
MEMORANDUM ON TRUE FEDERALISM

SUBMITTED BY THE
'RESTRUCTURE NIGERIA'
COMMUNITY AS A RESPONSE
TO THE APC COMMITTEE CALL
ON TRUE FEDERALISM

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ABOUT THE 'RESTRUCTURE NIGERIA' COMMUNITY

We Federalist oriented Nigerians who believe there is no other time but now to come together and demand for the most important change that Nigeria truly needs and which we believe is the restructuring of Nigeria to reflect true federalism.

We exist to achieve three objectives.

1. To sensitize and educate Nigerians as to why the country has never worked and might never work, and to illustrate to them how the root cause of this failure is linked to the skewed defective unitary system which we operate.
2. To mobilize the now enlightened Nigerians towards demanding for a restructured system based on the principles of true federalism.
3. To participate in the restructuring process through policy formulations, bills sponsorship, participation in constitution amendment process, etc.

To achieve our objectives, we have built a resource centre where Nigerians can visit and learn about the issues which we believe restructuring will address. We encourage all Nigerians to visit our resource centre (website) to have an in-depth understanding of the issues. The website address is

www.restructurenigeria.ng. A dedicated page is also available for a detailed and

historic understanding of federalism in Nigeria at

www.restructurenigeria.ng/federalism

STATEMENT OF BELIEF ABOUT THE PRESENT 'UNITARY' SYSTEM

After a critical but brief research into the challenges facing Nigeria, we as a group, has come to the firm conclusion that the problem with Nigeria is not squarely a problem of leadership but more a problem of structural defects inherent in our incompatible unitary political structure. We have come to the firm conclusion that the problem with Nigeria is the defective unitary system which we falsely call a federal system.

First, we believe that a heterogeneous society like Nigeria cannot and should not be administered in a highly centralized manner like we currently do in Nigeria. We believe the local people and governments should have a degree of control and autonomy over the most basic issues that affect their existence and as such, there is an urgent need to devolve certain responsibilities not just from the federal level to the state but also from the state to the community levels. We believe governance must begin from the bottom and move upward, not the reverse like it currently is in Nigeria. This, we believe will introduce a true sense of local participation, accountability, transparency and mutual respect between the people and their leaders, especially at the local level.

We believe, the system of government we currently operate puts too much powers at the hands of our leaders, thereby making them become emperors, and this has led to leadership bias arising from prebendalism, nepotism, corruption, marginalization and underdevelopment. There is therefore an urgent need to devolve powers from not just the Presidency but also from the state governors and in the interest of the local people. Our desire is to empower local communities into having control over the development of their respective communities, irrespective of the religious, tribal and regional bias of their state or federal leaders.

We believe corruption and prebendalism is an inevitable by-product of the system of government we operate and as long as we continue to operate a highly centralized system of government that puts too much powers in individuals rather than institutions, the fight against corruption will remain elusive.

There is a lesson from Ethiopia and their recent attainment of federalism that we should learn from. Let us put it here in verbatim.

...Politically, the era of centralization seems to have come to an end, and this is as it should be. A multi-ethnic, multi-lingual and multi-religious society such as ours cannot and should not be administered in a highly centralized manner. That people in their respective localities have the right to administer themselves, exercise a degree of command over their own resources, and develop their own cultures and languages must be taken as axiomatic...But there must also be unity within diversity. In the past we emphasized unity at the expense of diversity, and we have paid dearly for it. Let us hope that now we will not move to the other extreme and emphasize diversity at the expense of unity.

[Eshetu Chole, "Ethiopia At the Crossroads...", DIALOGUE, Addis Ababa, Ethiopia].

Federalism brings competition, competition drives productivity, productivity inspires innovation, innovations drives development. This is exactly what Nigeria lacks; competition, productivity, innovation, efficient and sustainable development.

The present unitary system has not only distorted the necessary ingredients for growth but it has also entrenched an entitlement mentality in the populace and among the federating units, making them less aggressive towards self-sufficiency. Recent statistics has shown that the bulk of the federating units (states and LGAs) are not sustainable and viable without federal allocations. What this basically implies is that if the federal government suffers a major economic sabotage in its revenue generating base, the entire country will likely run into crisis.

In summary, Nigeria is in crisis because it was built on a faulty foundation whose existence is now threatened. There is now need to rebuild this foundation by restructuring the political system and entrenching true federalism.

WHAT EXACTLY IS 'FEDERALISM' OR 'TRUE FEDERALISM'

The understanding of federalism varies from country to country; however, there are certain basic principles inherent in all federal systems that make it easy to identify a country that practices federalism.

The most cogent, clearly expressed and the most acceptable definition of federalism is that of Kenneth C. Wheare.

In his book he talked about “federal principle” i.e. **the method of dividing powers so that general and regional governments are each, within a sphere, co-ordinate and independent of one another.** Thus, Wheare’s proposition posits that the federal principle essentially entails a legal division of powers and functions among levels of government with a written constitution guaranteeing and reflecting the division. Wheare’s formulation of federalism is been drawn correctly from the United States of America which is regarded by him as the archetype of federal government. Since other formulation of federalism from other scholars are variations of his work, the basic tenets or elements of federalism according to K.C Wheare will be use as a templates to determines Nigerian federalism and the extent to which Nigeria has fulfilled the basic tenets of federalism. The basic tenets according to him are:

- ✓ There must be at least two levels of governments and there must be constitutional division of powers among the levels of governments.
- ✓ Each levels of government must be co-ordinate and independent of each other.
- ✓ Each levels of government must be financially independent. He argued that this will afford each levels of government the opportunity of performing their functions without depending or appealing to the others for financial assistance.
- ✓ There must be Supreme Court of the independent judiciary. He argued that in terms of power sharing, there is likely to be conflict hence, there must be independent judiciary to resolve the case each federating unit.
- ✓ In terms of the amendment of the constitution, no levels of government should have undue power over the amendment process.

He (Kenneth C. Wheare) maintained that, once a country is able to satisfy these conditions, such country is said to practice federalism.

Some other of the most basic features of federalism is as follows;

- ✓ The federating units (states and community governments) maintain autonomy over the most basic issues that affect their people. From security to education, resources, taxes, infrastructural developments, elections, judiciary, health care, etc.
- ✓ Powers are shared between the various tiers of government in a manner that unnecessary interference becomes unnecessary.
- ✓ The government (tier) closest to the people is more empowered to meet up with the needs of the local people.
- ✓ The federal national government is usually a creation of the sub-national (state) governments.
- ✓ The federal government responsibility is usually limited to just foreign affairs, monetary policy, immigration, customs, defense and related matters. All powers not expressly given to the federal government by the federal constitution is reserved for the state governments.
- ✓ Governance is run in a bottom-up approach.
- ✓ There is a federal and state constitution.

A Nigerian Professor, Itsey Sagay, also gives us an interesting understanding of federalism as a concept. Prof. Itsey Sagay rightly stated Federalism as;

...therefore, an arrangement whereby powers within a multi-national country are shared between a federal or central authority, and a number of regionalised governments in such a way that each unit, including this central authority, exists as a government separately and independently from the others, operating directly on persons and property with its territorial area, with a will of its own and its own apparatus for the conduct of affairs and with an authority in some matters exclusive of all others. In a federation, each government enjoys autonomy, a separate existence and independence of the control of any other government. Each government exists, not as an appendage of another government (e.g. the federal or central government) but as an autonomous entity in the sense of being able to exercise its own will on the conduct of its affairs free from direction by any government. Thus, the Central Government on the one hand and the State Governments on the other hand are autonomous in their respective spheres.

Furthermore, Wheare asserts that, **“the fundamental and distinguishing characteristic of a federal system is that neither the central nor the regional governments are subordinate to each other, but rather, the two are co-ordinate and independent.”**

In short, in a **federal system, there is no hierarchy of authorities, with the central government sitting on top of the others. All governments have a horizontal relationship with each other.**

Another Nigerian scholar by the name Nwabueze has identified the following additional characteristics in a federal system:

- The power sharing arrangement should not place such a preponderance of power in the hands of either the national or regional government to make it so powerful that it is able to bend the will of the others to its own.
- Federalism presupposes that the national and regional governments should stand to each other in a relation of meaningful independence resting upon a balanced division of powers and resources. Each must have powers and resources sufficient to support the structure of a functioning government, able to stand on its own against the other.
- From the separate and autonomous existence of each government and the plenary character of its powers within the sphere assigned to it, by the constitution, flows the doctrine that the exercise of these powers is not to be impeded, obstructed or otherwise interfered with by the other government, acting within its powers.

Let us consider the contribution of the most consummate student of federalism Nigeria has ever known- Chief Obafemi Awolowo (see ‘Thoughts on Nigerian constitution’, pp. 48-49).

From our study of the constitutional evolution of all the countries of the world, two things stand out clearly and prominently. First in any country where there are divergences of language and of nationality- particularly of language- a unitary constitution is always a source of bitterness and hostility on the part of linguistic or national minority groups. On the other hand, as soon as a federal constitution is introduced in which each linguistic or national group is recognized and accorded regional autonomy, any bitterness and hostility against the constitutional arrangement disappears. Secondly, a federal

constitution is usually a more or less dead letter in any country which lacks any of the factors conducive to federalism. From the facts and analysis quoted from Chief Obafemi Awolowo book, the two following principles can be deduced:

1. If a country is bilingual or multi-lingual like Nigeria, the constitution must be federal, and the constituent state must be organized on linguistic basis;
2. Any experiment with a unitary constitution in a bilingual or multi-lingual or multi-national country must fail, in the long run.

It is surprising that Nigeria only operates federal system on paper. The federal structures have never existed in Nigeria society. The reasons are not far fetch; First, the federal government, ever since the intervention of the military in government has always assumed superiority over the state government, because military federalism had been more common than civilian federalism, this model made the federal government the “master in relation to the dependent” state governments. At independence, largely autonomous regions possessed the residual powers in the federation and functioned almost independently and efficiently. The regions had independent revenue bases; separate constitutions, foreign missions, and the primary and secondary education were under the residual list while the university education was under the concurrent list. All these changed under military rule. Attempts by the state governments to reassert their autonomy during the second republic were aborted by the return of military rule.

We believe the time is now right to restructure Nigeria and entrench true federalism.

OUR PROPOSED GUIDING PRINCIPLE TOWARDS ATTAINING TRUE FEDERALISM IN NIGERIA – WHAT WILL A RESTRUCTURED NIGERIA LOOK LIKE?

The most important question before us is envisaging what a restructured Nigeria would look like. We have agreed that Nigeria needs restructuring based on the principles of federalism. The next big question should be; what should a restructured Nigeria look like? This is what we have set out now to answer in this chapter.

How should responsibilities be shared between the federal and state governments? To answer these questions, we have drawn up twenty rules that should guide us in our debate. Find below the twenty rules that we consider as fundamental to a two-tier system of federal structure and which we think is best suitable for a country like Nigeria.

The first rule towards restructuring Nigeria is to allow the peoples, ethnic nationalities and communities come together and create their own autonomous state governments as they please. It is only after the various ethnic nationalities have created their own autonomous state governments that they can then come together to create the federal government. There is nowhere in the world where the federal government creates the state governments, rather it is the pre-existing autonomous state governments that come together to create the federal government (country) and decide what and what political and economic powers should be given to the federal government. This is the first principle of federalism.

These twenty rules highlight the basic principles of true federalism.

1. There should be two tiers of government recognized by the federal constitution; a federal and state government. Each of them should have a separate constitution. The state government should have the exclusive right to create another tier of government as it wishes. We suggest that a community/city based government be recognized and established by the state as the last tier of government in replacement for the present local government system. Community/City based government should therefore replace the existing local government style tier of government. The

constitutions must guarantee the autonomy of each tier of government. The community based government should have full control over the most basic things that affect the community and the local people. Issues like basic education (management and funding of basic schools), security (community police), water, maintenance, health care, etc., should be the responsibilities of the community based governments. Community Based Governments should also have the right to raise its own revenue through taxes to fund its needs. The community based government should be the most empowered tier of government.

2. The federal constitution should limit the federal government responsibilities to only defense, monetary policy, foreign policy, immigration, customs and such related matters. All duties not given to the federal government should become the duties of the state governments.
3. The federal constitution should be written by the representatives of the already existing autonomous states that now wish to federate (create) a federal government. In the same manner, the state constitution should be written by the representatives of the people, ethnic nationalities and communities that would make up the state.
4. Ownership of all federal owned assets and institutions that are no longer under federal jurisdiction should be transferred to the states where they are located. Arrangement should be made to ensure that there is a fair balance of payment for the transferred assets. Where the states fail to offer a fair bargain for the new assets, the general public (private sector) should be invited to take ownership of the assets. Federal institutions (i.e federal universities) capable of being autonomous should be declared as autonomous institutions and free from federal interference.
5. The federal government will no longer build hospitals, universities, rail lines, refineries, power stations, etc. These shall become exclusive duties of the state governments and the private sector. The federal government duty shall be limited to the items listed in number 2.
6. The federal constitution shall forbid both the federal and state governments from embarking on business ventures and shall limit their sources of revenue to only taxation and royalties.

7. The federal constitution should recognize the right of ownership of land and natural resources as belonging to communities and individuals and should therefore forbid both the state and federal governments from upturning this inalienable right. The implication of this rule is that resource control will now be in the hands of individuals and communities and not the state or federal government as it currently is. However, the federal constitution must guarantee the right of the state and federal government to benefit from such resources through taxation.
8. The state and federal governments should have two independent judiciary with each having up to its own Supreme Court.
9. Right to secession (self-determination) should be enshrined in the federal constitution. Communities/towns should have the right to secede from a state and seek membership of another state within Nigeria while states should have the right to secede from Nigeria and seek membership of another country or form an independent country of their choice. The process of doing this must be by referendum and subject to federal confirmation.
10. State governments should be entitled to receive irregular annual grants from the federal government on specific needs (capital projects), and in the same fashion, communities/town governments should be entitled to receive regular grants from their state governments upon meeting certain conditions. There should be no more monthly allocations.
11. Parliamentary democracy should be adopted to replace the present presidential executive system. The present House of tribes (House of Reps) and Senate should be abolished and a single parliament (House of tribes) retained comprising of tribesmen, professionals, and town/city/state representatives.
12. The federal constitution shall guarantee the decentralization and autonomy of the civil service, judiciary, and other arms and institutions of government.
13. The federal constitution shall recognize indigeneship and residency as qualification for occupying public offices in both state and federal offices.

14. Taxation shall be the major source of revenue for both the federal and state governments. Federal taxes shall be limited while state government taxes shall be unlimited.
15. Both basic and tertiary education shall be the exclusive rights of the states and community based governments. The federal government shall have no business with building and managing basic or tertiary institutions. Power generation, transmission and distribution shall also be the exclusive right of the state and city governments.
16. The federal constitution shall guarantee the autonomy and need for federal, state, community and institutional police system. Federal regulations should be unlimited on matters of security, environment, economy, etc.
17. Issuance of licenses (whatever kind be it exploration or social license) should be the exclusive right of the state governments while regulations of such licenses should be jointly done by both the state and federal governments.
18. The federal and state constitution shall guarantee the autonomy of every tier of government in conducting their own elections. Each tier of government shall be solely responsible for the conduct of its own elections without external interference. The people of the communities, towns and cities that make up a state shall be solely responsible for electing the state government officials in the same way the people of the state governments shall be solely responsible for electing the officials of the federal government.
19. The federal constitution shall separate religion from the state and state from religion.
20. The federal parliament shall be structured in such a manner that a bill can only become law if and only if it receives support from a minimum of 1/3 representatives from each state and not a 2/3 of the general House.

The above twenty rules are what we consider as fundamental principles of true federalism as may be applicable to the Nigerian society. Once we are able to establish these rules in Nigeria, Nigeria has become a true federal state! The rules will expand as time goes.

ISSUES

CREATION/MERGER OF STATES

We strongly believe that it will be disingenuous for us to propose a return to regionalism or retention of the thirty-six states structure, however, we believe certain conditions should be met before states are either created or merged. Below are the conditions.

We strongly believe that the present thirty-six state structure is not viable, sustainable and therefore redundant. To this end, we suggest the following conditions for state creation and mergers;

The precondition for state creation should be as follow;

- A people and or ethnic nationality (ies) can decide to create a state through a referendum.
- A state must have the required productive population sufficient enough to generate reasonable revenue to at least meet the recurrent expenditure of the institutions of the proposed state.
- The initiators of the proposed state must show, at least in theory, the viability and expected cash flow for the sustainability of the proposed new state.
- The initiators of the proposed state must show, at least in theory, the proposed management structure of state institutions to be created by the new state.
- A newly created state will not be entitled to receive federal grants for the first five years after its creation.
- The territory and people within such proposed state shall not be entitled to receive any benefit from its former state upon agreeing to become part of a new state.
- The newly created state shall not be entitled to receive benefits from the natural resources domiciled in its domain within the first years of its existence. All such resources and its benefits shall remain part of the old state until a period of five years after creation of the new state.

- Upon demonstration of viability over a period of five years, the new state shall gain national recognition and shall be recognized as a new state under the federal constitution.

The precondition for merger should be as follow;

- A people and or ethnic nationality (ies) can decide to merge their existing states through a referendum.
- Upon the expression of such interest to merge, the merging states shall conduct a referendum and monitored by the federal government.
- Prior to the conduct of the referendum, the initiators of the merger shall demonstrate, at least, in theory, how the merger shall be of economic and otherwise benefit for the survival of the states.
- The initiators of the proposed state merger must show, at least in theory, the proposed peaceful management of state institutions under the merger arrangement.
- Upon a successful and positive referendum, the new merged states shall gain national recognition and shall immediately be entitled to all federal benefits accruable to states.

ISSUES

DERIVATION PRINCIPLE

In line with the principle of true federalism and for the sake of equity, fairness and justice, we propose the following recommendations.

1. Natural Resources should be owned by communities and individuals and not the state nor federal government, however, the state and federal government should have the constitutional right to tax profits on natural resources as follows
2. 40% of such tax generated from profits of natural resources should go to the state government where the resources are derived from.
3. 20% of such tax generated from profits of natural resources should go to the federal government
4. 20% of such tax generated from natural resources should go to the elected community/city/town government where the resources are located
5. 20% of such tax generated from natural resources should go to the federally controlled redistributable account to be used for funding of annual grants to all states of the federation
6. Profits from Value Added Tax should be distributed as follows
7. 70% goes to the state government where transaction takes place
8. 10% goes to the federal government
9. 10% goes to the redistributable account
10. 10% goes to the town/city/community government where transactions take place
11. Income tax
12. 100% of general income tax goes to the state government
13. 70% of employee income tax of federal civil servants goes to the FG
14. 30% of employee income tax of the federal civil servant goes to the redistributable account
15. 50% of customs duty tax goes to the FG
16. 20% of customs duty tax goes to the redistributable account
17. 20% of customs duty tax goes to the state of destination for the imported goods.
18. 10% of customs duty tax goes to the state government hosting the port.
19. Other taxes not reserved for the federal government are to be shared a 100% for the state governments. State government shall have no limits on its right to taxation except as prescribed by the state constitution or state parliament and or the people.

ISSUES

DEVOLUTION OF POWERS

Our position on the devolution of powers is as follows;

Going by our principle of true federalism which asserts that each level of government must be co-ordinate and independent of each other with the sub-national government having more responsibilities, we hereby state the following;

1. Only defense, external affairs, trade, immigration, and such related matters are to be retained as legislative exclusive duties of the federal government.
2. All other responsibilities not expressly given to the federal government shall become exclusive duties of the state governments.
3. Since more responsibilities are to be given to the states, more sources of revenues must be made open for the state governments as well.
4. All state government related duties in the federal constitution should be expunged from the federal constitution so as to allow state constitutions determine how such issues will be addressed at the state levels.
5. There should be state and federal prisons. Federal crimes shall be limited to offences committed within the legislative scope of the federal government (i.e terrorism) while state crimes shall be limited to offences committed within the legislative scope of the state government (i.e rape).
6. There should be state, federal and community policing.
7. All former duties and institutions of the federal government (i.e federal universities) should either become autonomous or be transferred to the state government where they are located.

ISSUES

FEDERATING UNITS

We believe our position on **state creation/merger** already addresses this issue, however and for the purpose of emphasis, we shall state as follows;

We strongly believe that it will be disingenuous for us to propose a return to regionalism or retention of the thirty-six states structure, however, we believe certain conditions should be met before new federating units must emerge under the new restructured Nigerian system before states are either created or merged. Below are the conditions.

