

Introduction

This is the maiden edition of *Fiscal Update*, the newsletter of the Fiscal Responsibility for Social and Economic Accountability Project. The project is for two years and will be publishing four newsletters, i.e. every six months. The project is designed with the goal of contributing to good economic governance through the implementation of the Fiscal Responsibility Act (FRA), enhancing transparency, accountability, popular participation and value for money in the federal fiscal system. It focuses on the strategic economic, social and developmental priorities of the Federal Government as contained in the Medium Term Expenditure Framework (MTEF).

The specific objectives of the project are:

- ❖ to provide a platform for support and learning between Civil Society Organisations (CSOs), federal legislative committees and the Fiscal Responsibility Commission (FRC) in the oversight of FRA issues;
- ❖ to engage two MDAs in the preparation and review of their MTEF;
- ❖ to build the capacity of civil society on the detailed provisions of the FRA and to support CSOs to improve on needed skills for monitoring,

reporting and evaluating the implementation of the FRA;

- ❖ to monitor, report and engage in action advocacy for the implementation of the FRA;
- ❖ to raise public awareness and sensitization on the FRA through the media.

The key activities of the project are as follows.

a. Capacity Building: CSJ has organised two capacity building workshops in Kaduna and Owerri for the cluster of civil society organisations in the North and South of Nigeria on 25th - 26th June and 29th - 30th June, 2009 respectively. A total of 80 CSOs have been trained at the workshops. We designed an FRA monitoring manual and we used the workshops to test and improve the manual which will be published in the coming weeks. The Manual will be the ABC for fiscal responsibility monitoring in Nigeria by CSOs. It will state the step by step process of the FRA and the intervention points by civil society and other stakeholders. The Manual will respond to the “*hows*”, “*whats*”, “*whys*” and “*whens*” about fiscal responsibility monitoring. What is fiscal responsibility monitoring? How is a fiscal action monitored? Why is it necessary to monitor fiscal issues? When are the various activities and stages in monitoring undertaken? What are the monitoring points? How is a monitoring report prepared, operationalised and

used for advocacy? The Manual also contains a Monitoring Checklist which will be used by CSOs to document their monitoring results.

b. Media Work: We are engaging the media to ensure that FRA issues are brought to the front burner of national discourse.

c. Quarterly Reports: We are documenting infractions of the FRA and the highlights of its implementation for a report that will be released every quarter. Our report for the first six months has been released. At the end of the year, we intend to do a yearly report on fiscal responsibility, documenting the successes and failures and drawing recommendations from them.

d. FRA Forums: FRA Forums intend to bring together the FRC, relevant legislative committees and government agencies (such as the Budget Office of the Federation, Debt Management Office and the Finance Ministry) and the civil society to exchange ideas on the implementation of the FRA. What has worked? What is not working? And what can be changed and how it can be changed?

e. Electronic Media Networking: We have established a listserv pem_ngr@yahoo.com for the daily dissemination of information on public expenditure management with a specific emphasis on the FRA.

f. Advocacy: We have intervened in some Fiscal Responsibility Bills pending before state legislatures with a clause by clause analysis and best practices on the way forward. We intend to continue in some more states. When we discern infractions, we quickly move to remind the authorities of the need to abide by the law.

Generally, the project will ensure that the efforts of stakeholders in the executive, legislature and civil society for the enactment of the FRA into law are not efforts in vain.

Table Of Contents	
Introduction.....	1
Facilitating Legislative Oversight on The Implementation Of The 2009 Federal Budget.....	3
Fiscal Responsibility Act - An Overview.....	8
Workshop Report And Communique.....	11
Meeting Report: Finance Committee Of House Of Representatives, FRC And CSJ.....	14
Legislative Executive Relationships And Appropriation Bills.....	16
INEC And Fiscal Issues In Elections.....	26
Press Releases.....	31
Food Security And The Imperatives Of Good Fiscal And Monetary Policy In Nigeria.....	34
Rebranding Nigeria with Fiscal Responsibility.....	37

FACILITATING LEGISLATIVE OVERSIGHT ON THE IMPLEMENTATION OF THE 2009 FEDERAL BUDGET

Eze Onyekpere Esq.

This discourse reviews the strategies for enhanced oversight of executive budget implementation by the legislature in the year 2009.

1. INTRODUCTION

Budget implementation plays a very crucial role in the realization of the primary purpose of government, which is the guarantee of the security and welfare of the people. Capital projects provide government with an opportunity to impact on the lives of the people in a positive way. However, recent experience on the implementation of capital budgets leaves much to be desired with increasing returns of unspent funds to the Treasury year after year. As such, the infrastructure, capital components of education, health, etc, of the federal budget are left unspent while the indicators in the sectors continue their negative dive. Thus, the link between policy, planning and budgets in the current approach to budgeting through the MTEF continues to weaken through the inability to implement capital budgets. Also, Nigeria's quest to meet the Millennium Development Goals (MDGs) is being frustrated by this development.

The Appropriation and Finance Committees of the National Assembly as part of the assembly of the peoples' representatives have a crucial role to play in ensuring that appropriated funds are used to improve the living conditions of the people rather than being returned to the Treasury. Strategic legislative monitoring and evaluation of capital budget

implementation has therefore become a necessity if the living conditions of Nigerians will be improved. The Appropriation Act being a law is not to be observed in the breach through non implementation of its capital estimates.



Hon. Dimeji Bankole - Speaker, House of Representatives

This calls for new legislative thinking on how to ensure that the provisions of the Appropriation Act 2009 ("Appropriation Act") are implemented, at least, to the extent of available resources. It appears that the failure of Ministries, Departments and Agencies (MDAs) to implement their capital budget stems from either lack of capacity, over-bureaucratisation or plain mischief and refusal to work for the justification of their remuneration.

Legislative Committees are tasked with ensuring that people get value for money and public funds are managed, administered and disbursed according to authorisation. The legislature is also

constitutionally empowered to expose corruption, inefficiency or waste in the disbursement and management of appropriated funds. Clearly from the provisions of sections 80 and 81 of the 1999 Constitution vesting appropriation powers on the National Assembly, it is unconstitutional to expend public monies in a manner not approved by the legislature. These constitutional provisions are reinforced by the provisions of section 27 of the Fiscal Responsibility Act 2007 (FRA) - the sums appropriated for a specific purpose shall be used solely for the purpose specified in the Appropriation Act and virements are to be undertaken with prior legislative approval¹.

Against the background of the foregoing, the need to design new legislative monitoring strategies and a strategic realignment of existing strategies crystallises. This discourse is therefore focused on:

- designing strategies for effective legislative monitoring of the capital components of the Appropriation Act;
- ensuring that the capital budget components of the Appropriation Act are implemented as authorised, subject to available resources.

The methodology will include:

- structured engagement of MDAs on their obligations under the Appropriation Act and other relevant laws;

¹ See further sections 2 (1) and 3 of the 2009 Appropriation Act.

- onsite monitoring visits, assessments and information gathering;
- reporting and report writing.

2. ACTIVITIES

A. Structured Engagement Of MDAs On Their Obligations Under The Appropriation Act And Other Relevant Laws;

(i) CSJ proposes that the Committees should through timely engagement and reminders ensure that MDAs and specific government agencies fulfill their obligations under the Appropriation Act and other relevant laws. Letters could be written before time specific returns are due to serve as a reminder and if the returns are in arrears, to ensure that they are made available by the MDA. Invitations/summons to appear before the Committees should also be used to get information on the state of capital budget implementation.

(ii) Media briefing by the Minister for Information and Communications indicate that the Federal Executive Council had approved the budget implementation plans drawn up by Ministers. The Committee may consider getting the budget implementation plans of all MDAs. This will serve as a guide to monitoring since it shows the MDAs' roadmap for the utilization of allocations.

the sums appropriated for a specific purpose shall be used solely for the purpose specified in the Appropriation Act and virements are to be undertaken with prior legislative approval

(iii) The Committees should consider the design of questionnaires which

seek to elicit information on the state of capital budget implementation from MDAs. Such questionnaires should also elicit information on challenges, weaknesses and opportunities in budget execution. When these questionnaires are timely administered, filled and retrieved, their analysis will facilitate further legislative action and their contents would be validated by site visits.

(iv) The relevant legal provisions which need to be followed up include the following. The Appropriation Act 2009 specifically provides inter alia:

Section 6 (2):

The Accountant General of the Federation shall forward to the National Assembly full details of the funds released to the government agencies immediately such funds are released.

Section 7:

The Minister of Finance shall ensure that funds appropriated under this Act are released to the appropriate agencies, and organs of government as and when due, provided that no funds from any quarter of the fiscal year shall be deferred without prior waiver from the National Assembly.

In the foregoing provisions, duties are placed on the Accountant General and the Minister of Finance. Reports from MDAs on received disbursements will further verify whether the two officials have complied with their duties. To further facilitate legislative monitoring, the Committee should insist on the

executive complying with the following mandatory provisions of the FRA:

Section 25:

(1) The Federal Government shall cause to be drawn up in each financial year, an Annual Cash Plan which shall be prepared by the office of the Accountant General of the Federation.

(2) The Annual Cash Plan shall be prepared in advance of the financial year setting out projected monthly cash flows and shall be revised periodically to reflect actual cash flows.

Section 26:

The Minister shall within 30 days of the enactment of the Appropriation Act, prepare and publish a Disbursement Schedule derived from the Annual Cash Plan for the purposes of implementing the Appropriation Act.

The Committee should demand and get copies of the Annual Cash Plan (and its subsequent revisions) from the Accountant General and the Disbursement Schedule from the Minister of Finance. These documents will help the tracking of releases to MDAs and to verify if the two officials are complying with their earlier projections.

The Committees should also consider liaising with the Finance Committee to ensure the compliance of the Minister of Finance with the following provision of the FRA.

Section 30:

(1) The Minister of Finance, through the Budget Office of the Federation, shall monitor and evaluate the implementation of the Annual Budget, assess the attainment of fiscal targets and report thereon on a quarterly basis to the Fiscal Responsibility Commission and the Joint Finance Committee of the National Assembly.

(2) The Minister of Finance shall, cause the report prepared pursuant to subsection (1) of this section to be published in the mass and electronic media and on the Ministry of Finance website, not later than 30 days after the end of each quarter.

The contents of the foregoing report of the Budget Office of the Federation will facilitate oversight activities and will be validated through other means such as site visits and reports from MDAs.

