

**PROPOSED AMENDMENTS TO THE ELECTORAL LEGAL
FRAMEWORK**

**A) CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA
(1999) (AS AMENDED)**

The National Assembly did a commendable job in 2010 in its amendments to the Constitution of the Federal Republic of Nigeria, 1999. It reinforced the independence of the Commission by making it more financially independent when it made its expenditure a first line charge – its finance is now derivable directly from the Consolidated Revenue Fund (CRF) (Section 84). Furthermore, the Chairman and National Commissioners are required to be non-partisan (Section 156 and Paragraph 14(2) (a) of 3rd Schedule). The amendment to Section 160 (1) also empowered the Independent National Electoral Commission (INEC) to make its own rules and regulate its procedure without recourse to the President. However, a bit more can and should be done to strengthen its independence. Thus, the following amendments are proposed:

(1) Operational Independence (Section 158)

The Commission is, like other named Federal Bodies established by Section 153, not subject to the direction or control of any person or authority "in exercising its power to appoint or discipline its staff." The National Population Commission (NPC) is, however, given additional independence in its operations in Section 158(2). 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, be it enacted a new subsection (3) to Section 158 providing as follows:

(2) **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".

(3) **Sections 76(1), 116(1), 132(1) and 178(1)** of the amended Constitution should be amended by deleting the words "in accordance with the Electoral Act" to restore it to the pre-amendment status. It is wrong for the Constitution of a country be subjected to a specific Act of the Parliament. In other words, the Constitution being the grundnorm cannot be subordinated to any Act. Moreover, the Independent National Electoral Commission should be allowed to determine the procedure for conduct of election in such a way that no Political Party would have undue advantage over the others. Thus, subsection (1) of Sections 76, 116, 132 and 178 respectively shall be amended to read as follows:

i. **Section 76 (1)**

"Elections to each House of the National Assembly shall be held on a date to be appointed by the

*Independent National Electoral
Commission”.*

ii. Section 116 (1)

“Elections to a House of Assembly shall be held on a date to be appointed by the Independent National Electoral Commission”.

iii. Section 132 (1)

“An election to the office of President shall be held on a date to be appointed by the Independent National Electoral Commission”.

iv. Section 178 (1)

“An election to the office of Governor of a State shall be held on a date to be appointed by the Independent National Electoral Commission”.

(4) Notification of Vacancy

The Constitution of the Federal Republic of Nigeria, 1999 (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 do not get to the Independent

National Electoral Commission until after the period for the conduct of the election has expired. It is therefore suggested that Sections 68 and 109 be amended to address the lacuna 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".

- (5) **Sections 76(2) and 116(2)** of the Constitution should be further amended to allow for only two periods in a year within which the Independent National Electoral Commission can conduct elections to fill vacancies so as to engender certainty in the electoral timetable. Thus, Sections 76(2) and 116(2) should be amended to read as hereunder:

(i) Section 76 (2)

“The date mentioned in subsection (1) of this section shall not be earlier than one hundred and fifty days and not later than thirty days before the date on which the House stands dissolved, provided that the Independent National Electoral Commission shall appoint not more than two periods in a year to conduct elections to fill vacancies”.

(ii) Section 116 (2)

“The date mentioned in subsection (1) of this section shall not be earlier than one hundred and fifty days and not later than thirty days before the date on which the House stands dissolved, provided that the Independent National Electoral Commission shall appoint not more than two periods in a year to conduct elections to fill vacancies”.

Qualification/Disqualification of Candidates

(Sections 65, 66, 106, 107, 131, 137, 177 & 182)

(i) Right to Disqualify Candidates

With such decisions as Atiku Abubakar V INEC and the proviso to Section 31 of the amended Electoral Act, the Commission has no right to prevent even an obviously unqualified or disqualified person from being on the ballot. For example, it cannot prevent an under-aged or foreign citizen from contesting the election, even when this is obvious from the documents submitted or even a person who admits that he presented a forged certificate

