



NATIONAL POLITICAL REFORM CONFERENCE REPORT: The Amendments Confab Proposed

SECTION 1:

CONSTITUTIONAL CHANGES AND AMENDMENTS

VOLUME II: IMPLEMENTATION GUIDE

This Volume is the collation of the recommendations of the National Political Reforms Conference in the following categories to guide implementation

1. Constitutional Amendments (Section I)
2. National Acts (Section II)
3. State Laws (III)
4. Policy Matters (Section IV)

RECOMMENDATIONS

To advance Human Rights

1. Chapters II and IV of 1999 Constitution to be merged and designated "BILL OF RIGHTS".
2. To provide for:
 - (i) Free and compulsory basic education.
 - ((ii) Pre and Post natal medical care
 - (iii) Medical care for:
 - (a) Children up to the age of 5;
 - (b) Disabled persons; and
 - (c) Senior persons over sixty years.

And that those years be made justiciable (pg. 145)

3. Outlaw by Constitution cultural and customary practices which violate the basic rights (Fundamental Human Rights)).

4. Language of the Constitution to be gender neutral.

(B) Women's Rights

5. To create Equal Opportunities Commission to replace the Federal Character Commission — So that geography, ethnicity, gender and disability are reflected in representation.

C. Rights of Persons with Disabilities (Physically Challenged Persons)

6. To provide that in affirmative action so that gender, Amend Section 42 sex and disability do not disqualify citizens for any position for which they qualify.

7. To establish an Independent Commission for Persons with Disabilities.

D. Political Rights of Minorities

8. To provide the Principle of Power Rotation so that Amend Chapter 6 Executive positions rotate at Federal, State and Local Government.

9. To remove Hausa, Igbo, and Yoruba as Languages used at the National Assembly because it is discriminatory: Ref: Section 55 of the 1999 Constitution.

E. Notes and Orders

10. That the format of the Constitution should include specific/sections on the rights of vulnerable groups including, women, children, and disabled persons.

11. For emphasis, that the rights of women, children, and persons with disabilities should be underscored by explicitly identifying the groups and attributing rights to them.

12. Some social and economic rights should be explicitly defined and explicitly designated as justiciable basic rights of Nigerians, despite reservations about the ability of the State to provide all social and economic rights.

13. That all Nigerians should be equally treated wherever they choose to reside.

14. Married women (persons) should enjoy the same rights and privileges as their spouses in their status.

15. That the language and format of the Constitution should be simplified to enable the averagely literate Nigerian to understand it. (South African Constitution as model).

16. The language used throughout the (B) institution should be gender sensitive or gender neutral. For example the use of "he" should be replaced with 'Person' or where appropriate, the phraseology "he/she" should apply.

17. That Section 29 (4) (b) of the 1999 Constitution be expunged.

18. That without prejudice to Section 42 (i) (h) a clause should be inserted in Section 15 (2) to read; 'Women should occupy not less than 30% in all appointive and elective positions at all levels, 5% of which should be women with disability/physically challenged.

19. That the devolution of powers as contained in the draft 1995 Constitution be upheld with regard to education in general and tertiary education in particular, and that Federal educational institutions should be collectively owned by States in the geo-political zone where such institutions are located and funded through first charge deductions from the allocation of such States. (pg. 113 of the report).

20. That Section 17 (3) (c) and (d) of the 1999 Constitution be expunged.

A new Section 18 for health

objectives should read as follows: new Section emphasising right to health.

Section 151 —Office of the Surgeon General of the Federation.

NEW SECTION 151

1. There shall be a Surgeon General of the Federation who shall be the Adviser on Health Matters to the President through the Minister of Health.

2. A person shall not be qualified to hold or perform the function of the Surgeon-General of the Federation unless He/She is not less than 45 years and He/She is qualified to practice as a medical practitioner in Nigeria and has been so qualified for not less than 15 years.

Section 153 — National Health Commission.

The National Health Policy 2004, the National Health Bill 2004 and the Health Sector Reform Programme 2004-2007, make provision for the National Primary Health Care Development Agency and the National Hospital Services Agency.

There are also other health agencies such as National Programme on Immunization (NPI), National Action Committee on AIDS (NACA) and National Agency for Food and Drug Administration and Control (NAFDAC). Despite the existence of these agencies and the increased resources committed, the standard of health care continues to fall and the Millennium Development Goals (MDGs) remain a mirage. For example, the decline in immunization coverage from 85.2% in 1992, to 40% in 1999 and 13% in 2003. We therefore strongly recommend the establishment of an umbrella body to be called the National Health Commission to provide professional supervision and coordination of all health agencies and organisation in Nigeria through the Minister of the Government of the Federation charged with the responsibility for health.

21. Devolution responsibilities:

Tertiary health care to Federal Government; Secondary health care to State Government; Primary health care to Local Government.

22. That in order to effect strict observance of:

(1) the rights of the child,

(2) responsibilities and duties of the government, parents, and society and for governments to implement the Child Rights Act 2003, the provision should be made constitutional.

Constitutional Provision That:

(1) Enshrine the right of every Nigerian to clean and healthy environment under Fundamental Human Rights provision.

(2) Section 251 (1) of 1999 Constitution to be amended so as to give jurisdiction to the State High Courts over items listed under Sections 25 [(1) (n). in order to give easier access to justice.

(3) The Land Use Act to be reviewed.

Devolution of Powers

1. Devolution of powers: that more powers should be devolved to the other tiers of government (rather than the Federal Government) i.e. to the States and Local Governments.

2. That the Legislative Lists should provide a concurrent list for the States.

Creation of Additional State for South-East

3. Following the decision that States should be the federating units, it was agreed that the South-East being the only zone with five States be given an additional state.

