counterparts, a Congressman's advancement does not directly depend on party leaders and he is not bound by party discipline.⁷¹

(c) Structural Variables. Here, I consider the structures and processes *internal* to the legislature that affects legislative oversight. I note three structural variables:

(i) Time Allocated for Examination of Budget. The shorter the time allocated for the legislature to examine the budget, the lesser its ability to perform oversight. The OECD⁷² and IMF⁷³ agree that a budget should be tabled at least three months prior to the start of the fiscal year to enable enough time for examination and debate. In the US, the President's budget is presented 8 months prior to the start of the fiscal year⁷⁴, which allows significant time for scrutiny. In contrast, the UK estimates are presented to Parliament only two weeks before parliamentary consideration.⁷⁵

(ii) Ability to Amend Executive Budget. Parliamentary procedures that restrict representatives' ability to amend the executive budget affect oversight. Most constraining are arrangements that prohibit any amendments to the executive budget and merely give the legislature the choice between approval and rejection of the budget in its entirety.⁷⁶ Also severely restrictive are "cuts only" arrangements, typical in Westminster parliamentary systems, which allow only amendments to reduce existing items, but not

⁷¹ Friedburg *supra* note 47 at 6.

⁷² OECD BEST PRACTICES FOR BUDGET TRANSPARENCY (2002) at paragraph 1.1

⁷³ INTERNATIONAL MONETARY FUND, FISCAL TRANSPARENCY CODE at paragraph 2.2.2.

⁷⁴ The President's Budget is typically presented to Congress on February 1 every year, 8 months prior to the start of the fiscal year on October 1.

⁷⁵ Posner *supra* note 20 at 11.

⁷⁶ *Supra* note 5 at 81.

those that shift funds around or increase items.⁷⁷ In fact, representatives in some jurisdictions may only propose *nominal* cuts (in Singapore’s case, US\$70), to the budget. Given the token sums involved, raising a cut-motion merely affords the representative an opportunity to air his views on the policy underlying the sum being cut. He cannot change it. In contrast with such systems, the US Congress has unlimited ability to amend the President’s budget, and theoretically can even ignore it completely.

(iii) *Structure of the Budget.* Comprehensive budgets with significant line items generally afford more oversight possibility to legislatures than highly summarized, lump-sum budgets.⁷⁸ Also, budgets with large portions of spending deemed to be outside of legislative control (e.g. due to entitlement spending) limits legislatures’ oversight influence.

In summary, the framework to evaluate legislative oversight has two parts. In the first part, we evaluate the number of oversight tools the legislature possesses. In the second part, we examine the constitutional, political and structural variables that affect the legislature’s inclination to employ such tools. The degree of legislative oversight determined – whether ‘strong’, ‘weak’ or somewhere in the middle – affects the

⁷⁷ *Id.* The Indian and Singapore parliaments adopt a “cuts only” procedure.

⁷⁸ Posner *supra* note 20 at 16.

fulfillment of budgetary functions in different (often competing) ways, to which I now turn.

PART IV – LEGISLATIVE OVERSIGHT AND ACHIEVEMENT OF BUDGETARY OUTCOMES

Evaluating legislative oversight based on the above framework, while important, is only one part of the puzzle. Legislative oversight is but one of the functions of the budget – the budget also fulfills other important functions of allocation and management of resources, raising of funds, and as a tool of economic management. Taking a step back, it is important to consider the relationship between legislative oversight and the fulfillment of these functions.

Without doubt, the extent of legislative oversight affects the fulfillment of various budgetary functions. Obviously, the *actual* impact of legislative oversight on budgetary functions for any country will be highly fact-dependent on the actual tools and Contextual Variables applicable in that country. But on a broad level, strong legislative oversight can have a positive effect on some budgetary functions, while a negative effect on others. That is, there appears to be an inherent trade off between executive prerogative and legislative oversight in public budgeting. Strong and weak oversight tends to affect budgetary functions as follows:

- (a) **Allocation/Management of Resources:** In ‘strong’ systems, more active legislative involvement may cause resources to be allocated based on partisan concerns (pork-barreling), at the expense of broader national priorities.⁷⁹ After all, politicians are apt to reward their constituents with budgetary largess. This is

⁷⁹ Posner *supra* note 20 at 21.

exacerbated by the fact that most legislatures lack the granular knowledge, expertise, resources and incentives necessary to make allocation decisions. Micro-management by the legislature, for example, by imposing controls and conditions, may also hamper administrative efficiency and fetter the executive's ability to achieve national objectives. On the contrary, in 'weak' systems, executive officers who possess deep institutional knowledge, time and expertise are less impeded in their ability to make difficult allocation choices. This may lead to more egalitarian outcomes for the country as a whole.

