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Africa Summary

The Review of Nigeria's 1999 Constitution: Report of a Consultation with UK-based Nigerians

27 February 2013

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PREFACE

This document provides a summary of a meeting held at Chatham House on 27 February 2013. The meeting was a consultation with UK-based Nigerians on the review process of the 1999 Nigerian constitution.

Under the leadership of the Nigerian National Assembly's Joint Committee on the Review of the 1999 Constitution, hundreds of public consultations have taken place across Nigeria regarding potential amendments to the Constitution. Chatham House hosted this event to allow and encourage UK-based Nigerians to engage with some members of the Committee and contribute to the debate.

The following members of the Nigerian National Assembly spoke at the event and responded to questions: Rt Hon. Emeka Ihedioha, Deputy Speaker of the House of Representatives and Co-Chair, Joint Committee on Review of Constitution; Hon. Abike Dabiri-Erewa, Chairman, Diaspora Committee, House of Representatives; Sen. Ahmad Ibrahim Lawan, former member, Committee on Review of Constitution, Senate; Hon. Garba Datti Mohammed, Deputy Minority Whip, House of Representatives; and Hon. Leo Ogor, Deputy House Leader. The meeting was also attended by a number of academics, diplomats and other experts, in addition to Nigerian diaspora attendees.

Attendees were invited to submit questions in advance. These were collated by theme, and participants whose questions best captured the range of issues and concerns expressed were invited to pose their questions to the panel.

This summary is structured around key themes, namely diaspora voting and engagement; local government autonomy; state creation; and immunity from prosecution.

Full audio-visual recordings are available online on the Chatham House website at <http://www.chathamhouse.org/events/view/189367>.

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OPENING REMARKS¹

Following an introduction by Robyn Gwynn, Additional Director, Africa Department, Foreign and Commonwealth Office UK, in which he spoke about the importance of Nigeria and the importance of the Nigerian diaspora in the UK, opening remarks were made by Hon. Emeka Ihedioha and Hon. Abike Dabiri-Erewa.

Hon. Emeka Ihedioha, Deputy Speaker and Co-Chair of the Joint Committee on Review of Constitution, stated that the current 1999 Constitution was the product of a Military Decree, and as a result has been subject to a crisis of legitimacy one of the main criticisms being that it did not emerge from a process of consultation and involvement with the population, including through a referendum.

He stated that the special ad hoc committee of the House of Representatives on the review of the constitution was set up on 25 September 2011, following the inauguration of the House earlier that year, and that its early establishment demonstrated a recognition of the need for constitutional reform.

He remarked that the House recognizes the Constitution to be a serious and fundamental part of Nigerian democracy, and consequently reform requires the full involvement and participation of all Nigerians.

The committee began the process of receiving inputs from Nigerians when it issued a call for memoranda. Hon. Ihedioha said that the response had been very impressive, with over 200 memoranda having been received.

Hon. Ihedioha also described the success of the People's Public Sessions, where citizens had the opportunity to make contributions to the discussions and debate surrounding constitutional reform.

The objectives of this discourse were stated by Hon. Ihedioha as:

- To improve the inclusiveness and participation of members of the community and other stakeholders in the constitution amendment process;

¹ Transcripts of all the keynote addresses and opening remarks can be found in the appendix. Full recordings can be found online at <http://www.chathamhouse.org/events/view/189367>.

- To increase the capacity of the participants to collate and prioritize issues that require alteration or inclusion in the 1999 Constitution, and to engage constructively with their legislators;
- To prepare and produce the views and positions of the participants on the issues proposed for amendment in the Constitution;
- To increase the capacity of the House of Representatives to receive input and suggestions on constitutional amendments from individuals and groups, as well as providing a platform for the House to respond to the concerns of the citizens on this process.

Hon. Ihedioha noted that this was the first time in Nigeria's history that there had been grassroots participation in the constitution-building process. While the process was moving forward, any amendment would still need to pass through the legislative process in order to be ratified, and this might take time.

Hon. Abike Dabiri-Erewa, Chairman of the Committee on Diaspora Affairs, spoke about the great achievements of Nigerians in the diaspora, but also about their grievances.

She noted that there are 15 million Nigerians living abroad, half of them in Europe, and the Nigerian High Commission estimates that four million of these are in the UK. One of the challenges for the Diaspora Committee is that no database or accurate register exists.

Another challenge is reputation management. Despite the fact that many highly trained Nigerians living and working in the UK are making a considerable economic contribution, Nigerians are still stereotyped as fraudsters. Hon. Dabiri-Erewa demonstrated this stereotyping, and the task for the committee, with the example of Nigerian doctors in the UK: the UK Medical Council had announced that there were 33 Nigerian doctors working in the UK who were not up to standard, and who were blacklisted. This reinforced media and public stereotyping although that was only 33 out of a total of 4,000 Nigerian doctors working in the UK.

Hon. Dabiri-Erewa gave examples of the Diaspora Committee intervening internationally on behalf of Nigerians. These included cases of repatriation from conflict zones, and assisting in cases where Nigerians have been wrongly accused of crimes overseas.

She said that diaspora Nigerians make a valuable contribution both to the countries in which they live and to Nigeria, remitting £13 billion in 2012, according to the World Bank, – the highest level of remittances of any African diaspora. She noted that this was only the official rate, and did not include informal money transfers to friends and relatives. Moreover, these remittances were contributing to the UK economy through taxation. She called for a readjustment of the tax rate, claiming that Nigerian remittances were taxed at a higher rate than those of other countries, especially in Asia.

Based on the value added to both the Nigerian economy and those of the countries in which diaspora Nigerians live, Hon. Dabiri-Erewa advocated a diaspora commission, a separate government body responsible for diaspora affairs. Since such commissions already existed in Ghana, Somalia and India, she argued that it was time for Nigeria to have one as well.

