



# **THE 2014 NATIONAL CONFERENCE**

REPORT OF THE

## **COMMITTEE ON POLITICAL PARTIES AND ELECTORAL MATTERS (CPPEM)**

May 2014

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**THE 2014 NATIONAL CONFERENCE**  
**EXECUTIVE SUMMARY**

**REPORT OF THE**  
**COMMITTEE ON POLITICAL PARTIES AND ELECTORAL MATTERS**  
**(CPPEM)**

**1. Registration and Deregistration of Political Parties**

- (i) The Committee recommends that extant legal provisions on party registration, as informed by the Supreme Court verdict in *Fawehinmi vs INEC*, which essentially expects political parties to *register with* INEC rather than for them to be *registered by* INEC, is fair enough and should be sustained.
- (ii) The Committee recommends that the relevant provisions of the Electoral Act, 2010 permitting INEC to de-register political parties in certain circumstances should be removed.

**2. Funding of Political Parties**

- (i) The Committee recommends that public funds should no longer be made available to political parties who should rather raise their funds as it is the case in most other democracies. This will discourage proliferation of unviable parties.
- (ii) Donations to political parties should be in line with the provisions of the Constitution and the Electoral Act.
- (iii) With a view to ensuring transparency and financial accountability, the Committee recommends that political parties should not only keep proper records of funds raised but also provide annual statements to INEC (*or the PPEOC*) as provided in Section 225 of the Constitution and Section 89 of the Electoral Act.

**3. Ideology**

The Committee recommends that political parties should have clear-cut policies and programmes based on shared values and principles, such that basis of membership, identification and voting shall be clear and thus institutionalize a culture of best practices in the political party system.

**4. Administration**

- (i) Political Party leadership and administration should be insulated from undue control and interference from chief executives of government at all levels, so that party independence is restored.

(ii) In order to enhance effectiveness and efficiency of political parties, the administrative processes should be made transparent and accountable.

(iii) The various positions and responsibilities enshrined in a party's constitution must be allowed to function as provided, in accordance with universal principles of management and administration such as consultation, delegation, job specification, transparency, accountability, etc. This will help curtail the excesses of party functionaries.

(iv) The Committee recommends the institutionalization of affirmative action – through the reservation of a defined quota for women and persons living with disability in both the party hierarchy and as candidates for elections in every party's constitution and other documents.

(v) The Committee endorses the provisions in the Electoral Act that encourage the exhaustion of internal mechanisms for the settlement of disputes before a referral to the courts.

(vi) The Committee recommends that political party be separated from governmental administration, such that those who must hold political offices must not concurrently hold party position. Party operatives therefore should be divested of their party position automatically as they assume political offices, elective or appointive.

(vii) In order to enhance effective monitoring and regulation of political parties, the Committee supports the unbundling of the INEC and recommends the establishment of a Political Parties and Electoral Offences Commission (PPEOC).

## **5. Internal Party Democracy**

(i) The Committee recommends that the votes of party members should be allowed to count at every situation where the rules of the parties make for voting, including at party primary elections.

(ii) All political party organs must be allowed to function as stipulated in the political party guidelines.

(iii) The Committee recommends the institutionalization of internal democracy by each political party. This should be reflected in the party constitution and other documents and consequently all party organs should function as stipulated in the party guidelines.

(iv) The Committee recommends that the recurrent practice of 'consensus' decision-making mechanism within parties to frustrate laid down democratic processes should be discouraged. It recommends that any such consensus agreements/decisions within the parties should still be ratified and taken through the established democratic processes of voting.

## **6. Independence of Political parties and Party discipline.**

In order to enhance party independence and discipline, all members must submit to the principle of party supremacy. Elected officials on the platform of political parties must respect party decisions at all times. As much as possible, activities of every political party should be organized and conducted within the registered political party premises and in any event, under the control and direction of the party leadership.

## **7. Party systems**

The Committee recommends that the multiple party system be sustained in accordance with extant provisions of the Constitution, such that citizens would be allowed to form as many political parties as they wish without any restrictions, subject only to their compliance with the guidelines laid down by INEC. The Committee therefore decides that this natural party evolutionary process, even now emergent, would be more enduring if it is allowed to be self-propelling and self-regulating.

## **8. Campaign finances and expenditure ceiling**

(i) The Committee reviewed the provisions of both Section 225 of the Constitution and Sections 90 to 93 of the Electoral Act on donations to political parties as well as election expenses and recommends that those provisions should be retained.

(ii) The Committee also recommends that PPEOC should take necessary steps to implement the provisions, in order to ensure that the parties comply with the stipulations of the law and that campaign financing is properly monitored.

(iii) With respect to foreign funding, the Committee recommends that existing provisions should be retained and be closely monitored by PPEOC.

## **9. Code of conduct for political parties and party office holders**

The Committee recommends the enforcement of the Code of Conduct for Political Parties, already drawn up by the Inter Party Advisory Council.

## **10. Cross-carpeting**

The Committee recommends that Section 68(g) of the 1999 Constitution (as amended), be further amended to indicate that any elected official, executive or legislative, who cross-carpet, regardless of the reasons for such, shall automatically forfeit their seat.

## **11. Independent National Electoral Commission (INEC)**

The Committee recommends that in the course of screening nominees of the President for INEC positions, the Senate should set aside at least two weeks to allow for public objections, if any.



The Committee recommends, in line with the Uwais Report, albeit with some amendments, that INEC be unbundled to enable it focus on its core mandate of organizing elections and delineation of constituencies.

The Committee recommends the creation of a Political Parties and Electoral Offences Commission (PPEOC) to complement the work of INEC with specific responsibility of handling political parties administration, monitoring, auditing of political parties finances and electoral offences.

The Committee recommends that INEC should have the power to exercise disciplinary control over erring National Commissioners, RECs, and indeed all officials of the Commission, including the power of suspension.

## **12. Operational Independence (Section 158)**

The Committee recommends that a new Sub-section (3) to Section 158 should be enacted to provide as follows:

### *Section 158(3)*

*"The Independent National Electoral Commission shall not be subject to the direction or control of any other authority or person in all its operations".*

## **13. Secretary of the Commission (Section 8)**

The Committee recommends that the provisions of the Electoral Act relating to the office of the Secretary of the Commission should be amended to include a statutory tenure for the Secretary. The Secretary shall serve for a period of four years, which may be renewable for another period of four years only. Thus, a new paragraph (c) be inserted under Sub-section (1) of Section 8 as hereunder:

### *Section 8 (1) (c)*

*"hold office for a period of 4 (four) years from the date of his appointment which may be renewable for another period of 4 (four) years only".*

Marginal note of Section 8 to read: (*"Secretary and Staff of the Commission"*)

## **14. The State Independent Electoral Commissions (SIECs)**

(i) The Committee recommends that provision should be made for the financial independence of SIECs by giving them a first line charge in the State budget.

(ii) That issues relating to the composition and administration of SIECs should be activated through a law of the State House of Assembly (SHA).

(iii) State Houses of Assembly (SHA) should ensure a broader base of representation in the membership of SIECs.

(iv) The Chairman and members of the SIECs must be non-partisan and persons of unquestionable integrity.

(v) State Houses of Assembly should legislate the tenure and regularity of elected Local Government officials.

(vi) Section 204 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) should be further amended to remove the requirement that Governors' approval is mandatory before SIEC can regulate its functions, just as it is provided for in Section 160 of the Constitution in respect of INEC.

### **15. Advisory Opinion on Fundamental Constitutional Matters**

Nigeria is still faced with some challenges relating to the interpretation of the Constitution and other electoral matters. INEC as the umpire is expected to remain neutral at all times. However, INEC should be empowered to approach the apex Constitutional Court when in doubt as to the legal position of certain fundamental issues rather than wait and anticipate the happening of certain events.

#### **Observations**

When in doubt relating to fundamental constitutional and electoral matters, INEC should be empowered to approach the Supreme Court for advisory opinion.

#### **Recommendations**

(i) Section 180 of the 1999 Constitution (as amended) and its equivalent provisions should be further amended to make it possible for INEC to approach the Supreme Court for an advisory opinion on fundamental constitutional matters.

(ii) Section 180(2A) of the 1999 Constitution (as amended) should be further amended to disqualify any candidate whose role at the election has been adjudged by the Constitutional Court and other category of courts as fraudulent from taking part in any re-run election and the candidate should also be disqualified from any elective office for a period of 10 years.

### **16. The Electoral Process**

#### **Qualification and disqualification**

(i) The Committee recommends that the provisions of the 1999 Constitution and Electoral Act 2010 (as amended), on minimum academic qualifications for elective offices, be retained.

(ii) The Committee further recommends that that any person aspiring for any elective position must show evidence that they paid their taxes as at when due and this should be so reflected in the relevant sections of the Constitution.

## **Conduct of free and fair elections**

(i) Voters' Registration should be a continuous exercise as provided for in the Electoral Act, 2010 (as amended), such that every eligible voter would be given the opportunity to register at designated INEC offices at all times;

(ii) There should be interconnectedness between the National Identity Card and voters' registration data to ensure the credibility and integrity of Voters' Register.

(iii) There should also be continuous voters' registration, education and sensitization.

## **17. Election and modern technology**

The Committee recommends that that biometric data of electorates should be captured, stored and used for election in the country. In addition, INEC should ensure that latest technology is deployed at all times in the conduct of elections as is the case in other jurisdictions.

