



Proposal

“Constitution for transitional period” in Eritrea

October 2019

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Proposal “Constitution for transitional period” in Eritrea

We the people of Eritrea united in a common struggle for our rights and common destiny, standing on the solid ground of unity and justice

With Eternal Gratitude to the scores of thousands of our martyrs who heroically sacrificed their lives for the causes of our rights, justice, independence, liberty and sovereignty, and to the courage and steadfastness of our Eritrean patriots;

Realizing that many Eritreans had not given up pursuing individual liberties and sacrificed dearly to reinstall our dignity and our traditional values of respecting and honoring each other as fundamental principles of living together

Aware that it is the sacred duty of all Eritreans to build a strong and developed Eritrea on the bases of freedom, unity, peace, stability and security, as well as tolerance and reconciliation and acquire them as tradition we must cherish, preserve and develop;

Realizing that in order to build a developed country, it is necessary that the unity and equality which all Eritrean strive and stand for must become the core of our national values;

Appreciating the fact that for the development and all-round health of our society, it is necessary that we inherit and improve upon the community-based management.

Convinced that the recognition, protection and securing of the rights and freedoms of citizens, human dignity, equality will guarantee a balanced development; lay down the groundwork for satisfying the material and spiritual needs of citizens; usher in a democratic order that is responsive to the needs and interests of citizens, guarantees their participation and brings about economic development, social progress and harmony;

Noting the fact that the women are equal partners and beneficiaries in the Eritrean society; they equally contribute in the society; their heroic participation in the struggle for independence and solidarity based on equality and mutual respect generated by such struggle will serve as an unshakable foundation for our commitment and struggle to create a society in which women and men shall interact on the bases of mutual respect and equality;

Desirous of satisfying the wishes and ensuring the welfare of the inhabitants of Eritrea by respecting the rights and safeguarding the institutions, traditions, religions and languages of all the elements of the population.

Desirous that the Constitution we are adopting will be a covenant between us and the government we will be structuring by our free will and serve as a means for governing in harmony and usher the nation to a democratic election that this and the future generation; and for bringing about freedom, justice, and peace, founded on liberty, democracy, national unity and the rule of law; today ..., on this historic date, after active popular participation, approve and solemnly ratify officially, through the Constituent Assembly, this Constitution as the fundamental law of our Sovereign and Independent State of Eritrea

CHAPTER I: GENERAL PROVISIONS

Article 1: The State of Eritrea and its Territory

1. Eritrea is a sovereign and independent State founded on the principles of liberty, democracy, social justice and the rule of law.
2. The territory of Eritrea consists of all its territories, including the islands, territorial waters and airspace, delineated by internationally recognized boundaries including the Eritrean Ethiopian border as delineated by the EEBC decision of April 13, 2002 and the Eritrea Yemen Maritime Delimitation arbitrated by the Permanent Court of Arbitration decision of the October 9, 1998.
3. In the State of Eritrea, sovereign power is vested in the people, who shall exercise such power through their representatives, duly authorized pursuant to the procedures authorized by the provisions of this Constitution.
4. The State shall cultivate among all Eritreans respect for fundamental human rights and freedoms and the dignity of the human person.
5. The State that is to be established,
 - a. shall be characterized by the "will to live together in unity".
 - b. shall have the government and religion separated and where the state treats all its citizens equally and avoids preferential treatment for a citizen from a particular religion or/and nonreligion over other religions or nonreligion.

On this question we agreed that as an institution any religion will have accountability and transparency. Foreign aid and finances should be declared. There should be a state agency that ensures that these rules are adhered to.

- c. a civic nation that does not aim to promote one culture over another

6. The transitional period in Eritrea shall have to be a decentralized government system whose power shall be shared between:
 - a. the three separate branches of the central government: the Legislative, the Executive and the Judiciary, and
 - b. the nine administrative regions- which shall consist of Akele-Guzai, Barka, Dankalia, Gash-Setit, Hamasien, Sahel, Semhar, Senhit and Seraye and the capital city of Asmara. The member states’ boundaries shall be that of the de facto Administrative Districts of 1952 with the addition of Asmara

7. Consistent with the principles of separation of powers and checks and balances, no person holding office in one of these branches shall hold office in or exercise any of the powers assigned to either of the other two branches except as otherwise provided in this constitution; and no person holding office in one of the said branches shall serve on any autonomous public agency.

Article 2: Supremacy of the Constitution

1. This Constitution is the legal expression of the sovereignty of the Eritrean people.
2. The main task of the transitional government shall be to prepare the necessary preconditions for a successful transition to a constitutional democratic government. Its basic duties shall include drafting a constitution, forming and overseeing the different commissions.
3. This Constitution enunciates the principles on which the State is to be based and guided by and determines the organization and operation of government. It is the source of government legitimacy and the guarantor for the protection of the rights, freedoms and dignity of citizens and of just administration.
4. This Constitution is the supreme law of the country and the source of all laws of the State, and all laws, orders and acts contrary to its letter and spirit shall be null and void.
5. All organs of the State, all public and private associations and institutions and all citizens shall be bound by and remain loyal to the Constitution and shall ensure its observance.
6. Pursuant to the provisions of this Constitution and other laws, the conduct of the affairs of government and all organizations and institutions shall be accountable and transparent.
7. This Constitution shall serve as a basis for instilling constitutional culture and for enlightening and ensuring that organizations of the State and citizens respect fundamental human rights and duties.

8. The State shall ensure the publication and dissemination of the Constitution throughout the Eritrea and the teaching of its principles and provisions in all institutions of Learning in Eritrea.

Article 3: Citizenship

1. Any person born of an Eritrean father or mother is an Eritrean by birth and by descent.
2. Any foreign citizen may acquire Eritrean citizenship pursuant to law.
3. Dual citizenship is permitted for Eritreans who reside in nations that allow reciprocal dual citizenship.
4. The details concerning citizenship shall be regulated by law.

