MEMORANDUM

ON THE 2017 FEDERAL HEALTH BUDGET ESTIMATES

CSJ
Centre for Social Justice

OSIWA
OPEN SOCIETY INITIATIVE FOR WEST AFRICA (OSIWA)

Contents

ABBREVIATIONS

AIDS	Acquired Immune Deficiency Syndrome
LGAs	Local Government Areas
BHCPF	Basic Health Care Provision Fund
Committee	House of Representatives Committee on Health Care Services
CRF	Consolidated Revenue Fund
CSJ	Centre for Social Justice
CSOs	Civil Society Organizations
FG	Federal Government
FGN	Federal Government of Nigeria
FMoH	Federal Ministry of Health
FRA	Fiscal Responsibility Act
FRI	Fiscal Responsibility Index
GAVI	Global Alliance for Vaccines and Immunization
GDP	Gross Domestic Product
GNP	Gross National Product
HIV	Human Immunodeficiency Virus
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDPs	Internally Displaced Persons
IGR	Internally Generated Revenue
MDAs	Ministries, Departments and Agencies of Government
MDGs	Millennium Development Goals
MNCH	Maternal, New Born and Child Health
MSS	Midwives Service Scheme
MTSS	Medium Term Sector Strategy
NASS	National Assembly
NEEDS	National Economic Empowerment and Development Strategy
NHA	National Health Act
NHIS	National Health Insurance Scheme
NHSR	National Health System Report
NPHCDA	National Primary Health Care Development Agency
NSPAN	Nigeria's National Strategic Plan of Action for Nutrition
OSIWA	Open Society Initiative for West Africa
PHCs	Primary Health Care
SDGs	Sustainable Development Goals
SURE-P	Subsidy Reinvestment Programme
SWV	Service Wide Votes
UNICEF	United Nations Children's Fund
USD	United States Dollars
VVF	Vesico Vaginal Fistula

INTRODUCTION

The House of Representatives Committee on Health Care Services (Committee) has requested for the support and technical assistance of CSJ to use empirical evidence to review the 2017 federal health budget. The Committee expects CSJ to facilitate a legislative retreat on the health budget estimates and to take action to facilitate the work of the Committee towards the approval of the health budget. The overall goal is to contribute to the production of an effective 2017 federal health budget that responds to the health needs and rights of Nigerians. It is expected that the budget estimates will be reviewed against the background of national health indicators, laws and policies with a view to producing a budget that is evidence based, credible, and implementable and facilitate the improvement of health indicators through improved service delivery. The memorandum is a response to the findings in the earlier project of CSJ supported by OSIWA, notably the Fiscal Responsibility Index and the study linking key national development policies on health to health budgets between the period, 2009 to 2013. The study found a disconnect between the health budget and key policies and indicators.

The intervention is developed against the background, rationale and context of Nigeria's poor health indicators including low life expectancy, high maternal and child mortality and morbidity, low hospital density and low number of health professionals per capita. The memorandum is divided into three parts. The first part is further divided into two sections. The first section deals with what is considered frivolous, inappropriate, wasteful and unclear expenditure with recommendations on how they will be handled. The second section deals with concrete issues for immediate action on the 2017 budget. Issues covered in this section of the memorandum include the allocation to the sector and its adequacy, the Basic Health Care Provision Fund; funding for HIV/AIDS, nutrition, the Midwife Service Scheme, vaccine production and procurement, revitalization of Primary Heath Care Centres, VVF and status of donor contributions. Other issues discussed are sequestration of capital votes at the Ministry's headquarters, procurement and distribution of family planning materials, provisions for health care in the North East ravaged by insurgency and refund to GAVI, etc.

Part Two is for issues to be dealt with in the medium term and they include elevating primary health care and MNCH to justiciable constitutional rights under the Fundamental Rights Chapter; new sources of funding for health care, special window for health care financing and review of the National Health Insurance Scheme. Others are the definition of the minimum package of health care services in accordance with the National Health Act (NHA), reform of IGR practices, budget policy alignment, certificate of standards and full implementation of the NHA. Part three is the conclusion.

PART ONE: FOR IMMEDIATE ACTION IN THE 2017 BUDGETING PROCESS

1.1 FRIVOLOUS, INAPPROPRIATE, UNCLEAR AND WASTEFUL EXPENDITURE

The expenditure proposals detailed under this heading are considered frivolous, inappropriate, unclear and wasteful. We have made recommendations for legislative action of the line items. The savings are detailed at the end of the Table and the recommendation is that they should be reprogrammed.

