

Scrapping the Fiscal Responsibility Commission: A Step in the Wrong Direction

Media Statement by the Centre for Social Justice

Introduction

Over ten years ago, reform minded stakeholders in fiscal governance were part of a process for the enactment of new laws and regulations based on national and international standards for the reform of public finance management practices in Nigeria. It was realised that the management of public resources was at the centre of development and the quest for economic growth. Key bills on fiscal responsibility, public procurement, extractive industries and the reform of the audit law were placed before the National Assembly by the Obasanjo administration. The stakeholders ranged from the government and its key MDAs in fiscal governance, civil society and the organised private sector. There was a consensus of opinion that these reforms were necessary for the realisation of Nigeria's Vision 20:2020, the Millennium Development Goals, etc.

The Fiscal Responsibility Bill, Public Procurement Bill and the Extractive Industries Transparency Initiative Bill all got passed by the National Assembly and were signed into law by the President. The Audit Bill got passed into law but did not get presidential assent and so is starting a de novo process in the National Assembly. Thereafter, the trajectory of these laws began to take different routes. For the Public Procurement Act, the Bureau was set up but the policy council has not been set up till today. Some progress has been recorded in promoting transparency in procurements even though; the progress has not been as profound as expected by Nigerians. Although transparency seems to be receding in the oil industry, the extractive industries have also witnessed some progress in terms of reporting by the oversight body. For the Fiscal Responsibility Act (FRA), the government foot-dragged before establishing the Fiscal Responsibility Commission (FRC) in 2008. This was after the Centre for Social Justice had gone to court and raised issues about the refusal of government to energise the law. I hope we can distinguish this FRC from the new Financial Reporting Council which has a different mandate.

The Orosanye Committee

Fast forward 2014, a government white paper on the report of the Orosanye Committee recommended the scrapping of the FRC and the transfer of the powers and duties of the Commission to the Revenue Mobilisation Allocation and Fiscal Commission. It will be recalled that the Orosanye Committee had the following terms of reference: To study and review all previous reports/records on the restructuring of the Federal Government Parastatals and advise on whether they are still relevant; to examine the enabling Acts of all Federal Agencies, Parastatals and Commissions and classify them into various sectors and to examine critically, the mandates of the existing Federal Agencies, Parastatals and Commissions and determine areas of overlap or duplication of functions and make appropriate recommendations to either restructure, merge or scrap to eliminate such overlaps, duplication or redundancies. Finally, it was to advise government on any other matters incidental to the foregoing mandate relevant to prune down the cost of governance.

Reasons for our Position

The Orosanye Committee recommended that RMAFC takes over the functions of the FRC and the National Salaries, Income and Wages Commission “which are already assigned to it by the Constitution” and the RMAFC enabling law should be amended to make up for any gaps. It is imperative to undertake a critical review of this recommendation which the government white paper has adopted in the light of national and comparative experience.

First, we like to copy or emulate best practices from other jurisdictions. Great and functional FRC’s like that of India, Brazil and Mexico do not have mandates that are mixed up with politics. Rather, FRCs are insulated from political interference for them to be able to make sound fiscal judgements and recommendations which do not necessarily respond to the immediacy of politics. Scrapping the FRC and transferring its functions to another agency that has a primary political function, not centred on fiscal governance will defeat the aims and objectives of the FRA. It will therefore leave the FRA without a sound body to oversee its implementation on a day to day basis.

Second, many states have enacted the Fiscal Responsibility Law while others are in the process of enacting one. State level FRCs have been set up and they look up to the experience of the federal FRC for guidance and mentoring. Scrapping the FRC sends a very powerful wrong message to the states and the message is; scrap your own FRCs and fiscal responsibility is no longer in vogue. I do not believe this is the message the Goodluck administration wants to send out, but inadvertently, that is the core of the message coming out from this white paper. And states will follow suit if the FRC is eventually scrapped. Further, section 54 of the FRA states that FGN may provide technical and financial assistance to states and local governments that adopt similar fiscal responsibility legislation along the same lines as the FRA for the modernisation of their tax, financial and asset administration. Considering that financial assistance is ruled out by this move; pray, is this the technical assistance anticipated by the section?

Third, if we seek to prune down the cost of governance, we will not be closing an FRC which in five years did not get a cumulative budgetary allocation of more than N3.735billion but on whose prompting, scheduled corporations paid operating surplus as follows: N17.097b in 2009; N36.766b in 2010; N71.060b in 2011 and N95.366b in 2012. We need more of such FRCs rather than rationalising the existing one.