On the issue of constitutional amendment to allow for diaspora voting, Hon. Abike-Erewa stated that she did not know what the outcome would be, but that the diaspora had a responsibility to remain vocal on the issue.

Following the presentations and discussion **Mr Clement Nwankwo**, Executive Director of the Abuja-based Policy and Legal Advocacy Centre, summarized the key issues that had been raised.

He stated that since its inauguration in June 2011, the 7th National Assembly has indicated that it is prepared to bring about changes. The House has laid out a four-year agenda of legislative change, which has been viewed as encouraging by civil society groups involved in bringing about this change.

Representatives from the National Assembly present at the event expressed their wish to see a constitution that satisfies everybody's demands and aspirations. It was said that, given the current circumstances, the House of Representatives has produced the closest thing possible to a referendum through the People's Public Sessions.

Mr Nwanko said that questions had been raised relating to the creation of states, and the Deputy Speaker noted that the National Assembly had no hidden agenda here. Mr Nwanko reaffirmed that the issue originated only in the areas affected, and members who represented these areas must vote so that the request would be sent to the Electoral Commission. A referendum would then be conducted and the results sent to the National Assembly.

Referring to indigeneship and citizenship, Mr Nwanko said that what the speakers might take with them back to Nigeria was the significant amount of

interest among Nigerians outside the country, who want to see change and who consider effective leadership to be key, rather than the absence of human or natural resources.

As a civil rights activist who works closely with members of the National Assembly, Mr Nwankwo wanted to emphasize the point that Nigeria needs leadership, and that this can come from the National Assembly. He said there was a need to push the executive arm of government on matters that are of real concern to Nigerians, such as corruption and development.

DIASPORA VOTING AND ENGAGEMENT ON GOVERNANCE

Questions

When will Nigerians in the diaspora have a stake in Nigerian politics at home, including the right to vote and engage in debate in a true Diaspora Commission or assembly on governance issues that could threaten democracy in Nigeria?

The Independent National Electoral Commission (INEC) is not truly independent, and the process of voting in Nigeria has not been cleaned up enough to ensure that voting outside Nigeria would make any difference. Is it not paramount to first improve the process of elections in Nigeria, so that voting outside the country will make a difference?

Is there any particular method that has been devised to carry out a census of the numbers of Nigerians living abroad?

What measures are being taken to deal with electoral disputes?

Discussion

HE Rt Hon. Emeka Ihedioha stated that the House of Representatives has opened up the process of constitutional amendment. Without a constitutional amendment Nigerians in the diaspora will not be able to vote.² This process requires a vote to determine popular support, and then a bill to change section 77.2 of the Constitution, which defines the franchise.

He said that the process that the Joint Committee is running was open and transparent, and the diaspora could support this by appealing to the conscience of legislators in both the National and State Assemblies.

He noted that a number of consultants from all geopolitical zones and civil society were playing a significant role in the whole process, including Clement Nwankwo who was present at the meeting.

He said that votes from the public consultations have been processed in a transparent manner and accredited representatives from the consulted groups could view the results in a designated office in the House of Representatives. The Joint Committee placed a high premium on consulting with the Nigerian diaspora, which could also contribute to the review process.

² Information is available on the website of the House Committee of Diaspora Affairs, including a template based on memoranda submitted to it from Nigerian diaspora groups on diaspora voting. <http://diasporacommittee.com/>.

HE Emeka said that INEC was working to improve the electoral process and the 2011 elections were recognized as free and fair. The problems that remained related to the state electoral commissions and their lack of independence.

Hon. Abike Dabiri-Erewa noted that the House Committee on Diaspora Affairs was mapping the Nigerian diaspora using diaspora associations and other credible sources of information in various countries. She credited the Nigerians in Diaspora Organization Europe (NIDOE) which began this process, and said that the Committee was working with the International Office of Migration to continue it.

Hon. Garba Datti Muhammad argued that INEC is not totally independent and elections in Nigeria are challenging for minority parties. The police may target and harass activists who are not members of the ruling party. The judiciary also needs improvement as one continuing problem is that after every election there are lengthy election tribunals.

Senator Ahmad Ibrahim Lawan asserted that while there were improvements between the 1999 and 2011 elections, there is still a long way to go. Although the National Assembly had increased the INEC budget, the process to approve the funding remained difficult. The transformation achieved at the national level with INEC had not been echoed at the state level and in some states all local government seats were taken by one party.

He said that the next challenge would be how to deal with the state electoral commissions. State assemblies were unlikely to address this issue, and Senator Lawan encouraged the diaspora to urge change through the use of social media.

Hon. Leo Ogol stated that election disputes followed a process in the Electoral Act through the use of tribunals, and there were provisions for this in the constitution. The key issue to be contended with was the review of the constitution. Hon. Ogol urged the audience to give their input to influence his position upon his return to Nigeria.

Dr Matt Qvortrup, Senior Lecturer of Comparative Politics, Cranfield University, observed an overall impression of dissatisfaction within the debate, which could in fact help serve to benefit the state. He focused on the engagement process, highlighting the unprecedented element of public participation. However, he said this could lead to a number of difficulties, and cited two examples. In 1998 in Brazil, during a constitutional amendment, an attempt was made to accommodate everybody; the result was a 40,000-word-

long constitution which was practically unworkable. In Uganda, people were asked how they felt after the constitutional review process had finished, and some people stated that they were dissatisfied. He noted that it was important for this process to be handled in an appropriate way.

Dr Qvortrup concluded by highlighting the dangers of downstream constraints, where one possible risk is that people will vote no in a referendum after the review process has finished.

