



POLITICAL PARTIES REGISTRATION COMMISSION

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078201770



RULING ON THE OBJECTIONS TO PROVISIONS OF THE APC PROPOSED CONSTITUTION.

In compliance with interlocutory Orders of His Lordship Adrian Fisher J dated the 19th April 2021 and 4th August 2021, in the matter intituled MISC/APP No1/21 Alfred Peter Conteh Vs. Dr. Ernest Bai Koroma, Alhaji Osman Foday Yansaneh, The All Peoples Congress Party and The Political Parties Registration Commission, varying his earlier Order of the 26th February 2021, The All Peoples Congress Party (hereinafter called "the APC" or "the Party") inter alia convened an Emergency National Delegates Conference in Makeni, on the 18th and 19th September 2021, for the purpose of adopting the draft Constitution, submitted to it by its Constitutional Review Committee (hereinafter called "CRC").

The Delegates after extensive deliberations, adopted the draft Constitution, with their own inputs therein and submitted same to the Party.

The Party eventually printed the text submitted to it by the CRC and forwarded same to the Political Party's Registration Commission (hereinafter called "the Commission" or "the PPRC"), for publication in the National gazette, in pursuance of Section 24(1)(a) of The Political Parties Act No.3 of 2002.

The Commission accordingly published the draft received from the Party, in Government Gazette No.63 of Volume CXLXII, as Public Notice No 288, on the 19th October 2021. By Public Notice dated the 4th day of November 2021, issuing from the Commission, we invited objections from the public, to provisions of the published draft.

In obvious response to its invitation, the Commission received a total of Eleven objections from members of the public, to various provisions of the published draft, one of them being, a twenty two page eighty eight paragraph objection from Dr. Sylvia Olayinka Blyden, to several provisions of the draft, putting in issue, even the legitimacy of the delegates that converged in Makeni.

The objections were collated by the Commission's Registry and forwarded to the Party, requesting them to respond to same, within two weeks of the date of the forwarding letter.

Hearkening to the said request, the Party responded to each and every objection forwarded to them. The Commission in turn forwarded the Party's Responses to the Objectors and invited them and the Party, to hearings sessions of the objections, at the Commission's Conference room.

The hearings were initially slated for two days and the Objectors segmented into two groups. However, due to the volume of objections, the two days were not enough and eventually, the hearings were conducted in three days.

The Commission having gone through both the objections and the Party's responses with the utmost dexterity and having also attentively listened to both sides during the hearings, is now adequately seised of the issues in contention and thus in an informed position to deliver this Ruling.

The Ruling will broadly take the following format, to enhance its comprehension and appreciation by the Parties and all and sundry that may peruse same.

I. Substance of the objections and the Party's Responses.

ii. The Commission's findings.

iii. Directives of the Commission.

1. SUBSTANCE OF THE OBJECTIONS AND THE PARTY'S RESPONSES.

As already stated, the Commission received a total of Eleven objections from the following Objectors.

Ansu O.Koroma, Wuyata Nyuma, Alhaji Kamara, Oluniyi Robin Coker, Dauda Tombo Bangura, Ahmed Sesay esq, Hon Abdul Karim Kamara, Mariama Alimatu Bangura, Ishmael Alsankoh Conteh, Mariama Kargbo and Dr. Sylvia Olayinka Blyden. Their individual objections and the related Party's responses are now set out hereunder.

ANSU O.KOROMA. He acted in a representative capacity, for and on behalf of the Council of former Councillors. They objected to Articles 15(b) and 16 of the published draft.

Article 15(b), This is the provision that sets out the other Bodies of the Party. The former Councillors objected to their exclusion and that of Former Members of Parliament in that Article, as bodies of the Party.

Article 16. Here, they contended that, the allotment of five delegates per Council, notwithstanding the size of the Council, is unrepresentative of and unfair to Municipal councils that have between 30 to 48 Councillors. They therefore

recommended that, Big Councils with thirty to forty eight Councillors, should be given ten delegates slot each, inclusive of their Mayors/Chairmen. The other Councils with less number of councillors, be allotted five delegates each.

They also advocated for an allotment of ten delegates to Former Councillors, as it is done for former Members of Parliament.

PARTY'S RESPONSE

This proposal was tabled by Councillor Sheka Lamin Dumbuya at the Emergency National Delegates Conference (hereinafter referred to as "the ENDC"), but was rejected by the delegates. If accepted, it will be unfair to sitting Councillors, who are only Represented at the National Delegate Conference Organ of the Party (hereinafter called "the NDC").

WUYATA NYUMA. Her objection is to Article 61 of the draft. She contended that, Article 61 is discriminatory and unconstitutional, as it seeks to exclude other members of the Party, from contesting for the flagbearer ticket of the Party.

PARTY'S RESPONSE:

The objection is vague. Article 61 is not intended to deprive any member of the Party, from contesting for the flagbearership of the Party. It merely stipulates a minimum requirement, as it is the case with all other Party positions

ALHAJI KAMARA. He did not cite any specific provision of the published draft. He is concerned about the draft seeming to confer on every Organ or Body of the Party, the power to make their own Rules and Regulation.

According to him, there is no provision for centralised Rules and Regulations, that would Apply to the Party generally. He asserted that, this will be chaotic and offends Section 24(1)(a) of the Political Parties Act No.3 of 2002.

He therefore recommended that, there should be general electoral, financial and Administrative Rules and Regulations of the Party, that are consistent with the provisions of the final text of the published draft.

PARTY'S RESPONSE:

Not all Organs of the Party have power to make Rules and Regulations. That power is conferred on only specialised Organs and non decision making Bodies of the Party. Such Rules and Regulations are to be developed in line with the Party's Constitution and its aims and objectives and subject to the approval of NAC.

Where there is a national law that requires them to be published in the gazette, they will be so published

OLUNIYI ROBIN COKER.

He is opposed to the contents of Articles 25(c) and 37(c).

Article 25(c). He wants membership of the Elders Council to be elective, one from each of the sixteen electoral District, instead of being appointive, on the invitation of NAC.

Article 37(c). He wants the polling centre executive to be elected, for consistency with the other Organs.

PARTY'S RESPONSE:

Article 25(c). This is a group of highly experienced and respected elders of the Party, with proven records of service to the country and Party. Subjecting them to a vote, will defeat the purposes of their establishment, which are to give general advice, share their experience and assist in fund raising for the Party. The power to mediate disputes is a casual one and does not interfere with disciplinary measures espoused in chapter 6 of this draft.

DAUDA TOMBO BANGURA.

His objection is to the effect that, the wording of Article 16(xii), is at variance with the version agreed on at the ENDC. According to him, the delegates at the Conference agreed that, NAC is to accredit two delegates from Affiliates groups, as Observers to the NDC and not as delegates.

In the published draft, the impression is given that, NAC, does the Affiliation and the accreditation of the two delegates to the NDC, as voting delegates.

He asked that, Article 16(xii) be redrafted, to reflect the version agreed on, at the ENDC.

PARTY'S RESPONSE:

Article 16(xii). The amendment was not an oversight as suggested in the objection. A decision was taken on this, at the Conference. See page 36 of the Rapporteur's Report.

AHMED SESAY ESQ. The first limb of his objection, is on all fours with that of Dauda Tombo Bangura. That the contents of Article 16(xii), is not representative of the version agreed on at the ENDC.

He also contended that, Articles 36(d) and 60(c), are at variance with Articles 45, in that, the former confer the mandate to conduct ward executive elections on the Constituency executive Committee, whilst the latter vests that power on the Internal Elections Management Committee (hereinafter referred to as "the IEMC").

He recommended that, affiliate group members be invited to the NDC as Observers, not as delegates. That the power conferred on the Constituency executive by Articles 36(d) and 60(c) be removed therefrom.

PARTY'S RESPONSE:

Article 16(xii). This objection is untenable. This proposal was put forward by Samson Dumbuya at the ENDC and the delegates resolved to amend the draft Constitution published before the conference. See page 36 of the Rapporteur's Report.

Article 45. the party responded that, this was an oversight and accepted to amend accordingly.

Article 87(f). This will also be amended to ensure consistency by inserting "notwithstanding the provisions of Articles 36(d), 45 and 60(c)".

HON. ABDUL KARIM KAMARA. He objected to the non inclusion of the Parliamentary Caucus in the National Executive Committee (hereinafter called "NEC"), whilst groups like "Disabled" wing and Legal team are included therein. He recommended the inclusion of the Parliamentary Caucus in NEC.

PARTY'S RESPONSE:

Article 22 was carried as drafted at the Conference. Hon Abdul Karim Kamara was at the Conference, but did not make this proposal, even though he was given multiple opportunities to make proposals or seek clarifications. NEC is only an implementing not a decision making Organ. MPs are represented in all decision making Organs.

