

**MEMORANDUM ON REVIEW OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA AND SUGGESTED REFORMS AS SUBMITTED BY THE BODY OF LAGOS STATE PROMINENT CITIZENS**

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Your Ref:

Date: 31st October, 2024

The Chairman

Senate Ad-hoc Committee

on Review of the Constitution

National Assembly Complex, Abuja FCT



Dear Sir/Madam,

**CORE OBJECTIVE**

The core objective of this memorandum is to promote the vision of a restructured Nigeria in which reform can leverage on the natural endowments of Africa's foremost MegaCity and hub of national, regional and continental socio-economic activity for maximum growth.

**STRATEGIC AREAS AND SUGGESTED REFORMS**

**1. Standalone MegaCity-State**

From Colonial times (1886 to present date), except for a brief stint in Western Region (1954-1967), the Lagos IBILE territory had been a "separate political entity". Combining the first letters of the State's administrative divisions of Ikeja, Badagry, Ikorodu, Lagos and Epe (old Lagos Colony and Province territories), the IBILE acronym signify the long standing administrative and socio-cultural relations which had existed among the 5 divisions before, during and after colonial rule. Upon this heritage, Lagos State was created more than 57 years ago

in 1967.

Since then Lagos has grown to be the economic nerve center of the country with a population of over 20 million inhabitants. Lagos as the State of aquatic splendor has proven not only to be the most successful state but quite easily capable of standing on its own just as the great city state of Hong Kong which possesses its own regional constitution and government under mainland China. By 2025, it is estimated that Lagos will be ranked as the third largest city in the world after Tokyo and Mumbai.

**Suggested Reform:**

Though we support the call for a restructured Nigeria, our antecedents, population size, natural endowment and track record of sustainability requires that Lagos stands on its own as a distinct state with only central government as the tier of government above. It is our humble view that nothing else befits Africa's foremost urban centre and hub of national, regional and continental socio-economic activity.

**2. Expanded Residual and Concurrent List**

Nigeria as presently constituted is too heavily weighted at the center to the detriment of States. This unitary structure should therefore be broken up and federated to allow each state the freedom to chart its own course in development for the wellbeing of their people.

**Suggested Reform:**

Consequently, we support the call for a return to a structure of Legislating akin to that under the 1963 Constitution which guarantees greater autonomy for constituent States. That is, a true federation with robust Concurrent and Residual lists for States while the center focuses on areas such as national security, territorial integrity, defence, monetary policy and the like under a much lighter Exclusive Legislative list. In the case of Lagos and other coastal States, control of ports should feature in the concurrent list to enable any willing coastal State to build and operate its own ports.



### 3. Court Jurisdiction

There is likewise need for judicial adjudication to reflect true Federalism. This will not only lighten Court dockets up and down the Country but Importantly deliver judicial panels with a deep understanding of local issues and peculiarities wherever these are most needed.

#### **Suggested Reform:**

Jurisdiction of Courts should correspond to the respective legislative lists such that Federal Courts (including Courts of Appeal) will no longer have jurisdiction on matters within the Residual lists. In such cases, States will have their own Courts of Appeal. Typical areas are landlord and tenant, land matters, customary law and other areas reserved to the States. As it stands today, the Constitution by **Section 251** excludes State High Courts from matters within the exclusive legislative list. In the interest of fairness and true federalism, this should be reciprocated to exclude Federal Courts from matters on the Residual list.

### 4. Economic (Resource Control/Derivation)

Home to Nigeria's busiest air and sea ports, the largest and fastest growing population, largest domestic and regional market, largest educated and skilled work force, industrial, financial, technology hub and home to the 3<sup>rd</sup> largest film industry in the world, Lagos State is pivotal to the economic fortunes of Nigeria and her teeming population, now and more importantly for the future.

#### **Suggested Reform:**

Giving the enormous responsibilities expected of States in a restructured Nigeria, not to mention a far greater burden typically borne by Lagos, we support the call for resource control or at the least a much higher percentage in Derivation. In this, no distinction should be made between resources, which should include all minerals and tax resources to enable States and local governments cater well for their communities without dependence on the center.

## 5. Environment

Increased urbanization and population explosion of Lagos comes with adverse impact on the environment. This was acknowledged back in 1981 when the administration of then President, Alhaji Shehu Shagari, included a N20 Million special intervention fund in the Appropriation bill passed by Senate to cater for environmental challenges in Lagos. It is our understanding that Lagos State continues to receive a sum in this regard though not commensurate with present day devalued Naira and the worsened environmental challenges facing Lagos today, not least as a coastal city.

### **Suggested Reform:**

We propose that a special intervention fund to tackle environmental challenges comparable to the value of N20 Million back in 1981 be appropriated annually by Senate to address the worsening adverse environmental impact of urbanization and population explosion in Lagos.

## 6. Infrastructure

Increased urbanization, density and traffic come with very heavy burden on the States physical infrastructures.