GENDER ISSUES: WOMEN IN THE NATIONAL ASSEMBLY AND REPRESENTATION OF MARGINALIZED GROUPS

Question

Nigeria has only 6.7 per cent female representation in parliament. What plans does the Constitutional Review have to correct this gap, and what kind of impact would this have in wider society?

Discussion

Hon. Abike Dabiri-Erewa said more needed to be done with respect to gender participation in politics. The House of Representatives was proposing an amendment to the constitution that calls for the economic, social and political emancipation of Nigerian women. The bill did not succeed in the last parliament but it was hoped that it would pass in the current one.

The party structures in Nigeria are not gender-sensitive, according to Hon. Dabiri-Erewa. There are few women in the top ranks of politics, with only 25 in the House of Representatives and no female governors. She urged women to take courage and use their initiative to be taken seriously in politics.

Hon. Garba Datti Muhammad argued that the issue of gender representation in politics would not be solved by granting appointed seats to women in the National Assembly, rather than electing them. He said women must mobilize themselves to get female politicians in power; currently only special representative groups had been working to put women forward.

Senator Ahmad Ibrahim Lawan said that the democratic process allowed for choice and it would be wrong to deny voters the right to choose who they wanted to have in power. Positive discrimination, whereby a certain percentage of seats are reserved for women, would be denying voters the right to choose.

He said there was no common front; female politicians only used the matter of female representation in parliament when they were promoting an interest which was exclusively to their advantage. There was a need for women in Nigeria to continue to contribute to positive change in the National Assembly with elected female members.

Hon. Abike Dabiri-Erewa claimed that this was not an electoral issue but more a problem with the numbers of women at party level. It was not as easy as 'wake up': there were competent women who could help move Nigeria forward but it was harder for women to contest an election. She said there

must be an enabling environment to encourage women to participate. It did not have to be a woman who was supported, simply someone who had the interests of the woman at heart.

HE Rt Hon. Emeka Ihedioha argued that the People's Public Sessions results will give an indication of how the public feel about women's representation. One element is how well women politicians manage campaigns and he said there were examples of successful and respected female members of parliament. Cultural issues must be included in considering the question of female representation, it was claimed by Hon. Leo Ogol. While the constitution guarantees freedom of opinion, it defines women and men as equal; thus there should be no law that deprives any woman or man of opportunity. Amending the constitution to give women an appointed position would be a violation of the constitution.

Senator Ahmad Ibrihim Lawan gave the example of Yobe State in northern Nigeria, where a woman had been elected twice to the House of Representatives, showing that people were changing despite local cultural differences. He noted that women's participation also depended on the calibre of people being put forward.

STRENGTHENING LOCAL GOVERNMENT

Question

Is it time for local government to be considered a sphere of government and not a tier? Should we have strong local government associations written into the Constitution, for example a Ministry for Local Government? Is the question of local government fiscal autonomy premature, as local governments systems are not strong enough to be able to deal with financial responsibility?

Discussion

Hon. Leo Ogol responded that local government is very important as development must start at the grassroots. He said the House of Representatives was trying to correct the issue of joint financial processes in this amendment, as most funds did not reach local governments. Separating state and local government in this way was difficult because the amending the Constitution requires the approval of state houses of assembly, which are controlled by the governors.

Hon. Ogol said that financial independence must take priority, without waiting for bureaucratic structures to be put in place. At present there was no ministry for state government, so there should not be a ministry for local government, as local government is an arm of government.

If the results of the People's Public Sessions demonstrated overwhelming support for local government, the diaspora should provide support to help enable these changes.

Senator Ahmad Ibrahim Lawan argued that, constitutionally, state Houses of Assembly are mandated to design how local governments function. It would not be straightforward for the National Assembly to grant fiscal autonomy to local governments.

Even if it became possible to give local governments financial and political autonomy, their systems must be able to deliver. Senator Lawan said this was about transparency and the provision of services, not just the financial implications.

He remarked that local councillors do not know they have legislative powers. Chairmen received money directly from the state and this was not regulated by the councillors. He said the process through which most of the local

government chairmen and councillors were produced was faulty and there was still a long way to go.

Hon. Dabiri-Erewa argued that although local government was the most important part of government, it was premature to bring in financial devolution. What currently mattered was the quality of people running local government. .

The problem with local government illustrated a broader problem with politics in Nigeria today, according to Hon. Abike, who asserted there needed to be transparency and a passion for change. The public must hold councillors and governors to account. The challenge would be whether state assemblies would follow suit if the National Assembly passed the bill.

Hon. Garba Datti Muhammad said the issue was a double-edged sword: when local governments have full autonomy, there are serious problems of corruption and non-payment of salaries. When such problems were first recognized, the notion of joint financial accounts was developed.

He stated that the major problem was the governors who had an overbearing influence, only providing councillors with money for salaries and not for capital projects. The collapse of local government systems in part explained the problem of growing insecurity, especially in the north. In areas where governors were given full powers, he said these powers had been abused.

Currently, councillors are unable to seek nominations for state and federal positions without the backing of the governor. He said the position of state governor should be seen as a call to service.

CREATION OF NEW STATES

Question

Is state creation really the issue, and how many states are really needed? Is it possible to get a two-thirds majority in the National Assembly and also in the state assemblies to support an additional state in the southeast?

Discussion

The Constitution could only be amended through its own provisions, said Rt Hon. Emeka Ihedioha. It did not provide for a referendum. What was important was how well these matters were communicated and marketed to ensure two-thirds of the members of the National Assembly supported the position.

The Joint Committee was awaiting the People's Vote results. Hon. Ihedioha said this was a rigorous process: each member of the National Assembly has a vote on each clause of the bill to amend the constitution, and no presiding officer can instruct members on how to vote; votes are cast according to constituency interests; and if a bill is tabled in the House of Representatives on these issues, there will be a vote on each issue.

