

**PROPOSED
CONSTITUTION
OF THE
FEDERATING
STATES OF
NIGERIA**

Proposed Constitution of the Federating States of Nigeria

We the peoples and tribes of the amalgamated territories known and geographically defined as Nigeria, in our bid to build one united country governed by law do declare and after fully representative discussions, debates and referendum hereby enact and give to ourselves the following Constitution:

CHAPTER 1: Supremacy of the Constitution, Nigeria and its Territories

Effect of this Constitution

1. This Constitution shall have the force of law throughout Nigeria, if any other law (including the constitution of a Region) is inconsistent with this Constitution, this Constitution shall prevail, and the other law shall, to the extent of the inconsistency, be void.

Establishment of the Federal Republic

2. Nigeria shall be a Federation comprising of Regions and a Federal Territory and shall be a Republic by the name and style of the Federal Republic of Nigeria.

Territories of the Federation

- 3(1) The Federal Republic of Nigeria shall consist of 6 territories and a federal capital territory.
- (2) The territory of the Federal Republic of Nigeria shall consist of the North Western Region, North Eastern Region, North Central Region, South Eastern Region, South Southern Region, South Western Region, and the Federal Capital Territory of Abuja.
- (3) The Regions and Federal Capital Territory shall consist of the areas indicated in Schedule 1 to this constitution.

Alteration of this Constitution

- 4(1) The House of Representatives may alter any of the provisions of this Constitution provided that a bill of the House of Representatives altering this Constitution shall not come into operation unless each legislative house of at least four Regions have passed a resolution adopting such alteration and the President has assented to the bill on the advice of the Prime Minister.
- (2) A bill for an Act of the House of Representatives altering the provision of this constitution, shall not be passed in the House of Representatives unless it has been

supported on second and third readings by the votes of not less than two-thirds of all the members of that House of Representatives.

- (3) Alterations to section 3 of this Constitution for the purpose of establishing new Regions out of other territories shall be effected only in accordance with the following procedure:
 - (a) A proposal for the alteration shall be submitted to the House of Representatives by the Government of the Region seeking the creation of a new Region from its territory or by a community of not less than one hundred thousand people, within the Region.
 - (b) The proposal shall contain the proposed name, estimated population and map of the new Region, duly endorsed by a Surveyor in the Civil Service of the Federation designated by the Prime Minister for this purpose.
 - (c) A proposal submitted pursuant to Section 4(2)(a) above shall be debated in the House of Representatives and if supported on second and third readings by the votes of not less than two-thirds of all the members of that House of Representatives, the proposal shall be submitted to the legislative houses of all the Regions for adoption by resolution of majority of members of the Legislative Houses of all the Region and if so adopted, the proposal shall become an Act of Parliament amending Section 3 and Schedule 1 of this Constitution to create the Region as proposed.

Provisions relating to Regional Constitutions

- 5(1) The peoples of the Region shall adopt for themselves a Regional Constitution, which shall, subject to the provisions of this Constitution, have the force of law throughout that Region and if any other law is inconsistent with that constitution, the provisions of that constitution shall prevail, and the other law shall, to the extent of the inconsistency, be void.
- (2) Subject to the provisions of this constitution, the constitution of a Region may be altered only by a law enacted by the legislature of that Region.
- (3) A bill for a law to be enacted by the legislature of a Region altering any of the provisions of the constitution of that Region shall not be deemed passed unless it is supported on second and third readings by the votes of not less than two-thirds of all the members of

the legislative house of the Region and then presented to the Governor of the Region for assent.

- (4) Where a new Region is established the House of Representatives may make laws for the peace, order and good government of that Region with respect to matters not included in the Legislative Lists (including provision for the constitution of that Region) for a period of six months after the establishment of that Region or for such period as the legislative house of the region is duly constituted, but thereafter the House of Representatives shall have only such powers to make laws for that Region as it has in relation to the other Regions: Provided that nothing in this section shall preclude the legislature of that Region from making laws in accordance with the provisions of this Constitution and the constitution of the Region, after the due constitution of the legislative house of the Region.
6. Subject to the provision of this Constitution, the constitution of the Region shall in accordance with basic democratic tenets establish the system of government for Regions, which must include a fully representative legislative house and a system of executive power.

CHAPTER II: CITIZENSHIP

7. Citizenship by Birth

- (1) The following persons are citizens of Nigeria by birth-namely-
- (a) every person born in Nigeria before the date of independence, either of whose parents or any of whose grandparents belongs or belonged to a community indigenous to Nigeria; Provided that a person shall not become a citizen of Nigeria by virtue of this section if neither of his parents nor any of his grandparents was born in Nigeria.
 - (b) every person born in Nigeria after the date of independence either of whose parents or any of whose grandparents is a citizen of Nigeria; and
 - (c) every person born outside Nigeria either of whose parents is a citizen of Nigeria.
- (2) In this section, "the date of independence" means the 1st day of October 1960.

8. Citizenship by Registration

- (1) A person to whom the provisions of this section apply, not being a citizen of Nigeria by virtue of Section 7 of this Constitution may be registered as a citizen of Nigeria, if the Prime Minister is satisfied that:
 - (a) he is a person of good character;
 - (b) he has shown a clear intention of his desire to be domiciled in Nigeria; and
 - (c) he has taken the Oath of Allegiance in the form prescribed by the House of Representatives.
- (2) the provisions of this section shall apply to-
 - (a) any woman who is or has been married to a citizen of Nigeria; or
 - (b) every person of full age and capacity born outside Nigeria any of whose grandparents is a citizen of Nigeria.

9 Citizenship by Naturalization

- (1) A person not being citizen of Nigeria by virtue of Section 7 of this Constitution and not qualified to apply for citizenship under 8 of this Constitution, may apply to the Prime Minister for the grant of a certificate of naturalization.
 - (2) No person shall be qualified to apply for the grant of a certificate or naturalisation, unless he satisfies the Prime Minister that -
 - (a) he is a person of full age and capacity;
 - (b) he is a person of good character;
 - (c) he has shown a clear intention of his desire to be domiciled in Nigeria;
 - (d) he is, in the opinion of the Governor of the State where he is or he proposes to be resident, acceptable to the local community, in which he is to live permanently, and has been assimilated into the way of life of Nigerians in that part of the Federation;
 - (e) he is a person who has made or is capable of making useful contribution to the advancement; progress and well-being of Nigeria;
 - (f) he has taken the Oath of Allegiance in the form to be prescribed by the House of Representatives;
- and
- (g) he has, immediately preceding the date of his application, either:
 - (i) resided in Nigeria for a continuous period of fifteen years; or
 - (ii) resided in Nigeria continuously for a period of twelve months, and during the period of twenty years immediately preceding that period of twelve months has resided in Nigeria for periods amounting in the aggregate to not less than fifteen years.

10. Renunciation of Citizenship

(1) Any citizen of Nigeria of full age who wishes to renounce his Nigerian citizenship shall make a declaration in the form and manner prescribed by the Prime Minister for the renunciation.

(2) The Prime Minister shall cause the declaration made under subsection (1) of this section to be published in the gazette of the Federal Government of Nigeria, and upon publication the person who made the declaration shall cease to be a citizen of Nigeria.

(3) The Prime Minister may withhold the publication of any declaration made under subsection (1) of this section if-

(a) the declaration is made during any war in which Nigeria is physically involved; or

(b) in his opinion, it is otherwise contrary to public policy or declaration is made for the purpose of avoiding or evading taxes.

(4) For the purposes of subsection (1) of this section, "full age" means the age of eighteen years and above;

11. For the purposes of this Chapter, a parent or grandparent of a person shall be deemed to be a citizen of Nigeria if at the time of the birth of that person such parent or grandparent would have possessed that status by birth if he had been alive on the 1st Day of October 1960.

12 Special Immigrant Status

(1) The Prime Minister may make regulations, not inconsistent with this Chapter, prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Chapter, and for granting special immigrant status with full residential rights to non-Nigerian spouses of citizens of Nigeria who do not wish to acquire Nigerian citizenship.

(2) Any regulations made by the Prime Minister pursuant to the provisions of this section shall be laid before the House of Representatives for adoption by voice vote resolution.

Region of Origin

13 Every Nigeria shall be deemed an indigene of the Region of his birth and shall be accorded every right of an indigene of that Region. Provided that upon the attainment of the age of 18, anyone may by declaration sworn before a magistrate adopt the Region where his father was born as his Region of Origin.

14. Anyone born to a Nigerian father outside the shore of Nigeria shall be an indigene of the Region of his father.
15. Anyone born to Nigerian mother, not having a Nigerian Father, shall be an indigene of the Region of his mother.
16. Every Nigerian shall be deemed to be an indigene of any region where he has lived in and paid tax for three years.

Fundamental Rights

17. Right to Life

- (1) Every person has a right to life, and no one shall be deprived intentionally of his life.
- (2) A person shall not be regarded as having been deprived of his life in contravention of this section, if he dies as a result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably necessary -
 - (a) for the defence of any person from unlawful violence or for the defence of property;
 - (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or
 - (c) for the purpose of suppressing a riot, insurrection or mutiny.

18. Right to Respect of Human Dignity of Individual

- (1) Every individual is entitled to respect for the dignity of his person, and accordingly -
 - (a) no person shall be subject to torture or to inhuman or degrading treatment;
 - (b) no person shall be held in slavery or servitude; and
 - (c) no person shall be required to perform forced or compulsory labour.
- (2) for the purposes of subsection (1) (c) of this section, "forced or compulsory labour" does not include -
 - (a) any labour required in consequence of the sentence or order of a court;
 - (b) any labour required of members of the armed forces of the Federation or the Nigeria Police Force in pursuance of their duties as such;
 - (c) in the case of persons who have conscientious objections to service in the armed forces of the Federation, any labour required instead of such service;
 - (d) any labour required which is reasonably necessary in the event of any emergency or calamity threatening the life or well-being of the community; or
 - (e) any labour or service that forms part of -
 - (i) normal communal or other civic obligations of the well-being of the community.

- (ii) such compulsory national service in the armed forces of the Federation as may be prescribed by an Act of the National Assembly, or
- (iii) such compulsory national service which forms part of the education and training of citizens of Nigeria as may be prescribed by an Act of the National Assembly.

