

ELECTIONS COORDINATING COMMITTEE

**PROPOSED AMENDMENTS TO THE NEW ELECTIONS LAW (NEL) AND 1986 CONSTITUTION**

| EXISTING LAWS   | RATIONALE FOR AMENDMENT  | PROPOSED AMENDMENTS   |
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| <b>Amendment of Chapter 2 (subsections 2.1, 2.2, 2.4, relating to the National Elections Commission: Office of the Commission, Appointment and Tenure; and Quorum</b>   |  |   |
| <p><b>NEL 2.1:</b><br/>The National Elections Commission, as an autonomous public commission established by the Constitution of Liberia, shall be under direction and management of seven commissioners appointed by the president of Liberia, who shall appoint one of them as Chairman and another as co-chairman. All of the appointments shall be subject to the consent of the senate.</p> | <p><b>Appointment of the BOC of NEC</b><br/>Amend NEL Sect 2.1 so that the appointment process is inclusive and broad-based representing the diversity of society through a public vetting exercise that would submit names as recommendations to the President for appointment. This process will also ensure that individuals nominated have competencies in election management and that they bring diverse expertise and competencies to the Commission.</p> | <p><i>Section 2.1 of NEL Chapter 2 is amended, to read thus:</i> The National Elections Commission, as an autonomous public commission established by the Constitution of Liberia, shall be under direction and management of seven commissioners, of whom at least three shall be of either sexes and no two of them shall be from the same county, appointed by the president of Liberia from a shortlist of candidates derived from a process of public vetting. This process shall be managed by a seven-person ad-hoc committee comprising one nominee from civil society organizations working on elections, religious institutions, women’s groups, the Bar Association, Governance Commission, Youth groups, and the Private Sector. These nominees shall be appointed by the Chief Justice with one of them as the Chair. The committee shall submit names, at most nine, of successful candidates to the Chief Justice for onward submission to the President who shall appoint commissioners with one of them as Chairperson and another as Vice-Chairperson. All of the appointments shall be subject to the consent of the Senate.</p> |
| <p><b>NEL 2.2: Appointment and Tenure</b><br/>The President shall nominate and, with the consent of the senate, appoint and commission the chairman, co-chairman and other members of the commission, who shall hold their office during good behavior for a period of seven (7) years effective as of the date of their commission; they may however be removed upon proof of misconduct.</p>  | <p>Amend Sect. 2.2 to include “term limit” in order to avoid BOC building and maintaining unhealthy relationships with political parties and politicians.</p>  | <p><i>Section 2.2 of the NEL Chapter 2 is amended, to read:</i> The President shall nominate and, with the consent of the senate, appoint and commission commissioners, the Chair and, Vice-Chair, one of whom shall be male and female, who shall hold their office during good behavior for a period of seven (7) years effective as of the date of their commission, and may be reappointed for another term only. They may however be removed</p>   |

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|   |  | upon proof of misconduct through an impeachment marked by due process of law.  |
| <p><b>NEL 2.4: Quorum and Vote</b><br/>Any five (5) members, including the chairman, shall constitute a quorum for the transaction of business of the commission; they shall decide any question before it, and said decision shall be binding on the commission.</p>   | <p><b>Quorum for NEC to do business</b><br/>Amend Sect. 2.4 on quorum so that in the absence of the Chairperson, the operations of the Commission cannot be stalled.</p>             | <p><i>Section 2.4 of the NEL Chapter 2 is amended, to read:</i><br/>Any five (5) members, including the Chairperson or in the absence of the Chairperson, the Vice-Chairperson, shall constitute a quorum for the transaction of business of the Commission, they shall decide any question before it and said decision shall be binding on the Commission.</p>  |
| <p><b>NEL 2.9c:</b><br/>The Commission, as an autonomous agency of Government, independent of any branch of the Government, shall have the following powers and duties:<br/>c) To propose to the National Legislature for enactment, amendment to, and repeal of, any provision of the Electoral Law</p>  | <p>Authority to recommend amendment to the NEL through the Legislature shall be expanded to include other electoral stakeholders.</p>  | <p>Section 2.9 (c) of the NEL is amended, to read: To propose to the National Legislature for enactment, amendment to, and repeal of, any provision of the NEL may be done by NEC, political parties, civil society organizations and citizens.</p>  |
| <p><b>NEL 2.9y:</b> The Commission, as an autonomous agency of Government, independent of any branch of the Government, shall have the following powers and duties:<br/>To conduct programs to educate the citizens of Liberia about elections and referenda and their democratic rights related to them; and to inform them about voter registration events and election and referendum events</p> | <p><b>Civic and Voter Education:</b> Amend Section 2.9Y of the NEL so that civic and voter education are separated because civic education deals with broader governance issues.</p> | <p><i>Section 2.9 sub-section 2.9y of the NEL Chapter 2 is amended, to read:</i> To conduct programs to provide voter information to citizens about voter registration, election and referendum.</p>   |
| <b>Amendments to Chapter 3 (section 3.1) relating to Voters Registration and Voter Roll</b>   |  |  |
| <p><b>NEL 3.1: Who may register to vote</b><br/>Every citizen of Liberia who has attained the age of eighteen (18) years or older, may register as a voter except one who has been judicially declared to be incompetent or of unsound mind or who has been disenfranchised as a result of conviction of an infamous crime and has not been restored to citizenship</p>                             | <p><b>Voter Registration:</b><br/>To increase the number of voters during election.</p>  | <p>Section 3.1 of the NEL Chapter is amended to read thus: Every citizen of Liberia who on the day of the elections will have attained 18 years of age or more, and can prove this through any official identification document (passport, national identification card, birth certificate, original copy of certificate of naturalization, sworn statements by two other registered voters who shall appear in person before NEC official, confirmed by a traditional leader who shall appear before a NEC official ) may register as a voter except one who has been judicially declared to be incompetent or of unsound mind or who has been disenfranchised as a result of conviction of an infamous crime and has not been restored to citizenship.</p> |
| <p><b>NEL 3.6: Roll to be kept for public inspection</b></p>  | <p>Amend 3.6 of the NEL so that there can be independent inspection by the final voter</p>   | <p>Section 3.6 is hereby amended to read: The general registration roll for each registration center shall be</p>  |

