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INTRODUCTION

The four fiscal reform bills were transmitted to the National Assembly by President Bola Ahmed Tinubu on October 3, 2024. These bills were the outcome of the work of the Oyedele Committee on Fiscal Policy and Tax Reform, which was inaugurated by the President on Tuesday, 8th August 2023. Although the Committee was constituted to have wide representation, some members of the Committee claim that the Committee sat only a few times and the Chairman did not carry them along and had most of the work done by a renowned consulting firm. The Committee's report was submitted to the President on 25th August 2023 and, later, to the Federal Executive Council for approval. Although select recommendations of the reports were revealed to the media, the complete report was never made public, nor were the most fundamental changes that touched on Nigeria's federal system. Indeed, it was only after the bills transmitted to the

National Assembly were published in the National Assembly Journal on 4th October2024 that the general public became aware of some of the most fundamental changes the president is proposing. What the bills seek to achieve are not just changes to Nigeria's tax structure, but also fundamental changes to the revenue distribution, thus, a fundamental change to Nigeria's federal system. These bills represent the first major attempt at changing the structure of Nigeria's federal system since the return of democracy in 1999[1], with many of its provisions requiring constitutional review[2].

Making fundamental changes to taxes or their structure is a major political issue, as it is economic, and therefore generates reactions not only from the economic constituents but also from the politicians, especially in the context of a federation with an already impoverished economy struggling

[1] Since the Okigbo's Committee of 1980
[2] RMAFC's submission

with increasing economic misery, weak institutions, and multidimensional deprivation[3].

The four bills submitted to the National Assembly, which were published in two NASS Journals (Vol. 21, Nos. 72 & 73, dated 4th Oct. 2024), are the most comprehensive, far-reaching and fundamental changes to the tax and revenue administration in the Nigerian federation's history[4]. These bills are:

> *The* ***Nigeria Tax Bill, 2024*** *("A Bill for An Act to Repeal Certain Acts on Taxation and Consolidate the Legal Frameworks Relating to Taxation and Enact the Nigeria Tax Act to Provide for Taxation of Income,*

[3] Even in the advanced democracies with strong economies and welfare support system and no deprivations, e.g., US and UK, taxes are fundamental issues dominating political contests. It is therefore only natural that such a proposal to make a far-reaching fundamental change to the tax system generate political reaction. The appropriate response, must therefore be through a political and democratic processes rather than the attempt to coarse, manipulate and cheat their way to passing the bills.

[4] The attempt to summarily pass the bills into law by the NASS in a lightning speed does not only show the wanton disregard for Nigerians, but also signals a hidden agenda

Transactions and Instruments, and for Related Matters", published in the National Assembly Journal Vol 21, No 73);

and,

The ***Nigeria Tax Administration Bill, 2024,*** which has three bills *("An Act to Provide for The Assessment, Collection Of, And Accounting For Revenue Accruing To The Federation, Federal, States And Local Governments; Prescribe The Powers And Functions Of Tax Authorities, And For Related Matters",* published in the National Assembly Journal Vol 21, No 72).

These four bills are not only comprehensive in their objectives to re-structure the economic foundation of Nigeria's federalism but are also audacious in the attempt to skip the most basic requirement for such fundamental reform – building elite consensus– by rushing the legislative processes and procedure. The transmittal letter to the National Assembly, read on 3rd October 2024, requested that the bills be sent for consideration and *quick passage*. This was why the first reading, done on October 3, 2024, was quickly followed by the second reading on 28 November 2024, barely 8 weeks[5], despite the overwhelming public opposition. Although the National Assembly is composed of representatives of the People, in matters that affect the structure of the Nigerian federation, such as those contained in these bills, the desirable thing to do would have been for the representatives to consult their constituents as is practiced in all federations with representative democracy, US inclusive. It could be argued that on important matters like these, a national debate is necessary to get the buy-in of all critical stakeholders. The way and manner the President is handling this fundamental restructuring reform is alien to democracies and is reminiscent of a dictatorial manipulative

[5] At the plenary session, following a one-hour closed-door session, the Senate agreed to debate only the general principles of the bills, passed them for a second reading and referred them to the Committee on Finance to report in six weeks.

regime. President Tinubu has a penchant for stampeding the National Assembly into passing bills he sends to them. Meaningful criticism is equated to opposition, as if opposition is not an integral part of the practice of democracy. The bill changing the National Anthem back to the old was rammed through the National Assembly without any national debate. Similarly, he adopted the same bulldozing approach to summarily withdraw the “subsidy” on petrol without proper planning for the mitigating measures, leaving the government to respond with several incoherent policy pronouncements that have so far failed to provide relief against the rising economic and social misery associated with the reforms.