## **18. Diaspora participation in voting (Section 77(2) and 117(2))**

The Committee recommends amendments to the relevant sections in the 1999 Constitutions as follows:

(a) Section 77 (2)

*"Every citizen of Nigeria, who has attained the age of eighteen years at the time of the registration of voters for purposes of election to a legislative house, shall be entitled to be registered as a voter for that election".*

(b)Section 117 (2)

*"Every citizen of Nigeria, who has attained the age of eighteen years at the time of the registration of voters for purposes of election to a legislative house, shall be entitled to be registered as a voter for that election".*

The Committee further recommends that INEC may seek to address the logistic issues that will be required to give effect to the import of the amendments suggested above as soon as practicable.

## **19. Establishment of Constitutional Court**

(i). The Federal High Court should be re-named and designated Constitutional Court of Nigeria.



(ii). The jurisdiction and powers of the Federal High Court should be transferred to the National Industrial Court as created in Section 254A of the Constitution and the State High Courts as created and empowered under Sections 270-274.

(iii). The jurisdiction to hear and determine all pre- and post-election matters at all levels for all elections provided for in the 1999 Constitution (as amended) will be vested in the Constitutional Court.

(iv). All issues relating to the enforcement of fundamental rights as provided for in the 1999 Constitution (as amended) should be vested in the Constitutional Court.

## **20. Determination of Pre-Election Matters**

(i) The Committee recommends that any action challenging the conduct of primaries by a political party shall be filed within fourteen (14) days of the accrual of the cause of action. In this regard Subsection (9) of Section 87 of the Electoral Act 2010 (as amended) should be further amended.

(ii) Amend Section 235 of the 1999 Constitution (as amended) to make it mandatory for all pre-election matters filed at the Constitutional Court to be heard and determined within 90 days from the date of filing of the action.

(iii) Appeals arising from pre-election matters should be heard and determined within 60 days from the date of filing the appeal at the Court of Appeal or the Supreme Court.

(iv) Appeals from judgments in pre-election matters to the Court of Appeal or the Supreme Court should be filed within 21 days from the date the judgment of the lower court is delivered.

## **21. Determination of Post-Election Disputes**

(i) Section 285 of the 1999 Constitution (as amended) requiring the hearing of election petitions and delivery of judgements to be concluded within a period of 180 days should be retained.

(ii) Section 285 should be further amended to separate the time for the hearing of election petitions and the delivery of judgements. Election petitions should be heard and concluded within 170 days, i.e. the filing of Replies and other processes, taking of evidence and delivery of final addresses while the writing and delivery of judgements should be concluded within a period of 10 days.

(iii) A proviso should be added to Section 385 of the Constitution to the effect that all decisions on all interlocutory shall be taken with the main appeal and separate appeals will not lie on interlocutory matters.

(iv) The Evidence Act should be amended to shift the burden of proof in election matters to INEC.

## **22. Swearing-in of elected officials only upon conclusion of all post-election litigations**

The Committee recommends that relevant constitutional provisions should be made to ensure that no elected official is sworn in until all litigations on the elections are concluded.

## **23. Role of Civil Society**

The Committee recommends that the existing provisions, procedures and guidelines relating to the accreditation of domestic and international Election Observers should be sustained

The Committee further recommends that the Political Parties and Electoral Offences Commission (PPEOC) should thoroughly scrutinize civil society organizations it intends to deploy as election monitors to ascertain that they are credible, truly independent and patriotic.

## **24. Role of Security Agencies in the electoral process**

The Committee recommends that the Police and all related agencies of government involved in election monitoring should be strengthened and well-motivated for greater effectiveness at elections.

## **25. Independent candidature**

The Committee recommends that relevant provisions of the Constitution and the Electoral Act be amended to provide for Independent Candidacy.

The Committee recommends further amendment to Sections 65 (2)(b), 106, 131, 177, and 221 of the 1999 Constitution; and Sections 31, 33, 37, 45, 91(8), 92, 95,99 100, 106(1)(e) of the Electoral Act to make provisions for individuals to run as independent candidates on the fulfilment of specified conditions.

## **26. Run-off Elections**

The Committee recommends that in place of the plethora of elections as presently prescribed in the Constitution that may lead to constitutional crisis and national confusion, there shall be only one subsequent run-off election where the only candidates shall be the one that has the highest number of votes cast at the election and one among the remaining candidates who has a simple majority of votes in the highest number of States

The Committee also recommends that the winner of such election shall emerge on the second ballot based only on majority of valid votes cast at the election. Such shall also be applicable to Section 179 in the case of governorship election.

### **27. Notification of Vacancy**

The Committee recommends that Sections 68 and 109 be amended to address the lacuna relating to notification of vacancy thus:

(i) Section 68 (Insert a new sub-section (4) thus:

*“The President of the Senate or the Speaker of the House of Representatives as the case may be, shall notify the Independent National Electoral Commission within seven (7) days of the existence of a vacancy arising from death or resignation of a member of the National Assembly”.*

(ii) Section 109 (Insert a new sub-section (4) thus):

*“The Speaker of the House of Assembly of a State shall notify the Independent National Electoral Commission within seven (7) days of the existence of a vacancy arising from death or resignation of a member of the State House of Assembly”.*

### **28. Disqualification of Electoral Offenders**

The Committee recommends that any person convicted of an Electoral Offence (including registration offences, campaign finance breaches and breach of political party finance provisions) should be disqualified for a period of 10 years from the date of conviction from contesting any election or holding any elective or appointive position either in government or in political party. Thus, an amendment to the effect that “within a period of ten years before the date of the election, he/she has been convicted of an electoral offence by a court or tribunal” should be inserted immediately after each of Paragraph (d) of Sections 66, 107, 137, & 182 of the 1999 Constitution.

### **29. Section 31 (List of Candidates)**

The Committee recommends that Subsection (6) of Section 31 be amended to make provision that where the court finds that a candidate submitted by a political party did not meet the qualifications required for contesting the office, the court shall disqualify the candidate from contesting the election. Where, however, the person has been elected, the court shall order the person to vacate the office and the candidate with the second highest votes cast who has met constitutional requirement for the post shall be declared elected. This recommendation is to avoid the waste of public funds to repeat elections consequent upon removal of disqualified candidates. The proposed new Subsection (6) of Section 31 should read:

*“(6) if the Court determines that any of the information contained in the Affidavit is false, the Court shall issue an order disqualifying the candidate*

*from contesting the election; if already elected, the Court shall issue an order directing the person to vacate the office and the next person with highest number of votes cast and who met the requirement of the Constitution shall be declared duly elected.*

### **30. Section 33 – Death or Withdrawal of a Candidate**

The Committee recommends that that where a candidate who won a primary election and whose name was submitted to the Commission dies or withdraws from the election, the political party which nominated that candidate shall submit to the Commission the name of the candidate who scored the second highest number of votes at the Primaries as the substitute candidate. Thus, Section 33 should be amended by re-numbering the existing Section 33 as Sub-section (1) and introducing a new Sub-section (2) to read:

*“(2) If the candidate whose name was submitted to the Commission dies or withdraws from the election or is disqualified by a court of competent jurisdiction, the political party which nominated the candidate shall forward to the Commission the name of the aspirant who scored the second highest number of votes at the primaries as the substitute candidate”.*

The Committee further recommends that even where such a dead or disqualified candidate may have emerged by consensus, fresh primaries should be held to determine the new representative of the party.



**THE 2014 NATIONAL CONFERENCE**  
**COMMITTEE ON POLITICAL PARTIES AND ELECTORAL MATTERS**  
**(CPPEM)**  
**FINAL REPORT**

**I. PREAMBLE**

The entity known as Nigeria came into formal existence with the amalgamation of the northern and southern protectorates in 1914. One hundred years on, the country remains as one single entity but considerably racked by sundry challenges, virtually all of them bothering on the programme of nation-building – how to make an attitudinally unified entity from a tapestry of ethnic nationalities inhabiting the Nigerian geographical space.

The most affected, perhaps, are issues bothering on the appropriate political structure of governance, how inter-ethnic relations are to be managed, the place of religion in public affairs, and of course, the challenge of economic development. A consequence of the lack of demonstrable capacity to manage these contradictions is the acute instability that the nation has witnessed, not just in terms of governance types, but also in terms of both the frequency of change in personnel of government and general direction of public policy. By the time the nation was celebrating its centenary anniversary in 2013, therefore, there was broad consensus across the land and indeed among watchers of Nigeria globally, that the country was in need of a new beginning directed at enhancing stability, democratic governance, and economic development. It was against this backdrop that President Goodluck Ebele Jonathan, GCFR, in his October 1, 2014 broadcast to the nation indicated the desire of his government to convoke a national conference to enable Nigerians discuss the direction of the nation's development going forward.

In furtherance of this commitment, Mr President inaugurated The Presidential Advisory Committee, led by Dr. Femi Okunroumu, in October 2013 with a mandate to work out the modalities for the proposed National Conference, focusing as it were, on patterns of representation, appropriate nomenclature, duration and thematic issues to be discussed. The Committee was to be substantially guided by the outcome of wide consultation on these subjects across the nation.

On the basis of the Presidential Advisory Committee's Report, the National Conference was formally inaugurated on March 17, 2014, by the President, where he delivered a speech that, to all intents and purposes, served as the Keynote Address to the Conference.