to the Commission if it seeks to disqualify such persons. The Commission must go to court. This is not desirable. It should be empowered to do so, (subject of course to judicial review), if there is a prima facie case shown from the documentation that the candidate is unqualified, after all, it is not only a management body, it is also a regulatory one and should have some powers in this regards just like such bodies as the NDIC or Central Bank of Nigeria (CBN) (in revoking bank licenses, approving bank director nominees etc) or NAFDAC (in sealing unregistered pharmaceutical premises or seizing bad/expired drugs) Standard Organization of Nigeria (SON) Nigerian Communications Commission (NCC) etc. In this regard, Part I, Paragraph F, item 15 of the Third Schedule to the Constitution of the Federal Republic of Nigeria 1999 (as amended) dealing with the powers of the Commission be further amended by inserting the clause ***“disqualify candidates who evidently do not satisfy the requirements for the position he/she is contesting for as provided in Sections 65, 66, 106, 107, 131, 137, 177 & 182 of this Constitution”*** immediately after clause (f) thereof. The Commission shall notify the Political Party of the disqualification of its candidate and the grounds for the disqualification.

(ii) **Candidates should be Registered Voters**

It is desirable that every candidate who aspires to govern shall be a registered voter. Thus, the clause *“he is registered to vote”*

be inserted as paragraph (c) to sub section (2) of section 65 and as paragraph (e) of sections 106, 131 and 177.

(iii) **Disqualification of Electoral Offenders**

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, be it enacted the clause "***within a period of ten years before the date of the election, he has been convicted of an electoral offence by a court or tribunal***" and inserted immediately after each of paragraph (d) of Sections 66, 107, 137, & 182 of the Constitution of the Federal Republic of Nigeria 1999.

(6) **Voting by Nigerians in Diaspora (Section 77(2) and 117(2))**

Presently, only Nigerian citizens residing in Nigeria at the time of registration of voters can vote at any election. Interested Nigerian citizens who are of age but resident abroad should be allowed to participate in the governance of their country by being allowed to register and vote at elections. Thus the two subsections should be amended to read thus:

(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".

(9) **Access to Ballot by Political Parties:** the Electoral Act, 2010 as amended empowers the Independent National Electoral Commission to deregister *Political Parties* that fail to win at least a seat in a State Assembly. The clamour in favour of allowing more political Parties to be registered by the Commission has continued to gain momentum. Whereas the Constitution allows for freedom of association which is the bedrock for the formation of Political Parties, it is practically impossible to have all registered Political Parties in Nigeria to be on the ballot. It is for the above reason that INEC should be empowered in consultation with Political Parties to determine the criteria by which Political Parties get on the ballot. This is consistent with best practice in many parts of the world. *The criteria for being on the ballot shall include:*

- i. Payment of fees prescribed by the Commission;*
- ii. Securing of certain percentage of votes at General Elections;*
- iii. Winning number of seats in the Legislative elections.*

(10) **Sections 134 and 179 - Presidential and Governorship**

Election

The Sections 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.

(11) **Electoral Offences Commission**

Section 150(2) of the Electoral Act, 2010 (as amended) gives Legal Officers of the Commission or Legal practitioner appointed by it the responsibility to prosecute electoral offenders. Experience has shown that the Independent National Electoral Commission does not have the time, expertise, resources and the capacity to shoulder such a responsibility in the face of conducting elections and managing post electoral challenges. Thus it is proposed that a body known as Electoral Offences Commission with powers to investigate and prosecute breaches of relevant electoral provisions be established, thus unbundling INEC from prosecution.

(12) **Establishment of Electoral Offences Tribunal**

It is not in doubt that electoral matters are by their nature sui generis, so also are breaches arising from relevant electoral provisions. There is therefore the need to establish an Electoral Offences Tribunal to guarantee timely prosecution of electoral offenders.

(B) **THE ELECTORAL ACT**

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

This should be amended to include a statutory tenure for the Secretary – the Secretary shall serve for a period of 4 years, which may be renewable for another period of 4 years only.

Thus, a new paragraph (c) be inserted under subsection (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)** An application for transfer of registration as a voter made to the Resident Electoral Commissioner shall be accompanied by copy of the applicant's voter's card not later than 60 days before the date of an election. Thus, it is suggested that Section 13 be amended in subsection (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)**

Section 18(1) to 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 be amended in subsection (1) by substituting the word 'thirty' and the figure '30' in line 2 with the word 'sixty' and the figure '60'.