- (b) **Raising Funds:** Given representatives' tendencies to be sensitive to constituent concerns (which presumably are against raising taxes), all things being equal, stronger legislative involvement in revenue policy may hamper the executive's ability to push through unpopular increases in taxation.
- (c) **Tools of Economic Management – Fiscal Control:** In general, higher legislative engagement in the budgetary process, i.e. strong oversight, tends to lead to less fiscal discipline and suboptimal fiscal outcomes.⁸⁰ This is known as the Common Pool Resource (CPR) problem, or the "tragedy of the commons". The argument is that policy-makers have incentives to increase public spending given that the costs of extra spending is borne by *all*, while the benefits are usually concentrated and enjoyed by *some*. To elaborate, individual policy-makers consider the full benefits of projects in their areas, but take into account only a fraction of the social costs of an increase in spending (higher taxes or borrowing) directed to their own constituents. This incomplete internalization of social costs lead policy-makers to

⁸⁰ Wehner *supra* note 37 at 141; Ana-Maria Rios, Francisco Bastida and Bernardino Benito, *Risks and Benefits of Legislative Budgetary Oversight* 50(6) *Administration & Society* 856 (2018).

spend or borrow more than the socially optimal level.⁸¹ Thus, legislatures exercising budgetary powers have an in-built tendency to be more profligate than the executive.⁸² In contrast, a greater centralization of budgetary powers in the executive, and in particular under the tight steerage of a finance ministry, generally leads to greater fiscal discipline and lower budget deficits.⁸³

- (d) **Accountability:** By definition, oversight will promote greater accountability for budget decisions. Primarily, in checking unfettered executive power, legislatures help to prevent a single-minded executive from acting with impunity.⁸⁴ Empirical studies also show that greater legislature oversight leads to higher levels of budget transparency.⁸⁵ This is an important check given that complex modern budgets increases the risks of practices aimed at hiding the real budget balance.⁸⁶

It is thus obvious that trade-offs exist among these competing budgetary functions. Strong legislative oversight leads to greater accountability, but does not necessarily lead to better fiscal outcomes or efficient resource allocation. The key challenge is in striking the right balance between strong executive authority required to ensure fiscal discipline and efficient budgetary outcomes, while providing the

⁸¹ Rios *supra* note 80 at 859.

⁸² Wehner *supra* note 37 at 25.

⁸³ Rios *supra* note 80 at 859; Carlos Santiso, *Budget Institutions and Fiscal Responsibility: Parliaments and the Political Economy of the Budget Process in Latin America*, World Bank Institute (2005) at 1.

⁸⁴ Posner *supra* note 20 at 21.

⁸⁵ Rios *supra* note 80 at 860.

⁸⁶ *Id.*

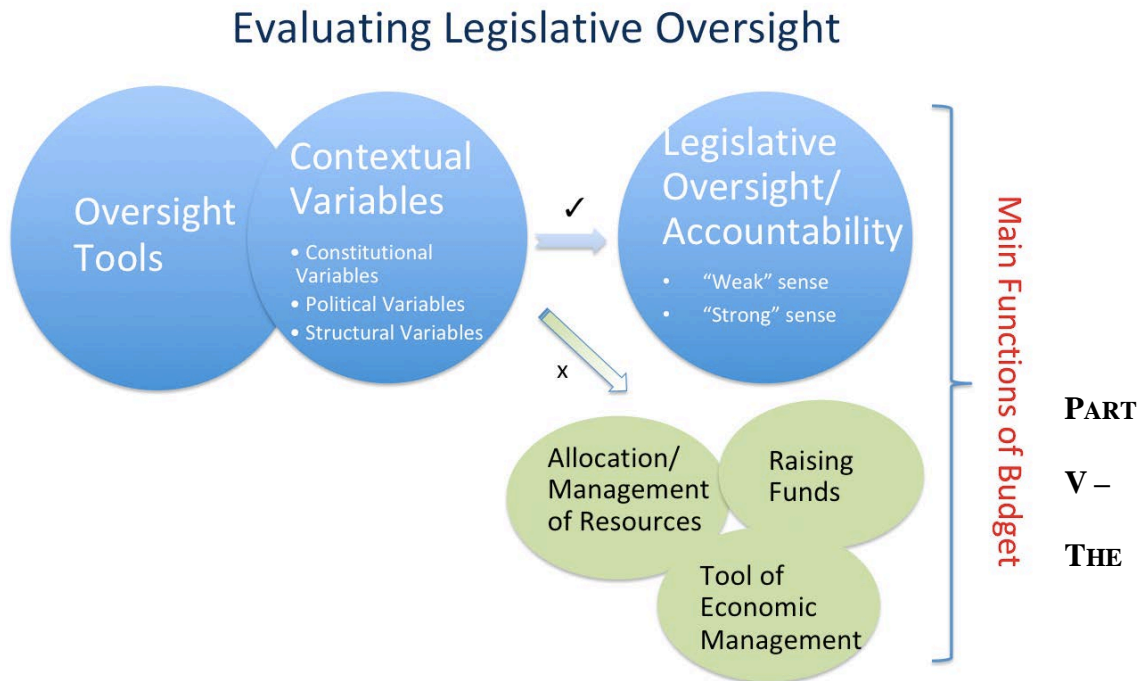
institutional checks and balances that guarantee effective accountability. Scholars have acknowledged that this is an intricate dilemma.⁸⁷