The profundity of the Address came into bolder relief during the two-week period dedicated to its discussion when every one of the 492 Delegates was allotted time to comment thereon. This followed the formal adoption of the Rules and Order of Proceeding at Plenary on March 31, 2014.



Thereafter, the Conference broke into 20 different Committees, each focused on a specific theme. The Committee on Political Parties and Electoral Matters (CPPEM) is made up of 28 members with different but compelling backgrounds. It has as co-chairmen HE Sen. Dr. Iyorchia Ayu, and HE Sen. Ken Nnamani, GCON, both former Presidents of Senate of the Federal Republic of Nigeria.

The Committee commenced work on April 24, 2014 by agreeing on the thematic issues by which its discussion would be guided. They are as listed below:

### **1.1 Political Parties**

- a. Formation (History and Background)
- b. Registration
- c. Funding
- d. Ideology
- e. Administration
- f. Internal Party Democracy
- g. Independence and supremacy of political parties
- h. Party systems
- i. Campaign finances and expenditure ceiling
- j. Code of conduct for political parties and party office holders
- k. Cross-carpeting

### **1.2 Election Management Bodies**

- a. The Role of Electoral Bodies at both federal and state levels
- b. Electoral Management
- c. Levels of management
- d. Composition
- e. Funding
- f. Transparency

### **1.3 Electoral Process**

- a. Qualification and disqualification
- b. Method of election
- c. Regulation of campaigns
- d. Campaign finances and expenditure ceiling for candidates
- e. Electoral offenses and punishment
- f. Delineation of constituencies
- g. Conduct of free and fair elections
- h. Media and electioneering
- i. Election and modern technology
- j. Diaspora participation in voting

## **1.4 Other Issues**

- a. Role of judiciary in the conduct of elections
- b. Role of Civil Society
- c. Security agencies
- d. Independent candidature
- e. Proportional representation
- f. Tenure of Local Government officials
- g. Review of Uwais Report
- h. Review of Electoral Act 2010 as amended.

The leadership of INEC was invited to interact with the Committee over a two-day period, April 22, and May 13, 2014. This afforded members the opportunity to obtain clarification on a number of issues in discussion. As well, the Committee made extensive consultation with several important documents made available to it by the Conference Secretariat, among which are:

- The 1999 Constitution, as amended
- The Electoral Act 2010, as amended
- The Political Bureau Report, 1987
- The Political Conference Report, 1995
- The Election Reforms Committee (Uwais) Report, 2008
- The National Political Reform Conference Report, 2005
- The Belgore Report, 2012
- Sheik Lemu Report on Post-election Violence
- INEC Proposed Amendment to the Electoral Legal Framework, 2012.

## **II. BACKGROUND TO THE COMMITTEE'S RECOMMENDATIONS.**

It is to be noted that virtually all of the thematic issues before the CPPEM had actually been addressed at one point or the other in the past 14 years by the different governments of the country through the instrumentality of one committee or the other. What the CPPEM had to do, therefore, was to take a deep and introspective look at each of these issues against the backdrop of existing provisions in documents like the 1999 Constitution as amended, the Electoral Act 2010 as amended, etc., and either

- affirm existing provisions which it considered adequate to meet current and envisaged challenges;
- firm up some extant provisions with a view to making such more impactful; or
- propose fresh perspectives where it noticed that prevailing provisions had become inadequate or indeed injurious to the goals of deepening democracy, enhancing stability and fast-tracking development in Nigeria.

In all cases, the Committee sought to provide insights to old and unresolved issues.

### **III. THEMATIC SUBJECTS.**

#### **1. Political Parties:**

##### **1.1 Formation (History and Background)**

Political parties are a critical component of democracies worldwide. In furtherance of its assigned responsibility, the Committee considered various issues relating to political parties. It notes that given the vital role of political parties in the electioneering and the democratic processes, it is important that they function effectively to be able to support the growth of a robust democracy and democratic culture, especially after long years of military rule in Nigeria. Indeed, it is acknowledged that the autocratic mien of major players in the current political process is a result of the exposure to military rule over the years.

##### **1.1.1 Challenges**

Currently, political parties in Nigeria are bedevilled by a myriad of problems militating against their effectiveness. These include: lack of internal party democracy, poor funding, lack of party discipline, and absolute control and appropriation of party leadership and structure by chief executives of government at various levels. This has made virtually all the existing political parties to be seen as mere government parastatals rather than real political parties. Other challenges are: lack of clearly defined roles, policies, programmes and ideologies; as well as rampant usage of armed party thugs under various covers (youth wings, vanguards, solidarity groups, support groups, etc) which has been promoting political and electoral violence in the polity.

##### **1.1.2 Observations**

(i) The Committee generally observes that well-structured, organised and effective political parties will ensure the development of a robust political process and engender national democratic development, while weak and poorly managed political parties, as is currently the case, will continue to endanger Nigeria's nascent democracy.

(ii) The 1999 Constitution (as amended) in Sections 221-229, and the Electoral Act, 2010 (as amended) in Sections 78-102, have made extensive provisions in respect of the roles and functions of political parties. These laws vest the responsibility for registration and regulation of these parties on the Independent National Electoral Commission (INEC).

(iii) Reports of previous conferences and committees such as the Political Bureau 1987, the Constitutional Conference 1995, the National Political Reform Conference, 2005, and the Justice Uwais Electoral Reform Committee 2008, have made elaborate assessments and recommendations towards strengthening political parties and making them more effective and efficient.

It is against this broad background that the Committee makes the specific recommendations captured succinctly below.

## **1.2 Registration**

(i) The Committee recognizes that in a federation, regulations that political parties should have federal character in their composition and operate functional offices in two-thirds of the states of the federation unnecessarily constrict the emergence of local parties which may be focused on local, yet non-divisive issues. It nevertheless recommends that extant legal provisions on party registration, as informed by the Supreme Court verdict in *Fawehinmi vs INEC*, which essentially expects political parties to *register with* INEC rather than for them to be *registered by* INEC, is fair enough and should be sustained.

(ii) The Committee recommends that the relevant provisions of the Electoral Act, 2010 permitting INEC to de-register political parties in certain circumstances should be removed. This position, among others is consequent upon another recommendation seeking to discontinue public funding of political parties, a factor accounting for the existence of several mushroom parties whose proprietors are only interested in drawing government subvention.

## **1.3 Funding**

(i) The Committee notes that one of the major reasons while too many political parties have sprung up in Nigeria is largely because of subventions made available to them pursuant to the provisions of Section 228(c) of the 1999 Constitution by the Federal Government. The Committee observes that the multiplicity of political parties have made their management difficult and cumbersome. To discourage the proliferation of unviable political parties and bring sanity and accountability to the processes, the Committee recommends that public funds should no longer be made available to political parties. It consequently recommends that Section 228(c) of the 1999 Constitution be deleted.

(ii) Donations to political parties should be in line with the provisions of Section 225 of the Constitution and Sections 88 – 90 of the Electoral Act.

(iii) With a view to ensuring transparency and financial accountability, the Committee recommends that political parties should not only keep proper records of funds raised but also provide annual statements to the new Political Parties and Electoral Offences Commission (PPOEC) recommended in this Report for creation.

## **1.4 Ideology**

(i) The Committee notes that political parties in Nigeria, especially under extant dispensation, have tended to exist without well-laid out platforms – a situation that has significantly undermined the process and pace of democratization and promoted fluidity in party membership and affiliation. It further notes that this has moved electoral contest in the direction of primordial issues like region, religion and ethnic differentiation. The Committee, therefore, recommends that political parties should



have clear-cut policies and programmes based on shared values and principles, such that basis of membership, identification and voting shall be clear. This is expected to form the basis of participation by members in the affairs of political parties and identification by voters. It is, thus, expected to institutionalize a culture of best practices in the political party system.

(ii) In specific terms, the Committee recommends the adoption of Section 224 of the Constitution, which provides that the programmes, aims and objectives of a political party should conform to the provisions of Chapter II of the Constitution.

### **1.5 Administration**

(i) Political Party leadership and administration should be insulated from undue control and interference from chief executives of government at all levels, so that party independence is restored. In so doing, the wishes of the party members as expressed through their votes will be reflected in party administration.

(ii) In order to enhance effectiveness and efficiency of political parties, their administrative processes should be made transparent and accountable. Issues such as party membership registers and the conduct of party activities should be made accessible and transparent to members.

(iii) The various positions and responsibilities enshrined in a party's constitution must be allowed to function as provided, in accordance with universal principles of management and administration such as consultation, delegation, job specification, transparency, accountability, etc. This will help curtail the excesses of party functionaries.

(iv) The Committee endorses the provisions in the Electoral Act that encourage the exhaustion of internal mechanisms for the settlement of disputes before a referral to the courts.

(v) The Committee recommends that the votes of Party members should be allowed to count at every situation where the rules of the parties make for voting, including at party primary elections. In addition, it recommends that political party administration be separated from government, such that those who must hold political offices must not concurrently hold party positions and vice versa. Party operatives therefore should be divested of their party position automatically as they assume political offices, elective or appointive.

(vi) The Committee recommends an addition to Section 223 as 223 (2) (c): 'no official of any political party shall concurrently hold a position in government'.

(vii) The Committee recommends that Section 87(8) of the Electoral Act making provision for political office holders to also hold party office be deleted.



