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Constitution Amendment in Making

As more than 500 Delegates converge in Gbarnga City

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Overview of National Constitution Conference in Gbarnga

The National Conference on Constitution Review was held at the Administrative Building from March 30-April 2, 2015 in Gbarnga Bong County. The Conference was organized by the Constitution Review Committee (CRC), in collaboration with the Law Reform Commission (LRC), and the Governance Commission (GC), and supported by the Government of Liberia and the United Nations Development Program. The goal of the Conference was to discuss and debate contending issues in the Liberian 1986 Constitution, and recommend appropriate amendments that could make it more responsive to present day realities. A report will then be presented to President Ellen Johnson Sirleaf, who heads the Executive branch of government for onward transmission to the Legislature. The final report is expected to later inform a national referendum to be held in June 2016.

President Ellen Johnson Sirleaf, Vice President Joseph Boakai, and a host of government officials including Cabinet Ministers, Speaker Alex Tyler and some members of the House of Representatives, President Pro-tempore Armah Jallah and some members of the Liberian Senate, Associate Justices of the Supreme Court of Liberia, heads and members of autonomous government institutions, members of the Diplomatic Corps, heads of civil society organizations and other nongovernmental organizations all graced the opening of the National Conference.

The four day Conference witnessed more than five hundred participants representing Liberia's fifteen Counties with delegation size depending on the number of County districts. Participants were expected to be divided into eight thematic groups namely Decentralization and local Governance, People with Disabilities and Autonomous Public Commissions, Property Rights, Amendments to Legislative Branch, Cultural Rights, Amendments to Executive Powers, Amendment to Judicial Powers, and Political Parties and Election Court. However, the thematic groups were later cancelled due to pressure from plenary that the twenty five (25) recurring views from the field (as recorded on page 4 of the Preliminary Summary of views of the Liberian People as expressed during the Consultations and Sectorial meetings in 73 Liberian Electoral Districts and the Diaspora 2013-2014) replaced the thematic group discussions. The recurring views included:

- 1) Reduction of the presidential term of office from six to four years;
- 2) Reduction of the senatorial term of office from nine to six years;
- 3) reduction of the term of office of representatives from six to four years;
- 4) private property ownership should include mineral resources;
- 5) property owners on whose land mineral or natural resources are found should share the benefits accrued by government and be part of the negotiations;
- 6) persons of non-negro race should not become citizens;
- 7) Dual citizenship should not be accepted in Liberia;
- 8) Dual currency should be abolished in Liberia; the Liberian dollar note should not be rejected as tear-tear money;

- 9) The Vice President should not preside over the Senate because of the principle of separation of powers;
- 10) The Chief Justice should be elected;
- 11) Superintendents, commissioners, mayors, and chiefs should be elected;
- 12) Respect and recognition for persons with disabilities should be enshrined in the Constitution and education and job opportunities accorded them;
- 13) Election Commissioners should be elected and not appointed by the President;
- 14) Concession negotiations should include the local authorities and citizens of the locality in which the natural or mineral resource is situated;
- 15) Constitutional provisions should prioritize the participation of Liberians in economic activities as reflected in Article seven;
- 16) Children's rights should be revisited so that it does not interfere with the parental duty to discipline children;
- 17) Traditional people should own their land and be a party to any negotiation with investors or concessionaries on said lands;
- 18) The Constitution should ensure that women's participation in governance and national affairs;
- 19) The amended Constitution and all legal documents should carry the pronouns "he/she";
- 20) Age of marriage for girls should be at least 18 years;
- 21) Women should have access to equal economic and social opportunities (employment and education);
- 22) The Constitution should guarantee inheritance right for traditional women;
- 23) People in prolonged co-habitation should enjoy marital rights;
- 24) Liberia should become a Christian nation;
- 25) Customary Laws should be made constitutional.

Opening of the National Constitution Conference

The Conference opening witnessed the usual pomp and pageantry, with traditional drumming, dancing, singing and the blowing of local traditional horns.

President Sirleaf, Vice President Boakai, and a host of government officials including Cabinet Ministers, House Speaker Tyler, President Pro-tempore Armah Jallah and other Lawmakers, Associate Justice Kabinah J'aneh, and other Associate Justices of the Supreme Court, heads and members of autonomous government institutions, the Diplomatic Corps, representatives of civil society organizations and other nongovernmental organizations all graced the opening of the National Conference. In fact, Liberians at home and abroad were duly represented.