Given these trade-offs, my argument is that for Singapore, the right balance lies in the continuation of strong executive *ex-ante* powers in formulating the budget, coupled with strong legislative *ex-post* powers in overseeing and scrutinizing budget execution.

⁸⁷ Santiso *supra* note 83 at 2.

The former ensures strong fiscal discipline and efficient resource allocation, while the latter ensures political accountability. I expand on this argument in Part V.

In summary, it may be helpful to visualize the issues discussed above as follows:



SINGAPORE EXPERIENCE

Part I of Framework - Oversight Tools

The Singapore Parliament possesses five of seven tools discussed above (no ombudsman or independent budget analysis office). On *committees*, there is no “committee stage” whereby specialized committees look at individual aspects of the budget in detail.⁸⁸ While an Estimates Committee is tasked with examining the estimates to “*report what economies consistent with the policies implied in the estimates might be*

⁸⁸ Blondal *supra* note 10 at 63.

effected’,⁸⁹ the Estimates Committee has no power to accept or reject the estimates, or to propose any changes to them. Thus, the Estimates Committee’s role is circumscribed to the extent that it can only suggest improvements on efficiency rather than affect shifts in policy⁹⁰ or budgetary outcomes. The Estimates Committee currently has eight members, seven of whom are from the majority party.

On *parliamentary questions and debates*, the budget is debated in Parliament, and members of the opposition are entitled to pose questions to the majority party. On *audit*, the Auditor-General has a wide mandate to audit government ministries, organs of state and statutory boards. The Auditor-General is appointed by the President and carries out his duties under the authority and for the benefit of Parliament.⁹¹

On *Public Accounts Committees (PAC)*, the Singapore PAC is constituted as a standing select committee of Parliament⁹² and considers the Auditor-General’s report. The PAC reports to Parliament its findings, conclusions and recommendations. PAC reports are available publicly. While there are no specific rules obliging the government to follow up on the PAC’s recommendations, the recommendations carry moral weight to the extent that they are normally followed.⁹³ The PAC has eight members, seven of

⁸⁹ Standing Orders of the Parliament of Singapore, No. 100(3). The Estimates Committee is a concept inherited from the British House of Commons (which was abolished in 1979).

⁹⁰ The Estimates Committee in India has a wider remit. In addition to the powers that the Singapore Estimates Committee has, it is also able to suggest alternative policies to bring about efficiency and economy in administration: Rules of Procedures and Conduct of Business in Lok Sabha, rule 130.

⁹¹ CONSTITUTION OF THE REPUBLIC OF SINGAPORE, art. 148F.

⁹² Standing Orders of the Parliament of Singapore, No. 100(2).

⁹³ David Seth Jones, *Public Administration in Singapore: Continuity and Reform*, in Handbook of Comparative Public Administration in the Asia-Pacific Basin (Hoi-kwok Wong et al. eds., 1999) at 6.

which come from the majority party. The Chairman of the PAC is a member of the ruling majority party.

Part II of Framework - Contextual Variables

(a) **Constitutional Variables.** As explained in Part I, because of her colonial roots, Singapore's system is substantially based on the Westminster model.

In 1991, the nation significantly departed from the Westminster model by creating an "elected presidency" position in the Constitution. In summary, the people elect a President every six years. Legislative power is vested both in Parliament and in the President. The office of the Singapore President is *sui generis* – his role does not resemble that of presidents in presidential systems or the Monarch in parliamentary systems. In presidential systems, executive power is vested fully in the president. In Westminster systems, the Monarch, the Head of State, play a ceremonial role and follows the advice of his/her ministers. In Singapore, the Elected President largely continues to play a ceremonial Head of State role, but enjoys powers tailored specifically to deal with two concerns, one of which relates to oversight over executive expenditure.⁹⁴

Why was the elected presidency created? Unlike the deficit problems plaguing many countries in modern times, Singapore's main concerns in public finance lie in a different direction. The country possesses a large amount of financial reserves.⁹⁵ There is

⁹⁴ The other concern was to ensure that the integrity of the civil service would be preserved.

