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LEGAL RESPONSE TO DISCRIMINATORY ISSUES IN CITIZENSHIP OF WOMEN AND PARTICIPATION IN NIGERIAN POLITICS

By

Jade' Mohammed, PhD

Senior Lecturer, Department of Public and International Law,
Faculty of Law, Elizade University, Ilara- Mokin, Ondo State, Nigeria
Email: jadesinmi.mohammed@elizadeuniversity.edu.ng
Tel: +2348033811547

Abstract

Women's population dominates almost half of the entire country and involves in politics across Nigeria in addition to other roles such as mother and community organizer. Various forms of discrimination, such as citizenship status, education disadvantage, job stereotyping, unemployment, cultural stereotype, health status, and political perception, are encountered by women. Both the Constitution and international treaties contain the principle of non-discrimination based on sex, yet indigeneship and or citizenship factors often militate against women's right to participate in politics and governance in Nigeria. More often than not, women access state benefits based on "citizenship by birth", but not a sure guarantee. In Nigeria, married women often claim the state of origin of the spouse without more. However, in elections or appointments into political positions, to the executive, judiciary, or legislature, citizenship becomes critical. Although women's participation in politics in Nigeria has improved, it is still low at all levels. The paper finds that discriminatory citizenship practices constitute violence against women in politics; this is neither religious nor traditional; yet unconstitutional. The paper suggests that policies and practices relating to the citizenship of women in Nigeria should be reviewed as they have no basis in any known law of the land.

Keywords: Discrimination, Citizenship, Legal Response, Women, Political participation, Nigeria

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1.0 INTRODUCTION

Many factors hinder women's representation in politics and public appointments. These include culture, religion, marital restrictions, and lack of gender-sensitive internal party democratic norms, indigeneship/citizenship, and the idea of recognizing only natives in a particular state to benefit from political/public appointments. More often than not, women are subordinated to men with leadership commonly assigned to men.

Equal access for men and women to positions of political leadership and public appointments is a requirement for attaining the SDGs by 2030. At all decision-making levels, women are underrepresented, according to recent reports from throughout the world. Nigeria can be said to be similar.[285]Women are underrepresented in public office and politics for a variety of reasons. These include indigeneship/citizenship, culture, religion, marriage limitations, absence of gender-sensitive internal party democratic norms, and the notion that only locals in a specific state should be recognized to benefit from political/public appointments. Women are typically treated as subordinates to men, with men typically being given leadership roles.[286]Hence Women

[285] United Nations, '*Transforming our world: the 2030 Agenda for Sustainable Development*', (25 September 2015) <www. https://sdgs.un.org/2030agenda/> accessed 17 June 2023

[286] UN Women, *'Facts and Figures: Women's Leadership and Political Participation',* (7 March 2023) https://www.unwomen.org/en/what-we-do/leadership-and-political-participation/facts-and-figures accessed 17 June 2023

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who dared enter politics were met with electoral violence, threats, and hate speech from uninformed women and men. Women's involvement in politics and public positions is a sign of development. Building successful democracies need it as a pillar.[287]Women leaders are better positioned to change stigmatizing attitudes about gender, health, education, the economy, attitude, and the environment.

The more female leaders there are, the more other women are inspired to want to be leaders. Nigeria is a long way from having accomplished this. Thus, women continue to suffer in Nigeria.[288]While there has been an increase in participation in governance by women, it is not substantive and commensurate with their population[289].

2.0 BACKGROUND

The economic prosperity of a country depends on the involvement of women in decision-making at all levels. Due to their minimal or non-existent involvement in such domains, their bargaining power is weak at the decision-making levels.[290]Although there has been an increase in the number of women in positions of leadership in Nigeria since 1999, the number of women in politics compared to men is just 7%. Various factors are responsible for this development.These include male-engineered hostility in the political environment, such as fixing meetings at midnight. Women politicians are often labeled prostitutes, a strategy that promotes the exclusionof women who cannot cope with such blackmail. This is a systematic discrimination against women who marry men of a different local government or state than theirs, precluding themfrom political participation, especially highly ranked political appointments.[291]This particular factor is the concern of this paper, although there are several other constraints, such as lack of mentoring among women politicians, lack of awareness of the constitutional provisions, male

[287]*ibid*
[288] Policy and Legal Advocacy Centre (PLAC), *'Policy Brief on Women's Political Representation in Nigeria*', <www.plac.org.ng> accessed 8 Jan 2023.
[289]*ibid*
[290] F Soetan , 'Gender Equality and Economic Development in Nigeria', National Conference on Law and Economic Transformation in Nigeria, 11 – 13 July 2012 organized by Faculty of Law @ 50, Obafemi Awolowo University, Ile-Ife, Nigeria.
[291]Adeyeye M. and Orisadare,M.A., 'Gender and Political Participation in Nigeria: Trends and Trajectories', IO Aransi (ed), *Local Government in Nigeria: Essays for Professor OladimejiAborisade*, U.S.A., Warren Publishing, 2012

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domination of political parties, gender insensitivity, and undemocratic political structures and practices within the political parties.

3.0 CONCEPT OF CITIZENSHIP

Citizenship is the act of belonging to a community. The phrase or idea of citizenship is arguably the most basic and widely used expression in a country or state. Rights and obligations are also bestowed on citizens. The fulfillment of citizenship obligations is a process of social ties and identity.[292] Citizenship rights also have different effects on women and men, depending on class, age, or ethnicity. The need for focus and special provisions to meet the needs of those negatively affected, especially women, is imminent.

According to Oxford Advanced Learner's Dictionary, a citizen is a person who has full rights as a member of a country, either by birth or by being given such rights; a person who lives in a town or city. The latter definition is of particular importance for the present discourse. Citizenship thus bestows a sense of belonging in a community or social group and a stake in the cultural, economic, and political affairs of a State.[293]It engenders a sense of solidarity beyond differences due to ethnicity or religion. Discriminatory citizenship fuels feelings of alienation from a community, weakens social cohesion, and promotes tension.

