

# CONSTITUTIONAL REVIEW COMMITTEE

## ABRIDGED DRAFT REPORT

FEBRUARY, 2016.



**Constitutional Review Committee**  
Republic of Sierra Leone



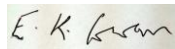
## **ACKNOWLEDGEMENTS**

The Constitutional Review Committee (CRC) appreciates all those individuals, organizations, institutions and agencies that contributed to the review process. Most significantly, the support the Committee received from Political Parties, Parliament; Ministries, Departments and Agencies, Academic Institutions, Civil Society Organizations, The Media, Disabled Groups, Women's Organizations, Paramount Chiefs, Funding Partners and the general public for their immense contributions to the inclusive Constitutional Review Process.

Special thanks go to the CRC secretariat, UNDP's Chief Technical Advisor, Law Office including, members of the various Sub-committees for their invaluable administrative, technical, logistic and personal contribution to the process. The CR Process would not have been a success without the huge support from the Office of the President, the Attorney General's Office and United Nations Development Programme for the Technical Advice, funding and logistical support throughout the process.

Also we are happy to acknowledge the assistance rendered by Districts Coordinators; Youth Organizations; Councillors; Ward Committee Members; Tribal, Village and community Heads for mobilizing majority of Sierra Leoneans to participate during the Nationwide District Consultations.

**Justice (R) Edmond Cowan**



**Chairman Constitutional Review Committee**

## **EXECUTIVE SUMMARY**

The mandate of the CRC is to review the 1991 Constitution of Sierra Leone and the Peter Tucker's Constitutional Commission Report (PTCR) submitted to the Government in January 2008 as a working document.

The CRC was launched by the President of Sierra Leone, His Excellency, Dr. Ernest Bai Koroma. The Committee consists of eighty (80) members representing different stakeholders in society, including political parties, democratic institutions, NGOs, the media and key independent bodies.

This booklet has been produced to highlight the major recommendations from the CRC, for further consideration and validation by the people. The final report will be submitted to the government of Sierra Leone in March 2016.

The 1991 Constitution and the 2008 Constitutional Review Commission report included emerging issues and thematic areas which have been deliberated and consulted upon during the last two years of the review process.

This summarized report includes new thematic areas that have been proposed as new chapters for consideration in the revised draft constitution.

### **Proposed New Chapters**

- Local Government and Decentralisation
- Citizenship
- Land, Natural Resources and the Environment
- Information, Communication and the Media

### **Existing Chapters**

- Fundamental Principles of State Policy
- The Recognition and Protection of Human Rights and Freedoms of the Individual
- The Representation of the People
- The Executive
- The Legislature
- The Judiciary

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## Overview

After the official launch of the Constitutional Review Committee on 30<sup>th</sup> July 2013 the Constitutional Review process commenced.

The CRC's task was to review the 1991 Constitution of Sierra Leone together with the Peter Tucker's Constitutional Review Commission Report (PTCR) which was submitted to government in January 2008 as a working document.

During the two - year process the CRC carried out extensive consultations with Sierra Leoneans both inside the country and in the diaspora (Ghana and Kenya).

This included undertaking consultative meetings, collecting and collating more than a hundred (100) position papers submitted by many CSOs, individuals, social and political groups, parliamentarians, government MDAs, international and local organisations. The Constitutions of seventy-five (75) countries were reviewed and utilized as part of the process. During the process expert recommendations and public opinion were also been taken into consideration.

In the Keynote speech by His Excellency, Dr. Ernest Bai Koroma at the launching of the CRC he stated that the revised Constitution should be the voice of the people.

*His Excellency, Dr Ernest Bai Koroma in his speech delivered on the 30<sup>th</sup> July 2013 said:*

*“This is a committee constituted from people of every region, political affiliation and socio-economic group to perform a sacred task. The constitution is the supreme law of the land, and we must all ensure that this document captures our better habits, our better values and our better aspirations”.*

The main goal of the revised Constitution is to strengthen the existing multi-party democracy and to create an open and transparent society. This abridged draft report has been produced to highlight the major recommendations from the CRC, for further consideration and validation by the people. The chapters are broken into the thematic areas that have been looked at during the two year consultative process.

The validation report starts with the suggested four new chapters.

## **Theme - Local Government and Decentralisation**

The Constitutional Review Committee (CRC) proposes a new chapter in the revised Constitution to be titled “***Local Government and Decentralisation***”. The justification for this proposal is to strengthen decentralisation process of power and devolve it on the districts and at council level.

Opinions expressed by experts, position papers and public consultations held nationwide were considered and taken into account before drafting the proposed chapter. Also given serious consideration were some strong recommendations obtained from a two-week fact-finding mission undertaken by the CRC between October and November 2015 to Ghana and Kenya.

The CRC appreciates the views expressed by the Ministry of Local Government and Rural Development (MLGRD) and CRC nationwide consultations with Paramount Chiefs and Local Councillors. The councillors had expressed their opinions and views that they wanted to be part of the decentralised system. They wanted their decisions to be heard and integrated into the proposed new chapter. They wanted proper terms of reference of their role to ensure better governance. As it stands they are currently in charge of development in their communities.

The CRC thanks the Paramount Chiefs for their position paper relating to the establishment of a House of Chiefs<sup>1</sup>.

This is in line with the Truth and Reconciliation Commission’s (TRC) report of 2002<sup>2</sup> and the Lomé Peace Accord that the Constitution should have a separate chapter with the title, **Local Government and Decentralisation**.

Below are the significant issues pertaining to these proposed new chapters identified by the CRC for validation by the people of Sierra Leone, stakeholders and experts.

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<sup>1</sup> Paramount Chief’s Position Paper

<sup>2</sup> The TRC Volume 2 Chapter 3 page 210

**The CRC proposed a New Chapter titled Local Government and Decentralisation:**

LOCAL GOVERNMENT AND DECENTRALISATION			Justification
Chapter	Section		
Establishment of Local Government	1	There shall be a system of Decentralized Local Government and Administration for Sierra Leone	
Principle of Local Government	2	The Local government system shall be based on the principles of Democratic Good Governance	
Composition of Local Government System	3	1. The Local Government system shall establish the following councils- (a) City council; (b) District Council; and (c) any other council as the system may deem necessary.	<i>The CRC developed the proposed wording from parts of the Ugandan and Kenyan Constitutions adapted for Sierra Leone taking into account the submitted position papers to the CRC Secretariat with particular reference to gender balance. The CRC believes this will bring in more transparency and make the councillors part of the system- a recommendation they had expressed in their position papers.<sup>3</sup></i> <b>The CRC endorsed the idea to separate the power of the executive from the policy makers forming a more accountable and democratic system.</b>
Responsibility of Local council	4	A Local Council shall be the highest political authority in the locality and shall be responsible for the general administration of its locality	
Composition of local council	5	A local council shall consist of- (a) a General Assembly --- comprising all councillors of the council which shall be headed by a Chairman elected from amongst them; and (b) an Executive body—comprising of all chairmen of committees, core staff, Mayor and deputy mayor,	<i>Sub section C, would help to ensure gender balance and is in line with modern constitutions. The CRC developed the proposed wording from parts of the Ugandan and Kenyan Constitutions adapted for Sierra Leone taking into account the submitted position papers to the CRC Secretariat</i>

<sup>3</sup> Local Councillors' Position Paper



		responsible for the execution of the policies of the council, which shall be headed by a mayor in the case of a City Council and a Chairman in a case of a District Council <b>c) a council elected under this section shall consist of not less than 12 members and not less than 30% of whom shall be of one gender</b>	<i>with particular reference to gender balance. The CRC believes this will be more transparent and make the councillors part of the system and it endorses a desire they had expressed in their position paper.<sup>4</sup></i>
<b>Chief Administrator</b>	<b>6</b>	There shall be a Chief Administrator who shall be secretary to the Council and head of administration in the executive body.	<i>CRC believes this is a more democratic system which separates the power of the executive from the policy makers to make it more accountable. The CRC believes this will bring in more transparency and make the councillors part of the system endorsing a recommendation the Local Councillors had expressed in their position paper<sup>5</sup>.</i>
<b>Tenure of Local Council Members</b>	<b>7</b>	It was agreed there should be a unified date of Parliamentary and local council elections and the term of office should be five years <b>Local Council Elections should be non-partisan</b>	<i>The CRC has taken into account representations made in 3 position papers, provisions made in the Ghanaian Constitution as well as expert recommendations and concluded that it was beneficial in terms of practicality that the term of office should be unified with Parliament and elections should take place on the same date for economic reasons, consolidation and sharing of costs</i>
<b>National Local Government Finance commission</b>	<b>8</b>	There shall be a National Local Government Finance Commission, which shall ensure equitable distribution of national resource and shall have such other powers and functions as may be conferred on it by this Constitution or an Act of Parliament. 2. The National Local Government Finance Commission	<i>The CRC recommends the need for a provision in the Constitution to ensure equitable distribution of national resources and shall have such other powers and functions as may be conferred by this Constitution or an Act of Parliament.</i>

<sup>4</sup> Local Councillors' Position Paper

<sup>5</sup> Local Councillors' Position Paper

	<p>shall —</p> <p>(a) receive all estimates of revenue and all projected budgets of all local government authorities;</p> <p>(b) supervise and audit accounts of local government authorities, in accordance with any Act of Parliament or Council, subject to the recommendations of the Auditor General;</p> <p>(c) make recommendations relating to the distribution of funds allocated to local government authorities;</p> <p>(d) vary the amount payable to an area periodically based on economic, geographic and demographic variables;</p> <p>(d) prepare a consolidated budget and estimates for all Local Government authorities and after consultation with the Ministry of Finance and Economic Development, which shall be presented to Parliament by the Minister responsible for Local Government before the commencement of each financial year</p>	
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### **Institution of Paramount Chieftaincy**

*Following three detailed presentations made to the CRC with very strong recommendations in the Paramount Chiefs' position paper the CRC arrived at the conclusion that a House of Paramount Chiefs should be established and included in the revised constitution. They had made it clear that they do not want to be involved in party politics and therefore requested they be removed from the Parliamentary System as they see their role as customary and traditional. Therefore they want their own assembly and forum where they would discuss community matters and traditional values free from political consideration.*

### **The National House of Chiefs**

**The CRC agreed on the establishment of a House of Chiefs in principle and suggests that the modalities i.e. composition, location, functions and bylaws be finalised by the relevant ministry and institutions in consultation with Paramount Chiefs. This is in line with TRC recommendation for serious consideration<sup>6</sup>. The CRC recommends this must allow for full participation of women.**

<sup>6</sup> TRC Volume 2 Chapter 3 page 209

## Theme – Citizenship

There had been some very influential and persuasive reports, submissions and representations made that the revised Sierra Leone Constitution needed to include a new Chapter on Citizenship, defining who is a citizen and how citizenship may be acquired without reference to race or gender. The CRC placed weight on the imperative recommendation made by the Truth and Reconciliation Commission (TRC) that the details of acquisition of citizenship, which must be without consideration of race and gender and the principles of rights and responsibilities, should be enshrined in the Constitution.<sup>7</sup> This was endorsed by the Law Reform Commission of Sierra Leone<sup>8</sup>

The Constitutional Review Committee (CRC) proposes a new chapter in the revised Constitution to be titled Citizenship. The 1991 Constitution of Sierra Leone has no provision for the definition of citizenship but the word “citizen” is mentioned in various sections throughout that Constitution.<sup>9</sup>

The CRC also noted this recommendation had been endorsed by the PTCR<sup>10</sup> and a large number of position papers and expert recommendations submitted by several institutions and individuals.

The CRC took account of the overwhelming support for making a provision for citizenship in the Constitution during the District Level Consultation (DLC) exercise and the Western Area Level Consultation (WAC) meetings; this had been reflected in the reports of these meetings<sup>11</sup>

The Secretariat also looked at other provisions for Citizenship in other Constitutions including Ghana, Kenya, South Africa and Uganda. It recommends the inclusion of a definition of citizenship within the revised Constitution, which should contain no reference to race or gender.

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<sup>7</sup> TRC Volume 2 Chapter 3 page 133 pars 85 &86

<sup>8</sup> Law Reform Commission of Sierra Leone

<sup>9</sup> Sierra Leone Constitution 1991 S 9, S 13, S 21, S27, S 29, S 173

<sup>10</sup> PTCR page 20 par 38

<sup>11</sup> Reports from DLC and WAC

**The CRC’s proposed New Chapter titled Citizenship**

<i>The CRC proposed the inclusion of the following into a new chapter on citizenship with more details and clarifications to be introduced through legislation.</i>			<i>Justification for proposed amendments</i>
<b>Chapter</b>	<b>Section</b>		
<b>Rights of Citizens</b>	<b>1</b>	Subject to the provisions of this Constitution every citizen shall be entitled to the rights, privileges and benefits of citizenship	
<b>Acquisition of Citizenship</b>	<b>2</b>	Citizenship may be acquired by birth, naturalisation, marriage or adoption	
<b>Citizenship by Birth</b>	<b>3</b>	A person is a citizen by birth if on the day of the person’s birth, whether in Sierra Leone or not, either the mother or father of the person is a citizen of Sierra Leone.	<b>The CRC suggests to remove the reference to ‘race and gender’ in the acquisition of citizenship</b>
<b>Citizenship by naturalisation</b>	<b>4</b>	A person may apply to be a citizen by naturalisation if that person - (a) has been resident in Sierra Leone for a period of ten years ; (b) has made or is capable of making useful and substantial contribution to the advancement, progress and well-being of Sierra Leone ; and (c) satisfies the conditions prescribed by an Act of Parliament	
<b>Citizenship by Marriage</b>	<b>5</b>	A person may apply to be a citizen by marriage if that person has been married to a citizen for at least five years.	<b>The CRC recommends equal rights to both spouses.</b>
<b>Citizenship by Adoption</b>	<b>6</b>	A child who is not a citizen, but is adopted by a citizen, shall be entitled on application to be naturalised.	
<b>Child Found in Sierra Leone</b>	<b>7</b>	A child found in Sierra Leone who is, or appears to be, less than five years of age, and whose nationality and parents are not known, shall be presumed to be a citizen by birth.	
<b>Dual Citizenship</b>	<b>8</b>	A citizen by birth shall not lose citizenship by acquiring the citizenship of another country	
<b>Citizenship not lost through Marriage</b>	<b>9</b>	Citizenship shall not be lost through marriage or the dissolution of marriage	<b>The CRC recommends equal rights to both spouses.</b>

<p><b>Revocation of Citizenship</b></p>	<p><b>10 (1)</b></p>	<p>If a person acquires citizenship by naturalisation, the citizenship may be revoked if the person—</p> <ul style="list-style-type: none"> <li>(a) acquired the citizenship by fraud, false representation or concealment of any material fact;</li> <li>(b) has, during any war in which Sierra Leone was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business that was knowingly carried on in such a manner as to assist an enemy in that war;</li> <li>(c) has, within five years after naturalisation, been convicted of an offence and sentenced to a fine and imprisonment for a term of five years or longer; or</li> <li>(i) has, at any time after naturalisation, been convicted of treason, or of an offence for which a penalty of at least seven or more years imprisonment may be imposed.</li> </ul>	
	<p><b>10 (2)</b></p>	<p>The citizenship of a person who was presumed to be a citizen by birth, as contemplated in section 7, may be revoked if—</p> <ul style="list-style-type: none"> <li>(a) the citizenship was acquired by fraud, false concealment of any material fact by any person;</li> <li>(b) the nationality or parentage of the person becomes known, and revealed that the person was a citizen of another country; or</li> <li>(c) the age of the person becomes known, and it is revealed that the person was older than five years</li> </ul>	

		when found in Sierra Leone.	
<b>Enacting provisions</b>	<b>11</b>	<p>Parliament shall enact legislation—</p> <ul style="list-style-type: none"> <li>(a) prescribing procedures by which a person may become a citizen;</li> <li>(b) governing entry into and residence in Sierra Leone;</li> <li>(c) providing for the status of permanent residents;</li> <li>(d) providing for voluntary renunciation of citizenship;</li> <li>(e) prescribing procedures for revocation of citizenship;</li> <li>(f) prescribing the duties and rights of citizens; and</li> <li>(g) generally giving effect to the provisions of this</li> </ul> <p>Chapter</p>	

## **Theme – Lands, Natural Resources & the Environment**

The Constitutional Review Committee (CRC) proposes a new chapter in the revised Constitution to be titled “Lands, Natural Resources and the Environment”. This chapter is sub-divided into 3 sections: Lands, Natural Resources and the Environment. The justification for this sub-division is because they have three distinct definitions and each has its own thematic area.