19. Right to Personal Liberty

- (1) Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law -
- (a) in execution of the sentence or order of a court in respect of a criminal offence of which he has been found guilty;
 - (b) by reason of his failure to comply with the order of a court or in order to secure the fulfilment of any obligation imposed upon him by law;
 - (c) for the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence, or to such extent as may be reasonably necessary to prevent his committing a criminal offence;
 - (d) in the case of a person who has not attained the age of eighteen years for the purpose of his education or welfare;
 - (e) in the case of persons suffering from infectious or contagious disease, persons of unsound mind, persons addicted to drugs or alcohol or vagrants, for the purpose of their care or treatment or the protection of the community; or
 - (f) for the purpose of preventing the unlawful entry of any person into Nigeria or of effecting the expulsion, extradition or other lawful removal from Nigeria of any person or the taking of proceedings relating thereto. Provided that a person who is charged with an offence and who has been detained in lawful custody awaiting trial shall not continue to be kept in such detention for a period longer than the maximum period of imprisonment prescribed for the offence.
- (2) Any person who is arrested or detained shall have the right to remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice.
- (3) Any person who is arrested or detained shall be informed in writing within twenty-four hours (and in a language that he understands) of the facts and grounds for his arrest or detention.
- (4) Any person who is arrested or detained in accordance with subsection (1) (c) of this section shall be brought before a court of law within a reasonable time, and if he is not tried within a period of -

(a) two months from the date of his arrest or detention in the case of a person who is in custody or is not entitled to bail; or

(b) three months from the date of his arrest or detention in the case of a person who has been released on bail, he shall (without prejudice to any further proceedings that may be brought against him) be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date.

(5) In subsection (4) of this section, the expression "a reasonable time" means -

(a) in the case of an arrest or detention in any place where there is a court of competent jurisdiction within a radius of forty kilometres, a period of one day; and

(b) in any other case, a period of two days or such longer period as in the circumstances may be considered by the court to be reasonable.

(6) Any person who is unlawfully arrested or detained shall be entitled to compensation and public apology from the appropriate authority or person; and in this subsection, "the appropriate authority or person" means an authority or person specified by law.

(7) Nothing in this section shall be construed -

(a) in relation to subsection (4) of this section, as applying in the case of a person arrested or detained upon reasonable suspicion of having committed an offence punishable with imprisonment for life; and

(b) as invalidating any law by reason only that it authorises the detention for a period not exceeding three months of a member of the armed forces of the federation or a member of the Nigeria Police Force in execution of a sentence imposed by an officer of the armed forces of the Federation or of the Nigeria police force, in respect of an offence punishable by such detention of which he has been found guilty.

20. Right to Fair Hearing

(1) In the determination of his civil rights and obligations, including any question or determination by or against any government or authority, a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such manner as to secure its independence and impartiality.

(2) Without prejudice to the foregoing provisions of this section, a law shall not be invalidated by reason only that it confers on any government or authority power to determine questions arising in the administration of a law that affects or may affect the civil rights and obligations of any person if such law -

(a) provides for an opportunity for the persons whose rights and obligations may be affected to make representations to the administering authority before that authority makes the decision affecting that person; and

(b) contains no provision making the determination of the administering authority final and conclusive.

(3) The proceedings of a court or the proceedings of any tribunal relating to the matters mentioned in subsection (1) of this section (including the announcement of the decisions of the court or tribunal) shall be held in public.

(4) Whenever any person is charged with a criminal offence, he shall, unless the charge is withdrawn, be entitled to a fair hearing in public within a reasonable time by a court or tribunal:

Provided that -

(a) a court or such a tribunal may exclude from its proceedings persons other than the parties thereto or their legal practitioners in the interest of defence, public safety, public order, public morality, the welfare of persons who have not attained the age of eighteen years, the protection of the private lives of the parties or to such extent as it may consider necessary by reason of special circumstances in which publicity would be contrary to the interests of justice;

(b) if in any proceedings before a court or such a tribunal, a Minister of the Government of the Federation or a commissioner of the government of a State satisfies the court or tribunal that it would not be in the public interest for any matter to be publicly disclosed, the court or tribunal shall make arrangements for evidence relating to that matter to be heard in private and shall take such other action as may be necessary or expedient to prevent the disclosure of the matter.

(5) Every person who is charged with a criminal offence shall be presumed to be innocent until he is proved guilty;

Provided that nothing in this section shall invalidate any law by reason only that the law imposes upon any such person the burden of proving particular facts.

(6) Every person who is charged with a criminal offence shall be entitled to -

(a) be informed promptly in the language that he understands and in detail of the nature of the offence;

(b) be given adequate time and facilities for the preparation of his defence;

(c) defend himself in person or by legal practitioners of his own choice;

(d) examine, in person or by his legal practitioners, the witnesses called by the prosecution before any court or tribunal and obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court or tribunal on the same conditions as those applying to the witnesses called by the prosecution; and

(e) have, without payment, the assistance of an interpreter if he cannot understand the language used at the trial of the offence.

(7) When any person is tried for any criminal offence, the court or tribunal shall keep a record of the proceedings and the accused person or any persons authorised by him in that behalf shall be entitled to obtain copies of the judgement in the case within seven days of the conclusion of the case.

(8) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence heavier than the penalty in force at the time the offence was committed

(9) No person who shows that he has been tried by any court of competent jurisdiction or tribunal for a criminal offence and either convicted or acquitted shall again be tried for that offence or for a criminal offence having the same ingredients as that offence save upon the order of a superior court.

(10) No person who shows that he has been pardoned for a criminal offence shall again be tried for that offence.

(11) No person who is tried for a criminal offence shall be compelled to give evidence at the trial.

(12) Subject as otherwise provided by this Constitution, a person shall not be convicted of a criminal offence unless that offence is defined and the penalty therefor is prescribed in a written law, and in this subsection, a written law refers to an Act of the National Assembly or a Law of a State, any subsidiary legislation or instrument under the provisions of a law.

21. Right to Privacy

The privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected.

22. Freedom of Thought, Conscience and Religion

(1) Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) No person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if such instruction ceremony or

observance relates to a religion other than his own, or religion not approved by his parent or guardian.

(3) No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any place of education maintained wholly by that community or denomination.

(4) Nothing in this section shall entitle any person to form, take part in the activity or be a member of a secret society.

23. Freedom of Expression

(1) Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.

(2) Without prejudice to the generality of subsection (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions:

Provided that no person, other than the Government of the Federation or of a State or any other person or body authorised by the Prime Minister on the fulfilment of conditions laid down by an Act of the House of Representatives, shall own, establish or operate a television or wireless broadcasting station for, any purpose whatsoever.

(3) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society -

(a) for the purpose of preventing the disclosure of information received in confidence, maintaining the authority and independence of courts or regulating telephony, wireless broadcasting, television or the exhibition of cinematograph films; or

(b) imposing restrictions upon persons holding office under the Government of the Federation or of a State, members of the armed forces of the Federation or members of the Nigeria Police Force or other Government security services or agencies established by law.

24. Freedom of Association

Every person shall be entitled to assemble freely and associate with other persons, and in particular he may form or belong to any political party, trade union or any other association for the protection of his interests: Provided that the provisions of this section shall not derogate from the powers conferred by this Constitution and by law on the Electoral Commission to regulate the formation and operation of political parties.

25. Freedom of Movement

(1) Every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof, and no citizen of Nigeria shall be expelled from Nigeria or refused entry thereby or exit therefrom.

(2) Nothing in subsection (1) of this section shall invalidate any law that is reasonably justifiable in a democratic society-

(a) imposing restrictions on the residence or movement of any person who has committed or is reasonably suspected to have committed a criminal offence in order to prevent him from leaving Nigeria; or

(b) providing for the removal of any person from Nigeria to any other country to:-

(i) be tried outside Nigeria for any criminal offence, or

(ii) undergo imprisonment outside Nigeria in execution of the sentence of a court of law in respect of a criminal offence of which he has been found guilty:

Provided that there is reciprocal agreement between Nigeria and such other country in relation to such matter.

26. Right to Non-Discrimination of Person

(1) A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person:

(a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religion or political opinions are not made subject; or

(b) be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to

citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religion or political opinions.

(2) No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.

(3) Nothing in subsection (1) of this section shall invalidate any law by reason only that the law imposes restrictions with respect to the appointment of any person to any office under the State or as a member of the armed forces of the Federation or member of the Nigeria Police Forces or to an office in the service of a body, corporate established directly by any law in force in Nigeria.

27. Right to Acquire and Own Immovable Property

Subject to the provisions of this Constitution, every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria.

- 28.** (1) No moveable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except in the manner and for the purposes prescribed by a law that, among other things -
- (a) requires the prompt payment of compensation therefore and
 - (b) gives to any person claiming such compensation a right of access for the determination of his interest in the property and the amount of compensation to a court of law or tribunal or body having jurisdiction in that part of Nigeria.
- (2) Nothing in subsection (1) of this section shall be construed as affecting any general law.
- (a) for the imposition or enforcement of any tax, rate or duty;
 - (b) for the imposition of penalties or forfeiture for breach of any law, whether under civil process or after conviction for an offence;
 - (c) relating to leases, tenancies, mortgages, charges, bills of sale or any other rights or obligations arising out of contracts.
 - (d) relating to the vesting and administration of property of persons adjudged or otherwise declared bankrupt or insolvent, of persons of unsound mind or deceased persons, and of corporate or unincorporate bodies in the course of being wound-up;
 - (e) relating to the execution of judgements or orders of court;
 - (f) providing for the taking of possession of property that is in a dangerous state or is injurious to the health of human beings, plants or animals;

- (g) relating to enemy property;
 - (h) relating to trusts and trustees;
 - (i) relating to limitation of actions;
 - (j) relating to property vested in bodies corporate directly established by any law in force in Nigeria;
 - (k) relating to the temporary taking of possession of property for the purpose of any examination, investigation or enquiry;
 - (l) providing for the carrying out of work on land for the purpose of soil-conservation; or
 - (m) subject to prompt payment of compensation for damage to buildings, economic trees or crops, providing for any authority or person to enter, survey or dig any land, or to lay, install or erect poles, cables, wires, pipes, or other conductors or structures on any land, in order to provide or maintain the supply or distribution of energy, fuel, water, sewage, telecommunication services or other public facilities or public utilities.
- (3) Notwithstanding the foregoing provisions of this section, the entire property in and control of all minerals, mineral oils and natural gas in under or upon any land in Nigeria or in, under or upon the territorial waters and the Exclusive Economic Zone of Nigeria shall vest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly.