(viii) In order to enhance effective monitoring and regulation of political parties, the Committee supports the establishment of a Political Parties and Electoral Offences Commission (PPEOC) as recommended by the Justice Uwais Committee, albeit with some amendments.

## **1.6 Women Participation in Politics**

While noting that all the existing political parties have attended to the issue of the place of women in the political process in a commendable manner thus far, in line with current global trends and standards established by organisations such as the United Nations, the Committee recommends the institutionalization of affirmative action for women and people living with disability. This implies provision for the reservation of a defined quota for women and persons living with disability in party hierarchies, and as candidates for elections in every party's constitution and other documents.

## **1.7 Internal Party Democracy**

(i) The Committee notes that a major challenge Nigeria's democracy has faced over the years is the absence of internal party democracy, a fact that has not only heated up the system at various times in the past, but also denied it the full possibilities of a vibrant political party system, a key institution in any representative democracy. Convinced that Section 223 of the 1999 Constitution and the Electoral Act, 2010 (as amended) provide adequate guidelines on internal democracy for political parties, the Committee recommends that both provisions should be sustained.

(ii). All political party organs must be allowed to function as stipulated in the political party guidelines.

(iii). The Committee notes that for parties to be effective, their processes should be not only be democratic, but also inclusive, such that the various stakeholders and divergent interests within the party are fully protected and are given a sense of belonging.

(iv). Upon a review of Section 223 of the Constitution and the provisions of the Electoral Act which provide guidelines on internal democracy for political parties, the Committee recommends the institutionalization of internal democracy by each political party. This should be reflected in the party constitution and other documents and consequently all party organs should function as stipulated in the party guidelines.

(v). The Committee recommends that the votes of party members should be allowed to count at every situation where the rules of the parties make for voting, including at party primary elections.

(vi) The Committee recommends that the recurrent practice of 'consensus' decision-making mechanism within parties to frustrate laid down democratic processes should

be discouraged. It also recommends that any such consensus agreements/decisions within the parties should still be ratified and taken through the established democratic processes of voting.

(vii) While not ruling out the possibility of emergence of candidates for elections through consensus, the Committee recommends that any such consensus agreements/decisions within the parties should still be taken through the established democratic processes of voting.

(viii) The Committee recommends addition of Section 87(9) to read: 'Nothing in this Section shall empower any political party to choose its officials or candidates for elections except by democratic process of voting'.

### **1.8 Independence and discipline**

(i) In order to enhance greater effectiveness on the part of political parties, all members must submit to the principle of party discipline, such that a case in which political office holders tend to ride roughshod over the party structures would no longer be possible. Specifically, elected officials on the platform of political parties must respect party decisions at all times. As much as possible, activities of every party should be organized and conducted within the registered party premises and in any event, under the control and direction of the official party leadership.

(ii) Elected political office holders are elected based on their political parties and so political parties must not be seen as being subordinate to political office holders, especially the executive who had thus far tended to appropriate the political party organs in their individual domains.

### **1.9 Party systems**

(i) For continued deepening of democratic practice, the Committee recommends that the multiple party system be sustained in accordance with extant provisions of the Constitution, such that citizens would be allowed to form political parties without any undue restrictions, subject only to their compliance with the guidelines laid down by INEC. Provisions of Section 222 of the 1999 Constitution (as amended), and Section 78 of the Electoral Act 2010 (as amended), which do not restrict the formation of political parties but only require them to be registered with PPEOC (as recommended here), should, therefore, be sustained.

(ii) The Committee makes this recommendation for two reasons. First is because a contrary position would infringe on the rights of the individual to freedom of association as guaranteed in Chapter 4 of the 1999 Constitution (as amended). Secondly, it takes cognizance of the fact that while a two-party system may possess the inherent potential of helping the cause of unity among political operatives and by implication the nation at large, the several political parties that had existed in the system in each democratic dispensation since the 1920s had always gravitated toward a two-party system; a process truncated at the different historical junctures by military

intervention. The Committee, therefore, recommends that this natural party evolutionary process, even now emerging, would be more enduring if it is allowed to be self-propelling and self-regulating.

### **1.10 Campaign finances and expenditure ceiling**

(i) The Committee reviewed the provisions of both Section 225 of the Constitution and Sections 90 to 93 of the Electoral Act on donations to political parties as well as election expenses and recommends that the Political Parties and Electoral Offences Commission (PPEOC) be vested with the powers to review the ceiling of campaign and election related expenses from time to time.

(ii) The Committee also recommends that PPEOC should take necessary steps to implement the provisions, in order to ensure that the parties comply with the stipulations of the law and that campaign financing is properly monitored.

(iii) With respect to foreign funding, the Committee recommends that existing provisions should be retained and be closely monitored by PPEOC.

### **1.11 Code of conduct for political parties and party office holders**

The Committee recommends the enforcement of the Code of Conduct for Political Parties, 2013, and the Guidelines and Regulations for Political Parties, 2013 already drawn up by the Inter Party Advisory Council.

### **1.12 Cross-carpeting**

(i). Recognizing that political office holders are elected on the basis of their political parties, except in so far as it relates to independent candidature, and convinced that cross-carpeting (quitting a party on which platform an elected officer was elected to join another) is a major propellant of instability in the political system, the Committee notes that extant provisions in the Constitution and Electoral Act on cross-carpeting are not profound enough.

(ii). The Committee, therefore, recommends that Section 68(g) of the 1999 Constitution (as amended), be further amended to indicate that any elected official, executive or legislative, who cross-carpet, regardless of the reasons for such, shall automatically forfeit their seat. Such officials, are however, free to contest for the position or indeed any other position on the basis of their new political party.

## **2. Election Management Bodies: Federal and State**

### **2.1 Independent National Electoral Commission (INEC)**

#### **2.1.1 Composition: Challenge**

By Section 154 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), the President appoints the Chairman and other National Commissioners of INEC subject to confirmation by the Senate. Consideration was given to the recommendation of the Uwais Committee Report that the independence and neutrality of INEC will be enhanced if the appointing power and authority is domiciled in the National Judicial Council (NJC) rather than in the President. The Committee, however, could not support this recommendation for the following reasons, among others:

- (i) the need to insulate the National Judicial Council (NJC) from partisan pressures;
- (ii) the need to sustain the essence of presidentialism under which the president, the only elected official for whom the entire nation is a single constituency, is the locus of influence;
- (iii) divesting the elected president of all powers over appointment of the Chairman, National Commissioners and RECs of INEC and investing that in the judicial arm, would be out of sync with the principle of separation of powers;
- (iv) the NJC may not actually have the degree of independence assumed for it by the Uwais Committee Report; and at any event, it may itself not be completely immune to corruptive tendencies, evidenced in the fact that several judges had been sanctioned in the recent past on account of their unprofessional conduct on the bench;
- (v) the procedure recommended by the Uwais Committee Report may not be able to accommodate the critical principle of federal character, which, to all intents and purposes, has served as a stabilizing force in Nigeria's very fractious polity, in the process of appointing these operatives;
- (vi) there may not be an end to divesting the president of his powers in favour of the NJC, a body many Committee members believe is already doing too much; and
- (vii) the need for the Senate of the Federal Republic to play the critical role envisaged for it under the Constitution vis a vis the appointment of the Chairman, National Commissioners and RECs of INEC.

#### **2.1.2 Observation**

The Committee notes that INEC is already firmly placed on an independence platform, especially with amendments to both the 1999 Constitution and the Electoral Act, 2011. It notes in this regard, the following:



- INEC is now on one line charge in the Consolidated Revenue Fund of the Federation;
- The President appoints the Chairman of INEC only in consultation with the Council of States;
- Appointment into the office of Chairman of INEC is not valid until the nominee is confirmed by Senate which is expected to screen such a nominee;
- The Chairman of INEC can only be removed by a two-third majority in Senate;
- The 1999 Constitution as amended in Section 160 has granted operational independence to INEC.

### **2.1.3 Recommendations**

Convinced that the independence of INEC will be better enhanced if Senate effectively plays its role in the course of screening the President's nominees for INEC positions, Committee recommends that in the course of screening nominees of the President for INEC positions, Senate should set aside at least two weeks to allow for public objections, if any.

### **2.2 Unbundling of INEC (Section 158)**

Convinced as the Uwais Committee and indeed the current leadership of INEC are that the body is overburdened and lacks the capacity and funding base to undertake some of its constitutional responsibilities, the Committee recommends, in line with the Uwais Report, albeit with some amendments, that INEC be unbundled to enable it focus on its core mandate of organizing elections and delineation of constituencies.

But whereas the Uwais Committee recommended that three new organs be created from INEC – a Political Parties Registration and Regulatory Commission; a Constituency Delimitation Commission; and an Electoral Offences Commission, the Committee notes that in unbundling INEC, cognizance must be taken of the need to guide against further multiplication of institutions, especially against the backdrop of the legitimate apprehension of Nigerians on the increasing cost of governance in the country. It therefore recommends the creation of the following:

(i) Political Parties and Electoral Offences Commission - to undertake registration and monitoring of political parties; civic education; accreditation of election monitors; and prosecution of electoral offences; and

(ii) Constitutional Court, from the existing court structure (see Role of the Judiciary below).



## **2.3 Political Parties and Electoral Offences Commission**

It is self-evident that INEC is overburdened with a lot of issues and the necessity to unbundle the Commission remains imperative. This would enable it focus more pointedly on its core mandate of organizing elections and delineating constituencies.

