

What's Law Got To Do With It?

Exploring the Nexus between Compliance and Public Budgeting



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Abstract

This paper evaluates Compliance (as a consequential feature of modern democratic fiscal management) and the practice of Budgeting (as a financial plan for a country's fiscal year): specifically preparation and budget execution. The paper explores the Nigerian experience with Compliance, in the context of established Fiscal Responsibility rules, guidelines and laws, on one hand and the informal norms and institutions that govern its operation, on the other. The paper addresses whether or not Fiscal Responsibility legislation has impacted financial planning, and expenditure control and if so, how the impact can be improved. The paper concludes by seeking to strengthen the understanding of the relationship between Compliance and rule adherence, as well as why it is important for public administration.



1

Introduction



To avoid fiscal instability in the management of government resources and the economy, governments often seek to avoid deficits, high debt and weak revenue generation, not only because of the impact on the present or short-term but due to the impact on future generations.

It is generally accepted that for developing nations; governments ought to be as effective as possible in the provision of public goods and services. Resources are limited and citizen needs are numerous. Our shared understanding (at least, among modern representative democracies) is that in exchange for our individual autonomy and taxes, the government governs in a reasonable manner. Based on what is exchanged by the citizens, government powers should be exercised with the utmost sense of duty and responsibility.¹ Generally (even in some non-democracies) the implementation of government policy and programs aims for efficiency and effectiveness, due to these concerns and others (D'Souza, 2006). To avoid fiscal instability in the management of government resources and the economy, governments often seek to avoid deficits, high debt and weak revenue generation, not only because of the impact on the present or short-term but due to the impact on future generations. This means that the government should assemble the most optimal fiscal tools to ensure fiscal stability. Some of these tools can be specific procedures, others can be mandatory requirements and some can be disclosures, while others may mandate 3rd party oversight. The broad sphere within which these rules and procedures operate is public administration and more specifically, Public Financial Management (PFM). According to one scholar of public administration, government administration ought

to have the following characteristics: Probity, Propriety, Policy and Performance (Schiavo-Campo, 2023). Public rules, laws and guidelines are instruments of government and should have these features. To reiterate, two main purposes of providing laws and rules to govern a country's PFM system is to promote order and to prevent misappropriation of resources (a third can be included, involving preventing and reducing corruption). Laws, as features of human societies, are meant to ensure order, because human interaction in a number of environments and contexts can be challenging, arbitrary, uncertain and unequal, among other things. Government is no different and has multiple overlapping and at times contradictory interests. Hence, clear rules are needed to provide stability, predictability and regularity.

It is therefore important that government spending and financial management be carried out within reasonable limits, with well identified participants and with clear terms, for instance where breaches occur (and what happens to those that breach the rules). Yet, this means there will be less room for discretion (defined as the freedom to make a decision without consultation or without adhering to a set of procedures or rules) in decision-making. In situations requiring a response to a sudden change in the nation's macroeconomic environment, for instance, discretion is important (Willoughby, 2014). Another example highlighting

1. The duty to ensure that the government does not breach the rights of citizens, remedies are provided for the latter to sue the government where their rights and freedoms are violated. See s.46, Chapter IV, of the Constitution of the Federal Republic of Nigeria, 2011 (as Amended).



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the significance of rules in PFM, relates to the political nature of government and PFM. Any choice made in determining a policy position or the prioritisation of a government program will be political and contested. Yet, laws ensure that whatever the nature of the decision may be, it should be according to known and established guidelines.

A Brief Review of Budgets

Budgets are mechanisms through which a government allocates resources. These resources are for the operation of government as an administrative entity (personnel and overhead budgets) and for the provision of public goods and services (capital expenditures). But budgets, as fiscal documents are, in some way, 'fiscally intangible'; i.e., that a budget has been passed does not mean that resources are currently available or that all of it will be spent at the end of the fiscal year. What it demonstrates is that the government intends to spend a certain amount of money and intends to earn a certain amount of money, within a particular period. It bears restating that resources are finite and wants are insatiable. Hence, the management of the financial system for any particular fiscal year will determine whether the budget is optimally actualised. By 'optimal actualisation', we mean getting as close to fiscal targets as possible to ensure budget credibility. Where the government is able to meet its budget targets (i.e., spend effectively and earn efficiently), the budget is said to be credible. Schiavo-Campo holds that from the perspective of public administration, budgeting ought to have the following requirements of good governance, namely: Accountability, the Rule of law, Participation and

Transparency (Schiavo-Campo, 2023). This provides a clear picture of the nature of budgeting and the imperative for the process of budgeting to be as organised and structured as possible. In budgeting, complying with the law and regulations is essential for the legitimacy and credibility of the process; appropriate participation can improve the quality of budgetary decisions and monitoring of their implementation; finally, transparency of fiscal and financial information is a must for an informed executive, legislature and the public at large, and also serves as a signpost to guide the private sector in making its own production, marketing and investment decisions (Schiavo-Campo, 2023). It is one of these features we aim to pay close attention to: compliance. We define compliance as the adherence to a set of rules, guidelines and processes (Mogaji, 2009). In instances where an official has a level of discretion in the discharge of her duties, compliance would extend to the highest standards of ethical conduct. The latter has a heightened significance not just in Nigeria but in developing nations generally, as government administration connotes an unequal level of information and authority in favour of the government.² This means the government must hold itself to impartial and well-structured rules to ensure that its interests-political and bureaucratic-are kept in check.