29. Restriction of Fundamental Freedom

- (1) Nothing in sections 21, 22, 23, 24 and 25 of this Constitution shall invalidate any law that is reasonably justifiable in a democratic society
- (a) in the interest of defence, public safety, public order, public morality or public health; or
 - (b) for the purpose of protecting the rights and freedom of other persons
- (2) An act of the National Assembly shall not be invalidated by reason only that it provides for the taking, during periods of emergency, of measures that derogate from the provisions of section 18 or 18 of this Constitution; but no such measures shall be taken in pursuance of any such act during any period of emergency save to the extent that those measures are reasonably justifiable for the purpose of dealing with the situation that exists during that period of emergency:
- Provided that nothing in this section shall authorise any derogation from the provisions of section 18 of this Constitution, except in respect of death resulting from acts of war or authorise any derogation from the provisions of section 21(8) of this Constitution.

(3) In this section, a " period of emergency" means any period during which there is in force a state emergency in exercise of the powers conferred on House of Representatives under section 51 of this Constitution.

30. Enforcement of Fundamental Rights

(1) Any person who alleges that any of the provisions of this Chapter has been, is being or likely to be contravened in any State in relation to him may apply to a High Court in that State for redress.

(2) Subject to the provisions of this Constitution, a High Court shall have original jurisdiction to hear and determine any application made to it in pursuance of this section and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcement or securing the enforcing within that State of any right to which the person who makes the application may be entitled under this Chapter.

(3) The Chief Justice of Nigeria may make rules with respect to the practice and procedure of a High Court for the purposes of this section.

(4) The House of Representatives -

(a) may confer upon a High Court such powers in addition to those conferred by this section as may appear to the House of Representatives to be necessary or desirable for the purpose of enabling the court more effectively exercise the jurisdiction conferred upon it by this section; and

(b) shall make provisions-

(i) for the rendering of financial assistance to any indigent citizen of Nigeria where his right under this Chapter has been infringed or with a view to enabling him to engage the services of a legal practitioner to prosecute his claim, and

(ii) for ensuring that allegations of infringement of such rights are substantial and the requirement or need for financial or legal aid is real.

CHAPTER IV: THE PRESIDENT OF THE REPUBLIC

Establishment of office of President

31. (1) There shall be a President of the Republic who shall be elected from the House of Elders in accordance with section 33 of this Constitution and shall be the Head of State of the Federation and the Commander-in- Chief of the armed forces of the Federation.

Election and removal of the President

32. (1) A person shall be eligible for election as President if: he is a citizen of Nigeria; is qualified to be a member of the House of Elders; and possess at least a first-degree qualification or its equivalent from any higher institution recognized by the relevant agency of the Federal Government of Nigeria, charged with the responsibility of regulating higher education in Nigeria;
- (2) The office of the President shall be rotated amongst the Regions of the Nigeria. Every region shall be entitled to hold the office for a period of 2 years and no region shall be entitled to hold the office of president after the completion of a 2-year term, until all other regions have held the office for two years.
- (3) The President shall be elected by secret ballot of member of the Legislative House of the Region entitled to produce the President of Nigeria from members of the House of Elder representing the region.
- (4) Where there is a tie on the ballots cast for two or more members of the House of Elders for the office of President, the Governor of the Region shall select the President from the two candidates with the highest votes.
33. (1) A person elected as the President shall not begin to perform the functions of that office until he has taken and subscribed the oath of allegiance and such oath for the due performance of those functions as may be prescribed by the House of Representatives.
- (2) The oaths aforesaid shall be administered by the Chief Justice of Nigeria or the person for the time being appointed to exercise the functions of the Chief Justice of Nigeria.
34. The President shall cease to hold office if:
- (1) he ceases to be a member of the House of Elders;

(2) if he is found by the investigative committee set up by the Chief Justice of Nigeria pursuant to Section 35 of this constitution to have committed an act of grave misconduct or by reasons of infirmity of mind or body is unable to discharge his function as president of the Federal Republic of Nigeria.

35. (1) for the purpose of Section 34(2) of this Constitution, the Chief Justice of Nigeria shall, upon, the resolution of two third of all members of the House of Representatives that the president is unfit to hold office, by reasons of misconduct or infirmity of mind or body, constitute an investigative committee of 7 (seven) highly reputable and accomplished citizens of Nigeria, who are neither public or civil servant and have never held a political office or appointment and have never been members of a political party, to investigate an allegation of misconduct or a committee of 7 (seven) highly qualified medical doctors, to investigate an allegation of infirmity of mind or body.

(2) The President shall be deemed removed from office, if the investigative committee reaches a conclusion that the conduct of the president is grave and warrants the removal from office or that the president is unfit to hold to hold office by reasons of infirmity of mind or body.

(2) Where it is alleged that the President has committed an act of misconduct, the Chief Justice shall designate one member of the committee, who shall be a legal practitioner of not less than 15-year post call experience, to serve as chairman and any other member of the panel as secretary of the investigative panel.

(3) Where it is alleged that the President suffers from such infirmity of body and mind as not to be able to discharge his functions, the Chief Justice shall appoint a medical doctor with not less than 20 years medical practice experience, at least 5 years of which must be as a specialist consultant, to serve as chairman and any other member of the panel as secretary of the investigative panel.

(4) The investigative panel is required to conclude its sitting within 1 months from the date of commencement of sitting.

(5) all members of the panel shall be entitled to receive not more than the two-month total emolument of a Federal High Court Judge as remuneration for the sitting of the investigative committee.

CHAPTER V: PARLIAMENT

Part 1: Composition of Parliament

Establishment of Parliament

36. There shall be a Parliament of the Federation, which shall consist of the House of Elders and a House of Representatives.

Composition of the House of Elders

37. (1) The House of Elders shall consist of five members representing each Region, and three members representing the Federal Capital Territory, who shall be traditional rulers, retired military officers of ranks not less than the rank of Major General or its equivalent in any of the armed forces, retired police officers of rank not less than the rank of Deputy Inspector General of Police, retired university professors, retired civil servants who had attained the rank of Director in the Federal or Regional civil service or its equivalent, retired Chief Executive Officers of any company quoted on the Nigerian stock exchange;

(2) A member of the House of Elders must be a citizen of Nigeria by birth and shall have attained the age of 55 years on the date of appointment into the House of Elders and shall serve for term of 4 years and may be reappointed subject to further nomination by the head of government of his Region and confirmation by the legislative house of the Region.

(2) The members of the House of elders shall be appointed by the Head of Government of each Region subject to confirmation by the legislative house of the Region.

- (3) the Prime Minister shall appoint members of the House of Elders for the Federal Capital Territory, subject to confirmation by the House of Representatives.

Composition of the House of Representatives

38. The House of Representatives shall consist of 10 members representing each Region of the Federation and 6 members representing the Federal Capital Territory.
39. A person shall be qualified for election as a member of the House of Representatives if he is a citizen of Nigeria and has attained the age of eighteen on the date of nomination to stand for election as a member of the House of Representatives and possesses a minimum of Senior School Certificate or its equivalent on the date of his election.

Disqualifications of membership of House of Representatives

40. (1) No person shall be qualified for election to the House of Representatives-
- (a) if under any law in force in any part of Nigeria he is adjudged to be a lunatic or otherwise declared to be of unsound mind;
 - (b) if he is under a sentence of death imposed on him by any court of law in Nigeria or a sentence of imprisonment (by whatever name called) exceeding six months imposed on him by a court of law in Nigeria;
 - (c) if he is convicted of any felony by any court in Nigeria or in any country governed by a government elected through a democratic process;
 - (d) if he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of Nigeria;
 - (e) if he is a member of the public service of the Federation or the public service of a Region, a member of the armed forces of the State or the holder of any other office or emolument under the State; or
 - (e) if he is a member of the House of Elders or a legislative house of a Region.

Chairman of the House of Elders

41. (1) There shall be a Chairman for the House of Elders, who shall be elected by the members of the House of Elders.

(2) No person shall be elected as Chairman of the House of Elders unless he is a member of the House of Elders.

(3) a person, being a member of the House of Elders shall not be eligible to be elected as Chairman of the House of Elders, if the person is the President of Nigeria or is from the same Region as the President of Nigeria.

(4) The Chairman of the House of Elders shall vacate his office-

(a) if, having been elected from among the members of the House of Elders, he ceases to be a member of the House of Elders;

(b) if the person becomes the President of Nigeria.

(4) No business shall be transacted in the House of Elders (other than an election to the office of the Chairman of the House of Elders) at any time when the office of Chairman of the house of Elders is vacant.

(5) The Chairman of the House of Elders shall coordinate the business of the House of Elders.

Speaker of the House of Representatives

42. (1) There shall be a Speaker of the House of Representatives, who shall be elected by the members of that House.

(2) No person shall be elected as Speaker of the House of Representatives unless he is a member of the House of Representatives.

(3) The Speaker of the House of Representatives shall vacate his office-

(a) if he ceases to be a member of the House of Representatives;

(d) if he becomes a Minister of the Government of the Federation; or

(e) if he is removed from office by a resolution of the House supported by the votes of two-thirds of all the members of the House.

(4) No business shall be transacted in the House of Representatives (other than an election to the office of Speaker) at any time when the office of Speaker is vacant.

(5) The Speaker of the House of Representatives shall coordinate the Business of the House of Representatives.

Establishment of Electoral Commission

43. (1) There shall be an Electoral Commission for the Federation.

(2) The members of the Electoral Commission of the Federation shall be-

(a) a Chief Electoral Commissioner, who shall be chairman of the Commission and shall be appointed by the Chief Justice of Nigeria and must be a retired justice of the Supreme Court of Nigeria or the Supreme Court of any of the Regions of Nigeria.

(3) The Chief Electoral Commission shall be the chief executive of the Commission and shall assign roles and duties to member of the Commission.

(4) The Chief Justice of Nigeria shall appoint a member for the Electoral Commission from each Region of Nigeria and such member shall be retired judicial officers of any court of records in the Region or the Federation of Nigeria.

(5) All appointments under this Section shall be subject to confirmation by a simple majority vote of all the members of the House of Elders.

(6) A person shall not be qualified to hold the office of a member of the Electoral Commission of the Federation if he is a member of either House of Parliament, a member of a legislative house of a Region, a Minister of the Government of the Federation, a Minister of the Government of a Region or a member of the public service of the Federation or the public service of a Region or member of any political party.

