



INTERNATIONAL FEDERATION OF WOMEN LAWYERS (FIDA) NIGERIA

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The Secretary
The Committee on Judiciary, Human Rights and Legal matters,
National House of Assembly Complex,
Abuja
Nigeria.

MEMORANDUM BY THE INTERNATIONAL FEDERATION OF WOMEN LAWYERS (FIDA) NIGERIA ON THE REVIEW OF THE 1999 CONSTITUTION.

May I on behalf of the International Federation of Women Lawyers (FIDA) convey our highest regards and esteem to the Chairman and members of the Senate Ad-hoc Committee on the Review of the 1999 Constitution and convey our appreciation for this invitation to present of our proposals on the amendment of our Constitution.

PREAMBLE:

The Senate Ad-hoc Committee on the Review of the 1999 Constitution has formally commenced the process of further alteration to the provisions of the 1999 Constitution (as amended). The Committee, therefore, requested the general public, Executive and Judicial bodies, Civil Society Organizations, Professional bodies and other interest groups to submit memoranda or proposals for further alteration(s) of the 1999 constitution (as amended) on the under listed matters and on any other matter that will promote good governance and welfare of all persons in our country on the principles of freedom, Equality and Justice, namely:

1. Gender Equality for women and girls
2. The Federal Structure and Power Devolution
3. Local Government/Local Government Autonomy
4. Public Revenue, Fiscal Federation and Revenue Allocation
5. Nigerian Police and Nigerian Security Architecture
6. Comprehensive Judicial Reforms

7. Electoral Reforms to strengthen INEC to deliver transparently credible free and fair elections
8. Socio-economic and cultural rights as contained in Chapter 2 of the constitution
9. Strengthening the Independence of oversight institutions and agencies created by the constitution or according to an Act of the National Assembly.
10. Residency and Indigene Provisions
11. Immunity
12. The National Assembly
13. State Creation

The call for a memorandum on proposed amendments of our Constitution was received by FIDA NIGERIA with excitement. We are confident that this portends new dawn for our dear Country and succor to those gravely affected by several lacunae and discriminatory provisions of our Constitution.

PROPOSED AMENDMENTS:

Having studied the Constitution extensively, the following are recommended for consideration:


1. The language of the Constitution is masculine. It is recommended that the language should be gender-neutral. For instance, using “A person” or “He/She” instead of “He”
 2. S 26(2) which enables foreign women married to Nigerian husbands to be registered as Nigerian citizens should also extend to foreign men who marry Nigerian wives. Hence, S.26 (2) (a) should read “any person....” instead of “any woman....”
 3. S.29 (4) (b) of the Constitution negates S.29 (4) (a) which recognizes full age (adulthood) in Nigeria to be 18years. It is therefore recommended that S.29(4)(b) which provides thus “ any woman who is married shall be deemed to be full age” be expunged because it reinforces child marriage which negates the Convention on the Rights of the Child 1989 and the Nigeria Child’s Rights Law, 2003 which outlaw child marriage.
 4. There should be a proviso to S.42 (2) to read thus “Provided that in matters relating to inheritance, such child shall only be entitled to properties solely owned by the father or mother”. This is to prevent the unjust distribution of joint properties.
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5. All provisions contained in Chapter 2 of the Constitution should be justiciable because that is the whole essence of governance.
6. Section 124(5) should be removed. There is no basis to pay a pension to a former Governor and his deputy. The highest a Governor serves a state is 8 years. If someone becomes a Governor at the age of 40yrs for instance, after his tenure, he has about 12 more productive years, so we will keep paying him pension even for the period when he is still expected to be in active service. Also, assuming he becomes a senator or later a president, he will be entitled to both salary and pension at the same time and when his tenure elapses, he will receive pension both as a former governor and former president. This provision should not be in our constitution.
7. The whole provision of Section 154 of the constitution is worrisome. The issue of national defence and security should not be a decision to be taken alone by the president. Also, the appointment of Chairman and members of INEC, NJC, JSC AND NPC should not be made by the President in consultation but with the approval of the senate.
8. **ATTAINMENT OF FULL AGE**
Another controversial section is section 29(4) (b) of the CFRN 1999 which states that: 'any woman who is married shall be deemed to be of full age.' There is a legal presumption that any girl child if she is married, has attained the age of maturity in Nigeria. This contradicts the definition of a child as provided in section 277 of the Child Rights Act, 2003 which defines a child as: 'a person who has not attained the age of eighteen (18) years. Therefore, it is assumed that this section can promote girl-child marriages as marriage confers maturity on a girl child.
9. **THE SILENCE OF THE CONSTITUTION ON COGENT ISSUES**
 - a) There is no clear definition whom a child is in the constitution. This gives room for several laws to set conflicting age limits to who a child is. While Penal Code peg it at 16, while the child Right Act put it at 18. These confusions will cease once the constitution which is the grundnorm makes a pronouncement on who a child is.
 - b. The age of consent in Nigeria. The Constitution is silent on the minimum age of consent thereby subject the issue to multiples of conflicting suggestions from

different quarters. It was rumoured that the age of consent is 11years, but this is not correct as the Child's Right Act 2003 provides that the minimum age for marriage is 18. The continuous silence of the Constitution on this very important issue will endanger the lives of the girl child to defilement and sexual abuse.

10. Section 42 (3) which validates laws imposing restrictions on women from joining the armed forces etc should be deleted in line with Nigeria's commitment under the CEDAW.
11. Mandatory minimum requirement of thirty-five per cent slot for women in the Federal Cabinet and twenty per cent at the State level to increase women's participation in our democracy.
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13. Include a Clause on a referendum to legitimize the constitutional amendment process and encourage citizen participation in the amendment process.

Signed:



RHODA PREVAIL TYODEN
COUNTRY VICE PRESIDENT/
NATIONAL PRESIDENT



EVELYN MEMBERE-ASIMIEA
NATIONAL SECRETARY