Senator Ahmad Ibrahim Lawan added that this was one of the more difficult amendments being looked at. It would be easier to vote for the creation of many states than for one, since that would have geopolitical implications.

He said state creation might not be the best route to development. State performance was more important than creating new states. Lagos was generating revenue whereas other states generated nothing. Thus the priority should be to make state structures more effective.

He claimed that some governors spent more time in Abuja than in their own states to collect funds. There was no state in Nigeria that did not have natural resources that could be developed. Hon. Abike Dabiri-Erewa argued that the solution was to encourage governors to be more creative and generate revenue. Overseas aid was changing so this was a highly relevant concern.

Hon. Garba Datti Mohammad agreed that issue was not about creating more states, but how to manage scarce resources. It was unclear whether the basis for state creation should be on geographical size, population or regional interests.

IMMUNITY FROM PROSECUTION

Question

What provision in this Constitutional Review will ensure that the Nigerian legal system will function, so that no person, government or other organization will be above the law? A functioning legal system is a top priority because it will foster contractual agreement, and collaboration in enterprise.

Discussion

As the Constitution stands, those serving in public office cannot be taken to court, but they may be prosecuted once they leave office. Hon. Leo Ogol suggested that the system provides them with some immunity while serving.

He clarified as follows. No organization or person is above the law in Nigeria. The Constitution provides for immunity from prosecution for the President, Vice-President, Governor and Deputy Governor while serving. As soon as they leave office, they may be prosecuted.

If someone has a collective responsibility in government, and a case is taken up against that person, he or she would be unable to concentrate on the business of governing. But questions remain around whether that person should be allowed to continue to serve when a case might be pending.

According to Senator Lawan, the constitution should reflect the culture and the history of the local people, whereas it was originally bequeathed by the military.

He supported immunity for governors and politicians on civil cases, but not for criminal cases. He said the Economic and Financial Crimes Commission (EFCC) investigations were just a show and that politicians should face the law properly, otherwise Nigerians would not believe that the immunity clause was serving them.

Civil cases should not be allowed to disrupt political tenures. It was not the provision of the immunity clause that was the problem, but the implementation of the provision.

Hon. Dabiri-Erewa stated that beyond this issue, there was a culture that celebrates corruption. It was necessary to look beyond civil or criminal cases and make governors accountable.

Hon. Garba Datti Muhammad said that the issue was not about having an immunity clause in the Constitution but rather about having the political will to

fight corruption. In Nigeria, the clause only gave immunity to governors, deputy governors and the president. Hon. Datti asked whether it should apply to other politicians.

He went on to say that there needed to be an independent prosecuting body. Currently, the Attorney General decides on each case and can terminate any case at any level. Hon. Datti said that the EFCC is weak: it charges according to the penal code, not the EFCC Act, and there must be an independent judiciary with independent prosecutors.

OPEN FLOOR

Questions

How can the budgeting process in government be made clearer to Nigerians in the diaspora?

What effect would constitutional change on the indigeneship question have on immigration policies?

How might Nigerians in the diaspora support women in parliament?

It is unlikely that many in Nigeria are aware of the issues pertaining to the Constitution Review process. Should the focus not be on the primary needs of the country: infrastructure, power and so on? Will the work that will be carried out be evidence-based?

Has any thought been given to creating watchdogs or independent authorities who could provide scrutiny and overview functions that could be reported back to the National Assembly and other organizations? Could this be done for the auditing and policing bodies?

Discussion

Hon. Abike Dabiri-Erewa stated that women do not need permission to get involved in politics. Everyone should work together. It was best for the diaspora to come to Nigeria if it wanted to contest elections, but Nigerians abroad could also make use of the internet as a way to get involved.

On the subject of indigeneship, Hon. Leo Ogol referred to the Constitution, stating that in order to be a Nigerian, both the individual and his or her parents must have been born in Nigeria. The concept of indigeneship aims to resolve questions around identity and rights of people who have moved from one zone to another.

Regarding the need for an auditing commission, Hon. Garba Datti Muhammad claimed that as there was already an independent Auditor-General who reports to the National Assembly there was no need for an auditing commission.

There are Public Account Committees in both the Senate and the House of Representatives, but Senator Ahmad Ibrahim Lawan argued that the office of the Auditor-General did not have the capacity to audit the entire federal financial system, currently working from a three-room apartment.

Senator Lawan explained that there are currently two bills on this. One is for the creation of a National Audit Commission, which would recruit the personnel necessary to fulfil a broader mandate effectively. At the moment there are 1,500 members of staff, whereas the Auditor-General requires over 6,000 for an audit of the federal system.

There is also a bill, which has gone on to its second reading, to amend two sections of the Constitution. One amendment seeks to give the Auditor-General independence from the executive, because, as the Auditor-General for the Federation, the office should be insulated from interference. While the constitution gives the Auditor-General political independence, the office must still obtain funds from the federal Ministry of Finance.

The Auditor-General has a budget of 275 million Naira to audit the entire system. Senator Lawan argued this represented an orchestrated attempt to undermine the capacity of the Auditor-General's functions.

The National Assembly is also seeking an amendment to enable the Auditor-General to directly audit corporations, commissions and other parastatals of the Federal Government. He is not, for example, empowered to audit the Nigerian National Petroleum Corporation (NNPC). Currently the Auditor-General can only nominate private auditing firms for such bodies. Senator Lawan argued that the Auditor-General should have direct access to the books of commissions to audit them himself, which would improve transparency. Furthermore the same limiting factors restricting the Auditor-General at the federal level also existed at the state level. It was the responsibility of the legislature to address this as the executive arm would not do so.