We strongly believe the present thirty-six state structure is not viable, sustainable and therefore redundant. To this end, we suggest the following conditions for the creation of federating units;

- The precondition for federating unit creation should be as follow;
- A people must voluntarily create their own state or region.
- The procedure for state creation (page 16) must be followed in the creation of either a state or region.
- Further technical guidelines should be established to guide the federating unit creation process.
- The federating units (be it state or region) must be self-sufficient and must prove this by running it's own affair for a minimum period of four months and without any federal or external support.
- The power to create a region or state lies with the people seeking such adventure and upon meeting the conditions for state creation.
- All federating units must pre-exist (or be presumed) before the creation of the national (federal) government.

ISSUES

FISCAL FEDERALISM AND REVENUE ALLOCATION

Our position on **fiscal federalism** is as follows;

- a. There should be two tiers of government recognized by the federal constitution; state (or regions) and the federal government.
- b. Each of the tiers of government must have their own constitutions
- c. The federal constitution shall limit itself to issues related to the federal government while the state constitution shall limit itself to issues concerning the state government. For example, the number of LGAs, number of parliament members, tenure and qualification of political office holders, issues with state legislature, etc., are not to be found in the federal constitution but in the state constitutions. All responsibilities not given to the federal government by the federal constitution shall be handled by the state constitutions.
- d. The creation of Local Governments or community governments as a last tier of government should be the exclusive duty of the state constitutions.
- e. We propose that community/city/town based government become the last tier of government but created by the state constitutions. More information about this concept is found in the section for community based government. The duties to be given to LGA or community based governments would include the management of basic education, primary health care, water, security (community police), maintenance and other basic needs. The autonomy of the community government should be guaranteed in the federal constitution.
- f. There should be federal, state, and community police system. Each shall be restricted to its duties as stated in the state and federal constitutions. The various police systems shall be structured to reflect its own autonomy and its various heads shall be elected by all members of the respective police.

- g. The institutions of government managing the basic needs of the people (education, health care, education, electricity, water, etc) shall be included in the first line charge of budgetary needs.

Our position on **Revenue Allocation** is as follows;

1. We believe the concept of monthly allocation is redundant and inimical to competition, productivity and transparency. For this reason, we are proposing that the concept of monthly allocation be scrapped or abolished.
2. We propose that provision be made in the federal constitution to allow for legislature on the issuing of annual grants to states in need of such grants based on specific targets and upon such states meeting the strict conditions provided by the act.
3. We propose that provision be made in the federal constitution for the establishment of an institution that shall be responsible for the automatic redistribution of taxes generated for the redistributable account by the federal government on behalf of the state governments. For example, if it is agreed that customs duty should be shared on a ratio of 50:20:20:10, it becomes the duty of this institution to automatically redistribute such revenues on agreed dates and on the ratio agreed by the constitution or Act.
4. Community Based Governments or LGAs should be granted state constitutional rights to raise certain taxes within their domain so as to fund their responsibilities and budgets. Also, critical joint institutions of the Community Based Governments or LGAs should be given first line status in the state budgetary process (i.e community police, primary health care, basic school teachers, etc). However, the day-to-day management of these community or LGA institutions shall be the sole duty of the elected community based government.
5. We propose that provision be made in the state constitution for the establishment of an institution that shall be responsible for the

automatic redistribution of taxes generated by the state government on behalf of the LGAs or community governments. For example, if it is agreed that five percent (5%) of every revenue (tax) earned by the state government must go into funding basic education, it becomes the duty of this institution to automatically redistribute such revenues on agreed dates and on the ratio agreed by the state constitution or Act directly to the LGAs or community based government institution responsible for managing basic education at that level. This must be done without political interference by the head of the state government.

6. Since LGA would no longer exist as a tier of government recognized by the federal constitution, there would be no direct allocation or funding to the LGAs from the federal government.

ISSUES

FORM OF GOVERNMENT

We propose the following form of government.

1. Nigeria should adopt a parliamentary system of government. The Ethiopian System is recommended.
2. There should be a House of Parliament possessing both the legislative and executive powers.
3. Members of parliament must be elected from the various states and ethnic nationalities that make up Nigeria and on an equal basis.
4. The President shall be the head of government and nominated from and by the members of parliament
5. The Prime Minister shall be elected from and by the parliament and shall act as the chief executive, chairman of council of ministers and commander in chief of the armed forces.
6. There shall be a council of ministers comprising members of parliament and any other member as may be allowed by law.
7. The federal, state and community governments shall adopt the same parliamentary model in running their independent governments.
8. We propose that further study be carried out on the Ethiopian model for compatibility with Nigeria's heterogeneous society.

ISSUES

INDEPENDENT CANDIDACY

In line with the principle of federalism, our position is as follows;

- The federal constitution should recognize independent candidacy but under certain conditions as may be proposed by parliament or the electoral commission.
- Similar procedure should be made at the state and community or LGA levels

ISSUES

LAND TENURE SYSTEM

In line with the principle of federalism which guarantees the autonomy of the federating units, our recommendations on the land tenure system is as follows;

1. Land and every resource that comes with it should belong to individuals and communities. This should be an inalienable right protected by the federal constitution.
2. The state (both federal and state governments) should be granted constitutional rights to establish an institution for the management of lands on behalf of the real owners of the land and without prejudice or bias against the real owners of the land (individuals and communities). This institution and its duties shall be established not by the constitution but by an Act of parliament.
3. This institution of government shall give proper definition to land and shall set in motion modalities for the rightful definition of federal, state, individual and community lands.
4. Where land is needed for investment or public use, this institution shall set up the standard of negotiation for and with the owners of such land.

ISSUES

LOCAL GOVERNMENT AUTONOMY

In line with the principle of federalism as captured in our earlier definition, we hereby propose the following;

- a. Local government should not be a tier of government recognized by the federal constitution, and as such, should be completely removed from the federal constitution.
- b. Issues concerning Local Government should be decided by the state constitution and state governments.
- c. There should therefore be no direct funding or allocation from the federal government to the local government.
- d. We propose that community/city/town based government (CBG) be created by the state constitution to replace local government as their own last tier of government in their domain.
- e. All issues relating to autonomy, tenure, funding and whatever related to local government should be left for the state constitution to decide.

ISSUES

POWER SHARING AND ROTATION

The federal constitution should make no room for power sharing and rotation and should also guarantee such principle be complied with at the state levels.

The issue of power sharing and rotation is a direct consequence of the prebendalism that is associated with the unitary system that we currently practice. If we succeed in decentralizing responsibilities and making the centre less attractive in terms of its connection to internal development, the tension and abuse that comes with the present system will be eradicated.

The concept of power sharing and rotation is a justification for prebendalism, corruption, nepotism and abuse of power. For this reason, we believe that the concept of power sharing and rotation is a violation of the tenets of democracy and should not be encouraged by the federal constitution.

ISSUES

RESOURCE CONTROL

In line with the principle of true federalism and for the sake of equity, fairness and justice, we propose the following recommendations.

- a. Natural Resources should be owned by communities and individuals and not the state nor federal government, however, the state and federal government should have the constitutional right to tax profits on natural resources as follows
- b. 40% of such tax generated from profits of natural resources should go to state governments where the resources are located.
- c. 20% of such tax generated from profits of natural resources should go to the federal government
- d. 20% of such tax generated from natural resources should go to the elected community/city/town government where the resources are located
- e. 20% of such tax generated from natural resources should go to the federally controlled redistributable account to be used for funding of annual grants to all states of the federation.
- f. Licenses and permits for the award of exploration activities of natural resources should be the exclusive duty of the state government and state constitution, however, the federal government should be allowed to play regulatory roles where necessary. The owners of the resources (individuals and communities) must be allowed to participate in the licensing process and their interest must always be protected all through the processes.
- g. There should be a proper definition of what 'natural resources' means as related to resource control, derivation and taxes.

ISSUES

TYPES OF LEGISLATURE

Our recommendation for type of legislature is as follows;

- a. We propose that there should be a single House of Parliament known as the 'House of Tribesmen'.
- b. This House of Tribesmen shall constitute the parliament which shall carry out executive and legislative duties.
- c. Every Ethnic Nationality having up to one million documented population or as may be defined by law shall be represented in this house by one member.
- d. Elections into the House of Tribesmen shall be conducted and decided by the state governments.
- e. Every ethnic nationality having more than ten million in documented population shall have not more than three representatives at the Federal House of Tribesmen
- f. Every state government recognized by the federal constitution shall have at least a member represented in this House.
- g. The tenure of these members of parliament shall be decided by the federal constitution.
- h. Every member of this parliament shall be sponsored by its state council (government). This includes remuneration, accommodation and other needs. However, there shall be a fixed federal sitting allowance for each Member of Parliament as may be agreed by FG.
- i. Duties of this parliament shall include all legislative and executive functions. The official language of the parliament shall be a generally accepted indigenous language (i.e, Pidgin or English)
- j. The council of Ministers shall emerge from this parliament.
- k. The Prime Minister, Speaker and President shall emerge from this parliament.
- l. The Speaker shall be the Head of Legislative Matters while the Prime Minister, President and Council of Ministers shall manage the executive Matters. All National Issues must be subject to rigorous parliamentary debate before approval.

ISSUES

STATE CONSTITUTIONS

In line with the principle of autonomy of the federating units as identified in a federal system, we hereby propose and justify our concept of state constitutions as part of the restructuring process of Nigeria.

1. We believe that the ethnic nationalities, peoples and communities of a particular area must first of all aggregate themselves into establishing pre-existing states before a country is established.
2. As such, such a people must define their existence, aspirations and expectations before federating to become a country or nation.
3. As a process of federating, a people must preserve themselves by defining what powers are to be given up to the federal government and what powers are to be retained for themselves.
4. Upon agreeing on what powers are to be retained for themselves, there becomes a need for self-governing rules. Such question must certainly emerge. How should we govern ourselves in this state? Should we be governed by a dictator, an emperor or a democrat? What and what powers should we give to our state leaders and what powers should our local communities retain? Should we leave the issue of security in the hands of our state leaders or should we decentralize such powers to our communities? Etc.,.
5. Now that we have chose to federate, should we allow the federal government legislate and decide how our states should be governed or should we decide that at our state levels?
6. Going forward, we can now see why the people of a state must be allowed to draft their own state constitutions.
7. The essence of a state constitution is to allow a people making up a state agree on how they want their state to be governed. It is their own local social contract, different from the one at the federal level. It is the first step of entrenching accountability at the state levels.
8. Let us not forget that it is only pre-existing autonomous state governments that can come together to federate (create a federal

government). Therefore, it becomes imperative for states to have their own constitution so as to allow them resolve issues delegated to states and agreed upon at the federal constitution drafting levels.

From the foregoing, we can see the importance of state constitution in a federal system. A state constitution saves the state from turning its leaders into becoming emperors like we have had in Nigeria since the constitution, just like the federal constitution shall clearly create various arms and tiers of governments at the state levels and also delegate responsibilities and divisions of powers.

ISSUES

A CASE FOR STATE AND COMMUNITY POLICING

On the 25th of December 2016, Goska, a community in Southern Kaduna was attacked by suspected Fulani Herdsmen, houses were destroyed and people were killed. For several hours that this operation went on, there was no response from the Nigerian Police Force. The affected communities could not defend themselves, likewise the state government. This is not the first time invaders have successfully invaded Nigerian communities, committed atrocities and escape uncaught. From the East to the South, Middle Belt and the North, communities have remained vulnerable to attacks.

There is a reason why such attacks have been successful across Nigerian communities. There is a reason why communities cannot react to attacks. It is the same reason why communities will continue to remain vulnerable in the face of invaders. The reason is quite simple. Communities have no control over their own security and the federal controlled Police is too inefficient to be trusted in managing local security. Moreover, most (if not all) officers of the Nigerian Police share no cultural and historical ties with the community they police over, there is therefore no sense of duty! In essence, there is no local police system in Nigeria!

Nigeria has a highly centralized police system that is controlled by the Presidency! The state governments and communities have little control over their own security. There are hundreds of Nigerian communities without the presence of this federal police, yet the law has made it impossible for such communities to establish their own police force, secure their people, property and territory. What kind of system fails to provide you security and yet denies you the legal right to provide security for yourself?

Analysts have argued that if Nigeria had a state and community Police system, communities like Goska in Southern Kaduna would have simply responded to the invaders by defending themselves with their local police force and possibly attacking the invaders. State police would be on standby if they (the Goska

Police) become overwhelmed by superior fire from the invaders. None of this is in existence right now; neither community nor state police exist in Nigeria.

One aspect of federalism that the present APC led federal government can easily implement without rancor is the demand for state and community policing. This is one aspect of true federalism which both Northern and Southern politicians have agreed Nigeria is ready for.

Security should not be managed in such a highly centralized manner as it currently is in Nigeria. Security should be managed by both the state and communities and not solely by the federal government. Over-centralization of security through the Nigerian Police has turned out to be a less effective way of managing security crisis. The Nigerian Police Force presently comprises of about 400,000 officers, yet it is still considered as grossly inadequate. There are hundreds of Nigerian villages and thousands of neighborhood without any Nigerian Police presence. This is in fact a threat to local and national security.

Just like every other federal owned institution, the federal police is not only inefficient but also poorly funded. By devolving security duties of the Police to state and communities, the federal government will be killing two birds with one stone. How? By devolving the present Nigerian Police Force into state and community control, the federal recurrent expenditure will be drastically reduced and the blame on the federal government for certain crimes (i.e. herdsmen attack) will be pushed to the states and community governments. There will be no job loss as states will simply absorb its resident officers from the existing federal police force and establish its own state and community police system. Quite simple!

Abuja cannot continue to control everything in Nigeria and receive all the blames. This unitary system of government is old fashion and redundant. It is time to push certain responsibilities from the federal government to the state and community governments and the issue of security is obviously one of such. The vigilante system in most states and communities have proven to be far more effective than the federal police system. What we must now do is to legalize such vigilante system, empower the local people and put them in charge of their own security. That is federalism in action! Standard practice. Nobody protects a community better than the local residents of the

community.

Until we restructure Nigeria and entrench true federalism (state and community policing are features of federalism), our communities will remain vulnerable and the Presidency will continue to take the blames for the security crisis. State and community police system is now imperative.

ISSUES

THE CONCEPT OF COMMUNITY BASED GOVERNMENT (CBG) AS A LAST TIER OF GOVERNMENT

Will Community Based Governments (CBG) as a last tier bring governance closer to the local People and communities of Nigeria?

One of the evils of the present skewed, flawed, corrupt, military ‘feeding bottle’ unitary system that we currently practice in Nigeria is that it has completely destroyed community-locality governance in the local areas of Nigeria, thereby depriving the local people and their communities their right to self-development. People in the localities of Nigeria have no government, have no constitutional right to organize themselves, generate revenue and manage the most basic things of life as it affects their communities. They do not even have the right to fire an irresponsible teacher working in any of their community but state government funded schools. We believe this is the major cause of widespread poverty and lack of concern over government property and the lack of basic infrastructure in the local places of Nigeria. In essence, there is no government in the areas where the real people live in. There is no government in my village, city and town as there is none in yours!

This is exactly what we seek to address in this lecture.

Federalism as a system of government is designed to guarantee a high level of autonomy for the federating units while they share few other relationships with the central authority. The importance of this autonomy is that it allows a certain people take control of their development or underdevelopment (as they please) without accusing another tier for their predicament. In essence, under federalism, the people of a particular federating unit are completely in charge of their own development. That is what federalism means. Unfortunately, in Nigeria, our federalism is an aberration, a calculated fraud designed to underdevelop the local communities, deny them access to their own development and deprive them of government presence; all in the bid of favoring the Abuja and state government house politicians and giving them a god-like status. What we seek now is to correct this anomaly and design a new

system that would entrench productivity, competition and economic sustainability across the country and in the remotest places of Nigeria.

Another evil of the present system of government that we practice is that it alienates the local people and their communities from actively participating in the affairs of governance in Nigeria. The local people and communities have no input in their state government budgets and yet they would not be allowed to raise and fund their own local budgets. People would say 'but we have the LGA to attend to these issues'. The present LGA system is not designed to meet the needs of the communities or the local people; it is a mini version of the federal government in a local area! It is designed to empower the local political elites and not the local people and their communities. The Local Government Chairmen and the local governments do not technically need the local people and communities to survive. Their survival depends on Abuja allocation; free money. Not from within their local economies. This is why we at the local level cannot hold them accountable because the money they steal technically belongs to nobody! How can we hold a government we do not fund to be accountable to us?

What then is community governance and why is it important that we have it in Nigeria?

Community governance as an aspect of true fiscal federalism is a system which guarantees the autonomy of communities (villages, towns and cities) in the generation of revenue, provision of fiscal responsibilities, and upward contribution to the central government in taxes, royalties and otherwise. It is a system that allows every single community (villages, towns and cities) in Nigeria to operate as an independent government taking charge of the most basic things that affects the community and its local people. Issues like basic education, primary health care, security (community police), water, local taxes and other basic issues are solely under the control of the democratic community based government. Under this system, communities will be allowed to design their annual budgets, embark on taxation, explore natural resources in their domain, manage basic social amenities and pay royalties/tax to the state and federal governments (where applicable). Communities will have the right to hire and fire teachers in its public schools, it will have the

power to determine what school fees in public schools should be and if it can afford to provide free education to its people. It will have full control of its own security. It will have constitutional powers to tax local businesses and use such revenues to run the public services of the community. Communities that have the resources should be allowed to generate and distribute electricity within the community and also generate revenue through the process. The CBG will be a government owned by a community, funded by a community and managed by the community. This is the first catalyst of local development that is missing in Nigeria today. The idea of having each community have its own government and take charge of its own basic development will bring in local competition amongst communities which will in turn lead to local development.

Under the present style of government in Nigeria, communities do not see the public schools in their communities as their property that should be protected, promoted and developed. Likewise security, environmental sanitation, taxation, maintenance and construction of public utilities and general public services. This is why some communities go as far as 'allowing' their indigenes steal and vandalize newly built and renovated schools and water systems in their communities. To them, it is government property and government property belongs to nobody! This is as a result of the level of alienation the present system has conditioned them to become.

The idea of a community based government (CBG) is to ensure that communities are empowered by the constitution to have certain fiscal responsibilities to do certain things for their communities without state and federal government intervention. By entrenching such a system, there will be grassroot development and participation in the business of governance at all local levels. There become a sense of communal ownership and responsibility towards government efforts and towards the development of the community.

The CBG can be funded through a proper taxation system. Property tax, petroleum tax, education tax, diaspora contributions/tax, state and federal governments' grants, motor park tax, shop tax, and many more taxes should be exclusively left for the CBG to utilize since the CBG will be taking over some of the state government responsibilities. With these funds going directly into the CBG account, the CBG should be able to have adequate revenues to meet up

with its responsibilities. As long as the CBG's survival is tied to the revenue sources within the community, the leaders of the CBG will be accountable to the people and corruption will be less. We all will agree that it is easier to steal a state government fund than to steal a community owned fund. The CBG system therefore has its internal mechanism to fight corruption and make it more transparent to the people.

If local governments (LGAs) must continue to exist alongside CBGs, then their funding should be from the local communities (CBGs) that constitute the local government and not from free federal allocations from Abuja. This is the only way to introduce accountability, commitment and sincerity in the management of local public fund.

Unfortunately, the concept of CBG cannot be actualized under the present skewed, flawed, corrupt, unitary 'feeding bottle' system that we practice in Nigeria. For this (CBG) to happen, we must first restructure Nigeria into True Fiscal Federalism so as to allow communities have an active role in governance at the local level. Communities must be allowed to have fiscal responsibilities such as generating revenues and having annual budgets and meeting the basic local needs of their people. Communities must be allowed to own and control the natural resources in their domain and pay taxes to the central government. Under a restructured Nigeria, every community must learn to generate and spend its cash based on its internal capacity, and equally even pay tax to the state government. The state and federal governments will continue to provide its own regulatory responsibilities as may be defined in the new arrangement and constitution. This is the basic foundation upon which true fiscal federalism is built around the world; bottom-up approach to governance. Government begins from the local level and moves upward to the state and then federal levels. Unfortunately, in our system of today, we are doing the reverse.

There become an urgent need to replace allocations with IGRs and stop the monthly ritual of sharing money on a monthly basis at Abuja. Abuja should be funded from contributions of all the federating units and not it funding the federating units as it presently is. It is time to discard this 'feeding bottle' federalism and replace it with an efficient, productive, competitive and locally driven system.

We believe the concept of CBG will not only help to decentralize economic and political powers to communities but will also help to drag development to the local areas of Nigeria.