Do Rules Work to Keep Public Financial Management Efficient and Effective?

Empirical studies have shown that more often than not, countries in the Africa region-compared to other regions-tend to have PFM systems with moderately weak expenditure

2. Some describe this as a 'Principal-Agent' relationship where the government is the agent of the citizens who are principals but the citizens have minimal access to critical information and decision-making power. As such, mechanisms have to be designed to keep the Agents transparent, accountable and accessible.



controls (Pattanyak, 2016). From the above, one can argue that the legal regime guiding the budget process has to have the qualities of effective law. But the question then becomes: how much discretion and how much adherence to the rules is optimal? In general, the Rule of Law aims to restrict the discretion of government officials in the execution of their duties. This means that whatever action government takes, must be within the bounds of what the law prescribes. Law, in general, aims to play that role: to provide order, stability, incentives (positive or negative) and predictability to human interaction. However, in drilling down to the Rule of Law as a necessary component of good government, a challenge emerges. The challenge is that the very institution meant to restrict the government, is the government itself. This problem was initially addressed through the instrumentation of the separation of powers. This envisions a situation where the government is able to restrict itself in the exercise of its powers by creating separate and distinct forms of ‘government’ within the government. In Nigeria’s case, this separation exists in the tripartite form of the Legislature, the Executive and the Judiciary; it is operationalised through a system of checks and balances where one arm of the government determines or sanctions the actions of another. This also ensures that a key principle

of law, that persons (or entities) should not be judges in their own cases, is preserved. Therefore, those that make the law are different from those that implement the law and the former two are different from those that interpret the law. In the end, the Rule of Law is meant to guide all the arms of government in the execution of their mandates. In fact, it has long since been held that the Rule of Law is a core aspect of good governance (Kaufmann, Kraay & Zoido-Lobaton, 1999) and influences development, to some extent.³

This therefore means that the support laws provide to the management of an economy and the PFM system in particular, should be clear, enforceable, known, stable and reflect the values of the system (or country). This last point about ‘value reflection’ is not trivial, as the law itself must be acknowledged, accepted, understood and believed to be the eminent rules and guidelines that are supreme and binding on all. Sanchez-Cuenca (2003) puts this position about the awareness of the Rule of Law glibly, where he holds that: “The law, being a human creation, must necessarily be subject to human will. In fact, the very term ‘the rule of law’ is in itself rhetorical. The law cannot rule. Ruling is an activity, and laws cannot act”.

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3. *The empirical relationship between the Rule of Law (and other governance indicators) and indexes of development is not entirely clear or unambiguous. Trebilcock and Daniels observe that: “To begin with, even taking their results at face value, these studies reveal only imperfect correlations between legal and development-related variables. Even studies that find strong and statistically significant correlations between the rule of law and measures of development typically find that there are a number of countries whose level of development lies quite some distance – in either direction – away from the level that would be predicted by its rule of law score. The amount of unexplained variation in these studies leaves one to wonder about the importance of legal variables as opposed to other explanatory variables”. See Trebilcock, M. and Daniels, R. (2008). Rule of Law Reform and Development: Charting the Fragile Path of Progress, at p. 8. Edward Elgar, Cheltenham, UK; Northampton, MA, USA.*

The Rule of Law (Comes First)



For the purposes of this paper, a dual formulation is adopted, reason being that effective, accountable and transparent budgeting are outcomes of a legal and administrative system that places priority on the quality of institutions.

The Rule of Law (or ROL), has generally been understood by practitioners in 2 formulations (Palombella & Walker, 2009): ‘formal’ and ‘substantive’.⁴ It has not always enjoyed being a straightforward concept, as Tamanaha (2004) points out that the road to a common understanding of the ROL has taken millenia. This distinction between formal and informal is important, as it shows how the idea of the ROL can be disaggregated and that the notion of what ROL entails has separate but mutually supportive cores. The formal view primarily sees ROL as that which ensures that both the government and citizens are bound by the dictates of the law and act in line with its stipulations (Tamanaha, 2009). In this sense, the ROL takes on the quality of a present but intangible force, hence the statement common among people in developing countries “There is poor rule of law in [Insert name of country]”. Readers should note that there are additional characteristics which make up this formal view.⁵ The substantive view takes ROL to entail not just the content of the formal view but the notion of human rights, the idea and quality of democracy and attributes of justice (Tamanaha, 2004). For the purposes of this paper, a dual formulation is adopted, reason being that effective, accountable and transparent budgeting are outcomes of a legal and administrative system that places priority on the quality of institutions.