Arguments put forward by organisations, position papers and public consultations held nationwide were reviewed, synthesised and incorporated. Inspiration for ideas was drawn from world constitutions, national and international documents, including academic papers and opinions expressed by experts. Also given serious consideration were some strong recommendations obtained from a 2-week fact-finding mission undertaken by the CRC between October and November 2015 to Ghana and Kenya.

The CRC appreciates the views expressed by the Government of Sierra Leone<sup>12</sup> in The National Land Policy of Sierra Leone<sup>13</sup> The Environmental Protection Agency (EPA)<sup>14</sup>, Climate Change, Environment and Forest Conservation Consortium – Sierra Leone (CEFCON – SL)<sup>15</sup>, National Protected Area Authority (NPAA<sup>16</sup>), The<sup>17</sup> Office of the Chief of Staff, National Democratic Alliance (NDA)<sup>18</sup>

Below are the significant issues pertaining to this proposed new chapter identified by the CRC for validation by the people.

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<sup>12</sup> The Government of Sierra Leone-Chief of Staff

<sup>13</sup> The National land Policy of Sierra Leone 2014

<sup>14</sup> EPA position paper

<sup>15</sup> CEFCON-SL

<sup>16</sup> NPAA

<sup>17</sup> The Government of Sierra Leone

<sup>18</sup> NDA position paper page 6

The CRC’s proposed New Chapter titled Lands, Natural Resources and the Environment

<p><b>The CRC proposed the following new chapter for inclusion into the revised constitution titled “Lands, Natural Resources and the Environment (LNRE)” for validation by the people.</b></p>		
<b>Chapter</b>	<b>Section</b>	
<b>Part I - Lands</b>		
<b>Definition of Land</b>	<b>1</b>	<p>Sovereignty and sovereign title to land belong to the people of Sierra Leone from whom Government through this constitution derives all its powers, authority and legitimacy. (National Land Policy)</p>
<b>Classification of Lands</b>	<b>2</b>	<p>Land in sierra Leone shall be classified as follows:-</p> <ul style="list-style-type: none"> <li><b>a) Government Land (inclusive of State and Public Land) and;</b></li> <li><b>b) Private Land (inclusive of land under customary tenure)</b></li> </ul> <p>Definitions of classification are based on the following general law:-</p> <p><b>Freehold</b>  <b>Leasehold</b></p> <p><b>a) Government, State, Public Land</b>  All land which belong to the state by virtue of any treaty, concession, convention or agreement, and all lands which have been or may hereafter be acquired by or on behalf of the state, for any public purpose or otherwise howsoever and land acquired under the provision of the public land act and includes all shores, beaches, lagoons, creeks, rivers, estuaries and other places and waters whatsoever belong to, acquired by, or which may be lawfully disposed of by or on behalf of the state. (From National Land Policy)</p> <p><b>b) PRIVATE LAND these are land held under customary tenure.</b> Private land refers to land in</p>



		respect of which sovereign title is held on behalf of a community, by family or an individual, groups of individuals or other entity under any one of the tenure regimes in force in Sierra Leone. All private lands are held on terms subject to the power of compulsory acquisition; subject to the right to take as bona vacantia in case where the owner dies without any heirs or, if held under customary laws, subject to the community or family's residual right reversion if the owner dies without heirs or abandons the land.	
<b>Ownership of Land by Citizens</b>	<b>3</b>	Every Citizen has the right to acquire, inherit, transfer or receive as gift any interest in land in Sierra Leone	
<b>Non-citizens interest in Land</b>	<b>4</b>	Non-citizens interest in Land is only limited to <b>Leasehold</b> . (During consultations citizens profoundly recommended cap limitation on size and timeframe for non-citizens interest in land. Also land preservation and conservation use by investors must also protect the environment and local communities/population. (Position papers - National Land Policy, Human rights Commission, 50:50 Group, Dr Joe A.D. Alie also recommended the same)	
<b>Tenure system</b>	<b>6</b>	This issue continues to pose tremendous division and hence considering various position papers, consultations held with the general public, the CRC brings the matter back to the people for further deliberation	Note: However CRC plenary agrees to harmonise the two tenure systems pending the outcome of these deliberations <b>Challenges:</b> <b>a) Harmonization or</b> <b>b) Status quo</b>

			Referred back to the people during the validation process
<b>Compulsory Acquisition</b>		<p>The Government or a local government may, subject to this Constitution, acquire land in the public interest; and the conditions governing such acquisition shall be prescribed by Parliament. In pursuance therefore this Constitution guarantees the following:</p> <p>a. <i>In the use and enjoyment of land or interest in land, a person(s) shall not be deprived thereof except in accordance with law and/or the principles of, fundamental justice’.</i></p> <p>b. <i>that nothing shall preclude the enactment of or renders invalid laws controlling or restricting the use of land in the public interest (enforcement of law and order) or securing against land the payment of taxes or duties or other levies or penalties.</i></p> <p>c. <i>In the exercise of this power of the individual rights over property shall be respected and sustained</i></p> <p>d. <i>Compensation for properties to owners shall not be to the disadvantage of the owner.</i></p> <p>e. <i>Property owners reserve the option of seeking legal redress were discontent exist as to the fairness of such compensation and the decision of such actions will be final.</i></p>	
<b>National Land Commission</b>	<b>8</b>	The CRC recommends a National Land Commission	

<b>Repeal of all Outdated, derogatory and or; Discriminatory Laws</b>			CRC recommends updating all relevant acts and harmonizing with the new national land policy.
<b>Part II - Natural Resources</b>			
	<b>PREAMBLE</b>	<i>The CRC wants to add value to natural resources mined within the country hence creating more jobs and more revenue. A suggestion was made to look at Ghanaian, Kenyan and Botswanan constitutions respectively in order to adopt best practices in relation to mining and natural resources</i>	
<b>Definition of Natural Resources and Trusteeship</b>	<b>1</b>	<b>Option 1 –</b> All natural resources in their natural state in, under or upon any land in Sierra Leone, rivers, streams, water courses throughout Sierra Leone, the exclusive economic zone and any area covered by the territorial sea or continental shelf is the property the republic of Sierra Leone and shall be vested in the President on behalf of, and intrust for the people of Sierra Leone. <b>RETURN TO THE PEOPLE FOR DECISION</b>	<b>Option 2 -</b> All natural resources in their natural state in, under or upon any land in Sierra Leone, rivers, streams, water courses throughout Sierra Leone, the exclusive economic zone and any area covered by the territorial sea or continental shelf is the property the republic of Sierra Leone and shall be vested in the Natural resources commission on behalf of, and intrust for the people of Sierra Leone.
<b>Definition of renewables</b>	<b>2</b>	Renewables is defined as The stock of physical assets that are not produced goods and which are valuable to human beings, either merely because of their existence or because they produced or enable the production of other flows of benefits and service. To include: agriculture and Marine Products	
<b>Definition of Non-renewables</b>	<b>3</b>	These are stock of all minerals in their natural form in Sierra Leone.	
<b>Protection of Natural Resources</b>	<b>4</b>	(1) The State shall provide for the protection and rational use of natural resources within its territories. (2) In the exercise of its rational use of the natural resources, the state shall harness all natural resources of Sierra Leone to promote a sustainable and equitable distribution for national prosperity, efficient, dynamic and self-reliant economy.	

		<p>(3) Any transaction, contract or undertaking involving the grant of a right or concession by or on behalf of any person including the Government of Sierra Leone, to any other person or body of persons howsoever described, for the exploitation of any mineral, water or other natural resource of Sierra Leone shall be subject to the approval of Parliament.</p> <p>(4) Parliament may, by a resolution supported by the votes of not less than two-thirds of all the members of Parliament, exempt from the provisions of subsection (3) of this section any particular class of transactions, contracts or undertakings.</p> <p>(5) All mining concession allotted by parliament shall only be bidden upon agreed terms between communities and the investor for the use of their land and shall form part of the concession.</p> <p>(6) No mining concession shall be made without a strategic land rehabilitation plan and financing mechanism pre-settled with the Central Bank.</p> <p>Parliament to enact the legislation specifying the quantum of money according to a) land mass b) types of mining and, c) minerals mined.</p>	
<b>Distribution/allocation of proceeds from Natural Resources</b>	<b>5</b>	Parliament shall enact laws every five years for equitable distribution of proceeds from natural Resources to districts councils, Municipalities and Chiefdoms in Sierra Leone	
<b>Guarantee for a sharing mechanism</b>	<b>6</b>	Shall be based on availability of public services and social standard of the Communities	
<b>Citizen's access to</b>	<b>7</b>	The State shall protect the rights of citizens	

<b>Natural Resources</b>		engaged in farming, fishing, artisanal mining as a means of livelihoods to the preferential use of Land, Marine both inland and offshore.	
<b>Treatment of Natural Resources</b>	<b>8</b>	Treatment of Natural Resources refer to S6 – guarantee for sharing mechanism	
<b>Establishment of State Institution and deadlines</b>	<b>9</b>	<ul style="list-style-type: none"> <li>a) The CRC recommends the creation of a Natural Resources Commission based on consultation and recommendations on position papers.</li> <li>b) The CRC recommends that all Ministries dealing with Natural Resources be merged into one Ministry to be referred to as the Ministry of Lands, Fisheries, Natural and Marine Resources.</li> <li>c) A commission be established to coordinate all MDA’s managing intertwined issues eg. Food staff, Lands and Natural Resources.</li> </ul>	
<b>Part III - Environment</b>			

The Constitutional Review Committee (CRC) proposes to include a new chapter on Natural Resources in the revised Constitution. This will reinforce the importance of measures to safeguard the environment and Natural Resources of Sierra Leone. It will reiterate Sierra Leone’s commitment to the global agreement on the reduction of climate change.

The CRC agrees with the Environment Protection Agency of Sierra Leone that this exercise will ensure that Sierra Leone is not left behind in the global trend in according highest priority to environment protection. Inclusion of environment protection in the constitution would be in consonance with the Government’s commitment to attaining a sustainable developmental goal and ensuring inter and intra generational equity.

The CRC states that the Natural environment is the foundation on which poverty reduction efforts and sustainable development can be built. The majority of people in Sierra Leone depend wholly on environmental assets for example Agriculture, forestry, fisheries, minerals, water<sup>19</sup> and energy resources for their livelihood and well-being<sup>20</sup>.

<sup>19</sup> Climate Change, Environment and Forest Conservation –Sierra Leone (CEFCO-SL) Position paper page 2 Para Natural Resources

<sup>20</sup> Environmental Protection Agency Sierra Leone Position Paper Page 5

The Secretariat strongly agrees with the importance of recognising the environmental rights and responsibilities<sup>21</sup>. In considering State Policy chapter, the CRC already approved 2 sections that shows the interrelated relationship between the State, its citizens and the environment and details the rights and responsibilities which can act as a catalyst for stronger environmental laws and efficient and effective enforcement<sup>22</sup>.

The following statement is the fundamental suggested provision from the Environmental Protection Agency adopted for validation by the CRC.

<b>Part III - Environment</b>			
<b>Chapter</b>	<b>Section</b>		
<b>Definition</b>		An environment had been defined as the sum total of all surroundings of a living organism, including natural forces and other living things, which provide conditions for development and growth as well as of danger and damage.	
<b>Promotion and Protection of the Environment</b>	1	<i>The State Shall; promote the effective protection of the environment by empowering and enabling such bodies, agencies, institutions, organizations, to formulate, adopt and apply laws and policies and regulations for that purpose and to enhance economic growth<sup>23</sup></i>	
<b>Fundamental and self-executing Environmental right</b>	2	Parliament shall enact laws that promote environmental rights	
<b>Climate Change</b>	3	Referred back to the People	
<b>The Right to Environmental information</b>	4	The State shall a) Promote the effective protection of the environment by empowering and enabling such bodies, agencies, institutions and organizations, to formulate, adopt and apply laws, policies and regulations for that purpose and to enhance economic growth. b) enhance the knowledge of present and future generations on the environment of Sierra Leone	

<sup>21</sup> Environmental Protection Agency Sierra Leone Position Paper Page 12

<sup>22</sup> Climate Change, Environment and Forest Conservation –Sierra Leone (CEFCO-SL) Position paper page 2 Para 5

<sup>23</sup> Environmental Protection Agency Sierra Leone Position Paper Page 12

		Provide required information on harmful materials to the public whether from State, Corporate or Private Institutions.
<b>Environmental Rights</b>	5	<p>Every person has a right to an environment that is conducive to health and to the natural environment whose productivity and diversity are maintained. Natural resources should be managed on the basis of comprehensive long term considerations whereby this right will be safeguarded for future generations as well.</p> <p>1 Each person has the right to clean air, pure water and productive soils and to the construction of the natural, scenic, historic, recreational, aesthetic, and economic values of Sierra Leone’s natural resources.</p> <p>2 The right to equitable access and sustainable use of environmental resources, goods and services and to equitable distribution of the benefits accruing from the utilization of such resources, services and goods to indigenous peoples who have lost their identity or are on the verge of losing it like the underprivileged communities, the disabled and women or minorities of any class of people in the society.</p> <p>3 The right to adaptation for protecting oneself from the adverse impact of climate change.</p> <p>4 An inalienable right (fundamental and self-executing) to an ecologically healthy environment for present and future generations including the enjoyment of clean air, pure water, and scenic lands; freedom from unwarranted exposure to toxic chemicals and other contaminants; and a secure climate.</p> <p>5 There shall be no entitlement, public or private, competent to impair these rights.</p> <p>6 It is the responsibility of the State as public trustees and citizens as beneficiaries to safeguard them for the present and for the benefit of future.</p>
<b>Creating National Institutions Note: Recommendation for the Judiciary Subcommittee</b>		<p>National Land Compensation and Environmental Tribunal And The Environmental Court (with the status of the High Court)</p>

## **Theme – Information, Communication and the Media**

The Constitutional Review Committee (CRC) proposes a new chapter in the revised Constitution to be titled “*Information, Communication and the Media*”. The justification for this proposal is to bring about an independent media.