Creation of Other States

4. That the creation of States should be based on viability criteria, and that Section 8 of the 1999 Constitution should be retained with the following amendment:

"The result of the referendum to be approved by a two thirds majority of the House of Assembly of the States that the new state is being carved out from."

Traditional Institutions.

The adoption of the provisions of 1995 Draft Constitution. Section 154 (i) (h) for the Federation and Section 197 Sub-section (1) and Schedule III Parts I & II for the States.

Structure and organisation of the Public Service of Nigeria.

1. The position of the Permanent' Secretary — that the office of the Permanent Secretary should be clearly defined in the Constitution such as was the case in the 1979 Constitution. His functions and role relationship with the Secretary to the Government of the Federation and the Chief of Staff be clearly spelt out to avoid conflict.

2. That three positions of Secretary to the Government of the Federation (SGF), Chief of Staff (COS) and Head of Service of the Federation (HOS) should be reflected in the Constitution and their roles and functions administratively defined to avoid conflicts

Recommended the amendment of the Legislative lists as follows:-

Proposed Exclusive Legislative List

1. Accounts of the Government of the Federation, and of Offices, courts and authorities thereof, include audit of those accounts.
2. Aviation, including airports, security, safety of aircraft and carriage of passengers and goods by air.
3. Award of national titles of honour, decorations and other dignities.
4. Banks, banking, exchange control, bills of exchange, currency, coinage, legal tender and promissory notes.
5. Borrowing of moneys within or outside Nigeria for the purpose of the federation or of any region.
6. Census, including the establishment, and maintenance of machinery for continuous and universal registration of births and deaths throughout Nigeria.
7. Citizenship, naturalisation, immigration into and emigration from Nigeria, passports, aliens', and deportation of persons who are not citizens of Nigeria.
8. Construction, alteration and reconstruction of such roads as may be declared by the National Assembly to be Federal Trunk roads.
9. Control of Capital issues.
10. Copyright, patent, trade marks, industrial designs and merchandise marks.
11. Creation of States.
12. Customs, excise and export duties.
13. Defence, Military (Army, Navy and Air force) including any other branch of the armed forces of the federation.
14. External affairs, Diplomatic, Consular and visas.
15. Election to the offices of President and Vice President, National Assembly. State offices and legislature and any other office to which a person may be elected under this constitution by a national body independent of any tier of government.
16. Extradition.
17. Implementation of treaties relating to matters on this list.
18. Insurance.
19. Legal proceedings between governments of states or between the government of the federation and government of any state or any other authority or person.
20. Maritime, shipping and navigation, including:
 - a) Shipping and navigation on tidal waters;

b) Shipping and navigation on the River Niger and its affluent and on any such other inland water way as may be designated by the National Assembly to be an International water way or to be an inter -regional water way;

c) Light houses, light ships, beacons and other provisions for the safety of shipping and navigation:

d) Such ports as may be designated by the National Assembly to be Federal Ports (Including the Constitution and powers of Port authorities for Federal Ports).

21. Meteorology

22. Mines and minerals, including oil fields, oil mining, geological surveys and natural gas, provided that the government of the State where the mining activities take place shall be involved in all matters relating to land and environment.

23. Minimum Wage for the State and any part thereof.

24. National Parks being such areas in a state as may, with the consent of the Government of that state, be designated by the National Assembly as national parks.

25. Nuclear energy.

26. Pensions, gratuities and other like benefits payable out of the Consolidated Revenue Fund or any other public funds of the federation to retired Federal Civil or Public officers.

27. Police and other government security services established by law.

28. Posts and telecommunication.

29. Powers and privileges of National Assembly and immunities of its members except on criminal matters.

30. Professional occupations as can be designated by the National Assembly.

31. Public debt of the federation

32. Public relations of the federation.

33. Public services of the Federation.

34. Regulation of Political parties.

35. Service and execution in a State of the civil and criminal processes, judgements, decrees, orders and other decisions of any court of law in Nigeria other than a court of law established by the legislature of that State.

36. The establishment and regulation of authorities for the federation or any part thereof to promote and enforce the observance of the fundamental objectives and directive principles contained in this constitution.

37. Traffic on Federal trunk roads

38. Water from such sources as may be declared by the National Assembly to be sources affecting more than one state.

39. Weights and Measures

40 Wireless, broadcasting and television other than broadcasting and television provided by the Government of a State; allocation of wave-lengths for wireless. broadcasting and television transmission.

41. Any other matter with respect to which the National Assembly has power to make laws in accordance with the provisions of this Constitution.

Proposed Concurrent List:

1. Subject to the provision of this Constitution, the National Assembly may by act make provisions for:

(a) The division of public revenue

(i) Between the Federation and the State;

(ii) Among the States of the Federation;

(b) grants or loans from and the imposition of charges upon the Consolidated Revenue Fund or any other public funds of the Federation or for the imposition of charges upon the revenue and assets of the Federation for any purpose notwithstanding that it relates to a matter with respect to which the State Assembly is not empowered to make laws.

2. Subject to the provisions of this Constitution, any State House of Assembly may make provisions for grants or loans from and the imposition charges upon any of the public funds of that Federal/State or the imposition of charges upon the revenue and assets of that Federal/State for any purpose notwithstanding that it relates to a matter with respect to which the National Assembly is empowered to make laws.

3. The National Assembly may make laws for the Federation or any part thereof with respect to such antiquities and monuments as may be require , with the consent of the State in which such antiquities and monuments arc located, be designated by the National Assembly as National Antiquities or National Monuments, but nothing in this paragraph shall preclude a State House of Assembly from making laws for the Federal/State or any part thereof with respect to antiquities and monuments not so designated in accordance with the foregoing provisions.