The massive rejection of the reform by many sections of society is a measure of the bills’ importance to their lives, and should not be dismissed as mere political opposition but must be thoroughly reconsidered. Apparently, this was not lost on the National Economic Council (NEC) chaired by the Vice President. On 31st October 2024, the 144th NEC meeting recommended that the President withdraw the bills from the National Assembly to allow for, as stated by Governor Makinde, alignment among stakeholders, broader consultation, consensus-building, and understanding of the bills among Nigerians before initiating the legislative process. However, unable to resist his authoritarian instincts, the President rejected the NEC's advice and asked the National Assembly to go ahead with the legislative process, unnecessarily heating the policy at a time of considerable hardship in the country.

These omnibus bills, which seek to repeal all previous laws relating to tax administration, compliance, assessment, revenue allocation, institutions, etc., no doubt require time for careful analyses and considerations and for people to fully digest their provisions and their implications. The "quick passage" route the President is pushing for their passage into law is not advisable. It needlessly breeds suspicion and all sorts of conspiracy theories, more so, in a country where both the President and the various institutions of the state are fast losing the trust of the people. By belittling NEC, which is a constitutional creation and the first step towards building the necessary consensus on fundamental economic matters, President Tinubu has utterly squandered the opportunity NEC presents for the governors to study the bill, have their input and obtain their buy-in. This offhand rejection of NEC's recommendations is even more worrisome given that NEC is composed of all governors – Northern and Southern, from all political parties and all faiths and, therefore, an important segment of the country's power structure whose view or position should not be dismissed casually as the president has done. President Tinubu's public rejection of the NEC's recommendations, which are in the national interest[6], without any form of dialogue, indicates his utter disregard for the body.

The current public discourse on the bills, which was partly triggered by Senator Ndume's brave insistence on procedure, caution, the need for consultation and consensus-building, is gradually being polluted by the several sponsored media narratives aimed at dis-informing the public. Instead of engaging the critical stakeholders and the general public on a genuine discourse of the bill, focusing on the content of their provisions, the government has engaged the media in a game of narratives, hastily organising town hall meetings to dictate the nature, and the depth and the general direction of the discourse. These PR gimmicks started when the Senate invited the Chairman of the Presidential Fiscal Policy and Tax Reforms Committee to its plenary session, where his explanations deliberately focused on the principles and

[6] Sadly, however, the government has been playing a game of narrative with the media, portraying the debate in terms of North vs South

intentions of the reforms rather than explaining and defending the actual provisions of the bills. When asked questions, his answers and responses remained focused on the “intentions” and “reasons” for the reform instead of explaining (by referring to) the specific provisions in the bills. In addition, as is shown later, most of the answers, which were either made up as he went or half-truths that mask the real issues, thereby wittingly disinforming the public and swaying the discourse away from the real issues. This misguided approach by the government to the desperately needed public engagement for consensus-building continued during the Channels Television townhall meeting aired on 3rd December 2024 when the Chairman continued to evade the real issues in their specificity and told the same half-truth in response to critical specific questions. To the discerning minds, the public relations stunt was very clear. These half-hearted public engagements spree, including the one held in Kaduna organised by the Nigerian Institute of Public

Relations on 7th December 2024, with the North/South game of narratives creeping, cannot help in building the requisite consensus but can only widen the divide and misinform the public. These gimmicks were carefully designed to fool not only the senators but also the general public that the issue is fundamentally regional and is presented as the *North rejected the bills* without fully digesting its content. The current consultations are deliberately cast in terms of North/South to appeal to the existing fault lines in the society - including religious, ethnic and other divides[7]. The undue focus on revenue sharing and derivation component is deliberately heightened to achieve this, when there are several more important issues for the ordinary Nigerians as well as constitutional matters. This way, the final decision would be suboptimal with daring consequences on welfare,

[7] Already, many religious, ethnic, and regional groups have been drawn into the debate, with most of them tilting towards the perceived dominant positions of their groups. This careless and irresponsible approach to governance in a plural society must be avoided.

like the other reforms implemented without adequate planning and public debate, including subsidy withdrawals and exchange rate liberalisation.