B. Onsite Monitoring Visits, Assessments And Information Gathering

(i) CSJ proposes that onsite monitoring visits and assessments by Committees can be improved by involving more stakeholders. The idea is that before the visit of Committee members, experts are engaged to inspect projects, compare project implementation to disbursements using the contract agreements and where feasible the technical drawings for the project as their guide. Thus, beyond the self appraisal on MDAs on how far they have gone with project implementation, the Committee is

availed of independent opinion on the progress so far. Information from MDAs will be compared to what is on the ground by the experts before arriving at their reports.

(ii) Committees can consider the MDG Office model of project monitoring which combines technical experts and civil society groups in the monitoring process. The civil society groups and experts are selected after a competitive selection process on zonal and state basis. The civil society groups will be NGOs in the locality with requisite capacity to monitor project implementation. They will however undergo training on best practices in monitoring and what is expected of them by the Committees. They may be required to provide performance bonds from reputable insurance companies before they are deployed for the monitoring process. Monitoring templates will be designed to standardise reporting and to ensure that the major issues are covered by all monitors in their field trips. Team leaders will be selected and overall monitoring coordination streamlined.

Committees can consider the MDG Office model of project monitoring which combines technical experts and civil society groups in the monitoring process.

(iii) To further facilitate the process, Committees may consider selecting flagship and pilot projects and involve community participation in monitoring. The communities through their leadership will be equipped with information on the location of specific projects and what exactly government

is paying for². As such, they will be at liberty to monitor and send their reports to the Committees or consultants engaged in the monitoring process.

(iv) Committees can design an “alarm model” whereby stakeholders and monitors can feed information into the system on key projects that are being poorly implemented or very much behind schedule. The idea is to alert the legislature as soon as this happens so that immediate remedial action can be demanded by Committees before the challenges get out of hand.

A focal or coordination point will be needed to collate and document the information garnered from the above recommendations and make monthly reports to Committees. When there are urgent issues demanding immediate attention, the focal point will bring such matters to the attention of the Committees before the end of the month.

C. Reporting And Report Writing

(i) The monitoring process will culminate into a report on the progress of budget implementation. The report will include the following:

- identification of the key components of the project in terms of what the MDA set out to do at the outset;
- the stages of implementation and their milestones;

- what has been achieved compared to funds released by the Ministry of Finance;
- what has been achieved compared to funds paid to contractors;
- deviations from agreed plans by contractors;
- comparison of actual expenditures to budget sums and deviations if any;
- propriety of contract documentation;
- challenges, opportunities and recommendations.

Essentially, the report will include issues of inputs - the resources used to produce the services or goods; outputs - the goods and services that have been produced or delivered using a minimum package of interventions to a specific proportion of the population. It will also include process which is the manner in which inputs are procured, outputs produced or outcomes achieved. Between every planned activity and actual execution is the process. In some cases, process indicators may be useful proxies for performance measurement when outputs or outcomes cannot be defined with clarity.

(ii) Reports can also contain benchmarking issues to guide the MDA to learn from the work, practice, and experience of others, (other MDAS and departments) internally or externally who are leaders in the field and with whom legitimate comparisons can be made. Benchmarking can be done against the “best in class” within and outside the MDA. This will

² This may however be counterproductive and may not be undertaken in some parts of Nigeria particularly in the Niger Delta region.

eventually lead to finding the performance gaps, identification of critical success factors, cost reduction, elimination of waste, and improvement of service delivery processes and ultimately the satisfaction of the consumers of public services.

3. OUTCOMES

Improved budget implementation will lead to improved policy implementation and a better planning environment. This is because of the inextricable link between planning, policy and budgeting in the MTEF which is currently practiced at the federal level. Eventually, enhanced capital project monitoring and oversight will lead to the following:

- enhanced service delivery by government to the people and the implementation of government policies;
- reduction of waste and inefficiency in the system;
- enhanced value for money.

FISCAL RESPONSIBILITY ACT- AN OVERVIEW

Jimmy Essiet and Eze Onyekpere

The long title to the Act aptly captures the import of this new legislation. It is made as an Act to provide for the prudent management of the nation's resources, ensure long term macroeconomic stability of the national economy, secure greater accountability and transparency in fiscal operations within a medium term fiscal policy framework and the establishment of the Fiscal Responsibility Commission (FRC)

to ensure the promotion and enforcement of the nations economic objectives and for related matters.



Alhaji Aliyu Yelwa - Chairman Fiscal Responsibility Commission

The Explanatory Memorandum to the Act describes it as:

This Act among other things, establishes the Fiscal Responsibility Commission charged with the responsibility of monitoring and enforcing the provisions of this Act to ensure greater accountability, transparency and prudence in the management of the Nation's resources by the Federal Government, Government-owned corporations or companies and agencies as provided for under sections 13, 16 (1) and (2) and item 60 of the Exclusive Legislative List as set out in Part 1 of the Second Schedule to the 1999 Constitution of the Federal Republic of Nigeria and provides incentives to encourage States and Local Government pass similar fiscal responsibility legislation."

Signed into law by President Umaru Yara'adua on 30th July 2007, the FRA along with the Public Procurement Act and others yet to be enacted, is

Scheduled corporations are expected to establish a general reserve fund and to allocate one-fifth of their operating surplus to the fund while paying over the balance to the Treasury.

expected to provide the statutory framework for the much needed reforms in public finance and expenditure management in the country.

The Act is divided into fourteen parts, which are further broken into fifty seven sections with Part One establishing the Fiscal Responsibility Commission and outlining its responsibilities, powers and functions. Furthermore, the part provides for the establishment of a fund for the FRC, composition of the FRC, tenure of office, cessation of membership, emoluments of members as well as submission of the annual report of the FRC to the National Assembly.

In Part Two, attention shifts to the MTEF. The Federal Government, the section states is to prepare this framework in consultation with the states to cover a period of three financial years and present same to the National Assembly. Details of what it should contain, such as the macro-economic framework, Fiscal Strategy Paper, expenditure and revenue framework etc are also stated. The preparation of the framework shall be the responsibility of the Minister of Finance and in preparing it; he is to hold public consultations with interested stakeholders. In addition, he is to seek inputs from the National Planning Commission, Joint Planning Board, National Economic Commission, National Assembly, Central Bank of Nigeria, National Bureau of Statistics, Revenue

Mobilisation Allocation and Fiscal Commission and any other relevant statutory body.

The Annual Budget is the focus of Part Three. It is to be derived from the MTEF and it is to be accompanied by certain documents. These are the underlying revenue and expenditure profile for the next two years, detailed performance of the budget for the past 18 months, Fiscal Target Appendix, Fiscal Risk Appendix etc. States and Local Governments are urged in preparing their annual budget to adopt the provisions of this part with necessary modifications.

Part Four focuses on Budgetary Planning of Corporations and other related agencies and on Budgetary Execution and Achievement of Targets respectively. Corporations and agencies listed in the Schedule to the Act are to, at specified times submit schedules of their projected revenue and expenditure to the Minister of Finance who is expected to attach the estimates to the Annual Appropriation Bill to be sent to the National Assembly. The scheduled corporations are expected to establish a general reserve fund and to allocate one-fifth of their operating surplus to the fund while paying over the balance to the Treasury.

Part Five is on execution and achievement of targets, the Accountant General of the Federation is to prepare an Annual Cash Plan and based on this Plan, the Minister is to prepare and publish a Disbursement

Schedule not later than 30 days after the enactment of the Appropriation Act. This Part also makes it the responsibility of the Budget Office to monitor and publicly report on the implementation of the budget.

Public Revenues is the subject of Part Six while Savings and Asset Management is the subject of Part Seven. As regards public revenue, the Act makes provision for its forecast and collection. The forecast is to include monthly collection targets and measures to combat tax fraud and evasion. The provisions for savings take care of situations where proceeds from crude oil exceed the reference commodity price. Such sums in excess of the reference commodity price are to be saved.

a person shall have legal capacity to enforce the provisions of this Act by obtaining prerogative orders or other remedies at the Federal High Court without having to show any special or particular interest.

Unlike the other sections of this Act which only urge states and local governments to emulate the Federal Government by enacting legislations with similar provisions, the conditions for borrowing are automatically binding on all the tiers of government because these are issues on the Exclusive Legislative List reserved for the National Assembly under the 1999 Constitution.

In Part Eight, attention shifts to Public Expenditures while Debt and Indebtedness is addressed in Part Nine. Conditions for increasing government expenditure, conditions for increasing personnel expenditure etc, are addressed in the former while the Framework for Debt Management, Limits on Consolidated Debts of Federal, States and Local Governments and Servicing of External Debts are provided for in the latter. In the past, reckless borrowing used to be the norm and the country has been paying and still continues to pay dearly for that especially when the borrowed funds were not properly utilised or channeled into sustainable and beneficial projects. This Act in its Part Ten puts a stop to that practice as it gives conditions for borrowing and verification of compliance with limits.

Part Eleven is on Transparency and Accountability and the Federal Government is mandated to ensure that its fiscal and financial affairs are conducted in a transparent manner and accordingly ensure full and timely disclosure and wide publication of all transactions and decisions involving public revenues and expenditures and their implications for its finances. The National Assembly is obliged to ensure transparency during the preparation and discussion of the Medium-Term Expenditure Framework, Annual Budget and the Appropriation Bill.

The Federal Government is among other things, to publish its audited accounts not later than six months following the end of the financial year as well as a summarized report of budget execution 30 days after the end of the financial year while a consolidated version, showing implementation among physical and

financial performance targets, is to be published not later than six months after the end of a financial year.

Part Twelve is on Enforcement and this contains a revolutionary provision liberalizing access to the courts as follows - a person shall have legal capacity to enforce the provisions of this Act by obtaining prerogative orders or other remedies at the Federal High Court, without having to show any special or particular interest.

Part Thirteen is on Miscellaneous Provisions while Part fourteen is on Interpretations.

WORKSHOP REPORT AND COMMUNIQUE

CSJ with the support of the Ford Foundation organized two capacity building workshops on the FRA for civil society organizations in Northern and Southern Nigeria in Kaduna and Owerri respectively between June 25-30 2009. Reproduced below is the communiqué of the Owerri workshop.