Fourth, we seem to be in love with the international community and always cite recommendations of our policy by international bodies and rating agencies. I do not see the current action as one that will earn favourable pundits by international organisations committed to fiscal transparency. This is a one step forward, there steps backwards approach. It will earn us a poor rating and condemnation. Yes, the FRC whose tenure just expired was not the dream team that should have moved Nigeria to the promised fiscal Eldorado; but it is for government to select a new team and come out with our first eleven in fiscal governance that should enforce fiscal prudence within the ambit of the law. We may also consider amendments to the FRA to make it more functional.

Fifth, RMAFC as presently composed appears to be an unwieldy body made up of a chairman and 37 members from each state and the FCT who in the opinion of the President are persons of unquestionable integrity with requisite qualification and experience. From empirical evidence over the years, RMAFC is more populated by politicians rather than core technocrats who should be concerned with fiscal responsibility. How do you make a sound fiscal responsibility decision in a committee of 38, with all the political push and pull from the states and geo-political zones? RMAFC's core mandate is to monitor accruals to and disbursements of revenue from the Federation Account; review from time to time the revenue allocation formula and principles in operation to ensure conformity with changing realities; determine the remuneration of political office holders. The only part of its mandate that seems rather remotely near fiscal prudence is the mandate to advise the federal and state governments on fiscal efficiency and methods by which their revenue can be increased. This last part of the mandate of RMAFC cannot in any way compensate for the detailed principles of fiscal responsibility enshrined in the FRA and the need for an agency with a clearly streamlined mandate to enforce same. Fiscal responsibility should not be sacrificed on the altar of expediency.

Sixth, RMAFC's mandate of determining the remuneration of political office holders seems more in tandem with the functions of the National Salaries, Income and Wages Commission. The merger of the two will produce a better nuanced income and remuneration structure for all Nigerians regardless of whether they are political office holders or civil servants. It has been our view that we need to review the remuneration of all public officers by determining their contribution to wealth creation and the pool of Nigerian civilization. This will help us ascertain what exactly is a living wage that will entitle a man, woman or family to live a dignified life that promotes his inherent dignity and fundamental rights. This will also facilitate our appreciation of those who are overpaid for little or no work. Definitely, the addition of this assignment of wage and income determination and FRC's mandate to RMAFC will create an omnibus and confusing organisation that will be too thinly spread with the consequent inability to have a sharp focus on any core mandate.

Seventh, scrapping the FRC will portray the government in bad light as it seems to be the fulfillment of a policy trajectory of the government. FGN from the enactment of the FRA till date did not take its obligations under the law seriously. MTEF and budgets were enacted without popular participation; they came late and capital budgets were hardly implemented. Budget implementation reports were published over six months after they fell due; borrowing continued without a consolidated debt ceiling as envisaged by law and without cost-benefit analysis, etc. In essence, it appears the Jonathan administration was looking for a reason to scrap a law it never believed in – a law it saw as a shackle to its propensity for profligacy.

Eight, Vision 20:2020 identified policy inconsistency, policy reversals and lack of follow-through as veritable hindrances to growth in Nigeria. Measures to ensure policy sustainability and effective implementation are necessary to achieve the Vision. This move to scrap the FRC is a clear demonstration of inconsistency, the type that retards growth and development. A new law like the FRA must be fully tested before changes are introduced and this has not been the case with the FRA. In its Fiscal Policy thrusts, the Vision demanded "continued efforts to institutionalize fiscal prudence at all tiers of government *in line with the provisions of the Fiscal Responsibility Act, 2007*. To this end, the current efforts to encourage the states and local

governments to enact and operationalise similar laws to guide their fiscal operations will be intensified”. (underlining and italics supplied). Pray, is this move to scrap the FRC in line with the demands of Vision 20:2020?

Ninth, fiscal responsibility must not only be mainstreamed in governance but must be seen by all being mainstreamed. In inaugurating the FRC, late President Yar’adua stated as follows: *“our nation’s economic future and fiscal responsibility are directly linked. There is a tie between fiscal responsibility and financial prudence today and what society can enjoy tomorrow. Facing up to both the short and long term fiscal challenges, therefore, will help put the nation on a path to lasting prosperity and a rising standard of living. If, on the other hand, we fail to quickly address the preponderance of fiscal inefficiencies and wasteful spending in our systems, we will squander the only opportunity to get our finances in order, and I charge you not to afford to do that”*. Yes, the argument may be made that the Act itself and its provisions will still be enforced by RMAFC. But such an important assignment should not be muddled up with other mandates, we need the FRC to continue to seek to enforce the full provisions of the Act and even introduce some deeper aspects of fiscal responsibility as applicable in advanced climes.