Article 4: National Symbols

1. The exact description of the Flag shall be determined by law.
2. Eritrea shall have a National Anthem and a Coat of Arms appropriately reflecting the history and the aspiration of its people. The details of the National Anthem and the Coat of Arms shall be determined by law.

Article 5: Gender Reference

1. Without consideration to the gender wording of any provision in this Constitution, all of its articles shall apply equally to both genders.

CHAPTER II NATIONAL OBJECTIVES AND DIRECTIVE PRINCIPLES

Article 6: National Unity and Stability

1. As the people and government struggle to establish a united and developed Eritrea, within the context of the diversity of Eritrea, they shall be guided by the basic principle of unity in diversity.
2. The state shall promote among the people of Eritrea the culture of political tolerance.
3. The State shall actively promote national harmony among the Eritrean people, guided by the basic principle of unity in diversity, and prohibit discrimination and prejudice on the grounds of place of origin, circumstances of birth, ethnic origin, gender, age, disability and religion, creed or other beliefs.

4. The State shall strengthen the stability and development of the country by encouraging democratic dialogue and national consensus through participation of all citizens; by building strong political and cultural foundation; and by promoting national unity and social harmony.
5. Preserve, protect and promote positive Eritrean culture, ensuring that traditional values which are compatible with public policy and national progress are adopted and developed as an integral part of the growing needs of the Eritrean society;
6. The State shall ensure peace and stability by establishing appropriate institutions that encourage people's participation and by creating the necessary conditions capable of guaranteeing, hastening and engendering equitable economic and social progress.
7. Take steps, by appropriate legislation and executive orders, to eliminate sectionalism and tribalism, and such abuses of power as the misuse of government resources, nepotism and all other discriminatory and corrupt practices.
8. The President of the state shall report to Parliament at least twice a year, to ensure the realization of the general objectives & directive principles contained in this Chapter; and, in particular, the realization of basic human rights, a healthy economy, the right to work, the right to good health care and the right to education.

Article 7: Democratic Principles

1. The State shall be a democratic state dedicated to the realization of freedom and justice; and accordingly, sovereignty resides in the people of Eritrea from whom Government derives all its powers and authority through this Constitution
2. It is a fundamental principle of the State to guarantee its citizens broad and active participation in all political, economic, social and cultural life of the country.
3. Make democracy a reality by decentralizing the administrative and financial machinery of government to the regions and districts and by affording all possible opportunities to the people to participate in decision-making at every level in national life and in government; and
4. The State shall ensure that individuals and the private sector bear their fair share of social and national responsibilities including responsibilities to contribute to the overall development of the country.

5. Any act that violates the human rights of women, limits their equal right to all national resources, or thwarts their role and participation in all economic and political life is prohibited.
6. There shall be established necessary institutions to encourage and develop people's participation and initiative in the areas where they reside.
7. The State shall ensure that individuals and the private sector bear their fair share of social and national responsibilities including responsibilities to contribute to the overall development of the country.
8. Pursuant to the provisions of this Constitution and laws enacted pursuant thereto, all Eritreans, without distinction, are guaranteed equal opportunity to participate in any positions of leadership in the country.
9. The organization and operation of all political parties and public associations and movements shall be guided by the principle of national unity and democracy.
10. Achieve reasonable regional and gender balance in recruitment and appointment to public offices;
11. The State shall create the necessary conditions for establishing a democratic, political culture defined by the development of individual freedom for critical thinking, political tolerance & national consensus
12. The State shall, because of the vital role assigned to the individual citizen under the Constitution for the social, economic and political well-being of Eritrea, provide equal access to educational opportunities and facilities for all citizens to the extent of available resources.

Article 8: The court and its administration

1. The justice system of Eritrea shall be independent, competent and accountable pursuant to the provisions of the Constitution and laws.
2. Justice emanates from the people and shall be administered in the name of the State by the Judiciary which shall be independent and subject only to this Constitution.
 - a. Citizens may exercise popular participation in the administration of justice through the institutions of public and customary tribunals and the jury and assessor systems.
 - b. The judicial power of the state shall be vested in the Judiciary, accordingly, neither the President nor Parliament nor any organ or agency of the President or Parliament shall have or be given final judicial power.

- c. The Supreme court shall, subject to this Constitution, be the Head of the Judiciary and shall be responsible for the administration and supervision of the Judiciary.
 - d. Courts shall work under a judicial system that is capable of producing fast and equitable judgments and that can easily be understood by and is accessible to all the people
 - e. The Judiciary shall have jurisdiction in all matters civil and criminal, including matters relating to this Constitution, and such other jurisdiction as Parliament may, by law, confer on it.
 - f. Courts shall encourage out-of-court settlement of disputes through conciliation, mediation or arbitration
3. Judges shall be free from corruption or discrimination and, in rendering their judgment; they shall make no distinctions among persons.

Article 9: Competent Public Administration

1. Eritrea shall have an efficient, effective and accountable public service.
2. All administrative institutions shall be free from corruption, discrimination and delay in the delivery of services.

Article 10: Economic and Social Development

1. The State shall, consistent with the principles of individual freedom and social justice enshrined in the Constitution, manage the national economy and the natural resources of Eritrea in such manner as shall ensure the maximum feasible participation of Eritrean citizens under conditions of equality as to advance the general welfare of the Eritrean people and the economic development of Eritrea.
2. The State shall afford equality of economic opportunity to all citizens; and, in particular, the State shall take all necessary steps so as to ensure the full integration of women into the mainstream of the economic development of Eritrea.
3. The State shall endeavor to create opportunities to ensure the fulfillment of citizens' rights to social justice and the economic development and to fulfill their material and spiritual needs.

4. The State shall work to bring about a balanced and sustainable development throughout the country and shall use all available means to ensure all citizens to improve their livelihood in a sustainable manner, through their development.
5. Preferential provisions in economic and educational developments shall be given to underprivileged Eritrean regions and social groups that suffered from underdevelopment, as well as from gender inequality/imbalance. As such positive discrimination / affirmative action principles to be adopted to enable the less developed regions and social groups to catch up with their fellow communities and promote even development throughout the country.
6. The State shall have the responsibility to regulate all land, water and natural resources and to ensure their equitable and rational management in a balanced and sustainable manner and in the interest of the present and future generations; and to create the right conditions for securing the participation of the people to safeguard the environment.