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| <p>The general registration roll for each registration center shall be opened for public inspection at the office of the Magistrate of Elections without a fee on any day in a week during the hours the office is opened. A copy of each roll may be kept at such other places as the Commission may designate for public inspection.</p>  | <p>roll by other stakeholders as the voter roll is becoming a source of election conflict in Liberia.</p>  | <p>opened for public inspection at the office of the Magistrate of Elections without a fee on any day in a week during the hours the office is opened. The Final Registration Roll (FRR) shall be submitted to all registered political parties and election observation groups certified by NEC at least one month prior to the election day.</p>  |
| <p><b>Amendments to Chapter 4 (subsection 4.5) Nomination of Candidates:</b></p>  |  |   |
| <p><b>NEL 4.5: Nomination of Candidates</b><br/>(1) Any political party which has been registered by the commission shall send to the commission a list of candidates who will stand for election to several elective offices in the several constituencies<br/>c). A list of candidates submitted to the commission for an election should endeavor to have no less than 30% of the candidates on the list from each gender.</p>   | <p><b>Amend Section 4.5 (1c)</b> of the NEL to a stronger legal language to ensure compliance and sanction for non-compliance</p>  | <p><i>Section 4.5 subsection 4.5(1c) of the NEL Chapter 4 is amended, to read: A list of candidates submitted to the commission for an election shall have no less than 30% of the candidates on the list from each gender. Any party not meeting this standard may not have their list of candidates sanctioned by the NEC.</i></p>  |
| <p><b>NEW PROPOSITION on Qualification of Candidates</b></p>  |  |   |
| <p>Add a new section under 3A, Candidates</p>   | <p>This new proposition shall limit a sitting lawmaker from either the House of Representatives or Senate from contesting a seat in either of the two levels of the National Legislature and limit the conduct of by-elections</p> | <p><i>This new proposition shall be 3A2 and is read thus: No sitting member of the House of Representatives shall contest for a vacant seat in the Senate unless he or she resigns his or her position. This also holds for members of the Senate.</i></p>  |
| <p><b>Constitutional Amendments:</b></p>  |  |   |
| <p><b>Article 37: The Conduct of By-Elections</b><br/>In the event of a vacancy in the Legislature caused by death, resignation, expulsion, or otherwise, the presiding officer shall within thirty (30) days notify the Elections Commission thereof. The Elections Commission shall not later than ninety (90) days thereafter cause a by-election to be held; provided that where such vacancy occurs within 90 days prior to the holding of general elections, the filling of the vacancy shall await the holding of such general election.</p> | <p>To reduce electoral expenses but by-elections also raise question of legitimacy of political representation due to the low turn-out during voting.</p>  | <p>This provision is subject to national referendum and if that happens the restriction on by-elections will be contained in the NEL which will read thus”<br/><b>Option 1:</b> In the event of a vacancy in the Legislature caused by death, resignation, expulsion, or otherwise, the presiding officer shall within thirty (30) days notify the Elections Commission and the political party on whose ticket the person won thereof. Said political party shall not later than 90 days hold a convention, oversee by NEC and observed by election observers, to nominate another candidate to complete the term of the person who died, resigned, expelled or otherwise until the next election time outlined in the Constitution.</p> |