(6) Subject to the provisions of this section, a member of the Electoral Commission of the Federation shall vacate his office:

(a) at the expiration of five years from the date of his appointment; or

(b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(7) A member of the Electoral Commission of the Federation may be removed from office by the President, acting in accordance with the advice of the Prime Minister, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for gross misconduct. Provided that the President may reject the advice of the Prime Minister and subject the removal of the such member of the electoral commission to vote on the floor of the House of Elders and the member of the electoral shall only be deemed removed if his removal is approved by a majority vote of the members of the House of Elders.

(8) A member of the Electoral Commission of the Federation shall not be removed from office except in accordance with the provisions of this section.

(9) In the exercise of its functions under this Constitution, the Electoral Commission of the Federation shall not be subject to the direction or control of any other person or authority.

(10) The registration of voters and the conduct of elections shall be subject to the direction and supervision of the Electoral Commission of the Federation and the electoral commission shall issue regulation and guideline for this purpose. Provided that all regulation issued for this

purpose shall be laid before the House of Elders and shall come into effect, when adopted by the majority votes of the members of the House of Elders.

Constituencies

44. (1) There shall be 20 constituencies in each Region of Nigeria and 5 constituency in the Federal Capital Territory in accordance with boundaries delineated by the Electoral Commission.

(2) No constituency shall form part of more than one Region.

(3) The House of Representative may, on the written advice of the Electoral Commission that population increase necessitates the creation of new constituencies, by resolution supported by two third of all members of the House of Representatives create more constituency in Nigeria. Provide that no constituency shall be created except an equal number of constituencies is created for all other Regions of Nigeria.

(4) Each constituency shall be represented by a member in the House of Representative, who shall be popularly elected by the peoples of the constituency.

Determination of questions respecting membership of Parliament

45. (1)The Federal High Court shall have original jurisdiction to hear and determine any question whether-

(a) any person has been validly selected as a member of the House of Elders or elected as a member of the House of Representatives; or

(b) the seat in the House of Elders or the seat in the House of Representatives of a member of that House has become vacant.

(2) The House of Representatives shall enact laws to make provision with respect to-

(a) the persons who may apply to the Federal High Court for the determination of any question under this section;

(b) the circumstances and manner in which, and the conditions upon which, any such application may be made; and

(c) the powers, practice and procedure of the Federal High Court in relation to any such application.

Clerks to Houses of Parliament and their staffs

46. (1) There shall be a Clerk to the House of Elders and a Clerk to the House of Representatives:

(2) Subject to the provisions of any Act of the House of Representatives, the office of the Clerk of each House of Parliament and the members of his staff shall be offices in the public service of the Federation.

(3) The Clerks to the Houses of Elders and Representatives shall be the head of administration in each of the Houses.

Procedure in Parliament

Oaths to be taken by members of Parliament

47. (1) Every member of either House of Parliament shall, before taking his seat in that House, take and subscribe before the House the oath of allegiance to the Constitution and the Government and peoples of Nigeria in the form prescribed by the Chief Justice of Nigeria. Provided that a member may before taking that oath take part in the election of a Chairman of the House of Elders or a Speaker of the House of Representatives, as the case may be.

Presiding in House of Elders

48. (1) There shall preside at any sitting of the House of Elders-

(a) the Chairman; or

(b) in the absence of the Chairman, the Vice Chairman; or

(c) in the absence of the Chairman and the Vice Chairman such member of the House of Elders as the House may elect for that purpose.

(2) The House of Elders may from time to time elect a member of the House of Elders to be Vice Chairman and any person so elected shall hold office as such until he ceases to be a member of the House or is removed from office by the House by a simple majority vote of the House of Elders.

Presiding in House of Representatives

49. (1) There shall preside at any sitting of the House of Representatives

- (a) the Speaker; or
- (b) in the absence of the Speaker, the Deputy Speaker; or
- (c) in the absence of the Speaker and the Deputy Speaker, such member of the House as the House may elect for that purpose.

(2) The House of Representatives may from time to time elect a member of the House to be Deputy Speaker and any person so elected shall hold office as such until he ceases to be a member of the House or is removed from office by the House of Representatives.

Quorum in Houses of Parliament

50 If objection is taken by any member of a House of Parliament present that there are present in that House (besides the person presiding) fewer than one-sixth of all the members of that House and, after such interval as may be prescribed in the rules of procedure of the House, the person presiding ascertains that the number of members present is still less than one-sixth of all the members of the House, he shall thereupon adjourn the House.

Use of English in Parliament

51. The business of Parliament shall be conducted in English.

Voting in Parliament

52. (1) Any question proposed for decision in a House of Parliament shall be determined by the required majority of the members present and voting; and the person presiding shall cast a vote whenever necessary to avoid an equality of votes but shall not vote in any other case.

(2) Save as otherwise provided in this Constitution, the required majority for the purposes of determining any question shall be a simple majority.

(3) The rules of procedure of a House of Parliament may provide that the vote of a member upon a question in which he has a direct pecuniary interest shall be disallowed.

Mode of exercising legislative power

53. (1) The power of Parliament to make laws shall be exercised by bills passed by the House of Representatives and assented to by the President on advice of the Prime Minister. Provided that a bill shall be deemed duly assented to if passed by Parliament and transmitted to the president with a written advice from the Prime Minister to assent to the bill and the President fails to assent to same within 30 days of receipt of the bill.

(2) When a bill is presented to the President for assent, he shall signify that he assents or that he withholds assent. Provided that the President may only validly withhold assent on the written advice of the Prime Minister.

(3) In the event that assent is withheld by the President on the advice of the Prime Minister, or such advice is not received within 30 days of passage of the bill, the bill shall, at the motion of any member of the House of Representatives be read again on the floor of the House of Representatives and vote taken, and if supported by two third of all members of the House of Representatives, the bill shall on the date of the vote become an Act of the House of Representatives.

(5) A bill shall not become law unless it has been duly passed and assented to in accordance with this Constitution.

Part 3: Sessions of Parliament

54. (1) Each session of Parliament shall be held at Federal Capital Territory of Nigeria or such other temporary location within the Federal Republic of Nigeria as the House of Parliament may adopt by a simple majority vote.

Parliament, unless sooner dissolved, shall continue for six years from the date of its first sitting.

(3) At any time when the Federation is at war, Parliament may from time to time extend the period of six years specified in subsection (2) of this section for not more than twelve months at a time: Provided that the life of Parliament shall not be extended under this subsection for more than three years.

(4) In the exercise of his powers to dissolve Parliament, the President shall act in accordance with the advice of the Prime Minister, so however that if the Prime Minister recommends a

dissolution in a case not falling within subsection (5) of this section and the President considers that the government of the Federation can be carried on without a dissolution and that a dissolution would not be in the interests of the Federation he may refuse to dissolve Parliament.

(5) The President shall dissolve Parliament -

(b) if the House of Representatives passes a resolution supported by two third of all the members of the House of Representatives that it has no confidence in the Government of the Federation and within the period of three days beginning with the day on which the resolution is passed the Prime Minister does not resign or recommend a dissolution or does recommend a resolution;

(c) if the office of Prime Minister is vacant and the President considers that there is no prospect of his being able, within a reasonable time, to appoint to that office a person who can command the support of the majority of the members of the House of Representatives.

(d) For the purpose of Section 5(b), a vote of no confidence shall only be effective if adopted by resolution of a simple majority of all members of the House of Elders.

(5) Upon dissolution, the Electoral commission shall within 30 days conduct new election into the House of Representatives and the Prime Minister and Ministers of the Federation shall continue to exercise executive powers of the Federal until a new parliament is sworn in, which swearing in must occur within 40 days from the date of dissolution of parliament.

Part 4: Legislative powers

Powers of House of Representatives to make laws

55. (1) House of Representatives shall have power to make laws-

(a) for the peace, order and good government of Nigeria (other than the Federal territory) or any part thereof with respect to any matter included in the Exclusive and Concurrent Legislative List; and

(b) for the peace, order and good government of the Federal territory with respect to any matter.

- (2) The power of House of Representatives to make laws for the peace, order and good government of the Regions with respect to any matter included in the Exclusive Legislative List shall be to the exclusion of the legislatures of the Regions.
- (6) The Powers of the House of Representatives to make law in relation to anything contained in the concurrent list is concurrent with the powers of the legislative House of the Region to make laws in relation to such matters and if any law enacted by the legislature of a Region is inconsistent with any law validly made by House of Representatives on such matters contained in the concurrent list, the law made by the House of Representatives shall prevail and the Regional law shall, to the extent of the inconsistency, be void.
- (7) The Legislatives Houses of the Region shall have exclusive powers to make laws on all matters not contained in the exclusive and concurrent list in relation to their region, to the exclusion of any other legislative bodies.

Special powers of House of Representatives in relation to emergencies

56. (1) Parliament may at any time make such laws for Nigeria or any part thereof with respect to matters not included in the Legislative Lists as may appear to Parliament to be necessary or expedient for the purpose of maintaining or securing peace, order and good government during any period of emergency: Provided that upon the passage of such bill, a version shall be sent to the House of Elders for adoption and shall only take effect upon the adoption of two third of all members of the House of Elders and assented to by the President.
- (2) Any provision of law enacted in pursuance of this section shall have effect only during a period of emergency: Provided that the termination of a period of emergency shall not affect the operation of such a provision of law during that period, the validity of any action taken thereunder during that period, any penalty or punishment incurred in respect of any

contravention thereof or failure to comply therewith during that period or any proceeding or remedy in respect of any such penalty or punishment.

(3) In this section "period of emergency" means any period during which-

(a) the Federation is at war;

(b) there is in force a resolution passed by each House of Representatives declaring that a state of public emergency exists; or

(c) there is in force a resolution of each House of Representatives supported by the votes of not less than two-thirds of all the members of the House declaring that democratic institutions in Nigeria are threatened by subversion.

(4) A resolution passed by a House of Representatives for the purposes of this section shall remain in force for twelve months or such shorter period as may be specified therein: Provided that any such resolution may be revoked at any time or may be extended from time to time for a further period not exceeding twelve months by resolution passed in like manner.

Implementation of treaties, etc.

57. The House of Representatives may make laws for Nigeria or any part thereof with respect to matters not included in the Legislative Lists for the purpose of implementing any treaty, convention or agreement between the Federation and any other country or any arrangement with or decision of an international organisation of which the Federation is a member: Provided that any provision of law enacted in pursuance of this section shall not come into operation in a Region unless the Head of Government of that Region has consented to its having effect.

Titles of Honour etc.