Opinions expressed by experts, position papers and public consultations held nationwide were considered and taken into account before the proposed changes. Also given serious consideration were some strong recommendations obtained from a 2-week fact-finding mission undertaken by the CRC between October and November 2015 to Ghana and Kenya.

The CRC appreciates the views expressed by the Sierra Leone Association of Journalists (SLAJ), media practitioners of both print and electronic, Independent Media Commission (IMC), Media Law and Regulatory Review paper for IMC, MRCG UNDP and UNESCO in their feedback during this consultation process. These stakeholders had expressed their strong opinions and views that they wanted to be part of the review process. They wanted their decisions to be heard and integrated. They strongly advocated for the media to be strengthened and make it completely independent in order to allow journalists and media houses to practice decent journalism in line with international best practices.



**The CRC’s proposed New Chapter titled Information, Communication and The Media**

<i>The CRC proposed the following new chapter for inclusion to the revised constitution titled “Information, Communication and The Media” for validation by the people.</i>		
<b>Chapter</b>	<b>Section</b>	
	<b>4 (1)</b>	The mass media shall at all times be free to uphold the fundamental objectives contained in this Constitution. No body shall own, establish or operate a television or wireless broadcasting station for any purpose whatsoever unless that body holds a licence issued by the IMC
	<b>4 (2)</b>	Media freedom and independence are hereby guaranteed but does not extend to—(a)propaganda for war; (b) incitement to violence; (c)hate speech; or (d)advocacy of hatred that—
	<b>4 (3)</b>	The state shall not— (a) exercise control or interfere with any person engaged in broadcasting (Radio, Television, Internet), the production or circulation or dissemination of any publication (newspaper, magazine or any periodical) or the dissemination of information by any medium (b) Broadcasting and other electronic media shall have freedom of establishment, subject only to licensing procedures that— are necessary to regulate the airwaves and other forms of signal distribution; and are independent of control by government, political interests or commercial interest
	<b>4 (4)</b>	All state/public-owned media shall—(a) be free to determine independently the editorial content of their

The CRC recommends that all those engaged in media related issues shall acquire licenses to ensure responsible journalism.

The CRC recommends a means to engage in responsible journalism

The CRC recommends a means to enhance Media freedom

The CRC recommends a healthy atmosphere to practice decent journalism devoid of censorship.

		broadcast or other communications; (b) be impartial; and (c) afford fair opportunity for the presentation of divergent views and dissenting opinions.	
	<b>5</b>	1) There shall be an Independent Media Commission in Sierra Leone. This should consist of 11 members	The CRC recommends a body to regulate the media
<b>Composition of IMC</b>	<b>6</b>	<p>(1) The IMC shall consist of the following members</p> <ul style="list-style-type: none"> <li>(a) One expert in the field of print journalism, nominated by the Sierra Leone Association of Journalists;</li> <li>(b) One expert in the field of electronic journalism nominated by the Sierra Leone Association of Journalists;</li> <li>(c) One expert in the field of Information Communication Technologies (ICTs), nominated by the Sierra Leone Association of Journalists;</li> <li>(d) One expert in the field of telecommunications, nominated by the Sierra Leone Institution of Engineers;</li> <li>(e) Two legal practitioner qualified to hold office as Judge of the High Court of Sierra Leone, nominated by the Sierra Leone Bar Association;</li> <li>(f) One expert in Mass Communication nominated by a recognised tertiary institution offering communication/journalism studies;</li> <li>(g) One person nominated by the Ministry of Information and Telecommunications;</li> <li>(h) Two person nominated by the Inter-religious Council of Sierra Leone;</li> <li>(i) One representation from the National Communications Commission</li> </ul> <p>(2) The nominees shall be subject to the approval of Parliament.</p>	<b>Proposed Composition is open for public and expert opinion. CRC would like to see an inclusive and transparent composition of IMC.</b>

<b>Composition of IMC</b>	6 (2)	Upon approval by parliament, the commissioners shall elect one person from amongst them to be chairman; provided that no person shall be eligible for election to the position of chairman unless that person has a wide experience as a media practitioner, or is a legal practitioner qualified to hold office as a judge of the High Court of Sierra Leone.	The CRC recommends members of the IMC elect their own chairman or chairperson.
<b>Functions and duties</b>	7	The act of parliament shall define the functions and duties of the IMC that shall include promoting a free and pluralist media throughout Sierra Leone.	The CRC recommends an Act of Parliament follow this section.

Below are the **key issues** pertaining to this proposed new chapter for the IMC as identified by the CRC for validation by the people.

### **Composition of the IMC**

The issues were about section 6 i.e. the composition of the Commission of the IMC. The CRC initially had 15 members of the IMC with a great representation from the Sierra Leone Association of Journalists (SLAJ). This number was reduced from the SLAJ membership and replaced with ICT personnel totalling 11 members due to the increased importance of technology and wider range of social media

## **Theme – Fundamental Principles of State Policy**

The CRC reviewed the provisions in the current Chapter II of 1991 Constitution “Fundamental Principles of State Policy. CRC took particular note of PTCR, the TRC recommendations, position papers submitted by different stakeholders and recommendations from the public during the nationwide consultation exercise.

Recognition is also given to the Human Rights Commission of Sierra Leone for its invaluable contribution<sup>24</sup>.

The Chapter on State Policy defines the overarching relationship between the State of the Republic of Sierra Leone and its citizens and institutions. It outlines The State’s goal and aspirations towards securing basic rights and development for its people.

In the 1991 Constitution of Sierra Leone none of these provisions are justiciable which means if there was a breach of these undertakings and promises in the Constitution they are not enforceable by the courts.

### **Key Issues**

**During the Consultation process there had been many calls for the provisions contained within Chapter II to be made justiciable. This was a major consideration for the deliberations of the CRC.**

**Other key areas recommended for inclusion such as devolution of power, integrity, transparency, accountability and sustainable development” as an additional National Value**

**In addition, proposals were made to remove restrictions on provisions relating to health, safety, welfare, medical facilities and educational opportunities. So phrases like “having due regard to the resources of the State and “as and where practicable” were deleted.**

**The CRC also accepted the imperative recommendation by the TRC which had been reiterated by the PTCR to add “human dignity” into the National Values.**

**The CRC suggests strengthening the provision relating to discrimination by changing “discourage” to “prohibit” discrimination under Economic Objectives.**

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<sup>24</sup> HRCSL position paper

<b>Chapter</b>	<b>Section</b>		
<b>I</b>		<b>I-The Republic of Sierra Leone</b>	
<b>Declaration of Republic</b>	<b>1</b>	Same as section 1 of 1991 Constitution	
<b>Supremacy of Constitution</b>	<b>2</b>	This Constitution shall be the supreme law of Sierra Leone	<i>The CRC recommends that the supremacy of the Constitution be stated</i>
<b>Sovereignty of the People</b>	<b>3</b>	Sovereignty belongs to the people of Sierra Leone from whom government through this Constitution derives all its powers, authority and legitimacy	<i>The CRC recommends that the sovereign rights of the people be stated.</i>
<b>Public seal</b>	<b>4</b>	Same as section 2 of the 1991 Constitution	
<b>National Flag and National Anthem</b>	<b>5</b>	<b>Same as section 3 in the 1991 Constitution</b>	
<b>II</b>		<b>II- Fundamental Principles of State Policy</b>	
Fundamental Obligations of Government	4	Same as section 4 of 1991 Constitution	
Government and the People	5 (1)	The Republic of Sierra Leone shall be a State based on the principles of Human Dignity, Equality, Freedom, Democracy and Justice	The CRC recommends following the TRC recommendation and adding “Human Dignity” to the first section relating to The Government and the people
	5(2)	The security, peace and welfare of the people of Sierra Leone shall be the primary purpose and	The CRC recommends that in line with modern constitutions to make a more inclusive provision for those responsible for securing the security, peace and welfare of the people of Sierra Leone

		responsibility of Government and it shall be the duty of all Public Officers and all representatives of the people to protect and safeguard the rights and freedoms of the people.	
Political objectives	6 (1)	<b>Option; 1</b> Same as subsection (1) of section 6 of the 1991 Constitution	<b>Option; 2</b> The CRC asks the people to decide whether to add human dignity and equality as national values to read: <b>The national values of Sierra Leone shall be Patriotism, Rule of Law, Democracy, Participation, Human Dignity, Equality, Unity, Freedom and Justice</b>
	6(2)	Replace the word “discourage” with “prohibit” The rest remains the same as subsection (2) of section 6 of the 1991 Constitution	The CRC recommends replacing the word “discourage” with prohibit” to strengthen this provision
	6(3)	Same as subsection (3) of section 6 of the 1991 Constitution	
	6(4)	Same as subsection (4) of section 6 of the 1991 Constitution	
	6(5)	All Organs of Government, authorities and public officers shall not- (a) act in any way that is inconsistent with this Constitution or their office; and (b) <b>expose themselves to any situation involving the risk of a conflict between their official responsibilities and private interests</b>	The CRC recommends a revamped and stronger section on corruption is included
Economic Objectives	7	Same as section 7 of the 1991 Constitution	

Social objectives	8 (1)	The social order of the state shall be founded on the ideals of human dignity, freedom, equality and justice.	The CRC recommends following the TRC recommendation and adding “Human Dignity” in line with S 5 (1) above
	8(2)	Same as subsection (2) of section 8 of the 1991 Constitution	
	8(3)	<p>The State shall direct its policy towards ensuring that—</p> <p>(a) every citizen, without discrimination on any grounds whatsoever, shall have the opportunity for securing adequate means of livelihood as well as adequate opportunities to secure suitable employment;</p> <p>(b) conditions of service and work are fair, just and humane and that there are adequate facilities for leisure and for social, religious and cultural life;</p> <p>(c) the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused, and in particular that special provisions be made for working women with children, <b>having due regard</b></p>	<p>The CRC recommends deleting the restrictions “having due regard to the resources of the State at subsection (c) and (d)</p> <p>The CRC recommends replacing “disabled” with “persons with disability” as a more appropriate and modern phrase</p> <p>The CRC asks the people to decide whether to insert a new paragraph (g) which should read as follows-</p> <p>The state shall provide appropriate social security and social assistance to persons who are unable to support themselves and their dependants and parliament shall enact legislation to that effect.</p>

		<p><b>to the resources of the State;</b></p> <p>(d) there are adequate medical and health facilities for all persons, <b>having due regard to the resources of the State;</b></p> <p>(e) there is equal pay for equal work without discrimination on account of sex, and that adequate and satisfactory remuneration is paid to all persons in employment; and</p> <p>(f) the care and welfare of the aged, young and <b>disabled</b> shall be actively promoted and safeguarded.</p>	
Educational Objectives	9 (1)	<p>The Government shall direct its policy towards ensuring that there are equal rights and adequate educational opportunities for all citizens at all levels by—</p> <p>a. ensuring that every citizen is given the opportunity to be educated to the best of</p>	<p>The CRC recommends replacing <b>“disabled”</b> with “persons with <b>disability</b>” as a more appropriate and modern phrase</p> <p>Under paragraph (b) of subsection (1) of section 9 replace <b>“disabled”</b> with <b>“persons with disability”</b>.</p> <p>Under paragraph (c) of subsection (1) of section 9 delete the words “as and when practicable”. The rest remains the same as the 1991 Constitution</p>



		<p>his ability, aptitude and inclination by providing educational facilities at all levels and aspects of education such as primary, secondary, vocational, technical, college and university;</p> <p>b. safeguarding the rights of vulnerable groups, such as children, women and the <b>disabled</b> in security educational facilities; and</p> <p>providing the necessary structures, finance and supportive facilities for education <b>as and when practicable</b></p>	
	9 (2)	<p>The Government of Sierra Leone shall eradicate illiteracy and to this end shall direct its educational policy towards achieving -</p> <p>(a ) free adult literacy programme</p> <p>(b) <b>free compulsory quality education from pre-primary to senior secondary school</b></p>	<p><b>Relating to Education the CRC suggests the following for consideration at validation. The CRC deleted the phrase “as and when practicable.” Replacing the old subsection 9 (2)</b></p> <p><i>Relating to Education the CRC suggests the following for consideration at validation. <b>The question is whether to put a cap on the level at this stage because the revised Constitution must be forward looking.</b> The CRC deleted the phrase “as and when practicable.” Replacing the old subsection 9 (2)</i></p>
	9 (3)	<p>The Government shall promote the learning of indigenous languages and the study and application of modern sciences, foreign languages, technology, human rights, education, conflict management and</p>	<p>The CRC recommends adding the promotion of human rights and conflict management to raise awareness about these issues through learning. It believes the term commerce includes business</p>

		commerce.	
Foreign Policy	10	Same as section 10 of the 1991 Constitution	
Obligations of the Mass Media	11	Same as section 11 of the 1991 Constitution for now.	
Enhancement of National Culture	12	<p>The Government shall—</p> <ul style="list-style-type: none"> <li>a. promote Sierra Leonean culture such as music, art, dance, science, philosophy, education and traditional medicine which is compatible with national development;</li> <li>b. recognize traditional Sierra Leonean institutions compatible with national development;</li> <li>c. protect and enhance the cultures of Sierra Leone; and</li> <li>d. facilitate the provision of funds for the development of culture in Sierra Leone.</li> </ul>	The CRC recommends adding “dress” as a National Culture in line with PTCR
Duties of the Citizen	13 (a)	<p>Every citizen shall—</p> <ul style="list-style-type: none"> <li>a. abide by this Constitution, respect its ideals and its institutions, the National Flag, the National Anthem, <b>National Currency, National pledge</b> and authorities and offices established or constituted under this Constitution or any other law;</li> </ul>	The CRC recommends adding “ <b>National Currency</b> ” and “ <b>National Pledge</b> ” as those which every citizens should respect in line with the PTCR

	14	Add the following new paragraphs (k) satisfy all tax obligations (l) protect and safeguard the environment	The CRC recommends adding these two new sub-sections in line with the PTCR
Principles	16	<b>The principles contained in this chapter are fundamental in the governance of the State</b>	<b>Justiciability:</b> The CRC recommends opening up the possibility of making this Chapter justiciable by this proposed new wording.