### **2.3.1 Observation**

The creation of a separate entity with the necessary powers and authority to deal with all issues concerning electoral crimes and offences, registration and regulation of political parties, accreditation and coordination of election monitors and civic education will lower incidents of impunity in the electoral process.

### **2.3.2 Recommendations**

There should be established a Political Parties and Electoral Offences Commission which shall be vested with the following powers:

- a. Enforcement and administration of the provisions of the Electoral Act.
- b. Investigation of all electoral frauds and related offences.
- c. Coordination, enforcement and prosecution of all electoral offences.
- d. Enforcement of the provisions of the Electoral Act, the constitution of registered political parties and any other Acts or enactments.
- e. Adoption of measures to identify, trace and prosecute political thuggery, electoral fraud and other electoral offences.
- f. Facilitation of exchange of scientific and technical information with other democracies on the conduct of joint operations and training geared towards the eradication of electoral malpractice and fraudulent elections.
- g. Examination and investigation of all reported cases of electoral offences with a view to identifying electoral officers and staff of the electoral commission, individuals, corporate bodies or groups involved in the commission of electoral offences.
- h. Collaboration with election observers within and outside Nigeria.
- i. Registration of political parties in accordance with the provisions of the 1999 Constitution and the Electoral Act 2010 (as amended);
- j. Monitor the organization and operation of the political parties, including their finances;

- k. Arrange for the annual examination and auditing of the funds and accounts of political parties;
- l. Monitor political campaigns and provide rules and regulations which shall govern the activities of political parties.

## **2.4 Advisory Opinion on Fundamental Constitutional Matters**

### **2.4.1 Challenge**

Nigeria is still faced with some challenges relating to the interpretation of the Constitution and other electoral matters. INEC as the umpire is expected to remain neutral at all times. However, INEC should be empowered to approach the apex Court when in doubt as to the legal position of certain fundamental issues rather than wait and anticipate the happening of certain events.

### **2.4.2 Observations**

When in doubt relating to fundamental constitutional and electoral matters, INEC should be empowered to approach the Supreme Court for advisory opinion.

### **2.4.3 Recommendations**

Section 180 of the 1999 Constitution (as amended) and its equivalent provisions should be further amended to make it possible for INEC to approach the Supreme Court for an advisory opinion on fundamental constitutional matters.

## **2.5 Discipline of National Commissioners and RECs**

### **2.5.1 Challenge**

The Third Schedule Item F 3 to the Constitution provides that there should be a REC for each State, appointed by the President subject to confirmation by the Senate, while Section 6(2)(a) of the Electoral Act 2010 provides that a person appointed to the office of a REC shall be answerable to the Commission.

### **2.5.2 Observation**

The Constitution did not make provision for the Commission to exercise any disciplinary control over a National Commissioner or REC found wanting in the performance of their functions. Indeed, the Constitution is silent as to their removal, stating only that they hold office for a tenure of five years. Specific provision should be made for the removal of RECs and for the Commission to exercise disciplinary control over RECs and National Commissioners.

### **2.5.3 Recommendations**

(i) The Commission should have the power to exercise disciplinary control over erring National Commissioners, RECs, and indeed all officials of the Commission, including the power of suspension.

(ii) Where the Commission is of the view that a National Commissioner or REC ought to be removed for misconduct or inability to perform the functions of his or her office, it shall notify the President who will in turn make recommendation to the Senate for removal of such officer, and such removal is to be effected by two-thirds majority at the Senate.

## **2.6 The State Independent Electoral Commissions (SIECs)**

### **2.6.1 Challenge**

The perception of the operations of SIECs in the country in the post 1999 Constitution era by the Nigerian electorate has not been positive and confidence in their ability to conduct free, fair and credible elections has been on a steady decline. The reason for this perception and lack of confidence is because SIECs are seen as appendages of the ruling party and under the control and influence of the State Governors. The tendency is therefore for SIECs to carry out the bidding and wishes of the State Government to whom members owe their appointment and depend on for their funding. Consequently, many of the elections conducted by SIECs all over the country are regarded as biased in favour of the ruling party in each State and the results of such elections viewed with suspicion and scepticism.

### **2.6.2 Observation**

The Committee notes the concern that SIECs as presently constituted may not be in a position to conduct free, fair and credible elections at the local government level for the reasons stated above, something that would seem to have informed the Uwais Committee's suggestion that SIECs should be scrapped and their functions incorporated within the structure of INEC to form a single election management body for the country. However, the Committee notes that INEC is presently overburdened with many functions and is still struggling to give a good account of itself, a fact that informed the Uwais Committee's recommendation that it be unbundled. Noting also the need to avoid the over centralization of key functions of government at the centre and in cognisance of the popular trend in the country towards the devolution of power from the centre, the Committee resolves that rather than scrapping the SIECs, efforts should be made to strengthen them with a view to making them more effective, as well as improving their credibility.

### **2.6.3 Recommendation**

In the light of the resolution above, the Committee makes the following recommendations:

- i. That provision should be made for the financial independence of SIECs by giving them a first line charge in the State's budget. This would imply the adaptation of Sections 81 and 84 of the Constitution to the SIECs.
- ii. That issues relating to the composition and administration of the State Independent Electoral Commissions should be activated through a law of the State House of Assembly (SHA).
- iii. State Houses of Assembly (SHA) should legislate the details of the composition and administration of SIECS as well as confirm their members.
- iv. State Houses of Assembly (SHA) should ensure a broader base of representation in the membership of SIECS, and ensure that its members are non-partisan and of unquestionable integrity. This would imply the adaptation of Sections 158(1), 160 to 202; and 204 to the SIECs.
- v. State Houses of Assembly (SHA) should legislate the tenure of elected Local Government officials.
- vi. Section 204 of the Constitution of the Federal republic of Nigeria, 1999 (as amended) should be further amended to remove the requirement that Governors' approval is mandatory before a SIEC can regulate its functions, just as it is provided for in Section 160 of the Constitution in respect of INEC.

### **3. The Electoral Process**

#### **3.1 Qualification and disqualification**

While acknowledging the important place of formal education for effectiveness in political offices, the Committee notes that virtually all the states in the federation, and indeed the federal government too, have gone far beyond the benchmark provisions made in the 1999 Constitution. It therefore, is of the opinion and so recommends that the provisions of the 1999 Constitution and Electoral Act 2010 (as amended), on minimum academic qualifications for elective offices, be retained.

Considering the critical place of taxation as a funding window for government and the need for citizens, especially those aspiring to political leadership, to undertake their civic responsibilities as a demonstration of their patriotism, and against the backdrop of the abuse noticed in tax administration, the Committee recommends that any person aspiring for any elective position must show evidence that they paid their taxes as and at when due.

This would imply an amendment of Sections 65, 106, 131, 177, and 221 to include taxation as qualification criterion. This also shall be applicable to independent candidates.



### **3.2 Method of election**

The Committee recommends that extant Open-Secret Ballot system makes for credible elections and should be sustained and enforced.

### **3.3 Election and modern technology**

While noting the disputations that had attended virtually all national elections in Nigeria, and the fact that smaller African countries conduct very successful elections using modern technology, the Committee recommends that biometric data of electorates should be captured, stored and used for election in the country. In addition, INEC should ensure that latest technology is deployed at all times in the conduct of elections as is the case in other countries.

### **3.4 Regulation of campaigns**

The Committee is of the view that the provisions of the Electoral Act, 2010 (as amended) are sufficient to regulate political campaigns. The relevant agencies of government should punish infractions as provided in the law.

### **3.5 Campaign finances and expenditure ceiling for candidates**

The Committee recommends that extant regulations in the 1999 Constitution (as amended) and the Electoral Act, 2010 (as amended) be sustained.

### **3.6 Delineation of constituencies**

Relevant provisions saddling INEC with the responsibility of delineation of constituencies are to be sustained. It is expected that INEC would carry out this responsibility drawing on the resourcefulness of sister governmental agencies like the National Population Commission, Boundary Adjustment Commission and the National Identity Card Commission.

Noting that during registration of voters, INEC is wont to register a disproportionate number of persons in several of the existing polling units, some with figures as high as between 1000 and 3,000 registered voters, the Committee adopts Recommendations 4.3.12 in the Uwais Electoral Reform Committee Report. This is with a view to ensuring standardization and uniformity of polling units.

The Committee therefore recommends that:

- (a) Section 42 of the Electoral Act, 2010 (as amended) should be amended to provide detailed specifications, including numbers of voters per polling station and layout of a standard polling station, and adaptation of polling stations to accommodate the needs of physically-challenged voters.

(b) Polling stations should be located at institutional buildings such as schools, community centres, etc, which are centrally located. Where these are not available, INEC should set up temporary polling stations at permanent locations.

(c) Each polling station should consist of not more than 500 voters.

### **3.7 Conduct of free and fair elections**

The Committee notes that one critical reason why elections have been so contentious in Nigeria is because they are hardly transparent, especially for the reason that the entire electoral roll is fraught with fraud, sheer incompetence and official recklessness. It is of the view that a critical step in the solution to the disputation over electoral results, including violence, is a credible Voters' Register. To this end, the Committee recommends that:

(i) Voters' Registration should be a continuous exercise as provided for in the Electoral Act, 2010 (as amended), such that every eligible voter would be given the opportunity to register at designated INEC offices at all times;

(ii) there should be an interconnectedness between the National Identity Card and voters' registration data to ensure the credibility and integrity of the Voters' Register; and

(iii) there should also be continuous voters' registration, education and sensitization.