CLOSING REMARKS AND CONCLUSIONS

Ambassador Oluwatoyin Kayode Lawal, Deputy High Commissioner of Nigeria to the UK, made a short presentation summing up the discussions and presenting some conclusions.

He noted that Ambassador Lawal had stated that the need for a Constitutional Review was the result of a crisis of legitimacy. The Nigerian people had felt that this was not their constitution, but one imposed upon them by the military. This had led to the National Assembly decision to undertake this review.

Ambassador Lawal said debate was a vehicle for inclusivity and the presence of the National Assembly Panel in London to consult with Nigerians living in the UK was a demonstration of that. The panel had informed the audience about the steps being taken to ensure the review process was conducted in an inclusive and holistic manner.

The Ambassador recognized that undertaking the Constitutional Review was not an easy task. From the gamut of issues that were highlighted throughout the consultations, it was made clear that it was a serious matter, and he said that this was the way in which the government saw it. The government itself had keyed into this matter, as reflected in the government's transformation agenda. The government was aware that Nigerians were asking questions. Everybody wanted to be part of the interconnectedness of global politics.

Referring to the point made by Hon. Dabiri-Erewa that Nigerian High Commissions and Embassies do not have a register of Nigerians, Ambassador Lawal countered by saying that the Nigerian Commission in the UK had such a register, but uptake among Nigerians resident in the UK had not been high. The diaspora was part of the Nigerian project and also had responsibility for what happened in Nigeria. He encouraged all to contribute to the project and thanked all the participants.

APPENDIX. TRANSCRIPTS OF KEYNOTE SPEECHES

Robin Gwynn

Additional Director, Africa Department, Foreign and Commonwealth Office UK

Let me start by thanking Chatham House. We at the FCO like coming to events here at Chatham House and benefiting from them. I think my role here is to be very brief, to say a few words of welcome and set the context from a UK government perspective. There are two things that I recognize in the UK government, and two things that we want to be clear about today.

The [first of the] two things that we recognize [is] the importance of Nigeria both in Africa and to the world. In the UK government we are very keen to support the growth, development, and prosperity of Nigeria. I think we all know there are significant problems affecting the country, but on a bilateral level and a multilateral level we are engaged with the government, and with the people and institutions of Nigeria. We hope that we can be of mutual benefit.

I was lucky enough to spend some time in Nigeria, living in Lagos a couple of years ago. During that period our Prime Minister David Cameron came to Lagos. Some of you will be aware of that if you were there, with a big business delegation in 2011. He was very taken aback by the energy and the dynamism of Nigeria and the good things that are happening there. Since then Mr Cameron has been doing what he can, engaging with President Jonathan and with others to identify what we can do to help Nigeria grow and develop.

It just so happens that Mr Mark Simmons, our FCO Minister for Africa, landed in Abuja this morning on a three-day visit, demonstrating that we want to keep the levels of engagement between the UK and Nigeria going forward all the time.

So that is the first thing to recognize. The second thing we want to recognize is the importance of the Nigerian diaspora here in the UK and indeed around the world. Our ministers are on frequent record stating the benefits to the UK and to other countries from the diaspora being here, and also the positive influence that I believe operate in both directions. So I am very happy to engage with you, and to the extent that we can we want to keep that going from the FCO and from the UK government.

Then I said I want to be clear about two things. The first thing is that the FCO and the UK government support open discussion and debate, the strengthening of institutions, the strengthening of open and accountable government. Those of you based here in the UK know that at the moment we have a number of public debates going on in our country, some of them covering quite difficult territory. For example, the Leveson Inquiry: what are the parameters of press freedom and so on? Also, famously of course, Britain's relationship with the EU. We encourage debate and we are very happy to support that in other contexts.

My second point that I want to be clear about is that in the UK government, while supporting this process of talking about constitutional review, we are not in any way seeking to steer that process or interfere with it in any way. We are genuinely supportive of the process because we think that it is good for Nigeria, and that it is an interesting and important subject, but the outcome and the substance of those discussions are of no concern to us. This is a dialogue between Nigerians; we are very happy to facilitate through Chatham House where we can, but we are interested spectators, if you like. So if anyone thinks they can discern a hidden agenda here from the UK government, sorry to disappoint you: there isn't one.

On that note, I am confident that we will hear a range of views strongly expressed – I know that from my time in Lagos – and we look forward to continued engagement with Nigerians here, and also importantly in Nigeria as well.

Rt Hon. Emeka Ihedioha

Deputy Speaker and Chairman, House of Representatives Committee on the Review of the Constitution

Introduction

Given the political history of Nigeria, which has been characterized by intervention of the military in politics and its attendant disruption of the political and democratic evolution of Nigeria, there grew a missing link in the process of constitution-making in Nigeria.

The present 1999 Constitution was the product of a military decree and has since continued to suffer a legitimacy crisis.

Many vocal Nigerians view it with contempt and indeed, its opening paragraph which says, 'We the People of the Federal Republic of Nigeria having firmly and solemnly resolved ... etc.', has been described as a lie as there was never a time that Nigerians participated in the making of that Constitution.

One of the major criticisms of the 1999 Constitution is that it did not emerge through a process of consultation and involvement of the people, including a referendum.

A few Nigerians even suggest that we throw away the present Constitution and convoke a sovereign national conference to radically restructure the constitutional foundation of Nigeria. While this suggestion may appear populist, the reality is that this not a route contemplated by the present Constitution and would therefore be difficult to implement.

One of the decisions made by the Seventh House of Representatives when it was inaugurated in June 2011 was to respond to the pressures for further reform of the Nigerian Constitution by citizens in the search for a Constitution reflecting the shortcomings of the existing legal *grundnorm* of the country.

