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DISCRIMINATORY CITIZENSHIP BY REGISTRATION PRACTICE UNDER THE CONSTITUTION OF FEDERAL REPUBLIC OF NIGERIA, 1999 AND ITS IMPLICATION ON GENDER EQUALITY

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Abstract: *The Constitution of the Federal Republic of Nigeria, 1999 (CFRN, 1999) by virtue of section 1(3) thereof, is the organic and supreme law in Nigeria. Section 26 of the Constitution, deals with the types of citizenship available in Nigeria of which citizenship by registration through marriage is one. Thus, where a male Nigerian, marries a foreigner wife, she is legally permitted to acquire Nigerian citizenship by registration. However, where a female Nigerian marries a foreigner, the husband is disqualified from acquiring Nigerian citizenship through registration by virtue of marriage. This position subsists notwithstanding the provision of section 42 of the CFRN, 1999 which prohibits all forms of discrimination particularly on the basis of sex. This article adopts desk-based comparative method in interrogating the propriety of this practice and its implications on gender equality. It also examines various forms of gender discriminatory statutory provisions in Nigeria and their impact on gender equality in Nigeria. It discusses the practice in Kenya and Uganda drawing lesson for Nigeria. It argues that the statutory gender discrimination against females is an albatross to Nigeria's achievement of Goal 5 of the Sustainable Development Goals (SDGs.). It recommends overhauling of the discriminatory legal architecture.*

Keywords: *Citizenship, Democracy, Gender equality, Gender discrimination, Nigeria, Sustainable Development Goals*

1. Introduction

In Nigeria, the Constitution of the Federal Republic of Nigeria, 1999 (hereinafter referred to as CFRN, 1990) specifies they types of citizenships available. According to Aina-Pelemo (2023) Chapter 3 of the CFRN, 1999 which comprises of Sections 25 to 32 deals with

the subject matter of citizenship. Under this Chapter, three types of citizenships exist in Nigeria i.e. citizenship by birth, by registration, and by naturalisation. Denton (2022, p. 44) has stated that citizenship is the legal link between an individual and a state or territory as a result of which the individual is entitled to certain protections, rights and is subject to certain reciprocal obligations and allegiance. What this means is that as an individual, there is a relationship between you and the state/country, which entitles you to certain privileges and obligations which come with being a citizen of the state. Thus, section 26(2) of the CFRN, 1999 is to the effect that where a Nigerian male, marries a foreigner as a wife, the foreigner wife can apply and be granted Nigerian citizenship by registration. However, where a female Nigerian citizen marries a foreigner husband, the husband is legally incompetent to apply and be granted Nigerian citizenship by registration pursuant to the marriage. The justification for this gender disparity is impracticably unfounded especially when the provisions of section 42(1) of the CFRN, 1999 are countenanced which prohibits all forms of discriminatory practices against Nigerian citizens on account of sex.

It would appear that in Nigeria, gender discrimination is prevalent (Onyemelukwe 2016, Pp. 1-16). Ekhator (2015, Pp. 285-296.) has opined that there is ample evidence of the unfortunate existence of several statutorily inspired and engendered discrimination against women simply on the basis of their sex notwithstanding that the same is contrary to the provisions of the CFRN, 1999 and international human rights legal instruments which Nigeria is a signatory. The subsistence of such discrimination against women is a great threat to the promotion and attainment of gender equality which is one of the United Nations Sustainable Development Goals (SDGs) that is a mirror for the ascertainment of civil and developed society. By the foregoing, Imasogie (2010, P. 15) has opined that a foreigner spouse of a Nigerian female citizen, can only obtain Nigeria's citizen by naturalisation which is a much longer process that takes at least fifteen years as opposed to by registration that takes less time.

Thus, this state of affairs raises several concerns requiring rigorous jurisprudential interrogation. The issues are; what is the propriety of section 26(2) in view of the provisions of section 42 of the CFRN, 1999 that prohibits all forms of discrimination particularly on the basis of sex? What is the impact of statutorily flavoured gender inequality on Nigeria's socio-legal development amongst the comity of states? What are the forms or instances of statutorily flavoured gender discrimination subsisting in Nigeria? What are the roles of women and human rights stakeholders such as Non-Governmental Organisations (NGOs) in tackling gender inequality against women in Nigeria? What is the posture of Nigerian courts to gender inequality in Nigeria? Is gender inequality an affront on women human rights in Nigeria? These issues form the crux of this paper.