### **3.8 Media and electioneering**

While acknowledging the robust contribution of the Nigerian media to public education and political development, the Committee notes the tendency on the part of some sections of the media to act unprofessionally. It, therefore, urges the media to be as objective as possible in public enlightenment and civic education. Against this backdrop, the Committee recommends that the provisions on Code of Ethics enforced by the National Broadcasting Corporation and the Press Council are robust enough and should be sustained as guide to professionalism in media involvement in political and electoral activities, including electioneering campaigns.

### **3.9 Diaspora participation in voting (Section 77(2) and 117(2))**

While acknowledging the right of every Nigerian to vote as enshrined in the Constitution, and without prejudice to the intendment of the provision that to be eligible to vote, every qualified Nigerian must have registered in a constituency, a provision that would not seem to cover Nigerians in the Diaspora, the Committee believes that qualified Nigerians resident abroad should be captured in the electoral net by being allowed to register and vote in elections if they so desire. It, therefore,

recommends amendments to the relevant sections in the 1999 Constitutions as follows:

*(a) Section 77 (2)*

*“Every citizen of Nigeria, who has attained the age of eighteen years at the time of the registration of voters for purposes of elections, shall be entitled to be registered as a voter”.*

*(b)Section 117 (2)*

*“Every citizen of Nigeria, who has attained the age of eighteen years at the time of the registration of voters for purposes of elections, shall be entitled to be registered as a voter”.*

The Committee also notes the nature of the complexity involved in getting all Nigerians currently resident outside the shores of the country, especially those in climes other than Western Europe and North America that is usually the bedrock of Diaspora activism, to vote. It, therefore, recommends, with the suggested amendments to the relevant provisions, that INEC may seek to address the logistic issues thereto such that the new provisions can be given effect as soon as practicable.

#### **4. Role of judiciary in the electoral process**

##### **4.1.1 Establishment of Constitutional Court:**

##### **4.1.2 Challenge**

Resolving electoral disputes in a timely manner and in ways and means satisfactory to the Petitioners and the Respondents has been a constant source of disputation in Nigeria. The Election Petitions Tribunals set up to resolve electoral disputes are ad-hoc and are usually set up just before elections or immediately after elections. The Judges that sit in the Tribunals are drawn from the regular courts and posted to jurisdictions outside their states. When the Judges are sitting in the Tribunals the regular courts virtually come to a standstill.

The Tribunals Chairpersons and members, being ad-hoc, have to secure court rooms from the Chief Judges of the various States or from the State Governments. This sometimes creates a perception of lack of independence on the part of the tribunals. The composition, sources of funding, independence, autonomy, impartiality and the speedy disposal of matters are a constant source of bickering within the political arena.

##### **4.1.3 Observations**

Section 285 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) provides for the establishment of one or more Election Tribunals to exercise original jurisdiction and determine election petitions relating to State and National Assembly

Elections and Governorship elections. The Electoral Act, 2010 (as amended) prescribes the composition of the Tribunals and their jurisdiction. Unfortunately, the creation of and composition of election tribunals and their ad-hoc and episodic sittings in different parts of the country before and after elections have had an adverse effect on pending cases before the Judges of the various courts.

It is therefore better to domicile pre- and post-election matters and other constitutionally-related issues in a permanent judicial institution. Rather than establish a completely new institution, the Committee recommends that Sections 249-254 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) should be further amended to rename and designate the Federal High Court, 'Constitutional Court of Nigeria'.

#### **4.1.4 Recommendations**

- (i). The Federal High Court should be renamed and designated Constitutional Court of Nigeria.
- (ii). The jurisdiction and powers of the Federal High Court should be transferred to the National Industrial Court as created in Section 254A of the Constitution and the State High Courts as created and empowered under Sections 270-274.
- (iii). The jurisdiction to hear and determine all pre- and post-election matters at all levels for all elections provided for in the 1999 Constitution (as amended) will be vested in the Constitutional Court.
- (iv). All issues relating to the Enforcement of Fundamental Rights as provided for in the Constitution of the Federal Republic of Nigeria, 1999 (as amended) should be vested in the Constitutional Court.

## **4.2 Determination of Pre-Election Matters**

### **4.2.1 Challenge**

Most of the post-election matters arising from the 2011 elections have all been disposed. Unfortunately, the same cannot be said of pre-election matters. Pre-election matters are matters relating to issues arising from the voter's registration exercise, the conduct of political parties, party nomination process and all other issues arising in the electoral process before the conduct of elections. The National Assembly amended the 1999 Constitution (as amended) to provide a timeframe for the disposal of all election matters. This led to the timely disposal of post-election matters. But some pre-election matters are still pending in the Federal and State High Courts, and by constitutional and electoral act stipulation, such cases can go all the way to the Supreme Court. The implication is that some of the matters will only be disposed of after the terminal date of the current administration.



#### **4.2.2 Observations**

The timely disposal of pre-election matters is now a matter of urgent national importance as justice is rooted in confidence, and if the people of Nigeria, especially the political parties and the candidates, lose interest in the system, they may resort to extra judicial means of seeking redress. It is also important to resolve all pre-election matters before elections such that political parties, aspirants, candidates and the voters would be sure of the candidates and the issues in an election to enable them make informed choices. The provision of timelines will lead to the timely disposal of pre-election matters before elections.

#### **4.2.3 Recommendations**

(i) Amend Section 235 of the 1999 Constitution (as amended) to make it mandatory for all pre-election matters filed at the Constitutional Court to be heard and determined within 90 days from the date of filing of the action.

(ii) Appeals arising from pre-election matters should be heard and determined within 60 days from the date of filing the appeal at the Court of Appeal or the Supreme Court.

(iii) Appeals from judgments in pre-election matters to the Court of Appeal or the Supreme Court should be filed within 21 days from the date the judgment of the lower court is delivered.

### **4.3 Determination of Post-Election Disputes**

#### **4.3.1 Challenge**

The introduction of timelines for the disposal of election petitions has assisted in the timely disposal of election matters. Unfortunately, the timelines have created their own bottlenecks and in some cases arrested justice. Sometimes, the resolution of interlocutory matters goes up to the Supreme Court and by the time the matter comes back to the Election Petitions Tribunal, the 180 days provided in the law has elapsed. At other times, the 180-day period provided in the law is intertwined with the period for the delivery of judgments and some judgments elapse on the basis of the inability of judicial officers to get matters concluded on time and for them to write their judgments.

#### **4.3.2 Observations**

It is important to arrest the use of interlocutory matters to derail the timelines provided in the Constitution. It is also important for all interlocutory matters to be dealt with at the same time with the main matter. It will also make for the writing of good judgments to separate the period for the hearing of petitions from the period provided for the rendition of judgments.

### **4.3.3 Recommendations**

- (i). Section 285 of the 1999 Constitution (as amended) requiring the hearing of election petitions and delivery of judgements to be concluded within a period of 180 days should be retained.
- (ii). Section 285 should be further amended to separate the time for the hearing of election petitions and the delivery of judgements. Election Petitions should be heard and concluded within 170 days, i.e. the filing of Replies and other processes, taking of evidence and delivery of final addresses, while the writing and delivery of judgements should be concluded within a period of 10 days.
- (iii). A proviso should be added to Section 385 of the Constitution to the effect that all decisions on all interlocutory shall be taken with the main appeal and separate appeals will not lie on interlocutory matters.
- (iv). The Evidence Act should be amended to shift the burden of proof in election matters to INEC.

### **4.4 Swearing-in of elected officials only upon conclusion of all post-election litigations:**

The Committee recommends that relevant constitutional provisions should be made to ensure that no elected official is sworn in until all litigations on the elections are concluded. This will not only get all litigants committed to an expeditious resolution of such litigations, but would also discourage election malpractice as it would have reduced considerably the gains attendant upon election rigging for somebody who did not win an election but could remain in office for months, and indeed years, during which the legal processes affirming their ineligibility to be sworn in is determined.

### **4.5 Role of Civil Society:**

The concept of civil society refers to the organizational realm standing between the private and the public. It is composed by non-governmental and non-private organization often with active interest and intervention in the political process. Civil society is inherently independent, democratic and engaging and constitutes the very bedrock for the sustenance of democracy. It is therefore recognized in all jurisdictions as a key player in the democratic process, including the electoral process. The community of civil society has continued to expand in the Nigerian context, especially in the period following the annulment of the June 12, 1993 presidential election. Civil Society organizations have also become an ever-present dimension of the Nigerian electoral process as they are usually accredited by the election management body, to monitor elections, especially at the national level. It is also the case that over the

years, civil society organizations have been involved in the post-election judicial process, essentially as witnesses to the freeness and fairness of elections or otherwise.

While acknowledging the foregoing, the Committee expresses concerns that the place of civil society in the nation's electoral process is increasingly being compromised by the emergence of sundry civil society organizations that are neither independent nor objective, having either been greatly compromised by government or outrightly promoted by political parties and politicians to advance purely partisan interests.