People would become more interested in who becomes the Mayor or Chairman of the Government of Ojota town than they would be interested in who becomes the governor of Lagos state, knowing fully well that the Mayor and his government will be handling the most basic things that affects Ojota town. This is the beauty of the CBG concept.

The concept of CBG is still open to reviews, amendments and inputs.

Should we completely replace the LGA system with CBGS or add the CBGs as a last tier to the existing LGA? We should also note that CBG must be a creation of the state constitutions and not the federal constitution as federal government has no right creating a tier of government for the state as is the present practice.

What is our general opinion about the concept and how best can we achieve this in Nigeria? Should we have federal, state and CBG as the three tiers of government in Nigeria?

Let the contributions continue...

ADDENDUM

A HISTORICAL UNDERSTANDING OF FEDERALISM IN NIGERIA

UNDERSTANDING FEDERALISM IN NIGERIA

History of Nigeria's Federalism

IN the beginning, there was no Nigeria. There were Ijaws, Igbos, Urhobos, Itsekiris, Yorubas, Hausas, Fulanis, Nupes, Kanuris, Ogonis, Gwaris, Katafs, Jukars, Edos, Ibibios, Efiks, Idomas, Tivs, Junkuns, Biroms, Agnas, Ogojas and so on. There were Kingdoms like, Oyo, Lagos, Calabar, Brass, Itsekiri, Benin, Tiv, Borno, Sokoto Caliphate (with loose control over Kano, Ilorin, Zaria etc) Bonny, Opobo, etc. Prior to the British conquest of the different nations making up the present day Nigeria, these Nations were independent nation states – and communities independent of each other and of Britain.

Prelude to the Creation of Nigeria

The bulk of what is now Nigeria became British Territory between 1885 and 1914, although some autonomous communities were not conquered and incorporated in the protectorate until the early twenties. Between the 15th and 19th Centuries, European relationship with West African States were trade/commercial, with little or no political undertones. The Europeans depended on the coastal rulers not only for securing trade, but also for the safety of their lives and property. Thus European traders went out of their way to ensure they were in the good books of Native rulers.

It should be noted that the main commodity during this period were human beings. This was the era of slave trade. It was in a bid to protect the lives, properties and trade of British traders that the British Prime Minister, Palmerston appointed John Beecroft as British Consul in Nigeria in 1849. This was the beginning of piecemeal British colonisation of the independent nations of what later became Nigeria.

The Pre-Independence Constitutions

Governor as the sole Executive and Legislature

During the period 1900 to 1906, the Governor of the Protectorate of Southern Nigeria, exercised full executive powers and was also the legislature. This applied to the Protectorate of Northern Nigeria from 1900 to 1914. The Governor in each case made laws by proclamation. Such proclamation was, however, subject to approval by the British Government. In 1900 the Southern Protectorate and the Colony of Lagos were amalgamated under the title “The Colony and Protectorate of Southern Nigeria.” In the same year, a Legislative Council was created for the protectorate. At this stage, the Legislative Councils were, however, constituted by officials of government.

In 1914, the Colony and Protectorate of Southern Nigeria, and the Protectorate of Northern Nigeria, were amalgamated, and ruled by one Governor-General, Lord Lugard. The Legislative Council of the Colony was restricted to making laws for the Colony alone, whilst the Governor-General made laws for the whole country.

The 1922 Constitution – The Clifford Constitution

In 1922 a new Constitution revoking the 1914 Constitution was promulgated under Governor Clifford. Under this Constitution, a Nigerian Legislative Council was constituted, but its jurisdiction was limited to the Southern Provinces, i.e. the Colony of Lagos and the Protectorate of Southern Nigeria. The Governor continued to be the legislative authority for the Northern half of the country. Also an executive council was established for the whole country.

The 1946 (Richard) Constitution

In 1946, Governor Arthur Richards promulgated a new Constitution which came into effect on 1st January, 1946. Prior to this Nigeria had been divided into three Regions in 1939, the Northern, Western and Eastern Regions. The following features of the 1946 Constitution are worth noting:

The new Council was composed of the Governor as President, 16 officials and 28 unofficials (the latter including the four elected persons). This meant that for the first time the non-officials were more in number than the officials.

The majority of the non-officials were elected or nominated by the Regional Legislatures which the 1946 Constitution also brought into being. This meant that the unofficial majority were not subject to the Governor's control.

The Regional Houses were not competent to legislate, even for their own Regions. They could only consider bills affecting their regions, and make recommendations or pass resolutions for the central legislature in Lagos to consider. It was the latter only that could pass legalisation.

The 1951 (MacPherson) Constitution

The 1951 Constitution was the one that really introduced fundamental changes into the Imperial/Native relationship and the relationship between the Native Nigerian groups themselves. The following points need to be noted:

The 1951 Constitution came into being after an unprecedented process of consultation with the peoples of Nigeria as a whole. In accordance with the directives of the Legislative Council, meetings and consultations were held at (a) village (b) district (c) divisional (d) and provincial levels before the (e) regional and finally (f) the national conference.

The reports of each region from village to the regional level were then submitted to the Legislative Council. These reports and recommendations were published in October 1949 and reviewed by a drafting committee of the Legislative Council.

On 9 January, 1950, a General Conference of representatives from all parts of Nigeria started meeting in Ibadan to map out the future system of Government in Nigeria with the recommendation of the Regional Conference as the working documents.

The General Conference was composed of 25 unofficial members drawn from the earlier regional conferences as representatives of the three regions, 25 unofficial members from the Northern Legislative Council, 3 official members and the non-voting Chairman who was the Attorney-General of Nigeria. The Conference rose on 29 January, 1950 with recommendations which were accepted and implemented by the Governor of Nigeria.

The new Constitution represented a major advance on the existing state of legislative competence of Nigerians by (i) introducing elected majorities in the Central Legislature and (ii) in the Regional Houses of Assembly (iii) endowing the Legislative Houses with independent legislative power in many areas of state activity (iv) and establishing a Federal System for Nigeria for the first time.

The elected majorities in each Regional House were as follows: North – elected 90, non-elected -14, West – elected 80, non-elected – 7, East – elected 80, non-elected 8.

The modes of election were a combination between direct and indirect elections. The Central Legislature had 136 elected members and 13 nominated members. Of these, 68 were from the North and 34 each were from the East and West. The representatives of the Regions in the Central Legislature were elected by the Regional Legislatures from amongst themselves.

This marked the first formal introduction of Federalism into Nigeria. Thus the Conference noted that: “We have no doubt at all that the process already given constitutional sanction, and fully justified by experience, of devolution of authority from the Centre to the Regions should be carried much further so that a Federal System of Government can be developed.” And that:

“The Central Legislature and Executive must retain both residual and overall powers, but since the Central Legislature and Executive will themselves be made up of representatives of the Regional Legislatures and since the policy of greater regional autonomy is so widely accepted, we do not fear that there will be any desire at the Centre unnecessarily to interfere with purely regional legislation or administration”.

In his book, “History and the Law of the Constitution of Nigeria”, Dr. Udo Udoma noted that for the first time in the history of the foundation of British-Nigerian relationship and the establishment of Nigeria’s regions by the Richard’s Constitution of 1946, Regional Legislatures were granted powers to legislate over a variety of subjects within the Region. These included: Local government; town and country planning; agriculture and fisheries; education; public works for the region; public health in the region; forestry; veterinary services; land; welfare; local industries; native courts; (subject to central legislation regarding appeals to courts outside the regions); direct taxation

(other than income tax and companies tax). The General Conference was of the view that over-centralisation would be a grave error “in this vast country with its widely differing conditions and needs”, and that the policy which had received enthusiastic support throughout the country was the policy of achieving unity at the Centre through strength in the Regions. It was confidently expected that when the Regions felt that they had wide powers to run their own regional affairs, they would be more likely ready to co-operate with the other Regions through their representatives in the Council of Ministers and the House of Representatives in serving the interest of Nigeria as a whole.

The Period 1954-60

Between 1954 and 1959, all officials in the House of Assembly and the Central Legislature, were progressively withdrawn. In 1954, there was, for the first time, direct elections into the Federal Legislature. In 1958, all modes of indirect elections were abolished and throughout Nigeria, all elections from then on were by direct polls. The Governors ceased to preside over the Executive Councils in the East and West by 1957 and in the North, in 1959. In 1954, the office of Premier was created in the Regions and the office of Prime Minister was established at the Centre in 1957. Subsequent changes were not fundamental, but merely in further preparation for full independence. For example, the Western and Eastern Regions attained self-government (with the Regional Governor becoming a mere titular figure) in 1957 and in the North in 1959.

Irresistible

Inferences

From the very brief account given of the background of the establishment of the State called Nigeria, the following inferences are irresistible.

Contrary to the assertions of some scholars, the Federal Structures of Nigeria did not operate from the ‘top’ to the ‘bottom’, but from the ‘bottom’ to the ‘top’.

In other words, it was not a question of a country that was originally unitary, being broken into federating units, but of formerly totally independent Kingdoms, Empires, Nations and Autonomous Communities being forcefully

brought together, and ending up in a Federal Union. Nigeria started as a Unitary State and then opted as a Confederation afterwards.

It is also clear that it is the coming together of these Autonomous Communities that gave rise to a Federal Government. In other words, the Federal Government is an agency of the Nigerian Nationalities which make up the various States. The subsequent “creation” of States by Federal Military Governments must be discounted as part of the distortions and mutilations of the true political order, brought about by unlawful military usurpation of power. Nigeria is, therefore, supposed to be a ‘Federation’ of former Kingdoms, Empires, States, Nations and Autonomous Communities.

Before and right after independence

Bernard Bourdillon the Governor-general at that time initiated and laid the foundation of federalism in Nigeria in 1939 by creating three provinces. He later handed over the constitution to his successor Arthur Richards and it became the Richards Constitution of 1946. At the beginning of formal British indirect rule in 1901, Nigeria was divided into two regions: Northern and Southern, both of which were divided into provinces. From 1901 to 1958, the number of regions was increased to three through both acquisition of territories and partition from existing provinces. However, while native-born chiefs and clerks were appointed to govern the provinces, the regions were governed by the British-appointed colonial authorities, and such regions were made dependent upon the colonial authorities for martial law, manpower and management of resources.

With the approach of independence, power over the regions was given to Nigerian-born citizens, and regional legislatures were established. By the time that Nigeria had declared itself a republic and replaced the post of Governor-General with the post of President, a national bicameral parliament was established and the country was considered a federation of the three regions. The Mid-Western Region was formed from the Western Region in 1966, and Lagos, the capital, was effectively governed as an unofficial fourth region outside the bounds of the Western Region.

First coup, counter-coup and the new states

After the first coup and under the short-lived military government of Aguiyi-Ironsi, the country was reorganized under a central government. Following the counter-coup which resulted in Aguiyi-Ironsi's deposition and assassination, Nigeria was reorganized as a federal country, with three of the regions being divided into newer entities and all first-level subdivisions being renamed as states:

Eastern Region was divided into East-Central (Enugu), Rivers (Port Harcourt), and South-Eastern (Calabar) states;

Northern Region was divided into Benue-Plateau (Jos), Kano (Kano), Kwara (Ilorin), North-Central (Kaduna), North-Eastern (Maiduguri), and North-Western (Sokoto) states

Western Region was divided into Lagos (Lagos) and Western (Ibadan) states.

Mid-Western and the states of former Eastern Region made a bid to secede from Nigeria as the states of Biafra and Republic of Benin, resulting in the Nigerian Civil War.

1976

In 1976, six years after the end of the civil war, the states were further reorganized:

Benue-Plateau state divided into Benue (Makurdi) and Plateau states;

East-Central state divided into Anambra and Imo (Owerri) states;

Federal Capital Territory (Abuja) formed from parts of Niger and Plateau states;

North-Eastern state divided into Bauchi (Bauchi), Borno, and Gongola (Yola) states;

Niger (Minna) state split from Sokoto;

Western state divided into Ogun (Abeokuta), Ondo (Akure), and Oyo states

State boundaries and names were also reorganized.

1987/1989

Akwa Ibom state split from Cross River;

Katsina state split from Kaduna

1991-1996

Abia State split from Imo;

Bendel State divided into Delta and Edo;

Enugu State split from Anambra;

Gongola State divided into Adamawa and Taraba;

Jigawa State split from Kano;

Kebbi State split from Sokoto;

Kogi State formed from parts of Benue and Kwara;

Osun State split from Oyo;

Yobe State split from Borno.

1996-Till date

Bayelsa State was split from Rivers;

Ebonyi State was formed from parts of Abia and Enugu;

Ekiti State was split from Ondo;

Gombe State was split from Bauchi;

Nasarawa State was split from Plateau;

Zamfara State was split from Sokoto.

What exactly is Federalism?

The understanding of federalism varies from country to country, however, there are certain basic principles inherent in all federal systems that makes it easy to identify a country that practices federalism.

The most cogent, clearly expressed and the most acceptable definition of federalism is that of Kenneth C. Wheare.

In his book he talked about “federal principle” i.e. **the method of dividing powers so that general and regional governments are each, within a sphere, co-ordinate and independent of one another.** Thus, Wheare’s proposition posits that the federal principle essentially entails a legal division of powers and functions among levels of government with a written constitution guaranteeing and reflecting the division. Wheare’s formulation of federalism is been drawn correctly from the United States of America which is regarded by him as the archetype of federal government. Since other formulation of federalism from other scholars are variations of his work, the basic tenets or elements of federalism according to K.C Wheare will be use as a templates to determines Nigerian federalism and the extent to which Nigeria has fulfilled the basic tenets of federalism. The basic tenets according to him are:

- a) There must be at least two levels of governments and there must be constitutional division of powers among the levels of governments.
- b) Each levels of government must be co-ordinate and independent.
- c) Each levels of government must be financially independent. He argued that this will afford each levels of government the opportunity of performing their functions without depending or appealing to the others for financial assistance.
- d) There must be Supreme Court of the independent judiciary. He argued that in terms of power sharing, there is likely to be conflict hence, there must be independent judiciary to resolve the case.
- e) In terms of the amendment of the constitution, no levels of government should have undue power over the amendment process.

He maintained that, once a country is able to satisfy these conditions, such country is said to practice federalism.

Some other of the most basic features of federalism are as follows;

The federating units (states and community governments) maintain autonomy over the most basic issues that affect their people. From security to education, resource control, taxes, infrastructural developments, elections, judiciary, health care, etc.

Powers are shared between the various tiers of government in a manner that unnecessary interference becomes impossible.

The government (tier) closest to the people is more empowered to meet up with the needs of the local people.

The federal national government is usually a creation of the sub-national (state) governments.

The federal government responsibility is usually limited to just foreign affairs, monetary policy, immigration, customs, defense. All powers not expressly given to the federal government by the federal constitution is reserved for the state government.

Governance is run in a bottom-up approach.

There is a federal and state constitution

Like Prof. Itsey Sagay rightly stated Federalism is, therefore, an arrangement whereby powers within a multi-national country are shared between a federal or central authority, and a number of regionalised governments in such a way that each unit, including this central authority, exists as a government separately and independently from the others, operating directly on persons and property with its territorial area, with a will of its own and its own apparatus for the conduct of affairs and with an authority in some matters exclusive of all others. In a federation, each government enjoys autonomy, a separate existence and independence of the control of any other government. Each government exists, not as an appendage of another government (e.g. the federal or central government) but as an autonomous entity in the sense of being able to exercise its own will on the conduct of its affairs free from direction by any government. Thus, the Central Government on the one hand and the State Governments on the other hand are autonomous in their respective spheres.

As Wheare put it, “the fundamental and distinguishing characteristic of a federal system is that neither the central nor the regional governments are subordinate to each other, but rather, the two are co-ordinate and independent.”

In short, in a federal system, there is no hierarchy of authorities, with the central government sitting on top of the others. All governments have a horizontal relationship with each other.

Another scholar by the name Nwabueze has identified the following additional characteristics in a federal system:

The power sharing arrangement should not place such a preponderance of power in the hands of either the national or regional government to make it so powerful that it is able to bend the will of the others to its own.

Federalism presupposes that the national and regional governments should stand to each other in a relation of meaningful independence resting upon a balanced division of powers and resources. Each must have powers and resources sufficient to support the structure of a functioning government, able to stand on its own against the other.

From the separate and autonomous existence of each government and the plenary character of its powers within the sphere assigned to it, by the constitution, flows the doctrine that the exercise of these powers is not to be impeded, obstructed or otherwise interfered with by the other government, acting within its powers.

IS FEDERALISM COMPATIBLE WITH NIGERIA’S HETEROGENEOUS NATURE?

Let us consider the contribution of the most consummate student of federalism Nigeria has ever known- Chief Obafemi Awolowo (see ‘Thoughts on Nigerian constitution’, pp. 48-49). From our study of the constitutional evolution of all the countries of the world, two things stand out clearly and prominently. First in any country where there are divergences of language and of nationality- particularly of language- a unitary constitution is always a source of bitterness and hostility on the part of linguistic or national minority groups. On the other

hand, as soon as a federal constitution is introduced in which each linguistic or national group is recognized and accorded regional autonomy, any bitterness and hostility against the constitutional arrangement disappears. Secondly, a federal constitution is usually a more or less dead letter in any country which lacks any of the factors conducive to federalism. From the facts and analysis quoted from Chief Obafemi Awolowo book, the two following principles can be deduced:

If a country is bilingual or multi-lingual like Nigeria, the constitution must be federal, and the constituent state must be organized on linguistic basis;

Any experiment with a unitary constitution in a bilingual or multi-lingual or multi-national country must fail, in the long run.

It is surprising that Nigeria only operates federal system on paper. The federal structures have never existed in Nigeria society. The reasons are not far fetch; First, the federal government, ever since the intervention of the military in government has always assumed superiority over the state government, Because military federalism had been more common than civilian federalism, this model made the federal government the “master in relation to the dependent” state governments. At independence largely autonomous regions possessed the residual powers in the federation and functioned almost independently and efficiently. The regions had independent revenue bases; separate constitutions, foreign missions, and the primary and secondary education were under the residual list while the university education was under the concurrent list. All these changed under military rule. Attempts by the state governments to reassert their autonomy during the second republic were aborted by the return of military rule.

Let us now take a review of Nigeria’s past experience with federalism and see how compatible it was.

The Independence and Republican Constitution (1960 and 1963)

It is hardly surprising that the 1960 and 1963 Constitutions epitomised true Federalism. The 1950 National Conference had been followed by others in 1953, 1954, 1957 and 1959, in which the practice of true federalism were perfected.

It can thus be said that the period 1950 to 1959 represented a 10-year period of negotiations between the major stakeholders in the Nigerian project and that what they finally arrived at in the form of 1960 Constitution was, subject to minor, non-structural modifications, the only legitimate basis of association of all the different nationalities in Nigeria. One important feature of the 1960 Constitution is the extensive powers granted the Regions, making them effectively autonomous entities and the revenue arrangements which ensured that the regions had the resources to carry out the immense responsibilities.

Under the 1960 and 1963 Constitutions, a true federal system made up of strong States or Regions and a Central or Federal 'state' with limited powers, was instituted. Both the 1960 (Independence) Constitution and the 1963 (Republican) Constitution were the same. The only differences were the provisions for ceremonial President (1963) in place of the Queen of England (1960) and the judicial appeals system which terminated with the Supreme Court (1963) rather than the Judicial Committee of the British Privy Council (1960).

The following features, which emphasized the existence of a true federal system composed of powerful and autonomous Regions and a Centre with limited powers are worth noting:

Each Region had its own separate Constitution, in addition to the Federal Government Constitution.

Each region had its own separate Coat of Arms and Motto, from the Federal State or Government.

Each Region established its own separate semi-independent Mission in the U.K. headed by 'Agents-General'.

The Regional Governments had Residual Power, i.e., where any matter was not allocated to the Regions or the Federal Government, it automatically became a matter for Regional jurisdiction.

Thus, apart from items like Aviation, Borrowing of moneys outside Nigeria, Control of Capital issues, Copyright, Deportation, External Affairs, Extraction, Immigration, Maritime Shipping, Mines and Minerals, Military Affairs, Posts and Telegraphs, Railways, all other important items were in the Concurrent List, thus permitting the Regions equal rights to legislate and operate in those areas. The most significant of these included; Arms and Ammunition, Bankruptcy and Insolvency, Census, Commercial and Industrial Monopolies, Combines and Trusts, Higher Education, Industrial Development, the Regulation of Professions, Maintaining and Securing of Public Safety and Public Order, Registration of Business Names, and Statistics.

It is important to observe once more that anything outside these two lists was exclusively a matter for Regional jurisdiction. Other features indicative of the autonomous status of the Regions included:

Separate Regional Judiciaries and the power of the Regions to establish, not only High Courts, but also Regional Courts of Appeal.