COMMUNIQUÉ

1. INTRODUCTION

The Capacity Building Workshop on the Fiscal Responsibility Act (FRA) was convened by Centre for Social Justice (CSJ) with the support of the Ford Foundation, Office for West Africa at Links Hotel Owerri on June 29 and 30 2009. Participation was drawn from the leadership of the Debt Management Office (DMO), Fiscal Responsibility Commission

(FRC), the Media and Civil Society Organisations (CSOs) in Southern Nigeria.



Dr Abraham Nwankwo - Director General, Debt Management Office

The workshop was convened to build the capacity of civil society on the detailed provisions of the FRA and to support civil society organizations (CSOs) to improve on needed skills for monitoring, reporting and evaluating the implementation of the FRA. The workshop reviewed and made inputs into the draft Fiscal Responsibility Monitoring Manual prepared by CSJ.

The following presentations were made:

- ❖ The Framework for Debt Management in Nigeria.
- ❖ Understanding the FRA and the Role of the Fiscal Responsibility Commission - Issues and Challenges
- ❖ Sustainable Borrowing under the Fiscal Responsibility Act.
- ❖ The Medium Term Expenditure Framework.
- ❖ Social Issues in the FRA.
- ❖ Civil Society Engagement of the Legislature on the FRA.
- ❖ FRA Manual: A Clause by Clause Analysis.

2. OBSERVATIONS

The Workshop Made The Following Observations

a. The FRA regulates fiscal conduct, offers guidelines on the management of state revenues, imposes limitations on government spending, prohibits fiscal indiscipline and urges timeliness and transparency in reporting fiscal matters.

b. Although the Fiscal Responsibility Commission (FRC) was established after more than one year of the coming into force of the FRA, nevertheless, its establishment was a step in the right direction.

c. The FRA provides for extensive oversight responsibilities of the Legislature over the activities of the executive arm of government.

d. CSO advocacy contributed a lot to the passage of Fiscal Responsibility Bill by the legislature and its eventual signing into law by President Yar'adua. However, CSOs have not sufficiently engaged the FRA despite its promises of enhancing value for money in governmental expenditure.

e. CSOs and their representative on the Commission are yet to dialogue to establish parameters for CSO contribution to the work of the FRC.

f. Popular awareness on the provisions of the FRA is low and the citizenry are yet to be sensitised on the opportunities for interventions under the FRA.

g. The Citizens Right of Action under S. 51 of the FRA is a welcome development that should be fully

exploited for the development of fiscal responsibility jurisprudence in Nigeria.

h. The guidelines on borrowing on the FRA and the Debt Management Office Act provide clear opportunities for the prevention of fiscal rascality and a fall back to the old days of unsustainable borrowing.

i. Failure to link policy, planning and budgeting has been the single most important factor contributing to poor budgeting outcomes at the macro, strategic and operational levels in Nigeria.

j. Most States in the Federation are yet to enact their Fiscal Responsibility Laws and those states that have enacted theirs did not engage CSOs.

3. RESOLUTIONS

Based On The Foregoing Observations, The Workshop Resolved As Follows:

a. The provisions of the FRA should be tested by all stakeholders as a basis for determining whether it will meet its stated objectives.

b. Considering the enormous work expected of the FRC, it should be proactive in its activities and decisions, engage the best available staff, consult widely and make its impact felt in a positive way on the Nigerian fiscal landscape.

c. The legislature particularly the National Assembly Committees on Finance and Appropriation should rededicate themselves to their oversight functions to guarantee the full implementation of the FRA.

d. CSOs should engage the FRA through the FRC, Legislative Committees, Ministry of Finance and the Budget Office of the Federation, state level officials, etc, to ensure respect for the provisions of the law. Action research and studies, reports, capacity building, etc should be used by CSOs.

e. CSOs call on the civil society representative on the Commission to immediately and expeditiously establish dialogue with his constituency and regularly carry civil society along in the work of the FRC.

f. CSOs should engage in advocacy, awareness raising and sensitisation on the opportunities for intervention under the FRA.

g. The Citizens Right of Action under S. 51 of the Act should be fully explored for the development of fiscal responsibility jurisprudence in Nigeria especially for the prevention of reckless borrowing, compelling the authorities to publish fiscal information, ensure transparency and accountability in public expenditure management, etc.

h. As a minimum, the FRC, Legislature and CSOs should ensure that every proposal to borrow is backed by a cost benefit analysis, has prior legislative approval, and is within the statutory thresholds, with concessional interest rates and subject to long periods of amortisation.

i. Policy, planning and budgeting should be linked through the Medium Term Expenditure Framework to enhance budgetary outcomes.

j. CSOs should engage in advocacy for state level Fiscal Responsibility Laws and ensure that best practices are reflected in the sub-national laws.



*Chief Barrister Chris Okewulonu:
Commissioner in Charge of Legal,
Investigation and Enforcement
Directorate at the FRC*

k. Participants urged CSJ to facilitate the continued engagement of the FRA process by CSOs in Nigeria and CSJ volunteered to facilitate CSO review of state level Fiscal Responsibility Bills.

l. Participants acknowledged the initiative of CSJ, the support of the Ford Foundation Office for West Africa and the collaboration of the Debt Management Office and the Fiscal Responsibility Commission.

The Citizens Right of Action under S. 51 of the Act should be fully explored for the development of fiscal responsibility jurisprudence in Nigeria especially for the prevention of reckless borrowing, compelling the authorities to publish fiscal information, ensure transparency and accountability in public expenditure management, etc.

MEETING REPORT – FINANCE COMMITTEE OF THE HOUSE OF REPRESENTATIVES, FISCAL RESPONSIBILITY COMMISSION AND CENTRE FOR SOCIAL JUSTICE

The meeting was convened by the House of Representatives Committee on Finance on 20th May 2009 at Conference Room 301 to review the implementation of Fiscal Responsibility Act. In attendance were the chairman (Hon John Eno) and members of the Finance Committee.

The Committee Chairman opened the meeting with a recall of the efforts of the National Assembly in ensuring the successful passage of the FRA which was signed into law in 2007 by President Yar`adua. The FRA gave birth to the FRC. He emphasised the importance of the FRA and briefly outlined some of its basic objectives. The Committee Chairman frowned at the apparent passive posture of the executive in implementing the FRA. He commented on the role of the CSJ in identifying loopholes in the implementation of the FRA particularly when CSJ in 2008, pointed out to the Committee that the MTEF approved by the legislature needs to precede the presentation of annual budget estimates by the President to the National Assembly.

At this point, the Committee Chairman asked the FRC Chairman to brief the Committee on its work so far, challenges and successes. The Commission's Chairman Alhaji Dr Aliyu Yelwa referred to the screening by the Senate and subsequent appointment of 11 members of the FRC, but at the moment, only 10 of them are available as the 11th member is yet to resume duty. He submitted that even though the FRC members received their letters of appointment

on December 27 2008, there have not been major developments owing to series of challenges including inadequate accommodation and lack of staff for operations.



Alhaji Zakari Mohammed Sada: Commissioner, representing North West Zone in the FRC

The few staff available have been borrowed from the office of the Secretary to the Government of the Federation. He emphasized the lack of accommodation and at the moment, two commissioners share one office space and the Commission has a total of four rooms in Merit House, Maitama. The Commission is yet to undertake any studies, although they have written some letters to some executive agencies reminding them of their duties under the FRA.

It was at this point that the Committee Chairman demanded to know if the FRC has been inaugurated. Responding, Alhaji Yelwa said there has not been any formal inauguration. However, he considers the courtesy call on the President by the FRC as inauguration.

The Committee chairman asked the members of the FRC if they consider that there is a deliberate executive attempt to frustrate their work. The Commissioners blamed the present inertia to the teething problems usually experienced by a new organization. The Committee Chairman urged FRC commissioners to rededicate themselves to their work and brace up for the challenges ahead. Further, they were mandated to present their work plan to the Committee within two weeks from the date of the meeting. The members of the Commission indicated that they already have a draft work plan which will be fine-tuned and presented to the Committee.

A member of the Finance Committee observed that the newness of the FRC should not be an excuse for non performance and reminded the FRC that the success or failure of the FRA rests with them and therefore, they have to brace up to meet the challenges ahead. The FRC members were further asked whether they have embarked on tours to understudy the work of similar commissions in other jurisdictions to which they responded in the negative.

The lead director of CSJ was called upon to state the mission of CSJ to the meeting. He began by introducing the two year project on fiscal responsibility for social and economic accountability supported by the Ford foundation. He noted that the project intends to:

- ❖ to provide a platform for support and learning between CSOs, federal legislative committees and the FRC in the oversight of FRA issues;
- ❖ to engage two MDAs in the preparation and review of their

Medium Term Expenditure Framework;

- ❖ to build the capacity of civil society on the detailed provisions of the FRA and to support CSOs to improve on needed skills for monitoring, reporting and evaluating the implementation of the FRA;
- ❖ to monitor, report and engage in action advocacy for the implementation of the FRA;
- ❖ to raise public awareness and sensitisation on the FRA through the media.

CSJ is ready to provide technical support to the work of the Finance Committee and the Commission and is also ready to learn from their practical experiences. The idea is for all stakeholders to collaborate in the implementation of the FRA. CSJ is ready to remind the Committee of the timeliness of certain actions demanded by the FRA; prepare quarterly reports and submit same to the Committee and the FRC, embark on Fiscal Forums with the Committee and FRC and other stakeholders, etc. Finally, CSJ will also engage the executive arm of government particularly, the Ministry of Finance, Budget Office of the Federation and MDAs implementing MDG relevant projects.

In closing the meeting, the Committee chairman urged the FRC to take steps in an expeditious manner to ensure the implementation of their duties under the FRC. He pledged the collaboration of the Committee with CSJ since such collaboration would be mutually beneficial to the parties.

LEGISLATIVE EXECUTIVE RELATIONSHIPS AND APPROPRIATION BILLS

Eze Onyekpere Esq.

Recent disputations between the executive and legislative arms of government over the 2008 and 2009 Appropriation Bills provides an opportunity for a dispassionate analysis of legislative and executive roles in the budgeting process as provided in the Constitution of the Federal Republic of Nigeria 1999 and other laws and policies including the Fiscal Responsibility Act. The analysis will also review comparative budgeting jurisprudence from the practice of other nations.