By way of structure, this article is divided into six parts. Part one which includes this section contains the introduction. Part two examines the propriety of the practice of disallowing foreigners who are married to Nigerian women from apply and obtaining Nigerian citizenship through registration on the basis of being married to a Nigerian citizen and its human rights implications. Part three discusses other forms of statutorily flavoured gender discrimination against women in Nigeria which promotes gender inequality as well as the socio-legal impacts on Nigeria. Part four examines the roles of stakeholders in combating all forms of gender discrimination/equality in Nigeria and the available action plans. Part five examines the

practice in Kenya and Uganda with a view to drawing lessons for Nigeria. Part six contains the conclusion and recommendations based on the findings.

This article adopted analytical method and relied on primary data such as the Constitution of the Federal Republic of Nigeria, 1999, Labour Act, 1974, Nigerian Drug Law Enforcement Agency (NDLEA) Act, 1989; Immigration Act, 2019, African Charter on Human and Peoples Rights (Ratification and Enforcement) Act, 1988, case law; and secondary data such as articles in learned journals, standard textbooks, online materials, Convention on the Elimination of All Forms of Discrimination Against Women, Protocol to the African Charter on Human and Peoples Right on the Right of Women in Africa, 2003. These data are subjected to content and jurisprudential analysis.

2. A Catalogue of Statutorily Flavoured Gender Discrimination against Women in Nigeria

Aside discriminatory customary practices that are prevalent against women in Nigeria, there are also pockets of statutorily and administrative flavoured gender discrimination against women in Nigeria. This section of the paper is an attempt at chronicling them with a view to make a case for statutory overhauling aimed at expunging such provisions/policies from Nigerian laws and practices. Section 34(1) of the CFRN, 1999 bequeaths the right to dignity of human person on all citizens of Nigeria without distinction. This notwithstanding, there are penal laws in Nigeria that erode women dignity aided by socio-religious undertones. Section 55 of the Penal Code applicable in Northern Nigeria, husbands are permitted to chastise their wives. In fact, section 55(10) provides that "nothing is an offence which does not amount to the infliction of grievous harm upon a person and which is done by a husband for the purpose of correcting his wife…" the implication of the foregoing is that a husband can violate the right to human dignity of his wife by beating or any other form of domestic violence and it would not be criminal so far as it does not result in the infliction of grievous bodily injury. Section 360 of the Criminal Code makes the indecent assault of women a misdemeanour punishable with a two-year prison term, as opposed to three years' prison term imposed for indecently assaulting a man, which is a felony in section 353. It is appalling to note that the same offence carries different penalties simply because the sufferers are different on the basis of sex and nothing more. Nwogwu and Okonkwo (2023, p. 47) have argued and rightly in our view that the law has been skewed in favour of the males against females who are a vulnerable group ordinarily requiring enhanced protection. Section 29(4) (a) of the CFRN, 1999 recons that twenty-one years old is the age of majority in Nigeria. However, this age is applicable to a married woman with the implication that a woman, who is less than 21 years but married, has attained majority. This provision is responsible for the consistent perpetuation of underage marriage against girls predominant in Northern Nigeria and serves as an incentive for the refusal of most States in Northern Nigeria to adopt the Child Rights Act which prohibits the menace of child marriage and the likes (Ezeilo, 2011, p. 98).

Under the Nigerian Drug Law Enforcement Agency (NDLEA) Act, 1989, by virtue of section 5(1), for a female to join the agency, at the point of entry, she shall be unmarried and upon enlistment, shall remain unmarried for at least two years. Where a unmarried women in

the agency wishes to marry, she shall apply in writing to the authorities seeking permission and fully disclosing the details of the would-be husband. Surprisingly, this entry and marriage requirements are inapplicable to males. In Nigeria, there is no general age of majority but each transaction has its age of majority. Where a person (s) who are less than 21 (twenty-one year old) wishes to get married under the Act, Section 18 of the Marriage Act requires the written consent of the father of either party and the mother's written consent is only permitted when the father is dead or of unsound mind or out of Nigeria. The implication of the foregoing is that a woman cannot give such written consent save in the instances provided.