This decision was entrenched in the four-year Legislative Agenda of the House of Representatives, so that when the House Committee on Constitution Review was inaugurated on 25 September 2011 to drive the process, the determination was already there to pursue the objective of Constitution reform. The process of reform of the Constitution is going on simultaneously in the two chambers of the National Assembly – the Senate and House of Representatives.

The setting up of the ad Hoc Committee on Constitution Review

The Special Ad Hoc Committee of the House of Representatives on the Review of the 1999 Constitution was inaugurated on 25 September 2011 following the inauguration of the House earlier in the year.

The early inauguration of the Committee was born out of the desire of the 7th National Assembly to start the process of amendment of the Constitution early to avoid the lack of time that attended the exercise in the 6th National Assembly, when it could not attend to most of the issues in the Constitution that were required to be addressed. It is on record that the first successful amendment of the Nigerian Constitution took place in 2010 and dealt mostly with electoral reforms.

Membership

The membership of the Committee consists of the Deputy Speaker, who is the Chairman, with other Principal Officers of the House as members. There is then a Representative of each of the 36 States of the Federation and the Federal Capital Territory.

Five members were nominated to represent the interests of women and special interests, bringing the membership of the Committee to 51.

Committee activities

The Committee has been active taking on the tasks associated with amending the Constitution. The House of Representatives organized a retreat of its Committee on the Review of the Nigerian Constitution in May 2012. The retreat reached certain resolutions and outlined its willingness to proceed with amending areas of the Constitution where our people have indicated this may require legislative intervention. At our retreat in May, we were quite clear in stating that the House of Representatives will draw no limits, nor will it restrict the desire of Nigerians to demand amendments to any section or provision of the Constitution. We are keeping faith with this commitment.

It is our belief that the business of amending Nigeria's Constitution is serious and fundamental to our democracy and consequently needs the full involvement and participation of all Nigerians.

Call for memoranda

The Committee began the process of receiving inputs from Nigerians when it issued calls for memoranda from Nigerians. This was widely advertised and

circulated. The Secretariat of the Committee comprising technical experts, consultants and other support staff provides logistics, research and administrative support to the House Committee.

The response has been very impressive as over 200 memoranda have been received by the Committee, covering a wide range of issues, which were reduced into a 43-item template that was voted on during the People's Public Sessions.

It is significant to note that the call for memoranda and the announcement of the holding of the People's Public Sessions were placed in over ten Nigerian newspapers and uploaded on the Committee's website and other internet fora for easy access by all Nigerians, including those in the diaspora. The Committee has a functional website and e-mail address.

For the avoidance of doubt, the Committee also received memoranda from various interested groups on diaspora issues. One of the memoranda came from *All Nigerian Nationals in Diaspora (ANNID)*, *Central Association of Nigerians in United Kingdom (CANUK)*, *Nigerian Diaspora Alumni Network (NIDAN)*, and *Nigerians in Diaspora Organisation (NIDO)* organizations.

We have also received memoranda *Action for New Nigeria* and *Students Association of Nigerians in Diaspora (SAND)*.

Indeed, item 32 of the template for voting at the People's Public Session asked the question: 'Should Section 77(2) (of the Constitution) be amended to give Nigerians living outside the country in the Diaspora voting rights?'

The process we have adopted gives power to the ordinary Nigerian to determine or decide these questions.

People's public sessions on constitution review

Only recently, the House organized unprecedented nationwide hearings on the Constitution across the 360 Federal Constituencies of Nigeria, known as the People's Public Sessions on the Review of the 1999 Constitution. The hearings witnessed a massive turnout of Nigerians who made their input and contributed to the discussions and debate on the amendment of the Constitution.

The People's Public Sessions were held as a response to the pressures for a more participatory and transparent review of the Constitution. They took the process and issues to the Nigerian people in their villages, communities and towns across Nigeria. The People's Sessions elicited from the people their

views on issues they would like to see addressed by the legislature as it proceeds with amending the Constitution. This consultation process was novel and made the process inclusive and participatory.

The People's Public Sessions were held on the same day and time across the 360 Federal Constituencies of Nigeria. None of them were disrupted, and there were no security challenges.

Each of the sessions was facilitated by the Honourable Member representing the Federal Constituency. The Public Sessions featured experts and stakeholders representing:

- Members of the State House of Assembly in the particular federal constituency;
- Local Government Chairmen;
- Nigerian Labour Congress;
- Trade Union Congress;
- Nigerian Bar Association;
- Academic Staff Union of Universities;
- Nigerian Union of Teachers;
- Civil Society Organizations;
- National Association of Nigerian Students;
- Nigerian Youth Council;
- National Council of Women Societies/Representatives of Women Organizations;
- National Union of Local Government Employees (NULGE).

These organizations nominated representatives into a *Constituency Steering Committee* that participated very actively in the organization and execution of the Sessions in each of the 360 Federal Constituencies.

The Objectives of the People's Public Sessions on the Review of the Constitution were to:

- Improve the inclusiveness and participation of members of the community and other stakeholders in the Constitution amendment process;
- Increase the capacity of the participants to collate and prioritize issues that require alteration or inclusion in the 1999 Constitution, and to constructively engage with their legislators;
- Prepare and produce the views and positions of the participants on the issues proposed for amendment in the Constitution;
- Increase the capacity of the House of Representatives to receive input and suggestions on Constitution amendment from individuals and groups, as well as provide a platform for the House to respond to the concerns of the citizens on the Constitution amendment process.

The Committee formulated a 43-item template of issues which the participants were asked to vote on at the end of the Sessions.