(4) **Section 25 (Days of Election)**

In consonance with the amendments suggested to Sections 76, 116, 132 and 178 of the Constitution of the Federal Republic of Nigeria, 1999 as amended, there is the need for a consequential amendment to Section 25 Of the Electoral Act, 2010 as amended. Thus, section 25 of the Act be amended as follows:

(a) delete the words " in accordance with the Constitution and this Act" appearing in subsection (1) of section 25.

(b) Delete the phrase "or where the election is to fill a vacancy occurring more than 90 days before such date, not later than 30 days" appearing in subsection (2) of section 25 and substitute therewith the following:

"provided that the Independent National Electoral Commission shall appoint not more than two periods in a year to conduct elections to fill vacancies".

(c) delete the words " in accordance with the Constitution and this Act" appearing in subsection (3) of section 25.

(d) Delete the phrase "or where the election is to fill a vacancy occurring more than 90 days before such date, not later than 30 days" appearing in subsection (4) of section 25 and substitute therewith the following:

"provided that the Independent National Electoral Commission shall appoint not more than two periods in a year to conduct elections to fill vacancies".

(e) delete the words " in accordance with the Constitution and this Act" appearing in subsection (5) of section 25.

(f) Delete the words "in accordance with the Constitution and this Act" appearing in subsection (7) of section 25.

(5) **Section 28 – Oath of Neutrality and Loyalty**

All staff or officials 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 be amended in subsection (1) by substituting the words 'the High Court' in line 2 with the words 'any court of law or Commissioner for Oaths'.

(6) **Section 30 (3)**

It is suggested that consequent upon the proposal that the provision of Sections 76(2) and 116(2) of the Constitution be amended to allow for two periods in a year for conduct of elections to fill vacancies (bye elections), this provision should accordingly be deleted.

(7) **Section 31 (List of Candidates)**

(i) Section 31(1) should be made subject to Section 87 of the Electoral Act while the proviso to sub-section (1) of Section 31(1)

should be deleted. The reason for this proposal is that the Commission cannot disqualify a person who has qualified as a candidate under section 87. The proviso to section 31 takes away the import of section 87 and it is therefore undemocratic. Accordingly, Section 31 should be amended in subsection (1) by substituting for subsection (1) with a new subsection (1) to read:

“ (1) Subject to the provisions of Section 87 of this Act, every political party shall, not later than 60 days before the date appointed for an election under the provisions of this Act, submit to the Commission, in the prescribed forms, the list of the candidates the party proposes to sponsor at the election”.

- (ii) It is suggested 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 suggestion is to avoid the waste of public funds to repeat election 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.

The proposed new subsection (7) of Section 31 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

(iii) It is suggested that subsection (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 subsection (8) by

substituting for the figure "N500, 000.00" in line 3 the figure "N1,000,000.00".

(8) **Section 33**

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, it is recommended 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 numbering the existing Section 33 as subsection (1) and introducing a new subsection (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".

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

Section 45 allows political parties to notify the Commission of the appointment of Polling Agents in writing at least 7 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 suggested that the time should be extended to 14 days. Such notice shall be

accompanied with two passport photographs of each polling agent and sample signatures of the polling agents. These will be useful for production of identification cards (ID) for the polling agents. Only those who fulfill their requirement will be accredited as Party Agents by INEC. Thus, Section 45 be amended in subsection (1) by substituting for subsection (1) a new subsection (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 of the polling agent and be given to the Electoral Officer at least 14 days before the date fixed for the election".

(10) Sections 48, 49, 50, 52, 54, 55 and 60

Sections 48, 49, 50, 52, 54, 55 and 60 of the Electoral Act 2010 (as amended) which provide details on the procedure to vote at an election are restrictive and do not allow for improvement on procedure for voting. It is suggested that the Independent National Electoral Commission be allowed, through Regulations/Guidelines, to determine the mode of voting at an election. Accordingly, the provisions of section 48, 49, 50, 52, 54,

55 and 60 of the Electoral Act 2010 (as amended) be replaced with the following:

"Voting at an election under this Act shall be in accordance with the procedure determined by Independent National Electoral Commission".