1. Overview

The recent disputations between the executive and legislative arms of government over the 2008 and 2009 Appropriation Bills provides an opportunity for a dispassionate analysis of legislative and executive roles in the budgeting process as provided in the Constitution of the Federal Republic of Nigeria 1999 (the Constitution) and other laws and policies including the Fiscal Responsibility Act. The analysis will also review comparative budgeting jurisprudence from the practice of other nations. It will then review the reasons provided by the President for his initial refusal to sign the 2008 Appropriation Bill into law to determine whether they are in consonance with sound executive practices. This is imperative because the positions of the two arms have often led to a stalemate - national budgets do not come into force until between April and May. This stalemate needs to be resolved through the rule of law approach. The analysis will end with a conclusion on the way forward.

2. Introduction

Basically, the presidential system of government in Nigeria recognises the concept of separation of powers

between the executive, legislature and the judiciary as propounded by Montesquieu. The rationale is that if these powers were concentrated in one person or body, it may lead to tyranny and abuse of powers.



President Umaru Musa Yar'adua

The Constitution also provides for checks and balances and vests the power of appropriating moneys on the legislature while implementing functions are left to the executive. If the executive appropriates and implements, that may lead to tyranny and the same reasoning applies to the legislature.

Empirical evidence demonstrates that the legislative arm of government is best positioned to match the needs of the people with available resources in

the exercise of the power of the purse. Scholars (see *Back from the Sidelines*, Joachim Wehner, World Bank Institute 2004) have noted that a token involvement of the legislature in the budget process relegates the legislative power of the purse to a constitutional fiction. Further, the issue of checks and balances are fundamental ingredients of good governance. Strong legislative roles in budgeting also open up the process towards more transparency and accountability because executive practices are usually closed and more technocratic with minimum public input. For most of the years of Nigeria's independence, the executive has been dominating the budget process, but that has not engendered development and the satisfaction of the basic rights of the ordinary Nigerian.

3. Constitutional Provisions And Their Analysis

The Constitution in S.4 (2) vests the general power to make laws for the peace, order and good government of the Federation with respect to any matter included in the Exclusive Legislative List on the National Assembly. The Constitution by S. 80 (2), (3) and (4) declares that no funds shall be withdrawn from the Consolidated Revenue Fund except in accordance with a legal procedure to meet expenses charged on the Fund or through appropriation in accordance with S.81 of the Constitution. Other funds of the Federation also have the same rigours of withdrawal attached to them. Thus, the power of the legislature in matters of appropriation is established by S.80 of the Constitution.

Reproduced extensively are the provisions of the Constitution in SS. 80 and 81.

S.80

(2) No moneys shall be withdrawn from the Consolidated Revenue Fund of the Federation except to meet expenditure that is charged upon the fund by this Constitution or where the issue of those moneys has been authorized by an Appropriation Act, Supplementary Appropriation Act or an Act passed in pursuance of section 81 of this Constitution.

(3) No moneys shall be withdrawn from any public fund of the Federation other than the Consolidated Revenue Fund of the Federation, unless the issue of those moneys has been authorized by an Act of the National Assembly.

(4) No moneys shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Federation, except in a manner prescribed by the National Assembly.

S.81

(1) The President shall cause to be prepared and laid before each House of the National Assembly at any time in each financial year estimates of the revenues and expenditures of the Federation for the next following financial year.

(2) The heads of expenditure contained in the estimates (other than expenditure charged upon the Consolidated

Revenue Fund of the Federation by this Constitution) shall be included in a bill, to be known as an Appropriation Bill, providing for the issue from the Consolidated Revenue Fund of the sums necessary to meet the expenditure and the appropriation of those sums for the purposes specified therein.

Under the reform agenda of the Fiscal Responsibility Act 2007, the MTEF prepared by the Minister of Finance and endorsed by the Federal Executive Council still comes back to the legislature for approval. Annual budgets and sectoral composition of the estimates of expenditure are derivable from the MTEF.

Mere technical rules of interpretation of statutes should not be used in a way so as to defeat the principles of government enshrined in the Constitution

It is imperative to state that the task of budget preparation clearly lies with the executive arm. However what the President presents to the National Assembly in accordance with S. 81 (1) are mere **estimates** of the revenue and expenditure of government. An estimate is defined as a valuing or rating by the mind, without actual measuring or weighing or the like, a rough or approximate calculation, determination of approximate cost or return (see *Blacks Law Dictionary, Sixth Edition, 1990 at page 550*). It must be conceded that the estimates are based on economic models and macroeconomic frameworks. Thus, the estimates presented to the

National Assembly are for their consideration and appropriation.

What is the nature of an appropriation? It is defined as the act of setting apart, designating the use or application of a fund, the act by which the legislature designates a particular fund or sets apart a certain portion of public revenue to be applied to some general objective of government expenditure. This is also the authority given by the legislature to proper officers to apply distinctively specified sums from designated funds out of the treasury in a given year for a specified object (see *Blacks Law Dictionary, Sixth Edition, 1990 at pages 101 to 102*).

Having reviewed the foregoing, is the legislature constitutionally expected to be the rubber stamp of executive estimates? What is the purpose and essence of the power of appropriation? What was the intention of the constitution makers in vesting the powers of appropriation on the legislature? There have been arguments about the contents of the powers of appropriation constitutionally reserved for the legislature. The Constitution did not elaborate on the powers but gives general powers which the executive seeks to restrictively interpret while the legislature seeks a liberal interpretation of the provision. Unfortunately, there has been no judicial interpretation of these powers by the Court of Appeal or Supreme Court of Nigeria to provide a guide in this analysis.

However in interpreting constitutional provisions, the wise words of Supreme Court in *Nafiu Rabiu v The State* (1980 F.N.L.R 509 at page 519) which

has been followed in a plethora of cases should be considered:

Mere technical rules of interpretation of statutes should not be used in a way so as to defeat the principles of government enshrined in the Constitution...and where the question is whether the Constitution has used an expression in the wider or narrow sense, in my view, this court should whenever possible, and in response to the demands of justice, lean to the broader interpretation unless there is something in the text or in the rest of the Constitution, to indicate that a narrow interpretation will best carry out the object and purpose of the Constitution.

The first school of thought states that the legislature can reduce but not increase the total amount of the budget because an increase partakes of the nature of initiation as regards the excess amount over and above the total figure in the Appropriation Bill (see *Professor Nwabueze in the President, National Assembly and the Right to Initiate Budget*). The same school which apparently informs current executive fixation states that the legislature cannot make an outright deletion of heads of expenditure in the budget, make a wholesale transfer of the votes made for one ministry or department to another thereby indirectly abolishing it; introduce brand new expenditure heads or subheads into the budget; transfer an executive agency designated in the budget from one designated agency to another.

The posers to this first school of thought are legion. Assuming without conceding that the legislature has no power to delete heads of expenditure, what should it do if the executive estimates contain votes to bodies not recognized by the Constitution and laws or bodies that are illegal?



Senate President - David Mark

If an agency properly belongs to the Ministry of Health and the executive in the estimates state that it belongs to the Ministry of Education, should the legislature fold its arms as the executive pleases? If there are government ministries, departments and agencies established by law and the executives decide to give them zero or very paltry allocation so as to defeat the objects of the establishment of the agency, should the legislature fold its arms? In the midst of grinding poverty as currently being experienced in Nigeria, should the legislature allow the misery of Nigerians to be deepened on the excuse that the legislature simply rubber stamps the executive budget? These posers cannot be reasonably and honestly answered in favour of executive dominance of the budgeting process.

The arguments of this first school of thought simply sees the government as the executive arm of government and at best accepts the legislature as

irritants or meddlesome interlopers in the budgeting process. If our democracy is to grow and mature, Nigerians must begin to accept that it needs a robust and vibrant legislature to lead the way. Some media reports using such words as “padding” of budget votes have started from false premise that any increase by the legislature to the original budget is unjustified. Already allegations of a bribe for budget scandal are being raised in a vacuum. It is this kind of mindset that facilitates Nigeria’s

In the federal executive, only the President and the Vice President are elected by the people while the ministers and presidential assistants are mere political appointees.

It appears that the President used unorthodox and unconstitutional means to win the executive legislative budgetary stand off. In a particular year, after the legislature finished its work on the Appropriation Bill, the President had reservations and communicated same to the leadership of the legislature. However, in another year, the President did not send any communication to the legislature; rather the media was awash with “information from Presidency sources”. This kind of approach does not build confidence for the necessary collaboration between the two arms of government. It rather destroys mutual confidence.

The second school of thought holds the view that the legislature is at liberty to amend, meaning increasing or reducing the executive’s budget proposals. Since what is laid before the legislature are estimates in the form of a bill, it is still subject to the express and inherent powers of the legislature and these powers do not in any way imply the passage of the bill exactly in the form presented. This is

underdevelopment. If there was a bribe for budget scandal in the 2008 appropriations, it should have been exposed and punished rather than making insinuations that have not been supported by facts. This is clearly an attempt to malign the legislature and expose them to public opprobrium in a below the belt attempt to gain the upper hand in the executive legislative budgetary standoff.

buttressed by the fact that under a dictatorship or military rule as experienced in Nigeria, executive and legislative functions were rolled into one and performed by an Armed Forces Ruling Council which also made laws restricting judicial powers. In this scenario, an executive budget when it comes before the same body sitting as the legislature for approval did not require the elaboration of specific powers of appropriation. The Constitution could not have given appropriation powers to the legislature for the fun of it. If the Constitution simply wanted the legislature to rubber stamp the executive budget without scrutiny, thereby failing to exercise its powers to make laws for the peace, order and good government of the Federation, it would have expressly said so. It is apparent that restrictive interpretation of legislative budgeting powers is a hangover from the days of dictatorship.

In the federal executive, only the President and the Vice President are elected by the people while the ministers and presidential assistants are mere political appointees.

However, the National Assembly comprising over 400 members are directly elected by the people as their representatives. It would do great and incalculable violence to the norms of democracy if the peoples' representatives in the legislature are not allowed to play a key role in the appropriation of resources to be spent by the executive. It would make more eminent sense for the collective of the legislature to have real powers to determine the expenditure of public resources than two elected officials working with various assistants.

4. Comparative Positions

It is pertinent to point out that the respective powers of the legislature and executive in the budget process are determined by law, tradition, practice and public opinion, etc. However the law is the most influential and important of these considerations. Essentially, they are country specific.

The experience of the budgeting process in the United States of America comes in handy since Nigeria runs a presidential system of government. The Constitution of the United States of America which apparently is the lead democracy in terms of developments in the presidential system of government provides as follows in Article 1, S.9, Clause 7:

No money shall be withdrawn from the Treasury, but in consequence of appropriations made by law, and a regular statement and account of receipts and expenditures of all public moneys shall be published from time to time.