⁹⁵ The Singapore government does not publish the size of the nation's reserves. However, the official foreign reserves managed by the Monetary Authority of Singapore as at 31 March 2017 was reported to be S\$363b (US\$267b); Temasek (one of the two arms of the government managing the nation's reserves) reported managing a portfolio size of US\$275b (US\$202b). The other investment arm of the government, the Government Investment Corporation of Singapore (GIC), does not publish the size of its assets because doing so would effectively publish the full size of Singapore's reserves and the government deems it not in the national interest to do so.

an ever-present concern that current or future governments will squander them. To guard against irresponsible governments promising generous subsidies or dispensing largesse to the electorate, the President was tasked with the specific role of checking executive spending. In his role as the nation's fiscal guardian, the President was granted the power to veto any supply bill if he thought that the budget would likely draw on the nation's past reserves.⁹⁶ When the President exercises his right to veto, the supply law does not come into force.

Notably, Parliament may overrule the President's veto by a resolution passed by not less than two-thirds of the total elected members of parliament.⁹⁷ Accordingly, in a political environment where the majority party controls more than two-thirds of parliamentary seats, the President's veto arguably lacks force (although I argue below that there remains some oversight value even in this scenario).

(b) **Political Variables.** As explained in Part I, Singapore is a dominant 1-party state. The PAP⁹⁸ has held a substantial majority of parliamentary seats and has dominated Singapore politics since her independence in 1965. The PAP currently holds 83 out of 89 elected seats, and has never held less than two-third seats in Parliament. Party loyalty is reinforced by an anti-hopping provision in the Constitution, which provides for the vacation of a member of parliament's seat if he ceases to be a member of the political

That said, GIC has said that it manages well over US\$100b of assets (although foreign think-tanks have estimated that figure closer to US\$250b): The Straits Times, *There was a time when Singapore had to dip into its reserves* (February 16, 2015), <https://www.straitstimes.com/singapore/from-the-archives-there-was-a-time-when-singapore-had-to-dip-into-its-reserves> (last visited March 4, 2019).

⁹⁶ CONSTITUTION OF THE REPUBLIC OF SINGAPORE, art. 148A(1). As stated in Part I, the term "past reserves" generally refers to the reserves accumulated in previous terms of government.

⁹⁷ CONSTITUTION OF THE REPUBLIC OF SINGAPORE, art. 37IF(1).

⁹⁸ People's Action Party.

party.⁹⁹ Members of parliament are elected based on a “first-past-the-post” system that is conducive to predominantly one-party majority government.

Opposition voice in budgetary matters is weakened by Non-Constituency Members of Parliament (“NCMPs”) having no voting rights over budgetary matters. Introduced in 1984, the NCMP scheme is an innovation of the PAP government to foster opposition voices in Parliament, and to ostensibly act as a constitutional check on the government. NCMPs are chosen from the top three candidates from opposition parties who did not manage to win parliamentary seats. Importantly for our purpose, while NCMPs can debate all matters and vote on most legislation, they are prohibited by the Constitution from voting on all supply and money bills, and their participation in committee work is limited.¹⁰⁰

(c) **Structural Variables.** On *time allocated for budget debate*, the budget is presented to Parliament less than two months prior to the start of the fiscal year on 1 April. Accordingly, Parliament theoretically has about two months to consider the budget. In actuality, however, Parliament deliberates on the budget for less than two weeks.¹⁰¹ As is common in Parliamentary systems, the purpose of the debate is to air concerns publicly on policy issues, rather than to make actual amendments to the budget.

On *power to amend the budget*, members of parliament (other than Ministers) have no power to amend the budget. Parliamentary procedure dictates a nominal “cuts-

⁹⁹ CONSTITUTION OF THE REPUBLIC OF SINGAPORE, art. 46(2)(b).

¹⁰⁰ CONSTITUTION OF THE REPUBLIC OF SINGAPORE, art. 39(2).

¹⁰¹ Blondal *supra* note 10 at 62. Standing Orders of the Parliament of Singapore, No. 92(2) provides that seven days are to be allocated for the debate of the budget (which may be increased by the Speaker of Parliament).

only” mechanism. That is, members of parliament can only move an amendment to reduce a head of expenditure by US\$70. The power to move an increase in the budget is vested solely in Ministers, i.e. members of parliament who are also members of the government.¹⁰² On *structure of the budget*, the Singapore budget model adopts a top-down approach.¹⁰³ Accordingly, heads of expenditures are delineated on a broad level (Ministry level) with no detailed line items. Debates are confined to high-level policy issues and do not involve actual scrutiny of the estimates.