MARIAMA ALIMATU BANGURA. Her contention is on Article 33(xxii). She questioned the inclusion of the Constituency Chairman in the District executive Committee and the exclusion of the Constituency Women's Leader therefrom. She views this as gender bias

PARTY'S RESPONSE:

The use of the masculine gender includes the feminine. The Chairman could be a woman or a man. The Chairman is the Head of the entire entity, whilst the Women's Leader is the Head of a special group. It was agreed on at the Conference.

ISHMAEL ALSANKOH CONTEH He also acted in a representative capacity, for and on behalf of the former Ministers group. He objects to the non inclusion of that group in Article 15(b), as a Body of the Party and the non allotment of delegates to them, by Article 16, in the NDC, albeit the delegates at the ENDC agreed to allot twenty delegates to them.

In a rejoinder to the Party's response, he averred that their Constitution as a Body of the Party and the allotments of twenty delegates to them, was voted on jointly, with similar proposals from the former members of Parliament, at the instance of the Chairman and Leader, due to the exigency of time.

PARTY'S RESPONSE.

This position paper/proposal was not tabled at the Conference. Only former MPs and Councillors made similar proposals. Dr. Sesay sought clarification, as to why former ministers are excluded. He was asked to formulate a proposal for consideration, but he never did. That notwithstanding, the proposal to add former Officers was rejected.

MARIAMA KARGBO. Her objection is to the creation of what she calls parallel Bodies, to elected Organs/Officials of the Party, by Articles 40,41,42,43,44 and 50. In her view, these Bodies whose functions are akin to those of elected officials and Organs, are created to usurp the functions of those Organs and officials and undermined their mandate and by extension, the relevance of the ordinary members of the Party.

PARTY'S RESPONSE:

The Bodies objected to, are technical and specialised Units, set up to give support to the Party and do not in any way run parallel to the Organs of the Party. Their functions are complimentary to the proper and effective Administration of the Party. Save the Legal team and National Officers, they do not have delegates Status.

DR.SYLIVIA OLAYINKA BLYDEN.

Dr. Blyden segmented her 22 page 88 paragraph objection into Six thematic areas, under the following rubrics

1. Disappearance of Organs and the creation of new ones
2. Spelling, grammatical, syntax and diction objection.
3. Compounding their illegality with proposed Article 87.
4. Militarization and regimentalism of democratic APC Party.
5. Non utilisation of the 5th October 1991 APC democratic Constitution.
6. Contravention of Sierra Leone 1991 Constitution.

FIRST THEMATIC AREA.

DISAPPEARANCE OF ORGANS AND CREATION OF NEW ONES

Under this rubric, she objected to the following:

- a). The removal of the Party's National Committee Organ, created in Article 6.11.1 of the extant Constitution on the grounds that:

It is a very inclusive Organ and intended to connect members across the country, in that it is slated to meet every six months.

It's removal will create a vacuum.

That it is key to the growth, development and wellbeing of the Party. And that, it is removed to cover up for the "defacto" Chairman and Leader's failure to convene meetings of this Organ and to create the impression that, it is irrelevant.

PARTY'S RESPONSE.

The amendment is not intended to replicate everything in the existing Constitution, otherwise there will be no need for an amendment. That the delegates were confined to the contents of the draft Constitution they were ordered to adopt by the Court. Members were given an opportunity to object to any Provision of the draft prior to and during the ENDC.

- b).Change of name of the National Youth League, to the National Young Peoples Congress.

She objected to this name Change on the following grounds:

The name Youth League, is part of the rich history of the APC, as it was drawn from the West Africa Youth League of I.T.A. Wallace Johnson. The name is therefore inspiring. Changing that name to National Young peoples Congress, will eradicate that rich history of the Party.

That the change was effected with absolute disrespect for such proud ideological leanings and disregard for relevant Provisions of the current Constitution. Her position in this regard, was reinforced in a letter dated 17th January 2022, by one Mohamed Uhuru Wurie, who holds himself out as one of the founding members of the Party's Youth League.

She also objected to the definition of Young Person in Article 28(a) of the draft, in that, the definition only states a lower age limit of 18 years, with no upper age limit. This she submitted, is loose and susceptible to abuse. It leaves room for people above forty to become members of that Organ and thereby impede the growth of young persons in the Party and renders the Party very unattractive to them. That she maintained, is demotivating to the young.

She recommended that, "a young person" be defined as a person between the ages of 15 to 35, praying aid to the United Nations' guidelines and the Truth and Reconciliation Report.

PARTY'S RESPONSE.

Though there is a youth policy, there is no definition of youth in Sierra Leone. This was infact, what informed the name Change. That because of the slow pace of personal growth in Sierra Leone, a person is still considered young even after thirty five years and one can not contest for the presidency till you are forty years. And that Article 28(c) empowers the NYPC to make its own Rules to govern its activities subject to the approval of NAC.

c).Still under this rubric, she objected to Article 44 that creates an Information Communication and Technology (ICT) Unit (hereinafter called "the ICT Unit"). She Contended that, the functions ascribed to this Unit, are the same as those apportioned to the National Publicity Secretary. Therefore if headed by a separate person from the National Publicity Secretary, there is bound to be conflict.

This overlap could also be used to undermined and marginalised the Publicity Secretary, an elected official.

She recommended that, the National Publicity Secretary heads both the ICT and media Units.

PARTY'S RESPONSE.

Because of the technical and sensitive nature of the materials this Unit will be handling, including the Party's database, archives etc, it is but appropriate that,

the head of the Secretariat heads this unit. The Publicity Secretary will invariably be part of this unit. The ENDC considered and adopted this Article.

d).Article 45. Here she objects to NAC appointing members of the IEMC. She recommends that, they be elected at the NDC. According to her, this will strengthen their legitimacy and general acceptance.

PARTY'S RESPONSE.

This Body is a technical body that is constituted by competent, qualified and experience persons. It should not therefore be subjected to a popularity test, as that may deprive it of the requisite competencies. Its work is continuous and precedes the NDC, that is convened once every three years.

e).Article 46. Her contention here is that, the mandate of the National Elections Coordinating Committee (hereinafter called "NECC"), conflicts with that of the National Organising Secretary and his deputy, espoused in Article 55(c)(I,ii,iv,v &vi). There functions are almost the same and thus a potential for conflict.

PARTY'S RESPONSE

The functions of the two do not overlap. NECC develops the Party's strategies for National and local Council elections, whilst the National Organising Secretary implements such strategies, under the supervision of NECC. The duties of the National Organising Secretary are not limited to elections only, whilst those of NECC are. This was considered and adopted by the ENDC.

f).Article 50. She is concerned that, the membership and functions of this Organ are undefined. Also the meaning of auxiliary Unit is undefined.

PARTY'S RESPONSE.

This is a Unit consisting of male and female volunteers of the Party, that supports the Secretariat in executing its day to day Administration of the Party. They clean the Party's Office and run errands

The Party is not averse to providing a definition in the interpretation Section.

SECOND THEMATIC AREA.

SPELLING GRAMMATICAL, SYNTAX AND DICTION OBJECTION.

Her objections under this subhead are as follows:

a). Article 1 the use of an apostrophe s in the Party's name. According to her, the Party is "THE ALL PEOPLES CONGRESS" NOT "ALL PEOPLE'S CONGRESS".

PARTY'S RESPONSE

The Party conceded to that objection, albeit with a very preposterous reason for such serious inadvertence.

b).Article 7(c). the absence of the letter "s" in the word "right".

PARTY'S RESPONSE Conceded.

c).Article 14(b). The Organogram set out therein, read intandem with Article 31(e) is wrong. The Diaspora is a Region and therefore should not be a stand alone organ in the Organogram.

PARTY'S RESPONSE:

The Diaspora is not a region within Sierra Leone and it will not be right to class them together. They are given powers equivalent to a Region, due to their importance and role. They are therefore a stand alone Region. At the hearing, the Party conceded.

d). Articles 15(b)(xi),16(viii),19(xviii) and 48. She objects to the use of what she described as a pejorative adjective "Disabled", to describe Persons with Disability (hereinafter called "PWD's"). It is nationally and globally unacceptable and against contemporary trends.

PARTY'S RESPONSE:

This was an issue that was debated extensively by the drafters, but they decided to use this term in line with the "National Disability Act". The ENDC considered and adopted it.

THIRD THEMATIC AREA.

COMPOUNDING THEIR ILLEGALITY WITH ARTICLE 87.

This is the Article that makes provision for transition, after the published draft shall have become effectual. She is fiercely opposed to the maintenance of existing structures, during the transition period, even with modifications, adaptations, qualifications and exceptions, as may be necessary to bring them into conformity with the proposed Constitution, until the first NDC and/or other relevant Conventions are held.

She raised issues with Articles 87(b,c&d), existing Offices and Officials to continue to subsist, until new Officials are elected under this proposed Constitution and that such existing Officials shall be deemed to have been appointed and subscribed to the Oath under this Constitution.