Convinced therefore that the integrity of civil society involvement in the nation's electoral process must be restored and sustained, the Committee acknowledges the robustness of extant provisions for registering and accrediting civil society organizations as election monitors by INEC through its Election Observation and Monitoring Unit. This consists of the following:

- a. advertisement in several newspapers inviting domestic election observers that are registered and possess verifiable capacity and experience in election observation to apply for accreditation;
- b. accreditation of such groups that meet the requirements which are then called upon to come forward and fill additional forms with the names and passport photographs of all the observers they intend to deploy for the elections;
- c. training and briefing of the qualified civil society organizations on their roles and responsibilities in preparation for election monitoring, including, among other things, training on the map of the States to which they are being deployed, issuance of maps of the States, documents containing the names of political parties contesting the elections, list of candidates, as well as copies of the Guidelines for Election Observation;
- d. giving to each observer an accreditation tag bearing their name and number and the serial number of the group accredited; and
- e. ensuring that each accredited observer collects their accreditation tag personally a day before the election.

Thus, while it recommends that such provisions and procedures and guidelines should be sustained, the Committee further recommends that PPEOC should thoroughly scrutinize civil society organizations it intends to deploy as election monitors to ascertain that they are credible, truly independent and patriotic.

PPEOC is also to ensure strict compliance with the guidelines and code of conduct issued the civil society organizations accredited as election observers.

#### **4.6 Role of Security Agencies in the electoral process:**

The Police and all related agencies of government involved in election monitoring should be strengthened and well-motivated for greater effectiveness at elections.

#### **4.7 Independent candidature:**

Most of the existing political parties lack internal democracy. This had also resulted in defections from among members of political parties. In some cases, aspirants who had been validly nominated were denied their mandates while persons who did not seek nominations had their names forwarded to the INEC as candidates.. This has led to situations where aggrieved persons or aspirants resort to violence in the face of blatant denial of their rights.

In the context of the foregoing, the Committee examined Section 221 of the 1999 Constitution as amended, which limits certain political activities to political parties, thereby prohibiting independent candidacy. It noted that guaranteeing independent candidacy will lessen the tension that attends the nomination processes of political parties. It, therefore, recommends that relevant provisions of the Constitution and the Electoral Act be amended to emplace Independent Candidacy. This is however with the caveat that aspirants so inclined to run as independent candidate should only get onto the ballot on the fulfilment of certain requirements, a position substantially in agreement with the Uwais Electoral Reform Committee that:

Sections 65 (2)(b), 106, 131, 177, and 221 of the 1999 Constitution; and Sections 31, 33, 37, 45, 91(8), 92, 95,99 100, 106(1)(e) of the Electoral Act should be amended to make provisions for individuals, if they so wish, to run as an independent candidates on fulfilment of the following conditions:

- a. constituency-based nomination by verifiable signatures of 10 registered voters from each Ward in the electoral constituency;
- b. payment of financial deposit to be determined from time to time by INEC or the relevant SIEC at the State level. The rate of deposit should be equal to 10% of the approved election expenses for the various offices as provided in Section 93 of the Electoral Act 2006; and
- c. the candidate must meet all other conditions for eligibility stipulated in the Constitution, the Electoral Act or any other laws. (See 2.2.5.5 and page 38 of the Report of the Electoral Reform Committee).
- d. The Committee, however, does not support the idea of refunding the financial deposit of independent candidates for whatever reason, as recommended by Uwais Committee, as this would encourage frivolous recourse to independent candidature by unserious politicians. In para. 2.11.10 of the Uwais Report, it



was recommended thus, '*(b). Payment of financial deposit which will be subject to refund if the independent candidate scores at least 10 per cent of the total valid votes cast in that election in the constituency...*'

#### **4.8 Proportional representation**

The Committee undertook an extensive review of the recommendations of the Uwais Committee for Proportional Representation (PR). While recognizing that PR is such an attractive concept, especially in relation to deepening participation in the political process by minority groups, women and people with disability, the Committee, however, acknowledges the practical difficulties of its application which may distort existing pattern of rotation of elective offices in different constituencies across the nation, and undermine the determination to ensure that political parties operate on the basis of definable/identifiable ideologies and principles.

Thus, while some members of the Committee felt strongly on the desirability of the concept of PR, it was constrained to reject it because of the practical problems of implementation and evident complexity that it would throw up. It may also unwittingly constrain the growth of political parties which are so critical to the sustenance of democracy in the country.

#### **4.9 Run-off Elections**

The Committee reviewed Section 134 of the 1999 Constitution relating to subsequent elections where no candidate emerged in the first ballot. It recommends that in place of the plethora of elections that may lead to constitutional crisis and national confusion, there shall be only one subsequent run-off election where the President, among the two leading candidates, shall emerge on the second ballot based only on majority of valid votes cast at the election. Such shall be applicable to Section 179 in the case of governorship election.

#### **4.10 Proposed Amendments to the Electoral Legal Framework**

The Committee met with the Chairman of INEC, Prof Attahiru Jega, and top management of the Commission with a view to assessing the challenges being faced by INEC in the execution of its functions. Consequent upon this, the Committee recommends as follows:

#### **4.11 The Constitution of the Federal Republic of Nigeria, 1999 (as amended)**

##### **4.11.1 All INEC Staff to be Non – partisan**

The Committee recommends that the provisions of Section 156 and Paragraph 14(2) (a) of the 3rd Schedule which require the Chairman and National Commissioners of INEC to be non-partisan should be extended to cover all officers of the Commission.

#### **4.11.2 Operational Independence (Section 158)**

The Committee observes that INEC, like other named Federal Bodies established by Section 153 of the Constitution, is not subject to the direction or control of any person or authority “in exercising its power to appoint or discipline its staff.” It is further observed however, that the National Population Commission (NPC) is given additional independence in its operations in Section 158(2). The Committee recommends that this should be the same with INEC. The independence of INEC should be constitutionally guaranteed in all its operations and in its management and control of the electoral process, as was the case in Decree (now Act) 17 of 1998 which first established the Commission before the 1999 Constitution. Thus, a new Subsection (3) to Section 158 should be enacted to provide as follows:

##### *Section 158(3)*

*“The Independent National Electoral Commission shall not be subject to the direction or control of any other authority or person in all its operations”.*

#### **4.11.3 Notification of Vacancy**

The Committee observes that the 1999 Constitution (as amended) makes no provision on notification of the death or resignation of a member of a Legislative House. Whereas the Constitution requires that vacancy arising from death or resignation of a member of a Legislative House shall be filled within 30 days of the existence of such vacancy, information of such vacancy in some cases does not get to INEC until after the period for the conduct of the election has expired. To address the lacuna the Committee recommends that Sections 68 and 109 be amended thus:

##### *(ii) Section 68 (Insert a new sub-section (4) thus:*

*“The President of the Senate or the Speaker of the House of Representatives as the case may be, shall notify the Independent National Electoral Commission within seven (7) days of the existence of a vacancy arising from death or resignation of a member of the National Assembly”.*

##### *(ii) Section 109 (Insert a new sub-section (4) thus:*

*“The Speaker of the House of Assembly of a State shall notify the Independent National Electoral Commission within seven (7) days of the existence of a vacancy arising from death or resignation of a member of the State House of Assembly”.*

#### **4.11.4 Candidates should be Registered Voters**

The Committee recommends that every candidate who aspires to govern shall be a registered voter. Thus, the clause “he/she is registered to vote” should be inserted as Paragraph (c) to Sub-section (2) of Section 65 and as Paragraph (e) of Sections 106, 131 and 177.

#### **4.11.5 Disqualification of Electoral Offenders**

The Committee recommends that any person convicted of an electoral offence (including registration offences, campaign finance breaches and breach of political party finance provisions) should be disqualified for a period of 10 years from the date of conviction from contesting any election or holding any party position. Thus, an amendment to the effect that “within a period of ten years before the date of the election, he/she has been convicted of an electoral offence by a court or tribunal” should be inserted immediately after Paragraph (d) of Sections 66, 107, 137, & 182 of the 1999 Constitution (as amended).

#### **4.11.6 Electoral offenses and punishment**

Section 180(2A) of the 1999 Constitution (as amended) should be further amended to disqualify any candidate whose role at an election has been adjudged by the Constitutional Court and other category of courts as fraudulent from taking part in any re-run election and the candidate should also be disqualified from any elective office for a period of 10 years.

#### **4.11.7 Sections 134 and 179 - Presidential and Governorship Election**

The Committee recommends that Sections 134 and 179 should be amended by adding the word “valid” before “votes” wherever this appears in the Sections so as to remove any ambiguity. Candidates should be elected on valid votes cast only.

#### **4.11.8 The Electoral Act**

##### **1. Secretary of the Commission (Section 8)**

The Committee recommends that the provisions of the Electoral Act relating to the office of the Secretary of the Commission should be amended to include a statutory tenure for the Secretary. The Secretary shall serve for a period of four years, which may be renewable for another period of four years only.

Thus, a new paragraph (c) be inserted under Sub-section (1) of Section 8 as hereunder:

*Section 8 (1) (c)*

*“hold office for a period of 4 (four) years from the date of his appointment which may be renewable for another period of 4 (four) years only”.*

Marginal note of Section 8 to read: (*“Secretary and Staff of the Commission”*)

##### **2. Section 13 (Transfer of Voters)**

The Committee recommends that an application for transfer of registration as a voter made to the Resident Electoral Commissioner shall be accompanied by a copy of the

applicant's voter's card not later than 60 days before the date of an election; instead of the current provision for 30 days. Thus, it is recommended that Section 13 be amended in Sub-section (2) by inserting immediately after the word 'by' in Line 2 the words 'a copy of' and also by substituting the figure '30' in Line 2 with the figure '60'.