58. (1) Subject to provisions of this section, House of Representatives may make laws for Nigeria or any part thereof with respect to titles of honour, decoration and other dignities.

(2) Any such law providing for the award of title, decoration or other dignity shall confer the power to make the award upon the President, with the approval of the House of Elders.

CHAPTER VI: EXECUTIVE POWERS

Exercise of executive authority of Federation

59. (1) The executive authority of the Federation shall be vested in the President and subject to the provisions of this Constitution, shall be exercised on his behalf by the Prime Minister.

(2) Nothing in this section shall prevent House of Representatives from conferring functions on persons or authorities other than the President.

Extent of executive authority of Federation

60. The executive authority of the Federation shall extend to the execution and maintenance of this Constitution and to all matters with respect to which House of Representatives has for the time being powers to make laws.

Executive authority of Regions

61. The executive authority of a Region shall extend to the execution and maintenance of the constitution of the Region and to all matters with respect to which the legislature of the Region has for the time being power to make laws but shall be so exercised as not to impede or prejudice the exercise of the executive authority of the Federation or to endanger the continuance of federal government in Nigeria or the unity of the Federation of Nigeria.

Ministers of Government of Federation

62. (1) There shall be a Prime Minister of the Federation, who shall be elected by a majority vote of members of the House of House of Representatives from the party with majority control of the House of Representatives.

(2) for the purpose of subsection 1 above, a party shall be deemed to have majority control if it has more elected members of the House of Representatives than any other political party in the House of Representatives or if, in coalition with any other political party or independent

members of the House of Representatives, it has more members than any other political party in the House of Representatives.

(2) There shall be, in addition to the office of Prime Minister, such other offices of Minister of the Government of the Federation as may be established by the House of Representatives.

(4) Appointments to the office of Minister of the Government of the Federation other than the office of Prime Minister shall be made by the Prime Minister, who shall appoint ministers amongst members of the House of Representatives and subject to the approval of the House of Elders, from persons who are not members of the House of Representatives.

(5) Any person appointed as a Minister pursuant to subsection 2 above, not being a member of the House of Representatives shall be entitled to attend the proceedings of the House of Representatives and contributing in same without the powers to vote.

(4) A person shall not hold office at the same time both as a Minister of the Government of the Federation and as a Minister of the Government of a Region.

(5) The office of the Prime Minister shall become vacant if-

(a) if a vote of no confidence is proposed by any member of the House of Representatives and passed by at least two-third of all; members of the House of Representatives and adopted by a simple majority of the House of Elders; or

(b) if he ceases to be a member of the House of Representatives.

(9) The office of a Minister of the Government of the Federation other than the Prime Minister shall become vacant if the office of Prime Minister becomes vacant.

(10) The Ministers of the Government of the Federation shall hold office during the President's pleasure but the President shall not remove a Minister from office except in accordance with the advice of the Prime Minister.

(11) If the office of the Prime Minister becomes vacant before the general elections, the House of Elders shall convene and appoint a new Prime Minister from the party with majority membership in the House of Representatives. The Speaker of the House of Representatives shall act Prime Minister pending the appointment of a new Prime Minister.

(12) The new Prime Minister shall, not later than 2 weeks of taking the oath of office as Prime Minister, appoint new Ministers of the Government of the Federation.

(13) where a Prime Minister is pointed in pursuant to this section, the Electoral commission shall not later than 3 months from the date of the appointment of the Prime Minister conduct a general elections.

Attorney-General of the Federation

63. (1) There shall be an Attorney-General of the Federation, who shall be the chief law officer and the chief prosecutor of Nigeria and shall be appointed by the Prime Minister on the advice of the National Judicial Commission.

(2) A person shall not be qualified to hold or perform the functions of the office of Attorney-General of the Federation unless he is qualified to practice as a barrister and solicitor of the Supreme Court of Nigeria has been so qualified for not less than fifteen years.

(6) There shall be a Deputy Attorney-General of the Federation, who shall be the assistant Chief Prosecutor of the Nigeria and shall be appointed by the Prime Minister on the advice of the National Judicial Commission.

(7) (2) A person shall not be qualified to hold or perform the functions of the office of Deputy Attorney-General of the Federation unless he is qualified to practice as barrister and solicitor of the Supreme Court of Nigeria has been so qualified for not less than twelve years.

(3) If the person holding the office of Attorney General is for any reasons unable to perform the functions conferred upon him by this Constitution or any other law, those functions shall be performed by the Deputy Attorney General or any other officer in the office of the attorney General.

(4) Where the Office of the Attorney General becomes vacant by reasons of incapacitation, resignation death or removal in accordance with the provision of Section 60 of this constitution, the Prime Minister shall on the advice of the

National Judicial Commission appoint a person to the office of Attorney General within 3 weeks of the office becoming vacant. The Deputy Attorney General, or where the Deputy is unable to act, the most senior officer in the office of the Attorney General shall act in place of the Attorney General until a substantive Attorney General is appointed.

Removal of the Attorney General

64. The Attorney General or Deputy Attorney may only be removed from office by reasons of incapacitation or gross misconduct in accordance with the following procedure:
- (1) A notice for the removal of the Attorney General or the Deputy Attorney General stating reasons for removal must be proposed by a member of the House of Representatives and adopted by a simple majority vote of the House of Representatives and the House Elders and the House of Representatives and then delivered to the National Judicial Commission for investigation.
 - (2) A copy of the notice is served on the Attorney General or Deputy Attorney General.
 - (3) The National Judicial Commission, shall in the course of its investigation, invite the Attorney General or Deputy Attorney General to the hearing for investigation of the allegations contained in the notice and may invite any persons, bodies or organizations to make presentations at the hearing.
 - (4) The National Judicial Commission shall upon hearing determine the veracity or otherwise of the allegations against the Attorney General or the Deputy Attorney General.
 - (5) where it is determined that the allegation have not been proven, the Attorney General or Deputy Attorney General shall be deemed exculpated from the allegations and the decision of the National Judicial Commission shall be final.
 - (6) Where the National Judicial Commission determines that the allegations have been duly proven, it recommend to the Prime Minister, the appropriate

punishment to be adopted, which may include dismissal or suspension from office for period of not more than 3 months.

Establishment of Council of Ministers

65. (1) There shall be a Council of Ministers for the Federation, whose function shall be to carry out the executive functions of the Government of the Federation and advise the President in the government of the Federation, and which shall consist of the Prime Minister and such other persons, being Ministers of the Government of the Federation, as the President, as the Prime Minister, may from time to time appoint.

(2) A person appointed as a member of the Council of Ministers shall vacate his seat in the Council if he ceases to be a Minister of the Government of the Federation or if the Prime Minister, so directs.

Collective responsibility

66. (1) The Council of Ministers shall be collectively responsible to Parliament for executive actions and policies of the Government of the Federation or any advice given to the President by or under the general authority of the Council and for all things done by or under the authority of any Minister of the Government of the Federation in the execution of his office.

67. The Prime Minister, may assign to any other Minister of the Government of the Federation responsibility for any business of the Government of the Federation, including the administration of any department of government.

Performance of functions of Prime Minister during absence or illness

68. (1) Whenever the Prime Minister is absent from Nigeria or is by reason of illness unable to perform the functions conferred upon him by his Constitution, the President may authorize some other member of the Council of Ministers of the Federation to perform

those functions (other than the functions conferred by this section) and that member may perform those functions until his authority is revoked by the President.

(2) The powers of the President under this section shall be exercised by him in accordance with the advice of the Prime Minister: Provided that if the President considers that it is impracticable to obtain the advice of the Prime Minister owing to his absence or illness, he may exercise those powers without that advice.

3 Any person appointed by the President to perform the functions of the Prime Minister in acting capacity, pursuant to Sub Section 1 of this Section, shall perform such a role for a period of not more than 45 days and should the Prime Minister be unable to resume the functions of his office within 45 days, the president shall exercise the powers conferred on the president by virtue of Section 49(5) of this constitution.

President to be informed concerning matters of government

69. The Prime Minister shall keep the President fully informed concerning the general conduct of the government of the Federation and shall furnish the President with such information as he may request with respect to any particular matter relating to the government of the Federation.

Oaths to be taken by Ministers, etc.

70. A member of the Council of Ministers, Minister of the Government of the Federation or Parliamentary Secretary to such a Minister shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by Parliament.

Permanent Secretaries

71. Where any Minister of the Government of the Federation has been charged with responsibility for any department of government, he shall exercise general direction and control

over that department; and, subject to such direction and control, the department shall be under the supervision of a permanent secretary, whose office shall be an office in the public service of the Federation: Provided that two or more government departments may be placed under the supervision of one permanent secretary.

Delegation of executive authority of Region

72. (1) The Head of Government of a Region may, with the consent of the President, entrust either conditionally or unconditionally to the President or to any officer or authority of the Federation functions in relation to any matter to which the executive authority of the Region extends.

(2) A law enacted by the legislature of a Region may include provision conferring powers or imposing duties, or authorizing the conferring of powers or the imposition of duties, upon the President or any officer or authority of the Federation: Provided that no provision made in pursuance of this subsection shall have effect unless the President has consented to its having effect.

Prerogative of mercy

73. (1) The President may -

(a) grant to any person concerned in or convicted of any offence created by or under an Act of Parliament a pardon, either free or subject to lawful conditions;

(b) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for such an offence;

(c) substitute a less severe form of punishment for any punishment imposed on that person for such an offence; or

(d) remit the whole or any part of any punishment imposed on that person for such an offence or of any penalty or forfeiture otherwise due to the State on account of such an offence.

(2) Subject to the provisions of subsection (3) of this section, the powers of the President under subsection (1) of this section shall be exercised by him in accordance with the advice of the Prime Minister.

CHAPTER VII: POLICE

Establishment of Nigeria Police Service

74. (1) There shall be a police Service for Nigeria, which shall be styled the Federal Police Service.

(2) Subject to the provisions of this Constitution, the Federal Police Service shall be organised and administered in accordance with such provision as may be made in that behalf by House of Representatives.

(3) Subject to the provisions of this Constitution, the members of the Federal Police Service shall have such powers and duties as it relates to the enforcement of offences and laws created by the House of Representatives, and on the invitation of the Government of Region, enforcement of offences created by the laws of a Region.

(4) Subject to the provisions of this section, there shall be a police Service for each Region, which shall be created by the constitution of the Region and shall be responsible for the enforcement of law and orders in the Region and enforcement of laws made by the Legislative Houses of the Region.