The Hightable

In her opening statement, the Constitution Review Committee Chairperson and chief convener of the conference, Counselor (Cllr.) Gloria Scott, noted that the Conference intends to validate public views collected during the national consultation process and derive consensus for proposals needed to amend the 1986 Liberian Constitution.

The importance of a participatory approach to the Constitutional amendment process is highly necessary particularly since post war Liberia. This period in Liberia's history (1989-2003) witnessed the most diverse, divisive, and controversial political landscape, with Liberians divided on political, ethnic, religious, cultural, class, and ideological lines. With Government's plan for transformation through decentralization and other initiatives, it is now imperative that the Constitution be amended to support these modern development programs and reforms.



Cllr. Gloria M. Scott, CRC Chair addressing Delegates at the Constitutional Conference in Gbarnga, Bong County

Cllr. Scott pointed out that participation in the construction and rehabilitation of this legal framework will profoundly impact the lives, wellbeing and happiness of the Liberian people for generations to come. She hoped that at the end of the Conference a popular endorsement of the proposed amendments to the Constitution to be sent to the Legislature for examination and action would lead to and inform the national referendum scheduled for June 2016.

According to Cllr. Scott, review of the Constitution is necessary because Liberia is now in a new dispensation, occasioned by years of civil war, and the fact that *“Government has now introduced a comprehensive decentralization and local governance processes, and democracy, after years of instability, and civil war. It is also intended to address present day realities, provisions for the respect and protection of basic human rights, political and economic landscape, and resolve daunting national challenges.”*

While efforts are being made to amend the 1986 Constitution, it is important to note that many Liberians still lack access to its copy and therefore have limited knowledge as to its provisions. The intent of dividing Conference participants into thematic groups was to help inform, and if possible, educate them as to the Constitution’s provisions that were to be amended, to ensure that their contributions at the Conference were based on informed decisions that prioritize the unity and development of the people and country. The Conveners of the conference had categorized issues to be discussed into themes - socio-economic, governance, human rights, gender parity and integrity, elections and political parties, and access to justice.

Cllr. Scott concluded by thanking Liberia’s national and international partners including Government of Liberia, Law Reform Commission, Governance Commission, United States government, United States Agency for International Development, United Nations Development Program, United Nations Mission in Liberia, United Nations Peace-building Fund, and staff and members of the Constitution Reform Commission for their collaborative efforts and support to the work of CRC.

Stakeholders and Partners Commend Diversity of Delegates

European Union -The European Union Ambassador to Liberia noted that her role at the Conference was to observe Liberians own the development process of their country. She said the EU has helped to build roads in Liberia for use by Liberians and help connect them with each other, but, according to her, “*Liberians still need to do more for their country*”. She pointed out that friends and partners of Liberia have contributed to Liberia’s development but it was still the responsibility of Liberians to build blocks, get more involved and discuss in a broader and inclusive manner, issues of national development and unity to guarantee that amendments proposed “*will support the joy of all citizens*”. She urged all Liberians, including women, to get involved in the nation building process.

United Nations System in Liberia – The head of the UNDP (Liberia office) and Deputy UN Secretary General Special Representative to Liberia Antonio Vigilante observed that it was good to note the diverse opinions and cultures among Liberians attending the Conference and expected to discuss, as a people, Constitutional Laws and the strengthening of Liberia’s democratic process. Mr. Vigilante thanked the Liberian Government and the CRC for successfully guiding the Constitution Review process despite its numerous challenges along the way. He identified two salient achievements, which according to him, need mentioning:

- The entire process has been long and driven by Liberians, and that international partners including the United Nations have provided support; and
- The proposals and views to be discussed at the Conference were all from Liberians themselves.

Mr. Vigilante noted United Nations’ confidence in the Review process because of the following:

- Liberia has experienced violence and several issues of conflict and has embraced international principles and human rights standards; and
- The Conference raised a number of human rights issues such as rights of women, those living with disabilities, citizenship, and that of the child.

He therefore reminded Liberians and key national review actors/stakeholders to ensure that the proposed amendments to be submitted to the Legislature to lead to a National Referendum “*adhere to international human rights standards and protocols that Liberia willingly entered into under international laws.*”

Mr. Vigilante also noted that Liberia will have to address the issues on the promotion of national reconciliation, inclusion, democratic good governance, and the rule of law. Under these thematic issues, root causes of Liberia’s conflicts and good governance should be identified and discussed to assure that all Liberians feel a part of the decision making process. He again congratulated CRC for ensuring that all of Liberia’s interest groups and stakeholders were represented at the Conference, and willing to be involved in the review process. He emphasized that the Conference

and review process lies in the hands of participants and by extension, the Legislature. Mr. Vigilante encouraged more interactions during the Conference which, according to him “*is also necessary for the reconciliation and healing process*”. He urged Liberians to “*cultivate a respectful and conducive atmosphere where respect for each other’s views, and consensus forged in the interest of Liberia are assured*”.