(11) **Section 77 (Access to Polling Documents)**

Political Parties and candidates should be allowed to inspect polling documents, but the Resident Electoral Commissioner (REC) should only release CTC's, not the original documents. Section 77 should be amended accordingly. It is however suggested 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 7 days to 14 days. Thus, section 77 be amended in subsection (1) by substituting for subsection (1) a new subsection (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."

(12) **Section 87 – Nomination of Candidates for Election**

To further promote internal party democracy, the emergence of candidates for elections should be on a democratic basis. A

variant of the provision in Section 87(9) of the Electoral Act (before amendment) should be re-introduced, thus: -

“where a Political Party fails to comply with the provision of the Constitution or this Act in the conduct of the Primaries or nomination of any candidate for election under this act, its candidate for the affected constituency shall not be included in the list of nominated candidates for the election.”

(13) **TIMELINE FOR DETERMINATION OF PRE-ELECTION**

MATTERS

In the spirit of Section 285 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), which makes provision for timeline 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 emphasised. It is thus recommended 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) be further amended by including timeline 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”.

(14) Section 90 – Contribution to Political Parties

The phrase 'or group of persons' appearing in Section 90 of the Electoral Act should be deleted as it is in conflict with Section 221 of the Constitution of the Federal Republic of Nigeria (1999) as amended. Section 221 forbids any group of persons other than a Political Party from donating or contributing to the funds of any political party or candidate.

Section 90 should be amended to read thus

“90 (1) The Commission shall have power to place limitation on the amount of money or other assets which an individual can contribute to a political party and to demand such information on the amount donated as source of the funds

(2) Any amount or other assets donated in contravention of section 221 of the Constitution or this Act shall be forfeited to the Federal Republic of Nigeria”.

(15) Section 100

Whereas subsection (6) of section 100 of the Electoral Act makes provisions to sanction any media house that violates the

provisions of section 100 of the Electoral Act, no sanction is provided similar to section 101 against principal officers of the media house involved in the crime. Provision should therefore be made to sanction principal officers and other officers of the media house involved in the crime. Thus Section 100 be amended by substituting for the existing subsection (6) a new subsection "(6)"-

"100(6) Any person who contravenes subsections (3) and (4) of this section commits an offence and upon conviction is liable:

- (a) in the case of a public media to a maximum fine of N500,000.00 in the first instance and to a maximum fine of N1,000,000.00 for subsequent conviction; and
- (b) in the case of principal officer(s) and other officer(s) of the media house to a maximum fine of N500,000.00 or to imprisonment for a term of 12 months."

(16) **New Section 116 (Permanent Incapacity of Chairman or Vice Chairman of an Area Council)**

The Electoral Act, 2010 as amended is silent on what happens if the Chairman or Vice Chairman of an Area Council is incapable of discharging the functions of his office on medical grounds. Thus it is recommended that Section 189 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) dealing with permanent incapacity of a Governor or Deputy Governor of a state be replicated as

new Section 116 of the Electoral Act and renumbering the subsequent sections accordingly. The new Section 116 shall read thus:

"116 (1) The Chairman or Vice Chairman of Area Council shall cease to hold office if

(a) by resolution passed by two-thirds majority of all members of the executive council of the Area Council, it is declared that the Chairman or Vice Chairman is incapable of discharging the functions of his office; and

(b) the declaration in paragraph (a) of this subsection is verified, after such medical examination as may be necessary, by medical panel established under subsection (4) of this section in its report to the Speaker of the Area Legislative Council.

(2) Where the medical panel certifies in its report that in its opinion the Chairman or Vice Chairman is suffering from such infirmity of body or mind as renders him permanently incapable of discharging the functions of his office, a notice thereof signed by the Speaker of the Area Legislative Council shall be published in the Official Gazette of the Area Council.

(3) The Chairman or Vice Chairman shall cease to hold office as from the date of publication of the notice of the medical report pursuant to subsection (2) of this section.

(4) The medical panel to which this section relates shall be appointed by the Speaker of the Area Legislative Council, and shall comprise five medical practitioners in Nigeria –

(a) one of whom shall be the personal physician of the holder of the office concerned; and

(b) four other medical practitioners who have, in the opinion of the Speaker of the Area Legislative Council, attained a high degree of eminence in the field of medicine relative to the nature of examination to be conducted in accordance with the foregoing provisions of this section.