The practice of indigeneity policy against women, which restricts women's opportunity to participate in politics via elections or appointments, is closely related to citizenship.[294] The concepts are now so uncertain and ambiguous. The idea of indigeneship is to preserve culture and traditional institutions. Unfortunately, indigeneity is used to discriminate against non- indigenes by denying them access to governmental privileges like educational scholarships, admissions policies for schools, and other essential services, even in community infrastructures. The implicit bias of being denied political involvement owing to discrimination is a problem for non-indigenous people. In these, women are the greatest victims, as most women do not enjoy the benefit of their fathers' state of origin, husband's state of origin, or where they reside.

[292] FH Eid, 'Citizenship, Community and National Identity: Young People Perception in a Bahraini Context' (2015), pp. 2-6
[293]Keynan,I., 'Citizenhood-Rethinking Multicultural Citizenship', 2017, Journal of Cosmopolitan Civil Societies.An Interdisciplinary Journal 9(3):21.
[294]Adeyeye M. and Orisadare MA, *opcit*

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Women simply become rendered stateless; a ready recipe for apathy to political participation and an increase in poverty.

The notion of citizenship may require a different broad approach in view of the multi-ethnic, multi-religious nation of Nigeria and the constant history of migration from one section of the country to another... Citizenship rights have an impact on how citizens and states interact. Their standing in the family, community, civil society, and economic institutions is impacted, which has an impact on their life chances. In the end, women's claim to citizenship is more closely linked to men than to their own identities. A woman is viewed as a mother, wife, sister, or daughter. The rights of women as citizens must therefore be protected.[295]A woman is an adult female human being, also described as a mature, fully-grown person who has passed adolescence.[296]In other words, she is a female person who has attained 18 years of age and above. A woman is the opposite of a man.[297]

4.0 POLITICAL PARTICIPATION

Governance is "how power is exercised in the management of a country's economic and social resources for development."[298] This definition is appropriate in gendered politics discourse to embrace both men and women as agents of economic growth and development. Eyinla (1998) identified three dimensions of governance by the WHO in 1993 to include: "*the nature of political regimes, the exercise of authority in the management of social and economic resources, and the capacity of government to design and implement policy and to discharge its functions*."[299]Effective and efficient service delivery is another indicator of good governance. Thus, in a democratic nation like Nigeria, adherence to gendered politics and sound governance must take precedence over ethnicity. Furthermore, successful governance must meet five

[295]Abu-Ras W, Elzamzamy, K. Burghul, M.M., Al-Merri, N.H., Alajrad M, and Kharbanda,V.A.'Gendered Citizenship, Inequality, and Well-Being: The Experience of Cross-National Families in Qatar during the Gulf Cooperation Council Crisis (2017–2021)', International Journal of Environmental Research and Public Health, 19(11):6638 accessed 17 June 2023

[296] New Lexicon Webster's Dictionary of English Language, DuluxeEncylopes Dictionary Edition

[297]Agomo, C.K. 'Women's Rights in Law and Practice: Perspectives on Employment in Nigeria', 1993, Women and Law Conference Proceeding, p. 29

[298] Working with Civil Society and Governance, <https://www.tarsc.org/who/2006.html> accessed 21 June 2023

[299]Eyinla (1998), cited in G Ihemeje, 'Gender in the Post 2015 Development Agenda', 2015, Published Conference Proceedings by Centre for Gender and Social Policy Studies, Obafemi Awolowo University, Ile–Ife, p. 24

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interrelated and interconnected requirements.[300]These include a free and vibrant civil society, a functioning state bureaucracy geared towards governance and politics to deliver a public benefit, and the rule of law to ensure residents' liberties and independent lives.[301]

Women's participation in governance, whether through elections or appointments, depends on their citizenship. Participating in politics is a means to voice opinions and influence decisionsthat could have an impact on the public. Decisions taken, otherwise called public policies, are implemented by public appointees in the administrative systems. Voting, campaigning, providing election financing, communicating with authorities, working with others on broader concerns, and representation are all parts of political engagement.[302]Without regard to social status, age, education, or ethnicity, they are platforms for female equality in development.

5.0 THEORETICAL FRAMEWORK

This study is based on the principle of the rule of law as well as feminist citizenship. Niki Tobi, JCA (as he then was) stated that the rule of law is identified with the rights of a man in society, this is entrenched in Chapter IV as fundamental rights in the 1999 Constitution of the Federal Republic of Nigeria. These fundamental rights are based on the New Delhi Declaration from the International Commission of Jurists Conference.[303] The New Delhi Declaration was followed at the Lagos Conference, with particular emphasis on Africa as its focal point.[304]Despite the documents' non-gender-neutral language, the main message is that every citizen is treated equally under the law regardless of class, rank, or status. A broad definition of the rule of lawwill take into account various groups of people, including both the male and female genders. In other words, regular courts or tribunals should have the same legal authority over both men and women. Respecting this will ensure that everyone has equal access to justice in all senses. However, the reality on the ground demonstrates that the practices and policies used in Nigerian

[300] Linz J.J. and Stepan, A. 'Problems of Democratic Transition to Consolidation Southern Europe,SouthAmerica,and Post-CommunistEurope', 1996, Baltimore: The John Hopkins University Press
[301]Ihemeje G, *opcit*
[302] P Johnson, 'Sexism in Encyclopedia of Applied Ethics', 2012, 2nd Edition
[303] Chapter IV of 1999 Constitution of the Federal Republic of Nigeria
[304] Organization of African Unity (OAU), 'Lagos Plan of Action for the Economic Development of Africa (1980-2000)', <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwjxnuLGjtz_AhVtSkEAHSBhD5QQFnoECBwQAQ&url=https%3A%2F%2Fwww.merit.unu.edu%2Fwp-content%2Fuploads%2F2015%2F01%2FLagos-Plan-of-Action.pdf&usg=AOvVaw1N03eOeqxwoPeUOVOP6j2o&opi=89978449> accessed 24 June 2023

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political processes undermine this essential component of the rule of law. Such actions always amount to blatant violations of the rights of women, which are protected by the Constitution of the Federal Republic of Nigeria.