### **Suggested Reform:**

Similar to Federal government intervention on environment, we propose that a special fund be appropriated annually to contribute to the State's efforts at shouldering the burden on physical infrastructures (such as rail and road) which serve teeming Nigerians in the nation's hub of economic activity. **Altogether, we propose appropriation of 0.5% to 1% of the Annual National Budget to cater for Lagos special needs in tackling the huge environmental and infrastructural burden it shoulders on behalf of the country as the nation's economic nerve center and Africa's foremost Mega-city State.**

## 7. Local Government Structure

In 2003, Lagos State enacted the **Lagos State Creation of New Local Government**



**Areas Law No. 5 of 2002** (amended, 6<sup>th</sup> October, 2003) and proceeded to create 37 additional Local Government Areas, pursuant to **Section 7(1) and (4) and Section 8(3)** of the Nigerian Constitution.

Subsequently, the Supreme Court in **Attorney General of Lagos State vs. Attorney General of the Federation**, [2004] 18 NWLR (Pt. 904) 1 SC declared the 57 Local Government areas as constitutional though inchoate as the National Assembly was yet to list them in the Constitution as required under **Section 8(5) of the 1999 Constitution**. His Lordship, **Uwaifo JSC**, citing **Section 8(3) and Section 8(6) of the Constitution**, observed that the National Assembly has no basis to refuse the consequential listing of the new local government areas in the Constitution. This has however not happened till date and not pursued since the early days of this Republic. The formal recognition and listing of Lagos State's inchoate 57 Local Governments is long overdue given the spiraling population and enormous burden shouldered by Lagos as Nigeria's economic and commercial nerve center.

#### **Suggested Reform:**

We humbly propose an urgent amendment of **Section 3(6) of the Constitution and of Part 1 of the First Schedule to the Constitution** to include the 37 new local government areas created for Lagos State and bring the total to 57 local government areas. This will constitutionally complete the process begun back in 2003 for which the Supreme Court had declared constitutional albeit inchoate.

#### **8. Security (State Police)**

Whist we support the call for State Police, we believe a State Police ought to be insulated from State government and party politics as an underlying principle to ensure its independence and protect from abuse.

#### **Suggested Reform:**

**An Institutional Framework** - An institutional framework to carve out and shield from political control is needed to prevent abuse.

**An Independent Office of Attorney General** - Towards this, we propose the removal of the office of Attorney General from the political office of Commissioner for Justice (amendment of Section 195) and to place State Police under the administrative supervision of a new and apolitical office of Attorney General as is the case in the United States (amendment of Section 211).

**Section 195 of the Nigerian Constitution** already names the Attorney General as the chief law officer of the State. Everything relating to law enforcement, including administration of State Police, will therefore be more suitably placed under the supervision of an independent office of Attorney General.

Towards an independent State Police, we propose that the appointment to the office of Attorney General (AG) should involve all 3 arms of government exercising equal powers and checks upon each other in the process of appointment and removal of an AG. Lastly, the AG's tenure ought to outlast any administration and as much as possible be mid-term of any administration's tenure. A secure single 5 year term that spans across administrations may be considered.

**An Independent Public Service** - Ability to hire and fire plays a key role towards independence. Recruitment of personnel into State Police and Office of Attorney-General ought to be independent of State Civil Service Commission just as the Lagos State House of Assembly has its own Public Service Commission for the same purpose of independence from the Executive, among other objectives.

**Financial Autonomy** - Coupled with an independent service commission, financial independence will play a big part in shielding State Police and the office of Attorney-General. We therefore propose that their budgets be separately and independently presented to State Assemblies for appropriation and be directly released. That is, not to be included as part of State Executive Council budget and appropriation.

**Jurisdiction and Interplay with Federal Authorities** - Jurisdiction of the Attorney-General's office under an amended Constitution will ideally be over residual and concurrent list matters. Under the doctrine of "covering the field", State AG and Police will step down whenever the Federal Attorney General or Police step in on



any matter on the concurrent list.

## 9. Protection of Indigenous Communities

As much as Lagos has been accommodating, indigenous Lagosians and their heritage are presently threatened and severely disadvantaged under a system lop-sided more in favour of non-indigenes.

### Suggested Reform:

We propose that distinction between residents and indigenes be retained. There should be Constitutional protection and guarantee for rights of indigenous peoples in Nigeria to govern their land and reap the benefits of host communities and catchment areas in relation to Appointments and Recruitment. In the case of Lagos, a balance need to be struck such that indigenes are not sidelined and their rights and identity protected in the same way.

## CONCLUSION

We thank the Senate and Ad-hoc Committee on review of the Constitution for the noble project embarked upon to deliver a Country that meets the hopes and aspirations of her people and for the opportunity given us to contribute to same.

Dated this 28th day of October, 2024

Yours sincerely,



IMRAN O. SHITTA-BEY

FOR: CHIEF SUNBO ONITIRI [Convener]

Alhaji Mutiu Gbajumo | Prof. Abisogun Leigh | Bashorun JK Randle | Dr. Aderemi Desalu | Odofin Layi Ogunbambi | Chief Sunbo Onitiri | Oloriekun Uthman Shodipe Dosunmu | Mr. Adedeji Idowu | Mr. Kola James | Mr. Imran Shitta-Bey