It is reported that:

The United States Congress crafts a large part of the nation's budget itself. In the U.S, legislative-executive branch tensions are purposely embedded in the process. Committees play a major role in the budget process and amendments offered by individual members, both majority and opposition, are commonly offered and adopted by subcommittees and committees and in the plenary.

Each February, the President submits his budget proposals. Congress takes no formal action on it, treating it as advisory. Instead, Congress engages in an eight-month process of preparing its own budget framework and then painstakingly considers the minutiae of spending for each government department and agency.

House and Senate Committees, with advice from the sectoral committees, agree to a binding spending cap, which is approved by both chambers and does not require the president's approval. This overall spending cap is referred to the appropriate committees, which divide it among subject matter committees (See Legislatures and Budget Process: An International Survey, 2003, page 30, by National Democratic Institute for International Affairs).

The Constitution of Namibia in Article 126, S.7 requires the finance minister to submit the annual budget to the legislature which in turn is mandated

to consider such estimates and pass pursuant thereto such Appropriation Acts as are in its opinion necessary to meet the financial requirements of the state from time to time. The Malawi Constitution by S.57 effectively prohibits the legislature from considering any bill or amendment for the imposition of any charge upon the Consolidated Revenue Fund or any alternation of such charge unless the recommendations come from the executive. The Constitution of Ghana prohibits the imposition of a charge on the Consolidated Revenue Fund or the alteration of any such charge otherwise than by reduction.

The 1996 South African Constitution empowers the legislature to offer amendments to the executive's budget but the legislature must provide the procedure to exercise those powers under a framework law. The Polish House of Representatives under the 1997 Constitution has broad powers to increase or decrease spending and revenues in the executive's budget. The only limitation is that the changes may not increase the budget deficit or decrease the surplus proposed by the executive. The amendments, if they are increases must contain corresponding increase in revenue.

The general pattern emerging from this comparative review is that where the national constitution does not intend to confer powers of increasing and decreasing budgets on the legislature, it states that fact in specific terms. Where there is any intent for a framework law, it is also specifically stated. Thus, general powers of appropriation should be interpreted expansively rather than restrictively. In the Nigerian scenario, the American experience appears to be the way forward since our presidential system

of government is modeled on their system and there is nothing in our Constitution to suggest a restriction of legislative budgeting powers.

5. The Specific Complaints Of The President And Responses To Them

Against the background of the foregoing, let us examine the specific complaints of the President against the bills passed in 2008 and 2009 by the legislature and attempt an analysis of its foundations in law, economic and logical reasoning.

A. Increase In Revenue Benchmark:

The executive complained about the increase in the benchmark revenue from oil from \$53.83 to \$59 per barrel in 2008. For some months before the appropriation, the price per barrel of crude oil had been in excess of \$100. The executive appears to be confused and wants to eat its cake and have it by submitting this complaint to the public. It is on record that the executive agreed to the raising of the benchmark price and suggested that the extra revenue would be used to reduce the fiscal deficit in the original executive proposal. According to the executive, it turned out that the legislature increased the deficit from N468 billion to N554 billion. Contrary to the executive's position, the Appropriation Bill submitted for the President's assent contained a deficit of N154billion only.

The general pattern emerging from this comparative review is that where the national constitution does not intend to confer powers of increasing and decreasing budgets on the legislature, it states that fact in specific terms.

B. Unilateral Provision Of Money For New Projects And New Vote Heads:

If the mindset is that the executive owns the budget and as such the legislature has no right to introduce projects, then the President's position appears unassailable. However, the budget is not the exclusive preserve of the executive, what is sent to the legislature by the executive is an estimate, a proposal which should be accepted, amended through increase or decrease or entirely rejected by the legislature which is the approving authority.

In one breadth, the executive states that National Assembly encouraged the MDAs to submit sundry projects for which they allocated money. Yet in another breadth, the National Assembly is accused of acting on its imagination. For the new vote heads introduced by the legislature, the central question should be whether those heads are by law entitled to federal funding. In essence, are they entitled to be funded from the public treasury? If the answer is in the affirmative, the mere fact that executive refused or forgot to propose funding for them does not debar the legislature from energising them through funds from the treasury.

C. Increase In Capital Allocations:

In 2008, there was a complaint of increased capital allocations to the ministries of transportation, agriculture, water resources, defence, interior, science and technology, etc. In 2009, there were also charges by the executive that the legislature generally increased the budget. The President complains that although the projects could benefit from increased allocations, the lawmakers did not factor in the implementation and

absorptive capacity of the ministries and agencies. Every Nigerian knows that these sectors are virtually distressed and would need massive capital infusions to bring them up to speed. Even the amounts appropriated by the legislature are paltry compared to the problems in the sector. For instance, every one knows the state of our federal roads, yet the executive is complaining that resources that can barely fix 200 kilometres of roads are too much for the Federal Road Maintenance Agency to manage. The charge in 2008 and 2009 that ministries lack implementation capacity is clearly an indictment by the executive on the executive. President Yar'Adua was elected to tackle Nigeria's developmental challenges and he is already programming his administration for failure by giving the lame excuse of lack of implementing capacity on the part of the ministries. In essence, if Nigeria were to have a windfall and needs to invest the resources, then the President is declaring the impossibility of committing existing resources to solve national problems. It is the task of the executive to develop implementation capacity rather than use what apparently amounts to its own failing to blackmail the legislative arm of government.

D. Increase In Overhead Costs:

In 2008, the executive claimed that increases in overhead costs were unsolicited. It is clear that heads of Ministries, Departments and Agencies (MDAs) would likely deny any involvement in budget increases when confronted by a powerful president. However, what was the business transacted at the budget hearings, defence sessions and interactions between MDAs and their respective

oversight committees? What did the MDAs tell the committees and what requests did they make of them? Are the new provisions in excess of the real needs of the MDAs to effectively discharge their mandates? The answers to these posers show that there was no unilateral increase by the legislature. The increases arose out of the dialogue and interaction between the MDAs and the legislature. And if

the first premise that the legislature can increase or reduce budgets is the legal position, then the eyebrows raised by the executive is out of order.

E. Increases In Personnel Costs: In 2008, the central question should have been whether the National Assembly is budgeting for ghost workers or personnel who are not entitled to remuneration from the federal purse.

The objections to these transparency clauses are baffling to anyone who knows about the constitutional oversight powers of the legislature and has also read the Fiscal Responsibility Bill (FRA) signed into law by President Yar'adua.

Or is it merely trying to make provisions for the backlog of salaries and allowances owed to workers or capture personnel costs which inadvertently missed the attention of the executive when it was preparing the budget. The National Assembly merely budgeted for personnel costs that were missing from the executive budget and this should be a matter for the executive to be grateful to the legislature rather than making it a point of public disagreement. If social costs such as pension and social insurance are not yet included, this could be provided by a Supplementary Appropriation.

accounting officers in MDAs present quarterly reports on budget performance to the National Assembly. Finally the President thinks it is improper for the Accountant General of the Federation to disclose details of funds released to MDAs to the National Assembly.

The objections to these transparency clauses are baffling to anyone who knows about the constitutional oversight powers of the legislature and has also read the Fiscal Responsibility Bill (FRA) signed into law by President Yar Adua. The provisions of SS. 25, 26, 30 and 48 of the FRA are relevant here.

F. The Transparency Provisions: in the years 2008 an 2009, the President was piqued and considers it undue interference with executive functions that the National Assembly inserted clauses in the Appropriation Bills requiring the Accountant General of the Federation and the Governor of the Central Bank of Nigeria to furnish the National Assembly and indeed the Nigerian people with monthly reports on budget performance. He is also piqued by the requirement that

S.48 of FRA states that the Federal Government shall ensure that its fiscal and financial affairs are conducted in a transparent manner and accordingly ensure full and timely disclosure and wide publication of all transactions and decisions involving public revenues and expenditures and their implications for its finances.

S.25 (1) The Federal Government shall cause to be drawn up in each financial year, an Annual Cash Plan which

shall be prepared by the office of the Accountant General of the Federation.

(2) The Annual Cash Plan shall be prepared in advance of the financial year setting out projected monthly cash flows and shall be revised periodically to reflect actual cash flows.

S.26. The Minister shall within 30 days of the enactment of the Appropriation Act prepare and publish a disbursement schedule derived from the Annual Cash plan for the purpose of implementing the Appropriation Act.

S.30 (1) The Minister of Finance through the Budget Office of the Federation, shall monitor and evaluate the implementation of the Annual Budget, assess the attainment of fiscal targets and report thereon on a quarterly basis to the Fiscal Responsibility Commission and the Joint Finance Committee of the National Assembly.

(2) The Minister of Finance shall, cause the report prepared pursuant to subsection (1) of this section to be published in the mass and electronic media and on the Ministry of Finance website, not later than 30 days after the end of each quarter.

The combined reading of these provisions shows that the National Assembly is right in inserting these transparency clauses which are in tandem with existing statutory

obligations of the executive arm of government. Why would an executive arm of government committed to the rule of law resist an attempt to give budgetary information to the legislature since the moneys being expended are public resources?

The provisions of the International Monetary Fund Code on Fiscal Transparency, and the Organisation for Economic Cooperation and Development Best Practices on Budget Transparency all favour enhanced reporting by the executive to the legislature. They also call for greater transparency and accountability of the executive arm of government to the people.

G. Another Bribe For Budget Scandal? Allegations and insinuations bordering on bribe for budget were made in both 2008 and 2009 budget appropriations. If the President had any evidence of a bribe for budget scandal, he should have submitted same to the relevant anti corruption agencies and let the due process of law take its course. However, the fact that there was increases to the executive proposal by the legislature does not prove or establish a sufficient ground to rush to such a conclusion in view of the afore-stated legislative powers in appropriation.

6. Conclusions

What the executive sends to the legislature is an estimate and proposal which the legislature should review and the exercise of this power includes increases and decreases in accordance with the law before approving the bill and sending it back for presidential assent. If the executive combines both preparation and approval powers, then there would be

no need for the budget to go to the legislature in the first place. Constitutional provisions are to be interpreted to serve the ends for which they were provided. In this case, the provisions were meant to equip the legislature with the power of the purse. The ideal position would be for both arms of government to work collaboratively to achieve the aims of good governance and development for the Nigeria people. Executive provisions in the 2008 and 2009 appropriations would not serve the developmental objectives of Nigerians and the legislature has a duty in its approval process to intervene on the side of the popular masses of the Nigerian people.