(5) subject to the provisions of the constitution of the Regions, the Governor of the Region may invite the Federal Police Service to enforce laws created by the Legislative House of the Region or to carry out law enforcement duties within the territory of the Region.

Control of Federal Police Service

74. (1) There shall be an Inspector-General in charge of the Federal Police Service, whose offices shall be offices in the public service of the Federation.

(2) The Inspector General of Police shall be appointed by the President on the advice of the Prime Minister, from the Police Service of Federation or of the Regions and must be a senior police officer with more 20 years of active police service experience. For the purpose of this Sub Section, a senior police officer, is a full time officer of the police service of the Federation

or Region, who holds the minimum of a university degree and has attained such ranks in the police service of the Federation or Region designated by Act enacted by the House of Representatives as senior police officer ranks.

(3) The Prime Minister or such other Minister of the Government of the Federation as may be authorised in that behalf by the Prime Minister may give to the Inspector-General of the Nigeria Police such directions with respect to the maintaining and securing of public safety and public order as he may consider necessary and the Inspector-General shall comply with those directions or cause them to be complied with.

(3) There shall be such other offices in the Federal Police Service, necessary for the effective running of the Federal Police Service, as may be prescribed by an Act enacted by the House of Representatives.

COURTS

Part 1: The Supreme Court of Nigeria

Establishment of the Supreme Court

76. (1) There shall be a Supreme Court of Nigeria.

(2) The justices of the Supreme Court shall be -

(a) the Chief Justice of Nigeria; and

(b) such number of Justices of the Supreme Court (not being less than 7) as may be prescribed by the House of Representatives.

(3) The Supreme Court shall be a superior court of record and, save as otherwise provided by House of Representatives, shall have all the powers of such a court.

(4) The Supreme Court shall sit in the Federal territory and in such other places in Nigeria as the Chief Justice of Nigeria may appoint.

(5) The Supreme Court shall be duly constituted by 5 Justices.

Appointment of Chief Justice of Nigeria and Justice of the Supreme Court.

77. (1) The Chief Justice of Nigeria and the Justices of the Supreme Court shall be appointed by the Prime Minister on the advice of the National Judicial Council.

(2) A person shall not be qualified to hold the office of Chief Justice of Nigeria or a Justice of the Supreme Court unless he is or has been called to the Nigerian Bar and has remained qualified to practice as a legal practitioner in Nigeria for not less than fifteen years; or

(3) If the office of Chief Justice of Nigeria is vacant or if the person holding the office is for any reason unable to perform the functions of the office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, as the case may be, those functions shall be performed by the most senior Justice of the Supreme Court until a new Chief Justice is designated by the Prime Minister on the advice of the National Judicial Council.

(4) The Prime Minister shall from time to time on the advice of the National Judicial Council appoint persons into the office of Justices of the Supreme Court to fill up vacancies that may have been created by the death, removal from office or retirement of Justices of the Supreme Court.

78. (1) Subject to the provisions of this section, a person holding the office of Chief Justice of Nigeria or a Justice of the Supreme Court shall vacate that office when he attains such age as may be prescribed by House of Representatives: Provided that the Prime Minister, may permit a Justice to continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

Original Jurisdiction of the Supreme Court

79. The Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute between the Federation and a Region or between Regions if and in so far as that dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends.

Questions as to interpretation of this Constitution

80. (1) Where any question as to the interpretation of this Constitution in any proceedings in any court of law in any part of Nigeria and the court is of opinion that the question involves a substantial question of law, the court may, and shall if any party to the proceedings so requests, refer the question to Regional Supreme Court having jurisdiction in that part of Nigeria and the Regional Supreme Court shall –

(a) if it is of opinion that the question involves a substantial interpretation of this constitution, refer the question to the Supreme Court; or

(b) if it is of opinion that the question does not involve a substantial interpretation of the constitution, remit the question to the court that made the reference to be disposed of in accordance with such directions as the Regional Supreme Court think fit to give.

(c) Where any question is referred to the Supreme Court in pursuance of this section, the Supreme Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision.

Appeals to the Supreme Court from High Courts

81. (1) The Supreme Court shall have jurisdiction, to the exclusion of any other court of law in Nigeria, to hear and determine appeals from the Supreme Court of a Region.

(2) An appeal shall lie from decisions of the Supreme Court of a Region to the Supreme Court as of right:

(b) where the ground of appeal involves the issues of fundamental rights or the right of peoples in any part of Nigeria;

(c) where the matter appealed includes a sentence of imprisonment for life;

(d) decision on any civil or commercial dispute where the total amount claimed or awarded by the court is not less than ₦100,000,000,000.00 or any amount prescribed by the Chief Justice of Nigeria from time to time;

(d) where the matter appealed is between any person and the Government of the Region.

(f) such other cases as may be prescribed in rules enacted by the Chief Justice of Nigeria:

Provided that nothing in paragraph (a) of this subsection shall confer any right of appeal –

(i) from any order made ex parte;

(ii) from any order relating only to costs; or

- (iii) from any order made with the consent of the parties.
- (6) Any right of appeal to the Supreme Court from the decisions of the Supreme Court of the Region conferred by this section-
 - (a) shall be exercisable in the case of civil proceedings at the instance of a party thereto or, with the leave of the High Court or the Supreme Court, at the instance of any other person having an interest in the matter and in the case of criminal proceedings at the instance of an accused person.

Federal Court of Appeal

82. (1) There shall be a Federal Court of Appeal for Nigeria, which subject to the provisions of this Constitution shall be the successor of the Court of Appeal under the defunct Constitution of the Federal Republic of Nigeria 1999.

- (2) The justices of the Federal High Court shall be -
 - (a) the President of the Federal Court of Appeal; and
 - (b) such number of Justices of the Federal Court of Appeal as may be prescribed by the House of Representatives.
- (3) The Prime Minister shall appoint Justices of the Federal Court of Appeal on the advice of the National Judicial Council.
- (4) A person shall not be qualified to be appointed as a Justice of the Federal Court of Appeal unless he is qualified to practice law in Nigeria and has been so qualified for not less than twelve years.
- (3) The Federal Court of Appeal shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.
- (4) The Federal Court of Appeal may sit anywhere in Nigeria and may be divided into such divisions as the House of Representatives may prescribe.
- (5) The Federal Court of Appeal shall be duly constituted by three Justices of the Federal Court of Appeal.
- (6) The Federal Court of Appeal shall have jurisdiction to hear appeals from the Federal High Court.

83. (1) The Supreme Court shall have jurisdiction, to the exclusion of any other court of law in Nigeria, to hear and determine appeals from the Federal Court of Appeal.

(2) An appeal shall lie from decisions of the Federal Court of Appeal to the Supreme Court

(b) where the ground of appeal involves the issues of fundamental rights or the right of peoples in any part of Nigeria;

(c) where the matter appealed include imprisonment for more than 3 years of any citizens;

(c) decision on any civil or commercial dispute where the total amount claimed or awarded by the court is not less than N100,000,000.00 or any amount prescribed by the Chief Justice of Nigeria from time to time;

(d) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter III of this Constitution has been contravened in relation to any person;

(f) such other cases as may be prescribed by any rules enacted by the Chief Justice of Nigeria:

Provided that nothing in paragraph (a) of this subsection shall confer any right of appeal –

(i) from interlocutory matter;

(ii) from any order relating only to costs; or

(iii) from any order made with the consent of the parties.

The Federal High Court

84. (1) There shall be a Federal High Court for Nigeria, which subject to the provisions of this Constitution shall be the successor of the Federal High Court under the defunct Constitution of the Federal Republic of Nigeria 1999.

(2) The judges of the Federal High Court shall be -

(a) the Chief Judge of the Federal High Court; and

(b) such number of Judges of the Federal High Court as may be prescribed by the House of Representatives.

(3) The Prime Minister shall appoint the judges of the Federal High Court on the advice of the National Judicial Council.

(4) A person shall not be qualified to be appointed as a judge of the Federal High Court unless he is qualified to practice law in Nigeria and has been so qualified for not less than ten years.

(3) The Federal High Court shall be a superior court of record and, save as otherwise provided by House of Representatives, shall have all the powers of such a court.

(4) The Federal High Court shall have Judicial Divisions in all Regions of Nigeria and in such places as the Chief Judge of the Federal High Court may prescribe.

(5) The Federal High Court shall be duly constituted by one Judge of the Federal High Court.

(6) The Federal High Court shall have jurisdiction throughout the territory of Nigeria to determine issues relating to aviation, maritime, customs and excise and the enforcement of any laws made by the House of Representatives and enforcement of fundamental rights guaranteed under Part III of this Constitution.

85. The Federal High Court shall have exclusive jurisdiction in the trial of criminal offences committed within the territory of more than one Region and offences bothering on treason, offences committed in Airplanes, Airports and waterways in Nigeria.

86. An appeal shall lie from the decision of the Federal High Court to the Federal Court of Appeal in all cases except in ex parte decisions, consent judgments and decisions relating to cost.

Part 2: Courts the Region

The Regional Supreme Court

87. (1) There shall be a Supreme Court for each Region.

(2) The judges of the Supreme Court of the Region shall be -

(a) the Chief Judge of the Region; and

(b) such number of judges (not being less than five) as may be prescribed by legislative Houses of the Regions.

(3) The Supreme Court of the Regions shall be a superior court of record and, save as otherwise provided by legislative houses of the Regions, shall have all the powers of such a court.

(4) The Supreme Court of the Regions shall sit within the territory of the Regions.

Appointment of Chief Judge of the Region and Judges of the Supreme Courts of the Region

88. (1) The Chief Judges of the Region and the Judges of the Supreme Court of the Region shall be appointed by the Head of Government of the Region on the advice of the Regional Judicial Commission.

(2) A person shall not be qualified to hold the office of Chief Judge of a Region or a Judge of the Supreme Court of a Region unless he is or has been called to the Nigerian Bar and has remained qualified to practice as a legal practitioner in Nigeria for not less than 15 years.

Vacancy in the office of the Chief of a Region

89. If the office of Chief Judge of a Region is vacant or if the person holding the office is for any reasons unable to perform the functions of the office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, as the case may be, those functions shall be performed by the most senior Judge of the Supreme Court of the Region until a new Chief Judge is designated by the Head of Government of the Region on the advice of the Regional Judicial Council.