## **Theme – The Recognition and Protection of Human Rights**

The CRC reviewed the provisions of Chapter III, **The Recognition and Protection of Fundamental Human Rights and Freedoms of the Individual** of 1991 Constitution.

CRC took particular note of the TRC recommendations, those contained in the PTCR<sup>25</sup> and especially the submissions and recommendations received during the nation-wide public consultation exercise, detailed inputs from Members of the Sierra Leone Parliament including various position papers and expert recommendations. In addition, CRC also greatly benefited from the Human Rights Commission of Sierra Leone invaluable contribution<sup>26</sup>.

It endorsed the proposal of the Human Rights Commission Sierra Leone (HRCSL) to ensure the language in the revised Constitution is clear and straightforward and make it accessible to all Sierra Leoneans<sup>27</sup>

The CRC is grateful for all the contributions from Government Ministries, international and national organisations, CSOs and individuals through the many position papers received relating to various aspects of the human rights chapter. **Numerous position papers reiterated the call by HRCSL for an abolition of the death penalty.**<sup>28</sup>

### **Key Areas**

**All human rights are fundamental**

**For the people to endorse the following list of rights: life, liberty, security of person, the enjoyment of property, the protection of law, the protection of environment, education, health, dignity and shelter**

**The question of abolition of the death penalty will be put to the people during the validation exercise**

**There will be a right to a public apology as well as compensation for unlawful detention**

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<sup>25</sup> PTCR

<sup>26</sup> HRCSL position paper

<sup>27</sup> HRCSL position paper page 5 par 7

<sup>28</sup> HRCSL page 7 par 17

The language was modernised appropriately and section 27 will be redrafted to take account of the recommendations of the PTCR in particular to eliminate discrimination against women.<sup>29</sup>

National security was included as an important consideration in applying limitations and qualifications to certain rights

Chapter III The Recognition and Protection of Human Rights and Freedoms of the Individual			
Chapter	Section		
III The Recognition and Protection of Human Rights and Freedoms of the Individual			<i>The CRC endorses the recommendation in PTCR that the word “fundamental” should be deleted from the marginal note and Title of this Chapter on the grounds that all human rights are fundamental.</i>

<sup>29</sup> PTCR page 31-32 par 60

Human Rights and Freedoms of the Individual	15	<p>The people of Sierra Leone recognise that citizens and person lawfully present within its territory whatever their race, tribe, place of origin, political opinion, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, are entitled to the following inalienable rights -</p> <ul style="list-style-type: none"> <li>(a) life, liberty, security of person, the enjoyment of property, the protection of the law, <b>the protection of the environment, education, health, food ,dignity and shelter;</b></li> <li>(b) freedom of conscience, of expression and of assembly and association;</li> <li>(c) respect for private and family life, and</li> <li>(d) protection from deprivation of property without compensation</li> </ul> <p>the subsequent provisions of this chapter shall have effect for the purpose of affording protection to the aforesaid rights and freedoms, subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.</p>	<p><b>The CRC recommends the adoption of the following text which includes the right to protection of the environment, education, health, food, dignity and shelter.</b></p> <p><b>This is a new text proposed by the CRC to come into the revised constitution taking into account the recommendation of PTCR, various position papers and expert opinions.</b></p>
Protection of Right to Life	16	<p>(1) No person shall be deprived of his life intentionally except in execution of the sentence of a court in respect of a criminal offence under the laws of Sierra Leone, of which he has been convicted.</p> <p>(2) Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases as are hereinafter mentioned, a person shall not be regarded as having been deprived</p>	<p><b>An alternative proposal had been suggested for discussion.</b></p> <p><b>To replace section 16 in the 1991 Constitution with the following wording:</b></p> <p><b>Every person has the right to life. No person shall be deprived of his life</b></p> <p><b>The CRC welcomes the input of the people</b></p>

		<p>of his life in contravention of this section if he dies as a result of the use of force to such extent as is reasonably justifiable in the circumstances of the case, that is to say—</p> <ol style="list-style-type: none"> <li>a. for the defence of any person from unlawful violence or for the defence of property; or</li> <li>b. in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or</li> <li>c. for the purpose of suppressing a riot, insurrection or mutiny; or</li> <li>d. in order to prevent the commission by that person of a criminal offence; or</li> <li>e. if he dies as a result of a lawful act of war.</li> </ol>	<p><b>on the abolition of the death penalty Section 16 of the 1991 Constitution which deals with the right to life was deferred to send to the people.</b></p>
Protection from Arbitrary Arrest or Detention	<b>17 (1)</b>	<p>No person shall be deprived of his personal liberty except as may be authorised by law in any of the following cases, that is to say —</p> <ol style="list-style-type: none"> <li>g) in the case of a person who has not attained the <b>age of eighteen years</b>, for the purpose of his education or welfare; or</li> </ol>	<p><b>The CRC recommends accepting the recommendation in the PTRC to reduce the age from twenty one to eighteen.</b></p>
	<b>17(3&amp;4)</b>	<p>Any person who is arrested or detained in such a case as is mentioned in paragraph (e) or (f) of subsection (1) and who is not released shall be brought before a court of law—</p> <ol style="list-style-type: none"> <li>a. <b>within seven days</b> from the date of arrest in cases of capital offences, offences carrying life imprisonment and economic and</li> </ol>	<p><b>The CRC suggests accepting the reduction of time from ten to seven days and from seventy-two to forty eight hours as</b></p>

		<p>environmental offences; and</p> <p>b. within <b>forty eight hours</b> of his arrest in case of other offences;</p> <p>and if any person arrested or detained in such a case as is mentioned in the said paragraph (f) is not tried within the periods specified in paragraph (a) or (b) of this section, as the case may be, then without prejudice to any further proceedings which may be brought against him he shall be released either unconditionally or upon reasonable conditions, including in particular, such conditions as are reasonably necessary to ensure that he appears at a later date for trial or proceedings preliminary to trial.</p> <p><b>(4) Any person who is unlawfully arrested or detained shall be entitled to compensation and public apology from the appropriate authority or person.</b></p> <p><b>(5) The appropriate authority or person referred to in subsection 4 means an appropriate authority or person specified by law</b></p>	<p><b>recommended in the PTCR.</b></p> <p><b>The CRC endorses the recommendation by the PTCR that a person unlawfully detained should be entitled to a public apology as well as compensation and that the appropriate public authority or person be specified by law. It suggests amending subsection (4) and adding a new subsections (5) to read:</b></p>
Protection of Freedom of Movement	<b>18</b>	<p><b>(3)</b> Nothing contained in or done under authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—</p> <p>a. <del>nothing contained in or done under authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—</del></p>	<p>The CRC recommends adding “National Security” as an important feature in every qualification section in this Chapter. <b>Under paragraph (a) of subsection (3) of section 18 add the words “national security” immediately after the word “defence”.</b></p>
Protection from Slavery and Forced Labour	<b>19</b>	Remains the same as section 19 of the 1991 Constitution	
Protection from Inhuman	<b>20</b>	No person shall be subject to any form of torture or any punishment or other treatment which is inhuman	<b>The CRC recommends deleting section 20 sub section (2) because it is obsolete</b>



Treatment		or degrading.	
Protection from Deprivation of Property	<b>21</b>	<p>1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied, that is to say—</p> <p style="padding-left: 40px;"><b>a.</b> the taking of possession or acquisition is necessary in the interests of <b>defense, national security, public</b> safety, public order, public morality, public health, town and country planning, the development or utilization of any property in such a manner as to promote the public benefit or the public welfare of citizens of Sierra Leone;</p> <p><b>(3) Nothing in this section shall be construed as affecting the making or operation of any law for the compulsory taking of possession in the public interest of any property or the compulsory acquisition in the public interest in or right over property, where that property, interest or right is held by a body corporate which is established directly by any law and in which no monies have been invested other than monies provided by Parliament.</b></p>	<p>The CRC recommends adding “National Security” as an important feature in every qualification section in this Chapter <b>Under paragraph (a) of subsection (1) of section 21 add the words “national security” immediately after the word “defence”.</b> Subsection (3) of section 21 was amended as follows-</p> <p><b>The CRC recommends modernising the language by deleting the following phrase from Section 21 subsection 3 “or by the Legislature of the former Colony and Protectorate of Sierra Leone” because it is no longer relevant.</b></p>
Protection of Privacy of Home and other Property	<b>22</b>	<p>The CRC recommends adding “National Security” as an important feature in every qualification section in this Chapter</p> <p><b>Under paragraph (a) of subsection (2) of section 22 of this chapter add the words “national security” immediately after the word “defence”.</b> <b>Under paragraph (e) of subsection (2) of section 22 of the 1991 Constitution replace the word “handicapped” with “persons with disability”</b> <b>Add a new paragraph under subsection (2) to read as follows-</b></p>	

			<b>for the protection of home, electromagnetic communications, property and privacy parliament shall enact legislation to that effect.</b>	
Provision to Secure Protection of law	23		<b>Under subsection (3) of section 23 add the words “national security” immediately after the word “defence”. Change the age requirement from twenty one to eighteen. Subsection (10) of section 23 of the 1991 Constitution was deleted</b>	<i>The CRC recommends adding “National Security” as an important feature in every qualification section in this Chapter. The CRC also accepts the recommendation made in the PTCR to reduce the age from twenty one to eighteen.</i>
Protection of Freedom of Conscience	24		<b>Under paragraph (a) of subsection 5 of section 24 of the 1991 Constitution add “national security” immediately after “defence”.</b>	<i>The CRC recommends adding “National Security” as an important feature in every qualification section in this Chapter</i>
Protection of Freedom of Expression and the Press	25		<b>Subsection (1) of section 25 of the 1991 Constitution was amended as follows; (1)Except with his own consent no person shall be hindered in the freedom of his expression.  (2)Expression includes the freedom to hold opinions and to receive and impart ideas and information without interference with his correspondence.</b>	<i>The CRC recommends this simplification and modernisation of the wording</i>
Protection of Freedom of Assembly and Association	26		<b>Deferred for further deliberation and Public Consultation</b> 26. (1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to any political party, trade unions or other economic, social or professional associations, national or international, for the protection of his interests.  (2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—	<b>PTCR recommends new Section 26</b> <b>(a) Every Trade Union, employers’ organisations and employers has the right to engage in collective bargaining. National legislation may be enacted to regulate collective bargaining.</b> <b>(b) National Legislation may recognize union security of tenure contained in collective agreements.</b>

		<p>a. which is reasonably required—</p> <p>i. in the interests of defence, public safety, public order, public morality, public health, or provision for the maintenance of supplies and services essential to the life of the community; or</p> <p>ii. for the purpose of protecting the rights and freedoms of other persons; or</p> <p>b. which imposes restrictions upon public officers and upon members of a defence force; or</p> <p>c. which imposes restrictions on the establishment of political parties, or regulates the organisation, registration, and functioning of political parties and the conduct of its members;</p> <p>and except in so far as that provision, or as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.</p>	
		<p><b><i>Very Important Section for Public Comments and Expert inputs before CRC reaches to any conclusion</i></b></p>	
Protection from Discrimination	<b>27</b>	<p>(1) Subject to the provisions of subsection (4), (5), and (7), no law shall make provision which is discriminatory either of itself or in its effect.</p> <p>(2) Subject to the provisions of subsections (6), (7), and (8), no person shall be treated in a discriminatory manner by any person acting by virtue of any law or in the performance of the functions of any public office or any public authority.</p> <p>(3) In this section the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, tribe, sex, place of origin, political opinions, colour or creed whereby persons of one such description are subjected to disability or restrictions to which persons of another such description are not</p>	<p><b>CRC has received numerous position papers from women organizations CSO's and individual. Due to the importance of this section this has been referred to the public for further deliberations before reaching a final decision.</b></p> <p><b>PTCR report proposes entirely a new section on 27 which reads as follow:</b></p> <p><b>New Section 27</b></p>