Debatable topics and fresh perspectives on citizenship, such as feminist citizenship, have surfaced since the 1990s. Inequalities can be resolved, according to feminists, using one of three citizenship models. Egalitarian, distinct, or pluralist citizenship is all possible.[305]The equality of rights for men and women is the foundation of feminist citizenship, which advocates that the nation's statute books, constitution, and other governing laws must provide special clauses for thecitizenship rights of women. Feminists contend that three forms of citizenship might address the issue of inequality. Citizenship can be gender-neutral, pluralist, or differentiated.[306]Hartanto and others have noted that traditional citizenship recognized the public space but regarded the privatespace as belonging to family life. As a result, women were denied full citizenship in a society where citizenship was a deciding factor for inclusion and exclusion in several contexts, includinginvolvement in politics and government.[307]Citizenship rights are also used to encourage involvement and autonomy. In order to achieve progress in society, marginalized groups, particularly women, must be guaranteed their citizenship rights.

Of significance is also the communitarian philosophy of citizenship, which placed a strong emphasis on belonging to a community. According to it, a society is made up of people who live in the same community. According to communitarians, society will advance when people have a sense of belonging to such communities. When a person feels like a member of the community to which they belong, such a person develops a sense of identity. To achieve one's rights and fulfill one's obligations to one another and the community at large, one must be an engaged citizen who contributes to the welfare of the community, the economy, and wealth creation.

Nigerian citizenship places a higher value on one's ancestry as the foundation for obtaining state resources and fundamental rights, a practice that denigrates Nigerian citizenship. Nigerian citizenship finds more meaning in and attachment to sub-national identities and indigeneity. In

[305] Hartanto, R., Siany,I.L. Atik,C.B. 'Citizenship: Review From Feminist Perspectives', 2018, Proceedings of the Annual Civic Education Conference (ACEC), <www.creativecommons.org> accessed 8 March 2023
[306] M Mukhopadhydah and N.,Singh (eds),'Gender, Justice, Citizenship and Development', 2007, <www.amazon.com.justice> accessed 8 March 2023
[307] Hartanto *et al, opcit*

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light of this, Adujie (2009) argues that, in an ideal sense, a Nigerian citizen is a citizen of the locality and state that they have mostly adopted and resided in. In addition, it implies that such a Nigerian may select any tribe to which the person may belong.[308]This ideal perception notwithstanding, what is in practice is a situation where a Nigerian whose father or grandparent did not come from his home of residence will find it difficult, if not impossible, to get elected.

6.0 DEVELOPMENTS IN CITIZENSHIP LAW IN NIGERIA

6.1 Pre-Colonial Period

Prior to colonization, there were numerous ethnic groups in Nigeria, which comprises theYorubas, Hausa-Fulanis, Nupes, and the southern Edos (later Benin) empire. There were many other small states. There was also the Igbo society. Political systems and concepts of nationhood varied among each of the entities.[309]There were also no formal citizenship laws operating in the states. By treaty, British law was first applied to the island and territory of Lagos in 1861 because it was a British colony. As a result, people who lived in Lagos were referred to as "British subjects." On January 1, 1914, the Nigeria Colony, the Northern and Southern Protectorates, and modern Nigeria were unified.[310]Residents of the Colony and Protectorate of Nigeria retained their former status in British law as British subjects (if born in the colony) or British protected persons (if given birth in the protectorate). A British subject born in Lagos or any other Colony had the same legal rights as someone born in the United Kingdom, however, inreality, the status varied among the several British colonies because each kingdom made its laws,many of which were racial in nature.[311]

[308] PI Adujie, 'Nigerian Citizenship should be Redefined Now', 2009, in *Afolabi, O. Migration and Citizenship Question in Nigeria: A study of the Berom and Hausa/Fulani Conflict in Jos*. African Journal of Political Science and International Relations. 10(2):8-5, February.
[309] KC Ubaku, *et al*, 'Impact of Nationalist Movement on the Actualization of Nigerian Independence', 1914-1960, 2014. International Journal of History and Philosophical Research, Vol.2, No.1, pp. 54-67
[310] EO Ojo, 'Nigeria, 1914-2014: From Creation to Cremation', 2014, Journal of the Historical Society of Nigeria, Vol. 23 (2014), pp. 67-91 at p. 67; Paul Eric, 'The Amalgamation of Nigeria: Revisiting 1914 and the Centenary Celebrations', 2016, Canadian Social Science (Canadian Academy of Oriental and Occidental Culture) Vol. 12, No. 12, 2016, pp. 66-68 at 66. See also, A Ikelegbe, 'Politics and Government: An Introductory and Comparative Analysis, 1995, Uri Publishers, Benin City Edo State, Nigeria.
[311]*ibid*

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6.2 1960 Citizenship Regime

Nigeria gained independence from British colonial rule on October 1st, 1960. The transitional rules for obtaining Nigerian citizenship were based on the common model for Commonwealth nations which were agreed upon with Britain. Citizenship was automatically granted to people who were "British protected persons" or "citizens of the UK and colonies" before the territory gained its independence, provided that at least one of their parents or grandparents was also born there. It was also automatically granted to people who were born outside the territory before independence if their father met the criteria. Those who were born in Nigeria before independence but did not have a parent or grandparent also born there, could register as citizens during a transitional period (a non-discretionary grant, on application, if the facts were proved). This is also true for various other groups of people with ties to Nigeria or other Commonwealth nations. As in other newly independent African states, the transitional provisions created significant opportunities for confusion on who became a citizen at independence, especially inthe context where records of the place of birth were rare. Different members of the same ethnic group could be British-protected persons, citizens of the UK and colonies, or 'aliens' (French nationals, or nationals of a newly independent French territory), depending on the borders drawn by the colonial powers. As a result, their rights to Nigerian (or British) nationality under the transitional provisions varied. A large number of people resident in Nigeria did not automaticallybecome citizens by operation of law on the date of independence. Examples include many members of the sizeable community of Lebanese descent and many people originating from neighboring countries in West Africa. Those who were born after the new constitution came into effect were granted Nigerian citizenship on aius soli basis (based solely on birth on the territory. The usual exceptions were observed for the children of diplomat fathers whose mothers were not citizens), or based on their father’s citizenship if born outside the country. Women married to Nigerian men could also register as citizens, whether the marriage was before or after independence. Those who did not qualify under any of these provisions could naturalize, a discretionary process, based on long residence and fulfillment of other conditions. This option remained available on an ongoing basis under the Citizenship Acts adopted in 1960 (originally