USAID – Ambassador John Mark heads USAID Liberia office. His remarks covered both USAID and the United States Embassy in Liberia. The US envoy observed that humans and nations evolve and respond to their environment. Therefore, he said, those things and laws that guide human interactions are expected to also evolve. Mr. Mark, in highlighting a need for Constitutional amendments, pointed out that the Constitution defines the powers of government, and provides strong foundation for a State based on the rule of law. He said the Constitution review process creates a great opportunity and condition for Liberia’s future in that it “*provides mechanisms and institutions that will ensure that after years of war this country does not return to violence*”. He assured of his country’s continued support to Liberia’s development.

Women Interest Groups – Madam Ruth Caesar served as Chief Spokesperson for the various women groups at the Conference. She noted that the women have been meeting and decided to speak with one voice, advocating five major concerns. These include:

- respect for the fundamental rights of all,
- affirmation action for groups,
- equal representation,
- language of the Constitution,
- Marriage, and women and children rights.

On the issue of the language of the Constitution, Mrs. Caesar pointed out that the Constitution references a “he presidency and vice presidency” but Liberia has evolved and now has a woman as President. She also observed that the Constitution recognizes two forms of marriages in Liberia –Statutory and Customary but not the Common law marriage. She said women now want to step up and include all forms of marriages. Under the “*Common law*” marriage, women are advocating that after three years of cohabitating, the relationship should be considered a marriage under common law; both parties (and their children resulting from said relationship) in the relationship should enjoy all rights and privileges (including property and inheritance rights) as enjoyed under statutory marriage. Mrs. Caesar observed that the Constitution is silent on the issue of children. She said Liberia now has the Ministry of Gender, Children and Social Protection and that though Liberia recognized the rights of children in 1994 “*the Conference did not recognize children nor explains who is a child*”? The women also want the age of marriage for girls to be at least age 18.

The women noted that the Constitution talks about protecting the rights of citizens and wondered “*who are the citizens?*” They said the Constitution is afraid and does not step up and identify citizens to mean men, women, boys and girls. Madam Caesar noted that women understand that to be

identified in the Constitution is a struggle, *“a struggle that women know much too well because nothing has ever come their way on a silver platter.”*

The women also emphasized that the Constitution is outdated. They said other Constitutions of African countries have since been updated to include 50/50 opportunities for both men and women without any apology, and urged Liberia to do likewise. They promised their commitment to discuss, participate, argue and find common ground, negotiate, and build consensus to promote the Constitution to the level it ought to be.

Doyen of the Diplomatic Corps - Cameroun Ambassador accredited to Liberia Beng'yela Augustine Gang proxy for the Doyen of the Diplomatic Corps. Ambassador Gang said Diplomats attending the Conference believed it was a duty to witness the historic event. He noted that many writings or reviews of national Constitutions are the result of bloodshed or situation that led to bloodshed, and commended Liberians for holding a national Conference in a serene environment:

“To us it is a tremendous action to see such a conference taking place in such serenity, with all the diverse feelings and sentiments seen to be present in the first views across the nation which gives the joy to write home and say positive things continue to happen in Liberia. It is pleasing to note that even Ebola failed to derail the process of Constitution review.”

President Pro-tempore of the Liberian Senate Armah Jallah – Senator Jallah disclosed that the current review of the Liberian Constitution though initiated by President Sirleaf was with the knowledge of the Legislature. The Government had committed resources to the CRC for the successful holding of the National Constitution Conference. Senator Jallah promised that the Senate will remain engaged with stakeholders to ensure the strict adherence to Constitutional provisions, and recommend amendments that would address the people’s needs. He commended the CRC, LRC and GC for ensuring the successful involving and engaging of the Liberian people in the Constitution review process and national Conference.



House Speaker Alex Tyler- Speaker Tyler emphasized that the Constitution review process is at an irreversible stage. Speaker Tyler pointed out that the Liberian Constitution and/or all National Constitutions, is the organic and supreme law of the land, *“and the people in whose hands and power the destiny of the nation resides have the responsibility and obligation, a right to revisit, review and recast the intent of the framers of the Constitution in line with the exigencies.”*

The Conference was to help validate the Liberian Constitution through an approach that involves the people and allow them make recommendations for amendments that they believe will better address new dispensations and development as we evolve as a nation. Speaker Tyler reminded Liberians to entertain free discussions but with the knowledge that not all of the concerns put forward will be acceptable:

“We cannot and will not get all that we are asking for in every instance. We must learn to give and take. Like Bomi which says that a presidential candidate must have a Master of Arts degree. This poses a problem to the citizen’s fundamental right to vote or be voted for and thereby a heinous crime which the Constitution has prohibited.”