	<p>made subject, or are accorded privileges or advantages which are not accorded to persons of another such description.</p> <p>(4) Subsection (1) shall not apply to any law so far as that law makes provision—</p> <ul style="list-style-type: none"> <li>c. for the appropriation of revenues or other funds of Sierra Leone or for the imposition of taxation (including the levying of fees for the grant of licenses); or</li> <li>d. with respect to persons who are not citizens of Sierra Leone; or</li> <li>e. with respect to persons who acquire citizenship of Sierra Leone by registration or by naturalization, or by resolution of Parliament; or</li> <li>f. with respect to adoption, marriage, divorce, burial, devolution of property on death or other interests of personal law; or</li> <li>g. for the application in the case of members of a particular race or tribe or customary law with respect to any matter to the exclusion of any law with respect to that matter which is applicable in the case of other persons; or</li> <li>h. for authorising the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists during that period of public emergency; or</li> <li>i. whereby persons of any such description as mentioned in subsection (3) may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society; or</li> <li>j. for the limitation of citizenship or relating to national registration or to the</li> </ul>	<p><b>Proposed amendment:</b></p> <p><b>Section 27 (1) is to be repealed and replaced by the following:</b></p> <p><b>Subject to the provisions of subsections 4, 6 &amp; 7, no law shall make any provision which limits or derogates from any of the human rights provision in chapter three (III) or discriminates against any person in the use and enjoyment of those rights</b></p> <p><b>Sections 27 (2) Subject to the provisions of subsections 4,6 &amp; 7, no person shall be treated in a discriminatory manner by any person acting by virtue of any law or in the performance of the functions of any office or authority in the public or private sector.</b></p> <p><b>Section 27 (3) (a) A person discriminates against another in any circumstances relevant for the purposes of the rights recognized and protected in Chapter 4 if no grounds of race, tribe, sex, religion, place of birth, opinion, colour and disability he treats him less favourably than he treats or would treat another;</b></p> <p><b>(b) as soon as practicable after this Constitution comes into effect, Parliament shall enact legislation to eliminate discrimination and promote equality of opportunity in employment, education, housing and social services;</b></p>
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		<p>collection of demographic statistics.</p> <p>(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) to the extent that it makes provision with respect to qualifications for service as a public officer or as a member of a defence force or for the service of a local government authority or a body corporate established directly by any law or of membership of Parliament.</p> <p>(6) Subsection (2) shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provisions of law as is referred to in subsection (4) or (5).</p> <p>(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) may be subjected to any restriction of the rights and freedoms guaranteed by sections 18, 22, 24, 25 and 26 being such a restriction as is authorised by subsection (3) of section 18, subsection (2) of section 22, subsection (5) of section 24, subsection (2) of section 25 or subsection (2) of section 26, as the case may be.</p> <p>(8) The exercise of any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person under or by this Constitution or any other law shall not be enquired into by any Court on the grounds that it contravenes the provision of subsection (2).</p>	<p><b>Section 27 (4)</b>  <b>Subsections 1 &amp; 2 shall not apply to any law so far as that law makes provisions:</b>  <b>(a) for the appropriation of revenues or other funds of Sierra Leone or for the imposition of taxation (including the levying of fees for the grant of licenses);</b>  <b>or</b>  <b>(b) with respect to persons who are not citizens of Sierra Leone; or</b>  <b>(c) whereby persons of any such description as mentioned in subsection (3) may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society; or</b>  <b>(d) for the limitation of citizenship or relating to national registration or to the collection of demographic statistics; or</b>  <b>(e) with respect to members' only social organizations; or</b>  <b>(f) for the taking by the Government of affirmative action to remedy or ameliorate the effects of past discrimination against any of the groups listed in Section 27 (3);</b>  <b>Section 27 (5) (a) Anyone of the following persons has a right to complain that his right</b></p>
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			<p><b>under Chapter 3 of this Constitution has been, is being or is about to be violated:</b></p> <p><b>anyone acting in his own interest;</b></p> <p><b>anyone acting on behalf of another person who cannot act in his own name;</b></p> <p><b>anyone acting as a member of, or in the interest of, a group or class or persons;</b></p> <p><b>anyone acting in the public interest; and an association acting in the interest of its members.</b></p> <p><b>(b) Subject to the provisions of subsections (4), (6) &amp; (7),. If any person alleges that any of the provisions of Sections 16 to 27 (inclusive) has been, is being or is likely to be contravened in relation to him by any person (or, in the case of a person who is detained if any person alleges such a contravention in relation to the detained person), then, without prejudice to any other action with respect to the same matter which is lawfully available, that person, (or that other person), may apply to the Human Rights Commission for redress.</b></p> <p><b>Provided that any aggrieved party may appeal to the Court of Appeal and ultimately to the Supreme Court from the decision of the Human Rights Commission.</b></p>
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		<p><b><u>However CRC sub-committee has proposed the following suggestions to address discrimination and limitation clauses in section 27</u></b></p> <ol style="list-style-type: none"> <li>1. Every person is equal before the law and has the right to equal protection and benefit of the law.</li> <li>2. Equality includes full and equal enjoyment of all rights and fundamental freedoms</li> <li>3. Women and men have the rights to equal treatments including the rights to equal opportunities in political, economic, cultural and social spheres.</li> <li>4. A person may not be discriminated against on the grounds of race, colour, ethnic origin, religion, creed, social or economic status.</li> <li>5. For the purposes of this section discriminates means to give different treatment to different persons attributable or mainly to their respective description by race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.</li> <li>6. Neither the state nor any person shall discriminate against any other on any of the grounds specified in section 5.</li> <li>7. The state shall take legislative and other measures to implement the principle that not more than two thirds of the members of elective or appointive bodies shall be of the same gender</li> <li>8. Nothing in this section shall prevent Parliament from enacting laws that are necessary to provide for the implementation of policies and programmes aimed at addressing social, economic, and educational imbalances in the Sierra Leonean society.</li> </ol>	
Enforcement of Protective Provisions	28	Same as section 28 of the 1991 Constitution	
Public Emergency	29	<p>Under subsection (13) of section 29 replace the duration “one year” to “three months”</p> <p>Under subsection (6) of section 29 add a new paragraph to read as follows –</p> <p>(i) where a state of public emergency exists the President shall not derogate from the recognised</p>	<p><i>The CRC accepts the recommendation made in the PTCR. It also recommends a reduction in the time from one year to three months before a state of emergency must be ratified by parliament</i></p>

		international requirements pertaining to certain human rights which have been identified in article 4(2) of the United Nations International Covenant on Civil and Political Rights as non-derogatory under circumstances such as the right to life, the prohibition of torture, the principles of legality in the field of criminal law and the freedom of thought, conscience and religion	
		<b><i>The CRC welcomes the feedback from the people on the following proposed new sections</i></b>	
Right to Environment		<p>Everyone has the right</p> <p>(a) to an environment that is not harmful to his health or well being</p> <p>(b) to have the environment protected for the benefit of the future generation through reasonable legislative and other measures that</p> <ol style="list-style-type: none"> <li>i. prevent pollution and ecological degradation</li> <li>ii. promote conservation and secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.</li> </ol>	
Right of the Aged		The state shall provide welfare facilities for the aged such as medical care, housing and transportation.	
Persons with Disability		<p>Persons with disability shall be entitled-</p> <p>(a) to be treated with dignity and respect and to be addressed and referred to in a manner that is not demeaning;</p> <p>(b) to have the right to access housing, educational facilities, medical care, employment, transportation and other required facilities designed to overcome constraints raising from the persons condition</p>	
Right of the Child		A child's best interest is of paramount importance; all means should be taken to protect children from all forms of exploitation and abuse.	
Protection of Socio-economic Rights		<p>Every person has the right-</p> <p>(a) to highest attainable standard of health;</p> <p>(b) to affordable housing and hygienic standards of sanitation;</p> <p>(c) to be free from hunger and to have food of acceptable quality;</p> <p>(d) to clean and safe drinking water;</p>	



		<b>(e) to social security; and</b> <b>(f) education</b>
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## **Theme – The Representation of the People**

The Constitutional Review Committee (CRC) that is charged to review the 1991 constitution thoroughly reviewed recommendations and inputs from the stakeholders concerning Chapter four, the Representation of the people. The justification for this proposal is to enhance the participation of the people in the governance and electioneering process that includes the right to vote and be voted for.

Opinions expressed in the TRC report, PTCR including experts, position papers and public consultations held nationwide were taken into account before the proposed changes. Also given serious consideration were some strong recommendations obtained from a two-week experience sharing visit to Ghana and Kenya during October and November 2015.

The TRC report stated “free, fair and regular elections are central to democracy in Sierra Leone”<sup>30</sup>. The electoral authority, the National Electoral Commission (NEC), bears the main responsibility in building public confidence in the democratic process. NEC must be independent and impartial<sup>31</sup>. The CRC paid particular note to these imperative recommendations.

### **Key issues**

**No change was proposed to the registration of voters**

**Four of the Electoral Commissioners should be based in the four regions to enhance accountability and accessibility.**

**The age limit for electoral commissioners is removed**

**A requirement for electoral commissioners to declare their assets to mitigate corruption was included.**

**The CRC recommends extending the Political Parties Registration Commission mandate to a regulatory body to make it more robust, impartial, independent and effective. The new title will be Political Parties Registration and Regulatory Commission (PPRRC).**

**The CRC welcomes feedback from the validation process regarding whether the PPRRC should work in collaboration with National Electoral Commission (NEC) as in proposed text below**

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<sup>30</sup> TRC Volume 2 Chapter 3 page 154 par 232

<sup>31</sup> TRC Volume 2 Chapter 3 page 154 par 233

<i>The CRC proposed the following for inclusion in the Chapter “the Representation of the People” for validation by the people. Only suggested amendments are included.</i>			
<b>Chapter</b>	<b>Section</b>		
<b>IV the Representation of the People</b>			
Registration of Voters	<b>31</b>	Every citizen of Sierra Leone being eighteen years of age and above and of sound mind shall have the right to vote, and accordingly shall be entitled to be registered as a voter for the purposes of public elections and referenda	<i>After due consideration of position papers received calling for a uniformity of age for registration of voters, the CRC recommends retaining the present position in the 1991 Constitution of Sierra Leone</i>
The Electoral Commission	<b>32 (2)</b>	<b>The members of the Electoral Commission shall be a Chief Electoral Commissioner, who shall be the Chairman, and four other members who shall reside in the regions and shall be referred to as Regional Electoral Commissioners.</b>	<i>The CRC recommends that the regional Commissioners of the Electoral Commission shall reside in the four regions in order to make them more accessible and to decentralise the Commission’s work.</i>
	<b>32 (4)</b>	<b>A person shall not be qualified - To hold office as a member of the Electoral Commission if he is a Minister, a Deputy Minister, a Member of Parliament, or a public officer.</b>	<i>The CRC accepted the recommendation made by PTCR to delete the age limit<sup>32</sup></i>
	<b>32 (7)</b>	<b>Members of the Electoral Commission shall declare their assets in accordance with the relevant law.</b>	<i>The CRC recommends a new section 32 (7) be added to require electoral commissioners to declare their assets to mitigate corruption</i>  <i>The CRC welcomes feedback from the validation process regarding whether the PPRRC should work in collaboration with National Electoral Commission (NEC)</i>
Functions of the	<b>33</b>	<i>No changes</i>	

<sup>32</sup> PTCR page 36 par 63

Electoral Commission			
Political Parties Registration and Regulatory Commission	<b>34 (4)</b>	<b>S 34 (4) The Commission shall be responsible for the registration of all political parties and for that purpose may make such regulations as may be necessary for the discharge of its responsibilities under this Constitution, its functions shall include setting candidate fees for Presidential, Parliamentary and Local Council elections in consultation with the National Electoral Commission;</b>	<i>The CRC recommends that PPRRC shall decide about candidate fees for Presidential, Parliamentary and Local Council elections in consultation with the National Electoral Commission.</i>
Registration and Conduct of Political Parties	<b>35</b>	<i>No changes</i>	
Secret Ballot	<b>36</b>	<i>No changes</i>	
Referendum	<b>37</b>	<i>No changes</i>	
Constituencies and Elections	<b>38</b>	<i>No changes</i>	
Filling of Vacancies	<b>39</b>	<i>No changes</i>	

## **Theme – The Executive**

The CRC reviewed Chapter V, the Executive, of the 1991 Constitution. It took particular note of the TRC report, PTRC recommendations, public submission forms and the public inputs gathered during the consultation exercise including various position papers. CRC also gave serious consideration to ideas and thoughts shared by counterparts in Ghana and Kenya during the experience sharing visit in October-November 2015.

The CRC reviewed issues relating to the Office of the President of Sierra Leone including qualification and election process. In addition, CRC looked into the issues of relationship between different arms of the government i.e. the President and the Parliament, incidents of office, pay and tax and filling of vacancies.

The CRC wants to ensure that the revised Constitution is brought in line with modern constitutions and international best practices pertaining to the executive powers and national responsibilities.

### **Key Issues;**

**The term “Supreme Executive Authority” be changed to Chief Executive (Section 40(1))**

**There should be a fixed date for holding national elections that includes Presidential, Parliamentary and Local government elections.**

**Should there be a fixed date for inauguration of the President?**

**That the President shall not be exempt from personal taxation (Section 48(3))**

**To add a 30 day time limit for the making of a medical report (Section 50(2))**

<b>Chapter V - THE EXECUTIVE</b>			
<b>Chapter V</b>	<b>Section</b>		
<b>The Executive</b>			
Office of President	<b>40</b>	<p><b>(1) There shall be a President of the Republic of Sierra Leone who shall be Head of State, the Chief Executive of the Republic and the Commander-in-Chief of the Armed Forces</b></p> <p><b>(3) The President shall be the guardian of the Constitution and the guarantor of national independence and territorial integrity, and shall ensure respect for treaties and international agreements.</b></p> <p><b>Proviso to S 40 (4) Provided that any Treaty, Agreement or Convention executed by or under the authority of the President which relates to any matter, or which in any way alters the law of Sierra Leone or imposes any charge on, or authorizes any expenditure out of, the Consolidated Fund or any other fund of Sierra Leone, and any declaration of war made by the President shall be subject to ratification by Parliament –</b></p> <p><b>(i) by an enactment of Parliament; or</b></p> <p><b>(ii) by a resolution supported by the votes of not less than one-half of the Members of Parliament; or</b></p> <p><b>(iii) by referendum where the Agreement alters or seeks to alter an entrenched provision of the Constitution</b></p>	<p><i>The CRC recommends deleting the words “supreme executive authority” and replacing it with “ the Chief Executive”</i></p> <p><b>Possible new 40 (3) to go to the plenary/public input</b>  <i>S 40 (3) The Executive authority of Sierra Leone shall vest in the President and shall be exercised in accordance with this Constitution</i></p> <p><i>The CRC recommends accepting the amendment proposed by the Peter Tucker Review Commission Report (PTCR) that the proviso to S 40 (4) should be amended by the deletion of the words “within the legislative competence of Parliament”</i></p> <p><i>The CRC recommends adopting the recommendation of the PTCR to add a new No iii to read-  “by referendum where the Agreement alters or seeks to alter an entrenched provision of the Constitution”</i></p>

Qualifications for the Office of President	41		<i>To stay as it is in the 1991 constitution, but the only proposed change is that the revised constitution should state that Section 50 and 51 as the only prescribed modes of removal. This was suggested to be inserted in Section 54(8)</i>
Election of President	42 (3)	<p>a) <b>there shall be a fixed date for holding national elections</b></p> <p>b) <b>there shall be a fixed date for the inauguration of the elected President</b></p> <p>c) <b>that both Presidential and Parliamentary elections be held concurrently and on a fixed date</b></p>	<p><i>(a)The CRC recommends the following amendment as allowing for a practicable way of conducting elections that is conducive to the stability of a country. It followed a model adopted in other countries like Kenya. In the event of unforeseen circumstances, if this was not feasible, the provisions of the1991 Constitution relating to State of Emergency will allow for the suspension of elections</i></p> <p><i>(b) The CRC welcomes feedback from the people on the proposal that there should be a fixed date for inauguration of the elected President.</i></p> <p><i>(c)The CRC recommends accepting that both presidential and parliamentary elections be held on the same day to save costs.</i></p>
Period which Presidential Elections shall take Place	43		<i>No proposed change</i>
Parliament to make laws for election of President	44		<i>No proposed changes</i>
Presidential	45		<i>No proposed changes</i>

Returning Officer			
Terms of Office of President etc	46		<i>No proposed changes</i>
President in Parliament	47		<i>No proposed changes</i>
Incidents of office, etc.	48 (3)	<b>The President shall not be exempted from personal taxation</b>	<i>The CRC recommends that whilst the Presidential salary and allowances should not be subject to taxation, the President should not be exempt from personal taxation relating to any other income as any other citizen</i>
Vacancy in the Office of President	49 (1)	<b>To be taken to the public along with S 54 (8). This amendments deal with loss of party membership as a means of removing President and Vice President.</b>	<i>The CRC recommends that the question that subsection 49 (1) c should not apply to the President and that this question be taken to the people. The reasoning is that the President has a unique constitutional role in relation to the country.</i>
		<i>'Loss of party membership shall not nullify from office a sitting President'. This maybe a new section 54(9). The rationale for this is, upon taking office the said individuals are public servants of the entire nation and not solely for their political parties on whose ticket they were elected. Intra party politics should not be encouraged to determine the fate of public elected officials.</i>	
Mental or Physical Incapacity	50 (2)	<b>S 50 (2) The Board appointed under subsection (1) shall enquire into the matter and make a report within 30 days to the Speaker stating the opinion of the Board whether or not the President is, by reason of any infirmity of mind or body, incapable of discharging the functions conferred on the President by this Constitution</b>	<i>The CRC recommends a fixed time for the board to decide about report concerning Section 50(2) adding a 30 -day time limit for the making of a medical report.</i>
Misconduct by President	51	<b>This to be taken to plenary</b>	<i>The CRC recommends that the current provisions of removal, which include misconduct, mental or physical incapacity, with its accompanying removal process is sufficient, but further recommends that the revised constitution states <b>"Sections 50 and 51 as the only form</b></i>



