

**MEMORANDUM ON THE REVIEW OF THE 1999
CONSTITUTION**

AFRICAN WOMEN LAWYERS ASSOCIATION

PRESENTED BY

MANDY DEMECHI-ASAGBA

PRESIDENT AWLA

MEMORANDUM ON THE REVIEW OF THE 1999 CONSTITUTION

☞ **Constitution Making Process** – Constitution making in Nigeria has persistently marginalized women and this dates back to the colonial times when women were not allowed to vote.

☞ There was no woman member of the Constitution Drafting Committee that brought the 1979 constitution into existence.

☞ In the same vein, the 1999 Constitution making was an all male affair as the Provisional Ruling Council (PRC) of General Abdulsalami Abubakar regime was made up of 26 military officers, all male.

🗳️ **Language** – The pronoun “he” appears in 235 times in the 1999 Constitution and the word woman was used only twice.

🗳️ **Citizenship** – The Constitution makes no provision for the process by which non-Nigeria men married to Nigerian women and who are so desirous, may become Nigerian citizens but provided for Nigerian men married to non-Nigerian women. See section 26(b).

🗳️ **Indigeneship** – Ambiguity trails the indigeneship of a woman, to the extent that they cannot claim their place of origin or that of their husbands in appointive and political Offices.

🗳️ **Discrimination** – Section 42(3) precludes rights to freedom from discrimination as conferred on all in Section 42(1) from applying in respect to any public office, including military or police appointments.

🗳️ **Dignity of womanhood** – Section 34 generally speaks on rights to dignity of human persons but is not specific on critical women’s rights issues such as widowhood practices, harmful traditional practices etc.

🗳️ **Political Rights** – The 1999 Constitution has no provision for temporary affirmative action to enable at least 35% to enhance women’s political power.

🗳️ **Reproductive Health Rights** – Reproductive health and Rights have been recognized as a development and human rights issue but are not specifically provided for in the 1999 Constitution.

🗳️ **Social Economic Rights** – Chapter 2 of the 1999 Constitution is critical to women’s development but cannot be enjoyed as a result of the restrictions in Section 6(6) (c) of the Constitution which I term ‘Legal Authority for Executive Impunity’ and or ‘constitutional deception’ it is totally inconsistent with the provisions of section 13 and 14 (2)(a)-(c) How do you relate this to non justiciability of Chapter II

🗳️ **Federal Character Commission** – Section 14(3) entrenched Federal Character Principle without affirming the principles of equality and non discrimination based on gender.

☞ **Rights to Inheritance** – The practice of denial of inheritance rights has cause untold hardship on women and girl children. The 1999 Constitution has no provision which guarantees women’s rights to inheritance.

☞ **Land Use Act** – The 1999 provision on the Land Use Act further reinforce discriminatory customary and cultural practices that denies women and poor men access to land.

☞ **Women with Disabilities** – The Chapter IV of the 1999 Constitution did not specifically address rights of women and people with disabilities.

RECOMMENDATIONS ☞

❖ The 1999 Constitution should be re-drafted so that language becomes user and gender friendly.

❖ Section 26(2) should be amended to confer citizenship by registration to a foreign spouse of a woman just like her male counterpart.

❖ Section 29(4) (b) should be abrogated. It makes a mockery of the constitution and exudes bad faith. It is the height of legalizing child marriage, slavery and indignity to the girl child.

☞ ❖ Section 15 (2) (b) should be expanded to include : A Nigerian citizen that has resided in any state of the Federation for a period of more than 7 years shall be entitled to all rights and privileges of the state and shall not be discriminated against as a non indigene for any reason whatsoever.

☞ ❖ A Nigeria woman shall have a right to enjoy the indigeneship of both her place of origin and that of her husband.

❖ Section 42(3), 1999 Constitution is restrictive, nullifies and impairs women's rights and rights of others and thus should be abrogated.

❖ Section 34, 1999 Constitution should be expanded to include protection against harmful cultural and traditional practices affecting the health and rights of women and girls and protection from gender based violence.

❖ Section 37, 1999 be expanded to include right to private family life and equal rights in marriage, during marriage and dissolution of marriage. The need for registration of all forms of marriage, be it traditional, religious, court and or common law marriage as a way of securing the equal rights of both parties and the products of such union- including the duty to take full responsibility for the children of the union. This will surely eliminate hooligans and vagabonds, thereby eliminating violence and insecurity.