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an Ordinance, adopted before independence) and 1961 (amending and supplementing the 1961 Act).[312]

A referendum on the status of the Northern and Southern Cameroons was held in 1961, following the independence of Nigeria. The Northern Cameroons chose to join Nigeria, while theSouthern Cameroons chose to join the formerly French-mandated region of German Kamerun in the new state of Cameroon. The 1960 Constitution made special provisions pertaining to Northern Cameroon inhabitants' Nigerian citizenship. By virtue of these provisions, the status of anyone having ties to the territory that was transferred to Nigeria as a result of the referendum was to be treated as if the territory had been a part of Nigeria at the time of independence.[313]

The 1960 Independence Constitution was modified in 1963 when Nigeria became a republic, although the laws governing citizenship remained largely unchanged. The Citizenship Acts of 1960 and 1961 were repealed by a military Decree in 1974, replacing Chapter II of the Constitution of 1963. The new chapter effectively implemented the transitional regulations that had granted citizenship automatically upon independence to individuals born in Nigeria at independence and afterward.[314]This laid the groundwork for generalised discriminatorycitizenship as well as the existing citizenship ambiguities. Any person born in Nigeria after independence could not automatically acquire citizenship at birth, except one parent or grandparent was also born there. Those born in the country with one parent who was a citizen byregistration or naturalization were also granted citizenship. So also are those born outside, only if both parents were citizens of any category. There was no statement preserving the rights of those who were already citizens. The law was also drafted to have a retroactive effect.[315]

6.3 The 1979 Constitution

Between 1966 and 1979, military rule continued with different heads. In 1979, civilian rule was restored and elections were held under a new Presidential Constitution. The 1979 Presidential

[312]Fransman, L., Berry, A. and Harvey, A. 'Fransman's British Nationality Law, 2011, 3rd edition, Bloomsbury Professional

[313]*ibid*

[314] See generally, Nylander, A.V.J., 'The Nationality and Citizenship Laws of Nigeria', 1973, Lagos: University of Lagos; Okoli K.C., 'Nigerian Citizenship Law: A Current Perspective', 1990, Journal of African Law 34, No. 01, pp. 27–41

[315]*ibid*

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Constitution altered the framework for the acquisition of citizenship in fundamental terms. It introduced ethnicity as a basis for citizenship as well as removed citizenship rights based on birth in the territory. Chapter III of the 1979 Constitution established the basic rule that a person became a citizen at independence if he or she was born in the country and either parent or any grandparent 'belongs or belonged to a community indigenous to Nigeria'. It also retained the rule that citizenship could only be acquired by those born in Nigeria before independence if one parent or grandparent was also born in Nigeria. For those born in Nigeria after independence, citizenship was granted based on descent from a parent or grandparent who was a citizen, of any category. Those born outside Nigeria acquired citizenship automatically if one parent was a citizen.[316]Section 268 of the 1979 Constitution also provided that anyone who had acquired citizenship 'by birth, naturalization or registration' under previous constitutions remained a citizen. These are persons born in Nigeria between 1960 and 1979, who had acquired citizenship based on the rules in force during that period, as well as their children. It was not clear how this provision on continuity of citizenship related to the new provision requiring membership of an indigenous community, with those who became citizens at independence.[317]

6.4 The 1999 Constitution

The civilian government elected in 1979 was overthrown by a coup in 1983, leading to a phase of successive military governments. Elections were not held under a new Constitution until the return to civilian rule in 1999. The citizenship provisions of the 1979 Constitution, and the 1999 Constitution, are largely *impari material*. The main difference between the two is that the 1979 Constitution did not allow for dual citizenship for any Nigerian citizens, while the 1999 Constitution allows for dual citizenship for Nigerian citizens by birth and naturalizing. It, however, created an unusual prohibition on dual naturalized citizenship.[318]

Historically, citizenship can be acquired by birth and long-term settlement, or conquest, usually in the aftermath of war. The 1999 Constitution recognizes the historical approach to theacquisition of citizenship and even more. Of particular importance is citizenship by registration and naturalization; this is done by applying to the President of the Federal Republic of Nigeria

[316] 1979 Constitution of the Federal Republic of Nigeria, Section 23
[317] Report on Citizenship Law: Nigeria; RSCAS/GLOBALCIT-CR 2020/12- © 2020 Author(s) 6
[318] *ibid*

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for a grant of Nigerian Citizenship. Eligible to apply for this grant is any woman who is and has been married to a citizen of Nigeria or every person of full age and capacity born outside Nigeria, any of whose grandparents is a citizen, or anybody of full age, with good character and who has resided in Nigeria for at least 15 years continuously or cumulatively and ready to domicile in Nigeria.[319]

The Constitution frowns at the dual citizenship of a non-native. For example, if a German is registered as a Nigerian citizen and simultaneously registered as a citizen of Ghana, the Nigerian Citizenship will be forfeited. Recently, we had the disintegration of the USSR, which led to the emergence of new citizens of new countries that seceded, that is, citizenship by secession.

7.0 CITIZENSHIP RIGHTS AND DUTIES IN NIGERIA

The 1999 Constitution of the Federal Republic of Nigeria provides as follows: It shall be the duty of every citizen to:

(a) *abide by this Constitution, respect its ideals and its institutions, the National Flag, the National Anthem, the National Pledge and legitimate authorities;*

(b) *help to enhance the power, prestige and good name of Nigeria, defend Nigeria and render such national service as may be required;*

(c) *respect the dignity of other citizens and the rights and legitimate interests of others and live in unity and harmony and in the spirit of common brotherhood; (emphasis by me)*

(d) *make positive and useful contribution to the advancement, progress and well-being of the community where he residues; (emphasis by me)*

(e) *render assistance to appropriate and lawful agencies in the maintenance of law and order (e.g. vigilante) and*

(f) *declare his income honestly to appropriate and lawful agencies and pay his tax promptly.*[320]

[319] Section 26(1) a-b & Section 27(1) a-c of the 1999 Constitution of the Federal Republic of Nigeria
[320] Section 24 thereof.