4. The National Assembly may make laws for the Federation or any part thereof with respect to the archives and public records of the Federation.

5. A State house of Assembly may, subject to paragraph 4 hereof make laws for that State or any part thereof with respect to archives and public records of the Government of the Stale.

6. Nothing in paragraph 4 and 5 hereof shall be construed as enabling any laws to be made which do not preserve the archives and records which are in existence at the date of commencement of this Constitution, and which are kept by authorities empowered to do so in any part of the Federation.

7. In the exercise of its power to impose any tax or duty on:

- (a) Capital gains, incomes or profits of persons other than companies and
- (b) Documents or transactions by way of stamp duties.

The National Assembly may, subject to such conditions as it may prescribe, provide that the collection of any such tax or duty or the administration of the law imposing it shall be carried out by the Government of a State or other authority of a State.

8. Where an act of the National Assembly provides for the collection of Tax or duty on capital gains, incomes or profit, or the administration of any law by an authority of a state in accordance with paragraph 7 hereof, it shall regulate the liability of persons to such tax or duty in such manner as to ensure that such tax or duty is not levied on the same person by more than one state.

9. The National Assembly may make laws for the Federation or any part thereof with respect to-

- a) Electricity and the establishment of electric power stations
- b) The generation and transmission of electricity in or to any part of the Federation and from one state to another state:
- c) The regulation of the right of any person or authority to darn up or otherwise interfere with the flow of water from sources in any part of the Federation.
- d) The participation of the Federation in any arrangement with another country for the generation, transmission and distribution of electricity for any area partly within and partly outside the Federation.
- e) The promotion and establishment of a National Grid system; and
- f) The regulation of the right of any person or authority to use, work or operate any plant apparatus, equipment or work designed for the supply or use of electrical energy.

10. A State Assembly may make laws for the state with respect to-

- a) electricity and the establishment in that state of electric power stations.
- b) The generation, transmission and distribution of electricity to areas not covered by a national grid system within that state; and
- c) The establishment within that state of any authority for the promotion and management of electric power stations established by the state.
- d) The regulation of the right of any person or authority to dam up or otherwise interfere with the flow of water from sources in any part of the Federation.
- e) The regulation of the right of any person or authority to use, work or operate any plant apparatus, equipment or work designed for the supply or use of electrical energy.
- f) The regulation of the right of any person or authority to use, work or operate any plant apparatus, equipment or work designed for the supply or use of electrical energy.

11. In the foregoing provisions of this item, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them —

"Distribution" means the supply of electricity from a sub-station to the ultimate consumer.

"Management" includes maintenance, repairs or replacement.

"power station" means an assembly of plant or equipment for the creation or generation of electrical energy; and

"Transmission" means the supply of electricity from a power station to a sub-station or from one sub-station to another sub-station, "Sub-station" herein is a reference to an assembly of plant, machinery or equipment for distribution of electricity.

12. The National Assembly may make laws for the establishment of an authority with power to carry out censorship of cinematography films and to prohibit or restrict the exhibition of such films; and nothing herein shall

a) Preclude a State House of Assembly from making provision for a similar authority for that state:
or

b) Authorise the exhibition of a cinematography film in a region without the sanction of the authority established by the law of that region for the censorship of such films.

13. Arms, Ammunition and explosives.

14. Bankruptcy and insolvency.

15. Commercial and industrial monopolies, combines, trusts and designation of securities in which trust funds may be invested.

16. Creation of States.

17. Drugs and poisons.

18. Environment

19. Evidence, fingerprints, identification and criminal records.

20. Fishing and fisheries other than fishing and fisheries in rivers, lakes, waterways, ponds and other inland waters within Nigeria.

21. Health.

22. Housing.

23. Incorporation, regulation and winding up of bodies corporate.

24. Maintenance of Federal Trunk Roads.

25. Prisons.

26. Public holidays of the State.

27. Quarantine.

28. Registration of trade or business names.

29. Taxation of incomes, profits and capital gains, except as otherwise prescribed by this constitution.

30. Trade, commerce, and trade representation.

31. The formation, annulment and dissolution of marriages other than marriages under Islamic Law and customary Law including matrimonial causes relating thereto.

32. The National Assembly may make laws for the Federation or any part thereof with respect to —

a) The health, safety and welfare of persons employed to work in factories, offices or other premises or in inter-state transportation and commerce including the training, supervision and qualification of such persons.

b) The regulation of ownership and control of business enterprises throughout the Federation for the purpose of promoting, encouraging or facilitating such ownership and control by citizens of Nigeria.

c) The establishment of research centres for agricultural studies; and

d) The establishment of institutions and bodies for the promotion or financing of industrial, commercial or agricultural projects.

33. Subject to the provisions of this Constitution, a State Assembly may make laws for that state with respect to industrial, commercial or agricultural development of the state.

34. Nothing in the foregoing paragraphs of this item shall be construed as precluding a State Assembly from making Laws with respect to any of the matters referred to in the foregoing paragraphs.

35. For the purposes of the foregoing paragraphs of this item the word "agricultural" includes fishery.

36. The National Assembly make Laws to regulate or co-ordinate scientific and technological research throughout the Federation.

37. Nothing herein shall preclude a State Assembly from establishing or making provisions for an institution or other arrangement for the purpose of scientific and technological research.

38. The National Assembly may make Laws for the Federation or any part thereof with respect to statistics so far as the subject matter relates to

a) Any matter upon which the National Assembly has power to make laws; and

b) The organisation of a co-ordinated scheme of statistics for the Federation or any part thereof on any matter whether or not it has power to make laws with respect thereto.

