

## The National Assembly and the Budget Process in Nigeria's Fourth Republic: Tackling the Challenges of Timeliness

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### Abstract

This paper examines the National Assembly and the budget process in Nigeria's Fourth Republic with a view to tackling the perennial problem of late presentation of the Appropriation Bill by successive Presidents to the National Assembly; a laxity that has caused delay in the passage of the Appropriation Acts. The paper argues that since Nigeria's return to democracy in 1999, successive Presidents have failed to meet the best practice of presenting the budget to the National Assembly 2-4 months before the commencement of the next fiscal year. This development is attributed to Section 81(1) of the 1999 Constitution which provides the timeframe for presentation of budget estimates to the National Assembly without timeline. These delays frequently cause reversionary budget provision and denies the people dividends of democracy. To ensure timeliness in the passage of the Appropriation Acts, Sections 81(1) and 82 of the 1999 Constitution and the FRA 2007 require amendment. A budget law such as the US Congressional Budget and Impoundment Control Act, 1974, ought to be enacted.

**Key words:** Nigerian National Assembly; Legislature; Budget process; Timeliness; Fourth Republic

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### INTRODUCTION

Nigeria's National Assembly (NASS), just as most legislatures in other democracies, is the arm of government charged with the responsibility for law making and oversight functions over the other arms of government. This basic and core law making responsibility is conferred on the National Assembly by the 1999 Constitution. Section 4 of the constitution empowers the National Assembly to make laws for the peace, order and good government of the Federation or any part thereof. This power covers matters on both the Exclusive and Concurrent Legislative Lists set out in the First and Second Schedules of Part 1 of the Constitution which impliedly includes the Appropriation Act.

Section 81 of the 1999 Constitution mandates the President to cause to be prepared and laid before each House of the National Assembly, at any time in the financial year, estimates of the revenues and expenditures of the Federation for the next following financial year. Since 1999, successive Presidents have persistently laid the budget estimates in the NASS very late in the year. Even the administration of President Muhammadu Buhari elected in 2015 presented the budget late. It was only in 2001 and 2007 that budgets presented to the National Assembly were approved before January and this was because the budgets were approved without thorough scrutiny.

Late presentation of the budget often led to late approval resulting in the distortion and/or haphazard implementation of the budget. Therefore, the exponential increase in the size of the national budget from 701.06 billion Naira in the year 2000 to 4.493 trillion Naira in 2015, has not translated into increased socio-economic development. Obadan (2014, p.15) succinctly captured this gloomy picture as, "... the government budget has generally not met the expectation of quality economic growth, poverty reduction, high level of employment,

first grade infrastructure ... and general improvement in quality life style of the citizens". The implication is that the Nigerian budget has, over the period, been reduced to mere annual rituals.

Piqued by the preceding scenario, the 7<sup>th</sup> National Assembly in its 2011 Legislative Agenda, determined to correct the anomaly in the appropriation process. Despite its commitment, only one that of 2013—of the four Appropriation Bills presented to it during its four year life, came in October while each of the rest was presented in December, barely two weeks to the next fiscal year. The three were approved in the second quarter of the new fiscal year. The Fiscal Responsibility Act (FRA) 2007 which was enacted as a panacea to the appropriation process, just as the Legislative Agenda of the 7<sup>th</sup> National Assembly, also failed. Between 2012 and 2015, the Medium Term Expenditure Framework (MTEF), the document from which the FRA, in Section 18, mandatorily provides that the Appropriation Bill under Section 81 of the Constitution be derived, were presented to the National Assembly not earlier than September of each of those years and, except for 2015 which was approved in March 2015, were all approved in December.

The pertinent questions arises: Is the FRA a mine layer or a mine sweeper in the budget and appropriation process? To what extent have late budget submissions and enactments impacted on budget implementation? This paper attempts to identify and establish the constraints of budget and appropriation process in Nigeria between 1999 and 2015 with a view to addressing the problem of timeliness.