For the executive to insist on treating the budget as its own and the legislature as the junior partner in the appropriation process amounts to a usurpation of legislative powers. The two arms should sit down and iron out their differences instead of recurrent media wars embarked upon by the executive. However, in the event that the differences seem irresoluble, the position of the legislature constitutionally prevails. And if the executive feels dissatisfied, the Supreme Court should be given the opportunity to pronounce on the respective rights and obligations of the parties.

if the executive feels dissatisfied, the Supreme Court should be given the opportunity to pronounce on the respective rights and obligations of the parties.

INEC AND FISCAL ISSUES IN ELECTIONS

Eze Onyekpere Esq

This discourse ex-rays the implications of INEC's conduct and omissions in the 2007 elections and its aftermath to the fiscal policy implementation

The Independent National Electoral Commission (INEC) is established by S.153 of the Constitution of the Federal Republic of Nigeria 1999 (the Constitution) and vested with an array of powers (to the exclusion of any other agency or authority), including the organization, undertaking and supervision of all elections to the offices of the President and Vice President, Governor and Deputy Governor and the membership of the National and State legislature. It is the intention of the Constitution that INEC will undertake its responsibilities in accordance with the law and its procedural due process.



Professor Maurice Iwu - INEC Chair

To be able to carry out its assigned constitutional duties, INEC receives public funding through appropriation from the National Assembly. INEC also receives grants and donations

from international donor agencies and development partners.

This discourse seeks to review the fiscal issues in elections, specifically the finances that were appropriated for the conduct of the 2007 elections and how well they were used to achieve the objectives of free, fair and credible elections and Nigeria's democratic consolidation. The discourse will also determine whether appropriated resources have been used in such a way so as not to subvert the legal and financial norms of Nigeria's public expenditure management system.

It is the intention of the Constitution that resources appropriated by the legislature to constitutional agencies like INEC are used to achieve the objects of the agency and the purposes set out at the time of appropriation. Also, S.27 (1) of the Fiscal Responsibility Act states that the sums appropriated for a specific purpose shall be used solely for the purpose specified in the Appropriation Act. In the instant case, the legislature appropriated resources for free, fair and credible elections. However, empirical evidence from the Courts, Elections Tribunals, national and international election observers point in the direction of the deliberate failure of INEC to organize free, fair and credible polls. It also shows that INEC deliberately wasted some of the resources in the pursuit of a private agenda which is different from its constitutional obligations.

In the run up to the 2007 elections, INEC received appropriation in excess of N100 billion for use towards the elections. The first major test faced by INEC on the use of public resources arose during the voter registration exercise. The crisis that bedevilled

INEC's registration of voters threatened Nigeria's democracy. Specifically, it threatened the foundations of the 2007 electoral process. The problems were legion; the unavailability of the Direct Data Capturing Machines (DDCMs) and other materials and poor training of ad-hoc staff doing the registration in areas where the DDCMs were available. The general level of awareness and mobilisation of citizens by INEC was low and registration booths and centres were not available in many parts of the federation. One month into the registration exercise, INEC had not procured over fifty percent of the DDCMs. In fact the registration of voters was completed outside the legally stipulated time in S. 10 (5) of the 2006 Electoral Act requiring the conclusion of voters registration one hundred and twenty days before the date of the first election in 2007. Also, the voters register was never displayed in accordance with the law.

The crisis indicated that INEC failed to plan adequately for the use of the financial resources entrusted to it and the entire voter registration exercise. It was also clear that the process of acquiring the DDCMs did not pass a value for money test or met the requirements of best and sound procurement practices.

In the instant case, the legislature appropriated resources for free, fair and credible elections. However, empirical evidence from the Courts, Elections Tribunals, national and international election observers point in the direction of the deliberate failure of INEC to organize free, fair and credible polls.

With the benefit of hindsight emanating from legislative hearings, it is apparent that INEC blackmailed the Due Process Office which supervises and ensures procurement transparency by failing, refusing and neglecting to follow the Due Process steps in the procurement of DDCMs. If INEC had followed due procurement process, it would have before contracting for the supply of the DDCMs considered the local conditions including availability of electricity, spare parts, back-up batteries and technically qualified persons to effect repairs in the event of breakdown. It would have also considered the performance history of each supplier it engaged, the relative risks of each proposal and the flexibility of the product to adapt to change based on local conditions. Instead of following due process, INEC created the impression that the Due Process Office had become a hindrance to its preparations for the 2007 elections. Essentially, INEC failed to follow sound procurement practices thereby leading to the wastage of tax payer's resources and a breach of extant procurement laws.

INEC's unilateral expansion of its constitutional powers to include the power to disqualify candidates also had implications for the public Treasury. Against the background of the judgements of the Election Tribunals in Adamawa and Kogi and the new elections that took place in those states, it is clear that the decision of INEC to disqualify candidates is at great expense to the Treasury. Available information indicates that organizing a gubernatorial election will cost not less than N1b. This will be invested in printing of ballot papers, payments to polling officials, movement of polling

materials and other logistics. This figure does not include the state's wasted productivity in one day since the state will be shut down in terms of movement and other activities for the greater part of the Election Day.

Considering the number of rerun elections at the gubernatorial (Bayelsa, Sokoto, Ekiti, etc) senatorial, representatives and state assemblies, it is projected that INEC's refusal to play by the rules has cost the Treasury not less than N20b. In the case of Anambra State, the Supreme Court made it abundantly clear in *Peter Obi v INEC & Ors* (2007) 11 NWLR (Pt 1046) 565 per Aderemi JSC that conducting gubernatorial elections in the state when the seat was not vacant was a waste of resources and an exercise in futility. INEC clearly wanted to overreach a pending judicial proceeding and thereby wasted hundreds of millions of tax payers' money.

If INEC made mistakes which led to the nullification of elections, it would be excusable as a normal human failing. But in most instances, INEC's decisions which led to the voiding of the elections were deliberate, cold and calculated actions and omissions aimed at negatively affecting the electoral fortunes of some candidates and parties while illegally enhancing the fortunes of others. Since the elections, INEC had insisted that it did the right things, despite the proof of fraud and collusion at the Election Tribunals. A natural or artificial person or institution is expected to anticipate the natural consequences of its actions. INEC in this case anticipated nullifications by Election Tribunals and subsequent new elections. Its conduct including a failed registration of voters

If the billions needed for fresh elections are converted into vials of vaccine for the immunization of children for polio or whooping cough, megawatts of electricity, or a number of functional boreholes, new classrooms, kilometers of new or rehabilitated roads, then the picture of INEC's disservice to the public Treasury will become clearer.

exercise, disqualifying candidates to favour the ruling party, real and imaginary enemies of the Obasanjo government, collusion with candidates and parties to manipulate election outcomes, etc, did not leave any reasonable person in doubt that it intended to conduct dubious elections.

It is therefore double punishment for Nigerians whose votes were subverted to be asked to fund the repeat elections through the Treasury while there are a thousand projects demanding funding for the welfare of poor Nigerians. If the billions needed for fresh elections are converted into vials of vaccine for the immunization of children for polio or whooping cough, megawatts of electricity, or a number of functional boreholes, new classrooms, kilometers of new or rehabilitated roads, then the picture of INEC's disservice to the public Treasury will become clearer.

INEC and the Attorney General's Office had spent large sums of public money paying legal practitioners to defend cases instituted against the Commission. It costs a fortune to hire good lawyers. Election Tribunals have been sitting for about two years adjudicating cases brought by parties. The sitting and administration of Elections Tribunals involves a lot of resources from the Treasury. The expenditure of these resources would have been minimized if INEC conducted the elections in accordance with its statutory obligations.

Although INEC needs finances to reach out to the public for awareness raising and information dissemination, it is an aggravated insult on the intelligence of Nigerians and further wastage of public resources for INEC to use public resources to maintain a campaign that seeks to justify its ignoble role in the 2007 elections. It is enough that tax payer's monies have been wasted; it is clearly unacceptable to use the victims' finances to continue to tell us that INEC was right to subvert Nigeria's democratic consolidation. INEC's propaganda justifying its role in the elections goes against the grain of election reports by local and international observers. It is clearly a locution deliberately antithetical to verities apprehended by the intellect. The media sessions held in Europe and America by INEC earlier in 2008 clearly wasted public funds and served no useful purpose other than massaging the ego of INEC's leadership.

INEC has a responsibility under S.6 (2) of the Electoral Act 2006 to keep proper accounts in respect of each financial year and to cause the accounts to be audited as soon as possible by the Auditor General of the Federation. It is beholden on the Auditor General for the Federation in accordance with the Financial Regulations 2000 (Chapter 1, section 102) to ensure that INEC's accounts have been properly kept and all public monies fully accounted for. The most important call to duty is for the Auditor General to ensure that monies have been expended for purposes for which

they were appropriated. It is submitted in this case that if the Auditor General keeps to his mandate, he will discover that monies were appropriated for free, fair and credible elections but INEC delivered dubious elections that fell short of national and international standards. Appropriate sanctions on the relevant accounting officers and officials may follow upon the recommendation of the Auditor General.

The Legislature should also demand the return of those wasted funds when the reports of INEC's expenditure get to it. This will be in line with its constitutional duty to expose corruption, inefficiency and waste in the execution and administration of laws within its legislative competence. It is also the duty of the legislature, to ensure that in future appropriations, no undefined funds are available to any governmental agency to take actions which are against public financial interests. Unnecessary miscellaneous heads and subheads in Appropriation Acts provide the avenue for this kind of dubious expenditure.

It may be tempting for the legislature to refuse to exercise its constitutional powers in view of the fact that many of its members are products of the flawed elections. However, duty beckons and the only imperative that will record the names of the members and the leadership of the legislature in the golden books of the Nigerian people is to be courageous and take actions that will re-direct INEC's management of public funds in the right direction. We are yet to hear of a probe on the finances of INEC despite the multiplicity of probes instituted by the National Assembly since June 2007.

INEC officials involved in actions that sought to frustrate the realization of the ends of free, fair and credible elections acted outside the call of duty. They cannot therefore be heard to plead that they were merely performing their duty and as such would not incur personal liability for their illegal actions and omissions. Such a privilege would only cover them in the discharge of their lawful functions or if they sincerely made mistakes in the discharge of their duties. INEC has persistently stated that its actions in the conduct of the elections were legal and regular.