39. A State Assembly may make Laws for the State with respect to statistics and on any matter other than that referred to in paragraph 38 (a) of this item.

40. The National Assembly may make laws for the Federation or any part thereof with respect to trigonometrical, cadastral and topographical surveys.

41. A State Assembly may, subject to paragraph 40 hereof, make Laws for that State or any part thereof with respect to cadastral trigonometrical and topographical surveys.

42. The National Assembly shall have power to make laws for the Federation or any part thereof with respect to university education, technological education or such professional education as may from time to time be designated by the National Assembly.

43. The power conferred on the National Assembly under paragraph 42 of this item shall include power to establish an institution for the purposes of university, post-primary, technological and professional education.

44. Subject as herein provided, a State Assembly shall have power to make Laws for the State with respect to the establishment of an institution for purposes of university, technological or professional education.

45. Nothing in the foregoing paragraphs of this item shall be construed so as to limit the powers of a State Assembly to make Laws for the State with respect to technical, vocational, post primary, primary or other forms of education, including the establishment of institutions for the pursuit of such education.

Proposed state List:

1. Accounts of the Government of the state and offices, Courts and Authorities thereof, including audit of those accounts.

2. Agriculture and forestry, including agricultural and forestry education.

3. Arts and Culture.

4. Betting and Gambling.

5. Borrowing of moneys within Nigeria or outside Nigeria for the purpose of the State provided the approval of the Federal Government is obtained for foreign loans.

6. Construction, alteration and reconstruction of such roads as may be declared by the State Assembly to be State Trunk roads.

7. Creation of Local Government Areas.

8. Education — establishment, maintenance and running of primary, post primary and tertiary institutions,

including universities.

9. Fees in respect of the matters in this list, but not including fees taken in any Court.
10. Fishing and fisheries in rivers, lakes, waterways, ponds and other inland waters in a state.
11. Industries except those for defence.
12. Jurisdiction and powers of Courts established for or by the state with respect to any matter in this list.
13. Land that is to say, rights in or over land, land tenures including the relationship of landlord and tenant, and the collection of rents.
14. Legal proceedings between governments of states or between the government of the region and government of any state or any other authority or person.
15. Maintenance of Federal Trunk roads within the State
16. Offences against Laws with respect to any of the matters in this list.
17. Powers and privileges and of the State House of Assembly and its members excluding criminal matters.
18. Preservation, protection and improvements of livestock and prevention of animal diseases, veterinary training and practice.
19. Production, supply and distribution of goods.
20. Public debt of the state.
21. Public health sanitation and hospitals.
22. Public order in aid of civil power, but not including the use of the Armed Forces.
23. Public Service of the state, including the settlement of disputes between the state and officers of such service.
24. Public relations of the state.
25. Rates of stamp duty in respect of documents and transaction other than those specified in the provisions of the Federal Legislative List with regard to rates of stamp duty.
26. Service and execution in a State of the civil and criminal processes, judgements, decrees, orders and other decisions of any court of law in Nigeria other than a court of law established by the legislature of that state.
27. Registration and regulation of cooperative societies, local government councils and bodies corporate established directly by any law enacted by a State House of Assembly
28. Salaries and allowances of the Governor, Deputy Governor, members of the House of Assembly, other members of the State Executive Council, Chairman and Vice-Chairman of Local Government Council, Councillors and other Political office holders.

29. Sports, entertainments and amusement.
30. State Archives, Libraries and Museum.
31. The State Assembly may make laws for the State with respect to the registration of voters and the procedure regulating elections to a local government council.
32. Trade, Commerce and Tourism within the state.
33. Trade Fairs.
34. Traffic on State roads.
35. Transportation that is to say, roads, bridges, ferries and other means of transportation not specified in the Federal Legislative list; inland waterways and traffic thereon, subject to the provisions of the Federal and State Exclusive Lists.
36. Taxes on Incomes or profits of persons, capital gains, estates, property, vehicles, advertisements (other than those advertisements published in newspapers, radio and television) and taxes on luxuries such as entertainment, amusement, betting and gambling.
37. A State House of Assembly may, subject to such condition as may be prescribed, make provisions for the collection of any tax, fee or rate or for the administration of such Law providing for such collection by a local government council.
38. Where a law of a State House of Assembly provides for the collection of tax, fee or rate or for the administration of such Law by a Local Government Council in accordance with the provisions hereof, it shall regulate the liability of persons to the tax, fee or rate in such manner as to ensure that such tax, fee or rate is not levied on the same person in respect of the same liability by more than one Local Government Council.
39. Tolls on State roads.
40. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power, subject to the provisions of the Federal and state Legislative Lists.
41. Any other matter with respect to which the State Assembly has power to make laws in accordance with the provisions of this Constitution.

RECOMMENDATION

- (a) Sub-Section 7 add (d) any matter not specifically mentioned in that constitution should fall within the legislative competence of the States legislative list
- (b) The quorum for constituting either the Senate or the Amend Section 54 House of Representatives shall be one half of the members of that House
- (c) Change S. 55 to read

"The business of the National Assembly shall be conducted in English and other Nigerian Languages

when adequate arrangement has been made there-of'

(d) Change S.56 (2) and put "the required majority for the purpose of determining Amend Section 56 (2) any question shall be by simple majority of all members of that House except otherwise provided by the Constitution"

(e) Amend the Section to be:

(i) The President shall submit to the National Assembly an Appropriation Bill at least six months before the beginning of the financial year in which the Bill relates.

The National Assembly shall forward the passed Bill to the President at least 3 months before the

(ii) beginning of the financial year to which the Bill relates.

(iii) In the circumstance that the President withholds his assent and the National Assembly is made to override his vote by two thirds of the members, if the bill is passed again by a simple majority at a joint sitting of the National Assembly, it shall become a law.