For example, the budget being a law of the land, presupposes that violations against it can be sanctioned (one can note the characteristics of the budget being public and clear by enumeration of the various budget heads, for instance). This can be construed as meeting the ‘formal’ content of the ROL. While the ‘substantive’ element is shown in the way the budget is viewed as a law/program meant to improve the living conditions of the citizens. This is one of the key claims of this paper, that: “A function of the rule of law is to impose legal restraints on government officials, in two different ways: (i) by requiring compliance with existing law; and (ii) by imposing legal limits on law-making power” (Tamanaha, 2004). This function is important, as it seeks to have laws obeyed (what good is a law that is not obeyed?) and to ensure that those in power do not abuse their powers. The applicability of the ROL for our purposes, is in compliance with the rules, principles and guidelines. The Fiscal Responsibility Act, as one set of laws, has been empirically demonstrated to have a ‘significant positive relationship with financial development and economic growth in the long-run’. However, and expectedly, without adequate control of expenditures and macroeconomic policy, the gains of the legislation cannot be experienced (Evans, 2020).

4. A third formulation can be included, referred to by the USAID as a ‘people-centric’ view (or approach) of Rule of Law. According to the US development agency, this conceptualisation (which has been empirically established) entails: “[I]mproving systemic accountability, bolstering legitimacy of and trust in government, empowering citizens whose voices are heard and whose actions guide policies, through purposeful dialogue and collaboration”. See the United States Agency for International Development. (March, 2022) *Rule of Law Terrain Analysis: A Literature Review*, at p. 5. Chemonics International Incorporated.

5. They are the following: Law must be set forth in advance (be prospective), be made public, be general, be clear, be stable and certain, and be applied to everyone according to its terms. See Tamanaha, B. *A Concise Guide to the Rule of Law*, op.cit.



However, while the Executive and the Legislature understandably play an outsized role (see s.4, s.59 and s.80 - s.81 of the Constitution, 2011, as amended) one of their key aims is to ensure the budget cycle operates within a specific time range.

The budget cycle, a fundamental and regular process of the Nigerian government, involves several different entities and stakeholders. From preparation, to approval and from execution to evaluation-the budget calls a wide number of participants. However, while the Executive and the Legislature understandably play an outsized role (see s.4, s.59 and s.80 - s.81 of the Constitution, 2011, as amended) one of their key aims is to ensure the budget cycle operates within a specific time range. This ensures predictability in the execution of governance and government and that the livelihoods of citizens are not subjected to late delivery of public goods and services. The payment of salaries and overheads, the delivery of critical health, education, water and sanitation services and the execution of capital projects require a disciplined and timely budget and disbursement, among other things. In general, the foregoing benefits of a predictable and disciplined budget also contribute to budget performance and credibility, as revenues raised and expenditures incurred are measured within the time they had been specified. Observing the Nigerian PFM system, one notices that it is not completely covered by laws; apart from the Constitution, the Fiscal Responsibility Act, the Procurement Act among few others, there is no other law that guides budgeting. This means a considerable amount of discretion is left to government officials in the management of the process. This does not mean that the entire budget process should be covered by laws, on the contrary; a multiplicity of

laws may become an albatross on the system. However, there ought to be an optimal mix of expectations, rules, regulations and laws. The challenge is determining the right mix of these methods and protocols.

By way of recap, Budgets are prepared and implemented within a framework of compliance with established guidelines, legislative oversight and a broader macro-economic environment that can often be unstable. From the statutory requirements set in the Fiscal Responsibility Act, 2007 (relating to documentation that precedes the budget and the budgets components), to the provisions of the Constitution outlining the process of budget bill review, to the challenging public procurement environment, to extraneous factors during budget execution (such as the macroeconomic environment, capacity of the Public Service and global affairs, among other things); the budget is subject to a number of forces. One of the most formidable 'forces' is depicted in the actions of government appointees and elected officials (Shah, 2007) over the process. Due to the fact that budgeting involves the delegation of the right to spend public funds and because government officials have better information about the financial system than citizens, there must be a framework of rules that prevents government officials from abusing their authority. It is to this point that compliance with Fiscal Responsibility laws come into light.

How does Compliance and the Budget Process Intertwine?



As the term implies, procedural rules ensure the principles and practices of the budgetary process promote transparency, financial management and accountability.

Fiscal Responsibility laws (FRLs) have been promoted as providing a means to ensure that budgets and the broader financial system are managed in accordance with financial system stability concerns, among other things. Guo and Merriman (2016), describe FRLs as: “[P]rocedural and numerical fiscal rules designed to increase budget discipline and to enhance the credibility, predictability and transparency of government budget processes” (Guo & Merriman, 2016). As the term implies, procedural rules ensure the principles and practices of the budgetary process promote transparency, financial management and accountability. While numerical rules are focused on quantitative targets for budgetary aggregates by providing limits on fiscal policies and caps on certain forms of fiscal outcomes such as budget balance, debt and expenditure (Guo & Merriman, 2016). FRLs are not expected to cover the entire range of the budget cycle as other rules and regulations are required for other aspects.