Article 11: National Culture and Traditions

1. The State shall have the responsibility of creating and maintaining the necessary conditions for enriching national culture, which is the expression of national identity and unity and progress of the Eritrean people.
2. The State shall support and respect the values of community solidarity and the love and respect of family.
3. The State shall promote the development of arts, sport and science and technology and shall create an enabling environment for individuals to work in an atmosphere of freedom and manifest their creativity and innovation.

Article 12: National Defense and Security

1. Defense and security forces of Eritrea shall owe allegiance to and defend the territorial integrity and sovereignty of the country, the Constitution and the government established pursuant thereto.
2. Defense and security forces are an integral part of and reflect diversity of society and shall be productive and respectful of the people.
3. The defense and security of Eritrea are rooted on the people and on their active participation.
4. The defense and security forces shall be subject and accountable to the law, shall be competent and pass these requirements for posterity.

5. The defense and security forces shall be neutral and free from any influence and membership of political party and accountable only to the interim constitution.
6. The defense and security forces shall be re-structured to reflect the Eritrean diversity and professionalism in all ranks. Its doctrine must be redefined as a national establishment whose loyalty is to the country and Eritrean people.
7. Code of Military Conduct shall be determined by Law.

Article 13: Foreign Policy

1. The foreign policy of Eritrea is based on respect for the independence and sovereignty of countries and on promoting the interest of regional and international peace, cooperation, harmony and development.
2. Seek the establishment of a just and equitable international economic and social order
3. The State in its dealings with other nations, shall
 - a. Seek the establishment of a just and equitable international economic and social order;
 - b. Promote respect for international law, treaty obligations and the settlement of international disputes by peaceful means;
 - c. Adhere to the principles enshrined in or as the case may be, the aims and ideals of the Charter of the United Nations; any other regional & international organization of which Eritrea is a member.

CHAPTER III FUNDAMENTAL RIGHTS, FREEDOMS, AND DUTIES

Article 14: Equality under the Law

1. All persons are equal before the law.
2. No person may be discriminated against on account of race, ethnic origin, language, color, sex, religion, disability, political belief or opinion, or social or economic status or any other factors.
3. The National Assembly shall, pursuant to the provisions of this Article, enact laws that can assist in eliminating inequalities existing in the Eritrean society.

Article 15: Right to Life and Liberty

1. No person shall be deprived of life without due process of law.

2. No person shall be deprived of liberty without due process of law.

Article 16: Right to Human Dignity

1. The dignity of all persons shall be inviolable.
2. No person shall be subject to torture or to cruel, inhuman or degrading treatment or punishment.
3. No person shall be held in slavery or servitude or required to perform forced labor not authorized by law.

Article 17: Arrest, Detention and Fair Trial

1. No person may be arrested or detained save pursuant to due process of law.
2. No person shall be tried or convicted for any act or omission which did not constitute a criminal offence at the time when it was committed.
3. Every person arrested or detained shall be informed of the grounds for his arrest or detention and the rights he has in connection with his arrest or detention in a language he understands.

Every person who is arrested and detained in custody shall be brought before the court within forty-eight (48) hours of his arrest, and if this is not reasonably possible, as soon as possible thereafter, and no such person shall be detained in custody beyond such period without the authority of the court and has the right to legal defense.

4. Every person shall have the right to petition the court for a Writ of Habeas Corpus. Where the arresting officer fails to bring him before the court of law and provide the reason for their arrest, the court shall accept the petition and order the release of the prisoner.
5. Every person charged with an offence shall be entitled to a fair and public hearing by a court of law; provided, however, that such a court may exclude the press and/or the public from all or any part of the trial for reasons of morals, the public order or national security, as is necessary in a just and democratic society.
6. A person charged with an offence shall be presumed to be innocent, and shall not be punished, unless he is found guilty by a court.
7. Where an accused is convicted, he shall have the right to appeal. No person shall be liable to be tried again for any criminal offence on which judgment has been rendered.

Article 18: Right to Privacy

1. Every person shall have the right to privacy.
2. No person shall be subjected to unlawful search, including his home or other property; there shall be no unlawful entry of his premises and no unlawful seizure of his personal possessions; nor shall the privacy of his correspondence, communication or other property be violated without court permission.

Article 19: Freedom of Expression of Opinion, Movement, Assembly and Organization

1. Every person shall have the freedom of speech and expression, which include freedom of the press and other media.
2. Every citizen shall have the right of access to information.
3. Every person shall have the freedom to practice any religion and to manifest such practice.
4. All persons shall have the right to assemble and to demonstrate together with others peaceably.
5. Every citizen shall have the right to form organizations for political, social, economic and cultural ends; and to practice any profession or engage in any occupation or trade.
6. Every citizen shall have the right to move freely throughout Eritrea or reside and settle in any part thereof.
7. Every citizen shall have the right to leave and return to Eritrea and to be provided with passport or any other travel documents.

Article 20: Freedom of Conscience and Religion

1. The right to freedom of conscience and religion shall include the right of everyone, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 21: No Discrimination to the detriment of any Religion

1. No economic, financial or political measure of a discriminatory nature shall be taken to the detriment of any religion practiced in Eritrea.

Article 22: Recognition of religious bodies as persons before the law

1. Religious bodies of all kinds and religious orders shall be recognized as possessing juristic personality. Consequently, any religious denomination or any group of citizens belonging to such denomination shall be entitled;
 - a. To establish and maintain institutions for religious, educational and charitable purposes.
 - b. To conduct its own affairs in matters of religion;
 - c. To possess and acquire movable and immovable property
 - d. To administer its property and to enter into contracts.

2. Religious instruction and worship in public school
 - a. No pupil attending a public school shall be required to take part in any religious instruction at such school or attend any religious service at such school.