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It could be observed that apart from S.24(a) and (b), which have national significance, subsections c-f are inevitable at every other level, be it state, local government, or community level (taxes, levies, rates, etc.). The said duties are all as significant as they are indivisible, as a matter of fact; failure in any of the duties will make life difficult for the citizen and the community in which the individual resides.

8.0 DISCRIMINATORY CITIZENSHIP PRACTICES AND WOMEN S RIGHT TO POLITICAL PARTICIPATION

Women's citizenship has been trailed by multiple exclusionist policies and practices in history.[321]Women have been denied rights, respect, dignity, and humanity in childhood, womanhood, and motherhood. In the wake of the International Rights Movement, a series of rights-based approaches were adopted to address women's issues, including citizenship, citizenship being a way of defining personality, and a link between rights and agency.[322]It thus became clear that persons without rights would not gain them unless they speak out and make informed inputs, policies, and decisions affecting their lives.[323]

The international community has known since 1963 that discrimination against women causes poverty among women and their families because it prevents them from fully taking part in local and national development. Inadequate opportunities for education and employment, prejudiced religious and traditional practices, political corruption, violence against women in politics, and unwillingness on the part of the government to implement progressive policies that will encourage women's participation in politics, are some of the reasons given for Nigerian women's tokenistic political participation.[324]

Women's citizenship or indigeneship is also a factor that has not been highlighted. Agbalajobi (2010) noted that patriarchy is a major factor militating against women's participation in politics. Patriarchy which is prevalent in most customs in Nigeria perpetrates and perpetuates male

[321] AK Hassan, 'Women Citizenship and Indigeneity; Possibilities and Limitation for National Integration', 2015, Unpublished Paper Presented at 30th FOMWAN National Conference. Held @ Ilorin, Kwara State Between 27th & 30th August

[322] N Kabeer, 'Citizenship, Affiliation & Exclusion Perspectives from the South', 2002, IDS Bulletin, 33(2), pp. 12-23

[323] AK Hassan, *opcit*

[324]1963 – 1975 were the years when the U.N started to recognize the role of women in development

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dominance over women in all aspects of social life, especially politics. Lack of affirmative action and quota systems were also noted.[325]

Indigeneship is a tribal affiliation or attachment to an ancestral home that is, going back to the "roots". But many societies have a blend of different migrants from different places producing homogenous cultures.[326]Citizenship in pre-colonial periods was more about obligations than rights, values, or privileges. No one was treated differently based on their ancestry, when they arrived, or how long they had been there. Princes and merchants, however, were granted some rights according to their inherited or acquired rank.[327]As a result of colonization, elites' ambition for political power and position, as well as the new status of Nigeria's natural wealth, previously overlooked differences between communities were revived. These reinforced the practice of discriminating against "settlers" in order to accord indigenes special privileges.[328]These include access to education, job opportunities, land ownership, political participation, etc. For most settlers, they can no longer trace their root. They see themselves as belonging to where they were born and raised.

After the Beijing Declaration of 1995, the issue of women's citizenship became more prominent. The criminal legacy of "divide and rule" had led to the development of general citizenship discrimination, which "*created a sense of superiority among aborigines and inferiority among migrants or settler citizens in the same country of nationality*".[329]

The rich history of constant migration of Nigerians was jettisoned, thereby creating a distinction between indigenes or natives and settlers.[330] Discrimination against women's citizenship varies in various ways. Female civil servants lose their maternity leave in the same financial year, as if delivery and care are holidays.[331]In some societies, women are required to own property in their husbands' names. Due to the fact that citizenship may be used to either get or deny power and

[325] DT Agbalajobi, 'Women's Participation in Political Process in Nigeria: Problems and Prospects', 2010, African Journal of Political Science and International Relations, vol.4(2), pp. 075-082
[326] AO Adesoji and A Alao, 'Indigeneship and Citizenship in Nigeria: Myth and Reality', 2009, *The Journal of Pan African Studies,* 2(9): 151–65
[327]*ibid*
[328]*ibid*
[329] AK Hassan, *opcit*
[330] M Lewu, 'Discrimination against Women in Nigeria: An Overview', 2011, Ilorin Journal of History and International Studies
[331] S Egwu, 'Ethno-Religious Conflicts and National Security', 2013, The Dawn 5(2), pp. 26-38

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governmental privileges, women are frequently excluded from and denied access to chances due to their familial circumstances. This is the case if they were born in a specific state, lived outside it, married a man from another state, or even from a municipal government. This brings up the subject of women's indigeneity. Indigenous women experience multiple forms of discrimination, including marital status, self-identification, appropriation of land, lack of access to justice, and violence. In order to address the issue, the UN created a permanent forum on indigenous women, whereby they participated in the 57th Session of the Commission on the Status of Women held in March 2013.[332]

Despite the provisions in the Nigerian Constitution, laws, policies, and practices restricting women's political rights persisted. Every day, women are denied access to politics. Men constituted the majority of the 2004–2005 National Conference as there was low women representation from the states to the conference. Hence, activists in Ogun State, Nigeria, initiated a suit against the state government in the law court. Similarly, Oyo State had no women delegates to the same confab.[333]

Indigeneity policy is a systematic discrimination against women who marry men of a different local government or state other than theirs.[334]In Nigeria, it is customary for married women to claim their husband's state of origin after marriage. In order to be recognized as married in the public sector, a woman must change her name by swearing to an affidavit and, if necessary, attaching a marriage certificate. Failure to do so may deprive the woman's right to maternity leave should it be demanded. A possible rationale for the above practice can be traced to two origins. Most tribes in Nigeria follow customary law, which generally holds that women are considered the property of their husbands and their personalities attached to them. A renowned gender researcher, Stella Omiyi, had observed that the belief that women are treated like chattels and inherited as part of their husband's estate upon death, is consistent in the customary law of many people with different origins, histories, and traditional practices. Hence, upon intestate

[332] UN, Indigenous Women and the Commission on the Status of Women, Department of Economic and Social Affairs Indigenous Peoples, <https://www.un.org/development/desa/indigenouspeoples/mandated-areas1/indigenous-women/indigenous-women-and-the-commission-on-the-status-of-women.html> accessed 21 June, 2023

[333] O. S Oyelade, 'Women Human Rights in Africa; Myth or Reality', 2006, Uniben Law Journal, (9)(1), p. 29

[334]M Adeyeye and MA Aborisade, 'Gender and Political participation in Nigeria; Trends and Trajectories', 2012 in Aransi I.O. (ed), *Local Government in Nigeria: Essays for Professor Oladimeji Aborisade, U.S.A.*, Warren Publishing, pg. 266

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death, wives are denied rights to their husband's property.[335]Consequently, a widow who refuses to be inherited by her late husband's relative could even forfeit her right to live in the husband's house. This means that her citizenship by marriage actually terminates upon the death of her husband.