The Regions had their own separate electoral commissions for Local Government elections. However, the Chairman of the Federal Electoral Commission was the statutory Chairman of the State Commission.

The Revenue Allocation system under the 1963 Constitution was strictly based on derivation.

It will be observed that Mines, Minerals, including oil fields, oil mining, geological surveys and gas were put in the Exclusive Legislative List in the 1960 and 1963 Constitutions. This was a carry over from the provisions of the 1946 Minerals Act, under which the Colonial Government gave itself the exclusive ownership and control of all minerals in Nigeria. This was understandable under a Colonial Regime whose objective was the exploitation of the colonised peoples, but certainly not acceptable in an independent country constituted by autonomous (Federal) Regions. It is, therefore, not surprising that what was lost by placing mines, minerals, oil fields, etc., in the Exclusive Legislative List, was regained by the very strict adherence to the principle of derivation in the revenue allocation formula, particularly the allocation of the proceeds from mineral exploitation.

Did Nigeria make progress under the short lived federal system?

Omoh Gabriel, a journalist described the period of Nigeria's federalism as such; NIGERIA after Independence was on the right path of economic growth and development. It had visionary leaders who were interested in the welfare of the people. Industries were springing up in every region of the country. In the North, Ahmedu Bello who held sway was occupied by setting up farm settlements, textile industries. It was the same story in the East where Michael Opera set up farm settlements and a number of manufacturing companies. In the West, Chief Awolowo, apart from the popular free education, set up a number of industrial estates which attracted several companies from abroad. It is this simple reason that the West is the most industrialized part of the country.

At this time, the Nigeria economy was in top shape and at take off stage in economic development. The Nigerian economy was rated along the same indices with Brazil, Indonesia, Malaysia and the rest of the now talked about BRICKS countries. Then Nigeria had development plans that guided the nation.

Autonomous entities

In the North pyramids of groundnuts and cotton were part of foreign exchange earning commodities. In the West, cocoa was found in abundance.

It brought pride to the nation. The various regions were autonomous entities and there was competition among the regions on internally generated revenue. The military intervention and the discovery of crude oil in commercial quantity seemed to have radically altered the course of Nigeria's economic development.

While the military discarded the fiscal federalism structure of the country and made the states to become federal allocation collector, the discovery of oil made Nigerian leaders to sleep walk and refuse to plan believing that the money flowing from the ground will solve all the nation's problems.

As the military leaders were sleep walking and basking in the euphoria of petrol dollar earnings, Nigeria's population was growing faster than the resources.

From the foregoing and from historical accounts, we can see that federalism is not just compatible with Nigeria but has equally worked in the past until it was discarded by the military.

WHAT SYSTEM DOES NIGERIA CURRENTLY OPERATE?

Judging from the historical accounts and the structure of our present system, we could say for sure that Nigeria does not practice a federal system even though it claims to be a 'federal' republic.

What Nigeria practices in reality is a unitary system. In a federal system for example, the federal government does not create the states government, rather than it is the autonomous state government that come together to establish a federal union. Also, in a federal setting, the central authority does not sustain the states by giving them monthly allocations as it is in Nigeria. Rather, it is the central government that derives its sustenance from the states.

The following attributes in our present system shows that we are not a federal republic but a unitary republic.

In a federal system, the states are autonomous creations and the federal government is a creation of the states. In Nigeria, the states are the creations of the federal government and must therefore sustain them until it can no longer do so.

Autonomy in a federal system means that the states are able to manage its affairs without interference from the central government. In Nigeria, the states are unable to conduct their own elections, they have no control over their own security (there is no state and community police system), they have no control over their natural resources. They have no control over their basic education policies, they have no control over electricity distribution and generation. Their taxation base is limited, and many others.

In a federal system, there is no such thing as monthly allocations to the states from the federal government. In Nigeria, reverse is the case. Because the federal government created the states, it has to sustain them!

HISTORY OF THE UNITARY SYSTEM IN NIGERIA

General Ironsi, emerged as the head of state after the first coup. Against all advice, Ironsi promulgated Decree Number 34 of 1966, which abrogated the federal system of government and substituted a unitary system; he argued that the military could only govern in this way. Given the already charged atmosphere, this action reinforced northern fears. As the north was less developed than the south, a unitary system could easily lead to southerners “taking over control of everything,” as a northern spokesperson put it. It was at the height of northern opposition to unitarism that the countercoup of July 1966 took place. The North wanted a return of federalism as the only way to guarantee their autonomy. The military government of Ironsi insisted on maintaining the unitary military system!

Lieutenant Colonel (later General) Yakubu Gowon, became the head of state after the second coup. His first act was to reinstate the federal system, along with the four regions and their allotted functions. But relations between the federal government and the Eastern Region, led by military governor Colonel Chukwuemeka Odumegwu Ojukwu, were very strained. In September Colonel Gowon summoned an ad hoc constitutional conference to deliberate on the country’s political future. Most regional delegates to the conference, with the exception of those from the midwest, recommended a confederal system to replace the federal system. The delegates from the Eastern Region insisted that any region wishing to secede from the federation should be allowed to do so. The conference was ended abruptly by increased killings of Igbos in the north and the heightening of tensions between the federal government and the Eastern Region. A summit of military leaders at Aburi, Ghana, in January 1967 attempted to resolve the disagreements and recommended the establishment of a base confederation of regions. The Aburi Agreement became a source of contention, however.

In anticipation of eastern secession, Gowon moved quickly to weaken the support base of the region by decreeing the creation of twelve new states to replace the four regions. Six of these states contained minority groups that had demanded state creation since the 1950s. Gowon rightly calculated that the

eastern minorities would not actively support the Igbos, given the prospect of having their own states if the secession effort were defeated.

The Gowon years also saw the oil boom and a buoyant economy. The federal government was encouraged to take on some responsibilities formally allocated to the states, especially in the area of education.

The structure of government under Gowon was basically unitarian. At the apex of government was the all-military Supreme Military Council (SMC), which was the lawmaking body for the entire federation. Its decrees could not be challenged in any law court. Most members of the SMC under Gowon were state governors. There was also a Federal Executive Council composed of military and civilian commissioners. The states also had commissioners appointed by the governor. The states were practically reduced to administrative units of the federal government, which in several domains made uniform laws for the country. This basic structure of military federalism has, with amendments, remained the same during all military governments in the country and was transferred to the civilian government with its 1999 constitution. Nigeria has remained so till date; a unitary system.

HOW WILL FEDERALISM FIX NIGERIA

There are basically three revolutionary movements in Nigeria today and each of them have a different perspective on how to solve the Nigerian problem.

The first group, lets call them the unitarians. They believe that there is nothing wrong with the present unitary system of Nigeria. What is wrong with Nigeria is Nigerians. There is a moral decadence that must be tackled, there is need for reorientation and values. Nigerians have become corrupt and have equally corrupted the political system. In summary, the unitarians believe that it is Nigerians that needs to be restructured and not Nigeria's political system.

The second movement; lets call them the secessionists. This group of Nigerians believe that Nigeria is in fact a lie and that a lie cannot be restructured! They admit that Nigeria is badly structured and they doubt that it can ever be

restructured. So far, they have opted for a complete dismemberment of the union as the only way to save themselves, their tribe, communities and region. They want Nigeria dissolved because they fear Nigeria has never worked and will never work.

The last group is where we belong here; the Federalists. The federalist movement believes that something is obviously and fundamentally wrong with Nigeria. After an interesting research, the federalist has reached the conclusion that what is wrong with Nigeria is the structure of its defective federal system and that the solution will be to restructure the country and entrench true federalism.

The unitarians, secessionists and the federalists are now in a battle towards shaping the future of Nigeria. The future of Nigeria will be greatly determined by the success of one or more of these revolutionary movements.

Can the Federalists with their Federalism fix Nigeria?

From the foregoing discussion about the history of federalism in Nigeria, we can agree that the only period when Nigeria witnessed sustainable economic growth was during the short period of regional government based on federalism.

Federalism brings competition, competition drives productivity, productivity inspires innovation, innovations drive development. This is exactly what Nigeria lacks; competition, productivity, innovation, efficient and sustainable development.

The unitary system has not only distorted the necessary ingredients for growth but it has also entrenched an entitlement mentality in the populace and among the federating units, making them less aggressive towards self-sufficiency. Recent statistics have shown that over 95% of the federating units (states and LGAs) are not sustainable without federal allocations. What this basically implies is that if the federal government suffers a major economic sabotage in its revenue generating base, the entire country will likely run into crisis.

In summary, Nigeria is in crisis because it was built on a faulty foundation whose existence is now threatened.

Federalism comes with certain principles that guarantees sustainability of economic and political inclusive institutions. Nigeria does not have electricity today is not because she does not have the resources to have electricity, it is simply because of the centralization policy by law which forbids the federating units from competing, generating and distributing their own electricity without federal interference. And many others.

How then will Federalism fix Nigeria's problem?

There are basic frameworks that come with federalism and that is necessary for the establishment of inclusive institutions that Nigeria currently needs to attain greatness. These frameworks are as follows;

Federalism guarantees the autonomy of the federating units thereby making the centre (central authority) undesirable for local development issues. Under federalism, marginalization will become unnecessary as every state and community will be solely responsible for their own development or underdevelopment (its their choice to make).

Federalism eliminates over-centralization of political and economic powers thereby empowering the local people and their communities to take charge of their own development. States will no longer have to depend on federal allocations to survive and local communities will no longer.

Federalism has an in-built mechanism that promotes transparency and accountability. One reason why there is massive corruption in today's Nigeria is simply because the people are not necessarily involved in the revenue generating process thereby making them less concerned about how the revenue is spent. The federal government simply 'steals' crude oil money from the people, collect customs taxes and goes about to spend it as it pleases. There is no real tax based revenue system where the people are expected to fund the government. As long as the crude oil keeps flowing, there is revenue for the government. This is the root cause of corruption in Nigeria. Federalism ensures that no tier of government has access to free natural resources without first going through the people who would then demand for accountability afterward. Under federalism, there is a bottom-up approach towards peoples relationship with the government. The local communities and their people

control their resources and pays taxes to the various tiers of government. The communities and towns fund the state government and the state government funds the federal government. Each would naturally demand for transparency and accountability. In a nutshell, federalism will fix corruption in Nigeria!

Federalism will bring a new 'think home' philosophy among Nigerians in diaspora. With every community having a community based government to handle its most basic needs, Nigerians in diaspora will be excited and willing to support their annual community based budgets for both recurrent and capital projects. Development will be centred around people and places. The local people and their communities will become the biggest beneficiary of a restructured Nigeria.

Abuja (federal government) will no longer be blamed for the underdevelopment of the states and local communities. Everybody will simply be in charge of their own development.

Like Professor Claude Ake once said, development is a process of social transformation in which the people themselves are in charge of the process. Federalism puts the needed economic and political powers in the hands of the local people and away from the politicians.

POPULAR MISCONCEPTIONS ABOUT FEDERALISM & RESTRUCTURING IN NIGERIA

When you hear the phrase 'Restructure Nigeria' and 'True Federalism' what comes to your mind?

For many, 'restructure' and 'true federalism' have become a suspicious phrase. This is due to the misconceptions, misinterpretations, misunderstanding, and ignorant understanding of the concept. For some, true federalism means resource control and therefore should not be accepted. For others, restructuring means creating an opportunity for secession and must therefore not be accepted. These two major misinterpretations have greatly hindered the general acceptance of the concepts and have made it difficult for Nigerians

across divide to accept it as a pragmatic solution. What then is federalism and restructuring and how is it different from what antagonists think it is.

What is the relationship between federalism and resource control?

If you have understood what federalism is, by now you should know that federalism is not resource control but however resource control is a feature of federalism. When you say a people should be autonomous, it also entails that they should have the right to control their resources too. This is a basic principle of federalism. You cannot give the local people more responsibilities and yet deny them access to to exploit their resources and take advantage of their comparative natural advantages.

What Exactly Is Resource Control?

Prof. Itsey Sagay gives us an interesting understanding of the concept. Resource control in his view involves three major components:

The power and right of a Community or State to raise funds by way of tax on persons, matters, services and materials within its territory.

The exclusive right to the ownership and control of resources, both natural and created within its territory.

The right to customs duties on goods destined for its territory and excise duties on goods manufactured in its territory.

Resource control, which in certain circumstances can be referred to as fiscal federalism, goes hand in hand with true federalism. This was recognized and implemented faithfully in the Independence and Republican Constitution (1960 and 1963).

The Regional Constitutions, in the 1960 and 1963 Constitutions, described each Region as “a self-governing Region of the Federal Republic of Nigeria.” To buttress the self-governing status of each Region, adequate provision were made to guarantee the economic independence of the Regions, thus avoiding the hollowness of a declaration of self-governing status totally undermined by economic dependence. Moreover, consistently with the Federal character of the country, i.e. country of many nations, the basis of revenue allocation was

strictly

derivative.

Section 140 which made provision for the sharing of the proceeds of minerals, including mineral oil, stated that: "There shall be paid by the Federal Government to a Region, a sum equal to fifty per cent of the proceeds of any royalty received by the Federation in respect of any minerals extracted in that Region and any mining rents derived by the Federal Government from within any Region." For the purposes of this section, the continental shelf of a Region was deemed part of that Region. This is totally consistent with international law which characterizes the continental shelf as a seaward extension of the land of the coastal state.

By Section 136(1) 30 per cent of general import duties were paid into a distributable pool for the benefit of the Regions. With regard to import duties on petrol, diesel oil and tobacco, the total sum of import duty collected less administrative expenses, were fully payable to the Region for which the petrol or diesel oil or tobacco was destined. A similar provision was made for excise duty on tobacco.

With regard to produce, i.e. cocoa, palm oil, groundnuts, rubber and hides and skin, the proceeds of export duty were shared on the basis of the proportion of that commodity that was derived from a particular Region. As noted above, the derivative bases of the allocation of revenue and the proportionate share of such proceeds that went to the Region it originated from, clearly buttressed the operating base of.

From the above historical account, we can see that resource control has been an integral aspect of Nigeria's short lived federalism.

What Is The Relationship Between Federalism And Secessionism?

Another popular misconception about federalism is that it will lead to the dismemberment of Nigeria. This is not true. In fact, a restructured Nigeria will lead to a united Nigeria as all issues of marginalization, exploitation and the likes been perpetuated by the federal government will be completely eradicated.

Let us take a look at history, after the debate on Chief Anthony Enahoro's motion for independence in 1956 which pitched the Northern and Southern Legislators sharply against each other, the Northerners issued an 8-point demand as a condition for remaining in Nigeria as follows:

This region shall have complete legislative and executive autonomy with respect to all matters except the following: defence, external affairs, customs and West African research institutions.

That there shall be no Central Legislative body and no Central Executive or policy making body for the whole of Nigeria.

There shall be a Central Agency for all Regions which will be responsible for the matters mentioned in paragraph one and other matters delegated to it by a Region.

The Central Agency shall be at a neutral place preferably Lagos.

The composition and responsibility of the Central Agency shall be defined by the Order-in-Council establishing the constitutional arrangement. The Agency shall be a non-political body.

The services of the railway, air services, posts and telegraphs, electricity and local mining shall be organised on an inter-Regional basis and shall be administered by public corporations. These corporations shall be independent bodies covered by the statute under which they are created. The Board of the Coal Corporation shall be composed of experts with a minority Representation of the Regional Government.

All revenue shall be levied and collected by the Regional Government except customs revenue at the port of discharge by the Central Agency and paid to its treasury. The administration of the Customs shall be so organised as to assure that goods consigned to the Region are separately cleared and charged to duty.

Each Region shall have a separate Public Service!

The above historical account explains everything we need to know about federalism and secession. Secession becomes unnecessary when autonomous

federating units are in charge of their people and development. It is in fact, the present unitary system that breeds secessionism.

There is a lesson from Ethiopia and their recent attainment of federalism that we should learn from. Let us put it here in verbatim.

...Politically, the era of centralization seems to have come to an end, and this is as it should be. A multi-ethnic, multi-lingual and multi-religious society such as ours cannot and should not be administered in a highly centralized manner. That people in their respective localities have the right to administer themselves, exercise a degree of command over their own resources, and develop their own cultures and languages must be taken as axiomatic...But there must also be unity within diversity. In the past we emphasized unity at the expense of diversity, and we have paid dearly for it. Let us hope that now we will not move to the other extreme and emphasize diversity at the expense of unity.

[Eshetu Chole, "Ethiopia At the Crossroads...", DIALOGUE, Addis Ababa, Ethiopia].

WHAT WILL A RESTRUCTURED NIGERIA LOOK LIKE?

The most important question before us is simple. We have agreed that Nigeria needs restructuring based on federalism. The next big question is quite simple; what should a restructured Nigeria look like? This is what we have set out now to answer in this section.

How should responsibilities be shared between the federal and state governments? Find below twenty rules that we consider as fundamental to a two-tier system of federal structure and which we think is best suitable for a country like Nigeria. These twenty rules highlight the basic principles of true federalism.

There should be two tiers of government recognized by the federal constitution; a federal and state government. Each of them should have a separate constitution. The state government should have the exclusive right to

create another tier of government as it wishes. We suggest that a community/city based government be recognized and established by the state as the last tier of government. Community/City based government should therefore replace the existing local government style tier of government. The constitutions must guarantee the autonomy of each tier of government. The community based government should have full control over the most basic things that affect the community. Issues like basic education (management and funding of basic schools), security, water, maintenance, health care, etc should be done by the community based governments. It should also have the right to raise its own taxes to fund its needs. The community based government should be the most empowered tier of government.

The federal constitution should limit the federal government responsibilities to only defense, monetary policy, foreign policy, immigration, customs, etc. All duties not given to the federal government should become the duties of the state governments.

The federal constitution should be written by the representatives of the already existing autonomous states that now wish to create a federal government. In the same manner, the state constitution should be written by the representatives of the the people, tribes and communities that would make up the state.

Ownership of all federal owned assets and institutions that are no longer under federal jurisdiction should be transferred to the states where they are geographically located. Arrangement should be made to ensue that the there is a fair balance of payment for the transferred assets. Where the states fail to offer a fair bargain for the new assets, the general public should be invited to take ownership of the assets. Federal institutions (i.e federal universities) capable of being autonomous should be declared as autonomous institutions and free from federal interference.

The federal government will no longer build hospitals, universities, rail lines, refineries, power stations, etc. These shall become exclusive duties of the state governments. The federal government duty shall be limited to the items listed in number 2.

The federal constitution shall forbid both the federal and state governments from embarking on business ventures and shall limit their sources of revenue to only taxation and royalties.

The federal constitution should recognize the right of ownership of land and natural resources as belonging to communities and individuals and should therefore forbid both the state and federal governments from upturning this inalienable right. The implication of this rule is that resource control will now be in the hands of the individuals and communities and not the state or federal government as it currently is.

The state and federal governments should have two independent judiciary with each having its own Supreme court.

Right to secession should be enshrined in the federal constitution. Communities/towns should have the right to secede from a state and seek membership of another state within Nigeria while states should have the right to secede from Nigeria and seek membership of another country or form an independent country of their choice. The process of doing this must be by referendum.

States should be entitled to receive irregular annual grants from the federal government in the same way communities/towns should be entitled to receive irregular grants from their state governments upon meeting certain conditions. There shall be no monthly allocation.

Parliamentary democracy could be adopted to replace the present presidential executive system. The House of tribes (House of Reps) should be abolished and a single parliament retained comprising of tribesmen, professionals, and town/city/state representatives.

The federal constitution shall guarantee the decentralization of the civil service.

The federal constitution shall recognize indigeneship and residency as qualification for occupying public offices in both state and federal offices.

Taxation shall be the major source of revenue for both the federal and state governments. Federal taxes shall be limited and deducted from the state governments while state taxes shall be unlimited and deducted at source

Both basic and tertiary education shall be the exclusive rights of the state governments. The federal government shall have no business with building and managing basic or tertiary institutions. Power generation and distribution shall also be the exclusive rights of the state governments. The federal constitution shall guarantee the autonomy and need for federal, state, community and institutional police system.

Federal regulations should be unlimited on matters of security, environment, economy, etc.,.

Issuance of licenses (whatever kind be it exploration or social license) should be the exclusive right of the state governments while regulations of such licenses should be jointly done both the state federal governments.

The federal and state constitution shall guarantee the autonomy of every tier of government in conducting their own elections. Each tier of government shall be solely responsible for the conduct of its own elections without interference. The people of the communities, towns and cities that make up a state shall be solely responsible for electing the state government officials in the same way the people of the state government shall be solely responsible for electing the officials of the federal government.