87(e). The extant NAC to fix dates for the first NDC and other Conventions. She contended that, the existing NAC is illegally constituted and therefore illegitimate, to perform such role.

87(f), NAC to appoint an interim IEMC. For the same reason as in 87(e), she is against this.

PARTY'S RESPONSE. The Party takes the strongest objection to her describing the Executive as illegal. The objection is unfortunate and should be discountenanced, as the current executive has not been so declared by a Court of Competent jurisdiction or other authorised Statutory Bodies. The ENDC discussed and made revisions and adopted this Article in its present form.

FOURTH THEMATIC AREA.

MILITARIZATION AND REGIMENTALISM OF DEMOCRATIC APC.

Here, she objected to the following provisions of the published draft.

a).Article 12(b)(iv). It infringes members right to dissent and thus contravenes Chapter three of the 1991 Constitution.

PARTY'S RESPONSE:

This objection is unfounded. What is an institution, if its members do not abide by its decisions. Membership of the Party is voluntary, if a person is not willing to abide by its collective decisions, he or she has the option not to join. This provision does not violate the Constitution.

b).Article12(c). She argued that, this Article restricts members' right to have recourse to the Courts, in enforcement of their rights.

PARTY'S RESPONSE: This does not in anyway oust the jurisdiction of the Court. It only provides for the exhaustion of internal redress mechanism, before a member could have recourse to the established external avenues.

c).Article 13(b). She objects to the suspension of members prior to investigation. This according to her, could be used to deny members the right to contest and will subject members to perpetual fear of being suspended on cooked up charges. She recommends that, a member should be suspended only on the commencement of investigation.

PARTY'S RESPONSE:

Suspensions do not happen prior to the commencement of investigations, thus the use of the word pending. The decision to Suspend is on the recommendation of the disciplinary Committee and not the Executive. Another safeguard is Article 70((b), that provides a timeline of 60 days, for the hearing and determination of all disciplinary matters.

d).Article 13(d). She objects to the expulsion of members that contest as independent candidates, from the Party. In her view, this is an infringement on members' political rights.

PARTY'S RESPONSE:

Contesting as an independent candidate against the Party's candidate, is an indication of rivalry. Independent candidates contest under different symbol other than the Party's. Forfeiture of membership is subject to decision of the disciplinary Committee.

e).Article 15(b)(xv). This in her opinion, is inconsistent with Article 17(g), that already confers those powers on the NDC, to create Committees.

PARTY'S RESPONSE:

This is to handle promptly urgent issues that might arise, due to the unpredictable nature of politics. These are matters that can not wait for the NDC that is convened once every three years. It is the NDC that has the power to determine the type and composition of the standing Committees to be setup by NAC. See Article 17(h).

f).Article 16(v). The fifteen delegates allotted to the veterans, to be drawn from the Regions and elected by the veterans.

PARTY'S RESPONSE:

This Article does not conflict with the Constitution and was adopted by the delegates.

g).Article 16(ii,iii,iv,vii,viii,ix,x&xi). To provide that those delegates representing Bodies/Organisation, should be elected by the Bodies/Organisations they represent in the NDC, in compliance with Section 35(2) of the 1991 Constitution.

PARTY'S RESPONSE:

Point taken and will be addressed in their respective Rules and Regulations.

h).Article.16(xii). This confers tremendous powers on NAC and susceptible to abuse. She recommends that, all such Affiliates Bodies be first be approved by the NDC.

PARTY'S RESPONSE:

Affiliation is a membership issue and generally membership issues are dealt with administratively.

i).Article 20(c). the Objection is to NAC making Rules and Regulations, as according to her, this could be misused by NAC to "bark out" Orders.

She recommends that NAC proposes the Rules to NDC for its approval.

PARTY'S RESPONSE:

NAC develops Rules, the NDC has the exclusive mandate to develop the overall policies and programs of the Party. Rules and Regulations done by NAC, are to give effect to those policies.

j).Article 20(e). NAC should not create, but to recommend the creation of Organs, Committees, Institutions, Commissions and enterprises to the NDC.

PARTY'S RESPONSE:

Agree to delete the power of NAC, to create Organs, but the others are necessary for the effective functioning of the Party, especially so when the NDC meets only once, in three years.

k).Article 20(j). Outsourcing the powers of the NDC to NAC, in special and emergency situations and on a quorum of half its membership is undemocratic. She recommends that, in every such situation, the quorum be increased to two thirds of the membership of NAC, to cloak them with the overwhelming powers of the NDC

PARTY'S RESPONSE:

It may be impossible to get the two thirds quorum, if the emergency situation is such that prohibits the gathering of large number of people, like the ebola outbreak,covid-19 pandemic, etc.

l).Article 21(f). Quorum to be increased to two thirds.

PARTY'S RESPONSE:

Same response as in Article 20(j).

Article 21(g).The averment here is to the effect that, the Article is ambiguous and should be made clear. The one third is it of the membership present at the meeting or the entire membership.

PARTY'S RESPONSE:

For clarity sake, the Party agrees to add the phrase "of those members present"

m).Article 22. She objects to the removal of the National financial Secretary and Treasurer, from NEC. She recommends that those two National Officers should be members of NEC, for transparency and accountability.

PARTY'S RESPONSE:

This was adopted at the Conference. At the hearing however, the Party agreed to incorporate the two National Officers in issue, and all other National Officers in NEC.

n).The Objector is also averse to what she calls, the frivolous use of the phrase "are binding". in Article 34 and asked that, it be expunged from all the provisions it appears in the draft.

PARTY'S RESPONSE:

Decisions of an institution must be binding on all its members, for the purposes of cohesion and discipline. Once you voluntarily become a member, you should be bound by the collective decisions of the institution.

o).Article 25. She objected to members of the Elders Council being chosen by NAC. She suggests that, they should be chosen from lists submitted to it by each Organ and approved by NDC and they should have a life tenure, as they are the conscience of the party.

PARTY'S RESPONSE:

The Party does not subscribe to a life tenure,as it will bar the inclusion of new elders. Also nomination from each Organ, will defeat the criteria set out for their appointment. The Party is however not averse to the nominees of NAC, being approved by NDC.

p).Articles 26(c),27(c),28(c) & 48. Rules and Regulations made under these provisions to be approved by the NDC, a broader organ, instead of NAC.

PARTY'S RESPONSE:

These Articles were voted for at the ENDC.

q).Article 51.The same reason she objected to Article 16(xii), it confers tremendous powers on NAC and susceptible to abuse. She recommends that, such Affiliate Bodies be confirmed by the NDC instead of NAC.

PARTY'S RESPONSE

See response to Article 16(xii) above.

FIFTH THEMATIC AREA

NON USAGE OF THE 5TH OCTOBER 1991 DEMOCRATIC APC CONSTITUTION.

She objects to the non utilisation of the 5th October 1991 Constitution of the Party. To her, that Constitution is democratic, in that, it was adopted in a democratic dispensation and therefore more consultative. That Article 17 of the 5th December 1995 Constitution confirmed the interim nature of the 22nd July 1995 Constitution. That the 5th December 1995 Constitution is an interim Constitution, due to the experience of the people of Sierra Leone at the time. That Constitution was "hammered" out, in a state of repression, under a Military Junta, necessitated by the ongoing transition then, from military to civilian rule.

The 5th December 1995 Constitution, being an interim Constitution, the APC ought to have reverted to the 5th October 1991 constitution, after the NPRC had become defunct, as it was adopted by a fully constituted APC delegates conference.

She further objected to Article 29(d),32(d) and 34(d),on the bases that, they reduced meetings of those Organs they relate to, to once every three years. The convention and the avenues to be announced by the National Secretary General and not the Chairmen of those Organs i.e constituency, District and Regional executive Committees.

PARTY'S RESPONSE:

The 5th December 1995 Constitution, is the existing Constitution of the Party. This was declared in the 2004, by the Supreme Court in its judgement in SC3/2002.

SIXTH THEMATIC AREA.

CONTRAVENTIONS OF THE SIERRA LEONE 1991 CONSTITUTION

The Objector's contention under this limb of her objection, is to the effect that, most of the delegates that constituted the ENDC are illegitimate and were therefore devoid of any authority to adopt the published draft, for and on behalf of the APC Party in that:

a).The 5th December 1995 Constitution of the Party is assertive that, National and Regional positions of the Party are elective not appointive. However since the 2005 NDC in Port Loko, there has been no other comprehensive elections of the National Officers, aside from the Chairman and Leader and his deputy, as required by Article 6.14.1(i&iii) of the said 1995 Constitution.

The non election of the National Officers and the repeated extension of the tenure of the Chairman and Leader and his deputy, impugned on their legitimacy.

b).All five Regional Executive Committees, have held over their offices, for the past eight years or more, in contravention of Article 6.7.3 of the extant Party Constitution, thus illegitimate.

c). By Article 6.10.1.1 of the said existing Party Constitution, Officials below the Region can be appointed, but for a term not exceeding three years.