(f)The tenure of the members of the National Assembly as under the American system. That the affecting of members of the both Houses of the National Assembly shall stagger.

(g) The word "immediately" in the Sub-Section be substituted with "within" 24 hours"

(k) Delete and put -

"An independent candidate may also contest"

(1) Substitute "30 days" with "90 days"

(m) The Section should be amended to recognise only an indictments by the Judicial Commission of Inquiry of competent jurisdiction.

(n) Add

"Any member of the National Assembly or State Assembly that is indicted by the Code of Conduct Tribunal"

(o) Delete this and substitute with a provision for "State Assembly Service Commission"

(p) Substitute one third with "one half"

(q) There shall be staggering of the life of the House. This implies one half of the members vacating after two years to resume 2 years, thereafter, while other half of the members serve for a continuous 4 years

(r) Substitute the word immediately with "within 24 hours"

(s) An independent candidate shall contest election if he so desires

(t) A candidate shall be disqualified if he is indicted by the Judicial Commission of Inquiry or a Court of Competent jurisdiction

(u) A member of the House shall vacate his seat if he is indicted by the Code of Conduct Tribunal for committing a breach of any of its provisions

The Composition of National Electoral Commission

1. The Commission shall consist of a Chairman who shall be the Chief National Electoral Commissioner and the Chief Executive of the Commission and fourteen other members to be known as National Electoral Commissioners.

2. Membership of the Commission shall be constituted as follows:

(i) Six members nominated by the President;

(ii) Three members nominated by Political Parties in accordance with their representation in the National Assembly;

(iii) One member nominated by Professional Bodies;

(iv) One member nominated by Women Organisations;

(v) One member nominated by Labour Organisations;

(vi) One member nominated by the Youths Organisations;

(vii) One member nominated by the Civil Society Groups;

(viii) One member nominated by the representatives of Nigeria Media Organisations.

3. The Chairman and members of the Commission shall, not be less than 50 and 30 years of age respectively.

4 Functions

Issue guidelines for participation in all Elections.

5 Funding

There shall be established for the Commission a Fund to be known as National Electoral Commission Fund, which shall be funded directly from the Federation Account.

6. Establishment of Constitutional Court

The Committee recommended that Constitutional Court be provided for in the Constitution for Presidential Election Petitions and as Appellate Court for Gubernatorial, National and State Assembly Elections and Local Governments. All Election Petitions must be concluded within 90 days of conclusion of elections.

7. No Oath to be Administered until Determination of Election Petition:

No person whose return is questioned in an Election Petition shall be sworn in to perform the duty of the office until the petition and any appeal arising from it had been fully determined.

8. Introduction of Independent Candidate

The Conference recommended emergence of INDEPENDENT CANDIDATE in elections.

9. Qualification and Disqualification

A - PRESIDENT

1. A person shall not be qualified for election to the office of President if—

Amend Sections 68 and 109 for National Assembly and State Houses of Assembly respectively.

(a) he has been elected to such office in the immediate past election under 1999 constitution; or

(b) he has been elected into such office at two previous elections whether under this or any other constitution; or

(c) he has previously held such office either as a Head of State or President.

B - GOVERNOR:

No person shall be qualified for election to the office of Governor of a State if—

(a) he has been elected to such office at two previous elections whether under this or any other constitution; or;

(b) he has-previously held such office either as a Governor or Administrator;

(c) he has been elected to such office in the immediate past election.

11 Carpet-Crossing;

The Committee recommended that:

'Any elected person on a party's platform who decamps to another party before the expiration of his or her term of office shall automatically forfeit his or her office or seat'.

Amend Sections 65, 106, 131 and 177 of the 1999 Constitution.

1. Matters concerning Local Government be entirely left for the States in line with our resolve to operate a federal system of government but with constitutional provision to guide against abuse.

2. The States shall by law provide for the establishment, of structure, composition, finance and functions of Local Government Councils,

3. All funds due to Local Governments should be shared to the States on the basis of the indices used in allocating funds to States in the federation and not the number of local governments in a State. In other words, the 20% or so charged to the distributable pool for local governments in the

Federation Account should be lumped to the States share and allocated, using the same indices of allocation used in sharing monthly allocations to the States.

3(a) The Conference recommends that the bulk allocation he made to states in respect of their local governments irrespective of the number of the local governments in any particular state.

4. The Conference recommends further that local government funding by the States should be guaranteed in the Constitution.

5. Conference recommends that violation(s) of this provision by any State Government be an impeachable offence.

6. The States and Local Government Councils should continue to fund primary education. State Government should be responsible for Primary School Teachers' salaries.

(7) Empower and strengthen the institution of the Office of State's Auditor General for Local Government to monitor and audit the accounts of Local Governments in the State. It is observed that at present, not all States operate this institution, which if properly established and equipped with qualified personnel can be a veritable agency for accountability. -

(8) All States should therefore establish the Office of Auditor General for Local Government. This should be enshrined in the Constitution.

1. Executive Immunity

(a) The immunity of office holders afforded under section 308 against civil proceedings should be retained in the Constitution.

(b) The immunity of office holders against criminal proceedings should be qualified to enable criminal proceedings to be instituted pursuant to the satisfaction of the Independent Counsel who shall apply to the Constitutional Court for leave to lift the immunity of the affected office holder.

2. The President of the Federal Republic of Nigeria or EFCC subject to confirmation by the Senate (the current position), while the other commissioners or members should be nominated by civil society for example: Nigerian Bar Association, Institute of Chartered Accountants, Nigerian Labour Congress, Union. Women Group. Traditional Institutions and Religious Bodies and other bodies.