Another rationale for the practice of changing a woman's name after marriage can be found in common law. The common law belief is that a man and a woman become one person upon marriage. Interestingly in traditional Yoruba Communities, a child, whether boy or girl, answers the father's name, whether married or not. This is also true of Islamic law and culture.[336]In essence, a married woman who claims her husband's State of Origin is rarely recognized when it comes to important political appointments.

Citizenship by Registration under the Constitution, as applicable to married women, is almost transported into everyday life. Hence, even without application to any authority, it is a common belief that a married woman must claim the town, the local government, or the State of the husband; this practice cuts across the social or educational status. In Civil Service forms, marriedwomen will fill their husband's State and Local Government. As a matter of right, the woman is not accorded any citizenship of the town/state where she lives, procreates, sweats, and contributes to its social and economic development no matter how long a time she lives there, a continuation of the perpetuation of the age-long belief that women are properties of men![337]If both spouses are inhabitants of a neutral state, most married women quickly become stateless, are rejected in their home state, and never completely assimilated into that state or any other state. However, the tendency is to return to one's roots when the chips are down, as seen by the

[335] S Omiyi, 'A Critical Appraisal of the Legal Status of the Widow under Nigerian Laws', 2005 cited by MMM Igbetar in *the Role and Development of Customary Law in the Nigerian Legal System*, 2005, proceedings of All Nigerian Judges Conference, NJI, Spectrum Law Series, p. 395

[336] J Mohammed, 'Women and Islam in Southern Nigeria: Between Shariah and Culture', 2009 in O Abass and J Mohammed J. (eds), *Women, Islam and Current Issues in Development (Essays in honour of Dr. Lateefah Durosinmi)*, OAU Press Ltd., Ile-Ife, Nigeria. p. 49

[337] J Mohammed, 'Laws, Policies and Practices Relating to Women's Citizenship Rights in Nigeria; Implication for Economic Transformation', 2012, being paper presented at the 6th Annual National Conference of Women in Technical Education and Employment, at the Federal Polytechnic, Ilaro, Ogun State, 8th – 11th October; H Abdullahi and YZ Abdullahi, 'Gender Bias and Citizenship Rights to Political Participation in Nigeria: Challenges for Democratic Consolidation and Economic Development', 2011, Journal of Gender and Behaviour, Vol. 9, No. 2, p. 4189

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election or appointment of a few women to positions in their home states.[338]

Whereas a person is a native of the place where he or she originates, that is, the origin of his or her parents or fore-parents, such a person may not live in such a place. It can safely be deduced therefore that what is practiced is nativity and not even citizenship by birth in Nigeria. A recent case in point is the case of appointment of the Chief Judge of Cross River State.[339]One Justice Akon Bassey Ikpeme was the acting Chief Judge of the State. She was not confirmed as the Chief Judge even though she was born in Cross River State to an Akwa Ibom father and a Cross River mother until a wave of protest rented the air from women activists and other quarters. She is married to a Cross River man. Her father worked and retired as a top civil servant, a permanent secretary, in Cross River. Yet she has declared a security risk to Cross River State.[340]This is so despite the provision of (section 271(4)) of the Nigerian Constitution, which states that the governor shall appoint the most senior Judge of the High Court as Chief Judge whenever the office is vacant. In the recent primary elections, a prelude to the 2023 general elections, discrimination in women's citizenship also reared its ugly head.[341]

Whereas the provision of the Constitution[342] is to the effect that anybody born in Nigeria before or after independence whose parents or any of whose grandparents is a citizen of Nigeria, the corollary of this should apply to States and Local Governments. A mother in Nigeria is never able to grant citizenship to her children, despite the fact that the Constitution makes no mention

[338] One Mrs. Atiba-Briggs a native of Oyo town in Oyo State, married to a Rivers State person was appointed a Commissioner under a Military regime in Oyo State, Mrs. Margaret Sonekan a native of Awe in Oyo State, married to an Ogun man was appointed a member of the Governing Board of a Federal Teaching Hospital on Oyo State quota. Ambassador Tokunbo-Dosunmu was booed in Lagos State for attempting to contest the Governorship election but appointed an ambassador to Netherlands on Ogun State quota. Late Justice (Mrs.) Atinukelge was serving in the Old Oyo State before Osun State was created, she was harassed to move to Osun State being the state of her husband, Late Chief Bola ige, and she refused but insisted on staying on in Oyo State, her native state. One- time Deputy Governor of Osun, Erelu Obada was married to an Ekiti man, lyabo Obasanjo-Bello is not married toan Ogun man but was a commissioner in Ogun state and later a senator representing the same state. Mrs. Deziani Allison-Maduke, former Minister of Petroleum is a Bayelsa born lady married to Enugu State man, she was appointed on Bayelsa quota

[339]<https://loyalnigerianlawyer.com-the-absurdities-in-cross-rivers-state-over-appointment;https://www.barristerNG.com/justice-ikpeme-discriminition-based-on-the-state-of-origin-amounts-to-grave-injustice-fida-tells-gov-ayade/> accessed 24 June 2023

[340]*ibid*

[341] Betty Akeredolu's case in Ondo state was an example. She was not nominated in Ondo state to contest election yet rejected in her native state of Imo.
All these point to the double standard of the political class in matters like this, it is therefore imperative that women are empowered with information and strive for continuous development to match the dictates of the required standard and politics of our time

[342] Section 25(1) of 1999 Constitution of the Federal Republic of Nigeria

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of father or mother; either the women are unaware of this clause or are afraid of the social response that might follow. However, despite the fact that there may be chances for children in such a State or Local Government, they are inevitably denied in the name of culture. Even if there are no such opportunities there, it must be in the father's state. Whereas, it is the same culture that we have sayings pointing to the significance of balanced parenthood or development;"A kiinile baba ka ma nileiya", that is, it is not possible to have a father's compound and not that of a mother. Yorubas also say '*Eye kii fi apakanfo*' – A bird cannot fly with one wing but two, anindication of balancing the factors of development!