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## 1. CONCEPTUAL AND THEORETICAL ISSUES

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Niskanen (1971) showed that bureaucrats have strong incentives to try to maximise the bureaucrat's budget. This is often made feasible by information asymmetry and bilateral monopoly heavily weighted in favour of the bureaucrats as against their sponsors. The bureau chief usually knows more about the politician's demand than the politician knows about the cost of supply. Since legislative measures and government's policies are usually matters of open public knowledge, the bureau chief easily knows the politician's demands for bureau services. Thus, the politician is not in a position to easily conceal his demands for bureaucratic supply of services. The politician cannot easily learn the costs of supply of a particular bureau (Simandan, 2009). Since no one is in a position to know better than the bureau chief the opportunity for incurring costs, the bureau chief has an incentive to be secretive. Therefore, the bureau chief has the ability to increase the bureau's budget more than optimal. Such an increment could corruptly benefit both the politician and the bureau chief along with the lower level bureaucrat.

This view sheds some light on the incentive and motivation for the perennial late presentation of the national budget in the National Assembly. Although most constitutions specify that the executive prepares and submits a budget and that no fund may be withdrawn from the government's coffers without authorisation vide an Act of parliament, beyond these fundamentals, constitutions range from vague to relatively specific roles of the legislature in the budget process (NDI, 2003). Where there are ambiguities, the stakes and prerogatives are up for grabs and the more assertive, more determined or the more politically powerful and dominant arm of government can bolster its influence if the conditions are right (NDI, 2003). This aptly captures the scenario of Nigeria's budget process.

While Section 80(2) of the 1999 Nigerian Constitution prohibits the withdrawal of funds from the Consolidated Revenue Fund of the Federation save through an Act of the NASS passed pursuant to Section 81 of the same Constitution, Section 81 vests on the President the sole power to prepare and lay before the NASS the Appropriation Bill "at any time in each financial year". A financial year runs from January 1<sup>st</sup> to December 31<sup>st</sup> in Nigeria. Therefore, the President is at liberty to lay the budget in the NASS at any time before or on the 31<sup>st</sup> day of December. President Buhari laid the 2016 budget in the National Assembly on December 22<sup>nd</sup>, the day the national legislators proceeded on break for both the Christmas and New Year indicating that no Appropriation Act would be in place by January 2016, the commencement of the financial year. Contrary to Section 80(2), the Constitution, vide Section 82, permits the President to authorise withdrawals from the Consolidated Revenue Fund should there be no approved budget after the commencement of the new fiscal year. Herein lies the incentive, as in Niskanen (1971) theory, for the late submission of the Appropriation Bill to the NASS by successive Presidents.

Late submission of the budget robs the National Assembly of the required time for proper and adequate debate and scrutiny of the budget. External pressure by the electorates for the budget to pass on time often leads to a rubber stamped Appropriation Act. If a thorough debate and scrutiny of the budget were to be done, it would eventually lead to late approval, so attempts to prevent late approval, permit the executive to continue expending funds from the Consolidated Revenue Fund, not appropriated for by the National Assembly in line with Section 82. Such is the dilemma of the Nigerian National Assembly in the budget and appropriation process. For the executive, it is a win-win situation.

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## 2. CROSS - COUNTRY EXPERIENCE

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A legislature's power of the purse is usually a constitutional issue. In most democracies, the constitution

or law requires the executive to present the budget to the legislature at a specific period, usually before the beginning of a new fiscal year. The UK relies on tradition and precedent (Lienert, 2010; Posner & Park, 2007; NDI, 2003). See Table 1. The desire for timely presentation of the budget to parliament is underpinned by the need to accord parliament enough time to deliberate, analyze, review and, where possible, amend the budget before passing same into law, usually, before the commencement of the new fiscal year. Posner and Park (2007) espouse that legislative influence over the budget is affected by the time available to consider a budget request. A legislature with a limited time to examine a budget proposal is at a disadvantage.