For instance, the Executive is mandated to prepare the budget, alongside the Medium Term Expenditure Framework (MTEF) and Fiscal Strategy Paper (FSP). These documents, among other things, set out the aims of the government regarding expenditure control and direction of funds to stimulate the economy (s.18 - s.20, Part III, Fiscal Responsibility Act, 2007). The foregoing is presented to the National Assembly and the latter is expected to evaluate the Money bill. The

Constitution allows the Legislature to debate the bill, through the instrumentality of its Appropriations Committee and various sub-committees. After this review, the National Assembly sends the Appropriation Bill to the President for assent and the Act is implemented by the bureaucracy. Within this process, several issues relating to the integrity of the budget and overall management and control of expenditure are called into question.

Firstly, it is not clear how the Budget Office and the various Ministries arrive at their expenditure estimates and programmes and projects. While the Budget Office has provided training and capacity building for MDAs on their proposal preparation (Vanguard Newspapers, 2023), there is minimal evidence to show this has an impact on the quality of their inputs. The Appropriation bill tends to be awash with vaguely worded and questionably priced line items that often have unclear relationship with administrative efficiency and effectiveness and the fiscal goals of the MTEF, FSP and National Development Plan (NDP, 2021 - 2025). The figure below is a random extract of the capital expenditure budget of one Agency of the government.

One thing is certain, however, which is that the line Ministries, Permanent Secretaries and other Civil Servants must be overseen by the relevant coordinating ministry (in Nigeria's case, the Ministry of Finance) and be made to see their collective input as critical to the success of the nation's fiscal stability.

Figure 1. Capital component of the Approved 2024 budget of the Nigeria Nuclear Regulatory Authority

0232009001	NIGERIA NUCLEAR REGULATORY AUTHORITY		
CODE	PROJECT NAME	TYPE	AMOUNT
ERGP2205813	ESTABLISHMENT & EQUIPPING OF OFFICE FIXED ASSET REGISTER AND INVENTORY SYSTEM	NEW	80,000,000
ERGP27193050	PROCUREMENT OF HEADQUARTERS BUILDING AND EQUIPPING	ONGOING	108,362,223
ERGP3193042	ESTABLISHMENT OF PERSONNEL RADIATION DOSE AND EQUIPMENT MAINTENANCE UNITS	ONGOING	40,000,000
ERGP20244481	PROVISION OF SOLAR STREET LIGHT AT OGWU NSHIRI, UBURU, GHAOZARA LGA, EBONYI STATE	NEW	22,200,639
ERGP20244482	SUPPLY AND INSTALLATION OF SOLAR STREET LIGHT, ZAMFARA NORTH SENATORIAL DISTRICT, ZAMFARA STATE	NEW	31,000,000
ERGP20244483	TRAINING AND EMPOWERMENT OF YOUTH ON SOLAR POWER STREET LIGHT, IFE CENTRAL LOCAL GOVERNMENT, IFE FEDERAL CONSTITUENCY, OSUN STATE	NEW	21,146,864
ERGP23173528	ENTREPRENEURSHIP TRAINING OF YOUTH AND WOMEN IN SELECTED AREAS OF OWODE, SOUTHWEST.	NEW	500,000,000
ERGP23173529	TRAINING ON PRODUCTIVITY PROGRAMME FOR YOUNG SCHOOL LEAVERS IN IYANA IYESI.	NEW	250,000,000

Source: 2024 Appropriation Bill of the Federal Republic of Nigeria

Moreso, there is no demonstration that the budget proposal is informed by the evaluations of previous year's budgets and the provisions of the Budget Call Circular itself (the latter for the linking of budget proposals to the "Immediate needs of the country as well as government development priorities that aligns with the policy direction of the new administration ..." [Federal Ministry of Budget and Economic Planning, 2023]); an unstated and serious failing. While it is not in dispute that Nigeria's budgeting style is "incremental", the latter has been shown to be ineffective at best (Pharr, 1970; Abdullahi, 2007;

Bammeke, 2008; Adams, 2009; Abdullahi, 2011; and Ugwu & Eze, 2023).