The federal constitution shall separate religion from the state and state from religion.

The federal parliament shall be structured in such a manner that a bill can only become law if and only if it receives support from a minimum of 2/3 representatives from each state and not a 2/3 of the general House.

The above twenty rules are what we consider as fundamental principles of true federalism as may be applicable to the Nigerian society. Once we are able to establish these rules in Nigeria, Nigeria has become a true federal state!

HOW CAN WE RESTRUCTURE AND ENTRENCH FEDERALISM IN NIGERIA?

In truth, the people who oppose restructuring are stronger than those who propose restructuring. This implies that (for now), restructuring is a minority call. To restructure Nigeria and entrench federalism, this pattern must change. The Federalists must become the majority!

Certain steps must be taken to achieve this. These steps are in fact what makes up our philosophy as a movement. The steps are contained in our three cardinal objectives towards restructuring Nigeria which are as follows;

We must begin to sensitize and educate Nigerians on the defects of the present system and the need for them to support the campaign for a restructured system.

We must proceed to mobilize the now enlightened Nigerians to get involved in the demand for a restructured system. This demand will include persuading the legislature and executives through overwhelming grassroots mobilizations.

And finally, we must participate in the restructuring process. We cannot allow the restructuring process to be hijacked by the same marauding political class who have held the country hostage for the past decades. We the ordinary people must participate in the restructuring process.

Legally, it is the duty of the legislature to begin the restructuring process. Unfortunately, the legislature has become one of the biggest beneficiaries of the present skewed unitary system, they will therefore be opposed to any structural change which will likely threaten their existence.

It is on this basis that Nigerians must unite to overwhelm the legislature with their demand for federalism. We cannot depend on and expect the beneficiaries of the present system to change the system, certainly, not without a fight! The kind of restructuring Nigeria needs is not cosmetic. For a fact, we do not need a constitutional amendment but an entirely new constitution. At the end of the day, what we desire is a Sovereign National Conference (SNC).

To get this, we must unite. Every tribe, every community, every state and every ethnic nationality must unite to demand for a system that works.

In due time, we shall highlight the processes through which this SNC can be organized.

THE TIME TO RESTRUCTURE NIGERIA & ENTRENCH TRUE FEDERALISM IS NOW!

The time is NOW!

We have seen several political leaders (including those who previously opposed restructuring) give support to the federalism campaign in Nigeria. They now know better. Nigeria might never work without some structural re-engineering. We have said a lot on social media. We have talked, we have written. What is left is for us to ACT.

Those who oppose restructuring might (for now) be in the majority, however, a majority of this majority are actually ignorant of what they oppose. If we are able to sensitize them, we the Federalists could become the new majority! We have a whole lot of work to do. The most important focus is that it is possible.

Our three cardinal objectives towards restructuring Nigeria are as follows;

Sensitize and educate Nigerians on the defects of the present system and the need for a restructured system

Mobilize the now enlightened Nigerians to get involved in the demand for a restructured system based on true federalism

Participate in the restructuring process. We cannot allow the restructuring process to be hijacked by the same marauding political class who have held the country hostage for the past decades. We the ordinary people must participate in the restructuring process.

The task ahead is surmountable. We must begin the debate. Disagreements may arise, compromises will be reached and progress will be made. If only we agree to begin the debate.

Join the conversation

Use the hashtags #RestructureNigeria & #TrueFederalism to promote the campaign on social media. Visit our website at www.restructurenigeria.ng. Follow us on [Twitter](#), [Facebook](#) and [Instagram](#) to learn more about the campaign. Check out our [Event](#) section to see when we shall be having a sensitization rally in your neighborhood and city. Visit our online [Shop](#) and purchase any of our campaign wears. Purchase for your friends, co-workers and everyone around you.

Be proud to be a [Federalist](#) and demand that Nigeria be restructured on the principle of true [Federalism](#).

ADDENDUM

Copy of Ethiopian Constitution reflecting True Federalism



CONSTITUTION OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA

PREAMBLE

We, the Nations, Nationalities and Peoples of Ethiopia:

Strongly committed, in full and free exercise of our right to self-determination, to building a political community founded on the rule of law and capable of ensuring a lasting peace, guaranteeing a democratic order, and advancing our economic and social development;

Firmly convinced that the fulfillment of this objective requires full respect of individual and people's fundamental freedoms and rights, to live together on the basis of equality and without any sexual, religious or cultural discrimination;

Further convinced that by continuing to live with our rich and proud cultural legacies in territories we have long inhabited, have, through continuous interaction on various levels and forms of life, built up common interest and have also contributed to the emergence of a common outlook;

Fully cognizant that our common destiny can best be served by rectifying historically unjust relationships and by further promoting our shared interests;

Convinced that to live as one economic community is necessary in order to create sustainable and mutually supportive conditions for ensuring respect for our rights and freedoms and for the collective promotion of our interests;

Determined to consolidate, as a lasting legacy, the peace and the prospect of a democratic order which our struggles and sacrifices have brought about;

Have therefore adopted, on 8 December 1994 this constitution through representatives we have duly elected for this purpose as an instrument that binds us in a mutual commitment to fulfil the objectives and the principles set forth above.

CHAPTER ONE

GENERAL PROVISIONS

Article 1

Nomenclature of the State

This Constitution establishes a Federal and Democratic State structure. Accordingly, the Ethiopian state shall be known as the Federal Democratic Republic of Ethiopia.

Article 2

Ethiopian Territorial Jurisdiction

The territorial jurisdiction of Ethiopia shall comprise the territory of the members of the Federation and its boundaries shall be as determined by international agreements.

Article 3

The Ethiopian Flag

1. The Ethiopian flag shall consist of green at the top, yellow in the middle and red at the bottom, and shall have a national emblem at the center. The three colors shall be set horizontally in equal dimension.
2. The national emblem on the flag shall reflect the hope of the Nations, Nationalities, Peoples as well as religious communities of Ethiopia to live together in equality and unity.
3. Members of the Federation may have their respective flags and emblems and shall determine the details thereof through their respective legislatures.

Article 4

National Anthem of Ethiopia

The national anthem of Ethiopia, to be determined by law, shall reflect the ideals of the Constitution, the Commitment of the Peoples of Ethiopia to live together in a democratic order and of their common destiny.

Article 5

Languages

1. All Ethiopian languages shall enjoy equal state recognition.
2. Amharic shall be the working language of the Federal Government.
3. Members of the Federation may by law determine their respective working languages.

Article 6

Nationality

1. Any person of either sex shall be an Ethiopian national where both or either parent is Ethiopian.
2. Foreign nationals may acquire Ethiopian nationality.
3. Particulars relating to nationality shall be determined by law.

Article 7

Gender Reference

Provisions of this Constitution set out in the masculine gender shall also apply to the feminine gender.

CHAPTER TWO**FUNDAMENTAL PRINCIPLES OF THE CONSTITUTION****Article 8****Sovereignty of the people**

1. All sovereign power resides in the Nations, Nationalities and Peoples of Ethiopia.
2. This Constitution is an expression of their sovereignty.
3. Their sovereignty shall be expressed through their representatives elected in accordance with this Constitution and through their direct democratic participation

Article 9**Supremacy of the Constitution**

1. The Constitution is the supreme law of the land. Any law, customary practice or a decision of an organ of state or a public official which contravenes this Constitution shall be of no effect.
2. All citizens, organs of state, political organizations, other associations as well as their officials have the duty to ensure observance of the Constitution and to obey it.
3. It is prohibited to assume state power in any manner other than that provided under the Constitution.
4. All international agreements ratified by Ethiopia are an integral part of the law of the land.

Article 10**Human and Democratic Rights**

1. Human rights and freedoms, emanating from the nature of mankind, are inviolable and inalienable.
2. Human and democratic rights of citizens and peoples shall be respected.

Article 11**Separation of State and Religion**

1. State and religion are separate.
2. There shall be no state religion.
3. The state shall not interfere in religious matters and religion shall not interfere in state affairs.

Article 12**Conduct and Accountability of Government**

1. The conduct of affairs of government shall be transparent.
2. Any public official or an elected representative is accountable for any failure in official duties.
3. In case of loss of confidence, the people may recall an elected representative. The particulars of recall shall be determined by law.

CHAPTER THREE**FUNDAMENTAL RIGHTS AND FREEDOMS****Article 13****Scope of Application and Interpretation**

1. All Federal and State legislative, executive and judicial organs at all levels shall have the responsibility and duty to respect and enforce the provisions of this Chapter.
2. The fundamental rights and freedoms specified in this Chapter shall be interpreted in a manner conforming to the principles of the Universal Declaration of Human Rights, International Covenants on Human Rights and International instruments adopted by Ethiopia.

PART ONE**HUMAN RIGHTS****Article 14****Rights to life, the Security of Person and Liberty**

Every person has the inviolable and inalienable right to life the security of person and liberty.

Article 15**Right to Life**

Every person has the right to life. No person may be deprived of his life except as a punishment for a serious criminal offence determined by law.

Article 16**The Right of the Security of Person**

Every one has the right to protection against bodily harm.

Article 17**Right to Liberty**

1. No one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law.
2. No person may be subjected to arbitrary arrest, and no person may be detained without a charge or conviction against him.

Article 18**Prohibition against Inhuman Treatment**

1. Everyone has the right to protection against cruel, inhuman or degrading treatment or punishment.
2. No one shall be held in slavery or servitude. Trafficking in human beings for whatever purpose is prohibited.
3. No one shall be required to perform forced or compulsory labour.
4. For the purpose of sub-Article 3 of this Article the phrase "forced or compulsory labour" shall not include:
 - a. Any work or service normally required of a person who is under detention in consequence of a lawful order, or of a person during conditional release from such detention;
 - b. In the case of conscientious objectors, any service exacted in lieu of compulsory military service;
 - c. Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
 - d. Any economic and social development activity voluntarily performed by a community within its locality.

Article 19**Right of Persons Arrested**

1. Persons arrested have the right to be informed promptly, in a language they understand, of the reasons for their arrest and of any charge against them.
2. Persons arrested have the right to remain silent. Upon arrest, they have the right to be informed promptly, in a language they understand, that any statement they make may be used as evidence against them in court.
3. Persons arrested have the right to be brought before a court within 48 hours of their arrest. Such time shall not include the time reasonably required for the journey from the place of arrest to the court. On appearing before a court, they have the right to be given prompt and specific explanation of the reasons for their arrest due to the alleged crime committed.
4. All persons have an inalienable right to petition the court to order their physical release where the arresting police officer or the law enforcer fails to bring them before a court within the prescribed time and to provide reasons for their arrest. Where the interest of justice requires, the court may order the arrested person to remain in custody or, when requested remand him for a time strictly required to carry out the necessary investigation. In determining the

additional time necessary for investigation, the court shall ensure that the responsible law enforcement authorities carry out the investigation respecting the arrested person's right to a speedy trial.

5. Persons arrested shall not be compelled to make confessions or admissions which could be used in evidence against them. Any evidence obtained under coercion shall not be admissible.
6. Persons arrested have the right to be released on bail. In exceptional circumstances prescribed by law, the court may deny bail or demand adequate guarantee for the conditional release of the arrested person.

Article 20

Rights of Persons Accused

1. Accused persons have the right to a public trial by an ordinary court of law within a reasonable time after having been charged. The court may hear cases in a closed session only with a view to protecting the right to privacy of the parties concerned, public morals and national security.
2. Accused persons have the right to be informed with sufficient particulars of the charge brought against them and to be given the charge in writing.
3. During proceedings accused persons have the right to be presumed innocent until proved guilty according to law and not to be compelled to testify against themselves.
4. Accused persons have the right to full access to any evidence presented against them, to examine witnesses testifying against them, to adduce or to have evidence produced in their own defence, and to obtain the attendance of and examination of witnesses on their behalf before the court.
5. Accused persons have the right to be represented by legal counsel of their choice, and, if they do not have sufficient means to pay for it and miscarriage of justice would result, to be provided with legal representation at state expense.
6. All persons have the right of appeal to the competent court against an order or a judgment of the court which first heard the case.
7. They have the right to request for the assistance of an interpreter at state expense where the court proceedings are conducted in a language they do not understand.

Article 21

The Rights of Persons Held in Custody and Convicted Prisoners

1. All persons held in custody and persons imprisoned upon conviction and sentencing have the right to treatments respecting their human dignity.
2. All persons shall have the opportunity to communicate with, and to be visited by, their spouses or partners, close relatives, friends, religious councilors, medical doctors and their legal counsel.

Article 22**Non-retroactivity of Criminal Law**

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence at the time when it was committed. Nor shall a heavier penalty be imposed on any person than the one that was applicable at the time when the criminal offence was committed.
2. Notwithstanding the provisions of sub-Article 1 of this Article, a law promulgated subsequent to the commission of the offence shall apply if it is advantageous to the accused or convicted person.

Article 23**Prohibition of Double Jeopardy**

No person shall be liable to be tried or punished again for an offense for which he has already been finally convicted or acquitted in accordance with the criminal law and procedure.

Article 24**Right to Honour and Reputation**

1. Everyone has the right to respect for his human dignity, reputation and honour.
2. Everyone has the right to the free development of his personality in a manner compatible with the rights of other citizens.
3. Everyone has the right to recognition every where as a person.

Article 25**Right to Equality**

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall guarantee to all persons equal and effective protection without discrimination on grounds of race, nation, nationality, or other social origin, colour, sex, language, religion, political or other opinion, property, birth or other status.

Article 26**Right to Privacy**

1. Everyone has the right to privacy. This right shall include the right not to be subjected to searches of his home, person or property, or the seizure of any property under his personal possession.
2. Everyone has the right to the inviolability of his notes and correspondence including postal letters, and communications made by means of telephone, telecommunications and electronic devices.
3. Public officials shall respect and protect these rights. No restrictions may be placed on the enjoyment of such rights except in compelling circumstances and in accordance with specific laws whose purposes shall be the safeguarding of national security or public peace, the prevention of crimes or the protection of health, public morality or the rights and freedoms of others.

Article 27**Freedom of Religion, Belief and Opinion**

1. Everyone has the right to freedom of thought, conscience and religion. This right shall include the freedom to hold or to adopt a religion or belief of his choice, and the freedom, either individually or in community with others, and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. Without prejudice to the provisions of sub-Article 2 of Article 90, believers may establish institutions of religious education and administration in order to propagate and organize their religion.
3. No one shall be subject to coercion or other means which would restrict or prevent his freedom to hold a belief of his choice.
4. Parents and legal guardians have the right to bring up their children ensuring their religious and moral education in conformity with their own convictions.
5. Freedom to express or manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, peace, health, education, public morality or the fundamental rights and freedoms of others, and to ensure the independence of the state from religion.

Article 28**Crimes Against Humanity**

1. Criminal liability of persons who commit crimes against humanity, so defined by international agreements ratified by Ethiopia and by other laws of Ethiopia, such as genocide, summary executions, forcible disappearances or torture shall not be barred by statute of limitation. Such offences may not be commuted by amnesty or pardon of the legislature or any other state organ.
2. In the case of persons convicted of any crime stated in sub-Article 1 of this Article and sentenced with the death penalty, the Head of State may, without prejudice to the provisions here in above, commute the punishment to life imprisonment.

PART TWO**DEMOCRATIC RIGHTS****Article 29****Right of Thought, Opinion and Expression**

1. Everyone has the right to hold opinions without interference.
2. Everyone has the right to freedom of expression without any interference. This right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media of his choice.
3. Freedom of the press and other mass media and freedom of artistic creativity is guaranteed. Freedom of the press shall specifically include the following elements:

- a. Prohibition of any form of censorship.
 - b. Access to information of public interest.
4. In the interest of the free flow of information, ideas and opinions which are essential to the functioning of a democratic order, the press shall, as an institution, enjoy legal protection to ensure its operational independence and its capacity to entertain diverse opinions.
 5. Any media financed by or under the control of the State shall be operated in a manner ensuring its capacity to entertain diversity in the expression of opinion.
 6. These rights can be limited only through laws which are guided by the principle that freedom of expression and information cannot be limited on account of the content or effect of the point of view expressed. Legal limitations can be laid down in order to protect the well-being of the youth, and the honour and reputation of individuals. Any propaganda for war as well as the public expression of opinion intended to injure human dignity shall be prohibited by law.
 7. Any citizen who violates any legal limitations on the exercise of these rights may be held liable under the law.

Article 30

The Right of Assembly, Demonstration and Petition

1. Everyone has the right to assemble and to demonstrate together with others peaceably and unarmed, and to petition. Appropriate regulations may be made in the interest of public convenience relating to the location of open-air meetings and the route of movement of demonstrators or, for the protection of democratic rights, public morality and peace during such a meeting or demonstration.
2. This right does not exempt from liability under laws enacted to protect the well-being of the youth or the honour and reputation of individuals, and laws prohibiting any propaganda for war and any public expression of opinions intended to injure human dignity.

Article 31

Freedom of Association

Every person has the right to freedom of association for any cause or purpose. Organizations formed, in violation of appropriate laws, or to illegally subvert the constitutional order, or which promote such activities are prohibited.

Article 32

Freedom of Movement

1. Any Ethiopian or foreign national lawfully in Ethiopia has, within the national territory, the right to liberty of movement and freedom to choose his residence, as well as the freedom to leave the country at any time he wishes to.
2. Any Ethiopian national has the right to return to his country.

Article 33**Rights of Nationality**

1. No Ethiopian national shall be deprived of his or her Ethiopian nationality against his or her will. Marriage of an Ethiopian national of either sex to a foreign national shall not annul his or her Ethiopian nationality.
2. Every Ethiopian national has the right to the enjoyment of all rights, protection and benefits derived from Ethiopian nationality as prescribed by law.
3. Any national has the right to change his Ethiopian nationality.
4. Ethiopian nationality may be conferred upon foreigners in accordance with law enacted and procedures established consistent with international agreements ratified by Ethiopia.

Article 34**Marital, Personal and Family Rights**

1. Men and women, without any distinction as to race, nation, nationality or religion, who have attained marriageable age as defined by law, have the right to marry and found a family. They have equal rights while entering into, during marriage and at the time of divorce. Laws shall be enacted to ensure the protection of rights and interests of children at the time of divorce.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental unit of society and is entitled to protection by society and the State.
4. In accordance with provisions to be specified by law, a law giving recognition to marriage concluded under systems of religious or customary laws may be enacted.
5. This Constitution shall not preclude the adjudication of disputes relating to personal and family laws in accordance with religious or customary laws, with the consent of the parties to the dispute. Particulars shall be determined by law.

Article 35**Rights of Women**

1. Women shall, in the enjoyment of rights and protections provided for by this Constitution, have equal right with men.
2. Women have equal rights with men in marriage as prescribed by this Constitution.
3. The historical legacy of inequality and discrimination suffered by women in Ethiopia taken into account, women, in order to remedy this legacy, are entitled to affirmative measures. The purpose of such measures shall be to provide special attention to women so as to enable them to compete and participate on the basis of equality with men in political, social and economic life as well as in public and private institutions.

4. The State shall enforce the right of women to eliminate the influences of harmful customs. Laws, customs and practices that oppress or cause bodily or mental harm to women are prohibited.
5. (a) Women have the right to maternity leave with full pay. The duration of maternity leave shall be determined by law taking into account the nature of the work, the health of the mother and the well-being of the child and family.
(b) Maternity leave may, in accordance with the provisions of law, include prenatal leave with full pay.
6. Women have the right to full consultation in the formulation of national development policies, the designing and execution of projects, and particularly in the case of projects affecting the interests of women.
7. Women have the right to acquire, administer, control, use and transfer property. In particular, they have equal rights with men with respect to use, transfer, administration and control of land. They shall also enjoy equal treatment in the inheritance of property.
8. Women shall have a right to equality in employment, promotion, pay, and the transfer of pension entitlements.
9. To prevent harm arising from pregnancy and childbirth and in order to safeguard their health, women have the right of access to family planning education, information and capacity.

Article 36

Rights of Children

1. Every child has the right:
 - a. To life;
 - b. To a name and nationality;
 - c. To know and be cared for by his or her parents or legal guardians;
 - d. Not to be subject to exploitative practices, neither to be required nor permitted to perform work which may be hazardous or harmful to his or her education, health or well-being;
 - e. To be free of corporal punishment or cruel and inhumane treatment in schools and other institutions responsible for the care of children.
2. In all actions concerning children undertaken by public and private welfare institutions, courts of law, administrative authorities or legislative bodies, the primary consideration shall be the best interest of the child.
3. Juvenile offenders admitted to corrective or rehabilitative institutions, and juveniles who become wards of the State or who are placed in public or private orphanages, shall be kept separately from adults.
4. Children born out of wedlock shall have the same rights as children born of wedlock.
5. The State shall accord special protection to orphans and shall encourage the establishment of institutions which ensure and promote their adoption and advance their welfare, and education.