Therefore all Sixteen District and one Hundred and thirty two constituency Executives are illegitimate, as they have all been unlawfully handpicked by the "defacto" Chairman and Leader, for the past eight years or more.

d).The women's Congress and the National Youth league, were also arbitrarily selected by the "defacto" Chairman and Leader in 2017, with no recourse to elections.

e).NAC as presently constituted are illegitimate, as they have not been endorsed by the NDC, as provided for in Article 6.9.3(iii)(d) of the 1995 Party Constitution.

f). All members of the National Committee (aside from the MPs) and the National Executive Committee are illegitimate, as they were arbitrarily selected by the "defacto" Chairman and Leader.

g).The selected members of the Diaspora Region are illegitimate, as their selection was done by proxies of the "defacto" Chairman and Leader.

By reason of the foregoing, she averred that, about Ninety percent of the delegates that converged in Makeni are illegitimate, as the respective tenures of the offices they purported to have acted on, had long expired and processes of their renewal are ultra vires the Party's Constitution and thus flawed.

The Court Orders that sanctioned the convening of the ENDC, were made per incuriam, as the Party that applied for same, did not make full and frank disclosure of the available facts. In breach of their duty to the Court and the bench, Counsel representing the Party, misled His Lordship.

She concluded that, Government Notice No 261, published in Government Gazette No.45 of Volume CXLVIII, on the 8th August 2017, is fraudulent, as it attempted to irregularly amend the 1995 Constitution of the Party. It purported to render hitherto elective National and Regional Offices elective. She accused the Commission of colluding with the leadership of the Party, to perpetrate this fraud, against the interest of the general membership of the Party.

PARTY'S RESPONSE.

The objection is untenable, as the ENDC was convened on the Orders of a legally constituted Court. A Report was submitted to the same Court and it has ruled on the regularity of the convention, when Ruling on a contempt proceedings brought before it.

THE FINDINGS OF THE COMMISSION.

The Commission after perusal of both the Objections and the Party's responses to same and after hearing the arguments proffered by both sides, in support of their respective positions during the three days hearings sessions, came to the conclusions/findings set out hereunder.

It is pertinent to state from the onset that, our conclusion are informed on two principal criteria namely:

- a).Consistency of the Provisions of the published draft, with the 1991 National Constitution and other existing laws
- b).Protection of the mandate of the true owners of the Party, the Ordinary Members. Any conflict with these two, expressed or implied, is a nullity ab initio.

Also we observed that, one position that permeates all the Party's responses to the Objections, is the contention that, an issue was debated and adopted at the ENDC. This with the utmost respect to the Party, is simplistic and at best evasive.

On a presumption of regularity, all of what is contained in the published draft, were debated and agreed on, by the delegates. The very purport of Section 24(1)(a) of the Political Parties Act No.3 of 2002, is to avail the public (particularly members of the party), the opportunity to search the bonafides of the delegates at the Conference, with a view to ascertaining, whether or not they acted in concord with the interest of those they represented at the Conference. The fact that a provision in the published draft objected to, was adopted at the

Conference, is therefore a non issue and does not without more, negate the right of members of the public to object to same.

The foregoing guiding premises having been established, we will now proceed to outline our findings, on each of the objections received.

ANSU O. KOROMA.

The Commission initially took a dim view of this objection, due to the platform under which they came, "Council of former Councillors of Sierra Leone". This is an inter Party Council, the membership of which cuts across party lines. It was therefore absurd that, such a Council with for instance SLPP and other Parties membership, could seek to become an outfit of the APC Party, with representation at its NDC.

When this anomaly was brought to the attention of the Objectors by the Commission, the Party was magnanimous enough to allow the group to resubmit their objection as "Council of former APC Councillors", which they did.

At the hearing, it was established that, there is a clear nexus between this group and the Party, as they were elected to the various Councils, on an APC ticket. Consequently, the Party acceded to their request for inclusion as Body in Article 15(d) and allotment of delegates status to them, in Article 16. Their objection is therefore sustained.

WUYATA NYUMA.

The Commission notes that, the five year continuous membership requirement set, is not peculiar to this Article 61 of the draft or the APC as Party. Similar provisions are contained in Article 60(e to h) inclusive of the draft. For instance, for election as a National or Regional Officer of the party like the flagbearer, is five years continuous membership and for the District or Constituency is two years continuous membership.

Other Parties have more stringent requirements in their Constitutions. For example, Article 17(f) read intandem with Article 6(B)(1) (a&b) of the SLPP 2020 Constitution provides for five years continuous membership of the party in the category of grand chief patron.

Of especial importance to the Commission however, is the fact that, such requirements tend to the Aspirant's pedigree in the Party. It forestalls the use of corrupt influence and power of money in politics. Positions and symbols of the

Party are to be awarded to members of proven records of commitment and service to the Party. Such committed and long serving members' ambition for such positions and symbols, should not be stifled by the fiscal might of new Registrants.

The Party at the hearings and in a bid to make that provision more reflective of the intendment of the delegates, requested that, the phrase "leading up to the particular election he or she is contesting", be added to it.

This objection is accordingly overruled.

ALHAJI KAMARA.

The Commission agrees with the Objector that, the draft seems to confer on every Organ and Body, the power to make their own Rules and Regulations. This in our opinion, is not only a recipe for chaos, as there will be a proliferation of Rules and Regulations, but will also subject the Party to undue hardship, as all such Rules and Regulations will be gazetted and thus subject the Party to the crucibles of Section 24(1)(a) of the Political Parties Act No.3 of 2002 severally.

At the hearings, the Party acknowledged these concerns and agreed to make the necessary amendments. The objection is therefore upheld.

OLUNIYI ROBIN COKER.

The Commission notes the Party's response that, membership of the Elders Council should be based on experience and proven record of service to the Party and not on popularity test. We absolutely agree with this response.

Also during the hearing, the Party agreed to transform the polling centre executive Committee, to a Body and not an Organ of the party, due to the huge and fluctuating numbers of polling centres and fiscal expense in conducting elections in all those numerous polling centres. The objection is therefore generally sustained.

DAUDA TOMBO BANGURA.

There was no common position between the Party and the Objector, respecting the contents of Article 16(xii) and what was agreed at the Conference in that behalf. However, there was a consensus that, the issue of allotment of delegates be given a second look.

Our attention was particularly drawn to the brilliant arguments of both Dr Sylvia Olayinka Blyden and Ambassador Dr. Osman Foday Yansaneh. Dr Blyden asserted that, the indiscriminate allotment of delegates to Affiliate groups, is a calculated ploy to undermine and circumvent the mandate of ordinary members of the Party, vested in the Party's elected Organs and Officials. She is of the considered view that, People should grow in the party through its Organs and not to meander their way to unmerited prominence in the Party, under the obnoxious cover of Affiliate groups, at the detriment of hardworking and dedicated members that have toiled for its growth and wellbeing.

Ambassador Yansanneh countered that, accrediting members of Affiliate groups as delegates, is a membership drive, intended to attract the membership of those groups to the Party. Both arguments are persuasive in their own right.

The Commission on its part, has not had a very pleasant experience with the issue of the accreditation of delegates, to Affiliates groups. We have seen intra Party elections subverted, by the unscrupulous use of Affiliates groups delegates. This is a very a polarising issue between the membership of Political Parties and their leadership. As an oversight Body, we have a responsibility to Checkmate this menace.

However, there was a seeming consensus that, delegates be allotted to Affiliate groups. The issue that remained contentious was the number of delegates to be accredited to such groups and who does the accreditation.

The Party advocated for a ten percent of the total number of delegates, whilst a corresponding Objector, Ahmed Sesay esq supported by the Chairman of the CRC, Ibrahim Sorie esq, recommended a definitive number of not more than fifty. Dr Blyden maintained her position that, Affiliate groups should only be given observer status, but if notwithstanding her argument, the Commission is still minded to accord them delegates status, they must not exceed a total of five delegates.

The Commission is seised of these positions and will give directives that are protective of the ordinary members' say, on the stewardship of their Party. The objection is therefore generally upheld.

AHMED SESAY ESQ.

This first limb of his objection is on all fours with that of Dauda Tombo Bangura and thus generally sustained on the same grounds.

He further objected to Articles 36(d) and 60(c), being that, they are in conflict with Article 45 of the draft. The former confer the power to conduct ward executive elections, on the Constituency executive, whilst the latter confers that power on the IEMC.

The Party conceded to that objection and agreed to amend.

The Party also conceded to his objection to Article 87(f) and agreed to insert the phrase "notwithstanding the provisions of Articles 36(d),45 and 60(c).

HON ABDUL KARIM KAMARA.