Table 1: Frivolous, Inappropriate, Unclear and Wasteful Expenditure Proposals

Code	Line Item	Inappropriate, Unclear and Wasteful Expenditure Proposal	Our Position/Recommendation	Recommended sum	Savings
22021014	ANNUAL BUDGET EXPENSES & ADMINISTRATION	37,801,499	This budget head is totally unclear. Do we need to spend money to administer the budget? Please save this sum. The personnel vote already covers this activity.	0	37,801,499
22021007	WELFARE PACKAGES	7,695,057	This has already been provided in the personnel cost. Save this sum.	0	7,695,057
22020701	FINANCIAL CONSULTING	13,305,949	What benefit has this budget head over the years brought to the FMoH? If there is no significant benefit, NASS should disapprove this sum.	0	13,305,949
23050111	OPERATION COST OF THE PROGRAMM	2,029,824,826	There is need for clear and sufficient specification as to what this operation cost stands for. Save this sum.		2,029,824,826
23050126	GOVERNANCE AND INSTITUTIONAL REFORMS	6,644,110,003	There is need for clear and sufficient specification as to what this GOVERNANCE AND INSTITUTIONAL REFORMS stands for. If there is no clarity, save this vote.		6,644,110,003
FMOHK01140397	BUDGET PROCESS FOR 2018	15,000,000	Why make budgetary provision for a function that can be handled by already paid personnel of the Ministry? Save this sum.	0	15,000,000
FMOHK42416791	QUALITY CONTROL EQUIPMENT	42,500,000	There is need for clear and sufficient specification as to what this QUALITY CONTROL EQUIPMENT stands for.		
FMOHK21620927	STATUTORY INSPECTION AND ANALYSIS OF FINANCIAL STATEMENT	22,000,000	What kind of analysis of financial statement will cost as much as this after annual audit process? Please NASS should demand for clear and significant explanation or better save this sum	0	22,000,000
FMOHK1	PURCHASE OF	40,491,074	This same DEFIBRILLATORS TO		

4669869	DEFIBRILLATORS TO BE DISTRIBUTED TO PRIMARY HEATH CENTRES		BE DISTRIBUTED TO PRIMARY HEATH CENTRES was budgeted for in 2016. What happened to it? Was it actually bought? Could this be an additional purchase or just a normal fixing in of items for procurement which at the end will not be bought?		
FMOHK37145748	PRODUCTION AND MANUFACTURING EQUIPMENT	30,000,000	What is the meaning of PRODUCTION AND MANUFACTURING EQUIPMENT? NASS should ask for specific explanation of what this equipment stands for before approval.		
FMOHK24017502	UNITED STATES OFFICE OF INSPECTOR GENERAL (OIG) REFUND FOR GAVI	1,645,505,500	NASS through its oversight function should ensure that those persons responsible for mismanaging this money that the treasury is now refunding to GAVI return this sum to the treasury.		
NHISD23618454	MATERNAL AND CHILD HEALTH CARE	116,728,298	This is a lump sum provision under the National Health insurance Scheme. There is need for more details and the disaggregation of this provision.	0	0
	MATERNAL, NEONATAL AND CHILD HEALTH WEEK	477.544,580	Is this about a celebration, awareness raising or a concrete activity that provides services? If it is the former, this should be reduced by 50%. But if it belongs in the category of the latter, it should be retained as it is.	0	0
NOFCA63800939	PROCUREMENT/INSTALLATION OF OFFICE EQUIPMENT FOR THE NEW ADMINISTRATIVE BLOCK	9,300,150	In last year's budget of the National Obstetrics Fistula Centre Abakiliki, N83m was provided for the COMPLETION OF THE CONSTRUCTION AND EQUIPPING OF ADMIN/THEATER/CHANGING ROOMS/WARD/LIBRARY. Was the fund released and utilized and found inadequate? NASS should verify the need before approval.	0	0
NOFCA16861391	PROCUREMENT OF THEATRE EQUIPMENT	43,637,298		0	0
NOFCB12490051	CONSTRUCTION OF MEDICAL WARD	27,603,29	Last year, there was a provision for the completion of a medical ward for N39m at the National Obstetrics Fistula Centre, Bauchi. Verify if the money was released and utilized or whether this is duplication.	0	0
NOFCB59839882	CONSTRUCTION OF THEATRE COMPLEX	25,000,000	There was a provision of N53m in the last year's budget of the National Obstetrics Fistula Centre Bauchi for the CONSTRUCTION OF THEATRE COMPLEX, THREE	0	0