The Chairman or members of such Agencies should only be removed by the President acting on an address supported by two-third majority of the Senate.

4. The office of an Independent Prosecutor should be established to enable that office take up cases of corruption if the Attorney General is unwilling to pursue such cases for reasons suspected to be protection of wrong doing.

5. Given the high prevalent rate of corruption and the crucial role of ICPC and EFCC in combating corruption it is recommended that both bodies should be entrenched in Section 153 of the 1999 Constitution that established the Code of Conduct Bureau and other Federal Executive Bodies.

6. For some unknown reason, the provisions in paragraph 11(1) of the Fifth Schedule to the 1979 Constitution requiring the assets of a spouse to be declared along with those of her husband have been omitted in the 1999 Constitution. These provisions should be reinstated.

(vii) Special Courts should be set up for prosecution of cases emanating from corrupt practices and such cases should not last more than 90 days. Alternatively, Federal High Court should be given exclusive jurisdiction in corruption cases so that no other judge of coordinate jurisdiction can grant injunctive orders restraining the court on issue of jurisdiction.

(viii) Adequate funding of ICPC, EFCC. Code of Conduct Bureau and Code of Conduct Tribunal.

(ix) Establish an effective enforcement Commission or Body separate from INEC to enforce registration and reporting requirements and leave INEC to face the onerous task of organising elections.

1. The Conference recommends that the holders of the offices of the President and the Governor currently serving a second term should be barred from seeking re-election to the same office.

2. There is the urgent need for the establishment of a balanced Federation in which powers of the Federal Government will be limited to what should obtain in a true Federation. Power must be devolved to the States to facilitate rural development and stem the rural-urban drift.

3. There is the equal need for the establishment of State Constitutions on the same lines as under the 1960 and 1963 Constitutions of the Federation.

4. A candidate for election to the office of the President must be a citizen of Nigeria by birth and have attained a minimum age of forty (40) years. He must have the Constitution for President and minimum qualification of School Certificate or its equivalent, and should be a person of honesty and integrity and visible means of livelihood. The same qualification applies to a candidate for the office of Governor of a State, save that the minimum age shall be Thirty five (35) years.

5. Independent candidates should be free under the Constitution to contest election into all public offices.

6. In addition to the provisions as contained in sections 143 and 188 of 1999 Constitution, the Conference recommends the appointment of an Independent Prosecutor to prosecute the case for the removal of the President or Governor of a State from office under sections 143 and 188 of the 1999 Constitution before the Independent Panel which will investigate the allegations against the office holder. He shall be appointed by the Chief Justice of Nigeria in a case against the President, or the Vice President, or the Chief Judge of a State where the case is against the Governor or Deputy Governor of the State.

7. There shall be prescribed in the Constitution a fixed day for the conduct of election, to the office of the President and the offices of the Governors of the States of the Federal Republic of Nigeria.

8. The Conference is of the view that a mere "indictment" for embezzlement or fraud is not enough justification for disqualification from election to the office of the President or the Governor as it is subject to abuse by political opponents. The Conference therefore, recommends that the words "he has been indicted for embezzlement or fraud..." — in section 137 (1)(i) of the 1999 Constitution be replaced with "he has been convicted for embezzlement or fraud..." For the same reason, including the need for "fair hearing", the Conference recommends that "an Administrative Panel of Inquiry" in the same section should be substituted for "a Court of Law".

9. The Conference recommends that section 137(2)(b) of the -1999 Constitution — "declared to be of unsound mind" – be deleted as it appears to be a repetition of section (137) (c).

10. Every Nigerian citizen shall have the right to challenge Amend 5th schedule to the Constitution in the High Court or the appropriate Tribunal the assets declaration, or any part of it, submitted by any public officer, including the President, the Vice President, the Governor or the Deputy Governor of a State.

11. In the event that a Medical Panel certifies in its report Amend Sections 144 and 189 of the Constitution that the President or Vice President, or the Governor of a State or the Deputy Governor is incapable of discharging the function of his office as specified in section 144 (2) or section 189 (2) of the 1999 Constitution, a notice to that effect shall be published in the Official Gazette not less than twenty-one (21) days from the date the resolution of the Executive Council of the Federation or of the State as the case may be is passed under section 144(l) (a) or section 189 (l) (a).

12. The Electoral body, to be known as National Electoral Commission (NEC), should be independent of executive control. Funding of the Commission should be made direct from the Consolidated Revenue Fund (CRF).

13. The Conference recommends that all election petitions or similar cases before a court or tribunal of competent jurisdiction pertaining to the election of the President or Governor of State, including all-appeals there from, should be concluded and determined before the date on which the President or the Governor is to take the oath of office.

14. All candidates for election to a public office, including that of the President or the Governor, must openly declare their assets at the (High Court of Justice) before assuming office, at mid-term and on leaving office. The asset declarations must be made public in the newspapers and on the Internet. The assets of a public officer, especially the President, the Vice President, the Governor or the Deputy Governor of a State, in form of stocks and shares should be held in blind trust while he or she is in office.

15. The Auditor General of the Federation or the Auditors-General of the States should be empowered to appoint professionally qualified auditors or audit firms, with reputation for integrity and honesty, to audit the accounts of bodies stipulated under those sections of the Constitution. The auditors so appointed should deliver their reports to the Auditor-General of the Federation or the Auditors-General of the States.

17. The report of the Auditor-General of the Federation or the Auditors-General of States should be made public through a publication in the media at the time of their presentation to the Legislatures.

19. The debate in the Legislature and the report of any investigations that the Public Accounts Committee of the National Assembly or the House of Assembly of a State may order should also be made public.