(5) In this section, the reference to "executive council of the Area Council" is a reference to the body of Supervisory Councilors of the Area Council, howsoever called, established by the Chairman and charged with such responsibilities for the functions of Government as the Chairman may direct."

(17) New Section 117 (Discharge Of Functions Of Chairman Or Vice Chairman Of An Area Council)

The Electoral Act, 2010 as amended is silent on who discharges the functions of the office of Chairman or Vice Chairman if the office concerned becomes vacant by reason of death, resignation, permanent incapacity or removal from office for any other reason in accordance with the provisions of the Act. It is recommended that Section 191 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) dealing with discharge of functions of a Governor or Deputy Governor of a state be replicated as new Section 117 of the Electoral Act and renumbering the subsequent sections accordingly. The new Section 117 shall read thus:

"117 (1) The Vice-Chairman of an Area Council shall hold the office of the Chairman of the Area Council if the office of the Chairman becomes vacant by reason of death, resignation, permanent incapacity or removal of the Chairman from office for any other reason in accordance with section 115 or 116 of this Act.

(2) Where any vacancy occurs in the circumstances mentioned in subsection (1) of this section during a period when the office of Vice-Chairman of the Area Council is also vacant, the Speaker of the Area Legislative Council shall hold the office of Chairman of the Area Council for a period of not more than three months, during which there shall be an election of a new Chairman of the Area Council who shall hold office for the unexpired term of office of the last holder of the office.

(3) Where the office of the Vice-Chairman becomes vacant-

(a) by reason of death, resignation, permanent incapacity or removal in accordance with section 115 or 116 of this Act;

(b) by his assumption of office of Chairman of an Area Council in accordance with subsection (1) of this section; or

(c) for any other reason, the Chairman shall nominate and with the approval of the legislative arm of the Area Council, appoint a new Vice- Chairman."

(18) **Section 123**

Section 123 of the Act provides sanctions against election officials for dereliction of duty. There is the need to specifically provide

sanctions against polling officials and political parties or their agents that conspire to make false declaration of results. It is accordingly recommended that the section be amended to provide for sanctions for these groups of persons. Thus Section 123 be amended by inserting a new subsection immediately after the existing subsection (3) and renumbering all the subsections accordingly. The new subsection (4) shall read thus:

"Any Polling Officer, Political Party or Party Agent who conspire to make false declaration of result of an election commits an offence and is liable on conviction to 36 months imprisonment".

(19) **Paragraph 51 (1) (First Schedule; Electoral Officer as Respondent)**

Paragraph 51(1) and 51(2) should be deleted as it contradicts Section 137(3) of the Act which says the Petitioner need not join the EO, PO or RO. Furthermore, the Commission is an independent body established by the Constitution it is unconstitutional for a schedule to require it or its officials to consult or seek the approval or consent of the Attorney General in any matter in Court. The Commission's discretion should be completely unfettered. The reference to the Attorney General in this Schedule should be deleted.

(C) **OTHER RECOMMENDATIONS**

Far reaching general recommendations were made on the operation of the Electoral Legal Framework by participants at the retreat all geared

towards ensuring the conduct of free, fair and credible elections and prosecution of electoral disputes.

[i] **Women Participation in Politics**

The retreat also generally agreed that in order to encourage women participation in governance, there is the need for legislative intervention for enforcement by the election management body. The retreat noted that some political parties as an act of encouragement for female participation exclude them from paying fees of any nature. Political parties may however be encouraged to make provisions in their constitutions for a certain percentage of members of their Executive Committees to be reserved for women in consonance with the dictate of the United Nation Women affirmative action.

[ii] **Delimitation of constituencies**

The Constitution of the Federal Republic of Nigeria 1999 (as amended) empowers the Commission to create electoral constituencies subject to approval the National Assembly. 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. It is recommended 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.

Dated this 10th day of October, 2012.

**Prof. Attahiru M. Jega OFR
Chairman,
Independent National Electoral Commission.**

the National Assembly is received by the Commission within a period of Three (3) months from the date of presentation.

Dated this 10th day of October, 2012.

**Prof. Attahiru M. Jega OFR
Chairman,
Independent National Electoral Commission.**