			OPERATING SUITES WITH OFFICES, RECOVERING ROOM AND STARALAIZATION UNIT. Was the money released and utilized? NASS should verify before approval.		
NOFCB2 4979067	RENOVATION OF ADMINISTRATIVE BLOCK	31,454,867	This request was made and budgeted for in the 2016 budget for N25m. Was the money released and utilized by the National Obstetrics Fistula Centre Bauchi? NASS should verify before approval.	0	0
NOFCB2 9932721	PROCUREMENT OF 250KVA GENERATOR SET	18,000,000	Generators cannot be procured every year. This request was made last year and the sum of N8.1m was approved for it. Was the money released and utilized? NASS should verify before approval. The Centre should be encouraged to consider the deployment of alternative renewable energy especially solar, which in the long run will be cheaper and reduce carbon emissions.	0	0
Total					**8,769,737,334**

1.2 ALLOCATION TO THE HEALTH SECTOR

Issues: The proposed allocation to the health sector as a percentage of overall budget is very low and does not meet international standards and the Abuja Declaration of 15% of overall budget. Table 2 shows the allocation to the health sector at the federal level for 2015 -2017 and its real value in Naira and United States Dollars.

Table 2: Health Vote as a Percent of Overall Budget 2015-2017 and its Real Value

Year	Health Budget	National Budget	Percentage Health	Exchange Rate	USD Value
2015	259,751,742,847	4,493,363,967,157	5.78	@1USD=N190	$1,367,114,436
2016	250,062,891,075	6,060,677,358,227	4.13	@1USD=N197	$1,269,354,777
2017	304,190,961,402	7,298,507,709,937	4.17	@1USD=N305	$997,347,414

Source: Budget Office of the Federation and Authors Calculations

From Table 2, it is clear that in Naira terms, the health vote of 2015 was higher than the vote of 2016 and the vote marginally appreciated in 2017. On average, this is less than a third of the 15% of the overall budget requirement in the Abuja Declaration. However, in terms of its real value in USD terms which takes cognizance of the inflation rate, cost of living and other macroeconomic variables, the allocation to health has been on the decrease over the three year timeframe. By decreasing the percentages available for

health funding, FGN has taken retrogressive steps without compensatory mechanisms especially for the poor and vulnerable that cannot access public health care.

Considering Nigeria's poor health indicators especially in reduced life expectancy, maternal, new born and child mortality and morbidity, doctor patient ratio, etc., this allocation cannot be said to be to the maximum of available resources as anticipated in article 2 (1) of the Covenant on Economic, Social and Cultural Rights (ICESCR) and other standards applicable to Nigeria[1]. Article 2 (1) of the ICESCR states as follows:

> *Each state Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.*

Sustainable Development Goals (SDG) 3 applicable to Nigeria is specific on ensuring healthy lives and promoting well-being for all at all ages[2].

Recommendation: Considering the paucity of resources and demands from other sectors, it is recommended that the 2017 health allocation be increased to 7.5% of overall budget and progressively be increased over the years until the 15% figure is attained. The 7.5% of the budget comes up to N547.388 billion.

[1] These include article 25 of the Universal Declaration of Human Rights; article 12 of the International Covenant on Economic, Social and Cultural Rights; article 16 of the African Charter on Human and Peoples Rights; article 24 of the Convention on the Rights of the Child; article 14 of the African Charter on the Rights and Welfare of the Child; article 12 on the Convention on the Elimination of all forms of Discrimination against Women, etc.

[2] Targets include: By 2030, reduce the global maternal mortality ratio to less than 70 per 100,000 live births: By 2030, end preventable deaths of newborns and children under 5 years of age, with all countries aiming to reduce neonatal mortality to at least as low as 12 per 1,000 live births and under-5 mortality to at least as low as 25 per 1,000 live births: By 2030, end the epidemics of AIDS, tuberculosis, malaria and neglected tropical diseases and combat hepatitis, water-borne diseases and other communicable diseases: By 2030, reduce by one third premature mortality from non-communicable diseases through prevention and treatment and promote mental health and well-being. They further include: by 2030, ensure universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes: Achieve universal health coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all; Substantially reduce the number of deaths and illnesses from hazardous chemicals and air, water and soil pollution and contamination, etc.

1.3 THE BASIC HEALTH CARE PROVISION FUND

Issues: The National Health Act provides for a Basic Health Care Provision Fund which should be funded *inter alia* through not less than 1% of the Consolidated Revenue Fund of the Federal Government. The 2017 estimates did not contain provisions for this Fund. According to the NHA in S.12 (3) - (4)

> *(3) Money from the fund shall be used to finance the following:-*
>
> > *(a) 50% of the fund shall be used for the provision of basic minimum package of health services to citizens, in eligible primary/or secondary health care facilities through the National Health Insurance Scheme (NHIS);*
> >
> > *(b) 20 percent of the fund shall be used to provide essential drugs, vaccines and consumables for eligible primary health care facilities*
> >
> > *(c) 15 per cent of the fund shall be used for the provision and maintenance of facilities, equipment and transport for eligible primary healthcare facilities; and*
> >
> > *(d) 10 per cent of the fund shall be used for the development of Human Resources for Primary Health Care;*
> >
> > *(e) 5 percent of the fund shall be used for Emergency Medical Treatment to be administered by a Committee appointed by the National Council on Health.*
>
> *(4) the National Primary Health Care Development Agency shall disburse the funds for subsection 3 (b), (c) and (d) of this section through State and Federal Capital Territory Primary Health Care Boards for distribution to Local Government and Area Council Health Authorities.*

Recommendation: Include the 1% of CRF in statutory transfers. The figure is N46.288 billion.