Secondly, the legislative review process of the Appropriation Act is, for want of a better phrase, not clear. In a 2017 edition of the Punch Newspapers (Punch Newspapers, 2017), the latter consulted with several prominent legal practitioners on whether the National Assembly can increase the size of the Appropriation bill. The latter had varying opinions on this, showing to some extent that the National Assembly's powers are not defined. Sam-Tsokwa and Ngara

(2016), are of the view that the National Assembly has no powers to do so but the Collaborative Africa Budget Reform Initiative (CABRI, 2020) holds that the National Assembly can unilaterally adjust the size of the budget. This 'confusion' on whether the National Assembly can or cannot is because the Constitution itself is silent on the specific ability of the National Assembly to increase the size of the budget. The MTEF and FSP are the estimates of earnings and expenditure of the Executive due to the fact that it controls fiscal policy and is aware of the spending and earning potentials of the country. While the National Assembly has institutions within it (the National Assembly Budget Research Office, among others) that can provide it with the necessary perspectives, research and evidence to disagree with the Executive, such disagreement must flow from the presentation of MTEF and FSP, not the Appropriation Bill. In fact, it has been argued that where the legislature is given unilateral scope to tinker with revenue forecasts, oil price assumptions and elements of the budgetary framework, it can work to undermine the credibility of set fiscal policy (van Eden, Khemani & Emery Jr., 2013). Unfortunately, such tends to be the case with the Nigerian National Assembly, as very little is seen regarding engagement with fiscal projections and the broader budget considerations in a factual and evidence-based manner. Further, if the

National Assembly was motivated by genuine concerns to increase the budget size, there would be the initiation of timely release of audit reports from the Office of the Auditor General. However, it is an open secret that this does not happen in a timely manner (Centre for Social Justice, 2019) and reports of the Auditor General are not made public until years after the fiscal year in which they are meant to be released has elapsed. This does not show the National Assembly is concerned about accountability in the use of resources and determining whether they were used effectively.

Thirdly, due to the various MDAs and other government entities involved in the preparation and execution of the budget (authorisation, commitment, disbursement of cash, verification, etc.) utmost clarity is required for expenditure control. This would allow for designation of where compliance is to be expected. It must be stated that control systems can generally be centralised or decentralised, both with their various advantages and disadvantages (Pattanayak, 2016). Control can concern Appropriation, Aggregate Cash, Commitment, Accounting, among others. Nigeria's system is, to a reasonable measure, decentralised as there is a level of discretion granted to line Ministries and their various Accounting Officers. It should be noted that the

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level of centralisation or decentralisation will determine the kind of reform required to improve expenditure control, as each of these forms have their advantages and disadvantages (Pattanayak, 2016). The Nigerian PFM system has enjoyed a raft of reforms in the last decades, as itemised by Shehu, Teru & Musa (2020).⁶ However, there is empirical evidence that the Nigerian bureaucracy does not fully discharge its role in budgeting and PFM generally with strict compliance (Adeyemi & Olanrewaju, 2019). It is uncertain whether this is a problem of a lack of competence, inefficiency, imbalance between discretion and rules, or a combination of all three. One thing is certain, however, which is that the line Ministries, Permanent Secretaries and other Civil Servants must be overseen by the relevant coordinating ministry (in Nigeria's case, the Ministry of Finance) and be made to see their collective input as critical to the success of the nation's fiscal stability.

Lastly, there is minimal evidence that the Fiscal Responsibility Act is being adhered to in a meaningful way. The challenge of the PFM space in Nigeria is characterised by a limited adherence to the ROL and compliance with the PFM laws. This is despite empirical evidence that sustained implementation of fiscal responsibility leads to economic growth (Origin, Obiomachukwu, Nwanmuoh, et al., 2023). Studies show that the FRA has been unable to lead to an improvement in the control of public expenditure, evidenced by poor fiscal outcomes such as revenue shortages, bloated expenditures, fiscal deficits and public debt accumulation (Chenge & Gadzama, 2023; and Idris, Bakar & Ahmad, 2018). Despite the quality of the existing Fiscal Responsibility legislation, the features of the law are not used and are more often ignored or abused. In addition to the numerous alarms raised by the Commission's Chairman, the latter has urged the National Assembly to amend the Commission's legislation

to provide it with the powers to enforce compliance with its rules, among other things (The Cable Newspapers, 2022 and the Punch Newspapers, 2024). It has been observed that Fiscal Responsibility laws may have limited applicability in promoting a sound fiscal system in societies where the broader social values do not favour fiscal prudence. This means that the relatively poor performance of Fiscal Responsibility legislation in reining in fiscal imprudence, is simply a reflection of a society that does not value prudence in the first place (van Eden, Khemani & Emery Jr., 2013). However, it may also be a function of the tendency of political office holders to circumvent rules simply for their own benefit. This then means that attempts to strengthen Fiscal Responsibility legislation, would have to be preceded by a transformation of the norms and institutions of the PFM system itself and this is no small feat. However, the following, which encourage the emergence of the right kind of policy environment, are seen as the key elements of a good PFM system and that which can improve the impact of the Fiscal Responsibility legislation (van Eden, Khemani & Emery Jr., 2013):

- A well-formulated medium-term fiscal strategy development process;
- Clear and credible budget formulation;
- Effective budget execution procedures;
- Timely and accurate accounting and reporting;
- A strong independent audit institution; and
- Transparent oversight by the legislature.