Moreover, By the provision of section 34(1) of the Labour Act, a man who is employed in the public service in Nigeria is permitted to be accompanied to his station of work 'by such members of his family (not exceeding two wives and such of his children as are under the age of sixteen years) as he wishes to take with him.' Regrettably, there is no corresponding privilege accorded female employees (Tinuoye 2015, Pp. 84-105). Section 55(1) and 56(1) of the Labour Act is replete with far reaching discrimination against women (Dauda 2007, Pp. 44-59). The section, under the guise of protection, prohibits women from being employed in night work and underground work whether in private of public enterprises except in managerial position and as nurses. Eyongndi (2022, Pp. 374-398) has opined that surprisingly, this obnoxious provisions are inapplicable to male workers. The Civil Service Rules of some States in Nigeria discriminate against women in the event of a women getting pregnant during the course of a training funded by the State (Igbuzor, 2000, Pp. 14-20). For instance, the foregoing is the provision of Rule 03303 of both Kano and Kaduna States' Civil Service Rules geared towards institutionalising gender inequality (Yusuf 1998, P. 80). Under the Immigration Act, a married woman applying for the issuance of international passport is required to submit the written consent of her husband but a married man doing same is not required to submit the consent of his wife. The rationale for these barbaric, vexatious, repugnant, and inhumane restrictions is untenable.

Aside these legal drawbacks on gender equality against women, there is in existence several obnoxious customary practices against women although, Nigerian courts have declared most of them unconstitutional as opined by Eyongndi, (2017, Pp. 17-30.). In terms of inheritance, most customary inheritance rules give preference to male against women as women are excluded from inheriting certain properties (Oyelade 2006, P. 99). The primogeniture rule of inheritance where the eldest male child inherits the estate of a decease to the exclusion of all others including daughters and widow of the decease is deep rooted in Edo State amongst the Benin (Taiwo, 2008). In fact, a woman is herself customarily regarded as a chattel to be inherited upon the demise of her husband and as such, cannot inherit. In most customary land ownership/usage rules, women can only access land through the males and not directly (Olubor, 2009). Base on the foregoing, the position taken by Eyongndi (2022, Pp. 374-398) that in Nigeria, females are exposed to brazen rights violations and all forms of inequalities is almost unassailable. It is trite that no one ever determines their sex (whether male or female) hence, it is extremely unfair, unjust, inhumane, and disheartening to subject a person to harsh treatment simply on the basis of their sex. It is therefore necessary that urgent statutory and administrative extra-judicial steps are taken to redress the injustice. The entrenchment and prevalence of gender equality is a hallmark of a developed and civilised

society where everyone is treated equally irrespective of their sex or any other distinguishing feature. Thus, Nigeria cannot run against the tides as far as gender equality and equity is concerned.

There have been several instances where Nigerian women have suffered unquantifiable public ridicule, shame, opprobrium due to acts of discrimination melted against them especially on political appointments. The discrimination came as a result of contentions arising and relating to whether they should take up political appointment based on their state of origin or that of their husbands. For instance, in 2003, when President Olusegun Obasanjo nominated Dr. Mrs. Ngozi Okonjo-Iweala as Minister of the Federal Republic of Nigeria to fill up the Abia State slot, her nomination was fiercely opposed on the basis that her State of origin is Delta State hence, she is incompetent to take up the slot of Abia State which is her husband's state of origin (Akpambang, 2020, Pp. 17-31). Similarly, Mrs. Josephine Anenih was appointed Minister of Women Affairs based on her state of origin, Abia State; the appointment was opposed that she ought to have been appointed for the slot of her husband's state of origin being Edo State. Indeed, Nigerian women are predisposed to several forms of gender based discrimination mainly on their sex (Ashiru 2010, P. 105). It would seem as if being a woman in Nigeria, is a taboo.

It is apposite to note that these statutory and administrative discrimination against women, aside their utter illegality, is a direct subversion of the will and capabilities of women/females in Nigeria. This is so despite the fact that females have contributed significantly in all spheres of human endeavour to the growth, development and even stability of Nigeria and are still contributing whether resident in Nigeria or the diaspora. Women such as Chimamanda Ngozi Adichie, Ngozi Okonjo Iweala, Folorunso Alakija, Funmilayo Ransome Kuti, Margaret Ekpo, Obi Ezekwesili, etc. These are few of the many women that have and are still contributing greatly to the development of Nigeria in their endeavours. Thus, the sustained tides of discrimination against women on various fronts in Nigeria in rather unfortunate and should not be allowed to persist.