The time for the presentation and approval of the budget varies from clime to clime. The variation is as little as 15 days in Mexico and the UK, and as much as 8 months in the United States (Lienert, 2010; Posner & Park, 2007; NDI, 2003). The timing of budget submission can, and does have, major consequences on

the quality of analyses and deliberations by parliament (Posner & Park, 2007; NDI, 2003). Extant literature affirms that global best practice, especially among the OECD countries, puts the time for the presentation of the budget to parliament at 2-4 months before the beginning of the next fiscal year. The time allowed for parliament to deliberate and approve the budget is 2-3 months before the next fiscal year (Lienert, 2010). Posner and Park (2007, p.11) reported that “as part of recent budget reforms, some legislatures have established a more regularized process with more time for legislatures to consider budget requests”. According to these scholars, Mexico is among the countries that have instituted changes requiring Presidents to present their budgets earlier than before. Even the South African parliament which has less budgetary powers in appropriation (because it can only debate the budget but cannot amend government’s budget proposal), has between three and four months to consider the executive’s budget before the next financial year (NDI, 2003).

**Table 1**  
**Comparative Timeline for Submission of Budget Estimates to the Legislature**

Number of months in advance of fiscal year	Legal Requirement			Practice (no legal requirement)
	Constitution	Law	Regulation of parliament	
More than 6 months		United States (8 months)		
4-6 months	Demark (4 months), Finland	Germany (4 months)	Norway (4 months)	
2-4 months	France, Spain (3 months), Korea (90 days)	Japan (2-3 months), Sweden (3 <sup>1</sup> / <sub>3</sub> months)		
0-2 months				Canada
After year begins		New Zealand (no later than one month after year begins)		United Kingdom

Source: Lienert (2010).

### 3. THE NIGERIAN NATIONAL ASSEMBLY AND LAW MAKING

The dynamics of the budget process in Nigeria cannot be fully comprehended except the procedure for law making in the National Assembly is appreciated. The Nigerian National Assembly is established under chapter 5 of the 1999 Constitution as a bicameral legislature consisting of the Senate (with 109 members) and the House of Representatives (with 360 members).

In Sections 58 and 59, the 1999 Constitution provides for the mode by which the National Assembly is to exercise its law making powers conferred by Section 4. Section 58 provides that the power of the National Assembly to make laws shall be exercised by Bills passed by both the Senate and House of Representatives and assented to by the President. Sections 58 and 59 clearly reveals that the Constitution distinguishes a *general* from

a *money* bill, and sets two different approaches to the mode of their passage (this is also detailed in the Senate and the House of Representatives Standing Orders). The dichotomy between a general bill and a money bill is made clearer by Section 81. While the Constitution is silent on who should or should not introduce a general bill, it is clear that the responsibility of initiating and introducing a money bill to the National Assembly is exclusively vested on the President.

### 4. LAW MAKING PROCEDURE

#### 4.1 General Bills

Are bills introduced into one chamber of the National Assembly, passed by the Chamber and concurred (or is finally agreed to when amendments are made) in identical form by the other chamber. After the President’s assent or where the President’s veto was overridden by two-

thirds majority of the Members of each House sitting separately, the bill becomes an Act of the National Assembly. The Standing Orders of the Senate and House of Representatives provide the following stages through which a bill shall undergo to become an Act of the National Assembly. These stages are:

#### 4.1.1 First Reading Stage

This is a formal or ritual stage. On the day the bill is placed on the Order Paper for First Reading, the bill is called and the Presiding Officer directs the Clerk to read the Short Title of the bill. The Clerk reads the Short Title of the bill and pronounces the magic words *First Reading*. No question is proposed.

#### 4.1.2 Second Reading Stage

On the day a bill is placed on the Order Paper for its Second Reading, the sponsor moves a motion that the bill be read a second time. If the motion does not secure a seconder, the bill fizzles out. However, if it is seconded, the sponsor leads a debate on the general principles of the bill, its merits and demerits and necessity. The bill is spoken to as opposed to speaking for or against as in the case of motions. Members take turn to debate the bill till the Presiding Officer brings the debate to a close or an end. At the close of debate, the Presiding Officer proposes the question that *the bill be now read a second time* and the vote is taken. If the question carries, the bill may be referred to the Committee of whole or to a relevant Committee or Committees with jurisdiction.

If the referral is to a Standing Committee(s), the bill is thoroughly scrutinized; this sometimes may require public hearing. Amendments may be proposed and a report is presented at plenary. The bill, if committed to the Committee of whole or the report of the Committee, it is considered by the Committee of whole clause by clause. In the senate, the Committee of whole is chaired by the Senate President while the Deputy Speaker chairs in the House of Representatives. If the report is approved, the chair reports to the plenary which may adopt the report.