20. Individuals or Chief Executive or indicted organizations should be relieved of their appointment and be prosecuted in the appropriate courts for any criminal offences disclosed in the reports.

21. The Code of Conduct Bureau established pursuant to Section 153 of the 1999 Constitution should be constitutionally empowered and obliged to publish assets declarations in the National Dailies and the Bureau's website.

22. There should be a National Assets Investigation Panel or Commission to which complaints can be brought against public officers, including the President and the Governors. The Panel

should be constitutionally empowered to investigate the asset of any public officer and make its findings public.

23. A court which is solely specialized and dedicated to the speedy trials of offenders prosecuted by the Independent Corruption Practices Commission and the Economic and Financial Crimes Commission should be set up.

24. Anti-corruption agencies must be made to be truly independent. The appointment of members should therefore, be made by a committee comprising an equal number from the parties in the National or State Houses of Assemblies, and individuals from the academia, relevant civil society organizations such as Transparency International, human rights organisations. The funding of the anti-corruption agencies should come from the consolidated account.

25. Tenure of Office

1. The majority decision of the Conference was the retention of the provisions of the 1999 Constitution which stipulate a term of four years for the president and governors including a possible re-election of an incumbent for another term of four years. However, a minority favoured the adoption of a single term of six years for the President and a single term of 5 years for Governors without the possibility of re-election.

Environment and Natural Resources

Enshrine the right of every Nigerian to clean and Natural Resources healthy environment under Fundamental Human Rights in the Constitution.

Recommendation

Constitutional Provision Against Coup d'etat

RELEVANT SECTION OF 1999 CONSTITUTION

Amend Section 1 (2) of 1999 Constitution

I. Nigeria Police

Section 215 proviso to be abrogated

2. State Police

The Conference accepts a Nigeria Police Force, which operates on the basis of community policing under which people with local knowledge become part and parcel of the force as much as possible.

INDIGENESHIP

Chapter 3 section 26 (2) (a) of the constitution should be amended to read "Any person who is or has been married to a citizen of Nigeria

Agriculture:

Establishment of the National Commission on Food and Agriculture

Establishment of Joint Federal and State Planning Board

A Joint Federal/State Planning Board shall be established to complement the National Economic Council provided in section 18 of the 3rd schedule of the 199 Constitution.

The Board, which shall be purely technocratic and professional, will be responsible for preparing medium and long-range plan for the consideration and approval of the National Economic Council and endorsement of the National and State Assemblies. The Board shall, in the process, coordinate with all stakeholders, including the private sector, Federal, State and Local Governments and Civil Society. The annual capital development budgets of all the governments shall be in consonance with the approved development plans.

The Chairman, Deputy Chairman and members of the Joint Federal State Planning Board shall be designated by the President after consultation with the State governments and be approved by the Senate. Professionalism, character and integrity shall be the main consideration for appointment.

The Chairman of the Board shall serve for a fixed non-renewable term of five years while the deputy chairman (not more than 2 in member) and members (who shall not be more than one for each state) shall serve for three years renewable for another period of three years. The appointment of the two Deputy Chairmen one of whom shall come from the private sector, and the members shall be staggered. The organized private sector, women and youth shall be well represented on the Council.

During first quarter of every year the Joint Planning Board shall submit to the National and State Assemblies progress report on the implementation of the development programme.

To accord adequate importance to socio-economic and contain the high-level of recurrent expenditure which is invariably at the expense of development, a National Development Fund should be established. Not less than 40 per cent of the Consolidated Revenue Funds I (established by sections 80-81 for the Federal Government and sections 120-121 for the state) shall be dedicated for financing the development plan and paid into the development fund of each government. Under no circumstances will the proceeds of this fund be used for any purpose other than financing approved development programme.

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Economy

People's Charter of Economic and Social Rights and Obligation

(i) The State shall, within the context of the ideals and objectives for which provisions are made in this constitution:

(ii) Harness the resource of the nation with a view to transforming and modernizing its Agriculture and accelerating the process of industrialization and thereby promoting national prosperity and efficient dynamic self-reliant economy.

(iii) Add the words regulate, the before the word national in 16(1) (b)

(iv) Without prejudice to its rights to regulate or participate in any areas of the economy,

(v) The State shall provide appropriate infrastructure and create an enabling environment to accelerate the process of development

(vi) Protect the rights of every citizen to engage in any lawful economic activity

(vii) The state shall direct its policy towards ensuring the promotion of a planned, balanced competitive economy

(viii) That the Mineral Resources of the nation are

harnessed and efficiently utilised to serve the

Amend Chapters 11 & IV a common good

(ix) that the economic system is operated in a manner as to not permit the concentration of wealth or the means of production in the hands of few individuals or of a group; and that the economic system is operated in a manner as to guarantee the right of all citizens to adequate food, water and shelter; and a reasonable national minimum living wage, old care and pensions, unemployment and sick benefits and welfare as applicable~

(x) free management of goods and serviced unhindered' by tax collection or any form of harassment by Federal State and Local Government

(xi) Section 18-(3)

-Government shall endeavour to eradicate illiteracy and provide appropriate technical skills at all levels of Education and to this end, it shall provide free, compulsory and universal quality primary and Junior Secondary School level and technical Education. It shall also strive to provide free senior Secondary level Education free senior Secondary level of Education free tertiary level Education; and free adult literacy Section 20 to read

"The State shall protect the environment and integrate development system to ensure sustainable management of natural resources, including the preservation of bio diversity as an objective of development"

Insert after section 42 (3) a new section taken from section 45 of the 1995 Constitutions and amended as follows:

42 (4) Every Nigerian Child shall be entitled to free and compulsory tertiary and junior secondary school level of Education which shall be provided by the Constitution"

Revenue Allocation and Fiscal Federalism

New Creation: Establishment of the Office of Director-General to function under Revenue Mobilization, Allocation and Fiscal Commission

Establishment of Solid Minerals Producing Area Development Commission (SOMPADEC)- Amend Section 153 (2)

Establishment of Hydro Power Area Development Commission- Amend Section 153 (2)

Restoration of on-shore off-shore oil dichotomy No consensus

Revenue Mobilization Allocation and Fiscal Commission- amend Section 153

(j) RMAFC to be an independent body.