Article 37**Right of Access to Justice**

1. Everyone has the right to bring a justiciable matter to, and to obtain a decision or judgment by, a court of law or any other competent body with judicial power.
2. The decision or judgment referred to under sub-Article 1 of this Article may also be sought by:
 - (a) Any association representing the Collective or individual interest of its members; or
 - (b) Any group or person who is a member of, or represents a group with similar interests.

Article 38**The Right to Vote and to be Elected**

1. Every Ethiopian national, without any discrimination based on colour, race, nation, nationality, sex, language, religion, political or other opinion or other status, has the following rights:
 - (a) To take part in the conduct of public affairs, directly and through freely chosen representatives;
 - (b) On the attainment of 18 years of age, to vote in accordance with law;
 - (c) To vote and to be elected at periodic elections to any office at any level of government; elections shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.
2. The right of everyone to be a member of his own will in a political organization, labour union, trade organization, or employers' or professional association shall be respected if he or she meets the special and general requirements stipulated by such organization.
3. Elections to positions of responsibility with any of the organizations referred to under sub-Article 2 of this Article shall be conducted in a free and democratic manner.
4. The provisions of sub-Articles 2 and 3 of this Article shall apply to civic organizations which significantly affect the public interest.

Article 39**Rights of Nations, Nationalities, and Peoples**

1. Every Nation, Nationality and People in Ethiopia has an unconditional right to self-determination, including the right to secession.
2. Every Nation, Nationality and People in Ethiopia has the right to speak, to write and to develop its own language; to express, to develop and to promote its culture; and to preserve its history.
3. Every Nation, Nationality and People in Ethiopia has the right to a full measure of self-government which includes the right to establish institutions of government in the territory that it inhabits and to equitable representation in state and Federal governments.

4. The right to self-determination, including secession, of every Nation, Nationality and People shall come into effect:
 - (a) When a demand for secession has been approved by a two-thirds majority of the members of the Legislative Council of the Nation, Nationality or People concerned;
 - (b) When the Federal Government has organized a referendum which must take place within three years from the time it received the concerned council's decision for secession;
 - (c) When the demand for secession is supported by majority vote in the referendum;
 - (d) When the Federal Government will have transferred its powers to the council of the Nation, Nationality or People who has voted to secede; and
 - (e) When the division of assets is effected in a manner prescribed by law.

5. A "Nation, Nationality or People" for the purpose of this Constitution , is a group of people who have or share large measure of a common culture or similar customs, mutual intelligibility of language, belief in a common or related identities, a common psychological make-up, and who inhabit an identifiable, predominantly contiguous territory.

Article 40

The Right to Property

1. Every Ethiopian citizen has the right to the ownership of private property. Unless prescribed otherwise by law on account of public interest, this right shall include the right to acquire, to use and, in a manner compatible with the rights of other citizens, to dispose of such property by sale or bequest or to transfer it otherwise.

2. "Private property", for the purpose of this Article, shall mean any tangible or intangible product which has value and is produced by the labour, creativity, enterprise or capital of an individual citizen, associations which enjoy juridical personality under the law, or in appropriate circumstances, by communities specifically empowered by law to own property in common.

3. The right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the State and in the peoples of Ethiopia. Land is a common property of the Nations, Nationalities and Peoples of Ethiopia and shall not be subject to sale or to other means of exchange.

4. Ethiopian peasants have right to obtain land without payment and the protection against eviction from their possession. The implementation of this provision shall be specified by law.

5. Ethiopian pastoralists have the right to free land for grazing and cultivation as well as the right not to be displaced from their own lands. The implementation shall be specified by law.

6. Without prejudice to the right of Ethiopian Nations, Nationalities, and Peoples to the ownership of land, government shall ensure the right of private investors to the use of land on the basis of payment arrangements established by law. Particulars shall be determined by law.

7. Every Ethiopian shall have the full right to the immovable property he builds and to the permanent improvements he brings about on the land by his labour

or capital. This right shall include the right to alienate, to bequeath, and, where the right of use expires, to remove his property, transfer his title, or claim compensation for it. Particulars shall be determined by law.

8. Without prejudice to the right to private property, the government may expropriate private property for public purposes subject to payment in advance of compensation commensurate to the value of the property.

Article 41

Economic, Social and Cultural Rights

1. Every Ethiopian has the right to engage freely in economic activity and to pursue a livelihood of his choice anywhere within the national territory.
2. Every Ethiopian has the right to choose his or her means of livelihood, occupation and profession.
3. Every Ethiopian national has the right to equal access to publicly funded social services.
4. The State has the obligation to allocate an ever increasing resources to provide to the public health, education and other social services.
5. The State shall, within available means, allocate resources to provide rehabilitation and assistance to the physically and mentally disabled, the aged , and to children who are left without parents or guardian.
6. The State shall pursue policies which aim to expand job opportunities for the unemployed and the poor and shall accordingly undertake programmes and public works projects.
7. The State shall undertake all measures necessary to increase opportunities for citizens to find gainful employment.
8. Ethiopian farmers and pastoralists have the right to receive fair price for their products, that would lead to improvement in their conditions of life and to enable them to obtain an equitable share of the national wealth commensurate with their contribution. This objective shall guide the State in the formulation of economic, social and development policies.
9. The State has the responsibility to protect and preserve historical and cultural legacies, and to contribute to the promotion of the arts and sports.

Article 42

Rights of Labour

1. (a) Factory and service workers, farmers, farm labourers, other rural workers and government employees whose work compatibility allows for it and who are below a certain level of responsibility, have the right to form associations to improve their conditions of employment and economic well-being. This right includes the right to form trade unions and other associations to bargain collectively with employers or other organizations that affect their interests.(b) Categories of persons referred to in paragraph (c) of this sub-Article has the right to express grievances, including the right to strike.(c) Government employees who enjoy the rights provided under paragraphs (a) and (b) of this sub - Article shall be determined by law.
(d) Women workers have the right to equal pay for equal work.

2. Workers have the right to reasonable limitation of working hours, to rest, to leisure, to periodic leaves with pay, to remuneration for public holidays as well as healthy and safe work environment.
3. Without prejudice to the rights recognized under sub - Article 1 of this Article, laws enacted for the implementation of such rights shall establish procedures for the formation of trade unions and for the regulation of the collective bargaining process.

Article 43

The Right to Development

1. The Peoples of Ethiopia as a whole, and each Nation, Nationality and People in Ethiopia in particular have the right to improved living standards and to sustainable development.
2. Nationals have the right to participate in national development and, in particular, to be consulted with respect to policies and projects affecting their community.
3. All international agreements and relations concluded, established or conducted by the State shall protect and ensure Ethiopia's right to sustainable development.
4. The basic aim of development activities shall be to enhance the capacity of citizens for development and to meet their basic needs.

Article 44

Environmental Rights

1. All persons have the right to a clean and healthy environment.
2. All persons who have been displaced or whose livelihoods have been adversely affected as a result of State programmes have the right to commensurate monetary or alternative means of compensation, including relocation with adequate State assistance.

CHAPTER FOUR

STATE STRUCTURE

Article 45

Form of Government

The Federal Democratic Republic of Ethiopia shall have a parliamentary form of government.

Article 46

States of the Federation

1. The Federal Democratic Republic shall comprise of States.
2. States shall be delimited on the basis of the settlement patterns, language, identity and consent of the peoples concerned.

Article 47**Member States of the Federal Democratic Republic**

1. Member States of the Federal Democratic Republic of Ethiopia are the Following:
 - 1) The State of Tigray
 - 2) The State of Afar
 - 3) The State of Amhara
 - 4) The State of Oromia
 - 5) The State of Somalia
 - 6) The State of Benshangul/Gumuz
 - 7) The State of the Southern Nations, Nationalities and Peoples
 - 8) The State of the Gambela Peoples
 - 9) The State of the Harari People
2. Nations, Nationalities and Peoples within the States enumerated in sub-Article 1 of this article have the right to establish, at any time, their own States.
3. The right of any Nation, Nationality or People to form its own state is exercisable under the following procedures:
 - a. When the demand for statehood has been approved by a two-thirds majority of the members of the Council of the Nation, Nationality or People concerned, and the demand is presented in writing to the State Council; When the Council that received the demand has organized a referendum within one year to be held in the Nation, Nationality or People that made the demand;
 - b. When the demand for statehood is supported by a majority vote in the referendum;
 - c. When the State Council will have transferred its powers to the Nation, Nationality or People that made the demand; and
 - d. When the new State created by the referendum without any need for application, directly becomes a member of the Federal Democratic Republic of Ethiopia.
4. Member States of the Federal Democratic Republic of Ethiopia shall have equal rights and powers.

Article 48**State Border Changes**

1. All State border disputes shall be settled by agreement of the concerned States. Where the concerned States fail to reach agreement, the House of the Federation shall decide such disputes on the basis of settlement patterns and the wishes of the peoples concerned.
2. The House of Federation shall, within a period of two years, render a final decision on a dispute submitted to it pursuant to sub-Article 1 of this Article.

Article 49**Capital City**

1. Addis Ababa shall be the capital city of the Federal State.
2. The residents of Addis Ababa shall have a full measure of self-government. Particulars shall be determined by law.
3. The Administration of Addis Ababa shall be responsible to the Federal Government.
4. Residents of Addis Ababa shall in accordance with the provisions of this Constitution, be represented in the House of Peoples' Representatives.
5. The special interest of the State of Oromia in Addis Ababa, regarding the provision of social services or the utilization of natural resources and other similar matters, as well as joint administrative matters arising from the location of Addis Ababa within the State of Oromia, shall be respected. Particulars shall be determined by law.

CHAPTER FIVE**THE STRUCTURE AND DIVISION OF POWERS****Article 50****Structure of the Organs of State**

1. The Federal Democratic Republic of Ethiopia comprises the Federal Government and the State members.
2. The Federal Government and the States shall have legislative, executive and judicial powers.
3. The House of Peoples' Representatives is the highest authority of the Federal Government. The House is responsible to the People. The State Council is the highest organ of State authority. It is responsible to the People of the State.
4. State government shall be established at State and other administrative levels that they find necessary. Adequate power shall be granted to the lowest units of government to enable the People to participate directly in the administration of such units.
5. The State Council has the power of legislation on matters falling under State jurisdiction. Consistent with the provisions of this Constitution, the Council has power to draft, adopt and amend the state constitution.
6. The State administration constitutes the highest organ of executive power.
7. State judicial power is vested in its courts.
8. Federal and State powers are defined by this Constitution. The States shall respect the powers of the Federal Government. The Federal Government shall likewise respect the powers of the States.
9. The Federal Government may, when necessary, delegate to the States powers and functions granted to it by Article 51 of this Constitution.

Article 51

Powers and Functions of the Federal Government

1. It shall protect and defend the Constitution.
2. It shall formulate and implement the country's policies, strategies and plans in respect of overall economic, social and development matters.
3. It shall establish and implement national standards and basic policy criteria for public health, education, science and technology as well as for the protection and preservation of cultural and historical legacies.
4. It shall formulate and execute the country's financial, monetary and foreign investment policies and strategies.
5. It shall enact laws for the utilization and conservation of land and other natural resources, historical sites and objects.
6. It shall establish and administer national defence and public security forces as well as a federal police force.
7. It shall administer the National Bank, print and borrow money, mint coins, regulate foreign exchange and money in circulation; it shall determine by law the conditions and terms under which States can borrow money from internal sources.
8. It shall formulate and implement foreign policy; it shall negotiate and ratify international agreements.
9. It shall be responsible for the development, administration and regulation of air, rail, waterways and sea transport and major roads linking two or more States, as well as for postal and telecommunication services.
10. It shall levy taxes and collect duties on revenue sources reserved to the Federal Government; it shall draw up, approve and administer the Federal Government's budget.
11. It shall determine and administer the utilization of the waters or rivers and lakes linking two or more States or crossing the boundaries of the national territorial jurisdiction.
12. It shall regulate inter-State and foreign commerce.
13. It shall administer and expand all federally funded institutions that provide services to two or more States.
14. It shall deploy, at the request of a state administration, Federal defence forces to arrest a deteriorating security situation within the requesting State when its authorities are unable to control it.
15. It shall enact, in order to give practical effect to political rights provided for in this Constitution, all necessary laws governing political parties and elections.
16. It has the power to declare and to lift national state of emergency and states of emergencies limited to certain parts of the country.
17. It shall determine matters relating to nationality.

18. It shall determine and administer all matters relating to immigration, the granting of passports, entry into and exit from the country, refugees and asylum.
19. It shall patent inventions and protect copyrights.
20. It shall establish uniform standards of measurement and calendar.
21. It shall enact laws regulating the possession and bearing of arms.

Article 52

Powers and Functions of States

1. All powers not given expressly to the Federal Government alone, or concurrently to the Federal Government and the States are reserved to the States.
2. Consistent with sub-Article 1 of this Article, States shall have the following powers and functions:
 - a. To establish a State administration that best advances self-government, a democratic order based on the rule of law; to protect and defend the Federal Constitution;
 - b. To enact and execute the state constitution and other laws;
 - c. To formulate and execute economic, social and development policies, strategies and plans of the State;
 - d. To administer land and other natural resources in accordance with Federal laws;
 - e. To levy and collect taxes and duties on revenue sources reserved to the States and to draw up and administer the State budget;
 - f. To enact and enforce laws on the State civil service and their condition of work; in the implementation of this responsibility it shall ensure that educational; training and experience requirements for any job, title or position approximate national standards;
 - g. To establish and administer a state police force, and to maintain public order and peace within the State;

CHAPTER SIX

THE FEDERAL HOUSES

Article 53

The Federal Houses

There shall be two Federal Houses: The House of Peoples' Representatives and the House of the Federation.

PART ONE**THE HOUSE OF PEOPLES' REPRESENTATIVES****Article 54****Members of the House of Peoples' Representatives**

1. Members of the House of Peoples' Representatives shall be elected by the People for a term of five years on the basis of universal suffrage and by direct, free and fair elections held by secret ballot.
2. Members of the House shall be elected from candidates in each electoral district by a plurality of the votes cast. Provisions shall be made by law for special representation for minority Nationalities and Peoples.
3. Members of the House, on the basis of population and special representation of minority Nationalities and Peoples, shall not exceed 550; of these, minority Nationalities and Peoples shall have at least 20 seats. Particulars shall be determined by law.
4. Members of the House are representatives of the Ethiopian People as a whole. They are governed by:
 - a. The Constitution;
 - b. The will of the people; and
 - c. Their Conscience.
5. No member of the House may be prosecuted on account of any vote he casts or opinion he expresses in the House, nor shall any administrative action be taken against any member on such grounds.
6. No member of the House may be arrested or prosecuted without the permission of the House except in the case of flagrante delicto.
7. A member of the House may, in accordance with law, lose his mandate of representation upon loss of confidence by the electorate.

Article 55**Powers and Functions of the House of Peoples' Representatives**

1. The House of Peoples' Representatives shall have the power of legislation in all matters assigned by this Constitution to Federal jurisdiction.
2. Consistent with the provision of sub-Article 1 of this Article, the House of Peoples' Representatives shall enact specific laws on the following matters:

- (a) Utilization of land and other natural resources, of rivers and lakes crossing the boundaries of the national territorial jurisdiction or linking two or more States;
 - (b) Inter-State commerce and foreign trade;
 - (c) Air, rail, water and sea transport, major roads linking two or more States, postal and telecommunication services;
 - (d) Enforcement of the political rights established by the Constitution and electoral laws and procedures;
 - (e) Nationality, immigration, passport, exit from and entry into the country, the rights of refugees and of asylum;
 - (f) Uniform standards of measurement and calendar;
 - (g) Patents and copyrights;
 - (h) The possession and bearing of arms.
3. It shall enact a labour code;
 4. It shall enact a commercial code;
 5. It shall enact a penal code. The States may, however, enact penal laws on matters that are not specifically covered by Federal penal legislation.
 6. It shall enact civil laws which the House of the Federation deems necessary to establish and sustain one economic community.
 7. It shall determine the organization of national defence, public security, and a national police force. If the conduct of these forces infringes upon human rights and the nation's security, it shall carry out investigations and take necessary measures.
 8. In conformity with Article 93 of the Constitution it shall declare state of emergency; it shall consider and resolve on a decree of a state of emergency declared by the executive.
 9. On the basis of a draft law submitted to it by the Council of Ministers it shall proclaim a state of war.
 10. It shall approve general policies and strategies of economic, social and development, and fiscal and monetary policy of the country. It shall enact laws on matters relating to the local currency, the administration of the National Bank, and foreign exchange.
 11. It shall levy taxes and duties on revenue sources reserved to the Federal Government, it shall ratify the Federal budget.
 12. It shall ratify international agreements concluded by the executive.
 13. It shall approve the appointment of Federal judges, members of the Council of Ministers, commissioners, the Auditor General, and of other officials whose appointment is required by law to be approved by it.
 14. It shall establish a Human Rights Commission and determine by law its powers and functions.

15. It shall establish the institution of the Ombudsman, and select and appoint its members. It shall determine by law the powers and functions of the institution.
16. It shall, on its own initiative, request a joint session of the House of the Federation and of the House of Peoples' Representatives to take appropriate measures when State authorities are unable to arrest violations of human rights within their jurisdiction. It shall, on the basis of the joint decision of the House, give directives to the concerned State authorities.
17. It has the power to call and to question the Prime Minister and other Federal officials and to investigate the Executive's conduct and discharge of its responsibilities.
18. It shall, at the request of one-third of its members, discuss any matter pertaining to the powers of the executive. It has, in such cases, the power to take decisions or measures it deems necessary.
19. It shall elect the Speaker and Deputy Speaker of the House. It shall establish standing and ad hoc committees, as it deems necessary to accomplish its work.

Article 56

Political Power

A political party, or a coalition of political parties that has the greatest number of seats in the House of Peoples' Representatives shall form the Executive and lead it.

Article 57

Adoption of Laws

Laws deliberated upon and passed by the House shall be submitted to the Nation's President for signature. The President shall sign a law submitted to him within fifteen days. If the President does not sign the law within fifteen days it shall take effect without his signature.

Article 58

Meetings of the House, Duration of its Term

1. The presence of more than half of the members of the House constitutes a quorum.
2. The annual session of the House shall begin on Monday of the final week of the Ethiopian month of Meskerem and end on the 30th day of the Ethiopian month of Sene. The House may adjourn for one month of recess during its annual session.
3. The House of Peoples' Representatives shall be elected for a term of five years. Elections for a new House shall be concluded one month prior to the expire of the House's term.
4. The Speaker of the House may call a meeting of the House when it is in recess. The Speaker of the House is also obliged to call a meeting of the House at the request of more than one-half of the members.

5. Meetings of the House shall be public. The House may, however, hold a closed meeting at the request of the Executive or members of the House if such a request is supported by a decision of more than one-half of the members of the House.

Article 59

Decisions and Rules of Procedure of the House

1. Unless otherwise provided in the Constitution, all decisions of the House shall be by a majority vote of the members present and voting.
2. The House shall adopt rules and procedures regarding the organization of its work and of its legislative process.

Article 60

Dissolution of the House

1. With the consent of the House, the Prime Minister may cause the dissolution of the House before the expiry of its term in order to hold new elections.
2. The President may invite political parties to form a coalition government within one week, if the Council of Ministers of a previous coalition is dissolved because of the loss of its majority in the House. The House shall be dissolved and new elections shall be held if the political parties cannot agree to the continuation of the previous coalition or to form a new majority coalition.
3. If the House is dissolved pursuant to sub-Article 1 or 2 of this Article, new elections shall be held within six months of its dissolution.
4. The new House shall convene within thirty days of the conclusion of the elections.
5. Following the dissolution of the House, the previous governing party of coalition of parties shall continue as a caretaker government. Beyond conducting the day to day affairs of government and organizing new elections, it may not enact new proclamations, regulations or decrees, nor may it repeal or amend any existing law.

PART TWO**THE HOUSE OF THE FEDERATION****Article 61****Members of the House of the Federation**

1. The House of the Federation is composed of representatives of Nations, Nationalities and Peoples.
2. Each Nation, Nationality and People shall be represented in the House of the Federation by at least one member. Each Nation or Nationality shall be represented by one additional representative for each one million of its population.
3. Members of the House of the Federation shall be elected by the State Councils. The State Councils may themselves elect representatives to the House of the Federation, or they may hold elections to have the representatives elected by the people directly.