National and international protocols on fundamental rights to canvas emphasize that any attempt to hinder a person’s rights is illegal and should be discouraged. Recurring views from the field show that many Liberians were ignorant of their Constitution’s provisions. Some made recommendations such as wanting the Chief Justice and Associate Justices to be elected. To this recurring view the House Speaker asked the following question:

“Do you really want a Chief Justice to be elected and subject to political currents, social pressures and economic machinations of the day?”

Speaker Tyler also addressed the controversial recurring view which called for Liberia to return to being a Christian State:

“How can one be promoting that Liberia return to a Christian nation, which never was, but at the same time be promoting a multi-cultural diversified destination?”

This comment by the Speaker stirred up much controversy between Christians and Muslims, and among other delegates at the Conference. With little knowledge, understanding, and interpretation of Liberia’s Constitution and history, it is no surprise that Speaker Tyler’s comment resulted into such hullabaloo even among those perceived to be “elite”. The Constitution does mention that Liberia was founded on Christian principles but nowhere in the Constitution is it mentioned that Liberia was ever declared a Christian nation.

President Ellen Johnson Sirleaf

President Sirleaf started her remarks by summarizing the journey from the launching of the Decentralization program in Salala in January, 2012 to the holding of the National Conference in March-April 2015. President Sirleaf noted that Gbarnga City has played host to the launch of a series of programs to refocus our national institutions, including the Vision 2030 national plan which is expected to define and ensure that Liberia becomes a Middle Income Country. The plan entails putting into place mechanisms that assure the decentralization of public institutions and services, improve local governance and public consultations, and enhance human development through capacity building. Vision Statement 2030 highlights a people united for sustainable development:

“The adopted statement of one people, one nation, united for peace and sustainable development remains our faith in our country’s future and our commitment to mobilize human and material resources to achieve our aspirations”.

The President said the CRC was initiated some two and a half years ago to lead a national process of review of the Constitution with the view to assuring that it speaks to the needs and aspirations

of contemporary Liberia and Liberians. The Conference, as part of that review process, therefore *“provides an opportunity for government to listen to what the people have been saying about the Constitution, what they think can be done to further their aspirations, and to carry forward the review process in strict adherence to the Constitution now being enforced.”*

President Sirleaf noted that in keeping with its mandate, the CRC has returned with a set of reports which incorporates a series of proposals from the Liberian people about possible change and adjustments in the Constitution. She reminded participants at the Conference that the quest for Constitution review does not stand alone but rather situated in another framework of government’s mission and agenda.

“Our efforts of carrying forward the Constitution review, which is part of government’s reform, has clearly not moved as fast as we would have liked. Competing priorities and other distractions slowed the process but we were determined not to let up on this critical matter.... We praise God that through the resilience of the Liberian people and the work of the international community, we are almost back on course. We are back on course not only of completing the Constitution review process but also carrying to the finish line our calibrated agenda for transformation.”

In addressing the question, why Constitution review, the President said Constitution review was necessary because the Liberian people, through a series of national consultations, have made it clear in their desire for significant changes in the Constitution. She noted that national consultations including Vision 2030, land reform and the decentralization initiatives and others revealed a strong desire of our people to see adjustments made to the Constitution in consonance with calls emanating from the various reform initiatives. President Sirleaf said the calls remain the same – *“the people desire change in government’s arrangements in all three branches of government as well as addition of norms and values hereto for not being respected in our organic law.”*

Confrontational Issues Stir up Demonstrations at the Conference

At the close of day 1 of the Conference, youth delegates demonstrated against the issue of dual citizenship. This demonstration ran into day 2 of the Conference. Women also demonstrated in favor of respect for women and children’s right and equal opportunities for both men and women in Liberia. Two other groups, Christians and Muslims also demonstrated for and against a recurring concern among Liberians in the 73 electoral political districts in Liberia which is Liberia becoming Christianized.



Women demonstrators



As has also been mentioned, the two most controversial issues were numbers 7 and 24, dual citizenship and Liberia should be a Christian Nation respectively. As sides hardened, the issue of Liberian becoming a Christian State became a rallying cry for national identity, and an opportunity for manipulations.