Interestingly, the early people had a clear understanding of the two concepts. Typical examples abound in history where foreigners in the land assumed critical positions of leadership and authority based on their record of performance or perceived power and process. It should be stated here that our traditional communities have no written rules and regulations guidingcitizenship, but of course, there are dos and don'ts. History has it that the famous Moremi Ajasoro of Ile-Ife was a native of Offa in present-day Kwara State but married to Oranmiyan, theson of Oduduwa, the first king of Ile-Ife, who liberated the Yoruba Kingdom from Ugbopeople.[343] In Ibadan, this was a very familiar history, Ibadan itself being a conglomerate of nations.[344]

It should also be noted that in practice whereas a Nigerian man can bestow citizenship on his alien wife, a Nigerian woman cannot do the same on her alien husband. This is contrary to the true spirit of the Nigeria Constitution (Sections 26 & 27 thereof). The essence of Section 42 is to guarantee rights to freedom from discrimination for whatever reason, be it political opinion or even circumstances of birth. It is hoped that the Nigerian courts will exhibit activism and adopt liberal interpretations of the relevant sections as soon as the opportunity presents itself.

9.0 CONCERNS IN CITIZENSHIP OF WOMEN AND POLITICAL PARTICIPATION IN NIGERIA

The Constitution of Nigeria proclaims that the Nigerian state is based on the principle ofdemocracy and social justice. It also recognizes the fact that sovereignty belongs to the people of

[343] GK Ojetayo, 'Feminist Leadership Role; Moremi Ajasoro in the Lens of the Camera', 2015, The International Journal of Innovative Research and Development, Vol. 4, Issue 3

[344] W Adegbite, 'Ibadan: Defenders of Yoruba Unity/Integrity', 2004, Unpublished Public Lecture, Delivered at the Annual Meeting of Ibadan Descendants Union, O.A.U.T.H.C., Ile-Ife, Nigeria

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Nigeria from whom government, through the Constitution, derives all its powers and authority (Chapter II of the 1999 constitution of the Federal Republic of Nigeria). Nigerian women constitute more than half of the people referred to in Nigeria. Thus, women have the right toshare on equal terms with men the political and economic privileges afforded by representative government. More than a decade after returning to democratic rule in Nigeria, 25 years after Beijing, thirty-six years after the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), and sixty-two years after the Universal Declaration of Human Rights, the gender gap in leadership, whether in politics or public life persists. The transformation of a nation is a collective and individual process. Without a strong emphasis on social justice, enabling citizens to have a say in decisions that affect their lives, the process will end up being a mirage. In other words, a result-bound transformational process must effectively take cognizance of women and include them in decision-making that affects their lives because women are the catalysts of development. Research has also shown that higher numbers of women in parliament generally contribute to stronger attention to Women's issues.[345]

As a matter of right, the woman is not accorded any citizenship of the town/state where she lives, procreates, sweats, and contributes to its social and economic development no matter how long a time she lives there, a continuation of the perpetuation of the age-long belief that women are properties of men. Wives also cannot inherit the property of their husbands if they die intestate in most customs.[346]

It is imminent to distinguish between the concepts of citizenship and nativity, which are often confused in practice. Citizenship is membership of a town, state, or country where a person lives and contributes to its social, educational, and economic development.[347]

[345] UN Women, Political Participation of Women, <https://asiapacific.unwomen.org/en/focus-areas/governance/political-participation-of-women>, accessed 21 June 2023
[346] S Omiyi, *opcit*
[347] J Mohammed, AI Adeyombo, and NO Osahon, 'Basic Law in Nigeria', 2017, Obafemi Awolowo University Press Ltd, Ile-Ife, 3rd edition

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10.0 LOOPHOLES IN THE LAW AND POLICIES PROMOTING DISCRIMINATORY CITIZENSHIP AGAINST WOMEN IN POLITICALPARTICIPATION IN NIGERIA

The 1999 Constitution of the Federal Republic of Nigeria makes provision for citizenship and even more.[348]Whereas the Constitution provides for citizenship by registration, only men can register their spouses, not women.[349]In the same Constitution, an under-aged woman married will be assumed as mature and capable of renouncing her citizenship, but not an under-aged man.[350]Some scholars have argued that it is a protection. This argument is unfounded; rather, it isan undue exposure to child marriage and its disempowering consequences. In public service, a woman is expected to effect a 'change of name' by swearing to an affidavit and attaching a marriage certificate where applicable to be recognized as married. Failure to do this may deprivesuch a woman of her right to maternity leave when it becomes necessary. Nobody has pointed toany source of law to back up this practice. Any rule or regulation thereto is also doubtful, but itis a matter of practice.