SOME SPECIFIC PROVISIONS OF THE BILLS AND THEIR IMPLICATIONS

This section highlights some of the key provisions of the four bills and their economic and political implications. In their totality, if passed into law, these bills;

1. will provide the legal foundation for fundamental changes to the several core economic and political institutions, including providing the legal basis for Resource Control, the So-called “True Federalism,” the economic foundation for the return to the 1963 political and regional administrative structure, University Financial Autonomy, Personal Income Tax Administration, etc.;

2. will force further constitutional amendments since some provisions seek to alter some constitutional provisions. For instance, only the Revenue Mobilisation, Allocation and Fiscal Commission (RMAFC) has the constitutional mandate to produce formulae for revenue sharing, including VAT, among the three tiers of government. Section 162(2) of the 1999 constitution (as amended) empowers the commission to determine the formula for the equitable sharing of revenue amongst the three tiers of government.
3. mark a tricky start down a slippery slope into fundamental re-structuring of the Nigerian economic and political structure, avoiding public debates on them.

The political leadership, especially the representatives, must, therefore, carefully study the political and economic implications of the bills beyond what they appear to be and must not rely on the stunts currently dominating the media space. While this list is not exhaustive and is not intended to be, the following sections present some of the fundamental changes and their implications.

NIGERIA TAX BILL, 2024

The Bill is a repeal to enact a new law: this bill seeks to repeal all the existing laws on taxation in Nigeria and some of its institutional arrangements. It seeks to provide a *UNIFIED fiscal legislation for Nigeria*, including States and Local Government. While this *objective*is desirable, some of the provisions have adverse consequences on individuals' welfare, the economy and Nigeria's federalism. It is, therefore, not enough to focus on the objective of the reforms but on the implications of the specific provisions that are injurious to society.

Development Levy (Part X):

Part X of the bill introduces the "Development Levy", which aims to consolidate all levies imposed on companies into one Fund and proposes far-reaching fundamental changes to the application of the Fund. Although consolidating the current levies into one helps simplify the tax structure and addresses the issues of multiple taxes, the proposed application of the revenue from the levies has dire implications for the government agencies funded by these levies.

The Provision **(Part X, 59(1-2))**:

Proposed Levies: all companies shall pay the following percentages of their assessable profits into the Development Levy Fund as follows:

a) 4% in 2025 and 2026
b) 3% in 2027, 2028 and 2029
c) 2% in 2030 and afterwards into the Students Loan Fund.

*Proposed Application of the Development Levy Funds***(Part X, 59(3-5))**

The Fund will be used to sustain the following institutions until ***their terminal date***:

a) **Tetfund**gets 25% in 2025 and 2026. But 66% in 2027, 2028 and 2029. But Tetfund will start winding up in 2030 because no money is going to the fund.

b) **National Information Technology Development Fund** (NITDA) gets 20% until 2027, when it shall receive no allocation.

c) **The National Agency for Science and Engineering Infrastructure** (NASENI) gets 5% until 2026, after which it receives nothing.

d) **Student Education Loan Fund** (SELF) – gets 25% until 2026 but gets 100% in 2030 and afterwards.

The bill (section 59(4-5) has prohibited the use of development levy and levying or using petroleum profit tax to fund NASENI, TETFund, and NITDA. This means they cannot be funded or re-established in the future.

Implication of the Provision:

There are several institutional and political implications of this provision:

1. *The bill abrogates the Tetfund by 2030*. This is because the TETFund is a special intervention which is impossible to be funded through annual budgetary provisions sustainably. Without the TEFFund, there will be no capital intervention in public universities after 2030. It also means that the activities of Tetfund will slow down from next year since its allocation will be substantially reduced from 2% of profits to only 1% (i.e., 25%*4%) in 2025 and 2026.

2. *Abolishing the TETFund in favour of the Students Loans Fund indirectly supports the introduction of a new Funding Model for the University*: Replacing Tetfund with the Students Loan Fund provides the requisite foundation for the proposed funding model of Babalakin's Committee, which gives financial autonomy to the Universities and allows them to charge tuition fees high enough to sustain themselves while students are given loans to pay tuition. This tuition will be used by the universities to fund their capital and recurrent expenditure needs[8].
3. *The Bill abrogates NASENI and NITDA:* by moving their allocations to SELF, these organisations will have no

[8] No explicit or implicit provision is made in the bill for alternative sources of continued funding. Indeed, the bill specifically invalidates and prohibits any other law from allowing the use of the funds on these agencies. Given that these agencies are funded by special levies because budgetary provisions cannot be used or are inadequate, stopping the levy is a means of abrogating them. One may ask the rhetorical question if the budgetary provision is a reliable source of funding, why not put the Student Loan Fund under the budget too?

funding and will have to close down.Again**,** this is a practical way of closing down these agencies because if their funding is put on the annual budget, it will be a matter of time before they are viewed as unnecessary burdens on the government's budget and closed down.