90 The Head of Government of the Region shall from time to time on the advice of the Regional Judicial Commission appoint persons into the office of Justices of the Supreme Court of the Region to fill up vacancies that may have been created by the death, removal from office or retirement of Justices of the Supreme Court.

91 (1) Subject to the provisions of this section, a person holding the office of Chief Judge of a Region or a Judge of the Supreme Court of a Region shall vacate that office when he attains such age as may be prescribed by the Legislative House of the Region: Provided that the Head of Government, may permit a judge to continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(2) A person holding the office of Chief Judge of a Region or a Judge of the Supreme Court may be removed from office by the Head of Government of a Region if –

(a) there are presented to the Regional Judicial Council an address from the Legislative House of the Region praying that that person be so removed for inability to discharge the

functions of the office in question (whether arising from infirmity of mind or body or any other cause) or for misbehavior; and

(b) the address from the Legislative House bears a certificate which is signed by the person who presided at the meeting of that House at which the motion for the address was passed and which states that not less than two-thirds of all the members of that House voted in favour of the motion;

(C) Upon receipt of the address, the Regional Judicial Council shall cause the allegation to be investigated and may invite the judicial officer to appear before it to defend the allegation contained in the address and where the allegations are duly proved the judicial officer shall vacate the office.

Regional Court of Appeal

92. (1) There shall be a Court of Appeal for each Region,

(2) The justices of the Court of Appeal for each Region shall be -

(a) the President of the Regional Court of Appeal; and

(b) such number of Justices of the Court of Appeal as may be prescribed by the Legislative Houses of the Regions.

(3) The Head of government of the Region shall appoint Judges of the Regional Court of Appeal on the advice of the Regional Judicial Council.

(4) A person shall not be qualified to be appointed as a Judge of the Regional Court of Appeal unless he is qualified to practice law in Nigeria and has been so qualified for not less than twelve years.

(3) The Regional Court of Appeal shall be a superior court of record and, save as otherwise provided by Legislative Houses of the Region, shall have all the powers of such a court.

(4) The Regional Court of Appeal may sit anywhere within the Region and shall hear appeals from the Regional High Court

(5) The Regional Court of Appeal shall be duly constituted by three Justices of the Regional Court of Appeal.

93. (1) The Regional Supreme Court shall have jurisdiction, to the exclusion of any other court of law in Nigeria, to hear and determine appeals from the Regional Court of Appeal.

Provided that nothing in paragraph (a) of this subsection shall confer any right of appeal –

- (i) from any interlocutory decision;
- (ii) from any order relating only to costs;
- (iii) from any order made with the consent of the parties; or

High Courts of the Region

94. (1) There shall be a High Court for each Region of Nigeria, which subject to the provisions of this Constitution shall be the successor of the High Court of State under the defunct Constitution of the Federal Republic of Nigeria 1999.

(2) The judges of the Regional High Court shall be -

- (a) the Head Judge of the High Court; and
- (b) such number of Judges of the High Court as may be prescribed by the Legislative Houses of the Region.

(3) The Head of Government of the Region shall appoint the Heads judge and judges of the High Court on the advice of the Regional Judicial Council.

(4) A person shall not be qualified to be appointed as a Head Judge or judge of the High Court of a Region unless he is qualified to practice law in Nigeria and has been so qualified for not less than ten years.

(3) The Regional High Court shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.

(4) The Regional High Court shall have Judicial Divisions in cities of the Region and in such places as the House of Representatives may prescribe.

(5) The Regional High Court shall be duly constituted by one Judge of the Regional High Court.

(2) The Regional High Court shall have jurisdiction throughout the territory of the Region on all matters subject to the provisions of this Constitution, the constitution of the Region or any other law by the Houses of Assembly of the Region and matters relating to the enforcement of Fundamental Rights contained in Part III of this Constitution.

Establishment of courts

95. The House of Representatives may establish inferior courts of record for the Federal Capital territory or any part of the territory of Nigeria for the enforcement of any law enacted by the House of Representatives.

96. The Legislative Houses of the Regions may establish inferior courts of record for the Region or any part of the territory of Nigeria for the enforcement of any law enacted by the House of Representatives.

97. No judicial officer shall enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by Parliament.

Armed Forces of the Federation.

98. (1) There shall be an armed force for the Federation which shall consist of an army, a navy, an Air Force and such other branches of the armed forces of the Federation as may be established by an Act of the House of Representatives.

(2) The Federation shall, subject to an Act of the House of Representatives made in that behalf, equip and maintain the armed forces as may be considered adequate and effective for the purpose of -

(a) defending Nigeria from external aggression;

(b) maintaining its territorial integrity and securing its borders from violation on land, sea, or air;

(c) suppressing insurrection and acting in aid of civil authorities to restore order when called upon to do so by the President acting on the advice of the Prime Minister, but subject to such conditions as may be prescribed by an Act of the House of Representatives; and

(d) performance of such other functions as may be prescribed by an Act of the House of Representatives.

99. (1) The powers of the President as the Commissioner-in-Chief of the Armed Forces of the Federation shall include power to determine the operational use of the armed forces of the Federation, acting at all time at the advice of the Prime Minister.

(2) The powers conferred on the President by subsection (1) of this section shall include power to appoint, on the advice of the Prime Minister, the operation head of the arm forces of Nigeria in line with prescription in an Act enacted by the House of Representatives.

(4) The House of Representatives shall have power to make laws for the regulation of -

(a) the powers exercisable by the President as Commander-in-Chief of the Armed Forces of the Federation; and

(b) the appointment, promotion and disciplinary control of members of the armed forces of the Federation.

100. (1) The Federation shall establish and maintain adequate facilities for carrying into effect any Act of the House of Representatives providing for compulsory military training or military service for citizens of Nigeria.

(2) Until an Act of the House of Representatives is made in that behalf the President on the advice of the Prime Minister may maintain adequate facilities in any secondary or post-secondary educational institution in Nigeria for giving military training in any such institution which desires to have the training.

CHAPTER IX: FINANCE

Part 1: Public funds of the Federation

Establishment of Consolidated Revenue Fund

101 (1) All revenues or other moneys raised or received by the Federation (not being revenues or other moneys payable under this Constitution or any Act of Parliament into some other public fund of the Federation established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund.

(2) No moneys shall be withdrawn from the Consolidated Revenue Fund of the Federation except to meet expenditure that is charged upon the Fund by this Constitution or any Act of House of Representatives or where the issue of those moneys has been authorised by an appropriation Act or an Act passed in pursuance of section 96 of this Constitution.

(3) No moneys shall be withdrawn from any public fund of the Federation other than the Consolidated Revenue Fund unless the issue of those moneys has been authorised by an Act of Parliament.

(4) No moneys shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Federation except in the manner prescribed by House of Representatives.

Authorisation of expenditure from Consolidated Revenue Fund

102. (1) The Minister of the Government of the Federation responsible for finance shall, under the direction of the Prime Minister cause to be prepared and laid before the Houses of Representatives in each financial year estimates of the revenues and expenditure of the Federation for the next following financial year.

(2) The heads of expenditure contained in the estimates (other than expenditure charged upon the Consolidated Revenue Fund by this Constitution or any Act of House of Representatives) shall be included in a bill, to be known as an appropriation bill, providing for the issue from the Consolidated Revenue Fund of the Federation of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

(3) If in respect of any financial year it is found that the amount appropriated by the appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Act, a supplementary estimate showing the sums required or spent shall be laid before House of Representatives and the heads of any such expenditure shall be included in a supplementary appropriation bill.

Authorisation of expenditure in advance of appropriation

103. Parliament may make provision under which, if the appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the Minister of the Government of the Federation responsible for finance may authorise the withdrawal of moneys from the Consolidated Revenue Fund of the Federation for the purpose of meeting

expenditure necessary to carry on the services of the Government until the expiration of three months from the beginning of that financial year or the coming into operation of the Act, whichever is the earlier.

Contingencies Fund

104. (1) The House of Representatives may provide for the establishment of a Contingencies Fund for the Federation and for authorising the Minister of the Government of the Federation responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.

(2) Where any advance is made in accordance with subsection (1) of this section a supplementary estimate shall be presented, and a supplementary appropriation bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.

Remuneration Judicial Officers and Other Officials

105. (1) There shall be paid to the holders of the offices to which this section applies such salary as may be prescribed by House of Representatives.

(2) The salary and allowances payable to the holders of the offices to which this section applies shall be a charge on the Consolidated Revenue Fund of the Federation.

(3) The salary payable to the holder of any office to which this section applies and his terms of office other than allowances shall not be altered to his disadvantage after his appointment.

(4) This section applies all judges of courts created by this constitution, member of the Electoral commission of the Federation, Attorney General and Deputy Attorney General of the Federation, Chairman of the Electoral Commission and member of the Electoral Commission.

Accountant General of the Federation

106. (1) There shall be an Accountant General of the Federation, whose office shall be an office in the public service of the Federation.

(2) The public accounts of the Federation and of all officers, courts and authorities of the Federation shall be audited and reported on by the Accountant General of the Federation and for that purpose the Director or any person authorised by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Accountant General of the Federation shall submit his reports to the Minister of the Government of the Federation responsible for finance, who shall cause them to be laid before both Houses of Parliament.

(4) In the exercise of his functions under this Constitution the Accountant General of the Federation shall not be subject to the direction or control of any other person or authority.

Public debt

107. (1) The public debt of the Federation shall be secured on the revenues and assets of the Federation.

(2) In this section references to the public debt of the Federation include references to the interest on that debt, sinking fund payments in respect of that debt and the costs, charges and expenses incidental to the management of that debt.

Part 2: Allocation of Revenue

Levies on Export and Import

108. (1) Where under any Act of parliament a duty is levied in respect of the import into Nigeria or export out of Nigeria of any commodity the Federal Government shall, in respect of each quarter, credit to a special account, maintained by the Federal Government and referred to in this Constitution (to be called "the Distributable Pool Account)" a sum equal to 30 per cent of the proceeds of that duty for that quarter.

(2) For the purposes of this section the proceeds of a duty for a quarter shall be the amount remaining from the receipts from that duty that are collected in that quarter after any drawbacks, refunds or other repayments relating to those receipts have been made or allowed for.

Mining royalties, rents and exports

109. (1) There shall be paid by each Region to the Federal Government a sum equal to thirty percent of -

- (a) the proceeds of any royalty received by the Region in respect of any minerals extracted in that Region;
- (b) any mining rents derived by the Region during that year from within that Region; and
- (C) Any income received from the export of any natural resource or agricultural produce by the Government of the Region.