Analysis and Conclusion

As discussed above, legislative oversight over public finance can be classified into *ex-ante* oversight and *ex-post* oversight.

In terms of *ex-ante* oversight, the budget process in Singapore is dominated and driven by the executive. Key policy decisions underlying the budget are effectively cemented by the time they reach Parliament. Challenges to the budget are minimized to the extent that: (a) members of parliament (save Cabinet ministers) may not propose substantive amendments to the budget, (b) NCMPs, who serve the purpose of providing opposition voice in Parliament, are not entitled to vote on budgetary matters, and (c) the only parliamentary committee that examines the budget (Estimates Committee) can only suggest improvements on efficiency – there is no power to influence budgetary outcomes

¹⁰² Standing Orders of the Parliament of Singapore, No. 92(5).

¹⁰³ Blondal *supra* note 10 at 51.

or policies. The budget is thus typically passed without amendment. The Singapore system is thus a quintessential example of legislative oversight in the ‘weak’ sense.

Unlike other Westminster parliamentary systems, however, the elected President plays an important role in budgetary matters, and tilts the needle of oversight slightly in favor of the legislature. The President’s ability to veto budgets that draw on the nation’s past reserves ensure, in practice, that the government runs a balanced budget during its term. In budgetary matters, the President therefore provides an added layer of oversight.

Admittedly, the two-third parliamentary override diminishes the President’s veto power in a political environment where the majority party controls at least two-thirds of Parliament (as has been the case since Singapore’s independence in 1965). However, even in such situations, I believe there remains potential for the President’s veto to increase oversight. This is because the President is required to publicly publish his grounds when he exercises his veto¹⁰⁴ – this indirectly achieves accountability and transparency, the twin objectives of oversight. Given the non-existence to date of a Presidential veto, open disagreement between the President and the government would undoubtedly be picked up by the public and media. In reading the President’s grounds for veto, the public would be acquainted with the issues and the government will feel pressure to account for its decisions.

It is often said that in parliamentary systems, the ultimate oversight tool for *ex-ante* scrutiny is for members of parliament to seek a vote of no confidence. This is very unlikely to happen in Singapore’s context for two reasons. First, as discussed above, there

¹⁰⁴ CONSTITUTION OF THE REPUBLIC OF SINGAPORE, art. 37IE(2)(b).

are few incentives for members of parliament – either from the majority or opposition party – to seek such a vote. Second, where the majority party continues to hold a two-thirds parliamentary majority, and on the assumption that members continue to vote along party lines, a vote of confidence is highly unlikely to succeed.

Scrutiny by the Auditor General and the Public Accounts Committee (PAC) facilitate *ex-post* oversight. Indeed, oversight in parliamentary systems focuses on the use of *ex-post* tools. Three factors that may affect the PAC's oversight potential are, however, noted: first, the Singapore PAC's chairman is a member of the ruling majority. This deviates from the vast majority of PACs in the Commonwealth where, by constitutional convention, the Chairman is a member of the opposition party. Having a Chairman from the opposition party is thought to foster the non-partisan nature of the PAC. Second, the PAC is leanly staffed and does not appear to have an independent research unit supporting its work. Third, the government is not legally obliged to act on the PAC's recommendations.

In summary, due to the system of government and the current political environment, *ex-ante* legislative oversight of public finance is presently fairly limited – the executive heavily dominates budget formulation. In contrast, with regard to *ex-post*

legislative oversight, there are institutions and processes in place to ensure such oversight takes place.

Recalling the earlier discussion on how legislative oversight can affect budgetary outcomes, the crucial issue now is whether there is room for greater legislative oversight in Singapore. I believe the answer is yes.

On the one hand, strong consolidation of control over the budgetary process in the executive, under the tight steerage of the finance ministry, leads to better fiscal outcomes.¹⁰⁵ This is evident in Singapore's case, where the government has maintained a balanced budget, both year-on-year generally and between terms of government. On this basis, there is arguably less compelling reason to increase *ex-ante* legislative oversight (although I argue in Part VI that there are nevertheless some reforms worth considering).

On the other hand, the legislature plays a crucial part in ensuring transparency and accountability in public finance – an equally important budgetary outcome. The Singapore legislature currently plays this function primarily through *ex-post* review of the budget.