1.4 SEQUESTRATION OF CAPITAL VOTES AT THE HEADQUARTERS

Issue: Out of a capital vote of N51.315 billion, the head office of the FMoH has a vote of N25.891 billion which is 50.46% of the overall capital vote. This concentration of votes at the head office is uncalled for. It is simply an allocation of funds to where it is not needed, instead of allocation to the units that need them. This is merely a struggle by the head office to be in charge of procurement awards for purposes that are not clearly defined. With only N5.926 billion being 2.34% of the recurrent vote (personnel and overheads) of the Ministry situated in the headquarters, it is unexplainable why the headquarters is proposing to spend over 50% of the capital vote.

Recommendation: The National Assembly should critically review the capital votes at the headquarters and retain only those necessary for headquarters operations. The remaining should be reallocated to agencies and parastatals that show credible evidence of being the ones in need of procuring the goods and services for which the budget has made provisions.

1.5 FUNDING FOR IMMUNISATION

Issues: Vaccines, especially for maternal, new born and child health are essential to safeguard the right to life. Immunization constitutes one of the core contents and core state obligations for safeguarding the rights to life and health[3]. The Global Alliance for Vaccines and Immunization (GAVI) has started an accelerated five year exit from funding immunization in Nigeria beginning from the year 2017. Nigeria's GNP having crossed the threshold of $1,580 is no longer eligible for GAVI support. The gradual exit will terminate in 2022. This means that annually, GAVI will reduce its contribution to Nigeria's vaccines and other immunization consumables by 20 percent. As at 2017, Nigeria should be paying for up to 20 percent of the vaccines used in Nigeria, which was previously paid for by GAVI. For 2017 and 2018 alone, Nigeria requires the sum of $223m for vaccines procurement which is majorly imported from other countries.

Although there are discussions about a National Health Financing Policy and increased domestic resource mobilization to fill the funding gap occasioned by donor exit, no concrete steps have been taken in this regard. The resort to borrowing, even from concessional sources, in the medium to long term is not sustainable. Savings from frivolous, inappropriate and wasteful expenditure identified in the budget estimates should be applied to fill the funding gap in MNCH for 2017.

Recommendations: For sustainability, the bulk of the resources should come from local sources. Nigeria will need $141 million (N43 billion) to meet its co-financing obligations in 2018 and urgent action is required. However, the medium to long term approach is to develop Sustainable Immunization Financing Scheme as part of the National Health Financing Policy.

1.6 TIMELINE FOR VACCINE PROCUREMENT

Issue: Vaccines for immunisation are not available for purchase across the counter. They need a lead time to order, procure and deliver and as such, should not be programmed for annual funding if the FMoH is to meet timelines. Annual provisions in

[3] See paragraph 3 of General Comment No. 3 of the UN Committee on Economic, Social and Cultural Rights:"…*a State party in which a significant number of individuals is deprived of …essential primary health care...is prima facie failing to discharge its obligations under the Covenant"*.

the budget will mean that the drugs will arrive at a time that targets will be missed. Thus, vaccines need to be available when they are needed.

Recommendation: It is therefore imperative to consider bi-annual funding of the procurement of vaccines to avoid delays and bottlenecks associated with public procurement, management, release, cash backing, and utilisation of public funds.

1.7 LOCAL PRODUCTION OF VACCINES

Issues: The obligation to use the maximum of available resources for the progressive realization of the right to health imports the notion of prudence and best value for money. Thus, importing vaccines (when the capacity to produce them locally can be developed) may not produce optimum results and will not be sustainable in the long run. The Vaccine Production Laboratory in Yaba Lagos has been left to rot away. Further, based on the indivisibility, inseparability and interconnectedness of all human rights and fundamental freedoms, local production of vaccines will create jobs, earn more tax for government, develop technology and improve the GDP. Essentially, it is a win-win scenario for all. With the economy in recession and the scarcity of foreign exchange, it makes no sense to continue importation of vaccines.