			<i>of removal"</i>
Temporary Filling	<b>52 (3)</b>	<b>S52 (3) Where subsection (5) of section 49 applies the President shall appoint a person from his political party to be the Vice President</b>	<i>The CRC recommends a new section prescribing that any appointment of Vice President by the President must be from the same political party is to be taken to the people.</i>
<b>Part II Executive Powers</b>			
Exercise of Authority in Sierra Leone	<b>53</b>		<i>No proposed change</i>
Vice President	<b>54</b>	<i>No proposed changes to subsections 54 (1) – (7) but an additional clause to be incorporated to read: "Loss of party membership shall not nullify from Office a sitting President or Vice president" which may be a new subsection (9) of section 54.</i> <b>This to be taken to the plenary and considered with S 49 (1) above</b>	<i>The rationale for this is, upon taking Office, the said individuals are public servants of the entire nation and not solely for the political parties on whose ticket they were elected. Intra party politics should not be encouraged to determine the fate of public elected officials.</i>
Vacancy in the Office of Vice President	<b>55</b>	<i>A new subsection (e) has been proposed for Section 55 which reads as follows;</i> <b>(e) if he voluntarily ceases to be a member of the political party of which he was a member at the time of election to office.</b>	<i>The CRC recommends accepting the proposal made in the PTCR to add a new section 55 (e) to read "if he voluntarily ceases to be a member of the political party of which he was a member at the time of election to office."</i>
Ministers and Deputy Ministers of Government.	<b>56</b>		<i>No proposed change</i>
Oaths to be Taken by Ministers	<b>57</b>		<i>No proposed change</i>
Ministerial Vacancies	<b>58</b>		<i>No proposed change</i>

Establishment of Cabinet.	<b>59</b>		<i>No proposed change</i>
Collective responsibility	<b>60</b>		<i>No proposed change</i>
Constitution of offices	<b>61</b>		<i>No proposed change</i>
Administration of Ministries	<b>62</b>		<i>No proposed change</i>
Prerogative of Mercy	<b>63</b>		<i>No proposed change</i>
Establishment of office of Attorney General and Minister of Justice	<b>64</b>	<p><b>S 64 (1) There shall be an Attorney-General who shall be the principal legal adviser to the government</b></p> <p><b>(2) The Attorney-General shall be appointed by the President from among persons qualified to hold office as a Justice of the Supreme Court and shall have a seat in the Cabinet</b></p> <p><b>(3) The Attorney General shall be appointed by the President from among persons qualified to hold office as a Justice of the Supreme Court and shall have a seat in Cabinet</b></p>	<i>The CRC recommends accepting the proposal in the PTCR separating both the position of Minister of Justice and the Attorney General</i>
Solicitor – General	<b>65</b>	<p><b>65 (2) The Solicitor-General shall be appointed by the President on the advice of the Judicial and Legal Service Commission subject to the approval of Parliament and he shall, before assuming the function of his office, take and subscribe to the oath as set out in the third schedule to this Constitution</b></p> <p><b>(7) Subject to the provisions of this section, a</b></p>	<i>The CRC recommends some minor amendments to subsection 65 (2) and subsection 65 (7) to raise the retiring age to seventy). There were no other proposed changes to this section</i>

		<b>person holding the office of Solicitor-General shall vacate his office when he attains the age of seventy years</b>	
Director of Public Prosecutions	<b>66</b>	<b>S 66 (10) Subject to the provisions of this section, a person holding the office of Director of Public Prosecutions shall vacate his office when he attains the age of seventy years</b>	<i>The CRC recommends one minor amendment to subsection 66 (10), to raise the retiring age from sixty five to seventy years</i>
Secretary to the President	<b>67</b>	S 67 (2) a <b>To go to plenary</b>	<i>The CRC recommends the removal of the function of principal advisor to the President on public service matters, deleting S 67 (2) a</i>
Secretary to the Cabinet	<b>68</b>	<b>Possible amendments to go to plenary</b>	<i>The CRC recommends removal of the title Head of Civil Service and all functions relating to Civil and Public Service and that these functions be transferred to a new encompassing body set up to deal with these operations (see below)</i>
New body to deal with all public service matters (not yet named)	<b>XXXX</b>	<b>To go to plenary</b>	<i>The CRC recommends that Sections 67 &amp; 68 be amended to transfer all <b>Civil Service, HRMO and Public Service</b> issues to a new body set up to deal with all civil and public service operations towards efficient execution of the machinery of Government and aim of good governance</i>
Secretary to the Vice-President.	<b>69</b>		<i>The CRC recommends that this position be looked in conjunction with sections 67, 68 and XXX above</i>
Power of appointment vested in the President	<b>70</b>		<i>No proposed change</i>
Power of Appointment Vested in the President.	<b>71</b>		<i>No proposed change</i>

Office of Paramount Chief.	<b>72</b>	<i>CRC recommends this is to be removed from Parliament and a new House of Chiefs established. See Chapter 1 &amp; Annex 1</i>	

## Theme – The Legislature

**Two main and very important issues had been considered at length by the CRC, as to the consideration of two alternative proposals would be most appropriate for adoption in Sierra Leone.**

### *ISSUE 1- The Senate*

*The Peter Tucker Commission Report (PTCR) had suggested changing from a unicameral to a bicameral system of government creating two chambers to be known as the **Senate and the House of Representatives***<sup>33</sup>.

*PTCR recommended that the Senate was the appropriate place for the Paramount Chiefs to play a vital role in the administration of Sierra Leone and participation in the national political system in a nonpartisan manner.*<sup>34</sup>

***The CRC took careful note of a full report submitted for its consideration relating to this proposal and disapproved the idea of The Senate based on reasons provided in position papers, public recommendations and expert opinion.***

### **ISSUE 2- The House of Chiefs**

During the consultation process the Paramount Chiefs had made very strong representations, including submitting a detailed position paper, that they do not want to be part of the parliamentary system and that consequently Section 74 (1) (a) of the 1991 Sierra Leone Constitution be revoked<sup>35</sup>.

The Paramount Chiefs specifically stated “that the interest of the Nation and the Institution of Chieftaincy as a non-political institution are better served if Paramount Chiefs are not part of the national legislature<sup>36</sup>.”

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<sup>33</sup> PTCR page 45 par 80

<sup>34</sup> PTCR page 53 par 102

<sup>35</sup> Paramount Chiefs’ position paper (PCPP) page 9 par 15

<sup>36</sup> PCPP page 10 par 18

The Paramount Chiefs strongly proposed that “the establishment of a national House of Paramount Chiefs as the best alternative and appropriate mechanism by which to secure a recognised national voice for advising on matters relevant to tradition, custom and the institution of Chieftaincy<sup>37</sup>.”

**Taking into account and with due consideration of all of the above, the CRC recommends the creation of a House of Paramount Chiefs and that it be enshrined in the Constitution as the alternative that is most appropriate for the future of Sierra Leone.**

The CRC appreciates other position papers and the feedback from the people during the public consultation exercise. It paid great attention to the outcome of the fact-finding mission to Ghana which also has an established working House of Chiefs and the CRC was sufficiently informed in relation to this matter during this mission.

**The CRC recommends the creation of a House of Chiefs to be included in the Local Government Chapter and accordingly the unicameral system will remain in Sierra Leone without the inclusion of the Paramount Chiefs as Members of Parliament**

<b>Chapter VI - The Legislature</b>			<b>Justification for proposed amendments</b>
	<b>Section</b>		
Establishment of Parliament	<b>73 (1)</b>	<b>The shall be a legislature of Sierra Leone known as Parliament and shall consist of the Speaker and Members of Parliament</b>	<i>The CRC recommends removing the president from Parliament. The reason for this is upholding the adoption of a separation of power.</i>
Members of Parliament	<b>74 (1) a &amp; b</b>	<i>CRC recommends that no seats in Parliament should be reserved. In light of the CRC recommendation to remove the Paramount Chiefs from Parliament and to establish a House of Chiefs, S74 (1) a &amp; b should be deleted. The consequence of this is that the current S 74 (2) should be deleted. S 74 (2) should be redrafted to state the minimum number of Members of Parliament</i>	
	<b>74 (4)</b>	Members of Parliament shall be entitled to such salaries, benefits and other allowances as may be prescribed by Parliament	<i>The CRC recommends that there should be a minimum of two consecutive terms of service for qualification for a pension and gratuities</i>
	<b>74 (new)</b>	<i>The CRC recommends that a new provision be made that Members of Parliament should be entitled to a constituency office with staff within their respective constituencies</i> <b>(Policy recommendation to the</b>	

<sup>37</sup> PCPP page 10 par 19

Qualification for Membership of Parliament	75	<p><b>government)</b></p> <p>Subject to the provisions of section 76, any person who—</p> <ul style="list-style-type: none"> <li>a. is a citizen of Sierra Leone (otherwise than by naturalization); and</li> <li>b. has attained the age of twenty-one years; and</li> <li>c. is an elector whose name is on a register of electors under the Franchise and <b>the Public Elections Act 2012</b>, or under any Act of Parliament amending or replacing that Act; and</li> <li>d. is able to speak and to read the English Language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of Parliament,</li> </ul> <p>shall be qualified for election as such a Member of Parliament:          Provided that a person who becomes a citizen of Sierra Leone by registration by law shall not be qualified for election as such a Member of Parliament or of any Local Authority unless he shall have resided continuously in Sierra Leone for twenty-five years after such registration or shall have served in the</p>	<p><i>Also See new Chapter on Citizenship.</i></p> <p><b>75 ( c ) To replace “Electoral Registration Act 1961” with “the Public Elections Act 2012”</b></p>
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		Civil or Regular Armed Services of Sierra Leone for a continuous period of twenty-five years.	
Disqualification for Membership of Parliament	<b>76 (1) a</b>	a. if he is a naturalised citizen of Sierra Leone or is a citizen of a country other than Sierra Leone having become such a citizen voluntarily or is under a declaration of allegiance to such a country; or	<i>For further public and experts inputs</i>
	<b>76 (1) b</b>	<i>a. if he is a member of any Commission established under this Constitution, or a member of the Armed Forces of the Republic, or a public officer, or an employee of a Public Corporation established by an Act of Parliament, or has been such a member, officer or employee within twelve months prior to the date on which he seeks to be elected to Parliament; or</i>	<i>The CRC recommends that teachers and lecturers be excluded from this provision the CRC also recommends reducing the timeframe from 12 months to 6 months.</i>
	<b>76 (1) c</b>	a. if under any law in force in Sierra Leone he is <b>clinically certified</b> to be a lunatic or otherwise declared to be of unsound mind; or	<i>The CRC recommends the word “adjudged” be changed to “clinically certified”</i>
	<b>76 (1) d</b>	a. if he has been convicted and sentenced for an offence which involves <b>misconduct</b> or dishonesty; or	<i>There is a recommendation that this be dealt with by subsidiary legislation and that dishonesty and <b>misconduct</b> be included</i>
	<b>76 (1) h</b>	a. if he is under a sentence of death imposed on him by any court; or	<i>The CRC recommends this subsection should be deleted because it is redundant since the operative words are “for the time being”</i>
Tenure of Members of Parliament	<b>77 (1) k</b>	if he ceases to be a member of the political party of which he was a member at the time of his election to Parliament and he so informs the	<b>(K)</b> The CRC recommends the word ‘ <b>voluntarily</b> ’ should be added before the word “ceases” and with justifiable reasons or evidence which shall be given



		Speaker, or the Speaker is so informed by the Leader of that political party; or	by the Political Party.
	<b>77 (1) I</b>	if by his conduct in Parliament by sitting and voting with members of a different party, the Speaker is satisfied after consultation with the Leader of that Member's party that the Member is no longer a member of the political party under whose symbol he was elected to Parliament; or	<b>(L)</b> The CRC recommends including the word “ <b>persistently</b> ” after “by” and before “sitting”. continue to include the following text after the word ‘party’ and before ‘that’ and “ <b>upon sufficient evidence</b> ” and continue to also recommends “ <b>when declared bankrupt by a competent Court of Law</b> ”
	<b>77 (1) N</b>	<b>if he accepts office as Ambassador or High Commissioner for Sierra Leone or any employment with an International or Regional Organization.</b>	<i>The CRC recommends a change of the word “any position” to “employment”</i>
	<b>77 (1) O</b>	<b>A proposed recall clause</b>	<i>The CRC recommends that a new section be added as a recall clause for non-performing parliamentarians</i>
	<b>77 (2)</b>	Any member of Parliament who has been adjudged to be a lunatic, declared to be of unsound mind, or sentenced to death or imprisonment, may appeal against the decision in accordance with any law provided that the decision shall not have effect until the matter has been finally determined.	<i>The CRC recommends the addition of other socio-criminal offenses for which the death penalty is not a requirement.</i> <b>This is to come to the Plenary</b>
Determination of Question as to Membership of Parliament	<b>S 78 (2) &amp; (4)</b>	The High Court to which any question is brought under subsection (1) shall determine the said question and give judgement thereon within <b>two months</b> after the commencement of the proceedings before that Court.	<i>The CRC recommends bringing the four months down to two months</i>
The Speaker	<b>S 79 (1)</b>	<i>The CRC- sub-committee on the legislature proposes an amendment to the Section 79 (1) “that the Speaker could be elected from within or outside Parliament. He should be qualified to be appointed judge of a superior court of Judicature”</i>	
		<b>Proposed new clause in the constitution</b>	<i>The CRC recommends also that in order to ensure</i>