Considering these factors together, I believe that the right balance for Singapore lies in the continuation of strong executive *ex-ante* powers in formulating the budget, coupled with strong legislative *ex-post* powers in overseeing and scrutinizing budget

¹⁰⁵ See discussion at Part IV above.

execution. The former ensures strong fiscal discipline and efficient resource allocation, while the latter ensures political accountability.

Based on this view, insofar as *ex-post* oversight is concerned, I believe there is value in shoring up the legislature's *ex-post* oversight capabilities. This will ensure a more optimal balance between executive prerogative and legislative oversight.

Insofar as *ex-ante* oversight is concerned, while my argument is that the executive should retain strong *ex-ante* powers in budget formulation, this does not necessarily mean there is no room for improvement. After all, my argument is not premised on a total obliteration of the legislature's role in the *ex-ante* budget process. Rather, my argument is that excessive legislative intervention may harm fiscal and allocation outcomes – such legislative intervention is better understood to mean oversight in the 'strong' sense, where the legislature has the power to reformulate and amend the budget. Where the legislature has no such powers (in a 'weak' system), it nevertheless continues to play an important role in scrutinizing the budget. There is value in considering reforms that improve such oversight capabilities *within a 'weak' system* – such reforms do not transform a 'weak' system into a 'strong' system. Rather, it improves the legislature's

ability to perform its functions *within* the ‘weak’ system. In sum, I believe there is room to also improve the legislature’s *ex-ante* oversight capabilities.

PART VI – REFORM

In Part IV, I concluded that there was room for greater legislative oversight in Singapore – both *ex-ante* and *ex-post*. I now propose some reforms to improve oversight.

Reforms to improve *ex-ante* oversight

One of the biggest obstacles to effective legislative oversight stems from the information and expertise asymmetry between the executive and legislature in budgetary matters.¹⁰⁶ Budgetary information and expertise is overwhelmingly concentrated in the executive. Representatives are typically not schooled in the intricacies of budgeting, and accordingly lack the necessary knowledge and skills to scrutinize the budget. This compromises effective oversight. In Singapore, the expertise asymmetry is magnified by the lack of institutions – whether in-house or independent – to assist members of parliament in examining the estimates and public accounts. Accordingly, I propose three reforms to shore up expertise:

(a) **Training:** provide specialized training to incoming members of parliament on budget matters, including timetables, rules and procedures and oversight roles and responsibilities of members. As an example of such training, the Harvard Kennedy School runs the Bipartisan Program for Newly-Elected Members of Congress. The comprehensive training program for new legislators provides intensive and in-depth

¹⁰⁶ Schick *supra* note 3 at 22.

training on major public policy matters, including on the federal budget and appropriations. A similar program in Singapore might involve training sessions with key officers from the Ministry of Finance involved in the budget process, as well as possible tie-ups with academic institutions such as the Lee Kuan Yew School of Public Policy.

(b) **Independent Research Service:** provide a robust independent and dedicated research and analysis service for members of parliament. Such services are not uncommon. For example, the US Congressional Research Service provides confidential and non-partisan policy and legal analysis to committees and members of Congress, regardless of political affiliation. Similarly, the UK House of Commons Library, an independent research and information unit, provides impartial information to members of parliament of all parties and their staff. Such research includes in-depth and impartial analysis of all major pieces of legislation. While the Singapore Parliamentary Library purports to provide “research and information services”, it appears that the service is geared towards information-gathering rather than performing analysis.¹⁰⁷ Reforms could be channeled towards shoring up the analytical capabilities of this service.

(c) **Parliamentary Budget Office (“PBO”):** establishing a non-partisan¹⁰⁸ parliamentary budget office with a limited mandate to provide independent budgetary

¹⁰⁷ The Parliamentary Library’s Guide to Library Services describes the service as providing “*information which is authoritative and impartial. Past requests received include background materials for speeches, committee meetings and parliamentary questions, information from newspapers, journals, books, as well as information on parliamentary debates and Bills*”: Parliament of Singapore, *Guide to Library Services*.

¹⁰⁸ The key is to set up a nonpartisan – and not a bipartisan – unit. There is a clear difference – whereas a bipartisan unit presents its analysis from the views of all political parties, a nonpartisan unit will not present its views from any political perspective at all. A nonpartisan unit would be superior in presenting objective information: Barry Anderson, *The value of a Nonpartisan, Independent, Objective Analytic Unit to the Legislative Role in Budget Preparation* in World Bank Institute *supra* note 5 at 136.

analysis. The use of Independent Fiscal Institutions (“**IFIs**”) to enhance the legislature’s role in the budget process is widespread across all systems of government. While the most well known IFI is the US CBO, IFIs in the form of parliamentary budget offices also exist in Westminster parliamentary models. For example, both Australia and Canada have Parliamentary Budget Offices, and the UK has an Office for Budget Responsibility. IFIs critically assess, and in some cases provide non-partisan advice on, fiscal policy and performance. Today IFIs are considered among the most important innovations in public financial management,¹⁰⁹ and the consensus is that they enhance legislature oversight capabilities¹¹⁰ by compensating for the legislature’s limited capacity for budgetary and fiscal policy evaluations.