#### 4.1.3 Third Reading Stage

This is the stage at which a clean copy of the adopted report of the Committee on the bill is considered by the plenary. Only minor amendments may be introduced and considered save there is a substantive motion for re-committal. The Leader then moves that the bill be read a third time. The Clerk reads the Long Title of the bill upon the directives of the Presiding Officer. The Presiding Officer repeats the Long Title of the bill and declares the bill "read the third time and passed".

In a bi-cameral legislature, the bill as passed is sent to the second Chamber where it repeats the same procedure it went through in the first Chamber. If the second Chamber passes it with amendments, a conference committee is constituted to reconcile the two versions and submit a report thereon for the adoption of each House.

#### 4.1.4 The President's Assent

After passing the bill in identical form, the Clerk forwards same to the President for assent. The President may assent or withhold assent. If assent is withheld, the bill may again be passed by two-thirds majority of the Members of each House sitting separately and the bill shall become law by the force of Section 58(4) of the Constitution. It has been judicially decided in *National Assembly V. The President* (2003) that the exercise of veto override requires that the bill goes through the whole legislative process again.

#### 4.2 Money Bills

Although the National Assembly has the ultimate control over public funds, the Executive has the *financial initiative*. Only the President can request that an appropriation be made, increased or proposed to impose or increase taxation. This is constitutionally affirmed by section 81 of the Constitution. Section 49 of the Constitution provides for the mode by which the National Assembly may exercise its powers to enact money bills. The procedure for enacting money bills into law are, however provided for by the Senate and House Standing Orders.

Money bills, just as all other bills, must undergo three readings prior to being passed. However, the ritual of first reading, which general bills go through, is spared a money bill. By the Standing Orders, Cap. 11, r. 92(1)(b), Senate, and O.12, r.97(1)(b), House of Representatives, the laying of the Appropriation Bill in the NASS shall be deemed to have been read the first time and a date fixed for the commencement of second reading. Thus, after the President has presented the Appropriation Bill to the National Assembly, the Bill goes through the Second Reading Stage, Third Reading Stage, and Assent or Veto Override to become an Act of the National Assembly. All these stages are similar to the stages that a general bill goes through to become an Act of the National Assembly. For this reason, we will examine only the differences between the two in respect of each stage.

#### 4.2.1 Second Reading Stage

After second reading, the bill is referred to the Appropriation Committee with Committees having jurisdiction collapsing into sub-committees of the Appropriation Committee. It is the Leader that moves the motion for the second reading of the bill and seconded by the Deputy Leader. Debate is confined to the general, financial and economic state of Nigeria as well as the government financial policy. Unlike a general bill, a money bill cannot be killed at the second reading stage but all Members have the right to debate the bill. Significantly, Committee work on the budget centres on budget defence as opposed to Committee hearings as is the case in general bills. At the close of the sub-committee work, the Appropriation Committee collects, collates and compiles a report which it lays at plenary.

The Report of the Appropriation Committee is considered by the Committee of Supply as opposed to by the Committee of Whole in the case of general bills. Also, in the House, the Speaker, rather than the Deputy Speaker, chairs the Committee while the Senate President chairs as is the case in general bills. After the approval of the schedules, the clauses are considered last as against the practice in general bills. The rest of the process is as in general bill save for veto override.

#### 4.2.2 Third Reading Stage

This is exactly as is obtainable in a general bill. However, because the Constitution requires the President to lay the Appropriation Bill in each of the two Houses, there is no question of one House transmitting the Bill to the other House for concurrence. Rather, where one Chamber passes the bill and the other fails to pass its own two months after the commencement of the financial year, the Senate President is required by Section 59(2) of the Constitution to convene a meeting of the Joint Finance Committee to resolve the differences between the two Houses. Where, however, the Joint Finance Committee fails to resolve the differences, the Bill shall be presented to the National Assembly sitting at a joint meeting and if the Bill is passed at such joint sitting, it shall be presented to the President for assent. A resolution by the Joint Finance Committee must be adopted by each Chamber otherwise it shall be null and void in view of the provision of Section 62(4) of the Constitution and the decision of the Supreme Court in *A.G. Bendel State V. A. G. Federation* (1981).