The reality on the ground, however, shows that practices and policies in Nigerian political processes negate the very fundamental aspect of the rule of law on equality before the law. Invariably, such practices and policies amount to a gross violation of the rights of the female gender guaranteed by the Constitution of the Federal Republic of Nigeria. While citizenship is unified to a large extent under the 1999 Constitution, indigeneship is promoted under Section 14(3) of the same Constitution.[351]Section 14(3), which provides for Federal Character, limits national opportunities to ethnic basis without considering gender, age, and persons living with a disability. A major challenge here is that indigeneship is not defined. In practice, however, acrossNigeria, natives are prioritized over other Nigerians. It has been suggested that indigeneship should be well-defined in terms of place of residence.[352]This contradicts the spirit of national

[348] Sections 25 – 27 of the 1999 Constitution of the Federal Republic of Nigeria
[349] Section 26(2)(a)
[350] Section 29(4)(b)
[351] Section 14 (1) provides The Federal Republic of Nigeria shall be a State based on the principles of democracy and social justice
[352] D Ehrhardt, 'Indigeneship, Bureaucratic Discretion and Institutional Change in Northern Nigeria, 2017, African Affairs, Vol.116, Issue 464, pp462-483

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integration captioned in Section 14 (4) of the same Constitution. This restricts women from claiming the State of Origin of their father, not residence or place of marriage.[353]

Section 147 (3) of the 1999 Constitution of the Federal Republic of Nigeria provides that the president shall appoint at least one minister from the indigenous people of each State, in line with the provision of section 14(3) of the same Constitution. This provision has been interpreted in different ways by different people and groups to serve their end. According to a scholar, Section 147 has created four classes of Nigerians who are qualified to receive state benefits in politics: persons who reside in their home states, persons who are natives of other states, persons who are unable to identify their indigeneity of any State, and women who are married to men from other states, other than theirs.[354]This provision effectively keeps some people out of their community's political life. Second, given the limitations imposed by the Federal Character principle, the rules highlight the inherent inadequacy in defining Nigerian citizenship. Therefore, in order to address the issue of indigeneity in Nigeria, the definition of citizenship needs to be reappraised. The citizenship right was the main topic of discussion throughout the 2022 Constitutional Amendment Bill. Women's NGOs and related organisations worked fervently to change the 1999 Constitution's provisions relating to citizenship rights. This was jettisoned at thelast minute by the National Assembly.

10.0 LEGAL BASIS FOR WOMEN'S RIGHTS TO POLITICAL PARTICIPATION

The 1999 Constitution of Nigeria proclaims that the Nigerian State is based on the principle of democracy and social justice.[355]It also recognizes the fact that sovereignty belongs to the people of Nigeria, from whom the government through the Constitution derives all its powers and authority.[356]In Nigeria, women constitute more than half of the population. Women, therefore, have the right to share the political benefits of representative governance on an equal basis with

[353] The case of Betty Akeredolu and similar others have confirmed that, there is no hundred percent guarantee that a married woman to a man outside her father s state of origin will be given opportunity to access political benefit either in her father s state, husband s state or place of residence..
[354] J Ibrahim, 'Expanding the Human Rights Regime in Africa; Citizens, Indigenes, and Exclusion in Nigeria', 2006, in WL, Wohlgemath, Cosaria, Dakar.
[355] Section 14 (1) thereof
[356] Section 14(2) thereof

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men. This includes participating in elections, voting in referendums, and holding public offices.[357]

Participation by the people shall be ensured in accordance with the Constitution.[358]In another section, the Constitution provides that the State is founded on the ideals of freedom, equality, and justice in furtherance to which every citizen shall have equality of rights, obligations, and opportunities before the law.[359]Although the said provision above and indeed all the provisions contained in Chapter II of the 1999 Constitution of the Federal Republic of Nigeria[360] are not enforceable. Most of the provisions have been subsumed by the provisions contained in Chapter IV of the same Constitution, making it possible to enforce these rights. Section 14(2) (c) and Section 15(2) should be specifically mentioned here. While the latter encourages national integration without discrimination, the former stipulates that participation in governance will be in accordance with the Constitution. The most effective section of the Constitution to enforce these and other provisions is Section 42. It expressly protects every citizen's right to freedom from discrimination based on their sex, religion, or political views. In addition, no executive or administrative action should result in disabilities and restrictions on the same grounds.[361]

11.0 CONCLUSION AND RECOMMENDATION

The gender gap in political leadership and public life in favor of men but against women is persistent in Nigeria, an indication that women have little or no voice in issues of development that affect their lives. Several factors militate against women in this respect, but the most important is the indignity policy, systematic discrimination against women who marry men of a different local government or state other than theirs. Discriminatory citizenship practices againstwomen are unconstitutional. It is against the human rights provisions contained particularly in section 34(1) (a) & (b) of the 1999 Constitution. It provides that every human being is entitled tolive a dignified life; this encompasses protection from any form of torture, inhuman or degradingtreatment, or any form of slavery. A practice that forces a woman to change her State of Origin

[357]Adeyemi, 'Promoting Women's Participation in Media Services', 2003, in Nigerian Journal of Gender and Development, Vol. 4, No. 2, p. 140; Chizea and Njoku, Nigerian Women and the Challenges of our Time, 1991, Lagos, Malthouse Press Ltd., p. 16
[358] Section 14 (26) thereof
[359] Section 17(1) & 2(a) thereof
[360] Fundamental Objectives & Directive Principle of State Policy
[361] Sub-Section 1 (a & b) thereof

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even if she has better opportunities to claim her citizenship by 'birth' is a form of slavery. Yet upon becoming a widow, she becomes persona non grata, a serious act of psychological torture, a practice which disregards the citizenship of women where they spend all their lives and make all the contributions is also unfair and unconstitutional (Section 42, 1999 Constitution).

It is also ripe for Nigeria to incorporate residency right in Nigerian Constitution in the spirit of national integration and all-inclusiveness in political participation as obtained in other climes.[362]This will also promote flexible citizenship of married women. The need for reforms in the Constitution is also imperative at the soonest opportunity to enable women to confer citizenship on their husbands and children if they so choose. Exclusionist policies, especially discriminatory citizenship practices, which deny women and girls the right to participate in politics and governance, should be stopped immediately at all levels in every sector. It is also imperatively urgent to re-think the definition of citizenship towards addressing the problem of indigeneship in Nigeria and to promote a true sense of community belongingness.

Promoting permissive or flexible citizenship of women will therefore be a useful mechanism for bridging the existing gap between men and women in access to power via elections, political and economic appointments, and public life. Rather, women should have the freedom to retain their "citizenship by birth" or choose any other if they so wish with full knowledge of the implications. If this is done, women will have the opportunity to claim citizenship which guarantees better access to state benefits via political and economic participation and other resources. This will enable women to be effective partakers in political processes and development in general, in fulfillment of the rule of law.

[362] In Canada, a good number of Nigerian citizens have contested and won elections. The same applies in the UK.

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