(ii) The Constitution to guarantee the independence of RMAFC in terms of both composition and funding

(iii) The RMAFC to be strengthened and empowered by the Constitution to undertake the assignment.

(iv) The management of every State to harmonise representative in the Commission shall be guaranteed.

(v) Appointment of Director-General in charge of Federation Account under the Commission.

(vi) Funding of the Commission shall be directly from Federation Account.

- The various mineral resources should be controlled and managed by the Government of the Federation through an arrangement which involves Oil Producing States and Communities; in particular, the rights and privileges which the Mineral and Mining Act of 1999 confers on States, Local Governments, Communities and land owners should equally be extended to the case of petroleum resources;
- Derivation Principle should be given greater prominence than as at now in the distribution of the Federation Account;
- It was the majority view that the mineral producing areas deserve more than the 13% derivation specified in the 1999 Constitution. Most members suggested increases ranging from 13% to 60%. Others however opined that the exact figure should best be established after taking into account all relevant scientific and political considerations. The Committee therefore recommends that a Special Committee be set up to advise on the exact amount of increase in the derivation percentage;
- That the existing formula for the distribution of Federation Account to the Federal Government, State Governments and Local Governments should be reviewed;

That the derivation principle should be applicable to all revenues, except VAT, accruable to Federation Account; and

That there should be special fund for ecological, natural and man-made disaster, with a Special Agency set up to administer the fund.

A clear affirmation of the inherent right of the people of the oil producing areas of the country not to remain mere spectators but to be actively involved in the management and control of the resources in their communities by having assured positions in the Federal Government mechanisms for the management of the oil and gas exploration and marketing.

expert commission should be appointed by the Federal Government to study all the ramifications of the industry including revenue allocation with a view to reporting within a period of not more than six months, how the mineral resources concerned can best be controlled and managed to the benefit of the people of both the states where the resources are located and of the country as a whole.

- An increase in the level of derivation from the present 13% to 17% in the interim pending the report of the expert commission. Delegates from the South-South and other oil producing states insisted on 50% as the irreducible minimum. Having regard to national unity, peace and stability, they are willing to accept, in the interim, 25% derivation with a gradual increase to attain the 50% over a period of five years.

The State/Local Government Joint Account be scrapped. in its place, the Conference recommends the establishment of a State Revenue Mobilization Allocation and Fiscal Commission (SRMAFC) with representatives of Local Government and a Chairman appointed by the Governor. All nominees must be screened by the State House of Assembly.

In allocating money to the State and all Local Governments within it, the state Revenue Mobilization Allocation and Fiscal Commission (SRMAFC) shall apply the same revenue allocation formula adopted by the revenue Mobilization Allocation and Fiscal Commission to allocate money from the Federation Account.

Amend Section 162 (5)

State Joint Local Government Account

The Local Government affairs are the sole responsibility of State. Thus the Government of every State shall ensure their existence under a law which provides for the establishment, structure, composition, finance and functions of such councils. Consequently, section 8(3) (4) of the 1999 Constitution are unnecessary just as the listing of areas in States in the First Schedule of the Constitution should be removed.

That the number of Local Governments in a State should not count as criteria for revenue allocation.

That the Citizenry in each State shall be constitutionally empowered to monitor and challenge any violation and mismanagement of public funds. Public Complaints Commission should be made more effective and Economic and Financial Crimes Commission should be empowered to scrutinize government expenditure at all levels of overnrmnt.

(i) The salary and other emolument of the State Judiciary both by the Judicial and non Judicial officer to befiargd from the Consolidated Revenue Fund of the State.

(ii) to provide for both capital and recurrent expenditure of the Judiciary at all level be charged from the Consolidated Revenue Funds at the Federal and State levels.

(iii) To provide that there these funds together with the funds of the Federal Judiciary be deducted at source and paid to the National Judicial Council for Direct disbursement to the Judiciary

Traditional Institution and Cultural Reform

Establishment of the National Council of Traditional Rulers

(i) National Council of States Traditional Rulers should be included in the membership of the National Council of States. The 1999 Constitution should therefore be amended accordingly.

New constitutional provisions sh made to give effect to the recommendation.

Membership and Tenure

(a) One from each political zone (6) who shall be the Chairman of the Council of Chiefs of his State

(b) Membership shall be rotational for the duration of one year within the states of each zone.

iii) National Council of Traditional Rulers There shall be established a National Council of Traditional Rulers at the Federal Level to be presided over by the President, with the following functions:

(a) giving general advice to the Federal Government;

(b) undertake an evaluation of traditional customs and usages with a view to eliminating those customs and usages that are outmoded and socially harmful;

(c) advising the Federal Government on proposed development plans for Nigeria, as they see them from grassroots perspectives;

(d) advising on religious matters where appropriate;

(e) promoting and advising on Arts and Culture;

(f) deliberating and expressing opinions to any Federal organization on any matter which it deems to be of importance to the whole country which may be referred to it by the Federal Government or other Federal Organisations;

(g) assist in resolving boundary disputes

(h) assisting in mobilisation of human and material resources towards self-reliance and welfare of the people of Nigeria;

(i) Such other functions as the Government of the Federation may refer to the Council from time to time.