Christian demonstrators

The defeat of the dual citizenship vote fuelled the demonstration of the Muslims on Wednesday, day 3 of the Conference.



Muslim demonstrators



Muslim demonstrators

Demonstration ended on day 4

V P Boakai and Minister Dukuly advocate a united Liberia

The closing ceremony was graced by Vice President Joseph Boakai, Minister of Internal Affairs, Morris Dukuly, and few other government officials. It was short, since everyone was already spent. Everyone was happy that the Conference did not degenerate into chaos. CRC Chairperson Cllr. Gloria Scott provided a summary of activities occurring since after the opening of the National Constitution Conference, and efforts made to address the numerous challenges. She promised to present a comprehensive report to President Sirleaf, who will then use her presidential prerogative in deciding what issues to forward to the Legislature for their legislative prerogative and input, for onward transmission to the national referendum expected to take place in June 2016.

Minister of Internal Affairs, Morris Dukuly attended the Conference' Closing ceremony. In remarks Minister Dukuly thanked Conferees for diligence, determination, hard work, and active participation in discussions surrounding amending the Constitution. Minister Dukuly recalled that *"many have died, many contributed monumental services and many endured pains un-medicated so that this day may come"*. He therefore called for a moment of silence for all those that died for freedom, for justice, peace and democracy in Liberia.

Minister Dukuly intellectualize that no Constitution is perfect or complete but that Liberians now have a patriotic duty and an opportunity to amend theirs. He observed that the Constitution is not only an organic or supreme law, *"but a living embodiment of the aspirations of a diverse and individually unique people"* and our identity. He therefore noted that the Constitution must be made dynamic, progressive, broad and embracive to be able to address the political, socio-economic, diverse multi-cultural, multi-ethnic challenges of the people, while at the same time be forward looking to accommodate what he called *"future unknowns"*. Consequently, the Constitution review becomes an act to review and amend the national constitution, and is a challenge more so since it touches on the economic and emotional well-being of the people.

He cautioned Liberians to be mindful of the impact of their decisions. His comment was in reference to the issue to making Liberia a Christian nation. *"Imagine the multiplicity of ideas and views. Imagine the numerous challenges this Conference hopes to address."* He said despite our diverse views, Liberians should see Liberia as the number one priority - making decisions that prioritizes national interests.

In his remarks at the Conference, **Vice President Joseph Boakai** noted that Constitution making is a tedious and extremely sensitive process which requires much sacrifice and patience. He said the bottom-top approach being used in Liberia makes it even more tedious in that it encourages people's participation through public engagements and consultations. This process, he said, calls for sober reflections on actions and decisions expected to impact the process, adding that the process is somehow becoming confrontational:

"We followed from Monrovia with deep interest, reports of very lively debates going on here for the last few days. We know that sometimes they are heated, maybe a bit too heated on occasions, and some might

even say, the exchanges were contentious at times. Some people were more forceful than others in making their points, while some adopted more orthodox approaches. But what is most important is that even in instances, if we agree to disagree, we did it without violence, threats and intimidation.”

Vice President Boakai noted that government considers the Constitution review as cardinal to assuring the unity of the Liberian people, and therefore is determined and duty bound to take appropriate actions in making the Constitution more responsive to the needs of the people. He promised government’s continued support to the process and urged the CRC to give full attention to post Conference tasks:

“We still have a long way to go. The compilation of the final report, the submission to the Legislature, the Legislative debate and action, and the Referendum are rest stops along this arduous journey that we must take. Therefore I call on each delegate here as well as the people of Liberia to remain engaged with the process and to understand its attending complexities.”

He reminded the Liberian people that not every issue is constitutional or prudent for constitutional amendment, rather every issue remains within the governance framework of the country and will be placed in a category such as statutory, policy, or otherwise.

Though the National Conference has ended, the Constitution review process is still open for discussions and debates.

In a related development, the Constitution Review Committee, CRC, has now presented its report to President Ellen Johnson Sirleaf. President Sirleaf is expected to review the report and draw from its recommendations, and those from others sources which she choose, a set of recommendations which she will then forward to the National Legislature for its consideration.

It can be recalled that in her annual message, President Sirleaf informed the Legislature and the nation that she will submit a set of propositions to the Legislature by June 2015. Following this event, the Legislature will then be expected to make its legislative input into the document and then forward it to the National Referendum schedule for June 2016, (one year after its presentation by the President). This final document is expected to serve as the “nerve center” for discussions at the pending National Referendum.