Nigeria's Vision 20:20:20 recommends that Nigeria increases its capacity to manufacture essential drugs, vaccines and consumables from 40% to 80% of national need and in response to this, FGN took steps to inaugurate a committee on local vaccine production which was constituted in 2016. The 2017 proposed budget shows that no amount was budgeted to support the activities of this committee. The nearest was a vote of N3.2m in the Ministry of Health headquarters for the preparation of a National Vaccine Policy. Also there is no documented plan on how Nigeria intends to achieve this.

Recommendation: Make detailed provisions for the work of Local Vaccine Production Committee and rehabilitate the Vaccine Production Laboratory in Yaba in collaboration with private sector drug firms.

1.8 REVITALISATION OF PHCs

Issues: Although the proposal to revitalize Primary Health Care Centres is a welcome development for the improvement of primary health care, it should be noted that this is not a function reserved for the Federal Government. This is within the remit of Local Governments with the assistance of states. FGN at best contributes to the capital components of establishing PHCs but the recurrent component will not be borne by FGN. The extant plan of N3m per PHC will be insufficient for rehabilitation.

Recommendations: It needs to be executed with the strong collaboration, dedication and commitment of States and Local Governments who will eventually run these PHCs

and bear the recurrent costs. The collaboration is imperative for the sustainability of the intervention based on previous experience from programme like the MSS of the SURE-P. A clear SMART tool for functionality assessment should be developed by NASS and the NPHCDA to determine the PHCs that qualify for funding. Avoiding duplication of facilities where there are existing ones is also imperative. FGN should provide resources in form of grants to States and LGAs given that it takes more than half of the Federation Account funds. Strong accountability frameworks and practices must be put in place to ensure efficient utilization of approved funds. FG should focus more on development of national health policies and ensure all the existing ones are implemented.

1.9 PROVSION FOR HIV/AIDS

Issue: The total vote to HIV/AIDS in the budget is about N5.86 billion. Although compared to 2016 provisions, this is an increase in HIV funding. It still does not guarantee access to HIV/AIDS treatment for all who need same especially for mothers and children. This is a real challenge for the protection of the right to life and health and the realisation of good maternal, new born and child health. More resources are needed.

Recommendation: Increase the funding for HIV/AIDS concentrating on supply of rapid test kits and consumables, ART care, support and logistics for PLHIV and preventing mother to child transmission. Not less than N56billion is needed for this purpose.

1.10 MIDWIVES SERVICE SCHEME

Issue: The MSS has suffered a reduction from N1bn in 2016 to N700m. The N1bn at the exchange rate of N197=1USD amounts to $5,076,142 whilst the N700m for 2017 at the prevailing exchange rate of N305=1USD amounts to $2,295,082.

Recommendation: The MSS fund should be increased to at least meet the original value of the 2016 provision. It needs an additional sum of $2,781,060 which is N848, 223,350 to meet the 2016 budget value.

1.11 COUNTERPART FUND FOR THE PROCUREMENT AND NATIONAL DISTRIBUTION OF CONTRACEPTIVE COMMODITIES BASED ON 2016 FORECAST

Issue: Sexual and reproductive health is one of the guarantees of standards applicable to Nigeria. Only N915m was provided for procurement and distribution of contraceptive commodities in the estimates. But this will be insufficient to meet the demands for family planning. Considering the dynamics Nigeria's population growth and the projection that Nigeria will be one of the most populous countries by 2050, it is imperative that urgent steps be taken to control population growth that outpaces the pace of development and

available resources. The United Nations Department of Economic and Social Affairs projects that Nigeria will be the third most populous country in the world by the year 2050 and will surpass the population of the United States of America.

Recommendations: $122.5 million is required for Family Planning in 2017 because Nigeria has a costed policy document for Family Planning - Nigeria Family Planning Blueprint (Scale-Up Plan 2014 - 2018). This was developed to address the London Commitment of increasing CYP to 36% by 2018. The breakdown of the 2017 demand in USD is as follows**:**

- Demand Creation – $23m; Service Delivery - $25.1m; Commodities - $44.4m; Supply Chain - $4.6m; SMC - $25.6m

However, if partners' contribution to commodities is pegged at $33 million USD, Nigeria has to fund a total of 111 million USD. Even the pledge of providing $11.5m by FGN was not met. Nigeria needs about N32.2billion to finance this item.

1.12 VVF CASES AND THE RIGHT TO HUMAN DIGNITY

Issues: Nigeria contributes a great percentage of the world VVF patients - 800,000 patients out of the 2million estimate. This is 40% of the world total. The endemic states are Sokoto, Kebbi, Borno, Kano, Katsina, Plateau, Ebonyi and Akwa Ibom states. The patients virtually lose their human dignity through a substandard life lived in isolation and most times are subjected to inhuman and degrading treatment. Again, their life is under serious threat as they are abandoned and neglected. Treating each patient at a cost N100,000 for surgery, remediation and rehabilitation will cost a total of N80 billion. Nothing substantial is provided in the 2017 estimates for the remediation of VVF.