Tenth, a new agency taking over the functions of FRC will start a new learning curve before it gets to the level of the old FRC. This will take another four or more years of waiting. Can Nigeria afford to continue the unnecessary wait? At a time, we should be building on existing experience; we seek to start de novo.

Eleventh, the poor state of our fiscal governance on its own makes a case for a special oversight body to continue to call the authorities to order, remind them of their due tasks, conduct studies and provide best practices to ensure that we toe the path of other countries that have used fiscal prudence to grow their economies and achieve rapid development. And the FRC is best suited to undertake this assignment. However, this time around, the membership of the FRC should not just be for politicians, who do not have the passion for enhancing accountability and transparency; who have no track record on the subject matter in issue. It should be an assignment for those with a burning desire for change and who have over the years demonstrated a commitment for fiscal transparency.

Twelfth, in civil society, we are sick and tired of being perpetual rescuers and cleaners of the system. We fought vigorously for the FRA through endless newspaper and electronic media contributions, workshops upon seminars and roundtables, various publications, attending legislative hearings, town hall meetings, etc. The way things are going; this is the first step towards throwing out all our efforts through the window. After these struggles, no one who actually participated in the campaign for the enactment of this law was allowed to come near the commission as a member, even in the capacity of the civil society representative who was a part time member of the Commission. Mr. President, you need to listen to us, we may have to abandon this fiscal ship to sink since the labours of the heroes and heroines have been made in vain and have gone unrecognised. Sheer revisionism is not the way for societal progress. Even if our efforts are not recognised, we need to continue the slow and painful steps of improving fiscal governance through the FRC.

Thirteenth, the impression being created is that government never believed in the FRA in the first instance. May be, the original governmental support was based on donor prompting and now the donors are off our back, we can have a relapse to our old ways. This would be most unfortunate if this turns out to be true. Considering that Dr Mrs Ngozi Okonjo Iweala was the Minister of Finance at the time the bill for the FRA was prepared and her strong support for the fiscal reforms, I wonder what has changed between her first incarnation as minister and now that demands the scrapping of the FRC. As the Coordinating Minister for the Economy, we would strongly advise her not to allow this to happen because this will be a very low point in her management of the economy.

Fourteenth, if violations of FRA continued despite the reminders and activities of the FRC, how will it be possible to contain the violations when a body with a larger mandate that is focused on other issues takes over the functions of FRC? Remitting of operating surplus to the treasury by scheduled corporations is still a huge challenge whilst poor budgeting practices and refusal of the fiscal authorities to accept other stakeholders as partners is still the norm; therefore “reversing five decades of fiscal profligacy may be a challenging task, it is a task that can and will be done”, if we are to build a new Nigeria. And the FRC is central to this task.

Fifteenth, since the mandate of the Orosanye Committee to a large extent focuses on cost reduction, it is imperative to note core areas of waste that FGN should take immediate steps to plug. The monetization programme should be implemented to the letter. It is not enough for the administration to claim that it has no legal foundation. Government is a continuum and the current FGN should not seek to dismantle the reforms of previous administrations without providing cogent replacements. No administration that is committed to reducing the cost of governance will dispose of the monetisation programme.

Sixteenth, the Orosanye Committee recommended that the implementation of the Integrated Personnel Payroll Information System (IPPIS) started since 2006 ought to be concluded expeditiously. But nothing concrete seems to be ongoing in this direction. The Committee’s recommendation for the scrapping of the slush fund called Service Wide Votes did not attract attention and action in government circles. The jamboree must continue, but at whose expense? 50 agencies were identified as having no enabling laws. Can we start the scrapping with these ones that are unknown to the law?

Conclusion

The FRC is central and vital to our quest for improvements in fiscal governance. It will be a dangerous mistake to scrap this agency and to pretend that RMAFC is in a position to oversee the implementation of the FRA. It is not too late for FGN to retrace its steps. And we urge Mr. President to reconsider this White Paper recommendation on the FRC.