The issues were drawn, in the main, from the memoranda received by the Committee, which include proposals for Constitution amendment with respect to: Recognition of the Six Zone Structure; States Creation; The Structure, Funding and Creation of Local Governments; Residency, Citizenship and the 'Indigeneship' question; Justicability [*sic*] of Economic and Social Rights; Fiscal Provisions; Separation of Office of Accountant General of the whole Federation and Accountant General of the Federal Government; Separation of office of Attorney General of the Federation and Minister of Justice; Process of sending the Revenue Allocation Formula to National Assembly; Independence of State Legislature; amendments to the Exclusive Legislative List to devolve more powers to States; Fiscal Federalism; Abolition of State Electoral Commissions; Immunity clause review; State police question; Zoning and Power Sharing; Term of office of Governors and President, whether single term of 5, 6 or 7 years or a renewable term of 4 years; Independent candidacy; Voting age; Improved female representation; Disability rights; Diaspora voting; Single National Chamber Legislature; Presidential or Parliamentary system; Role for Traditional Rulers; Further Electoral Reforms, etc.

The House issued Guidelines to guide the conduct of the People's Public Sessions. The highlights of the Guidelines were:

- That the People's Public Session shall be held in a public place where members of the public shall have unfettered access and every citizen was free to participate;
- The Proceedings shall be uniform throughout the country as far as is practicable;
- The Steering Committee shall make efforts to ensure wide publicity for the Sessions, in every part of a federal constituency, so as to guarantee the participation of all Nigerians at the grassroots;
- Decisions at the Session shall, as much as possible, be taken by consensus but where that fails, then by voting, where the views of the majority shall prevail;
- Voting shall be by show of hands or voice vote;
- The Steering Committee shall ensure that every item to be voted on, is explained to the people in the language prevalent in the locality;
- There shall be a video recording and written reports of the proceedings of the Session across all of the Federal Constituencies by the Steering Committee, which shall be submitted to the Clerk of the Committee not later than seven days after the event.

The Committee also conducted a transparent collation process where all the identified stakeholders sent nominees to participate in the collation of the Results of the Public Sessions.

The results of the collation would soon be presented to the public on how Nigerians at the grassroots level voted on all issues in the 43-item template.

In the history of Constitution-making in Nigeria, this is the first time that Nigerians at the grassroots have been involved in the process, as the Committee felt that the best way to achieve credibility and transparency for the process was to involve critical stakeholders in the exercise.

The way forward – next steps

Once the results are publicly presented, the Committee will proceed to begin consideration of draft bills of the proposed amendments based largely on the returns from the People's Public Sessions. These draft bills will be agreed to by the Committee.

It is important to note that Honourable Members of the House on their own have sponsored several private members' bills that have gone on to a Second Reading in the House and been referred to the House Ad-Hoc Committee on Constitution Review for Legislative Action.

Both Houses of the National Assembly will need to harmonize and pass common bills that will then be sent to the 36 State Houses of Assembly. It is important to point out that each Constitution amendment clause must be passed at the National Assembly by at least a two-thirds majority vote. Each of the clauses passed by the National Assembly must also be passed by a simple majority of votes in at least two-thirds of the 36 State Houses of Assembly.

The issue of Presidential Assent is still contentious, although the Federal High Court ruled in 2010 that Presidential Assent was required to bring the process of amending the Nigerian Constitution to a close.

Conclusion

I bring you greetings from the Speaker, Rt Hon. Aminu Waziri Tambuwal CFR, and all members of Nigeria's House of Representatives. To all the participants at this consultative dialogue, the House appreciates your contribution.

To our development partners, particularly the British Department for International Development (DFID) and United Nations Development Programme (UNDP), through its Democratic Governance for Development (DGD) Project, who have been supporting the Constitution Review Process, we extend our appreciation. To all Nigerians living outside the country, please continue to be good ambassadors of the Federal Republic of Nigeria. Lastly, to *Chatham House*, our debt of gratitude for this very useful event.

Hon. Abike Dabiri-Erewa

Chairman, Diaspora Committee, House of Representatives

It is always a pleasure to talk to our brothers and sisters in the diaspora. The House Committee on Diaspora is the only parliamentary committee anywhere in the world on diaspora affairs. We are dealing with over 15 million Nigerians in the diaspora. There is no accurate database, which is one of the challenges that must be taken up, but the estimate is 15 million, half of those in Europe, of which half of those are in the UK. The embassy says there are four million in the UK, although again there is no accurate measure. But we are working on the database, which we must have and that is very important.

When we meet people in the diaspora like you I have a sense of pride and joy that we are dealing with the best in the world. Educated knowledgeable people making an economic contribution, such as here in the UK. So why are we still stereotyped? What we hear is one word: fraud. That is not who we are. Here in the UK I will give you an example: the UK Medical Council announced that 33 Nigerians were bad doctors and were blacklisted. But that is out of almost 4,000 Nigerian doctors in the UK. 33, less than 1%, have issues and yet all Nigerian doctors are stereotyped. What about the rest? We don't talk about them, but we need to talk about them and you need to talk about them, and we are there to talk about them with you. That is part of what we do in the Diaspora Committee.

There are 16,000 Indian doctors in the UK, and 4,000 Nigerian doctors. If you pull those out of the UK there will be great effects. So we need to recognize that and we need to respect that. We need to celebrate who we are and what we are doing here.

The Nigerian Committee on Diaspora has held interventions in several countries, which is why we know that Nigeria must stand up for our citizens. You have the good Nigerians and you have the bad Nigerians. But it doesn't matter where you are as long as you are Nigerians. Your country needs to rise up and stand up for you. I will give you an example: when I was in Brazil not so long ago there was a 72-year-old Nigerian woman in a Brazilian prison, she was locked up for drugs, but we realized that Brazilian law states that if you are over 70 you should not be in prison. We got her out of jail and onto house arrest. She eventually died in hospital due to high blood pressure, but she was not convicted for the drugs. The Committee intervened and succeeded.