3. Citizenship Discrimination against Women and the Quest for Gender Equality in Nigeria

While the CFRN, 1999 is the supreme law in Nigeria and Chapter III thereof deals with citizenship, it is apt to note that Nigeria's citizenship regulation and practice with regards to sources of citizenship laws is not limited to the Constitution. He opined that past constitutional documents under the theory of vested rights pursuant to section 309 of the CFRN, 1999, Acts of the National Assembly pursuant to section 4(2) of the CFRN, 1999, Presidential regulations are all sources of Nigeria's citizenship laws. However, this discussion in this article is limited to the provision of the CFRN, 1999. Denton (2022) has opined that citizenship by registration is a type of citizenship given to a person who marries someone in a particular country because marriage entails registration. What this means is that when an individual gets married to another person, they often have to register their marriage in order to make it official and legally binding before the laws of the land. As a result of the said marriage, the individual married to the citizen of the country also becomes a citizen by registration. Section 26 thereof deals with citizenship

by registration. This operates to the effect that where a Nigerian male, marries a foreigner wife, (whether the marriage is statutory or customary if only it is valid), the citizenship of Nigeria is automatically conferred on the wife by virtue of the fact of marriage. Thus, subject to the provision of section 28, the wife is entitled to all rights and privileges enjoyed by Nigerians. One would have reasonably expected that the same right is bestowed and enjoyed by female Nigerians who might marry a male spouse who is a foreigner. However, section 26(2) renders this statutorily impracticable as a female Nigerian spouse cannot confer Nigerian citizenship by registration on her foreigner male spouse simply because of her sex and nothing else.

Meanwhile, sections 34 and 42 of the CFRN, 1999 guarantees the right to dignity of human person and freedom from discrimination on the basis of sex respectively. Section 42(1) (a) (b) and (2) of the CFRN, 1999 in prohibiting all forms of discriminations, provides as follows:

> A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the Government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religion or political opinions are not made subject; or (b) be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions.
> (2) No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.

Subsection 3 of section 42 provides that nothing in subsection (1) shall invalidate any law by reason only that the law imposes restrictions with respect to the appointment of any person to any office under the State or as a member of the armed forces of the Federation or member of the Nigeria Police Force or to an office in the service of a body corporate established directly by any law in force in Nigeria. it is trite that that the exception wherein a statute (including the constitution itself or course) could imposed restriction aside from being clearly stated in unambiguous terms, it does not include on the basis of sex as it is the case in section 26(2) of the CFRN, 1999. In effectuating the right to freedom from discrimination, the legitimate expectation is that, in the application of any law, executive or administrative order, no citizen shall be accorded privileges which are not accorded to others on the basis of any distinguishing feature as was held by the court in *Lafia Local Government v. Government of Nassarawa State* [2012]. In *Mojekwu v. Mojekwu* [1999] where the appellant was discriminated from inheriting the property of the deceased on the basis that she is a woman and as such, cannot inherit immovable property under the Igbo customary inheritance practice, the Supreme Court of Nigeria held that the customary inheritance practice was unlawful as it violates the appellants right to freedom of discrimination based on her sex. In the same vein, in *Lewis v. Bankole* (1090) the Supreme Court of Nigeria held that under the Yoruba customary inheritance system, the deceased children of a man (whether male or female), has the right to inherit the estate of the deceased and that their sex cannot be used to disinherit. These decision resonates

with that in *Mojekwu v. Ejikeme* [2001] where the court came to the conclusion that the appellant cannot be disinherited from her deceased father's estate on the basis that she is a female because her sex, which is not responsible for and is neither a disability, should not be used to discriminate against her. in 2014, in the celebrated judgment of *Ukeje v. Ukeje* (2014) the Supreme Court reaffirmed the position that sex cannot be used to discriminate against a Nigerian citizen as same is not unlawful unconstitutional but repugnant to natural justice, equity and good conscience.