 - b. On Belief: There shall be absolute freedom of conscience. The state in rendering homage to the Highest shall respect all religions and creeds and guarantees, under its protection, the free exercise of all religious rites provided that public order is not disturbed It also guarantees that the personal status and religious interests of the population, to whatever religious sect they belong, is respected.

 - c. On Education, Confessional Schools: Education is free in so far as it is not contrary to public order and morals and does not interfere with the dignity of any of the religions or creeds. There shall be no violation of the right of religious communities to have their own schools provided they follow the general rules issued by the state regulating public instruction.

Article 23: Right to Vote and to be a Candidate to an Elective Office

1. Every citizen who fulfills the requirements of the electoral law shall have the right to vote or to campaign to be elected to any office of leadership in government.

Article 24: Economic, Social and Cultural Rights and Responsibilities

1. Every citizen shall have the right of equal access to publicly funded social services. The State shall endeavor, within the limit of its resources, to make available to all citizens health, education, cultural and other social services.

2. The State shall secure, within available means, the social welfare of all citizens and particularly those disadvantaged.

3. Every citizen shall have the right to engage freely in any economic activity and to pursue a livelihood.

4. The State and society shall have the responsibility of identifying, preserving, developing, when necessary, and bequeathing to succeeding generation historical and cultural heritage; shall lay the necessary groundwork for the development of arts, sport, science and technology; and shall encourage citizens to participate in such endeavors.
5. The National Assembly shall enact laws that guarantee and secure the social welfare of citizens and other rights and responsibilities listed in this Article.

CHAPTER IV: SPECIAL RIGHTS OF THE VARIOUS POPULATION GROUPS IN ERITREA

Article 25: Family

1. The family is the natural and fundamental unit of society and is entitled to the protection and special care of the State and society.
2. Men and women of full legal age shall have the right, upon their consent, to marry and to find a family freely, without any discrimination and they shall have equal rights and duties as to all family affairs.
3. Parents have the right and duty to bring up their children with proper care and affection; and, in turn, children have the right and the duty to respect their parents and to sustain them in their old age.

Article 26: Personal Statutes

All citizens shall have the right to respect for their customs and their own legislation governing personal status and legal capacity, the law of the family and the law of succession.

Article 27: Property Rights

1. Any citizen shall have the right, anywhere in Eritrea, to acquire, own, and dispose of all property individually or in association with others and to bequeath to his heirs or legatees.
2. Properties rights and rights of real nature, including those of State lands, established by custom or law and exercised in Eritrea by the tribes, the various population groups and by natural or legal persons, shall not be impaired by any law of a discriminatory nature.
3. Any citizen shall have the right, anywhere i.e. Eritrea, to acquire and dispose property, individually or in association with others, and to bequeath the same to his heirs or legatees.

4. A Land Commission shall review all forms of violations to the traditional norms committed in land appropriation, land confiscation, unlawful distribution or district border changes enforced by the current regime or formerly by the Ethiopian occupations and shall propose a policy solution.
5. The State or any of its organs authorized by law may expropriate property in the national or public interest, subject to the payment of just compensation and in accordance with due process of law.
6. A committee should be created to investigate properties or funds invested outside the country in the name of the party or in the name of individuals serving as officials of the present administration.

Article 28: Languages

1. Tigrigna and Arabic shall be the official languages of Eritrea.
2. In accordance with established practice in Eritrea, the equality of languages spoken and written by the various population groups shall be guaranteed and shall be permitted to be used in dealing with the public authorities, as well as for religious or educational purposes and for all forms of expression of ideas.

Article 29: Administrative Justice

1. Any person with a complaint shall have the right to be heard respectfully by administrative officials and to receive appropriate and quick answer from them.
2. Any person whose rights or interests are interfered with or threatened shall have the right to seek due administrative redress.

Article 30: Duties of Citizens

All citizens shall have the duty to:

1. owe allegiance to Eritrea, strive for its development and promote its prosperity and respect its sovereignty and territorial integrity;
2. be ready to defend the country;
3. complete one's duty in the National Service;
4. advance national unity and the well-being of the people; know, respect and defend the Constitution;
5. respect the rights and freedoms of others;

6. respect the rule of law and comply with the requirements of the law.

Article 31: Temporary Limitation Upon Fundamental Rights and Freedoms

1. The fundamental rights and freedoms guaranteed under this Constitution may be temporarily limited only in so far as is necessary in the interests of national security, public safety or the economic well-being of the country, health or morals, for the prevention of public disorder or crime or for the protection of the rights and freedoms of others.
2. Any law providing for the temporary limitation of the fundamental rights and freedoms guaranteed in this Constitution must:
 - a) be of general application and not negate the essential content of the right or freedom in question;
 - b) specify the ascertainable extent of such temporary limitation and identify the Article or Articles hereof on which authority to enact such limitation is claimed to rest.
3. Notwithstanding the provisions of Sub-Article 1 of this Article and other Articles of this Constitution to the contrary, the fundamental rights and freedoms guaranteed under Articles 14 (1) and (2), 17 (2), 19 (4) of this Constitution shall not be limited.

Article 32: State of Emergency

1. At a time when public safety or the security or stability of the State is threatened by external invasion, by civil disorder or by natural disaster, the President may by a proclamation published in the Gazette of Eritrean Laws declare that a state of emergency exists in Eritrea or any part thereof.
2. A declaration under Sub-Article 1 hereof shall not become effective unless approved by a resolution passed by two-thirds majority votes of all members of the National Assembly. In the case of a declaration made when the National Assembly is in session, the declaration shall be presented within two days after its publication, or otherwise the National Assembly shall be summoned to meet and approve the publication within thirty days of its declaration.
3. A declaration approved by the National Assembly pursuant to Sub-Article 2 hereof shall continue to be in force until the expiration of a period of six months after such approval. The National Assembly may, by a resolution of two-thirds majority votes of all its members, extend its approval of the declaration for periods of three months at a time.
4. The National Assembly may by resolution at any time revoke a declaration approved by it pursuant to the provisions of this Article.