4. *There will be retrenchment of labour*as federal civil service cannot re-absorb the released labour from TetFund, NASENI and NITDA.

Value Added Tax (VAT) Part I & II

Provision: Chapter six, Part I & II, sections 142-156 covers the imposition, rates, remittances and distribution of the Value Added Tax.

The VAT rate is increased: The Bill has increased the VAT rate to 10% in 2025, 12.5% in 2026, 2027, 2028 and 2029, then 15% in 2030.

VAT Collection & Remittance of VAT: Sections 151 and 152 mandate businesses to collect VAT and remit to the Service, and Section 153 mandates Federal, State & Local government and their Ministries and MDAs to do the same.

Economic and Political Implications

The increase in the VAT rate from7.5% to 15%implies that prices of all VATable goods will increase in the first instance (First round effect). This increase in the prices of VATable goods will eventually trigger increases in the prices of other goods that are exempted from VAT in the second-round effect. This is because the production or distribution of these non-vatable goods requires VATable goods. This means the rate increase will be inflationary at a time when the Central Bank is struggling to bring inflation down and poverty and economic misery are rising. The timing for increasing the VAT rate is not only wrong but also indicative of the insensitivity of the leadership to the current policy-induced suffering.

Headquarter effect of Collection and Remittance: The Collection and remittances of VAT will exacerbate the headquarter effect whereby States in which jurisdiction headquarters of business are located will receive remittances of VAT collected from other States where the final consumption takes place. In this case, Lagos, Ogun, FCT, Rivers and Kano will have undue and unfair advantages over the rest of the federation. Because of the pervasive informality in Nigeria, these companies will be unable to determine to any reasonable extent where the final consumption of their goods or services takes place. Although some tech-based services may be able to pinpoint the geographical location of final consumption, most others may not be able to provide verifiable data on the location of their final consumption. Take, for instance, while Dangote group may provide data based on the location of its dealership, records of middlemen that buy, say in Kano, from the major distributor for further distribution in Maiduguri, Sokoto, Zamfara, Katsina and even across the border is not available (informality). Thus, it is not possible, at present, to obtain verifiable data on the geographical location of the final consumption of the goods and services.

The use of NBS consumption Data is impractical for at least two major reasons: first, because the consumption data is a component of the National Accounts Statistics (the GDP), using such data for revenue distribution will similarly politicise the GDP data as it did the population census data. Already, many States have started computing their GDP statistics, so using such data for revenue-sharing purposes will be impractical. The second reason why the NBS consumption data cannot be used is because it will be misleading since it also includes the consumption of non-vatable goods and services. These difficulties in obtaining verifiable data are some of the difficulties involved in the use of derivation as a principle of revenue sharing in the context of the federation. The welfare cost of mandating that businesses and suppliers track the points of final consumption will be welfare-reducing since such cost would also be reflected in the prices.

THE NIGERIA TAX ADMINISTRATION BILL, 2024

The bill aims at improving compliance and raising tax revenue collection for all three tiers of government, repealing the FIRS establishment act to replace it with the Nigeria Revenue Service, which will be for the federation, and establishing a Joint Revenue Board, Tax Tribunal and Office of the Tax Ombudsman.

Use of Technology

*Provisions:*The bill empowers the tax authorities to use technology to enforce compliance and forces banks to submit customers' transactions to tax authorities:

- To enable the use of technology for compliance, the bill (Part II, Section 4) forces all taxable persons to register for Tax ID (TIN).
- Section 8 (1) a-c and (2) make Tax ID a pre-condition for government contracts and opening of new or operating existing Bank accounts.
- Section 69, Part I of the bill empowers the tax authority to *use technology to automate assessment, collection, accounting and information gathering for compliance*. Section 69(2) empowers the tax authority to deploy ANY TECHNOLOGY, including third-party payment processing platforms and software for collection and remittance.
- Section 28 (1) requires every bank, insurance company, stock-broking firm and any other financial institution *to*

prepare every quarter and submit names of any of their customers with cumulative transactions of up to ₦25 million for individuals and N100 million for corporate bodies (with or without request).