The NEC is rendered functus and a mere poodle to NAC, which seems to be the omnibus Organ of the Party, that superintends over all the other Organs and does everything, inclusive of the functions of the NDC.

The foregoing notwithstanding, since NEC is the implementing Organ of all decisions of NAC and the parliamentary Caucus is represented in NAC, it flows therefore that, the parliamentary Caucus should be represented in NEC, to monitor the implementation of the NAC decisions they participated in making. The objection to their exclusion in Article 22, is therefore upheld.

MARIAMA ALIMATU BANGURA.

The Commission agrees with the Party that, the Constituency Chairman could be a woman or a man. The Constituency Chairmanship of the party is open to both genders, there is therefore no gender inequality in Article 33(xxii). The objection is accordingly discountenanced.

ISHMAEL ALSANKOH CONTEH

We agree with the Objectors that, this proposal for the inclusion of former Ministers group as a Body in Article 15(b) and allotment of delegates to them in the NDC, was indeed tabled and discussed at the ENDC. We arrived at this conclusion due to the inconsistency in the Party's response to this objection. At one moment, they claimed the proposal was never tabled at the Conference, at another, they say the proposal was rejected by the delegates. How can a proposal not table at the Conference, be rejected by its delegates.

The above conclusion notwithstanding, our minds are averted to the fact that, Ministers are appointed and hold offices at the pleasure of one man, the President. Also Ministerial offices are National offices and the Occupants are tasked with national duties. It is therefore functionally inappropriate, for such offices (past or present), to overtly affiliate with a Party.

Much as we appreciate the professed contribution of this group, to the welfare of the Party, we however fail to see the vocational connection (at least in theory), between former Ministers and the Party. It is presumed that, His Excellency the president at any given time, chooses his ministers, on related competencies and not on partisan basis, because of the National character of Ministerial functions. We are thus constrained to dismiss this objection.

MARIAMA KARGBO.

We have critically examined the provisions of the Articles objected to ie 40,41,42,43,44,and 50 of the published draft.

Having regards to the internecine squabbles the Party is enmeshed in at the moment and the resultant waning of membership confidence in the partisan goodwill of the current leadership, the Commission appreciates the fears expressed by this Objector.

We agree with the Objector that, there are striking similarities between the functions apportioned to these bodies and those of elected officials. For instance, the functions of the legal team set out in Article 40, are similar to those of the National Legal Officer, encapsulated in Article 55(k)(ii&iii), those of the ICT unit in Article 44, align with those of the National Publicity Secretary in Article 55(e)(ii), those of NECC in Article 46, overlap with those of the National Organising Secretary in Article 55(c)(ii,iv,v&vi) etc.

There are glaring overlap of functions between these bodies and elected Officials. There is therefore an existential likelihood of conflict.

The membership of the Taskforce created in Article 50 is undefined and its functions fluid and susceptible to abuse. Their functions are stated as "may be assigned to them by the National Secretary General and/or NAC" and described as an "Auxillary Unit". This smacks of mischief.

The Commission is apprehensive that, these Bodies could be used as surrogates, to undermine and usurp the functions of line elected Officials, by a National Executive that may have proclivity to subvert the ordinary members' mandate, vested in those Officials.

If the true spirit of creating those Bodies is to compliment the work of corresponding elected Officials as posited by the Party, that in our view, could be achieved by the establishment of standing Committees, without creating such esoteric Constitutional Bodies. The objection is therefore upheld.

DR.SYLVIA OLAYINKA BLYDEN.

THEMATIC AREA ONE

DISAPPEARANCE OF ORGANS AND THE CREATION OF NEW ONES

We take cognizance of the importance attached to the National Committee by the Objector, as an Organ of the Party. We also note, the Objector's suspected reasons, for its deletion in the published draft. However, we agree with the Party that, the very essence of a Constitutional Review exercise, is to effect necessary changes in the instrument being reviewed and the Organisation it relates to. The reviewing Body is therefore not bound to replicate the existing structures in the reviewed instrument. A review inter alia includes restructuring the Organisation. This objection is thus overruled.

The commission appreciates the derivative significance of the Party's Youth League, to I T A Wallace Johnson's West Africa Youth League. We also understand the resultant sentimental attachment to such ideological bearing of the name, because of its historical link, to the West Africa Youth League.

On the other side of the coin, we are certain that, the ideological influence of the West Africa Youth League, on the young people, is not peculiar to the APC. I.T.A's Youth league was not a partisan outfit. It was a radical sub regional youth movement, formed to raise political consciousness of young people in Anglophone West Africa. There is no gainsaying that, it impacted the ideological orientation of all young people in the said sub region, irrespective of partisan leanings.

The Party is therefore, not precluded from changing the name of its youth wing, by reason only, of its historical connection with the West Africa Youth League. This part of the objection is therefore dismissed.

On the imperative need for an upper age cap, in the definition of youth, the Commission is in total agreement with the Objector. The Party's Response that, the upper age limit will be fixed in the Rules and Regulations the Congress will subsequently promulgate, is untenable. Rules and Regulations are meant to operationalise the parent document they relate to and not to fill in the gaps therein or amend the same. The objection in this regard is sustained.

The Objector's recommendation that, the lower age limit be reduced to fifteen years, violates the following Statutory provisions:

Section 2 of the Child Rights Act 2007, defines a Child as a person under the age of eighteen. Section 15(1)(a) of The Public Elections Act 2012, provides that, a person is only eligible to be registered as a voter, if he or she has attained the age of eighteen and above.

This is clearly indicative of the fact that, at fifteen, a person is still a child and our existing laws preclude children from participating in Politics. Bringing the lower age limit to fifteen years therefore, is not only at variance with the law, but politically stampeding for our children. We therefore reject this recommendation. Further, we found that, the proposed name of the Party's Youth wing "The National Young Peoples Congress" is suggestive of the fact that, the Congress will be composed of young persons. Consequently, the Commission drew the attention of the Party, to the definition of a young person, in Section 2 of The Child Rights Act 2007, as "a person that is 18 but under 25".

The Party's definition of a young person, would certainly have an upper age limit of over 25 and thus puts it in direct conflict with a Statutory definition of a young person.

In an effort to avoid this conflict, the Party recommended a change of name to "The young congress", from "The Young People's Congress"

The Party clearly manifested its intention to put the upper age cap of a young person to forty five years. They cited the SLPP Constitution, which they claimed also defined young persons as persons between the ages of 18 and 45.

This astounded us, as I clearly remember, issuing directives to the SLPP, in that stead. We therefore went to the relevant provision in the SLPP Constitution and discovered that, the citation is misleading. The party wanted to tap from a typographical error, in the SLPP Constitution.

In compliance with our directive in that regard to them, the SLPP deleted the words "Forty Five" in Article 6(c)(15)(b) of their Constitution and substituted them with the words "thirty five". They however forgot to delete the number (45) in bracket therein. The Article thus defines young persons as "person between the ages of eighteen (18) and thirty five (45) years"

The APC in their persuasive argument, chose to use the number (45) in bracket and discarded the words thirty five. This with the utmost respect, is malafide. It is calculated to mislead and petrify the Commission into allow a definition with an upper age gap of 45, on the pretext that, a precedent had been set with the SLPP. For the Records, we wish to make a definitive statement that, the upper age limit for the SLPP's Young Generation is thirty five. It could not have been forty five under our watch.

We also agree with the Objector that, there is an overlap between the powers conferred on the ICT unit in Article 44 and those of the National Publicity Secretary, which is a recipe for conflict and the possible usurpation of the powers of the National Publicity Secretary. The objection is therefore upheld.

Because of the nature of the work of the IEMC, its Constitution requires general acceptability, to foster the highest level of trust and confidence. They should therefore derived their mandate from the ordinary membership of the Party, either directly or through its elected representatives. Her objection to Article 45 of the draft is therefore upheld.

Also we note the conflict between the powers of the National Organising Secretary and those of NECC, created in Article 46 of the published draft. Again, there is a reasonable likelihood that, this Body could be used to marginalise the elected National Organising Secretary. The objection is thus sustained.

The Objector's concern that, the composition of the Taskforce created in Article 50, is not defined, is well founded. We also note that, the functions assigned to this body, are ambiguous and fluid. This leaves room for abuse.

The Party in its response said it is not averse to providing a definition in the interpretation Section. The objection is therefore upheld.

THEMATIC AREA TWO.

SPELLING, GRAMMATICAL, SYNTAX AND DICTION OBJECTION.

Initially, we attributed the error in the Party's name in Article 1 of the draft, to ordinary inadvertence. But upon receipt of the Party's Response, we realised that, this unfortunate oversight was deliberate. Again with the utmost respect, we abhor the Party's response to such a serious inadvertence, to wit "We sometimes use the two names interchangeably".