#### 4.2.3 Assent

Assent to a money bill is governed by Section 59(4). Where a money bill has been passed in identical form by the National Assembly, the Clerk is required to forward same to the President for assent. The President has 30 days within which to signify assent, withhold assent or do nothing. At the expiration of 30 days, if the President fails to give assent, the Bill shall be re-presented to the National Assembly, sitting at a joint meeting and if passed by two-thirds majority of both Houses at the joint meeting, the Bill shall become law. By the authority of *National Assembly V. President* (2003), for the Bill to be again validly passed by the joint meeting of the National Assembly, it has to go through the whole process of law making again. In the US, if the President does nothing within 10 days after a bill (general or money) is presented to him when Congress is on session, the bill shall automatically become law.

## 5. THE NATIONAL ASSEMBLY AND THE BUDGET PROCESS

Due to its special nature, only the President is mandated by section 59 of the 1999 Constitution to present the Appropriation Bill or Supplementary Appropriation Bill to the National Assembly. This implies that the

National Assembly has little or no control over the time the Appropriation Bill is presented to it by the President. This is because from both the letters and spirit of the Constitution, the National Assembly is nowhere empowered to compel the President to make the presentation under Section 81(1) of the Constitution, nor make one itself should the President fail, as has always been the case, to make a timely presentation.

The ability to make timely and sensible fiscal choices is one of the hallmarks of good governance (Ekeocha, 2012). Timely presentation and enactment of the national budget have become a matter of great concern. Timely budget presentation to the NASS has, over the years, become an exception rather than the norm. Both the Constitution and extant legislation seem to proffer no adequate remedy. Section 81 of the Constitution which mandates the President to lay the Appropriation Bill before the National Assembly gives the President the unparalleled latitude to do so *at any time in each financial year* before the next following financial year. The financial year in Nigeria, by virtue of Section 318(1) of the Constitution, runs from the 1<sup>st</sup> of January to the 31<sup>st</sup> day of December. The implication is that whilst the President has, constitutionally, between the 1<sup>st</sup> day of January and 31<sup>st</sup> December of every year to lay the Appropriation Bill before the Assembly, the National Assembly has no such timeframe within which to approve the budget laid by the President. There is, thus, a timeframe with no timeline for the presentation and approval of the budget.

Since the Constitution did set a timeline for the President to lay the Appropriation Bill before the National Assembly, the timeframe provided in Section 81(1) can best be regarded as a *blank cheque*, and, just as all bank cheques, it is capable of, and has been a subject of abuse by all Presidents since return to democracy in 1999. Since 1999, no Nigerian President, has laid the budget before the National Assembly before October of any year. The earliest budget laid was on 10<sup>th</sup> October, 2012 (barely two months to the beginning of the next fiscal year). See Table 2. This is clearly outside the globally accepted period of 2-4 months for budget presentation and 2-3 months for the deliberations and debate on the presented budget by the legislature. Consequently, most of the bills were approved and enacted into law in the second quarter of the year.

In an attempt to tackle lack of timeline in Section 81(1), the Fiscal Responsibility Act (FRA) 2007 was enacted. Among the laudable innovations introduced by the FRA was the institutionalisation of the Medium Term Expenditure Framework (MTEF). The MTEF was to be submitted to the National Assembly for approval not later than August of every year. After the MTEF shall have been approved, the President is required to base his estimates under Section 81(1) of the Constitution on the MTEF. This was to ensure that the budget was a collaborative effort devoid of rancours. Sadly, since

**Table 2**  
**Presentation and Enactment of Federal Appropriation Acts 2003–2015 Fiscal Years**

Fiscal year	Date bill laid in the NASS	Date bill sent to president for assent	Date bill assented to by president	Gestation period
2003	20-11- 2002	11-03-2003	10-04-2003	4 months, 21 days
2004	18-12-2003	20-04-2004	21-04-2004	4 months, 3 days
2005	12-10-2004	18-03-2005	12-04-2005	6 months
2006	06-12-2005	21-02-2006	22-02-2006	2months, 16 days
2007	11-10-2006	22-12-2006	22-12-2006	2 months, 12 days
2008	08-11-2007	27-03-2008	14-04-2008	5 months, 7 days
2009	02-12-2008	03-02-2009	10-03-2009	3months, 7 days
2010	23-11-2009	25-03-2010	22-04-2010	5 months
2011	15-12-2010	25-05-2011	26-05-2011	5months, 11 days
2012	15-12-2011	21-03-2012	13-04-2012	4 months, 2days
2013	10-10-2012	30 -01-2013	26-02-2013	3 months, 18 days
2014	19-12-2013	22-04-2014	21-05-2014	5 months, 3 days
2015	17-12-2014	06-05-2015	06-05- 2015	4months, 19 days