❖ Section 36 (6) 1999 Constitution dealing with Fair Hearing be expanded to include additional entitlement to copies of whatever statement made and signed at the police station as well as counsels on both sides to copies of the duplicated file to the DPP to avoid springing surprises when the DPP Advice comes out. We have experienced lots of manipulations in the proof of evidence making justice inaccessible to the poor.

❖ Section 36 be expanded to include Payment of Prompt Compensation to victims of Human Rights Violations and especially victims of GBV.

❖ At least 35% affirmative measure for women in both elective and political appointive position must be guaranteed through constitutional provisions. However if we are futuristic and must achieve goal 5 of Sustainable Development goals agenda 2030, then affirmative measures should and must be minimum of 50%. How do we compensate women for the 6 decades of relegation 'ubi jus ibi remedium' (where there is a wrong there must be a remedy)

❖ **Independent candidacy** must be encouraged to facilitate women's participation where first past the post test often place women at great disadvantage in seeking elective position.

❖ Reproductive health rights should be clearly spelt out in the constitution of Nigeria to protect women and girls.

❖ Section 6(6) (c) of the Constitution should be amended to ensure accountability of government and its institutions to implementation of Chapter 11 of the Constitution.

❖ We also recommend monist approach in Socio economic rights enforcement for applicability of ratified international treaties, conventions and protocol such as the International Covenant on Economic, Social and Cultural Rights- (ICESCR)

See similar provision in section 254(c) (2), 1999 Constitution dealing with labour and industrial matters and the ILO

❖ Federal Character principle be amended to include gender as one of indices for composition and conduct of affairs of government.

❖ Establishment of Equal Opportunity Commission to replace the Federal Character Commission. The trend worldwide is to have such body to monitor observance and implementation of policies and programmes to reflect gender equity and ensure social justice to all irrespective of sex, religion, ethnic group among other grounds for which discrimination is prohibited.

❖ Establishment of National Family Courts with one jurisdiction with power to apply ratified international conventions, treaties and protocols dealing with family matters, women, children, maintenance, welfare and related matters directly into our corpus juris as an exception to section 12 (monism in place dualism in specified ratified international law applications)

See similar provision in section 254(c) (2), 1999 Constitution dealing with labour and industrial matters and the ILO

❖ A Constitutional provision guaranteeing the rights of widows and widowers to inheritance of properties jointly acquired in the absence of a will and female and male children should have explicitly stated rights to inheritance.

❖ The Land Use Act be repealed according to the yearnings of Nigerians or amended to guarantee equal access to land and adequate compensation to men, women and the poor.

❖ The provision of Chapter IV of the Constitution should specifically address the rights of people with disabilities especially the needs of women within that category.

In conclusion, we urge the Senate Committee to take a bold step in ensuring the attainment of Goal 5 of the SDGs. Fair is fair! Injustice swept under the carpet will rear its ugly head. We cannot continue to do things the same way and expect a different result. 'Ubi jus ibi remedium' rule must be applied here. Women despite our numerical strength over 49% of the population have been relegated for over 6 decades and if this injustice must be remedied, your Committee should tackle this monster once and for all. Give us GENDER PARITY 50/50 representation. Rwanda is making great progress today in it's development and economy because they chose to do things differently giving women equal representation. Today they have over 62% representation in parliament. Give us unfettered access to justice- many have been denied justice under the guise of non domestication of relevant laws- VAPP Act, Child's Rights Act etc- Establish National Family Courts using the model under section 254(c)(2) of the 1999 constitution, Provide prompt payment of compensation to victims of Gender Based Violence (GBV) and other Human Rights Violations.

African Women Lawyers Association is an NGO of Women Lawyers of African Origin poised to ensure a society free from abuse, discrimination and indignity to women and children. Build a viable Women Lawyers advancement towards creating a sustainable inclusive democratic development in Nigeria and in Africa with a mission to Protect, Promote and Preserve the rights, interest and welfare of Women and children.

Gender and Constitution Reform Network (GECORN), is a Network of non-governmental and community based Organisations, borne out of the need to have a viable coalition, working towards the mobilization of women in all sectors for a gender review of the constitution of Nigeria. GECORN works towards engendering the constitution and promoting gender democracy. It has organizational structures in 36 states of Nigeria and is being managed by zonal and state coordinators. We hope that the distinguished Senators and Honourables in the Joint Constitution Review Committee will consider the above critical issues relating to gender and constitution reforms as presented by AFRICAN WOMEN LAWYERS ASSOCIATION in Collaboration with GECORN.

Signed

Mandy Demechi-Asagba

President

AWLA

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