			<i>fairness and neutrality in the conduct of the business of Parliament a Member of Parliament who is elected Speaker must upon his election resign his seat</i>
	<b>S 79 (2)</b>	<b>The Speaker shall be elected by a resolution in favour of which there are cast the votes of not less than two thirds of <u>all</u> Members of Parliament</b>	<i>The CRC recommends the word “all” shall be added to read</i>
	<b>S 79 (4)</b>	<b>The Speaker shall <u>leave</u> his office -----</b>	<i>The CRC recommends the following wording changing “vacate” to “leave”</i>
	<b>S 79 (7)</b>	The Speaker, or in his absence the Deputy Speaker, shall preside over all sittings of Parliament, <b>except when the President is present.</b>	<i>The CRC recommends a total separation of power from the President in Parliament accordingly the phrase “except when the President is present” should be deleted</i>
Clerk of Parliament	<b>S 82 (1)</b>	There shall be a Clerk of Parliament who shall be appointed by the President acting in consultation with the <i>Parliamentary Service Commission</i> , and shall be responsible for the administration of Parliament.	<i>The CRC recommends the Public Service Commission be replaced with the Parliamentary Service Commission</i>
Sessions of Parliament	<b>S 84 (1)</b>	Each session in Parliament shall be held at such place within Sierra Leone and shall commence at such time as the President may be Proclamation appoint.	<i>The CRC recommends that the <b>President in consultation with the Speaker shall decide the place and time for each session of parliament</b> and that President shall issue a proclamation to that effect. The Parliament should have a parliamentary calendar to take care of parliamentary activities, emergencies excepted.</i> <b>For the plenary- should this be the subject for Standing Orders/ subsidiary legislation</b>
	<b>S84 (2)</b>	There shall be a session of Parliament at least once in every year, so that a period of twelve months shall not intervene between the last sitting of Parliament in one	<i>The CRC recommends rewording the proviso of S 84(2) to ensure that ‘official results must be declared <b>fourteen days after conduct of elections</b></i>

		session and the first sitting thereof in the next session: Provided that there shall be a session of Parliament not later than <b>fourty-eight</b> days from the holding of a general election of Members of Parliament.	<i>and first session of Parliament be held another fourteen days after declaration of results, emergencies excepted''.</i>
Life of Parliament	<b>S84(3)</b>	<b>Remains as in the 1991 Constitution</b>	
	<b>S85(1)</b>	<b>Remains as in the 1991 Constitution</b>	

<b>Sitting of Parliament</b>	<b>S85(2)</b>	<b>Remains as in the 1991 Constitution</b>	
	<b>S86(1)</b>	The President may at any time summon a meeting of Parliament.	<i>The CRC recommends the Speaker of Parliament in consultation with the President should decide a summoning of Parliament, emergencies exempted.</i>
<b>General Elections</b>	<b>S87(1)</b>	<b>See Executive Chapter</b>	The CRC send the question to the people to decide if the 'fixed dates' for Presidential and Parliamentary Elections should be specified. See also

<b>Presiding in Parliament</b>	<b>S88</b>	<b>Remains as in the 1991 Constitution</b>	
<b>Use of English in Parliament</b>	<b>S89</b>	<b>Remains as in the 1991 Constitution</b>	
<b>Unqualified persons sitting or voting</b>	<b>S92</b>	Any person who sits or votes in Parliament knowing or having reasonable ground for knowing that he is not entitled to do so shall be liable to a penalty not exceeding <b>one thousand leones</b> or such other sum as may be prescribed by Parliament for each day in which he so sits or votes in Parliament, which shall be recoverable by action in the High Court at the suit of the Attorney-General and Minister of Justice.	CRC recommends that the penalties were too small and so preferred five million Leones. <b>To be taken to Plenary</b>
Committees of	<b>S93(1)</b>	<i>CRC recommends the formation of a Judicial Committee on appointment made of professionals capable enough</i>	

Parliament	a,b,c,d, e,f,g,h	<b><i>to vet all judicial appointees.</i></b>
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	<b>S96</b>		
<b>Responsibilities of Members of Parliament</b>	<b>S97a</b>	<b><i>CRC recommends that depending on the offence Parliament may decide to institute contempt proceedings or refer the matter to court. This is to avoid double jeopardy</i></b>	
	<b>S97b</b>	<b>The CRC recommends investigation and punishment. As to which sort of punishment this should be taken to Plenary to decide.</b>	
	<b>S99(2)</b>	<b><i>There is a suggestion to delete S 99 (2). (3) (4) &amp; (5) because they refer to defamation claims against Members of Parliament when Parliamentary privilege is designed for entire immunity against defamation claims. Nevertheless S 99 (2) is in place to prevent Members of Parliament from making reckless and malicious statements or speeches about other persons who do not have the right of reply</i></b>	
	<b>S 103 b</b>	<p>Subject to the provisions of this Constitution, no person shall be under any civil or criminal liability in respect of the publication of—</p> <ul style="list-style-type: none"> <li>a. the text or a summary of any report, papers, minutes, votes or proceedings of Parliament; or</li> <li>b. a contemporaneous report of the proceedings of Parliament,</li> </ul> <p>unless it is shown that the publication was effected maliciously or otherwise in want of good faith.</p>	<b><i>CRC recommends deleting “or otherwise in want of good faith”</i></b>
Minister may introduce a Bill	<b>S 106 (4)</b>	<b><i>The CRC recommends that the Clerk should cause the Bill to be published to avoid delay and bureaucratic tendencies -</i></b>	

and be Summoned to Parliament			
	<b>S 106 (5)</b>	No law made by Parliament shall come into operation until it has been published in the <i>Gazette</i> , but Parliament may postpone the coming into operation of any such law <b>and may make laws with retroactive effect.</b>	<i>The CRC recommends deleting “and may make laws with retroactive respect”.</i>
	<b>S 106 (8)</b>	Where a Bill is returned to Parliament at the expiration of the period stated at subsection (7) and the Bill is thereafter passed by the votes of not less than two thirds of <b>all</b> Members of Parliament, it shall immediately become law and the Speaker shall thereupon cause it to be published in the <i>Gazette</i>	<i>The CRC recommends inserting “all” between two thirds and the Members of Parliament. It recommends also that “pursuant” is deleted and also the word “deemed”</i>
	<b>106 (9)</b>	Nothing in this section or in section 53 of this Constitution shall prevent Parliament from conferring on any person or authority the power to make statutory instruments.	<i>The CRC recommends clarity about which bodies have the power to make statutory instruments???</i>
Alteration of the Constitution	<b>108 (2) b</b>	b. the Bill is supported on the second and third readings by the votes of not less than two-thirds of <b>all</b> the Members of Parliament.	<i>The CRC recommend this should two thirds of <u>all</u> Members of Parliament</i>
	<b>108 (4)</b>	Every person who is entitled to vote in the elections of Members of Parliament shall be entitled to vote at a referendum held for the purposes of subsection (3) and no other person may so vote; <b>or</b> the Bill shall not be regarded as	<i>The CRC recommends replacing “and” with “or” plus It also suggested that votes should be 50% of votes cast or two thirds of all the votes cast in the 1991 Constitution</i>

		<p>having been approved at the referendum unless it was so approved by the votes of not less than one-half of all such persons and by not less than two-thirds of all the votes validly cast at the referendum:</p> <p>Provided that in calculating the total number of persons entitled to vote at such referendum, the names of deceased persons, of persons disqualified as electors, and of persons duplicated in the register of electors and so certified by the Electoral Commission, shall not be taken into account.</p>	
	<b>108 (5)</b>	<p>The conduct of any referendum for the purposes of subsection (3) of this section shall be under the general supervision of the Electoral Commission and the provisions of subsections (4), (5) and (6) of section 38 of this Constitution shall apply in relation to the exercise by the Electoral Commission of its functions with respect to a referendum as they apply in relation to the exercise of its functions with respect to elections of Members of Parliament.</p>	<p><i>The CRC recommends there is an addition which states “a referendum should be clearly presented to the public by ensuring there is sufficient time for public review.”</i></p>
	<b>119</b>	<p>There shall be an Auditor-General for Sierra Leone whose office shall be a public office, and who shall be appointed by the President after consultation with the <b><u>Audit Service Commission</u></b>, and subject to the approval of Parliament.</p>	<p><i>The CRC recommends replacing the Public Service Commission with the Audit Service Commission.</i></p>

## **Key Issues**

**The President should be removed from Parliament. The reason for this is so there can be a separation of power**

**There should be a fixed date for Presidential and Parliamentary elections**

**Citizenship qualification for Members of Parliament**

## **Theme – The Judiciary**

The Constitutional Review Committee (CRC) proposes changes to the revised Constitution in the current **Chapter VII - Part I – VI of the Judiciary.**

Opinions expressed by experts, position papers and public consultations held nationwide were considered and taken into account before the proposed changes. Also given serious consideration were some strong recommendations obtained from a two-week visit undertaken by the CRC between October and November 2015 to Ghana and Kenya.

The CRC appreciates the views expressed by the Office of the Attorney General, honourable judges and magistrates, Judicial & Legal Service Commission (JLSC), Law Reform Commission including Sierra Leone Bar Association (SLBA) and the Human Rights Commission of Sierra Leone (HRCSL).

In addition, we would like to thank the United Nations Entity for Gender Equality and Empowerment of Women (UN Women), Sierra Leone Labour Congress (SLLC) including several CSO's for their extensive feedback during this consultation process.

The CRC would like to present the draft recommendations to the public for further inputs and comments.



## Key issues

### Financial autonomy of the Judiciary

The CRC proposes that financial autonomy of the judiciary be given full consideration in the revised Constitution as an inadequate financial resource would have a direct impact on the efficiency of the judicial system in the country. A robust mechanism should be put in place that will allow for the financial autonomy of the judiciary and ensure its independence

### The Supreme Court

The CRC recommends increasing the numbers of Judges in the Supreme Court.

It recommends the three month time limit for the delivery of judgments be extended to include the Supreme Court and that its jurisdiction will extend to appeals from a Court Martial.

<i>THE JUDICIARY</i>			<b>Justification for proposed amendments</b>
<b>Chapter</b>	<b>Sections</b>		
<b>VII The Judiciary</b>			
Establishment of the Judiciary	<b>120</b>	(16) The Supreme Court and every Court established under this Constitution shall deliver its decision in writing not later than three months after the conclusion of the evidence and final addresses or arguments of appeal, and furnish all parties to the cause or matter determine with duly authenticated copies of the decision on the date of the delivery thereof	Remains the same as section 120 of the 1991 Constitution The only change is to subsection (16) and it should read as “ The Supreme Court and every Court established under this Constitution shall deliver its decision in writing not later than three months after the conclusion of the evidence and final addresses or arguments of appeal, and furnish all parties to the cause or matter determine with duly authenticated copies of the decision on the date of the delivery thereof”

Composition of the Supreme Court	<b>121</b>	<p>Subsection (1) of section 121 was amended as follows-</p> <p>The Supreme Court shall consist of –</p> <p>(a) The Chief Justice;</p> <p>(b) not less than <b>seven</b> other Justices of the Supreme Court; and</p> <p>(c) such other Justices of the Superior Court of Judicature; not being more in number than the number of Justices of the Supreme Court sitting as such, as the Chief Justice may, for the determination of any particular cause or matter by writing under his hand, request to sit in the Supreme Court for such period as the Chief Justice may specify or until the request is withdrawn.</p> <p>Subsections (2) and (3) remains the same</p>	<p><i>The CRC endorses the consensus of the majority of public consultations on the appointment of Judges to be increased due to the increase in litigation. There needs to be a correlated system of judicial personnel such as Judges and Magistrates to manage caseloads in the courts to be able to adjudge cases to uphold the integrity of the court system.</i></p> <p><b>The CRC therefore proposes the following composition within the new Revised constitution: - Supreme Court (7); Court of Appeal (9); High Court (15).</b></p>
Jurisdiction of the Supreme Court	<b>122</b>	Remains the same as section 122 of the 1991 constitution	
Appeals to the Supreme Court	<b>123</b>	<p>Subsection (1) of section 123 was amended as follows-</p> <p>An appeals shall lie from a judgement, decree or order of the Court of Appeal <b><u>or from a judgement of a Court Martial</u></b> to the Supreme Court—</p> <p>(a) as of right, in an civil cause or matter;</p> <p>(b) as of right, in any criminal cause or matter in respect of which an appeal has been brought to the Court of Appeal from a judgement, decree or order of the High Court of Justice in the exercise of its original</p>	<p><i>The CRC recommends adding an appeal from a judgement of a Court martial at 123 (1)</i></p> <p><b>An appeal shall lie from a judgement, decree or order of the Court of Appeal or from a judgement of a Court Martial to the Supreme Court—</b></p>

		<p>jurisdiction or from a judgement of a Court Martial; or</p> <p>(c) with leave of the Court of Appeal in any criminal cause or matter, where the Court of Appeal is satisfied that the case involves a substantial question of law or is of public importance.</p> <p>Subsection (2) remains the same.</p>	
Interpretation of the Constitution	<b>124</b>	Remains the same as section 124 of the 1991 constitution	
Supervisory Jurisdiction	<b>125</b>	Remains the same as section 125 of the 1991 constitution	
Powers of Justices of the Supreme Court in Interlocutory matters	<b>126</b>	Remains the same as section 126 of the 1991 constitution.	
Enforcement of the Constitution	<b>127</b>	<p>Subsections (1), (2) and (3) of section 127 remains the same.</p> <p><b>Delete subsection 4.</b></p> <p><b>127 (4) reads: Failure to obey or to carry out the terms of an order or direction made or given under subsection (1) shall constitute a crime under this Constitution</b></p>	<i>The CRC recommends accepting the PTCR to delete 127 (4) in its entirety</i>
Composition of the Court of Appeal	<b>128</b>	<p>Subsection (1) of section 128 was amended and reads as follows-</p> <p>The Court of Appeal shall consist of –</p> <ol style="list-style-type: none"> <li>a. The Chief Justice;</li> <li>b. not less than <b>nine</b> Justices of the Court of Appeal; and</li> </ol>	<i>The CRC endorses the consensus of the majority of public consultations on the appointment of Judges to be increased due to the increase in litigation. There needs to be a correlated system of judicial personnel such as Judges and Magistrates to manage</i>

		<p>c. such other Justices of the Superior Court of Judicature as the Chief Justice may, for the determination of any particular cause or matter by writing under his hand, request to sit in the Court of Appeal for such period as the Chief Justice may specify or until the request withdrawn.</p> <p>Subsections (2), (3) and (4) remains the same.</p>	<p><i>caseloads in the courts to be able to adjudge cases to uphold the integrity of the court system.</i></p> <p><b>The CRC therefore proposes the following composition within the new Revised constitution: - Supreme Court (7); Court of Appeal (9); High Court (15).</b></p>
Jurisdiction of the Court of Appeal	<b>129</b>	Remains the same as section 129 of the 1991 constitution.	
Power of Single Justices of Appeal	<b>130</b>	Remains the same as section 130 of the 1991 constitution.	
Composition of the High Court	<b>131</b>	<p>Paragraph (b) of subsection (1) of section 131 was amended to read-</p> <p>(b) not less than <b>fifteen</b> High Court judges.</p> <p>Subsections (2) and (3) remains the same.</p>	<p><i>The CRC endorses the consensus of the majority of public consultations on the appointment of Judges to be increased due to the increase in litigation. There needs to be a correlated system of judicial personnel such as Judges and Magistrates to manage caseloads in the courts to be able to adjudge cases to uphold the integrity of the court system.</i></p> <p><b>The CRC therefore proposes the following composition within the new Revised constitution: - Supreme Court (7); Court of Appeal (9); High Court (15).</b></p>
Jurisdiction of the High Court	<b>132</b>	<p>Subsection (1) of section 132 was amended and reads as follows-</p> <p>The High Court of Justice shall have jurisdiction in civil and criminal</p>	<p><i>132 (1) CRC recommends deleting the word "original" amending the wording to read</i></p>