This is inexplicable at best. In law, these are the kind of mistakes we refer to as fatal, as it touches on the very fabric of the draft. There is no registered Political Party called "The All People's Congress", to which the contents of this draft relate. The existing Party with a similar name is "The All Peoples Congress", to which the published draft does not relate, by Article 1 of same. *Stricto sensu* therefore, there is no connection between this draft and the APC Party.

The name with an apostrophe "s", denotes ownership, whilst the one without an apostrophe "s", connotes composition. The All Peoples Congress Party is owned by its members (not by all people). Its membership however, is open to all Peoples, regardless of tribe ethnicity, Region, religion and/or sexual orientation.

This misnomer is also prevalent in the Sierra Leone Peoples Party, as it is evidenced on the cover of the printed copies of their August 2020 Constitution, notwithstanding admonition by the Commission in that respect, during the hearings of their own objections. We hope they will borrow a leaf from this, as it is indicting, to have the stewardship of a Party, whose name you do not know or care to know. It could even be the basis for the rejection of nominations by the Electoral Commission, as the argument could simply be that, there is no registered Party in their database, with the name of the Party that submitted the nominations. This is how serious this could get and should therefore not be responded to with levity. The objection is thus upheld.

The objections to Articles 7(c) and 14(b) were conceded to by the Party, the latter during the hearings. They are therefore upheld.

The use of the word "Disabled" in Articles 15(b)(xi), 16(viii)(19xviii) and 48, to describe Persons with Disability, is indeed affirmatively derogatory and psychologically abhorrent. The objection is therefore upheld.

THEMATIC AREA THREE.

COMPOUNDING THEIR ILLEGALITY WITH ARTICLE 87.

The Commission understands the Objector's protestations in this part of her objection. However, we are constrained by the following considerations:

a). The matters alluded to in this objection, are the subject matter of an ongoing action in court. We will therefore recuse ourselves from commenting on matters that are sub judice.

b). Secondly, the said matters border around leadership dispute in the party. By our subsisting legal framework, specifically Section 6(2)(d) of The Political Parties Act No.3 of 2002, we are statutorily prohibited from intervening in such matters, without being moved by the leadership of the Party in issue. This was precisely, the Provision invoked by the APC (then led by yours truly, the Objector herein, Dr. Sylvia Olayinka Blyden), to rid us of jurisdiction, in the NRM matter.

This impediment explains why we are pursuing with finesse, legal reforms, to inter alia strengthen our mediatory powers, to enable us intervene in such matters, as a matter of course, without waiting to be moved by anyone.

c). Thirdly, the Commission holds the view that, without such transitional provisions in the proposed new Constitution, there will be a void, with resultant threats to the very survival of the Party. The Objector did not in her objection and during the hearings, proffer any alternative to this transitional arrangement.

Having said that, the Commission wishes to emphatically draw the attention of the Party, to a very pivotal phrase, in all of the provisions in Article 87, referenced in this objection, which states:

"and their provisions shall be construed with such modifications, adaptations, qualifications and exceptions, as may be necessary to bring them into conformity with this Constitution-----".

This is very instructive and should inter alia tend to the composition of the existing structures, with a view to excluding any components of them, that are not in the corresponding structures of the new Constitution

THEMATIC AREA FOUR.

MILITARIZATION AND REGIMENTALISM OF DEMOCRATIC APC.

The Objector objected to a plethora of provisions of the published draft and we will state our findings on them seriatim.

Article 12(b)(iv) We suspect that, the absence of the word "lawful" before the word "decisions", must have prompted this objection. In that regard, the objection is upheld.

Article 12(c). It is normal for an Organisation to set up its internal conflict resolution mechanism. All things being equal, such arrangements are made to foster cohesion and stability, as the Party's dirty linens will be washed in private. However, making such provision mandatory, gives the semblance of an infringement on the members' right to have recourse to the Courts or the Commission, as first choice, thus ousting the jurisdiction of the Courts and ours in that respect. The objection thus is upheld.

Article 13(b). By our construction of this provision, it seems to be in agreement with the Objector's recommendation that, a member should only be suspended, after the commencement of an investigation. The objection is therefore superfluous and thus dismissed.

Article 13(d). The objection to this provision is unfounded. Section 77(m) provides thus: "A member of Parliament shall vacate his seat in parliament-- if being elected to Parliament as an independent candidate, he joins a Political party in Parliament".

This presupposes that, to be elected as an independent member of Parliament, you must not belong to any political party. That is what makes you independent. Also it is in consonance with the Electoral Commission's practice that, to contest as an independent candidate, you must provide evidence of your resignation from your Party, if you belonged to one.

By reason of the foregoing, Article 13(d) is infact a surplusage, as its contents are already sanctioned by law. The objection is thus discountenanced.

Article 15(b)(xv). The Commission agrees with the Objector that, this provision is in conflict with Article 17(g), that confers the powers to create Committees (unspecified standing or adhoc) to the NDC.

Also Committees are set up to compliment Constitutional Organs and Officials and should not be Constitutional bodies themselves. Therefore both 15(b)(xv) and 17(h), are inconsistent with Article 17(g), as they seem to wrestle powers conferred on the NDC, the highest Organ of the Party and vest same in the NAC, a lower Organ. This objection is therefore upheld.

Article 16(v). During the hearings, the Parties came to a consensus that, five of the fifteen delegates allotted to the Veterans, should be drawn from the Regions, to give them a national character. The objection is therefore sustained.

Article 16(ii,iii,iv,vii,viii,ix x& xi). The Commission supports the view that, all delegates representing groups, bodies or Organisations, in the NDC, should be elected by such groups bodies or Organisations they represent therein. The Party conceded to this in their response and promised to address that in the various rules and regulations. The objection is therefore upheld.

Article 16(xii).This was objected to, by both Dauda Tombo Bangura and Ahmed Sesay esq and for the same reasons stated thereto, we uphold the objection.

Article 20(c). It seems to us that, NAC being the second highest decision making Organ in the Party, should not be given the power to make Rules and Regulations. If such power is given to it, all Rules and Regulations drawn by them, can only be approved by the NDC. This may occasion undue hardship and delay, in the promulgation of those Rules and Regulations, as the NDC is to meet only once in every three years. Consequently, without lending credence to the Objector's suspicions of NAC abusing this power, we uphold the objection.

This seems to confer NAC, with the power to amend the Constitution arbitrarily without reference to due process, as prescribed in Section 24(1)(a) of the Political Parties Act No.3 of 2002. Creating new Organs will not only alter the Party structurally, but may also alter the powers of existing Organs. Such powers conferred on NAC are therefore in contravention of both Sections 135(2) of the 1991 Constitution and 24(1)(a) of the Political Parties Act 2002 aforesaid and therefore unlawful.

Respecting the creation of Committees, it is inconsistent with Article 17(g), that already vest those powers in the NDC. The objection is therefore sustained.

Article 20(j). The Commission is of the view that, the quorum stated in this sub Article is practicable, in special emergency situations. The suggestion to increase the quorum to two thirds, is precarious, especially for emergency situations that may prohibit large gatherings of people. This may stall the business of the Party. The objection is therefore overruled.

Article 21(f). The one third quorum is the established norm, for all such meetings. This is to forestall mischievous people from preventing meetings, by collectively absenting themselves, to deny any proposed meeting a quorum.

However there should be a proviso to Article 21(g) that, for ordinary meetings, where the attendance is less than half, the decisions must be by two fourth majority. The objection is however overruled.

Article 21(g). We fail to see the ambiguity here. Resolutions are voted for, by members in attendance of meetings. However, since the party for clarity sake agreed to add the phrase "of those members present", the objection is therefore upheld.

Article 22. The Party during the hearings conceded that, the objection makes senses and agreed to add the National Financial Secretary, the National Treasurer and the Regional Secretary to the NEC. We therefore uphold the objection.

Article 34. This objection is dismissed, as we fail to discern the frivolity in the use of the phrase "are binding". We give premium to the spirit, not to the suspected letter of the law.

Article 25(c). Much as we agree with the Objector that, members of the Elders Council should not be chosen by NAC, we however disagree with her that, they should be drawn from lists submitted by each Organ of the Party. The objection is thus generally sustained.

Articles 26(c),27(c),28(c) and 48. We disagree with the Objector that, the Organs/Bodies mentioned in those Articles can make their own Rules and Regulations, subject to the approval of the NDC in the place and stead of NAC.

The Commission believes that, there should be centralised general Electoral, Financial and Administrative Rules and Regulations, drawn by one Organ and binding on all and sundry in the Party. On that note, the objection is upheld.

Article 51. The Commission is at a loss, as to what constitutes the Party, for the purposes of this Article. Since it is the Party that does the affiliation, subject to the approval of NAC, it is pertinent therefore to know what constitute the Party for this purpose. We will define the Party for this purpose in our directives.

FIFTH THEMATIC AREA.

NON USAGE OF THE 5th OCTOBER 1991 DEMOCRATIC APC CONSTITUTION.