The provision of section 26(2) of the CFRN, 1999 are clearly in breach of section 42 thereof. In fact, when there are two conflicting provisions in a statute, the subsequent provision prevails over the former as it is regarded as a technical repeal of the former. Thus, section 42 supersedes section 26(2) and to the extent of its inconsistency, it ought to be declared null and void and of no effect whatsoever. Section 26(2) is an arrogant and gruel accentuation of the patriarchal nature of Nigeria and its unbridled discriminatory propensity. Section 14(2) of the CFRN, 1999 provides that the security and welfare of the people shall be the primary duty of the government while Section 17(1) of the Constitution also provides that the State social order is founded on ideals of Freedom, Equality and Justice. Section 17(2) (a) stipulates that in furtherance of the social order, every citizen shall have equality of rights, obligations and opportunities before the law. The irresistible conclusion of the foregoing is that the ideal of gender equality is enormously entrenched and recognised under Nigeria's constitution.

Aside the CFRN, 1999, the section runs afoul of international human rights instruments. For instance, article 1 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) enjoin state parties to adopt laws and implement policies which prohibits all forms of discrimination against women especially on the basis of sex. The African Charter on Human and Peoples Rights, 1988 and the Protocol on the right of women in Africa have been signed and ratified by Nigeria through the African Charter on Human and Peoples Right (Ratification and Enforcement) Act, 1988 making it part and parcel of Nigeria's domestic law as was held in *Gani Fawehinmi v. Abacha* (1996) and reaffirmed by the decision in *Attorney-General, Ondo State v. Attorney- General of the Federation* (2000). Article 3 of the Charter prohibits all forms of discrimination against women and enjoins state parties to take positive action to curb same. Article 28 provides that every individual shall have the duty to respect and consider his fellow beings without discrimination, 3 of ACHPR stipulates that everyone is equal before the law and entitled to equal protection of the law, and 5 provides for dignity of the human person and protection from cruel, inhumane and degrading treatment. It is our contention that gender inequality as frontal promoted in section 26(2) of the CFRN, 1999 against women, is an act of cruel, inhumane and degrading treatment which ought not to be as it is diametrically opposed to the tenets of the ACHPRs. Also, the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa 2003 prohibits discrimination and gender inequality. Article 2 of the Protocol provides that State parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures; Article 8 provides equal protection and benefit of the law. While the protocol is yet to be specifically domesticated by Nigeria, it was applied by the court in *Dorothy*

Njemanze & three others v. Federal Republic of Nigeria (2017). Although Nigeria operates a dualist system and by virtue of section 12 of the CFRN, 1999, all international treaties which Nigeria is a party to, must be domesticated to become binding, Nigeria cannot abdicate from its minimum responsibility under international law. The Human Declaration of Human Rights, 1984 recognises the right of equality of all genders. Article 26 of the International Covenant on Civil and Political Rights, 1966 (ICCPR) recognises everyone's right to freedom from discrimination and right to equality.

The Federal Government of Nigeria adopted the National Gender Policy in 2006. The policy enjoins the government to adopt and adapt proactive measures in its commitment in addressing problems affecting women and to ensure the mainstreaming of women issues in the formulation and implementation of all policies and programmes.

The United Nations Sustainable Development Goals (UN SDGs) are seventeen global, material and ambitious aspirations which were adopted in 2015 by UN in its seventieth General Assembly. By the SDGs, the UN expects nations of the earth to adopt and adapt policies and programme to facilitate their achievement by 2030. The goal 5 is entrenchment and promotion of gender equality and empowerment of all women. There is said to be gender equality when access to rights or privileges' is not determined by gender but by other objective non-discriminatory standard. Gender equality does not mean that all people, irrespective of sex or gender preference need or require the same things but that none is deprived owing to gender consideration (Akpabio 2022, Pp. 111-141). The issue of male gender preference which is deeply rooted in the Nigerian society is an albatross to gender equality and equity which needs to be frontally confronted through sensitisation and reorientation. (Adegbite and Eyongndi 2023, Pp. 8-17).