Where the elements above are regularly mainstreamed by political appointees, the bureaucracy, Civil Society, donor organisations and the media (in their respective ways), fiscal system quality has the potential to improve and have positive spillover effects.

6. These reforms are as follows: the International Public Sector Accounting Standard (IPSAS); National Charts of Accounts (NCOA); Accounting Transaction Recording and Reporting System (ATRRS); E-Payment and E-Remittance of Independent Revenue; Government Integrated Financial Management Information System (GIFMIS); Treasury Single Account (TSA); and the Integrated Payroll and Personnel Information System (IPPIS).

4

Conclusion and Recommendation



This stance of the National Assembly should not be surprising, as Folscher (2007), explains that in countries where the link between public policy and budgeting (alongside political survival of politicians) is weak: the latter will often fight for increase in budget sizes to enhance their access to resources and power, rather than for optimal policy outcomes that deal with the priorities of the country.

There is a potential efficiency gain (or loss) in government service delivery as well as a loss (or gain) where discretion is used by government officials, in the extent to which the law is applied in the PFM space or not. It is accepted that a level of discretion is necessary for the effective operation of government: not all decisions-even within the PFM space-can be boiled down to routine or adherence to rules. There are instances where government officials would have to react with speed to the particular situation confronting their department, sector or nation. In addition, this paper does not make the argument that the National Assembly does not have the 'power of the purse' but rather that this power must be exercised in a manner that demonstrates (with rigorous evidence and logic) a grasp of fiscal issues. It is interesting that the National Assembly has always sought for increases in the size of the budget but has never suggested a reduction in expenditure sub-heads. This stance of the National Assembly should not be surprising, as Folscher (2007), explains that in countries where the link between public policy and budgeting (alongside political survival of politicians) is weak: the latter will often fight for increase in budget sizes to enhance their access to resources and power, rather than for optimal policy outcomes that deal with the priorities of

the country. In any case, Compliance is at the heart of effective rules, as discretion would likely be abused, as has been demonstrated by the studies referred to above and others (Zaum, 2016). However, Compliance does not exist in a vacuum and must be seen to be critical to the system and enforced when necessary.

It is perhaps a positive development that the National Assembly aims to review the Fiscal Responsibility Act, to improve the oversight powers of the implementing agency (Punch Newspapers, 2023). However, it is unclear how soon the National Assembly would pass the amendment to the existing legislation. The FRA requires immediate amendment, to broaden the scope of the Act and provide the requisite penalties (and/or incentives) for violation of its regulations. The Fiscal Responsibility Commission requires empowerment, which could bring order and compliance to the PFM system. In addition, the process of budgeting requires an Act of legislature that guides the process, stipulates the duties and responsibilities of the parties involved, delineates the scope of the process and provides clear sanctions for breach of its provisions, among other things.

The nature of Line Agencies and Ministries



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operating within a relatively decentralised form of expenditure control, also requires urgent reform. The recent Auditor General of the Federation report, 2021 highlighted serious deficiencies by providing revelations of unbudgeted expenditure and unremitted revenue to government, in the 2020 financial year (Auditor General of the Federation, 2023). This demonstrates that the system is in need of re-ordering to either eliminate quasi-discretionary spending or strengthen existing oversight mechanisms. Pattanayak, explains that in British Commonwealth systems, the lack of systematic

tracking and control of commitments leads to over commitment and arrears. Cash plans in these countries are used as tools for rationing expenditure authority but themselves tend to be unrealistically optimistic, as they do not reflect expected cash outflows based on commitments. Where the PFM system is handled with consideration and integrity by all the stakeholders involved, it will positively affect governance and possibly even the economy. Law and Compliance have a lot to do with improvements in the economy and the current administration must see this as an imperative.





References

Abdullahi, A. A. (2007). *Public Sector Accounting: Theory and Practice* (1st edition). Zaria: Sa'ad-Deen Press.

Abdullahi, S. R. (2011). *Mastering Cost and Management Accounting* (1st edition). Kano-Nigeria: Gidan Dabino Publishers.

Adams, R. A. (2009). *Public Sector Accounting and Finance: Made simple*, Revised edition 2. Yaba-Nigeria: Corporate Publishers Ventures.

Adegbesan, E. (2023). "FG trains MDAs on 2024 budget preparation". Vanguard Newspapers (Online). Available at: <https://www.vanguardngr.com/2023/09/fg-trains-mdas-on-2024-budget-preparation/>

Adeyemi, F.K., and Olanrewaju, O.M. (2019). Internal Control System and Financial Accountability: An Investigation of Nigerian South-West Public Sector. In the Journal *Actas Universitatis Danubis*, Vol. 15, Special Issue 1. Available at: <https://core.ac.uk/download/pdf/229455984.pdf>

Aro, B. (2022). "FRC: Amendment of Fiscal Responsibility Law will set Debt Limit for FG, States". The Cable Newspapers (Online). Available at: <https://www.thecable.ng/frc-amendment-of-fiscal-responsibility-law-will-set-debt-limit-for-fg-states>

Auditor General of the Federation. Auditor General of the Federation's Annual Report on the Federal Government of Nigeria Consolidated Financial Statements for the Year Ended 31st December, 2020. Federal Government of Nigeria.