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|   |   | <b>Option 2:</b> Include a new provision in the NEL that states: All candidates for the Senate and House of Representatives shall contest on the tickets of registered political parties. In the event of a vacant seat, the conditions under option 1 would apply to occupy the seat.   |
| <b>Amendment to Article 45:</b> The Senate shall composed of Senators elected for a term of nine years by the registered voters in each of the counties   | Amend Article 45 to limit term of the Senators from nine to seven years. The rationale for change is to create opportunity for lawmakers to be more accountable to citizens they represent.   | The Senate shall composed of Senators elected for a term of seven years by the registered voters in each of the counties   |
| <b>Amendment to Article 48:</b> The House of Representatives shall be composed of members elected for a term of six years by the registered voters in each of the legislative constituencies of the counties  | Amend Article 48 to limit term of the House Representatives from six to five years. The rationale for change is to be on the same standard with other countries in the region and to create opportunity for lawmakers to be more accountable to citizens they represent.  | The new amendment reads: The House of Representatives shall be composed of members elected for a term of five years by the registered voters in each of the legislative constituencies of the counties   |
| <b>Amendment to Article 50:</b> The president shall be elected by universal adult suffrage of registered voters in the Republic and shall hold office for a term of six years   | Amend Article 50 to limit term of the president from six to five years. The rationale for change is to be on the same standard with other countries in the region.  | The new amendment reads: The president shall be elected by universal adult suffrage of registered voters in the Republic and shall hold office for a term of six years   |
| <b>Amendment to Article 83a: Change of election date</b><br>Voting for the President, Vice-President, members of the Senate and members of the House of Representatives shall be conducted throughout the Republic on the second Tuesday in October of each election year.  | Amend 83a so that the date of election is removed from the Constitution to engender flexibility in the conduct of elections in the event of a national emergency. Poor road infrastructure poses challenge to political parties to campaign and the movement of election material materials during the rainy season.        | If this provision is removed through a national referendum, the new clause will be included in the NEL and will read: Voting for the President, Vice-President, members of the Senate and members of the House of Representatives shall be conducted throughout the Republic during the third week of November on a date to be set by the NEC of each election year.   |
| <b>Amendment to Article 83c: Adjudication of electoral disputes:</b><br>The returns of the elections shall be declared by the Elections Commission not later than fifteen days after the casting of ballots. Any party or candidates who complain about the manner in which the elections were conducted or who challenges the results thereof shall have the right to file a complaint with the Elections Commission. Such complaint must be filed not later than days after the announcement of the elections | This amendment is intended to remove judicial powers from the NEC and avoid conflict of interest by NEC in the adjudication of electoral petitions and to increase public trust in electoral dispute processes. By removing this power from the NEC, it can spend time and focus on election management and administration. | If and when this provision goes through a national referendum, the new clause will be included in the NEL under section 5 and will read:<br>All electoral disputes arising from the conduct of an election shall be adjudicated by an ad-hoc electoral tribunal comprising five persons including judges, lawyers and individuals with experience in election management to be appointed by the Chief Justice. All electoral petitions shall be concluded within fifteen days from the date of filing a complaint. |

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|  |  | <p>All appeals from decisions made by the tribunal shall be to the Supreme Court and shall be filed within five day after a decision is rendered. The Supreme Court shall have no later than seven days thereafter to hear the appeal and make a determination.</p>   |
| <p><b>Amendment to Code of Conduct, 5.2a, b on Political Participation</b></p>   |  |   |
| <p><b>COC/5.2:</b> Wherein, any person in the category stated in section 5.1 herein above , desires to canvass or contest for an elective public position, the following shall apply:</p> <p>a). Any minister, deputy Minister, director general, managing director and superintendent appointed by the President pursuant to article 56(a) of the constitution and a Managing Director appointed by the Board of Directors, who desires to contest for public elective office shall resign said post at least two (2) years prior to the date of such public elections;</p> <p>b). Any other official appointed by the President who holds a tenured position and desires to contest for public elective office shall resign said position three (3) years prior to the date of such elections;</p> <p>c). However, in the case of impeachment, death, resignation or disability of an elected official, any official listed above, desirous of canvassing or contesting to fill such position must resign said position within thirty days following the declaration of the National Elections Commission of the vacancy</p> | <p><b>Coded of Conduct Amend</b> Section 5.2 of the Code of Conduct because it reinforces political exclusion and inconsistent interpretations by the Supreme Court of these provisions.</p> | <p>COC Section 5.2:<br/>Wherein, any person in the category stated in section 5.1 herein above , desires to canvass or contest for an elective public position, the following shall</p> <p>a). Any minister, deputy Minister, director general, managing director and superintendent appointed by the President pursuant to article 56(a) of the constitution and a Managing Director appointed by the Board of Directors, who desires to contest for public elective office shall resign said post at least six months prior to the date of such public elections;</p> <p>b). Any other official appointed by the President who holds a tenured position and desires to contest for public elective office shall resign said position six (6) months prior to the date of such elections</p> |
| <p><b>Amendment to The Guidelines Relating to the Registration of Political Parties and Independent Candidates of the Amended 2003, 2004, and December 2014</b></p>  |  |   |
| <p>All the provisions of the NEL dealing with the registration and operations of political parties and independent candidates shall be framed in a comprehensive law to be called Political Parties Act (PPA) to regulate political parties and independent candidates.</p>  | <p>Laws on political parties and independent candidates are spread in portion of the Constitution, Chapter VII, Articles 77-82</p>   | <p>The PPA will deal with issues on formation, registration and regulations of political parties, application and registration of candidates for all elected offices. The proposed law will also deal with financial regulations of political parties. The threshold of membership of political parties will require Constitutional amendment through referendum.</p>   |