5. Any measures undertaken or laws enacted pursuant to a declaration of a state of emergency shall not: a) suspend Article 32 (3) of the Constitution; b) grant pardon or amnesty to any person or persons who, acting under the authority of the State, have committed illegal acts; or c) introduce martial law when no external invasion exists or civil disorder prevails.

Article 33 Enforcement of Fundamental Rights and Freedoms

1. Save in so far as it may be authorized to do so by this Constitution, the National Assembly or any subordinate legislative authority shall not make any law, and the Executive and the agencies of government shall not take any action which abolishes or abridges the fundamental rights and freedoms conferred by this Constitution. Any law or action in violation thereof shall be null and void.
2. Aggrieved persons who claim that a fundamental right or freedom guaranteed by this Constitution has been denied or violated shall be entitled to approach a competent court to enforce or protect such a right or freedom. Where the court ascertains that such fundamental right or freedom has been denied or violated, the court shall have the power to make all such orders as shall be necessary to secure such applicants the enjoyment of such fundamental right or freedom, and where such applicants suffer damage, to include an award of monetary compensation.

Article 34: Residual Rights

1. The rights enumerated in this Chapter shall not preclude other rights which ensue from the spirit of this Constitution and the principles of a society based on social justice, democracy and the rule of law.

CHAPTER V: THE NATIONAL ASSEMBLY

Article 35 Representation of the People

1. Any Eritrean citizen, of eighteen years of age or more, shall have the right to vote **and to be elected as far as he/she fulfills the electoral law.**
2. The National Assembly shall enact an electoral law, which shall prescribe for and ensure the representation and participation of the Eritrean people.

Article 36: Establishment and Duration of the National Assembly

1. There shall be a National Assembly which shall be a supreme representative and legislative body.
2. The National Assembly shall be composed of representatives elected by the people. {In this section our Group has come up with two opinions (a) and (b)}.

- a) representatives elected by the people in line with the regulations of election commission
 - b) representatives elected by the people in line with the regulation of electing commission and representatives of the opposition political groups and civic societies, national icons and professionals in proportions seen fit by the election commission.
3. The duration of the provisional assembly should be three years.
 4. The assembly shall be composed of not less than fifty and not more than seventy members.
 5. Within the limits prescribed in the preceding paragraph, the number of members shall be fixed by law.
 6. Members of the National Assembly shall be elected by personal, direct ballot by all citizens who are qualified to vote.
 7. Members of the National Assembly are representatives of the Eritrean people. In discharging their duties, they are governed by the objectives and principles of the Constitution, the interest of the people and the country and their conscience.
 8. The first session of the National Assembly shall be held within one month after a general election and its term shall be one year from the date of such first session. Where there exists a state of emergency which would prevent a normal general election from being held, the National Assembly may, by resolution supported by not less than two-thirds vote of all its members, extend the life of the National Assembly for a period not exceeding six months.
 9. The qualifications and election of the members of the National Assembly and the conditions for vacating their seats shall be determined by law.

Article 37: Powers and Duties of the National Assembly

1. Pursuant to the provisions of this Constitution:
 - a) The National Assembly shall have the power to enact laws and pass resolutions for the peace, stability, development and good governance of Eritrea;
 - b) Unless, pursuant to the provisions of this Constitution or authorized by law enacted by the National Assembly, no person or organization shall have the power to make having the force of law.

2. The National Assembly shall be bound by the objectives and principles of the Constitution and shall strive to realize the objectives stated therein.
3. The National Assembly shall approve the national budget and enact tax law.
4. The National Assembly shall ratify international agreements by law.
5. The National Assembly shall authorize government to borrow money pursuant to law.
6. The National Assembly shall approve a state of peace, war or national emergency.
7. The National Assembly shall have the power to oversee the execution of laws.
8. The National Assembly shall appoint a President (or Presidential Council) who shall serve for three years and shall not be qualified to seek office or be appointed in any branches of the government at any level after the three years of the Transitional (or Interim) period.
9. In the Transitional/Interim period, the National Assembly shall have the power to elect, from among its members, by absolute majority vote of all its members, a Vice President who shall serve for three year and shall not be qualified to seek office or be appointed in any branches of the government at any level for after the three years.
10. Pursuant to the provisions of Sub-Article 6(a) and (b) of Article 37 hereof, the National Assembly, by a vote of two-thirds majority of all its members, shall have the power to impeach and charge the President before the end of his or her term of office.
11. The National Assembly may approve the appointment of any person or persons pursuant to this Constitution.
12. The National Assembly may pass such resolutions and undertake such measures as are necessary and establish such standing or ad hoc committees as it deems appropriate for discharging its constitutional responsibilities.
13. The National Assembly may summon the president to its meetings during which members of the National Assembly may submit questions in writing or questions the President, to which s/he shall reply.
14. The National Assembly meetings minutes will be publicly available, and its deliberations shall be televised live.

15. At the request of ten members of the National Assembly, a debate may be held on the President's policy.

Article 38: Approval of Draft Legislation

Any law approved by the National Assembly shall be transmitted to the President who, within thirty days, shall sign and have it published in the Gazette of Eritrean Laws.

Article 39: Chairman of the National Assembly

1. In its first meeting, the National Assembly shall elect, by an absolute majority vote of all its members, a Chairman for three year.
2. The Chairman of the National Assembly shall convene session of the National Assembly and preside at its meetings, and shall, during the recess, coordinate and supervise the operations of standing and ad hoc committees of the National Assembly.
3. The Chairman of the National Assembly may be replaced by an absolute majority vote of all the members of the National Assembly.

Article 40: Oath

Every member of the National Assembly shall take the following oath: "I, ..., solemnly swear that I will be faithful and worthy of the trust the Eritrean people placed on me; that I will uphold and defend the Constitution of Eritrea; and that I will endeavor to the best of my ability and conscience for the unity and development of my country without seeking or being enticed by private gain."