Source: Obadan (2014); Rules and Business Committee Secretariat (2007-2015).

its enactment in 2007, no MTEF was laid in the National Assembly before September and none was approved by the Assembly before December (see Table 3). Thus, the FRA became a mine layer in the budget process rather than the mine sweeper it was meant to achieve.

**Table 3**  
**Presentation of MTEF for the Fiscal Years 2012-2015 to the National Assembly by the President and Approval**

Fiscal year	Date of presentation	Date of approval
2012 2012- 2014	04-10- 2011	01-12-2011
2013 2013- 2015	18- 09-2012	19-12-2012
2014 2014 - 2016	17- 09-2013	18-12-2013
2015 2015- 2017	17-12-2014	05-03-2015

Source: Rules and Business Committee Secretariat (2012-2015).

There have been calls for the repeal and, or amendment of Section 82 of the Constitution by scholars, such as Ekeocha (2012). Section 82 deals with reversionary budget. A reversionary budget takes effect when a previous budget has expired but a new one has not yet been enacted into law. Its tenor and spirit are in line and perfect harmony with country good practice especially among the Organization for Economic Co-operation and Development (OECD) countries (Lienert, 2010; Wehner, 2010). The rationale is to forestall government

shutdown—a common feature in the US where there is no reversionary budget provision. A reversionary budget outcome, is, however, not without shortcomings. Reversion to last year’s budget is inconvenient for the government of the day, as it delays the implementation of a new initiative and investment projects (Wehner, 2010, p.29).

## 6. TACKLING THE CHALLENGES OF TIMELINESS

The FRA 2007 is an excellent innovation in the budget and appropriation process. To be the mine sweeper in the process, it has to be amended to remove its present anti-timeliness features. Section 82 of the Constitution, though in conformity with OECD best country practice should be amended as a result of its excessive abuse by virtually all past and present Presidents. A budget law, such as the US Congressional Budget and Impoundment Control Act, 1974, be enacted to set down not just timelines for the budget enactment process but also create a nonpartisan expert budget office that is dedicated to the National Assembly—a counterpart of the Budget Office in the Office of the President.

Civil Society Organizations (CSOs), the Media and public opinion (Wehner & Renzio 2012) should rise to the occasion by condemning the Executive (President) and the Legislature for the intentional late presentation and late enactment of the Appropriation Act by the President and the National Assembly respectively.

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## CONCLUSION

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This paper examined the Nigerian National Assembly and the budget process with a view to tackling the perennial problem of late presentation of the Appropriation Bill to the National Assembly by the President—a Constitutional duty imposed on the President by Section 81(1) of the Constitution. The paper established that since 1999, successive Presidents, have failed to meet the international good practice of presenting the budget to the National Assembly 2-4 months before the commencement of the next financial year. The study found that though Section 81(1) of the Constitution provides the timeframe within which the President is to lay the Appropriation Bill before the NASS, no timeline is provided. Section 81(1) of the Constitution, thus, became subject to abuse by successive Nigerian Presidents. The enactment of the Fiscal Responsibility Act (FRA) 2007 intended to tighten the loose ends in Section 81(1) compounded the problem of late submission of the appropriation bills to the National Assembly. This has frequently led to reversionary budget provision under Section 82 of the Constitution with all its negative consequences, including delay in the implementation of the new policy initiatives and investment projects that ought to be implemented with new budget. To ensure timeliness in the passage of the Appropriation Acts, Sections 81(1) and 82 of the 1999 Constitution and the FRA 2007 were recommended for amendment. A budget law such as the US Congressional Budget and Impoundment Control Act, 1974, be enacted.

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