Implications:

These provisions empowering the use of technology, including automation, for assessment, collection, accounting and information gathering for compliance have the potential to violate personal liberty. It can also be a tool for political witch-hunting. There is a potential for wrongly assessing people's income since not all transactions are income, given the difficulty of proof in a substantially informal economy. This should not be acceptable to Nigerians at this stage of our development when institutions are too weak amidst pervasive informality.

Preparing Way for Private Sector Consultants: The bill, by proposing the introduction of technology, coupled with the provisions that empower the authorities to engage consultants (Part III S.11(3) and S.19(4)) and third-party platforms or computer software (S.69(1-2)), and the unification of all collections of all taxes by one single authority (the Nigeria Revenue Service bill), is preparing the grounds for contracting a private sector consultant and companies for (an insanely humungous fee) for tax collection since the authorities could declare that they do not have the technical capacity to undertake such overwhelming tasks, others would also present the "government inefficiency" argument to justify the introduction of private sector consultant. This happened after the sudden introduction of the Treasury Single Account (TSA), which justified the engagement of Remita to serve as the collection agent. Rushing to pass the bill before the unified authority is ready with the requisite technology and capacity would only justify this. It is reasonable to allow the unified authority to acquire the capacity for tax collection before making it effective.

Distribution of the Net VAT Revenue

The Provisions:

Reduction in federal Government Share to increase States' share: Part 1 Section 77 (a-c) of the Nigeria Tax Administration bill provides a new formula for the distribution of VAT net revenues between the three tiers of government. It abrogates the power of the Revenue Mobilization, Allocation and Fiscal Commission (RMAFC) or any other law to prescribe any formula for VAT revenue distribution. The proposed vertical distribution reduces federal government share by 5% and increases that of States by the same 5%. Local Governments' share remains the same, as Table 1 shows.

Increase in Derivation Share for the Horizontal Distribution: Section 77 (c) alters the basis for the horizontal distribution (between the 36 states and FCT, or between the 774 Local Governments) by increasing the share of derivation from the current 20% to 60%, hence reducing that of equity and population.

Data specified as an indicator of Derivation is fundamentally flawed, and not reliable: It is noteworthy that the data/information to be used as the measure of the "derivation' is fundamentally flawed given the nature of the distributive trade. Section 22(12), which makes the tax returns by the VATable supplier the basis for the derivation, does not resolve the headquarters effect since such data does not accurately capture the places of final consumption. The distribution data is difficult to generate with any reasonable measure of accuracy because of the size of informality in the internal/domestic trade across the federation. As will be argued later, the NBS Consumption data cannot be used because of fear of politicisation of GDP figures, and it cannot be accurate for this purpose because it contains a lot of non-VATablegoods and services.

Table 1. The proposed changes to net VAT revenue vertical distribution

Tier of Government	**Old share (%)**	**Proposed Share**
Federal Government	15	10
State Gov & FCT	50	55
Local Gov	35	35

Implications:

Unless there is credible and verifiable data on the geographical location of final consumption of all VATable goods and services, the increased derivation to 60% only effectively transfers the 5% federal government's share to States where the corporate headquarters of VAT-Remitting businesses (headquarters where the balance sheet is maintained) are located such as Lagos and Abuja. This headquarters effect is stubbornly difficult to address because of the size of the informality of internal trade and distribution structure. Indeed, without such data, there will be a reduction in the share of States without such business corporate headquarters. Consider the following example: In the absence of credible, verifiable data, as is currently practised, the new 60% derivation will mean that every State/Local Government will retain 60% of net VAT revenue collected from its geographical area. The new proposal, thus, means:

1. **The FG's share of VAT** is 10%, leaving 90% for States, FCT and LGAs.