(2) The Federal Government shall credit to the Distributable Pool Account a sum equal to 10 per cent.

(3) For the purposes of this section the proceeds of a royalty shall be the amount remaining from the receipts of that royalty after any refunds or other repayments relating to those receipts have been deducted therefrom or allowed for.

(4) The House of Representatives may prescribe the periods in relation to which the proceeds of any royalty or mining rents shall be calculated for purposes of this section.

(5) In this section "minerals" includes mineral oil.

(6) For the purposes of this section the continental shelf of a Region shall be deemed to be part of that Region.

Taxes

110. Subject to any Act of the House of Representatives prescribing the rate of taxes, the Federal Government shall collect all taxes on income of companies doing business in Nigeria, and taxes on all transactions relating to banking and insurance operations and services and operations at all ports of entry into Nigeria.

111. Subject to any Act of the House of Representatives prescribing the rate of taxes and subject to the power of the government of the Federation to collect taxes pursuant to Section 98 of this

Constitution, the Governments of the Region shall collect and retain all other taxes with their respective Regions.

112. The Federal Government shall credit to the Distributable Pool Account a sum equal to twenty percent of taxes collected subject pursuant to Section 98 of this Constitution.

Distribution of funds in Distributable Pool Account

113. There shall be paid by the Federal Government to the Regions an equal share of the amount standing to the credit of the Distributable Pool Account at that date.

114. Each Region shall in respect of each financial year pay to the Federation an amount equal to such part of the expenditure incurred by the Federation during that financial year in respect of the department of customs and excise of the Government of the Federation for the purpose of collecting taxes and duties as is proportionate to the share of the proceeds of those taxes and duties received by that Region under those sections in respect of that financial year.

115. (1) Any sum that is required by this Chapter to be paid by the Federation to a Region may be set off by the Federation in or towards the payment of any sum that is due from that Region to the Federation in respect of any loan made by the Federation to that Region.

(2) The right of set-off conferred by subsection (1) of this section shall be without prejudice to any other right of the Federation to obtain payment of any sum due to the Federation in respect of any loan.

116. Any amount received by the Federal Government of Nigeria, not being an amount payable into the Distributable Pool Account shall be retained for the running Federal Government of Nigeria.

Sums charged on Consolidated Revenue Funds

117. Any payments that are required by this Chapter to be made by the Federal Government to a Region shall be a charge on the Consolidated Revenue Fund of the Federation and any

payments that are so required to be made by a Region to the Federation shall be a charge on the Consolidated Revenue Fund of that Region.

Provisions with regard to payments

118 (1) Where any payment falls to be made under this Part of this Chapter, the amount payable shall be certified by the Accountant General of the Federation:

Provided that a provisional payment may be made before the Accountant General has given his certificate.

(2) The House of Representatives may make provision as to time and manner in which any payment falling to be made under this Part of this Chapter shall be affected and for the making of adjustments and provisional payments.

CHAPTER X: THE PUBLIC SERVICE OF THE FEDERATION

Establishment of Public Service Commission

119. (1) There shall be a Public Service Commission for the Federation, which shall consist of a chairman and not less than two or more than four other members.

(2) The members of the Public Service Commission of the Federation shall be appointed by the President, acting in accordance with the advice of the Prime Minister.

(3) A person shall not be qualified to hold the office of a member of the Public Service Commission of the Federation if he is a member of either House of Parliament, a member of a legislative house of a Region, a Minister of the Government of the Federation, a Minister of the Government of a Region or the holder of an office in the public service of the Federation or the public service of a Region.

(4) Subject to the provisions of this section, a member of the Public Service Commission of the Federation shall vacate his office -

(a) at the expiration of five years from the date of his appointment; or

(b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Public Service Commission of the Federation may be removed from office by the President, acting in accordance with the advice of the Prime Minister, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(6) A member of the Public Service Commission of the Federation shall not be removed from office except in accordance with the provisions of this section.

(7) A person who has been appointed to be a member of the Public Service Commission of the Federation shall not thereafter be eligible for appointment to any office in the public service of the Federation.

Appointment, etc., of officers in public service

120. (1) Power to appoint persons to hold or act in offices in the public service of the Federation (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and exercise disciplinary control over persons holding or acting in such offices shall vest in the Public Service Commission of the Federation:

Provided that the Commission may, with the approval of the Prime Minister and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members or to any officer in the public service of the Federation.

(2) This section shall not apply in relation to any of the following offices the office of Judge or Justice of any court created by this Constitution;

Appointment, etc., of principal representatives of Federation abroad

121 (1) Power to appoint persons to hold or act in the offices to which this section applies (including power to make appointments on promotion and transfer) and to remove persons so appointed from any such office shall vest in the President, acting in accordance with the advice of the Prime Minister.

(2) Before tendering any advice for the purposes of this section in relation to any person who holds any office in the public service of the Federation other than an office to which this section applies, the Prime Minister shall consult the Public Service Commission of the Federation.

(3) The offices to which this section applies are the offices of any Ambassador, High Commissioner or other principal representative of the Federation in countries other than Nigeria.

Appointment, etc., of permanent secretaries

122. (1) Power to appoint persons to hold or act in the office of permanent secretary to any department of government of the Federation and to remove persons so appointed from that office shall vest in the President, acting in accordance with the advice of the Prime Minister.

(2) Before tendering any advice for the purposes of this section the Prime Minister shall consult the Public Service Commission of the Federation.

Appointment and tenure of office Accountant General

The Account General of the Federation shall be appointed by the President on the advice of the Prime Minister subject to reactivation by majority vote of the House of Representatives and at least 4 legislative Houses of the Region.

123. (1) No Person shall be appointed to the office of the Account General of Federation, except he is a Citizen of Nigeria and is qualified to practice as a chartered accountant in Nigeria and has been qualified for not less than 10 years.

(2) Subject to the provisions of this section, a person holding the office of Accountant General of the Federation shall vacate that office when he attains such age as may be prescribed by the House of Representatives

(3) A person holding the office of Accountant General of the Federation shall be removed from office by the President if a resolution is passed by the House of Representatives recommending his removal from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(4) A person holding the office of Accountant General of the Federation shall not be removed from office except in accordance with the provisions of this section.

Protection of pension rights

124. (1) Any person having retired from the public or civil service of the Federation or the defunct states of Nigeria prior to the coming into effect of this constitution, not having been elected into a public office, shall be entitled to the such pension as was due to them prior to the enactment of this constitution.

For the purpose of section 103(1) above, the Regions shall inherit the pension liabilities of the defunct states forming part of the Region.

CHAPTER XI: TRANSITIONAL PROVISIONS

Amnesty for Corrupt Practices

125 Anyone who whilst occupying public office or performing any duties in relating to public finance, before the enactment of this Constitution, who may have corruptly or unlawfully enriched himself by reasons of such public office, if not more than 12 months from the coming into effect of this Constitution makes a sworn declaration before a judge of the Federal High Court in such manner as the Chief Justice of Nigeria may prescribe detailing, detailing the value of such enrichment and the total asset held in his name and that of his immediate family shall be deemed pardoned for such unlawful enrichments. Provided that any person who make a declaration under this Section shall not later than 3 calendar months from the date of the declaration transfer all assets and monies unlawfully acquired to the Federal Government, if such unlawful enrichment was committed against the public funds of the Government of the Federal Republic of Nigeria or the Government of any Region, if the unlawful enrichment was committed against the public finance of any region.

126. If at any time after the declaration made pursuant to Section 104 above, it is discovered that any part of the declaration is willfully and materially false, anyone being the deponent of such declaration or may have aided in the making of such declaration, shall be guilty of a criminal offence and shall upon conviction be liable to imprisonment for life.

Existing Laws

127. All existing law, that is to say, all law which, whether being a rule of law or a provision of an Act of National Assembly, military decree being in force as an Act of the National Assembly, or laws made by a state House of Assembly or of any other enactment or instrument whatsoever, is in force immediately before the date of the commencement of this Constitution or has been passed or made before that date and comes into force on or after that date, shall, until that law is altered by legislative authority having power to do so, have effect with such modification (whether by way of addition, alteration or omission) as may be necessary to bring that law into conformity with this Constitution and the Constitution of each Region.

128. Where there are laws of the defunct states of a Region on the same subject matter, the Region Assembly shall by Resolution supported by a simple majority of members and published in the gazette of the Region adopt one of the laws for Region wide application and upon adoption all other laws on the subject matter shall be deemed repealed by the Regional Legislative House.

129. Where no resolution is passed by the Regional Legislative House pursuant to section 128 the law latest in time shall be deemed applicable to the whole region until such resolution is passed.

(2) The legislative authority, for the purpose of Section 127 above, shall be the House of Representatives, with respect to laws made by the National Assembly or military decrees and the Regional House in respect of laws made by the State Houses of Assembly.

Pending Court Matters

130. All proceedings commenced before the commencement of this constitution, which by virtue of this constitution or any Act of the House of Representatives or the Legislative Houses of the Region, should have been commenced before any other court, shall continue in such court where the proceeding was commenced prior to the enactment of this constitution.

Chapter XII – Referenda

131 (1) A popular referendum may be initiated by resolution supported by two-third majority of all the members of the House of Assembly of any Region to address any

issue contained in this constitution, including the creation of new Regions or change of the structure of the Nigerian state.

(2) A resolution passed pursuant to paragraph 1 of the Section must itemize questions to be addressed in the referendum and the instrument containing the resolution shall be transmitted to the Speaker of the House of Representatives within 7 days of passage of the Resolution.

(3) Upon Receipt of the instrument, the Speaker shall cause of the Resolution to be debated upon on the floor of the House of Representatives and may invite members of the public to make contributions and presentations as part of the debate.

(4) Upon the close of the debate, which must be concluded within 2 week of the receipt of the instrument, the Speaker shall cause the matter to be voted upon by members of the House of Representatives and if adopted by two-third of all members of the House of Representatives, the Speaker shall cause of instrument to be transmitted to the Chief Electoral Commissioner.

(5) The Electoral Commission shall, not later than 90 days after the receipt of the Instrument, cause a referendum to be conducted where the instrument originated, if the outcome of the referendum would affect the region only or in all the regions of the federation, if the outcome is such that would affect more than one Region.

(7) Any question set out in the instrument of referendum, shall be deemed to have received a positive vote, if a simple majority of all persons eligible to vote in an election, where the referendum is conducted, vote in the affirmative.