An IFI must be tailored to the country’s needs and circumstances. A comprehensive OECD study on IFIs across 18 jurisdictions concludes that there is no one-size-fits-all model for an IFI – much depends on local needs and the local institutional environment.¹¹¹ IFIs thus vary considerably in terms of governance provisions, breadth of mandate and functions, leadership, staff arrangements and budget. Indeed, existing IFIs range from extremely small groups concerned with simply

¹⁰⁹ Lisa von Trapp, Ian Lienert and Joachim Wehner, *Principles for independent fiscal institutions and case studies*, 15 OECD Journal on Budgeting 9, 11 (2015).

¹¹⁰ Anderson in World Bank Institute *supra* note 5 at 132; Ian Lienert, *Role of the Legislature in Budget Processes*, Fiscal Affairs Department, IMF (2010) at 16; Posner *supra* note 20 at 14; Schick *supra* note 3 at 31.

¹¹¹ *Id.*

validating the government's forecast and assumptions, to much larger bodies that produce forecasts, conduct economic research and publish commentary.¹¹²

Setting up a PBO in Singapore is a major policy decision that would require further in-depth study and public consultation. Any PBO must fit the legislature's needs, and respect existing institutions and traditions. As to possible models, Carlos Santiso and Marco Varea postulate that PBOs can have three types of functions, ranging from basic to advanced: (a) *basic* functions would include analyzing the budget bill and evaluating implementation and results of the prior year's budget, (b) *intermediate* functions include monitoring the medium-term framework, evaluating fiscal impact of bills and analyzing debt sustainability, and (c) *advanced* functions include undertaking economic growth projections, economic analyses and sector studies.¹¹³

While it is beyond the scope of this paper to propose the exact form of a Singapore PBO, one possible model would be a PBO that has a basic, limited mandate of analyzing and evaluating the estimates, including examining the macroeconomic assumptions thereunder. Thus, it is not necessary for a Singapore PBO to take on the tasks of forecasting or costing¹¹⁴ as is done by larger IFIs like the US CBO – in fact it could be argued that the work of the US CBO is highly tailored to the legal, constitutional and political circumstances in the US and it would be inappropriate to replicate such

¹¹² House of Commons Treasury Committee, Office for Budget Responsibility (Fourth Report of Session 2010-11) Volume 1 at 9.

¹¹³ Carlos Santiso and Marco Varea, *Strengthening the Capacities of Parliaments in the Budget Process*, Inter-American Development Bank, Institutional Capacity of State Division Policy Brief No. IDB-PB-194 (2013).

¹¹⁴ The OECD study conducted by von Trapp, Lienert and Wehner (*supra* note 109) lists the typical functions of an IFI – most IFIs studied are tasked with analyzing long-term fiscal sustainability and perform macroeconomic and fiscal forecasting, while only half of the IFIs have a costing role.

institutional arrangements in a vastly different governance system and context.¹¹⁵

Starting with a basic and limited mandate also has the benefit of allowing a fledgling PBO to consolidate technical credibility and political impartiality in its early years.

Whichever form the PBO takes, an outfit with independent analytical capability will undoubtedly go some way in remedying the information and expertise asymmetry that hampers effective legislative oversight. The PBO's analysis will also better inform the work of the Estimates Committee and Parliament in examining and debating the budget.

Reforms to improve *ex-post* oversight

The work of the Auditor-General and the PAC currently provides fairly robust *ex-post* oversight and accountability. Nevertheless, there is room to further strengthen these functions. I propose one reform to boost the work of the Auditor-General's Office, and two reforms to strengthen the PAC. The latter reforms are in line with the recommendations of the Commonwealth Parliamentary Association Study Group, which conducted a comprehensive study of PACs in 70 legislatures ("**CPA Study**").¹¹⁶

(a) **Auditor-General – Auditing for Performance:** There is room to expand the scope of the Auditor-General's powers to facilitate greater oversight over public

¹¹⁵ The US CBO performs macro-budget analysis and costing proposals, with relatively more focus on the latter in recent times. With regard to projections, one of its major tasks is to perform economic forecasts and 10-year baseline budget projections, which feed into its analysis of the President's budget. The objective is to produce an independent analysis that rivals the Office of Management and Budget's analysis (thought to be more partisan given that OMB is part of the Executive). This model assumes an adversarial relationship between the legislative and the executive, which contradicts the co-operative relationship that exists in most parliamentary regimes (including Singapore).