Article 62**Powers and Functions of the House of the Federation**

1. The House has the power to interpret the Constitution.
 2. It shall organize the Council of Constitutional Inquiry.
 3. It shall, in accordance with the Constitution, decide on issues relating to the rights of Nations, Nationalities and Peoples to self-determination, including the right to secession.
 4. It shall promote the equality of the Peoples of Ethiopia enshrined in the Constitution and promote and consolidate their unity based on their mutual consent.
 5. It shall exercise the powers concurrently entrusted to it and to the House of Peoples' Representatives.
 6. It shall strive to find solutions to disputes or misunderstandings that may arise between States.
 7. It shall determine the division of revenues derived from joint Federal and State tax sources and the subsidies that the Federal Government may provide to the States.
 8. It shall determine civil matters which require the enactment of laws by the House of Peoples' Representatives.
 9. It shall order Federal intervention if any State, in violation of this Constitution, endangers the constitutional order.
 10. It shall establish permanent and ad hoc committees.
 11. It shall elect the Speaker and the Deputy Speaker of the House, and it shall adopt rules of procedure and internal administration.
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Article 63**Immunity of Members of the House of Federation**

1. No member of the House of the Federation may be prosecuted on account of any vote he casts or opinion he expresses in the House, nor shall any administrative action be taken against any member on such grounds.
2. No member of the House of the Federation may be arrested or prosecuted without the permission of the House except in the case of flagrante delicto.

Article 64**Decisions and Rules of Procedure**

1. The presence at a meeting of two-thirds of the members of the House of the Federation constitutes a quorum. All decisions of the House require the approval of a majority of members present and voting.
2. Members of the House may vote only when they are present in person in the House.

Article 65**Budget**

The House of the Federation shall submit its budget for approval to the House of Peoples' Representatives.

Article 66**Powers of the Speaker of the House**

1. The Speaker of the House of the Federation shall preside over the meetings of the House.
2. He shall, on behalf of the House, direct all its administrative affairs.
3. He shall enforce all disciplinary actions the House takes on its members.

Article 67**Sessions and Term of Mandate**

1. The House of the Federation shall hold at least two sessions annually.
2. The term of mandate of the House of the Federation shall be five years.

Article 68**Prohibition of Simultaneous Membership in the****Two Houses**

No one may be a member of the House of Peoples' Representatives and of the House of the Federation simultaneously.

CHAPTER SEVEN

THE PRESIDENT OF THE REPUBLIC

Article 69

The President

The President of the Federal Democratic Republic of Ethiopia is the Head of State.

Article 70

Nomination and Appointment of the President

1. The House of Peoples' Representatives shall nominate the candidate for President.
2. The nominee shall be elected President if a joint session of the House of Peoples' Representatives and the House of the Federation approves his candidacy by a two-thirds majority vote.
3. A member of either House shall vacate his seat if elected President.
4. The term of office of the President shall be six years. No person shall be elected President for more than two terms.
5. Upon his election in accordance with sub-Article 2 of this Article, the President, before commencing his responsibility, shall, at a time the joint session of the Houses determines, present himself before it and shall make a declaration of loyalty to the Constitution and the Peoples of Ethiopia in the following words:

"I....., when on this date commence my responsibility as President of the Federal Democratic Republic of Ethiopia, pledge to carry out faithfully the high responsibility entrusted to me."

Article 71

Powers and Functions of the President

1. He shall open the joint session of the House of Peoples' Representatives and the House of the Federation at the commencement of their annual sessions.
2. He shall proclaim in the Negarit Gazeta laws and international agreements approved by the House of Peoples' Representatives in accordance with the Constitution.
3. He shall, upon recommendation by the Prime Minister, appoint ambassadors and other envoys to represent the country abroad.
4. He shall receive the credentials of foreign ambassadors and special envoys.
5. He shall award medals, prizes and gifts in accordance with conditions and procedures established by law.
6. He shall, upon recommendation by the Prime Minister and in accordance with law, grant high military titles.
7. He shall, in accordance with conditions and procedures established by law, grant pardon.

CHAPTER EIGHT

THE EXECUTIVE

Article 72

The Powers of the Executive

1. The Highest executive powers of the Federal Government are vested in the Prime Minister and in the Council of Ministers.
2. The Prime Minister and the Council of Ministers are responsible to the House of Peoples' Representatives. In the exercise of State functions, members of the Council of Ministers are collectively responsible for all decisions they make as a body.
3. Unless otherwise provided in this Constitution the term of office of the Prime Minister is for the duration of the mandate of the House of Peoples' Representatives.

Article 73

Appointment of the Prime Minister

1. The Prime Minister shall be elected from among members of the House of Peoples' Representatives.
2. Power of Government shall be assumed by the political party or a coalition of political parties that constitutes a majority in the House of Peoples' Representatives.

Article 74

Powers and Functions of the Prime Minister

1. The Prime Minister is the Chief Executive, the Chairman of the Council of Ministers, and the Commander-in-Chief of the national armed forces.
2. The Prime Minister shall submit for approval to the House of Peoples' Representatives nominees for ministerial posts from among members of the two Houses or from among persons who are not members of either House and possess the required qualifications.
3. He shall follow up and ensure the implementation of laws, policies, directives and other decisions adopted by the House of Peoples' Representatives.
4. He leads the Council of Ministers, coordinates its activities and acts as its representative.
5. He exercises overall supervision over the implementation of policies, regulations, directives and decisions adopted by the Council of Ministers.
6. He exercises overall supervision over the implementation of the country's foreign policy.
7. He selects and submits for approval to the House of Peoples' Representatives nominations for posts of Commissioners, the President and Vice-President of the Federal Supreme Court and the Auditor General.
8. He supervises the conduct and efficiency of the Federal administration and takes such corrective measures as are necessary.

9. He appoints high civilian officials of the Federal Government other than those referred to in sub-Articles 2 and 3 of this Article.
10. In accordance with law enacted or decision adopted by the House of Peoples' Representatives, he recommends to the President nominees for the award of medals, prizes and gifts.
11. He shall submit to the House of Peoples' Representatives periodic reports on work accomplished by the Executive as well as on its plans and proposals.
12. He shall discharge all responsibilities entrusted to him by this Constitution and other laws.
13. He shall obey and enforce the Constitution.

Article 75

Deputy Prime Minister

1. The Deputy Prime Minister shall:
 - (a) Carry out responsibilities which shall be specifically entrusted to him by the Prime Minister;
 - (b) Act on behalf of the Prime Minister in his absence.
2. The Deputy Prime Minister shall be responsible to the Prime Minister.

Article 76

The Council of Ministers

1. The Council of Ministers comprises the Prime Minister, the Deputy Prime Minister, Ministers and other members as may be determined by law.
2. The Council of Ministers is responsible to the Prime Minister.
3. In all its decisions, the Council of Ministers is responsible to the House of Peoples' Representatives.

Article 77

Powers and Functions of the Council of Ministers

1. The Council of Ministers ensures the implementation of laws and decisions adopted by the House of Peoples' Representatives.
2. It shall decide on the organizational structure of ministries and other organs of government responsible to it; it shall coordinate their activities and provide leadership.
3. It shall draw up the annual Federal budget and, when approved by the House of Peoples' Representatives, it shall implement it.
4. It shall ensure the proper execution of financial and monetary policies of the country; it shall administer the National Bank, decide on the printing of money and minting of coins, borrow money from domestic and external sources, and regulate foreign exchange matters.
5. It shall protect patents and copyrights.
6. It shall formulate and implement economic, social and development policies and strategies.

7. It shall provide uniform standards of measurement and calendar.
8. It shall formulate the country's foreign policy and exercise overall supervision over its implementation.
9. It shall ensure the observance of law and order.
10. It has the power to declare a state of emergency; in doing so, it shall, within the time limit prescribed by the Constitution, submit the proclamation declaring a state of emergency for approval by the House of Peoples' Representatives.
11. It shall submit draft laws to the House of Peoples' Representatives on any matter falling within its competence, including draft laws on a declaration of war.
12. It shall carry out other responsibilities that may be entrusted to it by the House of Peoples' Representatives and the Prime Minister.
13. It shall enact regulations pursuant to powers vested in it by the House of Peoples' Representatives.

CHAPTER NINE

STRUCTURE AND POWERS OF THE COURTS

Article 78

Independence of the Judiciary

1. An independent judiciary is established by this Constitution.
2. Supreme Federal judicial authority is vested in the Federal Supreme Court. The House of Peoples' Representatives may, by two-thirds majority vote, establish nationwide, or in some parts of the country only, the Federal High Court and First-Instance Courts it deems necessary. Unless decided in this manner, the jurisdictions of the Federal High Court and of the First-Instance Courts are hereby delegated to the State courts.
3. States shall establish State Supreme, High and First-Instance Courts. Particulars shall be determined by law.
4. Special or ad hoc courts which take judicial powers away from the regular courts or institutions legally empowered to exercise judicial functions and which do not follow legally prescribed procedures shall not be established.
5. Pursuant to sub-Article 5 of Article 34 the House of Peoples' Representatives and State Councils can establish or give official recognition to religious and customary courts. Religious and customary courts that had state recognition and functioned prior to the adoption of the Constitution shall be organized on the basis of recognition accorded to them by this Constitution.

Article 79**Judicial Powers**

1. Judicial Powers, both at Federal and State levels, are vested in the courts.
2. Courts of any level shall be free from any interference of influence of any governmental body, government official or from any other source.
3. Judges shall exercise their functions in full independence and shall be directed solely by the law.
4. No judge shall be removed from his duties before he reaches the retirement age determined by law except under the following conditions:
 - (a) When the Judicial Administration Council decides to remove him for violation of disciplinary rules or on grounds of gross incompetence or inefficiency; or
 - (b) When the Judicial Administration Council decides that a judge can no longer carry out his responsibilities on account of illness; and
 - (c) When the House of Peoples' Representatives or the concerned State Council approves by a majority vote the decisions of the Judicial Administration Council.
5. The retirement of judges may not be extended beyond the retirement age determined by law.
6. The Federal Supreme Court shall draw up and submit to the House of Peoples' Representatives for approval the budget of the Federal courts, and upon approval, administer the budget.
7. Budgets of State courts shall be determined by the respective State Council. The House of Peoples' Representatives shall allocate compensatory budgets for States whose Supreme and High courts concurrently exercise the jurisdiction of the Federal High Court and Federal First-Instance Courts.

Article 80**Concurrent Jurisdiction of Courts**

1. The Federal Supreme Court shall have the highest and final judicial power over Federal matters.
2. State Supreme Courts shall have the highest and final judicial power over State matters. They shall also exercise the Jurisdiction of the Federal High Court.
3. Notwithstanding the Provisions of sub-Articles 1 and 2 of this Article;
 - (a) The Federal Supreme Court has a power of cassation over any final court decision containing a basic error of law. Particulars shall be determined by law.
 - (b) The State Supreme Court has power of causation over any final court decision on State matters which contains a basic error of law. Particulars shall be determined by law.

4. State High Courts shall, in addition to State jurisdiction, exercise the jurisdiction of the Federal First-Instance Court.
5. Decisions rendered by a State High Court exercising the jurisdiction of the Federal First-Instance Court are appealable to the State supreme Court.
6. Decisions rendered by a State Supreme Court on Federal matters are appealable to the Federal Supreme Court.

Article 81

Appointment of Judges

1. The President and Vice-President of the Federal Supreme Court shall, upon recommendation by the Prime Minister, be appointed by the House of Peoples' Representatives.
2. Regarding other Federal judges, the Prime Minister shall submit to the House of Peoples' Representatives for appointment candidates selected by the Federal Judicial Administration Council.
3. The State Council shall, upon recommendation by the Chief Executive of the State, appoint the President and Vice-President of the State Supreme Court.
4. State Supreme and High Court judges shall, upon recommendation by the State Judicial Administration Council, be appointed by the State Council. The State Judicial Administration Council, before submitting nominations to the State Council, has the responsibility to solicit and obtain the views of the Federal Judicial Administration Council on the nominees and to forward those views along with its recommendations. If the Federal Judicial Administration Council does not submit its views within three months, the State Council may grant the appointments.
5. Judges of State First-Instance Courts shall, upon recommendation by the state Judicial Administration Council, be appointed by the State Council.
6. Matters of code of professional conduct and discipline as well as transfer of judges of any court shall be determined by the concerned Judicial Administration Council.

Article 82

Structure of the Council of Constitutional Inquiry

1. The Council of Constitutional Inquiry is established by this Constitution.
2. The Council of Constitutional Inquiry shall have eleven members comprising:
 - (a) The President of the Federal Supreme Court, who shall serve as its President;
 - (b) The vice-president of the Federal Supreme Court, who shall serve as its Vice-President;

- (c) Six legal experts, appointed by the President of the Republic on recommendation by the House of Peoples' Representatives, who shall have proven professional competence and high moral standing;
 - (d) Three persons designated by the House of the Federation from among its members.
3. The Council of Constitutional Inquiry shall establish organizational structure which can ensure expeditious execution of its responsibilities.

Article 83

Interpretation of the Constitution

1. All constitutional disputes shall be decided by the House of the Federation.
2. The House of the Federation shall, within thirty days of receipt, decide a constitutional dispute submitted to it by the Council of Constitutional Inquiry.

Article 84

Powers and Functions of the Council of Constitutional Inquiry

1. The Council of Constitutional Inquiry shall have powers to investigate constitutional disputes. Should the Council, upon consideration of the matter, find it necessary to interpret the Constitution, it shall submit its recommendations thereon to the House of the Federation.
2. Where any Federal or State law is contested as being unconstitutional and such a dispute is submitted to it by any court or interested party, the Council shall consider the matter and submit it to the House of the Federation for a final decision.
3. When issues of constitutional interpretation arise in the courts, the Council shall:
 - (a) Remand the case to the concerned court if it finds there is no need for constitutional interpretation; the interested party, if dissatisfied with the decision of the Council, may appeal to the House of the Federation.
 - (b) Submit its recommendations to the House of the Federation for a final decision if it believes there is a need for constitutional interpretation.
4. The Council shall draft its rules of procedure and submit them to the House of the Federation; and implement them upon approval.

CHAPTER TEN**NATIONAL POLICY PRINCIPLES AND OBJECTIVES****Article 85****Objectives**

1. Any organ of Government shall, in the implementation of the Constitution, other laws and public policies, be guided by the principles and objectives specified under this Chapter.
2. The term "Government" in this Chapter shall mean a Federal or State government as the case may be.

Article 86**Principles for External Relations**

1. To promote policies of foreign relations based on the protection of national interests and respect for the sovereignty of the country.
2. To promote mutual respect for national sovereignty and equality of states and non-interference in the internal affairs of other states.
3. To ensure that the foreign relation policies of the country are based on mutual interests and equality of states as well as that international agreements promote the interests of Ethiopia.
4. To observe international agreements which ensure respect for Ethiopia's sovereignty and are not contrary to the interests of its Peoples.
5. To forge and promote ever growing economic union and fraternal relations of Peoples with Ethiopia's neighbours and other African countries.
6. To seek and support peaceful solutions to international disputes.

Article 87**Principles for National Defence**

1. The composition of the national armed forces shall reflect the equitable representation of the Nations, Nationalities and Peoples of Ethiopia.
2. The Minister of Defence shall be a civilian.
3. The armed forces shall protect the sovereignty of the country and carry out any responsibilities as may be assigned to them under any state of emergency declared in accordance with the Constitution.
4. The armed forces shall at all times obey and respect the Constitution.
5. The armed forces shall carry out their functions free of any partisanship to any political organization(s).

Article 88**Political Objectives**

1. Guided by democratic principles, Government shall promote and support the People's self-rule at all levels.
2. Government shall respect the identity of Nations, Nationalities and Peoples. Accordingly Government shall have the duty to strengthen ties of equality, unity and fraternity among them.

Article 89**Economic Objectives**

1. Government shall have the duty to formulate policies which ensure that all Ethiopians can benefit from the country's legacy of intellectual and material resources.
2. Government has the duty to ensure that all Ethiopians get equal opportunity to improve their economic condition and to promote equitable distribution of wealth among them.
3. Government shall take measures to avert any natural and man-made disasters, and, in the event of disasters, to provide timely assistance to the victims.
4. Government shall provide special assistance to Nations, Nationalities, and Peoples least advantaged in economic and social development.
5. Government has the duty to hold, on behalf of the People, land and other natural resources and to deploy them for their common benefit and development.
6. Government shall at all times promote the participation of the People in the formulation of national development policies and programmes; it shall also have the duty to support the initiatives of the People in their development endeavors.
7. Government shall ensure the participation of women in equality with men in all economic and social development endeavors.
8. Government shall endeavor to protect and promote the health, welfare and living standards of the working population of the country.

Article 90**Social Objectives**

1. To the extent the country's resources permit, policies shall aim to provide all Ethiopians access to public health and education, clean water, housing, food and social security.
2. Education shall be provided in a manner that is free from any religious influence, political partisanship or cultural prejudices.

Article 91**Cultural Objectives**

1. Government shall have the duty to support, on the basis of equality, the growth and enrichment of cultures and traditions that are compatible with fundamental rights, human dignity, democratic norms and ideals, and the provisions Constitution.
2. Government and all Ethiopian citizens shall have the duty to protect the country's natural endowment, historical sites and objects. Government shall have the duty, to the extent of the its resources permit, to support the development of the arts, science and technology.

Article 92**Environmental Objectives**

1. Government shall endeavor to ensure that all Ethiopians live in a clean and healthy environment.
2. The design and implementation of programmes and projects of development shall not damage or destroy the environment.
3. People have the right to full consultation and to the expression of views in the planning and implementations of environmental policies and projects that affect them directly.
4. Government and citizens shall have the duty to protect the environment.

CHAPTER ELEVEN**MISCELLANEOUS PROVISIONS****Article 93****Declaration of State of Emergency**

1. (a) The Council of Ministers of the Federal Government shall have the power to decree a state of emergency, should an external invasion, a break down of law and order which endangers the Constitutional order and which cannot be controlled by the regular law enforcement agencies and personnel, a natural disaster, or an epidemic occur.

(b) Sate executives can decree a State-Wide state of emergency should a natural disaster or an epidemic occur. Particulars shall be determined in State Constitutions to be promulgated in conformity with this Constitution.
2. A state of emergency declared in accordance with sub-Article 1(a) of this Article:
 - (a) If declared when the House of Peoples' Representatives is in session, the decree shall be submitted to the House within forty-eight hours of its declaration. The decree, if not approved by a two-thirds majority vote of members of the House of Peoples' Representatives, shall be repealed forthwith.
 - (b) Subject to the required vote of approval set out in (a) of this sub-Article, the decree declaring a state of emergency when the House of

Peoples' Representatives is not in session shall be submitted to it within fifteen days of its adoption.

3. A state of emergency decreed by the Council of Ministers, if approved by the House of Peoples' Representatives, can remain in effect up to six months. The House of Peoples' Representatives may, by a two-thirds majority vote, allow the state of emergency proclamation to be renewed every four months successively.
4. (a) When a state of emergency is declared, the Council of Ministers shall, in accordance with regulations it issues, have all necessary power to protect the country's peace and sovereignty, and to maintain public security, law and order.

(b) The Council of Ministers shall have the power to suspend such political and democratic rights contained in this Constitution to the extent necessary to avert the conditions that required the declaration of a state of emergency.

(c) In the exercise of its emergency powers the Council of Ministers can not, however, suspend or limit the rights provided for in Articles 1, 18, 25, and sub-Articles 1 and 2 of Article 39 of this Constitution.
5. The House of Peoples' Representatives, while declaring a state of emergency, shall simultaneously establish a State of Emergency Inquiry Board, comprising of seven persons to be chosen and assigned by the House from among its members and from legal experts.
6. The State of Emergency Inquiry Board shall have the following powers and responsibilities:
 - (a) To make public within one month the names of all individuals arrested on account of the state of emergency together with the reasons for their arrest.
 - (b) To inspect and follow up that no measure taken during the state of emergency is inhumane.
 - (c) To recommend to the Prime Minister or to the Council of Ministers corrective measures if it finds and case of inhumane treatment.
 - (d) To ensure the prosecution of perpetrators of inhumane acts.
 - (e) To submit its views to the House of Peoples' Representatives on a request to extend the duration of the state of emergency.

Article 94

Financial Expenditures

1. The Federal Government and the States shall respectively bear all financial expenditures necessary to carry out all responsibilities and functions assigned to them by law. Unless otherwise agreed upon, the financial expenditures required for the carrying out of any delegated function by a State shall be borne by the delegating party.
2. The Federal Government may grant to States emergency, rehabilitation and development assistance and loans, due care being taken that such

assistance and loans do not hinder the proportionate development of States. The Federal Government shall have the power to audit and inspect the proportionate development of States.