Bammeke, S. A. (2008). *Public Sector Accounting and Finance for Decision Making*. Lagos: SAB & Associates Limited.

Budget Office of the Federation. 2024 Executive Proposal, at p. 709. Federal Republic of Nigeria. Available at: <https://www.budgetoffice.gov.ng/index.php/2024-appropriation-bill/2024-appropriation-bill/viewdocument/957>

Centre for Social Justice. (December, 2019). Timeliness of Audit Reports. The Centre for Social Justice (Online) Blog. Available at: <https://csj-ng.org/timeliness-of-audit-reports/>

Chenge, A.A., and Gadzama, C.L. (2023). Fiscal Laws and Fiscal Responsibility: Instrumentality of Fiscal Responsibility Act (FRA), 2007 on Public Expenditure in Nigeria. In the *International Journal of Law*, Volume 9, Issue 1, 2023, Page No. 219-225. Available at: <https://www.researchgate.net/profile/Chenge-Andrew/publication/>

Collaborative Africa Budget Reform Initiative (CABRI). (2020). The Role of the Legislature in the Budget Process: Country Case Study-Nigeria. Available at: <https://www.cabri-sbo.org/uploads/files/Documents/CABRI-Legislature-CS-Nigeria-ENG-WEB-Final.pdf>

D'Souza, J. (2006). Public Finance Reform in Selected British Commonwealth Countries, at p. 664. In *Public Financial Management*, by Howard A. Frank (Ed.). CRC Press, Taylor & Francis Group, 6000 Broken Sound Parkway NW, Suite 300, Boca Raton, FL.

Evans, O. (2020). Fiscal Discipline, Financial Development and Economic Growth in Nigeria, at p. 19. Dynamics of Fiscal and Monetary Policies in ECOWAS Countries, C. I. Nwaogwugwu (Ed.), University of Lagos Press. Available at: https://mpira.ub.uni-muenchen.de/99242/1/MPRA_paper_99242.pdf

Fabunmi, F. (December, 2023). "Senate to amend Fiscal Responsibility Act 2007 for improved oversight", in the Punch Newspapers. Available at: <https://punchng.com/senate-to-amend-fiscal-responsibility-act-2007-for-improved-oversight/>

Federal Ministry of Budget and Economic Planning. (October, 2023). FGN 2024 Budget Call Circular, at p. 2. Federal Government of Nigeria. Available at: <https://www.budgetoffice.gov.ng/index.php/fgn-2024-budget-call-circular/fgn-2024-budget-call-circular/viwdocument/947>

Folscher, A. (2007). Budget Methods and Practices. In Budgeting and Budgetary Institutions, (Public Sector Governance and Accountability Series) by Anwar Shah (Ed.). The International Bank for Reconstruction and Development/The World Bank, 1818 H Street, NW, Washington, DC 20433.

Guo, C., and Merriman, D. (2016). Budget Enforcement Mechanisms, at p. 5. The Fiscal Futures Project. Available at: https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID3887072_code4747086.pdf

Hagen, J.V. (2007). Budgeting Institutions for Better Fiscal Performance, at p. 27. In Budgeting and budgetary institutions by Anwar Shah (Ed.). The International Bank for Reconstruction and Development/The World Bank, 1818 H Street, NW, Washington, DC.

Idris, M., Bakar, R., and Ahmad, T.S. (2018). Evaluation of Fiscal Responsibility Legislation in Sub-Saharan Africa: Issues and Challenges on the Nigerian Economic Growth. In the Journal of International Journal of Management and Economics, Volume 4, Issue 01, Pages-1534-1551. Available at: https://www.academia.edu/36063519/Evaluation_of_Fiscal_Responsibility_Legislation_in_Sub_Saharan_Africa

Kaufmann, D., Kraay, A., and Zoido-Lobaton, P. (1999). "Governance Matters". World Bank Policy Research Working Papers No. 2196. Available at: <http://www.worldbank.org/research>

Mogaji, N.J. (2009). Evaluating Compliance of Public Finance Management Act by the Department of Labour in Limpopo Province, at p. 13. Masters Dissertation (Published). University of Limpopo. Available at: <http://ulspace.ul.ac.za/bitstream/handle/10386/124/Evaluating%20compliance%20of%20PFMA%20by%20DOL%20in%20Limpopo.pdf?sequence=1&isAllowed=y>

Naku, D., and Kordoo, F. (September 5 2024). FRC advocates sanctions in enforcing Fiscal Responsibility Act. The Punch Newspapers (Online). Available at: <https://punchng.com/frc-advocates-sanctions-in-enforcing-fiscal-responsibility-act/>