The Objector during the hearings acknowledged the efficacy of the 5th December 1995 Constitution of the party and the fact that, it is the extant Constitution of the Party. She also agreed that, you can not have two parallel Constitutions of the same Party, at the same time, operating side by side.

Secondly, it is instructive to note is the fact that, in a matter intituled SC3/2002, The Supreme Court inter alia declared that, the 5th December 1995 Constitution, is the extant and subsisting Constitution of the APC Party.

Thirdly, Section 24(1)(a) of the Political Parties Act 2002, provides for objections to provisions contained in the published proposed Constitution and not to matters that are extraneous its contents. The non usage of the 5th October 1991 Constitution is outside the contents of the published draft and does not fall within the purview of Section 24(1)(a) aforerefered.

Finally we agree with the Party's Response that, there is nothing that compels the Party's CRC to have recourse to the 5th October 1991 Constitution, as a source document. At the hearings, we got the impression that, the Objector is more perturbed by the disappearance of the 5th October 1991 Constitution, than the CRC's recourse to it. We therefore encourage the Party to avail her a copy of this document, if in their possession, in recognition of her right to it.

In view of all the above, this objection is overruled.

Articles 29(d),32(d) and 34(d). This objection is misleading, as the Articles quoted therein, refer to Conventions not meetings of the Regional, District and Constituency executives Committees. It is the Conventions of these Organs, that are to be convened once every three years and they are the ones the National Secretary General is to determine the date and venue.

The ordinary meetings of the executive committees of these Organs, are to be held once every three months, for the Regional Executive Committee and once every month for the District and Constituency Executive Committees. See Articles 30(d),33(d) and 35(d).

It is therefore misleading (we hope not deliberately), to aver that, these Organs can now meet only once, in every three years. The objection is therefore overruled.

SIXTH THEMATIC AREA.

CONTRAVENTIONS OF THE SIERRA LEONE 1991 CONSTITUTION.

In the course of the hearings, the Objector submitted that, the Commission is above the jurisdiction of High Court and our Conduct can only be searched by the Supreme Court. Therefore we are not bound by the Orders of the Honourable Adrian Fisher J. She urged us to disregard and not to have recourse to any of his Orders in considering her objections.

In support of this assertions, she referred us to Sections 34(5),35(7) and 164 of the 1991 Constitution.

For the Records, Section 34(5), guarantees our operational independence, whilst Section 35(7), is referable only, to Appeals against the Commission's refusal to register an Association as a political party. Section 164 on the other hand, proscribes any inquiry by the Courts, into the validity of anything done by Commissions and Councils established under the Constitution, their members and proxies, in the performance of their functions. Section 30 of the Political Parties Act No.3 of 2002, confers like immunity for the personnel of the Commission.

The above provisions cited and prayed aid to by the Objector, do not in any wise, put the Commission above the law and we do not hold such pretensions. Like all other State institutions, we are bound by the lawful Orders of all Courts of competence jurisdiction.

Also it is trite law that, Orders of Courts, no matter the circumstances of their issuance (regularly or irregularly), remain effectual and binding on all and sundry, until they set aside by either the issuing court or one superior to it.

We are also not oblivious of the Supervisory Jurisdiction of the High Court, over all inferior and traditional Courts AND OTHER ADJUDICATING AUTHORITIES, (emphasis ours), conferred on it, by Section 134 of the 1991 Constitution.

By reason of all of the foregoing, even though we revelled in the otherwise persuasive arguments put forward by the Objector, in canvassing this limb of her objection, we are constrained to overruled her on the following grounds:

a). The matters referred to in this portion of her objection, are outside the contents of the published draft and therefore do not fall within Section 24(1)(a) of The Political Parties Act No.3 of 2002 and by extension, the Public Notice issued by the Commission, in pursuance thereof.

b). The delegates that met in makeni, did so in compliance with two successive Orders of Court. It matters not at whose instance those Orders were made. What

is of relevance to the Commission is the fact that, those Orders are subsisting and effectual. It is therefore outside our competence, to inquire into subsisting Orders of Court. That falls within the remit of the Court that granted them or the Court of Appeal.

Consequently, the issue of legitimacy or not, of the delegates that acted on those Orders, is above our comment.

c). Again, the issue of their legitimacy or not, is the subject matter of an ongoing substantive action in Court. We do not want to be seen, to be inter meddling with a subsisting matter in Court. This may render us susceptible to contempt proceedings, which may not fall under the protective cover of Section 164 aforementioned.

Finally, before the receipt of objections, the Commission had compiled its own observations, most of which were captured in the objections subsequently received and already alluded to pro rata. For those bits of the said observations that are not reflected in the objections, they would be dealt with in our Directives.

DERECTIVES OF THE COMMISSION TO THE PARTY.

Informed on it findings outlined above, the Commission hereby issues the following directions to the Party, aligned serially, with the Objectors, for easy appreciation of the Directions that relate to their individual objections.

1 ANSU O.KOROMA.

a).Former APC Members of Parliament and Former APC Councillors, be incorporated in Article 15(b), as Bodies of the Party.

b). That Former APC Councillors be allotted ten delegates in the NDC in Article 16, as is done for former MPs

c).The delegates allotted to sitting APC Councillors in Article 16(x), be reviewed and made proportionate to the size of the Council they represent as follows: Ten delegates to Councils with Thirty Councillors and above and five delegates for those with less than thirty Councillors.

2.WUYATA NYUMA.

I. The phrase "leading up to the date of the flagbearer election he/she is seeking to contest" be inserted in Article 61(b), immediately after the word "years".

3.ALHAJ KAMARA

- I. That centralised general Administrative, Financial and Electoral Rules and Regulations of the Party, be drawn up by the National Secretariat, subject to the approval of NAC and their eventual publication in the Government gazette for public vetting.
- ii. That Articles 20(c),26(c),27(c),31(h) and 60(d) and all other Articles in the published draft that purport to confer power on individual Organs and Bodies to make their own Rules and Regulations, be expunged from the draft.
- iii. That the functions of the National Secretariat (as distinct from those of its Officers espoused in Article 55), be set out in a new Sub Article under Article 54, to be numbered Article 54(b). Those functions to include the one conferred in directive 3(i) above.
- iv. That all other Organs and Bodies to make operational guidelines or manuals, for the conduct of their activities.

4.OLUYINI ROBIN COKER.

- i. Representatives of former holders of the Offices mentioned in Article 25(a) in the Elders Council, are to be chosen by surviving former holders of those offices and not on the invitation of NAC. Article 25(c) is therefore to be amended to reflect this directive.
- ii. The party to consider the proposal for inclusion of a representative each, from the sixteen electoral districts in the Country, nominated by the District executive Committee and approved by NAC, in the Elders Council. This will not only make the Council more representative, but will also give it a National slant.
The sixteen members drawn from the Districts, added to the seven chosen by former holders of the seven offices mentioned in Article 25(a), will give a total membership of 23. Therefore if this proposal is accepted, Article 25(b) will need to be amended by the deletion of the number "21" therein and be substituted therefor, by the number "23".
- iii. That the polling Centre executive established in Article 37(a), be transformed from an Organ of the Party, to a Body of the Party, under Article 15(b) and its name be changed to "polling Centre Committee".

5.DAUDA TOMBO BANGURA.

i. That both Articles 16(xii) and 51 of the published draft be expunged therefrom, as they are conflicting. That a provision be drafted under the new Article 54(b) to effect that, the National Secretariat shall subject to the approval of NAC, Affiliate Bodies, Groups and/or Organisations that subscribe to the aims, objectives programs and philosophy of the Party, into the membership of the Party and accredit members of such groups bodies and organisations to the NDC that meet the accreditation criteria.

ii. To qualify for accreditation, an Affiliate Body must have a membership of not less than one hundred, all of whom must be registered members of the Party as well.

iii. Delegates drawn from Affiliate groups, must not be in excess of two percent of the total number of delegates count in Article 16.

6.AHMED SESAY ESQ.

i. The first limb of his objection, is the same as that of Dauda Tombo Bangura and we therefore adopt directives 5(i,ii&iii) above.

ii. That Articles 36(d) and 60(c) be deleted from the draft, as they are in sharpe conflict with Article 45, in their purport to confer the power to conduct the ward executive elections on the Constituency executive, instead of the IEMC, as provided for in Article 45.

7. HON ABDUL KARIM KAMARA

i. The parliamentary Caucus be represented in NEC.

8.MARIAMA ALIMATU BANNGURA.

i. The proposal for the inclusion of the Constituency women's Leader in Article 33(b) of the draft, as a component of the District executive Committee, is refused.

9.ISHMAEL AL SANKOH CONTEH

i. The proposal for the allotment of delegates to former ministers group in Article 16 of the draft is refused, as there is no discernable nexus between Ministerial Offices and the Party.