Article 95

Revenue

The Federal Government and the States shall share revenue taking the federal arrangement into account.

Article 96

Federal Power of Taxation

1. The Federal Government shall levy and collect custom duties, taxes and other charges on imports and exports.
2. It shall levy and collect income tax on employees of the Federal Government and international organizations.
3. It shall levy and collect income, profit, sales and excise taxes on enterprises owned by the Federal Government.
4. It shall tax the income and winnings of national lotteries and other games of chance.
5. It shall levy and collect taxes on the income of air, rail and sea transport services.
6. It shall levy and collect taxes on income of houses and properties owned by the Federal Government; it shall fix rents.
7. It shall determine and collect fees and charges relating to licenses issued and services rendered by organs of the Federal Government.
8. It shall levy and collect taxes on monopolies.
9. It shall levy and collect Federal stamp duties.

Article 97

State Power of Taxation

1. States shall levy and collect income taxes on employees of the State and of private enterprises.
2. States shall determine and collect fees for land usufructuary rights.
3. States shall levy and collect taxes on the incomes of private farmers and farmers incorporated in cooperative associations.
4. States shall levy and collect profit and sales taxes on individual traders carrying out a business within their territory.
5. States shall levy and collect taxes on income from transport services rendered on waters within their territory.

6. They shall levy and collect taxes on income derived from private houses and other properties within the State. They shall collect rent on houses and other properties they own.
7. States shall levy and collect profit, sales, excise and personal income taxes on income of enterprises owned by the States.
8. Consistent with the provisions sub-Article 3 of Article 98, States shall levy and collect taxes on income derived from mining operations, and royalties and land rentals on such operations.
9. They shall determine and collect fees and charges relating to licenses issued and services rendered by State organs.
10. They shall fix and collect royalty for use of forest resources.

Article 98

Concurrent Power of Taxation

1. The Federal Government and the States shall jointly levy and collect profit, sales, excise and personal income taxes on enterprises they jointly establish.
2. They shall jointly levy and collect taxes on the profits of companies and on dividends due to shareholders.
3. They shall jointly levy and collect taxes on incomes derived from large-scale mining and all petroleum and gas operations, and royalties on such operations.

Article 99

Undesignated Powers of Taxation

The House of the Federation and the House of Peoples' Representatives shall, in a joint session, determine by a two-thirds majority vote on the exercise of powers of taxation which have not been specifically provided for in the Constitution.

Article 100

Directives on Taxation

1. In exercising their taxing powers, States and the Federal Government shall ensure that any tax is related to the source of revenue taxed and that it is determined following proper considerations.
2. They shall ensure that the tax does not adversely affect their relationship and that the rate and amount of taxes shall be commensurate with services the taxes help deliver.
3. Neither States nor the Federal Government shall levy and collect taxes on each other's property unless it is a profit-making enterprise.

Article 101**The Auditor General**

1. The Auditor General shall, upon recommendations of the Prime Minister, be appointed by the House of Peoples' Representatives.
2. The Auditor General shall audit and inspect the accounts of ministries and other agencies of the Federal Government to ensure that expenditures are properly made for activities carried out during the fiscal year and in accordance with the approved allocations, and submit his reports thereon to the House of Peoples' Representatives.
3. The Auditor General shall draw up and submit for approval to the House of Peoples' Representatives his office's annual budget.
4. The details of functions of the Auditor General shall be determined by law.

Article 102**Election Board**

1. There shall be established a National Election Board independent of any influence, to conduct in an impartial manner free and fair election in Federal and State constituencies.
2. Members of the Board shall be appointed by the House of Peoples' Representatives upon recommendation of the Prime Minister. Particulars shall be determined by law.

Article 103**Population Census Commission**

1. There shall be established a National Census Commission that shall conduct a population census periodically.
2. Members of the National Census Commission shall be appointed by the House of Peoples' Representatives upon recommendation of the Prime Minister.
3. The Commission shall have a Secretary General and necessary professional and support staff.
4. The annual budget of the Commission shall be submitted for approval to the House of Peoples' Representatives.
5. A national populations census shall be conducted every ten years. The House of the Federation shall determine the boundaries of constituencies on the basis of the census results and a proposal submitted to the House by the National Election Board.
6. The Commission shall be accountable to the House of Peoples' Representatives. It shall submit to the House periodic reports on the conduct of its programs and activities.

Article 104

Initiation of Amendments

Any proposal for constitutional amendment, if supported by two-thirds majority vote in the House of Peoples' Representatives, or by a two-thirds majority vote in the House of the Federation or when one-third of the State Councils of the member States of the Federation, by a majority vote in each Council have supported it, shall be submitted for discussion and decision to the general public and to those whom the amendment of the Constitution concerns.

Article 105

Amendment of the Constitution

1. All rights and freedoms specified in Chapter Three of this Constitution, this very Article, and Article 104 can be amended only in the following manner:
 - (a) When all State Councils, by a majority vote, approve the proposed amendment;
 - (b) When the House of Peoples' Representatives, by a two-thirds majority vote, approves the proposed amendment; and
 - (c) When the House of the Federation, by a two-thirds majority vote, approves the proposed amendment.
2. All provisions of this Constitution other than those specified in subArticle 1 of this Article can be amended only in the following manner:
 - (a) When the House of Peoples' Representatives and the House of the Federation, in a joint session, approve a proposed amendment by a two-thirds majority vote; and
 - (b) When two-thirds of the Councils of the member States of the Federation approve the proposed amendment by majority votes.

Article 106

The Version with Final Legal Authority

The Amharic version of this Constitution shall have final legal authority.

The Political Principles of Federalism

The Principle of Territorial Integrity

The Principle of Political integrity

The Principle of Equal Status

The Principle of Equal treatment or non-discrimination

The Principle of Adaptation

Some of these principles are found in the express terms of Federal Constitutions. Others, it may be discovered, have not been given formal expression in the written Constitution but have developed in the medium of Convention either as a response to the practical demands of federal institutions in their actual operating or in accordance with the changing concepts of federal equity. In the aggregate these principles form a code, partly written partly unwritten, which determines and regulates the internal relationships federal states. This code is designed to reconcile the contradictions and antinomies which are inherent in the dualism of Federalism.

1. The Principle of Territorial Integrity

Normal practice for Federal Constitutions to provide expressly for territorial integrity of member states. E.g. in the Commonwealth of Australia Constitution Act may be taken as a typical of others.

It declares that the Parliament of the Commonwealth may, with the consent of the Parliament if a state and the approval of majority of the electors of the state voting upon the question, increase, diminish or otherwise alter the limits of the State, upon such terms and conditions as may be agreed on, and may with the like consent, make provision respecting the effect and operation of any increase or diminution or alteration of territory in relation to any state affected.

It is also declared that a new state may be formed by separation of territory from a state, but only with the consent of the Parliament thereof, and a new state may be formed by the

union of two or more States or parts of states but only with the consent of the States affected.

These guarantees of the territorial integrity of the member-states proceed logically from the federal purpose to maintain member-states as continuing political entities.

2. The Principle of Political integrity

The continued political existence of the member-states of a Federation also requires a guarantee of their political institutions. This is commonly provided for in those terms of the federal constitution which place the Constitutions of the member-states beyond the power of the national authority to alter or extinguish.

Similarly the jurisdiction or area of institutional activity of the member-states is protected against the arbitrary encroachment of the national authority. The legislative powers retained by the member-states are guaranteed against alteration to the same extent as those possessed by the National authority. Both are subject in the same degree to the process of Constitutional amendment.

3. The principle of equal status.

This is the principle of the equal status of the several communities which have been brought together under a Federal Constitution. It is not the usual practice to affirm this principle in the express terms of the written Constitution, but where it is not so affirmed, it may be regarded as implicit in the character of Federal Institutions

1. No autonomous community would enter voluntarily into a political combination which would commit it to the acceptance of a permanently inferior status.
2. Regardless of the size or population, the prospective members of a Federation have always been regarded as equals in the negotiations preceding the adoption of a Federal Constitution.
3. Similarly. In the ratification commonly required for the adoption of the Constitution each province votes as 1 irrespective of its area or population
4. Within the framework of a federal Constitution all member-states are treated as equals. Each surrenders the same portions of its Autonomy to the National authority. With rare exceptions, each is accorded the same representation in the 2nd chamber of the National Legislature.
5. The amendment procedure commonly incorporated in the Federal Constitutions also illustrates this principle of equality. It is the normal practice to require the combined

assent of the national Legislature and a majority of the Legislatures of the member-states in order to effect an amendment of a Federal Constitution. In this arrangement all the Constituent provinces of a Federation are on a parity regardless of their area or population.

The evident purpose of these characteristic features of Federalism is to guarantee the equal status of the member-states of a Federal Union.

4. The principle of equal treatment or non-discrimination

As a logical corollary of the principle of equal status, Federal Constitutions frequently contain specific safeguards against any member of the Federation. The principle of equal status is thus confirmed and fortified by the principle of equal treatment. In the US Constitution it is declared that "all duties, imports and excises shall be uniform throughout the United States ". It is also declared that "no preference shall be given by any legislation of commerce or revenue to the ports in one state over those of another"

The Australian Constitution provides in a similar manner that the Commonwealth Parliament in the exercise of its taxing authority shall not discriminate between states or parts of state {51(ii)}

The Commonwealth Parliament is also given the power to make laws with respect to the bounties on the production and export of goods "but so that such bounties shall be uniform throughout the Commonwealth" {51(iii)}

It is declared further that the Commonwealth Parliament "shall not by any law or regulation of trade and commerce or revenue give preference to one state or any part thereof over another state or any part thereof".(99)

It is clear therefore that the principle of state equality has been so far recognized in the Constitutions of Federal States as to repudiate and forestall any part of the national authority in the exercise of its powers to give a preference to one state over another or to discriminate against any particular member of the Federation.

#4 Principle of equal treatment: Addendum

Article 1 Sec 8

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

Article 1 Sec 9

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another

Part V - Powers of the Parliament

51 Legislative powers of the Parliament

The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:

- (ii) Taxation; but so as not to discriminate between States or parts of States;
- (iii) Bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth;

Chapter IV – Finance and Trade

99 Commonwealth not to give preference

The Commonwealth shall not, by any law or regulation of trade, commerce, or revenue, give preference to one State or any part thereof over another State or any part thereof.

5. The Principle of Adaptation

The arrangements of a Federal Constitution are intended to realize purposes which are recognized and acknowledged when the Constitution is adopted. The purposes however may not always be in harmony. The objective of national unity for example may conflict with the intention to preserve the corporate existence and economic welfare of the member-states of the Federation. The original provisions of the Constitution express a working compromise between the several objectives of Federalism. But this compromise is based upon an order and relationship of these purposes which is determined by opinions and circumstances which exist at a given point of time. There is no certainty that this original equilibrium will be maintained. A means must be available for the alteration of Constitutional arrangements in conformity with changing relationships of the purposes which the federation is designed to serve. Otherwise the rigidity especially of the

Constitution may impair the vitality of federal institutions by substituting friction for cooperation in its internal relations. To some extent the desideratum of flexibility can be attained through the growth of conventions and the process of judicial interpretation. There must be added however a procedure of direct amendment which will facilitate a more rapid and far-reaching adjustments of the Constitution when they are required. This Principle of Adaptation has expression in most Federal Constitution in an amendment procedure which calls for concurrent action by the National community and the member-states in accordance with a pre-determined formula of cooperation. Since the means must be adequate to the end in view, it is evident that the amendment procedure of a federal Constitution should not require the unanimous consent of the member states.

Norman McL. Rogers, The Political Principles of Federalism,
https://www.jstor.org/stable/136871?seq=1#page_scan_tab_contents

Representative Government, by John Stuart Mill

Chapter 17

Of Federal Representative Governments.

To render a federation advisable, several conditions are necessary.

A third condition, not less important than the two others, is that there be not a very marked inequality of strength among the several contracting states. They cannot, indeed, be exactly equal in resources: in all federations there will be a gradation of power among the members; some will be more populous, rich, and civilized than others. There is a wide difference in wealth and population between New York and Rhode Island; between Bern and Zug or Glaris. The essential is, that there should not be any one State so much more powerful than the rest as to be capable of vying in strength with many of them combined. If there be such a one, and only one, it will insist on being master of the joint deliberations: if there be two, they will be irresistible when they agree; and whenever they differ everything will be decided by a struggle for ascendancy between the rivals. This cause is alone enough to reduce the German Bund to almost a nullity, independently of its wretched internal constitution. It effects none of the real purposes of a confederation. It has never bestowed on Germany a uniform system of customs, nor so much as a uniform coinage; and has served only to give Austria and Prussia a legal right of pouring in their troops to assist the local sovereigns in keeping their subjects obedient to despotism: while in regard to external concerns, the Bund would make all Germany a dependency of Prussia if there were no Austria, and of Austria if there were no Prussia: and in the meantime each petty prince has

little choice but to be a partisan of one or the other, or to intrigue with foreign governments against both.

https://ebooks.adelaide.edu.au/m/mill/john_stuart/m645r/chapter17.html

"The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in state governments are numerous and infinite. The former will be exercised principally on external objects as war, peace, negotiations, and foreign commerce; with which last the powers of taxation will, for the most part, be connected. The powers reserved to the several states will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of people and the internal order, improvement, and prosperity of the state"US Federalism

In the US, the FG is primary in the fields of foreign affairs and national defense. The States are primary in the fields of highways , higher education and public welfare and the localities are primary in matters of elementary and secondary education, housing and zoning.Daniel Elazar, Exploring Federalism

The Constitution of the United States

Preamble

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article. I. - The Legislative Branch

Section 1 - The Legislature

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2 - The House

The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

(Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.) **(The previous sentence in parentheses was modified by the 14th Amendment, section 2.)** The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

Section 3 - The Senate

The Senate of the United States shall be composed of two Senators from each State, *(chosen by the Legislature thereof,)* **(The preceding words in parentheses superseded by 17th Amendment, section 1.)** for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; *(and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.)* **(The preceding words in parentheses were superseded by the 17th Amendment, section 2.)**

No person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Section 4 - Elections, Meetings

The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Place of Chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall (*be on the first Monday in December,*) **(The preceding words in parentheses were superseded by the 20th Amendment, section 2.)** unless they shall by Law appoint a different Day.

Section 5 - Membership, Rules, Journals, Adjournment

Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two-thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Section 6 - Compensation

(The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States.) **(The preceding words in parentheses were modified by the 27th Amendment.)** They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section 7 - Revenue Bills, Legislative Process, Presidential Veto

All bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section 8 - Powers of Congress

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and Post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings; And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Section 9 - Limits on Congress

The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

(No capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.) (Section in parentheses clarified by the 16th Amendment.)

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince or foreign State.

Section 10 - Powers prohibited of States

No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

Article. II. - The Executive Branch

Section 1 - The President

The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice-President chosen for the same Term, be elected, as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

(The Electors shall meet in their respective States, and vote by Ballot for two persons, of whom one at least shall not lie an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; a quorum for this Purpose shall consist of a Member or Members from two-thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice-President.) **(This clause in parentheses was superseded by the 12th Amendment.)**

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty-five Years, and been fourteen Years a Resident within the United States.

(In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.) **(This clause in parentheses has been modified by the 20th and 25th Amendments.)**

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or

Affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Section 2 - Civilian Power over Military, Cabinet, Pardon Power, Appointments

The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any subject relating to the Duties of their respective Offices, and he shall have Power to Grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Section 3 - State of the Union, Convening Congress

He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Section 4 - Disqualification

The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Article III. - The Judicial Branch

Section 1 - Judicial powers

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and shall, at stated Times, receive for their Services a Compensation which shall not be diminished during their Continuance in Office.

Section 2 - Trial by Jury, Original Jurisdiction, Jury Trials

(The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; to all Cases affecting Ambassadors, other public Ministers and Consuls; to all Cases of admiralty and maritime Jurisdiction; to Controversies to which the United States shall be a Party; to Controversies between two or more States; between a State and Citizens of another State; between Citizens of different States; between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.) (This section in parentheses is modified by the 11th Amendment.)

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section 3 - Treason

Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

Article. IV. - The States

Section 1 - Each State to Honor all others

Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Section 2 - State citizens, Extradition

The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

(No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, But shall be delivered up on Claim of the Party to whom such Service or Labour may be due.) (This clause in parentheses is superseded by the 13th Amendment.)

Section 3 - New States

New States may be admitted by the Congress into this Union; but no new States shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Section 4 - Republican government

The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

Article. V. - Amendment

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Article. VI. - Debts, Supremacy, Oaths

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Article. VII. - Ratification

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

Done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth. In Witness whereof We have hereunto subscribed our Names.

Go Washington - President and deputy from Virginia

New Hampshire - John Langdon, Nicholas Gilman

Massachusetts - Nathaniel Gorham, Rufus King

Connecticut - Wm Saml Johnson, Roger Sherman

New York - Alexander Hamilton

New Jersey - Wil Livingston, David Brearley, Wm

Paterson, Jona. Dayton

Pennsylvania - B Franklin, Thomas Mifflin, Robt Morris, Geo. Clymer, Thos FitzSimons,
Jared Ingersoll, James Wilson, Gouv Morris

Delaware - Geo. Read, Gunning Bedford jun, John Dickinson, Richard Bassett, Jaco.
Broom

Maryland - James McHenry, Dan of St Tho Jenifer, Danl Carroll

Virginia - John Blair, James Madison Jr.

North Carolina - Wm Blount, Richd Dobbs Spaight, Hu Williamson

South Carolina - J. Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce
Butler

Georgia - William Few, Abr Baldwin

Attest: William Jackson, Secretary

The Amendments

The following are the Amendments to the Constitution. The first ten Amendments collectively are commonly known as the Bill of Rights.

Amendment 1 - Freedom of Religion, Press, Expression. Ratified 12/15/1791.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment 2 - Right to Bear Arms. Ratified 12/15/1791.

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Amendment 3 - Quartering of Soldiers. Ratified 12/15/1791.

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Amendment 4 - Search and Seizure. Ratified 12/15/1791.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment 5 - Trial and Punishment, Compensation for Takings. Ratified 12/15/1791.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment 6 - Right to Speedy Trial, Confrontation of Witnesses. Ratified 12/15/1791.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses

against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Amendment 7 - Trial by Jury in Civil Cases. Ratified 12/15/1791.

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Amendment 8 - Cruel and Unusual Punishment. Ratified 12/15/1791.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment 9 - Construction of Constitution. Ratified 12/15/1791.

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment 10 - Powers of the States and People. Ratified 12/15/1791.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Amendment 11 - Judicial Limits. Ratified 2/7/1795.

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

Amendment 12 - Choosing the President, Vice-President. Ratified 6/15/1804.

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;

The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;

The person having the greatest Number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

Amendment 13 - Slavery Abolished. Ratified 12/6/1865.

1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

2. Congress shall have power to enforce this article by appropriate legislation.

Amendment 14 - Citizenship Rights. Ratified 7/9/1868.

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Amendment 15 - Race No Bar to Vote. Ratified 2/3/1870.

1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment 16 - Status of Income Tax Clarified. Ratified 2/3/1913.

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

Amendment 17 - Senators Elected by Popular Vote. Ratified 4/8/1913.

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

Amendment 18 - Liquor Abolished. Ratified 1/16/1919. Repealed by Amendment 21, 12/5/1933.

1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.
2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.
3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

Amendment 19 - Women's Suffrage. Ratified 8/18/1920.

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

Amendment 20 - Presidential, Congressional Terms. Ratified 1/23/1933.

1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.
 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.
 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.
 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.
 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.
 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.
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Amendment 21 - Amendment 18 Repealed. Ratified 12/5/1933.

1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.
 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.
 3. The article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.
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Amendment 22 - Presidential Term Limits. Ratified 2/27/1951.

1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President

more than once. But this Article shall not apply to any person holding the office of President, when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

Amendment 23 - Presidential Vote for District of Columbia. Ratified 3/29/1961.

1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct: A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment 24 - Poll Tax Barred. Ratified 1/23/1964.

1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment 25 - Presidential Disability and Succession. Ratified 2/10/1967.

1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty eight hours for that purpose if not in session. If the Congress, within twenty one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty one days after Congress is required to assemble, determines by two thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

Amendment 26 - Voting Age Set to 18 Years. Ratified 7/1/1971.

1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.
2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment 27 - Limiting Congressional Pay Increases. Ratified 5/7/1992.

No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

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