Article 41 Rules of Procedure in the National Assembly

1. The National Assembly shall have regular session and shall determine the timing and duration of its regular session.
2. At the request of the President, its Chairman or one-third of all its members, the National Assembly shall have emergency meeting.
3. The quorum of the National Assembly shall be fifty percent of all the members of the National Assembly.
4. Except as otherwise prescribed by this Constitution or other laws, any question proposed for decision of the National Assembly shall be determined by a majority vote of those present and voting, and in case of a tie of votes, the Chairman may exercise a casting vote.

5. The National Assembly shall issue rules and regulations concerning its organization, tasks, operations and internal processes and those of the standing and ad hoc committees, including the rules governing the code of ethics of its members and transparency of its operations.

Article 42: Office and Committees of the National Assembly

1. The National Assembly shall have a secretariat under the direction of its Chairman and committees for various fields of interest, as circumstance may dictate.
2. The various committees established pursuant to the provisions of Sub-Article 1 of this Article shall have the power to call any person to appear before them to give evidence or to submit documents.

Article 43: Duties, Immunities and Privileges of Members of the National Assembly

1. All members of the National Assembly shall maintain the high image of the National Assembly. They shall regard themselves as humble servants of the people and maintain close contact with them.
2. No member of the National Assembly or of its committees may be arrested or charged for any crimes he commits during the session of the National Assembly, unless he/she be apprehended in flagrant violation. Nevertheless, where the National Assembly, by a majority vote of those present and voting, revokes his immunity, the member may be charged.
3. No member of the National Assembly may be arrested or charged for words uttered or written statements submitted by him at any meeting of the National Assembly or any meeting of its committees or any utterance or statement made outside the National Assembly in connection with his duty as member thereof.
4. The duties, responsibilities, immunities and compensation of the members of the National Assembly shall be determined by law; and all members shall be entitled to the protection of such immunities and shall perform the duties enumerated therein.

CHAPTER VI: THE EXECUTIVE

Article 44: The President: Head of State and Government

1. The President of Eritrea is Head of State and Government and Commander-in-Chief of the Armed Forces of Eritrea. {In this point: members of our Group came up with two options: (a) and (b)}.
 - a) The Executive shall be one President

- b) The Executive shall be a Presidential Council composed of 3 members.
2. The executive authority is vested in the President/Presidential Council, and shall be exercised, in consultation with the Cabinet, pursuant to the provisions of this Constitution.
3. The President/Presidential Council shall ensure the respect of the Constitution; the integrity of the State; the efficiency and effectiveness of the public service; the interests and safety of all citizens, including the enjoyment of their fundamental rights and freedoms recognized under this Constitution.

Article 45: The Vice President: Deputy Head of State and Government

1. The Vice President shall assume the office of the President in case of his or her absence.
2. The Vice President shall assume the duties of the President in the event of the post of the President becomes vacant for any reason whatsoever. The National Assembly must elect a new President within a period not to exceed ten days from the date of the vacancy.
3. In the case the post of the President becomes vacant, the Speaker of the National Assembly shall replace the President in cases he does not have a Vice President, on the condition that a new President is elected during a period not to exceed ten days from the date of the vacancy and in accordance with the provisions of this Constitution.

Article 46: Qualifications to be a Candidate to the Office of the President

1. Any member of the National Assembly to be elected President of Eritrea shall be a citizen of Eritrea by birth.

Article 47: Election and Term of Office of the President

1. The President shall be elected from amongst the members of the National Assembly by a vote of the majority of its members. A candidate for the office of the President must be nominated by at least 20 percent vote of all the members of the National Assembly.
2. The term of office of the President shall be three years, equal to the term of office of the National Assembly that elects him.
3. When the office of the President becomes vacant due to death or resignation of the incumbent or due to the reasons enumerated in Sub-Article 6 of this Article, the Chairman of the National Assembly shall assume the office of the President. The Chairman shall serve as acting President for not more than

thirty days, during which time, the National Assembly shall elect another President to serve the remaining term of his predecessor.

4. The term of office of the person elected to serve as President under Sub-Article 4 of this Article shall not be considered as a full term for purposes of Sub-Article 3 of this Article.
5. The President may be removed from office by two-thirds majority vote of all members of the National Assembly for the following reasons:
 - a) violation of the Constitution or grave violation of the law; b) conducting himself in a manner which brings the authority or honor of the office of President into ridicule, contempt and disrepute; c) being incapable of performing the functions of his office by reason of physical or mental incapacity.
6. The procedures for the election and removal of the President from office shall be determined by law.

Article 48: Powers and Duties of the President

The President shall have the following powers and duties:

1. once every year, deliver a speech in the National Assembly on the state of the country and the policies of his government;
2. subject to the provisions of Article 27 hereof, declare state of emergency, and when the defense of the country requires, state of war;
3. summon the National Assembly to an emergency meeting and present his views to it;
4. sign and publish in the Gazette of Eritrean Laws draft laws approved by the National Assembly;
5. ensure the execution of laws and resolutions of the National Assembly;
6. negotiate and sign international agreements and delegate such power;
7. appoint with the approval of the National Assembly, ministers, commissioners, the Auditor-General, head of the National Bank, the Chief Justice of the Supreme Court and any other person or persons who are required by any other provisions of this Constitution or other laws to be appointed by the President;
8. appoint justices of the Supreme Court upon proposal of the Judicial Service Commission and approval of the National Assembly;

9. appoint judges of the lower courts upon proposal of the Judicial Service Commission;
10. appoint and receive ambassadors and diplomatic representatives;
11. appoint high ranking members of the Armed and the Security Forces;
12. pardon, grant amnesty or reprieve offenders;
13. establish and dissolve such government ministries and departments necessary or expedient for the good governance of Eritrea, in consultation with the Public Service Administration;
14. preside over meetings of the Cabinet and coordinate its activities;
15. present legislative proposals to the National Assembly;
16. confer medals or other honors on citizens, residents and friends of Eritrea in consultation with relevant persons and institutions;
17. pursuant to the provisions of this Constitution, remove any person appointed by him.