Recommendation: Provisions for treating VVF should be phased over a period of four years at N20billion per year.

1.13 NUTRITION RELATED PROJECTS

Issue: Only N1.2 billion of counterpart funding to UNICEF is provided in the 2017 estimates. Today, the bulk of funds to tackle nutrition related challenge(s) is coming from donors. Considering the crisis in the North East of Nigeria and nationwide malnutrition and stunting statistics, more resources are needed for nutrition related projects. According to UNICEF reports, there are 3.5m Nigerian Children who need to be treated of malnutrition with $61 each.

Recommendation: The annual costed plan (NSPAN) assumes that FGN will provide $10m annually for the period 2014-2018 for nutrition related expenditure. Thus, the equivalent of $10m needs to be provided in the 2017 federal budget.

1.14 HEALTH SECTOR PROVISIONS FOR THE NORTH EAST

Issue: The North East of Nigeria has been ravaged by the Boko Haram insurgency leading to loss of lives and property, displacement of whole populations. There are critical health challenges arising from the displacements and the terrorist action especially for women and children. These challenges need lots of resource to engage them. Although there is a Presidential Initiative for the North East and some resources has been set aside for the region under Service Wide Votes, clear interventions are needed from the vote of the FMoH to supplement other provisions. The vote of N2.766 million for "support annual evaluation of health response in the North East" is infinitesimal to the needs of the population.

There is a minimum core obligation on the state to provide for these IDPs, who due to circumstances beyond their control cannot provide the basics of life for themselves. It is an obligation to facilitate the satisfaction of the minimum essential levels of existential rights[4]. The state must be seen to be dedicating the maximum of its available resources to address the humanitarian crisis within the context of satisfying other equally important and pressing needs. Humanitarian assistance is a continuum from relief, rehabilitation, and resettlement to development. It should be rendered in a way that takes cognisance of the inherent dignity and worth of the human person and facilitates a return to normal human life.

Recommendation: Make provisions for health interventions in camps for internally displaced persons and for persons who are returning to their places of abode from IDP camps.

1.15 NEW CAPITAL PROJECTS

Issue: Resources are so thinly spread in the sector across so many uncompleted projects that were due for completion so many years ago. Many existing projects are begging for maintenance and equipment to make them functional. This has not guaranteed value for money and improvement of health care services.

Recommendation: A moratorium on brand new capital projects, not related to existing projects has become necessary unless the new project is of utmost priority. Otherwise, money should be spent on completing, equipping and making functional the existing projects.

[4] See General Comment No.3 (Fifth Session) 19990 of the UN CESCR on the nature of state parties obligations under the ICESCR.

1.16 REFUNDS TO GAVI

Issue: The sum of N1.645 billion in the vote of the Ministry is for the refund of mismanaged GAVI funds. This fund is not available for activities in the Ministry. The votes for this expenditure originally came from Service Wide Votes.

Recommendation: The vote should ideally come from Service Wide Votes. SWV is the traditional place for payment of counterpart funds and as such should be continued. Ongoing efforts to recover the money and punish offenders should be sustained.

1.17 CONTRIBUTION OF DONORS TO THE HEALTH BUDGET

Issue: So many donors are funding healthcare interventions in Nigeria. But the donors and the sums they bring on board are not normally reflected in the federal budget. Below reproduced is a typical clause in the federal Appropriation Act:

> *"All Accounting Officers of Ministries, Parastatals and Departments of government who control heads of expenditures shall upon the coming into effect of this Act furnish the National Assembly on quarterly basis with detailed information on all foreign and or domestic assistance received from any agency, person or organization in any form whatsoever[5];*

This provision should provide a background for the demand that all donor funds be reflected in the budget.

Recommendation: All donor funds should be reported in the budget. This will facilitate monitoring of expenditure and results and the comprehensiveness of the budget framework.

2. PART TWO: FOR ACTION IN THE MEDIUM TERM

Part Two is dedicated to action needed to improve budgeting for the right to health after the passage of the 2017 budget vis - in the medium term, before the end of the tenure of the current National Assembly. Action (in terms of bills, motions and oversight activities) is expected from the legislature, not the Health Care Committee alone, and a multiplicity of other stakeholders.

2.1 ELEVATE PRIMARY AND MATERNAL HEALTH CARE TO A JUSTICIABLE RIGHT

It is urgent to guarantee primary health care and Maternal, New Born and Child Healthcare as a fundamental human right in Chapter Four of the Constitution of the

[5] See section 9 of the 2016 Appropriation Act.