### **3. Section 18 (Issuance of Duplicate Voters' Card)**

The Committee recognizes that sometimes it is necessary for INEC to issue duplicate voters' cards. It, therefore, recommends that Section 18(1) of the Electoral Act be amended. Application should be made not less than 60 days to the election while 18(3) should remain; i.e. no duplicate should be issued less than 30 days to the election. Thus, Section 18 should be amended in Sub-section (1) by substituting the word 'thirty' and the figure '30' in Line 2 with the word 'sixty' and the figure '60'.

### **4. Section 28 – Oath of Neutrality and Loyalty**

The Committee recommends that all staff or officials of INEC partaking in any election should affirm or swear to an oath of loyalty and neutrality with an undertaking to defend their actions when called upon in any election tribunal, court or inquiry. This should apply to registration and all electoral activities (including referendum). The oath may be taken before any court of law or Commissioner for Oaths (not just High Court as is the present position). Thus, Section 28 should be amended in Sub-section (1) by substituting the words 'the High Court' in Line 2 with the words 'any court of law or Commissioner for Oaths'.

### **5. Section 31 (List of Candidates)**

The Committee recommends that Subsection (6) of Section 31 be amended to make provision that where the Court finds that a candidate submitted by a political party did not meet the qualifications required for contesting the office, the court shall disqualify the candidate from contesting the election. Where, however, the person has been elected, the court shall order the person to vacate the office and the candidate with the second highest votes cast, who has met the constitutional requirements for the post, shall be declared elected. This recommendation is to avoid the waste of public funds to repeat elections consequent upon removal of disqualified candidates. The proposed new Sub-section (6) of Section 31 should read:

*“(6) if the Court determines that any of the information contained in the Affidavit is false, the Court shall issue an order disqualifying the candidate from contesting the election; if already elected, the Court shall issue an order directing the person to vacate the office and the next person with highest number of votes cast and who met the requirement of the Constitution shall be declared duly elected.*



## **6. Presentation of Disqualified Candidate By Political Party**

The Committee recommends the insertion of a new Sub-section 7 of Section 31 which should read:

*“(7)” Any political party that presents to the Commission the name of a candidate that does not meet the qualification stipulated in the Constitution shall be guilty of an offence and shall on conviction be disqualified from participating in that particular election for that office.”*

This is a re-instatement of Section 21 of the Electoral Act, 2002

## **7. Increase in Fines**

The Committee recommends that Sub-section (8) of Section 31 be amended to increase the fine awarded against a political party which submits the name of an unqualified candidate to the Commission. This is because the fine provided therein is inadequate as a deterrent. Thus, Section 31 be amended in Sub-section (8) by substituting for the figure “N500, 000.00” in Line 3 the figure “N1,000,000.00”.

## **8. Section 33 – Death or Withdrawal of a Candidate**

Guided by the provisions of Section 87 of the Electoral Act, 2010 (as amended) which requires candidates of political parties to emerge from democratically conducted primary elections, the Committee recommends that where a candidate who won a primary election and whose name was submitted to the INEC dies or withdraws from the election, the political party which nominated that candidate shall submit to the Commission the name of the candidate who scored the second highest number of votes at the Primaries as the substitute candidate. Thus, Section 33 should be amended by re-numbering the existing Section 33 as Sub-section (1) and introducing a new Sub-section (2) to read:

*“(2) If the candidate whose name was submitted to the Commission dies or withdraws from the election, the political party which nominated the candidate shall forward to the Commission the name of the aspirant who scored the second highest number of votes at the primaries as the substitute candidate”.*

The Committee further recommends that where such a dead or disqualified candidate may have emerged by consensus, fresh primaries should be held to determine the new representative of the party.

## **9. Section 45 (Polling Agents)**

The Committee observes that Section 45 allows political parties to notify the Commission of the appointment of Polling Agents in writing at least seven days before the date of the election. In order to give political parties sufficient time to sort out who their agents should be, it is recommended that the time should be extended to

14 days. Such notice shall be accompanied with two passport photographs, sample signatures as well as fingerprints of the polling agents. These will be useful for production of identification cards (ID) for the polling agents. Only those who fulfil this requirement will be accredited as Party Agents by INEC. Thus, Section 45 should be amended in Sub-section (1) by substituting for Sub-section (1) a new Sub-section (1) to read:

*“45(1) Each political party may by notice in writing addressed to the Electoral Officer of the Local Government Area/Area Council, appoint a polling agent for each polling unit and collation centre in the Local Government Area/Area Council for which it has a candidate and the notice which shall set out the name and address of the polling agent must be accompanied by two passport photographs of each polling agent and sample signature as well as fingerprints of the polling agent and be given to the Electoral Officer at least 14 days before the date fixed for the election”.*

#### **10. Section 77 (Access to Polling Documents)**

The Committee recommends that political parties and candidates should be allowed to inspect polling documents, but the Resident Electoral Commissioner (REC) should only release Certified True Copies, not the original documents. Section 77 should be amended accordingly. It is further recommended that in view of the number of applications and the volume of the documents required, the time within which the REC shall certify or cause certified true copies of the documents to be issued should be reviewed upward from seven days to 14 days. Thus, Section 77 should be amended in Sub-section (1) by substituting for Sub-section (1) a new Sub-section (1) to read:

*“77(1) The Resident Electoral Commissioner, in a State where an election is conducted, shall, within 14 days after an application is made to him by any of the parties to an election petition, cause certified true copy of such documents to be issued to the said party.”*

#### **11. Timeline For Commencement of Pre-Election Matters**

In the spirit of Section 285 of the 1999 Constitution (as amended), which makes provision for timelines for the determination of election matters, the need for timely determination of pre-election matters to reduce distractions and allow the elected officials to settle down early enough in their respective offices was emphasized. The Committee therefore recommends that any action challenging the conduct of primaries by a political party shall be filed within fourteen (14) days of the accrual of the cause of action. In this regard Sub-section (9) of Section 87 of the Electoral Act 2010 (as amended) should be further amended by including timelines within which a candidate shall seek redress and same should read thus:

##### *Section 87(9)*

*“Notwithstanding the provisions of this Act or rules of a political party, an aspirant who complains that any of the provisions of this Act and the guidelines*

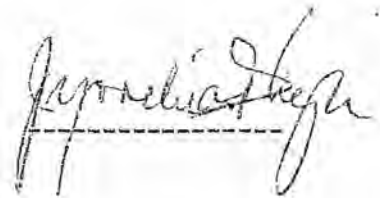
*of a political party has not been complied with in the selection or nomination of a candidate of a political party for election, shall within 14 days of the non-compliance complained of, apply to the Federal High Court or the High Court of a State or the High Court of the Federal Capital Territory, Abuja for redress''.*

## **12. Delimitation of constituencies**

The 1999 Constitution (as amended) empowers INEC to create electoral constituencies subject to the approval of the National Assembly. The Committee noted that experience has shown that the National Assembly may delay consideration of the proposal as was the case when request for approval to restore suppressed Constituencies was presented to the National Assembly. The Committee therefore recommends that a provision be made in the Electoral Act stating that when the proposal for creation of constituencies is made to the National Assembly, the proposal shall be deemed approved if no response from the National Assembly is received by the Commission within a period of three (3) months from the date of presentation.

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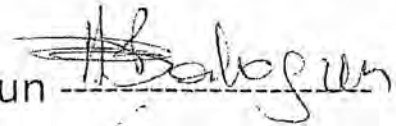
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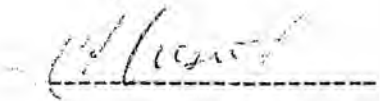
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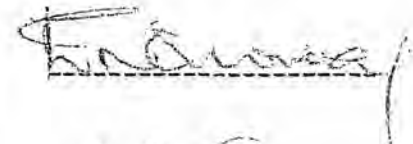
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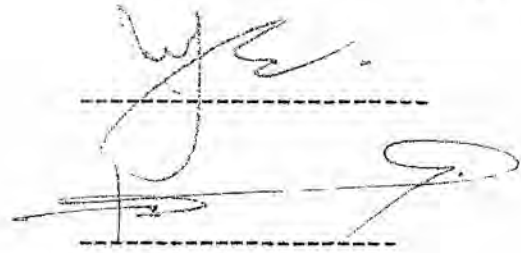
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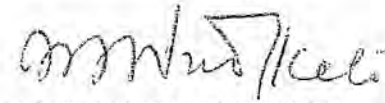
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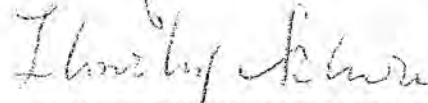
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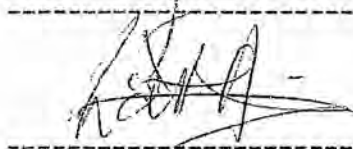
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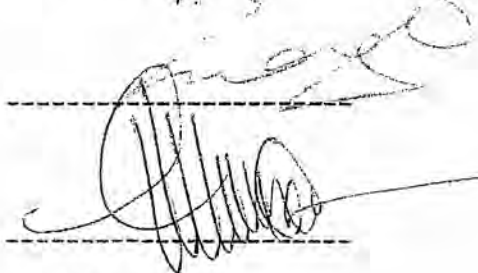
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