Article 49: Immunity from Civil and Criminal Proceedings

1. Any person holding the office of the President may not be sued in any civil proceedings or charged for a crime, save where such proceedings concern an act done in his official capacity as President or proceedings involving Sub-Article 6(a) and (b) of Article 41 hereof.

Article -50: Privileges to be Given to Former Presidents

1. Provisions shall be made by law for the privileges that shall be granted to former Presidents.

Article 51: Oath

Upon his election, the President shall take the following oath: "I,, solemnly swear that I will uphold and defend the Constitution of Eritrea and that I will strive with the best of my ability and conscience to serve the people of Eritrea."

Article 52: The Cabinet

1. There shall be a ministerial Cabinet, which shall be presided by the President.

2. The President may select ministers from among members of the National Assembly or from among persons who are not members of the National Assembly.
3. The Cabinet shall assist the President in:
 - a) directing, supervising and coordinating the affairs of government;
 - b) conducting study on and preparing the annual budget;
 - c) conducting study and preparing draft laws to be presented to the National Assembly;
 - d) conducting study on and preparing policies and plans of government.
4. The President may issue rules and regulations for the organization, functions and operation of his office, the Cabinet or other government institutions, and for the code of ethics involving officials of the executive branch of government.

Article 53: Ministerial Accountability

1. All ministers shall be accountable:
 - a) individually to the President for the administration of their own ministries; and
 - b) collectively to the National Assembly, through the President, for the administration of the work of the Cabinet.
2. The National Assembly or its committees may, through the Office of the President, summon any minister to appear before them to question him concerning the policies or operation of his ministry.

CHAPTER VII THE ADMINISTRATION OF JUSTICE

Article 54: The Judiciary

1. The judicial power shall be vested in a Supreme Court and in such other lower courts as shall be established by law and shall be exercised in the name of the people pursuant to this Constitution and laws issued there under.
2. In exercising their judicial power, courts shall be free from direction, control and supervision of any person or authority. Judges shall be subject only to the law, to a judicial code of ethics determined by law and to their conscience.
3. A person exercising judicial power shall not be liable to any suit for any act or omission in the course of exercising that judicial power.
4. All organs of the State shall accord to the courts such assistance as they may require to protect their independence and dignity so that they may exercise

their judicial power appropriately and effectively pursuant to the provisions of this Constitution and laws issued there under.

Article 55: The Supreme Court

1. The Supreme Court shall be the court of last resort; and shall be presided by the Chief Justice.
2. The Supreme Court shall have the power of:
 - a) sole jurisdiction of interpreting this Constitution and the constitutionality of any law enacted or any measure undertaken by government;
 - b) sole jurisdiction of hearing and adjudicating upon charges against a President who has been impeached by the National Assembly pursuant to the provisions of Sub-Article 6 (a) and (b) of Article 41 hereof; and c) hearing and adjudicating cases appealed from lower courts pursuant to law.
3. The organization and operation of the Supreme Court shall be determined by law.
4. The tenure of justices of the Supreme Court shall be determined by law.

Article 56: Lower Courts

1. The organization, jurisdiction and the procedures of lower courts and the tenure of their judges shall be determined by law.

Article 57: Oath

Every judge shall take the following oath: "I, ..., solemnly swear that I will adjudicate in accordance with the provisions of the Constitution and laws enacted there under and I will exercise the judicial authority vested in me, subject only to the law and my conscience, without seeking or being enticed by any private gain." Article 56: Removal of Judges from Office

1. A judge may be removed from office before the expiry of his tenure of office by the President only, acting on the recommendation of the Judicial Service Commission, pursuant to the provisions of Sub-Article 2 of this Article for physical or mental incapacity, violation of the law or judicial code of ethics.
2. The Judicial Service Commission shall investigate whether a judge should be removed from office on grounds of those enumerated in Sub Article 1 of this Article. In case the Judicial Service Commission decides that a judge should be removed from office, it shall present its recommendation to the President.

3. The President may, on the recommendation of the Judicial Service Commission, suspend from office a judge who is under investigation.

Article 58: The Judicial Service Commission

1. There shall be established a Judicial Service Commission, which shall be responsible for submitting recommendations for the recruitment of judges and the terms and conditions of their services.
2. The powers, organization and duties of the Judicial Service Commission shall be determined by law.

CHAPTER VIII: MISCELLANEOUS PROVISIONS

The following Specialized Agencies and Commissions shall be:

1. Established during the Interim/Transitional Period
2. Established by the National Assembly
3. Guided by the laws to be enacted by the NA
4. Operate for a period to be limited by the NA
5. Members of these bodies shall be nominated and elected by the NA

Article 59: Auditor General

1. There shall be an Auditor General who audits the revenues and expenditures and other financial operations of government and who reports annually his findings to the National Assembly.
2. The Auditor General shall be appointed for three years by the President with the approval of the National Assembly. He shall be accountable to the National Assembly.
3. The detailed powers, duties and organization of the Auditor General shall be determined by law.

Article 60: National Bank

1. There shall be a National Bank, which performs the functions of a central bank, regulates the financial institutions and manages the national currency.
2. The National Bank shall have a Governor appointed by the President with the approval of the National Assembly. There shall be a Board of Directors presided by the Governor and whose members shall be appointed by the President and confirmed by the National Assembly.
3. The National Bank shall have operational independence to set monetary policies and shall be limited only to pursue the government annual inflation

target and managing public debt and not to compete with private banks and financial institutions.

4. The detailed powers, duties and organization of the National Bank shall be determined by law.
5. The regulatory framework by which the National Bank will regulate private banks and financial institutions shall be determined by law.

Article 61: Public Service Administration

1. There shall be established a Public Service Administration, which shall be responsible for recruitment and selection of civil servants as well as for determining the terms and conditions of their employment including their rights and duties.
2. The Public Service Administration shall set competitive and selective hiring criteria with the aim of a creating responsive, competent, and highly skilled and professional civil servants that, in due time, will reflect the diverse segments of the Eritrean society in the makeup of civil servants at all levels, in the middle and higher echelons.
3. The detailed powers, duties and organization of the Public Service Administration to gradually achieve functional equality in the public sector shall be mandated by law.