Federal Republic of Nigeria, 1999 as amended. The last amendment by the Seventh National Assembly of section 45 (b) to add that: *every citizen of Nigeria is entitled to free primary and maternal health care services* should be considered[6]. The implication of this is that funding for these items will enjoy a first line charge as a statutory transfer. The ongoing constitution amendment process provides a window of opportunity. In doing this, we will be adopting a rights based framework for the realisation of MNCH instead of the current basic needs approach. This will involve a clear definition of PHC and MNCH services as entitlements of persons in need of them; definition of rights holders and duty bearers. This will be in tandem with Nigeria's obligation to fulfill the right to health under the ICESCR and section 1 of the National Health Act.

2.2 NEW SOURCES OF FUNDING HEALTH CARE

FGN should explore new sources of funding healthcare and by extension PHC and MNCH to include universal, compulsory and contributory health insurance, and new incentive based taxes and levies. The National Health Insurance Act should be amended to make public or private health insurance compulsory. If motor vehicle insurance is compulsory, do we value our health less than vehicles? Health insurance will help to pool large funds that can be used to subsidise services for indigent, poor and vulnerable persons. New sources of funding could come from minimal tariffs on telecommunications services to be borne by the consumer[7], surcharge on all imports into the country[8] and a special sin tax[9]. Incentive based reordering of taxation could make donations to government for health care delivery tax deductible up to a certain limit of taxable income. Again, the foregoing will be in tandem with Nigeria's obligation to fulfill the right to health under the ICESCR and section 1 of the National Health Act.

2.3 SPECIAL WINDOW FOR HEALTH CARE FINANCING

The legislature in collaboration with the executive should consider the establishment of a special window, a low single digit interest fund dedicated to the procurement of medical and health equipment. The need for this is premised on the fact that private health care providers cannot be expected to source funds for procuring capital and recurrent costs at the double digit interest rate without out-rightly commercialising health services. Health care institutions should be able to cover costs and generate some returns but not purely on the commercial level that shoots the cost of services beyond

[6] The entire constitutional amendment was stuck in the Presidency-National Assembly rivalry and did not sail through.
[7] Considering that corporate organisations already claim they are overtaxed and we need to be conscious of the need to attract and keep investors in the country. But it should be fixed at a level that will not inconvenience the majority of Nigerians - it should be a progressive tariff that increases with more call hours.
[8] A 1% surcharge may be considered.
[9] Sin Tax can be levied on alcohol, tobacco and gambling, etc.

the ordinary. The window can be established by law or through administrative action by such institutions like the Central Bank of Nigeria.

2.4 REVIEW THE OPERATIONS OF THE NATIONAL HEALTH INSURANCE SCHEME (NHIS)

The NHIS was set up for the purpose of providing health insurance which shall entitle insured persons and their dependents the benefit of prescribed good quality and cost-effective health services. As a follow up to the House of Representatives Resolution 241/2016 detailing the poor performance of the NHIS and the inhumane treatment of enrollees by Health Maintenance Organisations and Health Care Providers, it has become necessary for the legislature to investigate the reason(s) behind the poor outcomes of the NHIS with a view to proffer remedies that will make the Scheme more effective.

2.5 PROHIBITION OF FEMALE CHILD MARRIAGE

Female child marriage should be prohibited by law with strong penalties for male offenders. This will take care of and reduce some MNCH challenges including VVF. The prohibition is in recognition of the state's obligation to protect the female child from third party violation(s) of her right to life and health. In consideration of great damage to lives caused by VVF, special funding should be made available for prosecution of offenders.

2.6 DEFINITION OF BASIC MINIMUM PACKAGE OF HEALTH SERVICES

Section 3 (1) of the NHA entitles all Nigerians to basic minimum package of health services. The definition of the meaning of this basic package has been left unarticulated. The Minister and FMoH should articulate the definition of basic minimum package of health services required by the NHA and this should include MNCH. The minimum package should reflect Nigeria's minimum core obligations in health care, constitutional rights to life and human dignity. The definition is important for costing and funding the minimum package. The legislature is invited to use the power of oversight to nudge the Minister of Health to facilitate the definition of this package.