Ubi jus ubi remedium is a legal aphorism that resonates in INEC's relationship with the Nigerian people. The public Treasury and Nigerians have been wronged and have suffered losses. As such, they are entitled to a remedy. INEC and various persons working in concert with it have been identified as being responsible for these losses. In situations where INEC was responsible for the facts leading to the voiding of the election, normal public service regulations should be used to recover the monies from relevant INEC officials. In the event of any recalcitrance, public prosecution should commence to return the sums expended in the elections to the Treasury and court orders could consider the possibility of the outright forfeiture of their estates to the government if they cannot pay the judgement debt. Electoral fraud coupled with fiscal malfeasance should beget financial reparations for the Nigerian people. This is the minimum expectation of Nigerians.

**PRESS RELEASES - Two recent press releases of CSJ
on fiscal issues are reproduced hereunder**

May 18 2009

**NO MORE EXCUSES:
IMPLEMENT THE 2009
FEDERAL BUDGET!**

Centre for Social Justice (CSJ) recalls the process that led to the passage of the 2009 federal budget which took many months of executive legislative negotiations before a consensus was reached in March 2009. We also recall the provisions of the Fiscal Responsibility Act (FRA) and various Appropriation Acts since 2004 which call for savings of income accruing to the government in excess of the Reference Commodity Price (RCP) in the Excess Crude Account (ECA). One of the premises of the FRA which has become law since July 30 2007 was to stop the boom burst cycle of public expenditure management in Nigeria. Savings have been accumulated in boom times through fixing the RCP at fairly lower than anticipated oil prices.

More appropriately, the maintenance of a separate record for the documentation of revenue accruing to the Consolidated Revenue Fund in excess of the RCP adopted in the federal budget commenced in 2004. We further recall that in the year 2004, the Consolidated Government Overall Surplus deposited at the Central Bank of Nigeria amounted to about 10 percent of GDP at \$6 billion. The RCP for 2004 was \$25 per barrel, \$30 per barrel for 2005 and \$35 per barrel for 2006. The year 2007 budget was based on \$40 per barrel; the 2008

budget was based on \$59 while the current year is based on \$45 per barrel. At no time during the years 2004 - 2008 (before the global meltdown) did oil prices come lower than the RCP. Oil prices in fact shot to an astronomical \$147 per barrel in the middle of last year before the current decline due to the global economic meltdown.

Nigerians are aware that the government has accumulated savings and there can be no better time demanding the release of funds from the ECA than now since the FRA states in section 35 that *no Government in the Federation shall have access to the savings made in pursuance to subsection (2) of this section, unless the reference commodity price falls below the predetermined level for a period of three consecutive months. And the augmentation referred to in subsection (5) of this section shall be limited to such sums that will bring the revenue of government to the level contained in its budget estimates.*

CSJ notes with regret the President's apparent frontloading of an alibi for the imminent failure of his administration to achieve the generation and distribution of 6000 megawatts of electricity by December 2009 and other budgetary objectives by blaming the legislature for an Appropriation Bill he signed into law.

On the complaint of reduced crude oil production due to militancy in the Niger Delta, it is unfortunate that the President after setting up a Technical

Committee on the Niger Delta has failed, refused and neglected to consider the Committee's report or release a white paper on it. Yet this crisis is responsible for reduced revenue inflows to fund the budget. This blame for the lethargy in taking proactive action based on the Committee's recommendation is squarely on the door steps of the President.

CSJ also notes that although the budget was predicated on an exchange rate of N125 to 1USD, the official exchange rate has since depreciated to about N147 to 1USD thereby bringing in more naira into government coffers. Further, oil prices have picked up above the 2009 RCP since the commencement of the second quarter of 2009.

CSJ therefore demands:

- the full implementation of the 2009 federal budget. We are tired of excuses and will not accept another excuse after the failure to implement the 2007 and 2008 budgets. Any minister that complains about the ministry's capacity to deliver on budget projects is not worth his ministerial position and should therefore resign;
- the release of funds from the ECA to augment budget revenue to the level contained in the 2009 federal budget and a full account of the accruals and withdrawals from the ECA from inception to date;
- the consideration and release of a white paper on the report of the Niger Delta Technical Committee and subsequent

action to implement the recommendations;

- the legislature should insist on exercising its oversight powers over the allocation and management of public expenditure.

Finally, the executive should properly focus its energy on budget implementation, considering the fact that it is one of the major yardsticks for assessing the performance of any administration.

June 19 2009

FISCAL IRRESPONSIBILITY: CONTINUED BORROWING WITHOUT DUE PROCESS

Recent reports that the Federal Government has secured a World Bank loan of \$1b to finance power, education and HIV/AIDS projects repayable over 35 to 40 years with a ten year period of grace challenges the provisions of the Fiscal Responsibility Act 2007 (FRA). By section 44 (1) of the FRA, any government in the Federation or its agencies and corporations desirous of borrowing shall, specify the purpose for which the borrowing is intended and present a cost benefit analysis, detailing the economic and social benefits of the purpose for which the intended borrowing is to be applied. And by subsection (2) of the section, any borrowing requires the existence of prior authorization in the Appropriation Act or Law for the purpose for which the borrowing is to be utilized.

Pray, where is the cost benefit analysis comparing the cost of taking this loan with the benefits the citizens will likely derive from it? Where are the studies indicating the impact of previous loans on the citizens? Previous loans have been frittered without tangible results or improved governmental service delivery while citizens have been made to bear the brunt of paying back the loans through reduced funding of epileptic public services.

Centre for Social Justice notes that this loan commitment was neither approved in the 2009 Appropriation Act or any other law known to Nigeria's constitutional and statutory jurisprudence. The FRA is clear that what is required is the prior authorization of the legislature and not for the executive to tie the hand of the legislature by committing Nigeria to new loans and thereafter seek legislative ratification of the illegal commitment. For the Board of the World Bank to approve the loan means that the executive presented an application before it. Legislative approval should have been sought before the application is sent to the World Bank.

The fact that Nigeria's Debt Sustainability Analysis indicates that our public debt profile as a proportion of national income is sustainable does not mean that we should borrow recklessly as happened in the past. And the present executive has shown its incapacity to implement the national budget - where will it derive the capacity to implement activities under the current jumbo loan?

The executive arm of government by informing Nigerians of this commitment at the point of approval

by the Board of the World Bank is in clear violation of its commitment under section 48 (1) of the FRA to *ensure that its fiscal and financial affairs are conducted in a transparent manner and accordingly ensure full and timely disclosure and wide publication of all transactions and decisions involving public revenues and expenditure and their implications for its finances.*

Centre for Social Justice (CSJ) therefore calls on the National Assembly to:

- Reject and refuse to give approval to the said International Development Association Credit which was procured in violation of the FRA.
- To hold public hearings on the written and unwritten conditionalities of the loan if it must approve of it.
- Insist that the executive respects all the provisions of the FRA in the future.

CSJ calls on the executive to make public its application to the World Bank and the approved terms of the proposed loan.

The fact that Nigeria's Debt Sustainability Analysis indicates that our public debt profile as a proportion of national income is sustainable does not mean that we should borrow recklessly as happened in the past.

FOOD SECURITY AND THE IMPERATIVES OF GOOD FISCAL AND MONETARY POLICIES IN NIGERIA - Ugo Jim Nwoko

In this discourse, the inextricable link between the right to food and the formulation and implementation of good fiscal policies are analysed.

The right to food is one of the basic rights of humanity and certainly is an important component of the fundamental right to life guaranteed by the 1999 Constitution of the Federal Republic of Nigeria. It is also appropriate to reiterate that food is one of the three basic needs of human beings; others being shelter and clothing. Nigeria's national budgets should therefore be geared inter alia, towards the provision of affordable food for the citizenry. This will help in the attainment of the social and economic objectives of the Constitution and the Fiscal Responsibility Act 2007.

Budget preparation, implementation and monitoring can be approached from the angle of the right to food. The rationale for this can be traced to the fact that the quality of life of citizens is to a great extent dependent on the quality of food accessible to them and there is no welfare issue more critical to the people than the issue of food. It is a take-off point in the pursuit of social and economic wellbeing. Budgets and other fiscal planning strategies basically set out to promote the welfare of people by efficient allocation and prudent management of public resources. Hunger is a human rights issue. No nation that has not been able to feed its population can lay claim to being developed. Therefore, it becomes imperative that food security should be of great importance in shaping Nigeria's fiscal

policies. As the state exists to serve the needs of the citizens in terms of their welfare, then budgets and budgetary allocations to agriculture and food security projects and programmes should be treated as a priority.



Sanusi Lamido – Central Bank Governor

The executive and the legislative arms of government in their wisdom allocated N166,924,361,057 to Agriculture and Water Resources Ministry in the 2009 national budget. Out of this total amount, N27,995,661,738 is dedicated to recurrent needs of the sector; making only 138,928,699,319 available for capital projects in a sector that is as crucial as being the provider of the food and water needs of over 140 million people. This budgetary allocation to agricultural and water

sector may not be considered optimal for the achievement of food security; enhance sanitary conditions, provide raw materials to local industries, enhance the foreign exchange earning capacity of the federal government and generate employment. At the same time, it cannot be said to be among the least among the sectors. However, the agricultural sector has been one sector which has served as a gold mine to political office holders, public servants and their cronies with the annual politicization of the procurement and distribution of fertilizer and other farming facilities and equipment without commensurate results.

Though agriculture is fiscally an expensive sector to manage, there has been negligence by civil society groups, development partners, the media and other stakeholders in the sector in terms of advocacy for increased budgetary allocations to agriculture and ensuring fiscal prudence and faithful implementation after budgets are passed. There is poor budget monitoring in the agricultural sector. Agriculture in the light of the falling oil prices in the world market and the crisis in the Niger-Delta has the capacity to be a great money spinner for the country and help the government fund its programmes in the social sectors. Agriculture is a cross-cutting sector which if properly developed and managed has the key to unlocking the great potentialities of, and improving other sectors like health, education, defence and industry to mention but a few. The capacity of a nation to feed its citizens both in times of peace and war is central to its national power.