Article 62: Electoral Commission

1. There shall be established an Electoral Commission, operating independently, without interference, which shall, on the basis of the electoral law, ensure that free and fair elections are held and manage their implementation; decide on issues raised in the course of the electoral process; and formulate and implement civic educational programs relating to elections and other democratic procedures.
2. An Electoral Commissioner shall be appointed by the President with the approval of the National Assembly.
3. The detailed powers, duties and organization of the Electoral Commission shall be determined by law.

Article 63: Human and Peoples Rights Commission

1. There shall be an established Human and Peoples Rights Commission, operating independently, without interference from any branches of the

- government, ensure to protect the right to be free discrimination because of race, ethnicity, nationality, creed, color, gender, physical disability, age.
2. The Commission shall be created with powers with respect to elimination and prevention of discrimination in employment, access to education and medical treatment, and public accommodation because race, ethnicity, nationality, creed, color, gender, physical disability, age.
 3. The Commission will ensure that Eritrea adheres to the African Declaration of Human and People Rights.

Article 64: Peace, Reconciliation and Transitional Justice Commission

1. The long and painful course of struggle, and the different atrocities committed in the post-independence period have left behind deep resentments. A reconciliation process becomes essential and a prerequisite to repair the tattered social fabric and to rebuild trust and to underlie the foundation of rebuilding a harmonious nation with bright prospects a Peace, Reconciliation and Transitional Justice Commission shall be established. This commission will investigate the atrocities committed pre and post-independence. It shall gather facts and evidences on these matters.
2. It is therefore essential for Eritreans to go through a process of healing to overcome the negative effects of injustice in order to normalize relations and maintain peaceful coexistence. This involves a process that aims to properly redress injustice, make compensation for material loss, if any, resolve tensions, and regain the lost trust among the social components affected through devising appropriate confidence building measures and approaches which suit our specific conditions. This necessitates establishing of an independent reconciliation commission with the task of gathering the relevant facts and evidences that will expedite the application of transitional justice. The commission shall bring closure to the relatives who have lost their loved ones during the reign of dictatorship. It shall redress injustices, make reparations for material loss, resolve tensions and regain as well as consolidate trust and peace among the social components.
3. The current PFDJ party has failed miserably to establish a peaceful coexistence and a true partnership in the nation during its rule of the past three decades. In the transitional period, all political parties, including PFDJ must be dissolved, all financial and other properties under its control must be transferred to government treasury. Its Central Committee members and other leaders of the party and government should be banned from any political activities.

Article 65: Commission for the Demobilization and Reintegration of National Service Members

The objectives of this Commission, among other things shall be:

1. To design a program and to implement a system of demobilization of members of the National Service,
2. To consolidate the transition by ensuring their full reintegration into a civilian setting.
3. To design the process to make it contribute to security and stability in post-conflict environment so that recovery and development can begin
4. Design a program to make this complex process, in its political, military, security, humanitarian and socio-economic dimensions
5. By taking the National Service members out of military structures and helping them to integrate socially and economically into society, the program should seek to support male and female members equally by providing educational and business opportunities
6. Design and seek funding opportunities to implement the program.
7. Etc.

Article 66: Anti-Corruption and Bribery Commission

The objectives of the Anti-Corruption and Bribery Commission, among others shall be:

1. To formulate national policy in the area of combating corruption
2. To coordinate the activities of public institutions in this area
3. Raise Awareness about Ethics and professionalism
4. Responsibilities and complaints

Article 67: Eritrean Refugees Repatriation and Reintegration Commission

The objectives of an Eritrean Refugee Repatriation and Reintegration Commission, among other things shall be to:

1. design a framework for a durable solution for Eritrean refugees' repatriation and reintegration, including internally displaced Eritreans, if any.
2. bring together UN agencies, humanitarian and development actors to assist in the program
3. create a conducive environment in the country to facilitate sustainable repatriation and reintegration program.
4. Etc.

Article 68. Land Ownership and Natural Resources Management Commission

The main objectives of this Commission, among others, shall be:

1. To design a policy for improved land and natural resource management in Eritrea
2. to develop and implement a strategic multi-sectoral proposal focused on building the capacity of national stakeholders,
3. Conduct a comprehensive study to maintain the traditional land ownership and create a strategy to simplify the process for creating opportunities for agriculture and industry to develop the land and natural resources equitably.
4. To support the government to implement the land policy.

5. Any Eritrean citizen shall have the right to own land in accordance with the law and deals made with the rightful owners in any part of the country. The Commission shall investigate any land ownership granted through forcible collective organized means, internal displacements, land expropriation or confiscation in any form and propose fair and equitable solutions.
6. Land within the original habitat of any community, whether collectively or individually owned, shall be considered the rightful property of that community. Thus, any form of land ownership must conform to the norms and customary laws that have been historically accepted by the society.

Article 69. National Constitution Commission

This National Constitution Commission shall be tasked with drafting the Constitution of Eritrea for the post- Transitional period. Its main objectives shall be:

1. The constitution-making process must be a transformational one that facilitates peace and stability.

2. The Commission shall be organized transparently and with public participation
3. It shall conduct civic education, broadly consult the population, and compile a draft constitution. There are many models from around the world for such a commission.

Article 70. Amendment of the Constitution

1. A proposal for the amendment of any provision of this Constitution may be initiated and tabled by the President or 50 percent of all the members of the National Assembly.

2. Any provision of this Constitution may be amended as follows:
 - a) where the National Assembly by a three-quarters majority vote of all its members proposes an amendment with reference to a specific Article of the Constitution tabled to be amended; and
 - b) where, one year after it has proposed such an amendment, the National Assembly, after deliberation, approves again the same amendment by four fifths majority vote of all its members.