¹¹⁶ DAVID G. MCGEE, QC, *THE OVERSEERS* (2002). The recommendations of best practices of Auditor-Generals and PACs are found on pages 5-8.

expenditure. Drawing from its counterparts in the US and the UK, the Auditor-General can be empowered to perform audits on whether executive agencies are utilizing their resources efficiently and effectively. Thus, the UK National Audit Office may carry out value-for-money audits and examine the economy and efficiency with which agencies discharge their functions.¹¹⁷ Similarly, the US Government Accountability Office is required to evaluate the “efficiency, effectiveness and economy”¹¹⁸ of agency activities, making recommendations where appropriate as to how these may be improved.

Currently, the Singapore Auditor-General is statutorily empowered to conduct only compliance, rules-based audits.¹¹⁹ Expanding the scope of his powers to conduct performance audits will promote greater accountability in public expenditure. Such performance audit reports, when fed into the work of the PAC, will better equip the legislature to perform its oversight role.

(b) **PAC – Increasing opposition representation:** As discussed above, the Singapore PAC deviates from international practice in that its chairman is a member of the ruling party. By constitutional convention, the Chairman of the PAC is typically from an opposition party.¹²⁰ The CPA Study notes that it is “*critically important that efforts be made to associate senior opposition figures with the committee’s work*”.¹²¹ Pelizzo, in

¹¹⁷ National Audit Act 1983, section 6 (UK).

¹¹⁸ 31 USCS § 705.

¹¹⁹ Under the Audit Act (Chapter 17 of Singapore), the nature of audit is specified as: (a) verifying the collection and custody of public moneys, (b) ensuring that payments were made with proper authorization, and (c) ensuring that the Constitutional and financial procedure laws have been complied with: section 5.

¹²⁰ McGee *supra* note 116 at 61. In two-thirds of PACs in the Commonwealth the chairman is from the opposition: Joachim Wehner, *Principles and Patterns of Financial Scrutiny: Public Accounts Committees in the Commonwealth*, 41(3) *Commonwealth and Comparative Politics* 21, 27 (2003).

¹²¹ *Id.*; Friedberg *supra* note 47 at 25.

analyzing the effectiveness of PAC activity in 24 jurisdictions, has reported a positive correlation between the number of opposition members and PAC activity.¹²² In Singapore's context, reforms would include granting the chairmanship to a senior opposition figure or, if there is no political appetite for such a move, to increase the number of opposition membership (currently there is only one opposition member in a committee of eight). Such a move not only balances the power between the government and opposition, but also plays the symbolic function of indicating the willingness of both the majority and minority to operate in a bipartisan manner.¹²³

(c) **PAC – Formalize procedures for follow-up action:** institute a formal and public procedure to document government follow-up action, such as government responses and implementation, to PAC recommendations. Currently, no such procedures exist. The CPA Study notes that most Parliaments require the government to respond formally to the PAC's recommendations within a certain period of time. Further, some countries, such as Canada, require the Auditor-General to monitor the government's compliance with, and implementation of, PAC recommendations.¹²⁴ These procedures serve to enhance accountability, both to the legislature and the public.

CONCLUSION

Legislative oversight over public finance serves at least one important budgetary functions – accountability. Accountability underpins a healthy democracy. There is

¹²² Riccardo Pelizzo, *Public Accounts Committees in the Commonwealth: oversight, effectiveness and governance*, 49(4) *Commonwealth & Comparative Politics* 528, 536 (2011).

¹²³ Riccardo Pelizzo and Rick Staphenhurst, *Public Accounts Committees* in World Bank Institute *supra* note 5 at 119.

¹²⁴ *Id.* at 79.

therefore value in examining legislative oversight in any particular country, as many academics have done for various countries, and which this paper has attempted to do for Singapore. Indeed, insofar as oversight enhances executive legitimacy and sustainability, governments, too, benefit from oversight.¹²⁵ That said, it is also important to realize that legislative oversight invariably affects the fulfillment of other budgetary functions, sometimes in competing directions. Greater accountability may translate into less efficient fiscal and allocation outcomes. Thus, more oversight is not always better. Ultimately, the level of legislative oversight boils down to a choice made by the country, based on its historical, constitutional, political and cultural makeup, recognizing that such choice often leads to trade-offs in achievement of budgetary functions.

¹²⁵ Posner *supra* note 20 at 23.