4. Curbing Gender Discrimination in Nigeria through Stakeholders Action

From the preceding sections, is it obvious that there is ingrained gender discrimination and inequality in Nigeria against women and its continuity, is a threat to meaningful development and stability. This section of the paper discusses the roles of stakeholders towards curbing this menace. Interestingly, there has been ample attempt by women rights groups to curb discrimination against women through constitutional review. Bill 36 which was an act to alter the provision of Chapter III of the Constitution of the Federal Republic of Nigeria, 1999 to 'provide for Citizenship by Marriage; and for related matters' was sponsored at the floor of the Senate however, the predominant male majority were averse to it and gave it a natural death culminating in protest by women rights groups in Nigeria. Bill was aimed at conferring Nigerian citizen by registration on foreigner spouses of Nigerian women. There is need to reintroduce this Bill under the current senate. Also, through advocacy and enlightenment, groups such as Federal Ministry of Women Affairs, Women Empowerment and Legal Aid Initiative, Nigerian Bar Association Women Form, International Federation of Female Lawyers, Nigeria Association of Women Journalists should lobby for the ratification of CEDAW should considering the fact that it contains ample provisions which could be explored to curb discrimination against women. The Nigerian courts have consistently take a stand against gender discrimination. For instance, the Police Regulations 1969 made pursuant to the Police Act contains several discriminatory provisions against women. Regulation 118(g)

provides that a woman desirous of joining the police force must be unmarried but same is inapplicable to males, by Regulation 124 of the Police Act, a woman police officer who is intends to get married must initially apply in writing to the Commissioner of Police for approval but male officers are not so required. However, the Federal High Court (FHC) in *Women Empowerment and Legal Aid Initiative v. Attorney-General of the Federation* (2010) has held that these regulations are illegal as they discriminate against women contrary to the provision of section 42(1) of the CFRN, 1999. In the same vein, in *Dr. Priye Iyalla-Amadi v. Comptroller- General, Nigerian Immigration Services and Anor.* (2008) the FHC held that the requirement of written consent of the husband where a married woman is applying for issuance of International passport is was an affront on section 42 of the CFRN, 1999 as it is discrimination against married women especially since married men are not required to supply written consent of their wife where they apply for international passport. The Nigerian court should sustain this laudable stance as it is the hope of the vulnerable in the society (Umah 2020). Continuous rigorous sensitisation and enlightenments must be initiated and sustained aimed at promoting gender equity and equality in Nigeria by stakeholders. There is a need to mainstream gender studies into Nigeria primary and Secondary School curricula and same should be done at the tertiary level as a compulsory general studies course. This will help to reorient the citizenry as a reverse from the subsisting bias against women.\

5. Examining the Practice in Kenya and Uganda

Acquisition of citizenship by registration on the basis of marriage is not known only under Nigerian law. There are several jurisdictions where foreigner spouse of citizens, upon fulfilment of certain preconditions, can become citizens of their spouse country. This section of the paper examines the practice in Kenya and Uganda with Nigeria. Kenya and Uganda are selected because aside being common law jurisdictions, they share strong socio-economic affinity with Nigeria as Uganda has the fastest developing economy is southern Africa while Kenya is the economic hub of East Africa.

In Kenya, Section 15 of the Kenya Constitution provides that a person who has been married to a citizen for a period of at least seven years is entitled on application to be registered as a citizen while section 18(a) thereof empowers the Kenyan Parliament to enact laws regulating acquisition and regulation of citizenship. As a result, the Kenyan Parliament enacted that Kenya Immigration and Citizenship Act, 2011. Section 11 of the Act, provides that a person who has been married to a Kenya citizen for at least seven years is entitled to apply in the prescribed manner, upon fulfilment of certain conditions for Kenyan citizenship. This is possible if the marriage had been solemnised under a system of law recognised in Kenya whether the solemnisation was done in or outside Kenya; the applicant has not been declared a prohibited immigrant under the Act; the applicant has not been convicted for an offence and sentenced to prison for a period of three years or longer; the marriage was subsisting as at the time of filing the application for citizenship; and the marriage was not entered into for the purpose of acquiring a status or privilege in relation to immigration or citizenship. Upon the fulfilment of the aforementioned conditions, a foreigner married to a Kenya citizen, will be granted Kenyan citizenship. By virtue of section 12(1) of the Act, a foreign national who has

been married to a Kenyan citizen who but for the death of the citizen would have been entitled, after a period of seven years, to be registered as a citizen of Kenya under section 11 thereof, shall be deemed to be lawfully present in Kenya for the unexpired portion of the seven years and shall be eligible for registration as a citizen on application in the prescribed manner upon expiry of the seven years period. By virtue of section 4 of the Kenya Citizenship and Immigration (Amendment) Act, 2023, an application for citizenship by registration on the basis of marriage shall be accompanied by a statutory declaration and marriage certificate to ascertain the marriage.