In Libya, we brought back about 23 Nigerians that Gaddafi was going to kill. Before our intervention they would have been killed, and it was the House of Representatives that gave us the courage to stand up for Nigerians, wherever they are. In Cairo we just got back two Nigerians that were in Egyptian prison, they didn't do anything but they were in the wrong place at the wrong time. They are now back home to tell their story. That is what we do in the Diaspora Committee, and we insist that Nigerian embassies wherever you are must stand up for your citizens. In China a Nigerian student died. He had only \$500 to be buried. Nobody had attended to him. A Nigerian student in China had to get together \$500 to bury that young Nigerian. When you stand up for your citizens you achieve results, and that is one of the things we need to do as a country for our brothers and sisters in the diaspora.

Now what are the challenges? Like I said, no database. We have to work on a database, and like I said, we can do that in various ways. Mapping and baseline survey, using diaspora associations. Our missions abroad should be able to have a register of the Nigerians in their countries. I am afraid that not too many have that. Just have a register of Nigerians in your country. Some will come [to register] and some will not, but [for] those who come up you can have a database. Again, that is why we are having trouble with diaspora voting, and we need to remedy that.

We need to review existing bilateral relationships and explore new opportunities for engaging host countries with significant Nigerian nationals for mutual exchange and benefits. We have 25 bilateral agreements that have not been touched by Nigeria at all. In Brazil, for instance, there is a bilateral agreement with Nigeria since 2000. Nothing has happened to it. So we need to look at those agreements and see what we can do for our brothers and sisters in the diaspora. We do not have a diaspora policy. Now the diaspora policy is actually the migration policy. We have a migration policy that is governed somewhere; we are talking to the executive of government to bring that policy and review it to have a migration policy that includes a diaspora policy for people in the diaspora.

We need to have a Diaspora Commission. Well, we can call it a Diaspora Council, but we need to have a Diaspora Commission. It won't stop the agency that will deal with diaspora matters. It begins in parliament. The bill was with us in parliament but I know with the support of all parliamentarians we will pass that bill. Some got it mixed up with diaspora voting, but we sorted [that] out eventually and we believe we should have a Diaspora Commission or Diaspora Council. A country like India has a fully-fledged ministry for

diaspora affairs, the Ministry of Overseas Indian Affairs, so if an Indian anywhere in the world gets into trouble or there is an issue, the minister for the diaspora deals with that, rather than the minister of foreign affairs, who deals with other matters.

Ghana has a full Department for Diaspora, as does Somalia and other countries. So Nigeria needs to have that and I believe we will get there. And it is all the more important because recently the World Bank says you remit more than any other Africa country's diaspora. This year you remitted £10 billion to Nigeria, according to the World Bank. That is just the formal ones; you still have the informal ones, such as the \$500 that my sister will send to her grandmother, the \$100 that a man will send to his girlfriend, which is not being accounted for.

So there are people like you remitting such huge amounts of money, you deserve, I believe, more than you are getting at this moment in time. But you know what, out of the \$6 billion we return to Africa generally we found that what is taxed, what the money transfer companies take away as taxes, is much more than what they give us in aid and grants, and they are taxing us more than they are taxing Asia. We want to take up the government on that when we get back. Why is that so? Think about \$4 billion, you pay that for taxes for sending your money back home. Why is that so; why is it more than if you send to Asia? That is another thing that the Committee will be looking into. And then, we let you know, we normally have an annual diaspora day in Nigeria. We had challenges last year; this year I am glad to tell you that we are going to have a huge diaspora day in Nigeria, set to take place on 25 July. Why do we need to do that? Because we need to have the diaspora together; you need to be part of the policies of your country. You need to be engaged and embraced, and we will be joining the preparations this year, along with the office of the Secretary to the Government of the Federation (SGF) and the diaspora delegations, to have a diaspora day this year. So 25 July 2013, let all come home and talk as Nigerians in the diaspora. I was invited to the Indian diaspora day; the first non-ethnic Indian to address the Indian diaspora day. It has never happened in the 11 years of diaspora activities and we learned a lot. So we hope you will be able to join us to come together and help see how we can bring Nigeria forward.

Almost finally: the issue of diaspora voting. I am sure that you want to know whether or not you are going to be able to vote in 2015. Unfortunately I am not able to answer that question; neither is the deputy speaker at this point in time, because like the deputy speaker said, the issue of diaspora voting was

on the list of amendments. I know how my constituency voted: yes. I don't know how other constituencies voted. But most important is: let your voice be heard all of the time.

When we were in Washington we got input from diaspora organizations. But whether you spoke out as strongly as you should I don't know, and I cannot take that decision. But I know that it has to be the wishes of the majority of Nigerians, and you have to let your voices be heard all the time, which brings me to my final point.

You keep complaining about how Nigeria has problems. Yes, Nigeria has problems. The major problem as far as I am concerned is leadership. But the beauty of it all is that we have a democracy. We have a democracy. We have the power to choose our leaders. You have the power to look at everyone who is on the panel today and say, we don't want you anymore. But what happens is that nothing happens, we just sit back and accept the same old story. Now, whether you can vote in 2015 or not I don't know. But whether you can vote or not, channel your energy to bring about change in your country. You have the technology: Twitter, Facebook. You have the power to bring about change, and you have the Freedom of Information law. You can use that law to bring about change in your country – it is that institution against corruption. If you think that Nigeria is corrupt with no infrastructure, what are you doing about it? Beyond sitting back and abusing each other online, channel that energy to bring about change in your country. We can do it and we have to do it. No, we cannot do anything about where we are coming from, but we can do everything about where we are going to. Let us change our tomorrow with our votes, with our voice, with our power. People: you are a strong force to be reckoned with and I know you can do it. We all can do it to bring about change in Nigeria.