2. **For Local Governments:** LGAs would retain their 35%, but with 60% derivation. Hence, some local governments that have no such VAT-remitting headquarters have a reduced share of 35%. This is because, under the existing 20% derivation, 28% would be distributed amongst the LGAs based on equality, population and other criteria, and only 7% is based on derivation. Under the new proposal, however, only 14% (half of the existing share) will be distributed based on equality and other criteria, while 21% (or three times the existing share) will be based on derivation. This means:
    a. Some LGAs with VAT-Remitting corporate headquarters will see their shares of VAT tripled (increase from 7% to 21% derivation).
    b. While those with no VAT-Remitting corporate headquarters will see their existing shares fall by half (reduction of equality and other criteria from 28% to 14%)

3. **For States:** States' share of the total VAT collected is increased to 55% from 50%. However, this increase is not for all states. Some states with no VAT-remitting corporate headquarters will see their share of VAT reduced, while those with VAT-Remitting corporate headquarters increased because of the increase in derivation from 20% to 60%. Thus, currently, States share 40% of the total VAT collected (i.e., 80% of 50%) based on *equality and other criteria* and share 10% (or 20% of their share of 50%) based on *derivation*. However, under the proposed 55% share but with 60% derivation, they will share only 22% of the total VAT collected (= 40% of their new share of 55%) based on *equality and other criteria*and 33% (60% of their 55% share) will be distributed based on *derivation*. This means:
    a. States with VAT-remitting corporate headquarters will see an increase in their share of VAT increase

by 230%! (As the *derivation* share increased from 10% to 33%)

b. States with no VAT-remitting corporate headquarters will see their share of VAT fall by 45% (from 40% to 22%)

BASIS FOR CENTRAL VAT COLLECTION AND SHARING AMONG STATES AND LOCAL GOVERNMENTS

In the Nigerian Federation, the history of VAT dates back to the military regime when the sales tax, which was levied and collected by states, was replaced with VAT, which is easier to collect and has greater yield. The VAT is collected centrally by the Federal Government and shared with States. The question of how the proceeds should be shared is presently addressed using three principles, all of which have a foundation in Nigeria's federalism. These principles are, ***first***, the **Principle ofEquity** (which presupposes that every member of the federation must have some minimum share of the revenue to be able to carry out its responsibility to the people resident in its geographical/administrative jurisdiction). As noted earlier, 50% of the net VAT revenue is presently shared based on this principle of equity. The ***second*** principle is **population** (which presupposes that states where more people reside within the federation, will require more resources to provide amenities for average residents to get similar standards to those with fewer people). Presently, 30% of the net revenues are shared based on this principle. The ***third*** principle is that of **derivation,** which presently presupposes that the State which collects the VAT should have more out of the collection it makes. Presently, the rate is 20%.

A major point of contestation is the extent to which “derivation” reflects the location of final consumption since the constitutional origin of VAT is the consumption tax. Unlike petroleum resources, where the quantity derived from a state is easily measured and verified, there is no credible and verifiable data relating to the geographical location of the final consumption of the VATable goods and services in the federation. A few Vatable goods may have, but most of the others do not have and are impossible to obtain.

Economic Basis for VAT Distribution

Although the Value-Added tax (VAT) is, in principle, charged at each stage of production based on the valueadded towards the final (finished-) product, *it is eventually paid by the final consumer.* The law mandates the supplier (of the taxable product or service) to collect the tax on behalf of the authorities (Part II Sections 150 -153) and remit the same to the authorities (Section 154). However, where the supplier is located in a geographically separate location from the final consumer, remitting all the VAT collected at the supplier's geographical location would be a misleading indicator of where the VAT is paid. This divergence of geographical locations of the final consumer and supplier introduced further complications to the application of **the derivation principle**.

A fair application of the derivation principle, the idea that the VAT collected should be returned to the states and local governments where final consumption occurred in a federal arrangement, will be data-intensive. Such data have to be not only of high quality and timely but also verifiable. For instance, Lagos, Ogun, and FCT have some advantages that enable them to have more VAT-remitting corporate headquarters, giving them undue and unfair advantages over the other states of the federation. Some of these advantages are natural (such as being close to the sea. However, most of them are man-made because they belong to the federation. For instance, the VAT-Remitting corporations are located in Lagos not solely because of the state's efforts but because the federation agrees that their headquarters could be located there and conduct their business operations anywhere within the federation[9]. The Banking and commercial companies, for instance, were allowed to relocate to Lagos even though Lagos ceased to be the federal capital. With their balance sheets in Lagos, the entire financial services companies remit all the VAT they collected on all in Lagos. This is true for all other production units whose products and services are distributed across the federation. Fair application of the derivation principle will require verifiable data on the geographical location of the final consumption of all goods and services. The current allocation of 20% derivation is based on the understanding that not all VAT collected is from products consumed outside the collection areas, hence recognizing the possibility of final consumption in the states and local government areas of the

[9] In addition, bulk of the infrastructure in Lagos was built by the federation due to its status as the federal capital. The seaports are not there solely because of its access to sea, otherwise other states with similar access would have had the same ports. These advantages are, therefore, man-made owing to the federation.

collection. Increasing the derivation share above 20% will, therefore, be unfair to the rest of the federation.