It is apposite to note that under Kenyan law, citizenship by registration through marriage is made available to anyone person who marries a Kenyan citizen. The implication of the foregoing is that both female and male Kenyan citizen's foreigner spouses can apply and upon fulfilment of the prescribed criteria, are registered as citizens of Kenya. This is unlike Nigeria where only foreigner spouses of male Nigerian citizens can by virtue of marriage, be granted Nigerian citizenship. The law in Kenya does not discriminate against either male or female but is gender neutral and balanced. As a result, it promotes gender equity and equality. The position of the law in Kenya emphasises and aligns with the rights to freedom from discrimination on account of sex or any other distinguishing feature and dignity of the human person enshrined in sections 27 and 28 of the Kenyan Constitution, 2010. It also reinforces the right to freedom and security of the person guaranteed under section 29 thereof which requires that no one shall be treated or punished in a cruel, inhuman or degrading manner as gender discrimination is a form of cruel, inhuman and degrading treatment melted out on the victim.

It should be noted that in Kenya, where a widow or widower marries a non-citizen before the expiration of the seven years window, he/she forfeits the right to apply for Kenya citizenship. Thus, where a widow/widowers remarries after the expiration of seven years from the year of contracting the marriage, he/she is eligible to apply and be granted the citizenship of Kenya by registration.

In Uganda, acquisition of citizenship through marriage is gender neutral. Section 14 of the Uganda Citizenship and Immigration Control Act, 1999 regulates citizenship by registration. Section 14(2) of the Act is to the effect that certain persons, upon application, shall be registered as citizens of Uganda. One of the persons is every person married to a Ugandan citizen, upon proof of a legal and subsisting marriage of five years or more as at the time of making the application for citizenship. From the foregoing, once a Ugandan citizen (whether male or female), marries a foreigner, for a period of five or more years from the date of marriage, the spouse can apply and be granted Ugandan citizenship. This right inures all citizens of Uganda without any discrimination on the basis of sex. It is clear that the position under Ugandan law is gender neutral which supports and promotes gender equity and equality unlike Nigeria where only male Nigerians are constitutionally permitted to transfer their citizenship to their foreigner spouses and not vice versa. It is imperative that the obnoxious, vexatious and repugnant provision of section 26(2) of the CFRN, 1999 be reviewed with a view to making same gender neutral like what is obtainable in Kenya and Uganda.

It is instructive to note that Kenya and Uganda are African countries with patriarchal outlooks just like Nigeria. However, unlike Nigeria, these two African countries, have considered it worthy to promote and protect gender equality with regard to entitlement to

citizenship based on marriage. Their patriarchal nature did not become a veritable tool for gender subjugation and exploitation towards women. The probable use of patriarchy as the justification for discriminating against Nigerian female citizens from automatic conferment of their citizenship on their foreigner husband(s) that such is opposed to patriarchy lacks legitimacy. The possibility that a foreigner husband will be willing to acquire the citizenship of his spouse country cannot be overlooked. The reasonable thing to do is to make available the option/opportunity and let the concerned persons decides whether or not to avail themselves of it. Discriminating on mere presumption especially in this instance is brash and dangerous.

6. Conclusion and Recommendations

Extrapolating from the analysis above, it is crystal clear that women in Nigeria are exposed to several forms of discriminations including statutory and customary law practices. In terms of political participation and representative action, the pendulum tilt unfavourably against women. Section 26(2) of the CFRN, 1999 is discriminatory against women with regards to citizenship by registration for spouse's contingent on section 42 thereof. This practice, promotes gender inequality which is an anathema to the achievement of the United Nation SDG 5 as well as obliterates women's right to dignity of human person. To curb this menace, women and human rights stakeholders such as the Federal Ministry of Women Affairs, Women Empowerment and Legal Aid Initiative, Nigerian Bar Association Women Form, International Federation of Female Lawyers, Nigeria Association of Women Journalists, must ensure that affirmative action is taken towards amendment of section 26(2) of the CFRN, 1999 by expunging the restriction placed against the male spouses of Nigerian women from acquiring citizenship by registration. Also, advocacy and enlightenment should be taken to reorient the citizenry on the ills of gender inequality on national development and its effects as an impediment to Nigeria's achievement of SDG 5. The education curricula of Nigeria's secondary and tertiary institutions should be reviewed with the aim of introducing gender studies as compulsory subject/course. This will help to orientate and reorientate Nigerian youths on the need to promote and protect the ideal of gender equality.

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