Food security is one the cardinal goals among the eight time-bound targets of the world community by 2015, commonly referred to as the Millennium Development Goals. Nigeria has committed itself to the goal of halving the number of hungry people in the world by 2015. This goal cannot be achieved when budget laws are not respected both at the federal and states levels of our economy. The proposal by the Federal Government to disburse N200 billion agricultural loans to farmers across the country is quite commendable. Beyond the commendation, it also constitutes a challenge for both the National Assembly, Non-governmental organizations with interest in public policy and the media to follow up with oversight, monitoring and beam a searchlight on the disbursement and implementation of the programme.

The Central Bank, Ministry of Finance and Budget Office of the Federation and Debt Management Office are public bureaucracies that should be considered to possess the sacred mandate of monitoring the allocation and judicious application of public resources especially the national budgets and intervention funds. Governance and public policy in Nigeria deserve to be conducted better now under the atmosphere of transparency and due process as enunciated in the Fiscal Responsibility and Public Procurement Acts respectively.

The capacity of a nation to feed its citizens both in times of peace and war is central to its national power.

Perhaps, the former Central Bank of Nigeria Governor, Professor Chukwuma Soludo had this in mind when he said recently that an agriculture intervention fund would be established and the funds given out at concessionary interest rate to enable the agricultural sector retool. "We are working on a programme to provide special funds for the agricultural sector. It is clear that the credit extended to the sector is so minimal, while its contribution to the national GDP is above 33.15 percent. It is also imperative to point out the link of agriculture to inflation" Essentially, for the Central Bank of Nigeria, anything good for the agricultural sector is good for the economy and monetary policy.

The resources need not be channeled towards cash crop production and industrial agriculture alone to the detriment of rural farmers who are the real producers of the food we consume in this country. It should be part of the mandate of the agricultural sector to support the development of agricultural science and technology to promote food storage, ensure that huge resources committed to agriculture are insured against the risks inherent in agro-business. These, no doubt conform to the National Food and Agricultural Policy of the country and the ideals of Food and Agriculture Organization of the United Nations.

The Minister of State for Finance, Remi Babalola recently drew a comparison between Nigeria and Indonesia. However, the strategic difference between Nigerian and Indonesian economies is the fiscal attitude and policies in these two countries towards agriculture. Indonesia is a good example because

it shares many attributes of Nigeria, in terms of diversity of its population and crude oil resources. While Indonesia made use of its fiscal balance to stabilize expenditures and budget positions, it also relied on tight fiscal policies and appropriate monetary policies to support growth in agriculture and non-oil exports. Nigeria practiced large increases in public spending and fiscal deficits and ignored agriculture during the period of oil boom which hitherto was its main foreign exchange earner. So the recent clue given by the Minister of State for Finance that the Federal Government is considering drawing huge lessons from the experiences of Indonesia in fiscal management and adopting significant models from that country in its efforts to diversify the economy and reduce the vulnerability of Nigerian economy to the oil sector shocks corroborates this thinking for a revolution through agriculture.

The fundamental achievement of Indonesia over and above Nigeria is hinged on its capacity to have adopted prudent fiscal measures, monetary and exchange rate policies and huge investments in agriculture as well as in the small and medium enterprises sector. Therefore, advocacy for the clinical implementation of the Fiscal Responsibility Act 2007 by all stakeholders in the Nigerian economy holds the key for the achievement of food security and the resuscitation of the good life for the Nigerian people.

It is clear that the credit extended to the sector is so minimal, while its contribution to the national GDP is above 33.15 percent.

REBRANDING NIGERIA WITH FISCAL RESPONSIBILITY

Unongo Henry

The concept of re-branding Nigeria proceeds from the reality that the Nigerian brand is soiled and attracts more negative than positive comments from Nigerians and members of the international community. The re-branding Nigeria project seeks to redeem Nigeria's bad image and to change the perception about Nigeria. Official corruption, electoral fraud, obtaining by false pretences, drugs and outright cheating are all synonymous with the Nigeria brand. At various prisons abroad, Nigerians feature prominently for one crime or the other. This is the challenge that the midwives of the re-branding Nigeria project have to contend with.

It is the proposition of this discourse that citizens' misbehaviour and non compliance with laws has a great nexus with the inability of government to implement fiscal policies as contained in budgets, policies; short, medium and long term fiscal frameworks. The government of Nigeria is obligated by law to provide at least the basic needs of the citizen, protect him and also preserve his dignity. An average Nigerian is dedicated to the cardinal virtues of honesty, patience and hard work. She is resilient in the face of government's negligence and insensitivity to the needs of the people. She pays her taxes, provides her own water, generates and distributes her own electricity and provides education in private schools for her children while taking care of her security needs. This shows that there is a disconnection between the government and the people and the failure of policy implementation, particularly fiscal policies has led to societal decay.

The Fiscal Responsibility Act is enacted to guarantee prudence in public expenditure management, so as to address the basic needs of the people and ensure accountability in handling public finances in the overall interest of Nigerians. The actualization of the goals of the re-branding project will not be possible without first changing the attitude of the people whose criminal activities smear the image of the Nation. By these criminals, we refer to those in the corridors of power, who rig elections, ensure that the votes don't count; steal billions of naira meant for the people and manipulate the judicial system for their own ends. Nigerians by nature are not a greedy people and strict adherence to fiscal policies as enshrined in the Fiscal Responsibility Act would certainly yield the desired result of enhanced service delivery and improved standard of living, for which quest, many innocent Nigerians have become wayward and criminal.

It is hereby recommended that the rebranding campaign be focused more on improving service delivery and improved standards of living for the populace through the strict adherence to the Fiscal Responsibility Act. If this is one, those who took to crime in a bid to survive would quit and become useful members of society. Those who are habitual offenders would be easily isolated and reduced to a manageable number to make law enforcement easier. Only in this way would the rebranding project live a lasting mark on the historic shores of time.

If we have a government that conducts its fiscal operations in a transparent and accountable manner, employing popular participation and delivering value for

money, which are all promises embedded in the Fiscal Responsibility Act, then we are on our way to a brand new reputation. Our reputation will be that of a society where electricity works, the police is efficient, education impacts knowledge and health services save lives, the electoral umpire uses appropriated funds to conduct credible elections, people are paid a living wage, etc. What better brand can we hope for?

If the domestic economic environment were auspicious enough for business to thrive, most people seeking greener pastures abroad would remain and be useful to the country. What about brain drain? It is no news that our best professionals are outside our shores earning a living which the fatherland has denied them. They would have preferred to work for the growth of Nigeria if the circumstances are right. Let our governments be fiscally responsible and liberate the creative energies of Nigerians and a new Nigerian brand based on the cardinal virtues of honesty, patience and hard work will emerge.

New Publication!

Fiscal Responsibility Monitoring Manual

This is the ABC for the monitoring of actions and omissions of governments under the Fiscal Responsibility Act. It is a must read for all civil society actors interested in engaging the blow by blow account of the implementation of the Fiscal Responsibility Act in Nigeria.

Get a copy today

PUBLISHED BY CENTRE FOR SOCIAL JUSTICE

FISCAL RESPONSIBILITY FOR SOCIAL AND ECONOMIC ACCOUNTABILITY



RC:737676

- ❖ What is fiscal responsibility and its role in social and economic accountability?
- ❖ How can civil society contribute to the formulation of fiscal policies, the Medium Term Expenditure Framework (MTEF) and annual budgets, etc?
- ❖ Why do we need to ensure the implementation of the Fiscal Responsibility Act (FRA) and other relevant fiscal laws?
- ❖ When is the appropriate timing for civil society interventions in fiscal policy formulation, implementation, review and reporting?

Enter the Fiscal Responsibility for Social and Economic Accountability Project of Centre for Social Justice (CSJ). The specific objectives are:

- ❖ To provide a platform for support and learning between Civil Society Organizations (CSOs), federal legislative committees and the Fiscal Responsibility Commission in the oversight of FRA issues;
- ❖ To engage Ministries, Departments and Agencies in the preparation and review of their Medium Term Expenditure Framework;
- ❖ To build the capacity of civil society on the detailed provisions of the FRA and to support CSOs to improve on needed skills for monitoring, reporting and evaluation of the implementation of the FRA;
- ❖ To monitor, report and engage in action advocacy for the implementation of the FRA and to raise public awareness and sensitization on the FRA through the media.

Any CSO or individual interested in the realization of the above objectives should sign up and return the coupon below to *Unongo Henry* at CSJ, 17 Yaounde Street, Wuse Zone 6, P.O. Box 11418 Garki, Abuja; Or return electronically to censoj@gmail.com. Also join our Listserv at pem_ngr@yahoo.com for regular updates and discussions on the FRA and public expenditure management issues.

Name:.....

Address:.....

Tel, Fax and Email:.....

CSJ is a Nigerian non governmental organization with a **vision** of a Nigeria where social justice informs public decision making. Its **mission** is to mainstream social justice and fairness in all facets of public life. This project is supported by the Ford Foundation.

ABOUT CENTRE FOR SOCIAL JUSTICE (CSJ: RC: 737676)

Centre for Social Justice Limited by Guarantee (CSJ) is a Nigerian non governmental organization with a vision of a Nigeria where social justice informs public decision making. Its mission is to mainstream social justice and fairness in all facets of public life.

The main objectives are to:

- contribute to the development and implementation of national laws and policies on social rights and justice in accordance with international best practices;
- promote accountability, transparency and popular participation in public expenditure management;
- promote poverty reduction strategies as a tool for social justice;
- promote popular participation and gender mainstreaming in public decision making;
- broaden the constituency of professionals interested in development and poverty reduction by creating and maintaining a multi disciplinary network of professionals committed to work for the realization of these objects.

PROGRAMMES

The programmes of CSJ focus on a rights based approach to public expenditure management, power sector reforms, political finance reforms and constitutional reforms.

DIRECTORS

Eze Onyekpere (Lead Director), Dr Jane Francis Duru, Dr William Fonta and Dr Justin Achor

SECRETARIAT

Eze Onyekpere	Lead Director
Ugo Jim Nwoko	Legislative Liaison Adviser
Fidelis Anaemeje	Accountant
Henry Unongo	Programme Officer, Public Expenditure Management
Omale Omachi Samuel	Programme Support Officer



Centre for Social Justice Limited By Guarantee
17 Yaounde Street, Wuse Zone 6, P.O. Box 11418 Garki Abuja. Tel: 09-6721902; Website: www.csj-ng.org; Email-censoj@gmail.com

Fiscal Update is printed with the generous support of the Ford Foundation