The failure of the proposers of this increase in VAT derivation to properly conceptualiseVAT and contextualiseits distribution within a federation is a dangerous slippery slope towards injustice. Calling for higher derivation (it started as a call to allow states to collect 100% VAT) is akin to, and will soon lead to, calls for states to collect import duties or ask for derivation. It is part of the larger political movement for the so-called resource control.

WHY THE ONGOING PUBLIC DISCOURSE WOULD NOT LEAD TO GENUINE CONSENSUS-BUILDING

Since the heroic resistance from Senator Ndume to grant the bill the “quick passage” as requested by the president, there have been a lot of media campaigns that are turning the public discourse into a game of narratives. There has been a series of town hall meetings that are receiving wide media coverage, trying to popularise (push) a regional narrative (North/South) and, to a lesser extent, ethnic. The first attempt at polluting the discourse was when the Senate invited the promoters of the Bill (FIRS and Chairman of the Reform Committee) to its plenary on 27th November 2024 to "explain to Nigerians" what the bill seeks to achieve. This was then followed by a series of media appearances by the Chairman of the Presidential Fiscal Policy and Tax Reforms Committee, Mr Taiwo Oyedele, ostensibly explaining the bills to Nigerians, answering questions, and providing "clarifications". Key amongst these was his appearance at the Channels Television[10] on 2nd December 2024 where he, and four other panelists, answered questions from Seun Akinboloye and the live audience relating to the bills. Sadly, instead of helping to build the requisite consensus and

[10] The Channels Television's Special Town Hall over the Tax Reform Bill can be found at: https://www.channelstv.com/2024/12/02/tax-reform-bills-experts-call-for-restraint-patriotism-as-controversy-rages/

improve understanding of the bills by answering the questions of genuine concerns, truthfully and honestly, by discussing the specific provisions, many of the answers to the questions raised were either superficial, half-truthsor even outrightly misleading. In the following paragraphs, some of these misleading responses are interrogated.

1. **It is misleading to tell the public that the share of Lagos will decline and that of several states will increase under the new bills**: - When asked whether the increase in derivation will favour Lagos and other states with headquarters of companies, the Chairman of the Presidential Fiscal Policy and Tax Reforms Committee, Mr. Oyodele responded by arguing to the contrary, anchoring his position on NBS's consumption data. This is surprising as it is misleading for several reasons. *First*, the bill does not provide for the use of NBS consumption data. If anything, Section 22 (12)

refers to the returns by VAT-remitting persons and businesses as the basis for the derivation principle. Using NBS consumption data is a disingenuous attempt to defend an untenable position[11]. He cited some examples using MTN and Dangote group to suggest that these companies have the requisite final consumption data because, in the case of Dangote, they have records of their distributors across the federation. This is not only misleading but also indicates his lack of understanding of the dominance of informality in Nigeria's internal distributive trade. While MTN (and telcos) may have complete and verifiable data on the

[11] For clarity, the provision of S.22(12) does not mitigate the headquarter effect in any significant way because, first, the section does not specify geo-tagging of the final consumption point as a requirement of the return. Secondly, even if the prescribed forms include such requirement, most of the businesses CANNOT know the actual final destination of their goods and services given the pervasive informality of our distributive trade, as is argued earlier. Such requirement would only, unnecessarily raise the cost of doing business for the firms since they have to invest, in vain, in capacity to trace the final consumption point. Indeed, the possibility of many firms falsifying the information is very high, hence such data would be both unreliable and unverifiable.

geographical location of all their calls, it is impossible for Dangote Group to have correct and verifiable records of the final destination of their goods. Take cement and flour, for instance: while the companies may have records of their major distributors, say, in Kano, they do not have records of the several thousands of middlemen from other states that flock to Kano daily to buy and take those goods to Katsina, Zamfara, Jigawa, Gombe, Yobe, Maiduguri and even neighbouring countries without records. This is the same for all goods and in all the major distribution centres across the states of the federation. The bulk of that record does not exist. Nigeria's distributive trade is deeply more informal than the Chairman assumes. *Secondly*, no reasonable government will allow the NBS consumption data to be used as the basis for revenue sharing because of the risk of the politicization of the GDP data (the consumption data he used is part of the