Ojoye, P. (2017 June, 29). "Does [sic] National Assembly have powers to alter the budget?", in the Punch Newspapers. Available at: <https://punchng.com/does-national-assembly-have-powers-to-alter-the-budget/>

Origin, C.K., Obiomachukwu, N.S., Nwanmuoh, E., Jeff-Anyeneh, E.S., and Akunna, C.R. (2023). Causal Relationship between Fiscal Responsibility Act and Economic Growth of Nigeria (1997-2021). In the International Journal of Advanced Multidisciplinary Research and Studies, 3(2):401-408. Available at: <https://www.multiresearchjournal.com/download-update/file-archive-1679395392.pdf/id-1038>

Palombella, G., and Walker, N. (Eds.). (2009). Relocating the Rule of Law. Hart Publishing. Oxford and Portland, Oregon.

Pattanayak, S. (2016). Expenditure Control: Key Features, Stages, and Actors, at p. 2. Technical Notes

and Manuals. Fiscal Affairs Department. The International Monetary Fund. Available at: <https://www.imf.org/external/pubs/ft/tnm/2016/tnm1602a.pdf>

Pharr, P. A. (1970). Zero-based Budgeting. *Harvard Business Review*, p. 111.121.

Sam-Tsokwa, A. T. and Ngara, C. O. (2016). The National Assembly and the Budget Process in Nigeria's Fourth Republic: Tackling the Challenges of Timeliness. *Canadian Social Science*. 12(5): 1-7. Available at: <http://www.cscanada.net/index.php/css/article/download/8458/9507>

Sanchez-Cuenca, I. (2003). Power, Rules, and Compliance, at p. 62. In *Democracy and the Rule of Law* by Jose Maria Maravall and Adam Przeworski (Eds.). Cambridge University Press, the Edinburgh Building, Cambridge, United Kingdom.

Schiavo-Campo, S. (2023). *Public Administration: The Basics*, at p. 16. Published by Routledge 605, Third Avenue, New York, NY 10158.

Shah, A. (2007). Budgeting and Budgetary Institutions, (Public Sector Governance and Accountability Series) by Anwar Shah (Ed.). The International Bank for Reconstruction and Development/The World Bank, 1818 H Street, NW, Washington, DC 20433.

Shehu, A., Teru, P., and Musa, B. (2020). Impact of Public Financial Management Reforms on Expenditure Control in Federal Tertiary Institutions in Adamawa State, at p. 108. In the *International Journal of Accounting & Finance (IJAF)* Vol. 9, No. 2, September 2020. Available at: <https://research.icanig.org/documents/Impact-of-Public-Financial-Management-Reforms-on-Expenditure-Control-in-Federal-Tertiary-Institution.pdf>

Tamanaha, B.Z. (2009). A Concise Guide to the Rule of Law, at p. 3. In *Relocating the Rule of Law* by Gianluigi Palombella and Neil Walker, (Eds.), Hart Publishing, Oxford and Portland, Oregon.

Tamanaha, B.Z. (2004). *On the Rule of Law: History, Politics and Theory*, at p. 91. Cambridge University Press. The Edinburgh Building, Cambridge CB2 8RU, UK.

Trebilcock, M. and Daniels, R. (2008). *Rule of Law Reform and Development: Charting the Fragile Path of Progress*, at p. 8. Edward Elgar, Cheltenham, UK; Northampton, MA, USA.

Ugwu, N., Eze, E., and Kiu Publication Extension. (2023). Evaluation of Incremental Budgeting System in Nigeria. In the *Newport International Journal of Current Research In Humanities and Social Sciences (NIJCRHSS)* 3. 5-9. Available at: https://www.researchgate.net/publication/371399416_Evaluation_of_Incremental_Budgeting_System_in_Nigeria

United States Agency for International Development. (March, 2022) *Rule of Law Terrain Analysis: A Literature Review*, at p. 5. Chemonics International Incorporated. Available at: https://pdf.usaid.gov/pdf_docs/pnadt593.pdf

van Eden, H., Khemani, P., and Emery Jr. R. P. *Developing Legal Frameworks to Promote Fiscal Responsibility: Design Matters*. In *Public Financial Management and its Emerging Architecture* by Marco Cangiano, Teresa Curristine, and Michel Lazare (Eds.), 2013. The International Monetary Fund. Washington, D.C.

Willoughby, K.G. (2014). *Public Budgeting in Context: Structure, Law, Reform, and Results*, at p. 20. Jossey-Bass, A Wiley Brand, One Montgomery Street, Suite 1200, San Francisco, CA.

Zaum, D. (2016). PFM and corruption. GSDRC Professional Development Reading Pack no. 42. Birmingham, UK: University of Birmingham. Available at: <https://gsdrc.org/professional-dev/pfm-and-corruption/>