		<p>matters and such other <b>original</b> appellate and other jurisdiction as may be conferred upon it by this Constitution or any other law.</p> <p>Subsection (2), (3) and (4) remains the same.</p>	
Claims against the Government	<b>133</b>	Remains the same as section 133 of the 1991 constitution.	
Supervisory Jurisdiction of the High Court	<b>134</b>	The High Court of Justice shall have supervisory jurisdiction over all <b>lower</b> and traditional Courts in Sierra Leone and any adjudicating authority, and in the exercise of its supervisory jurisdiction shall have power to issue such directions, writs and orders, including writs of <i>habeas corpus</i> , and orders of <i>certiorari</i> , <i>mandamus</i> and <i>prohibition</i> as it may consider appropriate for the purposes of enforcing or securing the enforcement of its supervisory powers	Section 134 was amended by replacing the word ‘inferior’ with ‘lower’
Appointment of Judges	<b>135</b>	<p><b>Subsections (1) and (2) of section 135 remains the same.</b></p> <p><b>A new subsection immediately after subsection (2) to read as follows-</b></p> <p><b>A judge who has gone through parliamentary approval for his first appointment as judge shall not be subject to parliamentary approval when appointed to another superior court of judicature.</b></p> <p><b>Subsections (3, (4) and (5) remains the same.</b></p>	<p><i>The CRC took due consideration of the separation of power between the Executive and Judiciary. This can only be implemented through an open and impartial appointment machinery so as to ensure the independence of the judiciary.</i></p> <p><i>The CRC recommends that the Judicial and Legal Service Commission shall subject to the approval of Parliament, appoint the Chief Justice from among persons qualified to hold office as Justice of the Supreme Court</i></p>
Judicial Vacancies	<b>136</b>	Deferred	Deferred for expert and public inputs before taking a decision by the CRC.
Tenure of Office of Judges etc.	<b>137</b>	<p>Subsection (1) of section 137 remains the same</p> <p>Subsection (2) of section 137 was amended as follows-</p> <p>A person holding office as a Judge of the Superior Court of Judicature</p>	<p><i>The CRC recommends that:</i></p> <p><i>S 137 (2) b that the age limit be increased from 65 year to 70 years</i></p> <p><i>S 137 (4) includes gross misconduct or</i></p>

		<p>including the Chief Justice –</p> <p>(a) may retire as a Judge at any time after attaining the age of <b>sixty five</b> years;</p> <p>(b) shall vacate that office on attaining the age of seventy years</p> <p>Subsection (3) remains the same. Subsection (4) was amended as follows-</p> <p>S 137 (4) Subject to the provisions of this section, a Judge of the Superior Court of Judicature may be removed from office only for inability to perform the functions of his office, whether arising from infirmity of body or mind, for <b>gross misconduct</b>, statement misconduct or incompetence and shall not be so removed save in accordance with the provisions of this section</p> <p>Subsections (5), (6), (7), (8), (9) and (10) was deferred to plenary.</p>	<i>incompetence</i>
Remuneration of Judges	<b>138</b>	<p>Subsections (1, (2) and (3) of section 138 remains the same. Subsection (4) was amended as follows-</p> <p><b>A Judge of the Superior Court of Judicature may undertake any job for remuneration if that Judge obtains approval from the Chief Justice, and the job is consistent with his judicial duties.</b></p> <p>A new subsection (5) was added and reads as follows-</p> <p><b>(2) where the Chief Justice disapproves the taking of any job for remuneration under subsection (4), the Judge concerned may appeal to the Judicial and Legal Service Commission.</b></p>	
Oath of Office of Judges	<b>139</b>	Remains the same as section 139 of the 1991 constitution.	

<p>Judicial and legal Services Commission</p>	<p><b>140</b></p>	<p><i>Subsection (1) of section 140 was amended and reads as follows-</i></p> <p>There shall be established a Judicial and Legal Service Commission which shall advise the Chief Justice in the performance of his administrative functions and perform such other functions as provided in this Constitution or by any other law, and which shall consist of-</p> <p>(a) the Chief Justice;</p> <p>(b) the two most senior Justices of the Supreme Court;</p> <p>(c) The most Senior Justice of the Court of Appeal;</p> <p>(d) the most senior judge of the High Court;</p> <p>(e) Solicitor –General;</p> <p>(f) 2 practising Counsel of not less than 10 years standing and nominated by the Sierra Leonean Bar Association and appointed by the President;</p> <p>(g) Director-General of HRMO;</p> <p>(h) Financial Secretary; and</p> <p>(i) 2 other persons not being a legal practitioner to be appointed by President subject to the approval of Parliament</p> <p><i>Subsection (2) remains the same.</i></p> <p><i>A new subsection (3) was added to read as follows-</i></p> <p>The members referred to in paragraphs (b) (,c) and (d) in subsection (1) shall hold office for a maximum of three years and thereafter the next most senior Justice or Judge shall replace him</p>	<p><i>The CRC recommends expanding the composition as follows:</i></p> <p><i>a) the Chief Justice;</i></p> <p><i>(b) the two most Justices of the Supreme Court;</i></p> <p><i>(c) The Most Senior Justice of the Court of Appeal;</i></p> <p><i>(d) the most senior judge of the High Court;</i></p> <p><i>(e)Solicitor General;</i></p> <p><i>(f) 2 practising Counsel of not less than 10 years standing and nominated by the Sierra Leonean Bar Association and appointed by the President;</i></p> <p><i>(g) Director-General of HRMO;</i></p> <p><i>(h) Financial Secretary; and</i></p> <p><i>(i) 2 other persons not being a legal practitioner to be appointed by President subject to the approval of Parliament</i></p> <p><i>140 (3)The CRC recommends that the members referred to in paragraph b,c,d in subsection 1 shall hold office for a maximum of three years and thereafter the next most senior Justice or Judge shall replace him</i></p>
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		<p>Subsection (3) now becomes (4) and should read as follows-</p> <p>Members appointed under paragraphs (f) and (h) under subsection (1) shall vacate office at the expiration of three years from the date of his appointment;</p> <p style="text-align: right;">(b)</p> <p>may be removed from office by the President for inability to discharge the functions of his office whether arising from infirmity of mind or body or any other cause) of misconduct; and</p> <p>(c)shall not be removed from office except in accordance with the provisions of these subsection</p>	
Appointment of Judicial and Legal Officers etc.	<b>141</b>	Remains the same as section 141 of the 1991 constitution.	
Appointment of Court Officers	<b>142</b>	Remains the same as section 142 of the 1991 constitution.	
Fees of Court	<b>143</b>	<i>Section 143 was replaced and reads as follows-</i> Fees and other monies shall be retained by the Judiciary and all fines imposed by and taken by the Courts shall form part of the Consolidated funds	<i>The CRC endorses PTCR and the JSLC that the courts should be self-financing</i>
Official Document	<b>144</b>	Remains the same as section 144 of the 1991 constitution.	
Rules of court committee	<b>145</b>	Remains the same as section 145 of the 1991 constitution.	



## National Development Planning Commission of Sierra Leone

The CRC gave serious thought to a matter that had arisen during visit to Ghana and discussions with counterparts about their experience concerning planning and national development challenges.

In Ghana's own Constitutional Review Commission report, "*From a Political to a Developmental Constitution*" it noted that "during the consultations held by the Commission, there was a widespread, consistent and clear call for the formulation of a national development plan or vision for Ghana.

There was national agreement amongst Ghanaian on the need for a long - term, strategic and legally binding National Development Plan for the nation.<sup>38</sup> This had not initially been identified as an issue by the Ghanaian Commission for consultation but given the "widespread, consistent and clear nature of the calls the Ghanaian Commission devoted Chapter 3 of its report to "National Development Planning"<sup>39</sup>

The CRC would like to present the idea of National Development Planning Commission to the people of Sierra Leone and all relevant national stakeholders to consider the establishment of a constitutionally guaranteed institution to specifically address Sierra Leone's long term development challenges.

1. There should be a Long Term Development Plan, which should be national in character for the following reasons:
  - a. It will ensure that there is a blueprint for national progress and sustainable development.
  - b. It will be the framework for accelerated growth and actual reduction in poverty levels among Sierra Leoneans.
  - c. It will ensure that national development is not centred on sectional political party manifestos; manifestos must rather be aligned to the Plan.
  - d. It will reduce the party politicization of the development process.
  - e. It will serve as a holistic basis for the assessment of the performance of successive governments.
  - f. A development plan, which is national in character, stands a greater chance of being adhered to by successive governments than a sectional policy.

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<sup>38</sup> Report of the Constitution Review Commission, Ghana, Tuesday 20<sup>th</sup> Dec 2011 page 33 3.1 1

<sup>39</sup> <http://www.ndpc.gov.gh/> Quick Downloads-The Basis for a Long –term Development Plan for Ghana page 1 par 2

2. The Plan should be binding on all successive governments for the following reasons:
  - a. This will ensure that projects initiated under a previous government are not abandoned where there is a change of government.
  - b. A binding Plan will ensure that national resources, annual budgets and government programmes, projects and initiatives are directed to realizing the ends of the Plan.
  - c. It will make it possible for any Sierra Leonean to enforce adherence to the Plan by successive governments.
  - d. It will ensure that national resources are not wasted on projects that do not lead to the ultimate good of the nation.
  - e. A binding Plan will lead to the censuring of government officials who act contrary to the Plan.
  
3. The Plan should be region -and district - specific, and not only national in character for the following reasons:
  - a. It will allow for the peculiar needs of the regions and districts to be addressed.
  - b. It will make the district and regions partake in deciding their own needs.
  
4. The Plan should be long term for the following reasons:
  - a. A long- term development framework, incorporating short - term and medium - term goals, accords with international best practice.
  - b. Only long - term planning can deal with the intractable developmental challenges that the nation faces.
  - c. Only a long - term plan may be incorporated into a national Constitution, since Constitutions are crafted as long - term documents.
  - d. A long -term development plan will ensure that the present and the future generations are catered for in development planning<sup>40</sup>

Subsequently Ghana established The National Development Planning Commission (NDPC) under Articles 86 and 87 of the 1992 Constitution as part of the Executive<sup>41</sup> thus making it an advisory body responsible for devising a long-term development plan.

### **Key Issue**

**Should Sierra Leone adopt a National Development Planning Commission and enshrine it within the Constitution; its key function to develop and implement a Long-term Development Plan for Sierra Leone?**

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<sup>40</sup> National Development Planning Commission Website <http://www.ndpc.gov.gh/> Quick Downloads

<sup>41</sup> National Development Planning Commission <http://www.ndpc.gov.gh/about/> Laws and Functions

## **KEY ISSUES FOR CONSENT FROM CRC**

The CRC welcomes feedback from the public and would like to draw attention to the key issues highlighted in this report for consent.

### **Proposed New Chapters**

#### **Local Government and Decentralisation**

To endorse the proposals put forward by the CRC for the content of the new chapter dealing with establishing a robust, independent system of local government based on the principles of good governance

To determine the membership of a council including a provision that no less than 30% of any one gender should be represented

This chapter should also reference how this new local government is to be financed

The CRC recommends the establishment of a House of Chiefs which should be enshrined within the Constitution. It must allow full participation of women

#### **Citizenship**

That there should be a new chapter on Citizenship in the Constitution which includes a definition of citizenship without reference to race or gender

It should detail how citizenship may be acquired and revoked

#### **Lands, Natural Resources & the Environment**

To harmonise the two land law systems currently in place in Sierra Leone ensuring elimination of discrimination

To define natural resources

To establish a National Finance Commission to deal with matters relating to mining payments and licences

To include a provision for the safeguarding of the environment detailing the rights and responsibilities of citizens towards the environment

#### **Information, Communication and the Media**

To endorse the rights and responsibilities of the media

To enshrine the Independent Media Commission within the Constitution

### **Amendments to Existing Chapters**

#### **Fundamental Principles of State Policy**

To remove restricting phrases from provisions relating to health, safety and welfare, medical facilities and educational opportunities to consider if this should be capped or not.

To make all the provisions in this Chapter justiciable

To strengthen the provisions relating to discrimination under “Economic Objectives”

To strengthen the provisions relating to corruption

#### **The Recognition and Protection of Human Rights and Freedoms of the Individual**

To endorse the following list of rights: life, liberty, security of person, the enjoyment of property, the protection of law, the protection of environment, education, health, dignity and shelter

The question of abolition of the death penalty should be put to the people during the validation exercise

There will be a right to a public apology as well as compensation for unlawful detention

The language has been modernised appropriately and section 27 will be redrafted to take account of the recommendations of the PTCR and many position papers, in particular to eliminate discrimination against women

National security was included as an important consideration

#### **The Representation of the People**

Four of the Electoral Commissioners should be based in the four regions to enhance accountability and accessibility.

A requirement for electoral commissioners to declare their assets to mitigate corruption

The CRC recommends making the Political Parties Registration Commission into a regulatory body.

The CRC welcomes feedback from the validation process regarding whether the PPRC should work in collaboration with National Electoral Commission (NEC)

### **The Executive**

The term “Supreme Executive Authority” be changed to Chief Executive

A referendum was added to the list of how significant changes to laws; charges on the consolidated fund or declarations of war proposed by the President could be ratified.

There should be a fixed date for holding national elections and ceremonial inauguration of the President and that Presidential and Parliamentary elections should be held on the same date.

That the President shall not be exempt from personal taxation

### **The Legislature**

The Chiefs will come out of the parliamentary system and have their own House of Chiefs, which must allow for full participation of women

The President should be removed from Parliament. The reason for this is to ensure a clear separation of power

There should be a fixed date for Presidential and Parliamentary elections

Citizenship qualification for Members of Parliament

### **The Judiciary**

- 1 There should be financial autonomy of the judiciary enshrined within the Constitution
- 2 There should be an increase in the provision for the appointment of judges
- 3 There should be a separation of power between the executive and the judiciary

4 In the exercise of Judicial Authority the Court shall promote alternative forms of dispute resolution including reconciliation, mediation, arbitration and other traditional dispute resolution mechanisms. Traditional mechanism shall not be used in a way that is repugnant to justice or morality or inconsistent with this Constitution or any written law.

### **For Consideration**

#### **National Development Planning Commission**

Should Sierra Leone adopt a National Development Planning Commission and enshrine it within the Constitution; its key function to develop and implement a Long-term Development Plan for Sierra Leone?

### **A CHAPTER ON COMMISSIONS AND INDEPENDENT OFFICES**

This Chapter applies to the commissions and the independent offices that needed to be clearly listed and spelled out in the constitution.

The Chapter shall include;

Application of Chapter.

Objects, authority and funding of commissions and independent offices.

Composition, appointment and terms of office.

Removal from office.

General functions and powers.

Incorporation of commissions and independent offices.

Reporting by commissions and independent offices.