GDP data). The NBS has, over the years, worked so hard and spent enormous resources to build high-quality reliable data and a good reputation. This government should not destroy it overnight. *Thirdly*, the consumption data he used is a poor indicator of where the VATable goods are consumed - it should not take an economist to recognize this flaw. The NBS consumption data refers to the "Household Final Consumption Expenditure", which includes VATble and non-VATable goods and services. By the NBS frame, about 52% of the consumption basket is food, which the bill exempted from VAT. In addition, there are imported goods, educational, health and transportation goods and services that the bills exempt from VAT. If the non-VATable share, about 82%, is taken out of the consumption basket, how can he use NBS consumption data to argue that Lagos is not favoured?[12]

[12] It is surprising that this misleading approach has already started influencing

2. **Contrary to his claim, a detailed computation of the PAYE would show that, although people at the minimum pay grade level are exempted and those slightly above will pay less, the bulk of the majority of civil servants (including those in the junior cadre) will pay more tax.** Analyses from tax experts show that any worker earning a net income of N100,000 per month and above will pay more tax based on the provision of this bill. This is not only unfair but grossly insensitive to the plight of Nigerian workers who have to provide for themselves everything that the government should ordinarily provide. For instance, these workers must pay private providers exorbitantly for health, education, security, electricity, water, etc. In fact, in some states, obnoxious laws obligate people to pay monthly charges to governments for the borehole they sunk despite the

some stakeholders. Agora Policy has produced scenarios showing how the states will fair under the proposed formula using the NBS Consumption data. This is misleading.

failure of the same government to provide them with reliable alternatives. This increase in the rate of income tax for most Nigerian workers is a direct repudiation of the President's campaign promise to only widen the tax net (tax base) and not the tax rate. This is certainly not the best way to "allow the poor to breathe."

3. **It is misleading to argue that the bills would not lead to the scrapping of some agencies:** When asked about the withdrawal of the direct funding of the three government agencies (The TETfund, NITDA and NASEINI), the Chairman of the Reform Committee said the Committee did not recommend the scrapping of any agency. That is a half-truth! He suggested that withdrawing their direct funding (in favour of the Students Loan Fund) means that they should be funded through the annual budgets. But TETFund was in the first instance created because of the failure of

successive governments to make adequate budgetary provisions for higher education. Curiously, he did not explain why his committee did not recommend the funding of the Students Loan Fund through annual budgets. Perhaps there is more to it than he is willing to divulge. It may have to do with the new funding model for higher education the details of which are yet to be made public. Given our experience, funding TETFund to adequately and sustainably fulfil its mandate through budgetary allocation is unrealistic. In the same vein replacing it with the Students Loans Fund may further cripple public tertiary education in Nigeria, even with the introduction of high fees as this government want to do. There is no harm, whatsoever, for the two Funds to co-exist. The assumption that NITDA and NASEINI would be adequately funded by budgetary allocation is naïve, to say the least, or deceptive. The government should allow an honest national debate, with all stakeholders' input if it has an agenda to scrap these agencies, rather than deceitfully starving them of funding until they go under like the defunct Education Bank. In the process of this National debate, new ideas may be generated. The TETfund itself was the product of the constructive engagement with ASUU and other stakeholders in the educational sector.

CONCLUSION

In a multi-ethnic and multi-religious society with weak state institutions like Nigeria, undertaking a major structural reform, be it economic or otherwise, requires wide consultations with a view to getting the buy-in of the wider section of the society. This will not only lessen the difficulties associated with the implementation of the reform but also take the steam out of those who want to capitalise on our fault lines to raise unnecessary tension. Unfortunately, the government has not engaged widely in order to seek the cooperation of the major stakeholders in the country on this reform. The belated attempts at engaging Nigerians have been, to say the least, haphazard, poor public relations exercise, just to create the impression that the government is reaching out to the people of Nigeria, explaining the objectives and the general principles behind the reforms. However, careful analysis of what is being dished out by the drivers of the reforms reveals that the bulk of it is half-truths if not outright lies. There is no genuine effort at consensus-building. Rather, a section of the country is being vilified. While there is justification for the reform of Nigeria's tax system, it becomes counter-productive if such an exercise ignores our social, political and economic realities. This is all the more important given the fact that the bills presented to the National Assembly have serious implications for the current structure of the Nigerian federal system. Bulldozing the National Assembly to give the bills quick passage without a national debate may turn out to be counterproductive as it will heighten the tension in the country and further erode the trust Nigerians have in that important state institution.