10. MARIAMA KARGBO.

i. Articles 40,41,42,43,44 46 and 50 of the published draft be expunged and all references in the said draft, to Bodies created by these Articles be also expunged

therefrom. This includes but may not be limited to the deletion of Articles 15(b)(iii,iv,v,vi,vii& xiii), 16(vii&ix) from the draft.

11.DR.SYLVIA OLAYINKA BLYDEN.

A.FIRST THEMATIC AREA.

i.The name "The National Young Peoples Congress" be changed to "The National Young Congress",

ii. The said National Young Congress to be constituted by and/or composed of persons between the ages of eighteen(18) and thirty five(35) years, in line with the definition of "Youth", in Section 1 of The National Youth Commission Act 2009.

iii. Members of the IEMC be elected at the NDC, to foster wider membership acceptability and confidence. The second paragraph of Article 45 to be amended to reflect this directive. This is however without prejudice to the provisions in Article 87(f,g,h&i), respecting the establishment of a transitional interim internal elections management Committee, for the conduct of the first set of elections under the new Constitution.

iv. On Articles 44,46 and 50, we adopt our directive 8(i&ii) above

B.SECOND THEMATIC AREA .

I. The Party's name in Article 1 of the draft and its several references in the recitals in the preamble, be changed to "The All Peoples Congress".

ii.The letter "s" be added to the word "right" after the word equal in Article 7(e)

iii. That Article 14(b)(ii&iii) of the draft be merged into one and 14(vii) be deleted because of the transformation of the polling centre executive to a Body. A corresponding amendment be effected in the first sentence of the same Article 14(b), by the deletion of the word "seven" therein, to be substituted therefor by the word "five".

iv. The name of the Body created in Article 48 of the draft be changed from "The Disabled Wing" to "Persons with Disability Wing", in consonance with provisions of The Persons with Disability Act 2011 in that behalf. All references to that name in this draft, including but not limited to Articles 15(b)(xi),16(viii) & 19(xviii), be deleted therefrom, to be substituted therefor by the name "Persons with Disability wing".

C.THIRD THEMATIC AREA.

I. The transition team to be composed of components of existing structures, that are reflected in corresponding structures of the new Constitution, to bring them in conformity with the latter.

D.FOUTH THEMATIC AREA.

i. Insert the word "lawful" before the word "decisions" in Article 12(b)(iv)

ii. Delete Article 15(b)(xv), as it could be abused to cloak the NDC with unelected delegates.

iii. Article 17(g) to be redrafted to read thus:

"To create and constitutes Committees as it may deem necessary to compliment the work of elected National Officers and all such committees shall be subject to the provisions of this Constitution and headed by the line Officers they are created to compliment".

iv. Delete Article 17(h), as it is now superfluous, with the deletion of Article 15(b)(xv).

v. Amend Article 16(v) by the insertion of the phrase "five of which must be drawn from the five regions in the Country", after the word "congress".

vi. A provision be inserted in Article 16 to the effect that, all delegates representing bodies, groups or Organisations in the NDC, shall be elected by the Bodies, Groups or Organisations they represent.

vii. On Article 16(xii) we adopt the directives to Dauda Tombo Bangura's objection to same, in 5(I,ii&iii) above.

viii. On Article 20(c), we adopt the directives given to Alhaji Kamara's objection.

ix. Article 20(e&f) be deleted, as they seem to confer powers on NAC, to arbitrarily amend the Constitution.

x. A proviso be added to Article 21(g) to the effect that, for ordinary meetings, where the attendance is less than half of the membership, Resolutions reached in such meetings, shall be by two third majority.

xi. Add the phrase "of those members present", in Article 21(g).

xii. Add the National Financial Secretary, National Treasurer, Regional Secretary and all other National Officers to NEC, in Article 22.

xiii. On Article 25(c), we adopt our directives on the first limb of the Oluniyi Robin Coker's objection.

xiv. On Articles 26(c),27(c),28(c) and 48, again we adopt our directives to Alhaji Kamara's objection.

xv. On Article 51, we adopt our directive on Dauda Tombo Bangura's objection in 5(i) above.

THE COMMISSION'S OBSERVATIONS.

These are issues identified by the Commission sou moto, before the receipt of objections from the public. Initially they were ninety seven, but as earlier stated, the bulk of them were reflected in the objections subsequently received. The directives under this category are therefore in respect of those not captured in the objections.

i. Add the word "it" to Article 2(c), after the word "awarded"

ii. Add the phrase "and other existing National laws" to Article 5 after the word "Leone"

iii. Resolve the conflict between Articles 9(a)(iv) and 10(a),so that Application for membership precedes payment of membership fees.

iv. Take a second look at the use of the words "and/or" in Article 10(c), with a view to averting potential conflict.

v. Article 10(e) is fluid. No fixed date for the entering of the name into the Register and who keeps the Register.

vi. Article 11(i&ii) does not state the method of acquiring such membership.

vii. Article 12(c) It seems restrictive of the right of members to have recourse to the Courts. It is an attempt at ousting the jurisdiction of the Courts. This Article be redrafted to make recourse to internal conflict resolution structures optional.

viii. Articles 19(xiii) and 31(e).Party to explore the possibility of having three Diaspora regions in North America, UK/I and Central Europe. This would foster effective membership drive and convenience, in terms of meetings and other Party activities in those Regions.

ix. Resolve the conflict between Articles 20(h) and 53(c)(ii), regarding the convening of the NDC. Also note the numbering in Article 53.

x. Add the phrase "sixteen electoral" in the first sentence of Article 32(a), immediately after the word " the".

xi .Article 33(b)(xxiii). The elective ex officio members are two, as the immediate past Chairmen is already mentioned and his membership is as of right.

xii. Delete Article 33(c)(v),as it conflicts with the role of the Elders Council and Disciplinary Committee.

xiii. Delete Article 34(b)(v) of the draft, as it makes the membership blotted and does violence to Section 35(2) of the 1991 Constitution.

xiv. Delete Article 35(b)xix), as it is too loose and susceptible to abuse.

xv. Insert a new Sub Article between Article 35(c)(vii) and 35(c)(viii) to read thus: "to elect members of the ward executive committees within the Constituency".

xvi. Delete Article 36(b)(xi), as it amounts to an amendment of the Constitution, with power to alter the structure of the ward executive committee at will.

xvii. Delete the phrase "seek the Party's interest" in Article 38(c) to be substituted therefor by the phrase "promote the Party's position".

This is so because it offends Section 35(1&2) of the 1991 Constitution, that require political parties' programmes to have a national character and their internal organisation to conform to democratic principles. Therefore whilst it is normal for political parties to have Partisan positions, such positions must be in sync with the National interest. Thus Parties may have partisan positions on national issues, but certainly not partisan interest. The interest of all political Parties must have a national outlook.

Members of Parliament must not be tied to Partisan interest in the execution of their duties. They are to promote National interest along partisan positions, but certainly not partisan interest, as there is only one interest in Parliament, the national interest.

xviii. Article 55(b)(k). Add the letter "s" to the word "ADVISER" in the sub heading and insert the phrase "and Assistant Legal Advisers" immediately after the word "Adviser" in 55(k)(i). Amend 55(k)(v),to the effect that, the National Legal Adviser and his Assistants (number to be determined by the party), shall be elected at the NDC, as National Officers.

xix. Delete the words "of any of the executive Organs" in Article 56(a) of the draft, in compliance with Section 20(3)(a) of the Political Parties Act No.3 of 2002.

xx. Delete the words "the polling centre" in Article 58, as it is no longer an Organ and insert the phrase "at their respective levels" immediately after the last word "Officers", in the same Article.

xxi. Insert the words "consistently for" immediately after the word "party" in the second sentence of Article 59(g).

xxii. Delete "one representative of the legal team" in Article 64(g)(iv), to be substituted therefor by "the National Legal Adviser"

xxiii. Delete the words "and Organisations" in Article 71(d), as it is at variance with Section 19(1) of the Political Parties Act 2002, to be substituted therefor by the phrase "who are qualified to be registered as voters in Sierra Leone", to bring it in line with the said statutory provision.

xxiv. Party to reexamine Article 72(b&g), as we foresee accountability issues. We suggest a more centralised banking arrangement.

xxv. Set out the elective positions in Articles 26(f), 27(f) and 28(f), for the avoidance of doubt and to foster certainty.

xxvi. Renumber the draft accordingly, after effecting the changes envisaged by the directives above.

Upon compliance with these directives, the proposed Constitution shall be republished in the Government Gazette and shall become effective, two weeks after the date of the said republication.

DATED THE 28th DAY OF January 2022



ABDULAI MASIYAMBAY BANGURAH
(CHAIRMAN)



MOHAMED K. KONNEH
(COMMISSIONER)



ALHAJI MUCTARR BABATUNDE WILLIAMS
(COMMISSIONER)



CHRISTIAN SAWYERR
(COMMISSIONER)