2.7 THE CONTINUUM: BUDGET AND POLICY ALIGNMENT

Previous and current experience in the implementation of national plans reveals a lot of disarticulations. From Vision 20:2020, National Economic Empowerment and Development Strategy, Seven Point Agenda, Transformation Agenda to the current Economic Recovery and Growth Plan; projections were more than appropriations; appropriations more than releases; cash backed sums are less than releases and actual expenditures are less than cash backed sums. Expenditures are therefore far less than projections thereby making the planning exercise an exercise in futility. It is recommended that health budgets should be backed by a clear Medium Term Sector

Strategy which is linked to high level national and international standards; fully costed and progressively allocates more resources to health based on increased availability of resources. There should be an inseparable link between policy, planning, budgeting, performance, monitoring and evaluation continuum. This continuum should be reflected in the health sector specific budget template to be devised by collaboration between the executive and legislature. The legislature should insist on the establishment of the link between policies and appropriation during the consideration of the budget. Clarity of the budget template will dictate that projects are clearly and properly described in the budget and repetition of budget heads and items should be avoided.

2.8 FORMATION OF SECTOR TEAMS FOR FUTURE BUDGET PLANNING

The legislature is enjoined to collaborate with the executive to ensure that the preparation of Health Medium Term Sector Strategies is done by a team that represents all stakeholders including the MDA and its parastatals, the committee with oversight in the legislature, organized private sector, labour, civil society, the academia, etc. This will guarantee comprehensiveness of future budgets and the fact the budget votes will target programme results and goals of the sector.

2.9 REFORM OF INTERNALLY GENERATED REVENUE PRACTICES

There is some irrefutable evidence than many health MDAs generate a lot of IGR which is not properly documented and remitted to treasury. This denies government of revenue and facilitates the running down of the facilities when resources are not available to continuously equip and maintain them. The IGR system in public health establishments therefore needs reform through a multiplicity of practices including public private partnerships, robust information technology platforms that deliver real time interaction between the establishments and the supervising authorities. Collaboration between the legislature and executive can deliver the needed change to stop the leakages. But the legislature should initiate the dialogue leading to this reform.

2.10 ADOPT BEST PRACTICES IN PUBLIC PROCUREMENT

Good and fit procurement practices should be adopted by FMoH and NPHCDA; with a standard price database to remove price differentials for the same projects, programmes and activities and to enhance value for money in MNCH operations. Adoption of open procurement and contracting should be encouraged through legislative oversight.

2.11 CERTIFICATE OF STANDARDS FOR HEALTH ESTABLISHMENTS

The NHA states in sections 13 and 14 as follows:

> *13. (1) Without being in possession of a Certificate of Standards, a person, entity, government or organization shall not :-*

(a) establish, construct, modify or acquire a health establishment, health agency or health technology;

(b) increase the number of beds in, or acquire prescribed health technology at a health establishment or health agency;

(c) provide prescribed health services; or

(d) continue to operate a health establishment, health agency or health technology after the expiration of 24 months from the date this Act took effect.

(2) The Certificate of Standards referred to in subsection (1) of this section may be obtained by application in prescribed manner from the appropriate body of government where the facility is located.

(3) In the case of tertiary institutions, the appropriate authority shall be the National Tertiary Health Institutions Standards Committee, acting through the Federal Ministry of Health.

14. Any person, entity, government or organisation who performs any act stated under section 13(1) without a Certificate of Standards required by that section is guilty of an offence and shall be liable on conviction to a fine of not less than N500,000.00 or, in the case of an individual, to imprisonment for a period not exceeding two years or both.

Unfortunately, the FMoH has not set machinery in motion for the issuance of certificate of standards more than 24 months after the coming into force of the Act. In essence, the implication of the foregoing is that all health care establishments in Nigeria are operating in violation of the law. The certification process should include documentation of all health facilities in terms of type and services delivered. NASS should therefore initiate dialogue with the FMoH and nudge the Minister through a resolution to make provisions for the implementation of the NHA on certificate of standards.

2.12 IMPLEMENTATION OF THE FULL GAMUT OF THE NATIONAL HEALTH ACT

There are other provisions of the NHA which have been more obeyed in the breach. These include the failure of the Minister to prepare and present an Annual State of Health of Nigerians and National Health System Report to the President and the National Assembly; classification of health establishments and technologies; duty to disseminate information, etc. The National Assembly, through motions and oversight activities, should remind the executive of the need to fully implement these provisions.

2.13 DEEPEN OVERSIGHT AND TRANSPARENCY IN HEALTH

The National Assembly should consider deepening oversight measures on the management and implementation of the health budget, publish findings and use same for legal and policy reform. Essentially, oversight is a means to an end and the public

should be kept informed of findings from oversight visits. This will facilitate a civil society oversight on the entire governmental activities.

3. CONCLUSION

The approval of a 2017 health budget that is consistent with Nigeria's obligations to respect, protect and fulfill the right to health will be a step in the right direction. The above memorandum presents the options and recommendations in this direction. It is hoped that collaboration between the legislature and Knowledge Institutions such as the Centre for Social Justice will be deepened in future in the field of budgeting for the overall benefit of the Nigerian people.