A BILL

FOR

AN ACT TO INCORPORATE AND ENFORCE CERTAIN PROVISIONS OF THE UNITED NATIONS CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN, THE PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLE'S RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA, AND OTHER MATTERS CONNECTED THEREWITH

Sponsored by Hon. Uzoma Nkem-Abonta

[ ] Commencement

BE IT ENACTED By the National Assembly of the Federal Republic of Nigeria as follows:

Purpose of this Bill

1. The purpose of this Bill is to give effect to:

(a) Chapters II and IV of the 1999 Constitution of the Federal Republic of Nigeria;

(b) The International Covenants on Human Rights which affirm the principle of non-discrimination and proclaims that all humans are born free and equal in dignity and rights, and that everyone is entitled to all the rights set out without distinction of any kind including distinction based on sex;

(c) The domestication of certain provisions of the Convention on the Elimination of all Forms of Discrimination against Women, and the protocol to the African Charter on the Rights of Women in Africa.

Prohibition of Discrimination

2. (a) No person, organ or agency of government, public or private institution, commercial or corporate body, community, or other entity, or any representative of such organ or agency of government, public or private institution, commercial or corporate body, community, or other entity shall either through words spoken, acts, inactions, omissions, laws, regulations, administrative procedures, policy, guideline, rules, customs or practices

discriminate against any person on the ground of gender, age or disability;

(b) Any law, regulation, custom and practice, which constitute discrimination, shall be null and void and of no effect and shall not be enforceable against any person.

(c) No rule or directive of a public, corporate, social or communal entity which is a violation of the provisions of this bill shall be enforced against any person.

Promotion of Equality, Full Development and Advancement of all persons

3.-(a) Every person, body, institution, community, authority or private enterprise whether public organ or body, public institution, individuals, communities or authority and private enterprise in Nigeria shall take all appropriate measures, including regulatory policy, fiscal and administrative measures, to ensure the full development and advancement of all persons, especially young women and girl children, for the purpose of guaranteeing to them the exercise and enjoyment of human rights and fundamental freedoms on a basis of non-discrimination and equality of all persons;

(b) Accordingly, every person, organ or agency of government, public or private institution, commercial or corporate body, community, or other entity, or any representative of such organ or agency of government, public or private institution, commercial or corporate body, community, or other entity, shall accord to women, children, and other persons equality before the law, and accordingly, shall on the basis of equality:

(i) give women equal rights to conclude contracts and to administer property;

(ii) treat women equally with men in all stages of procedure in courts and tribunals;

(iii) ensure that no rule, regulation, agreement, protocol, contract or any other public or private instruments of any kind with a legal effect shall restrict, limit or in any way discriminate against any person in terms of legal capacity;

(iv) no practices of law enforcement agency or body shall restrict or

limit the legal capacity of women to undertake surety or recognisance on behalf of any person;

(v) Desist from denying or limiting any privilege, respect, advantage or benefit due or accruable to women only on the basis that she is a woman.

Adoption of temporary special measures to eliminate discrimination

4.-(a) Every organ or agency of government, public or private institution, commercial or corporate body, community, or other entity, shall adopt temporary special measures as set out in this Bill aimed at accelerating de facto equality of opportunity and treatment between men and women, and such measures shall not be considered discrimination as defined in the present Bill or in any other law in force, and shall in no way entail as a consequence the maintenance of unequal or separate standards or regulations between men and women in such organ or agency of government, public or private institution, commercial or corporate body, community, or other entity;

Provided that:

(i) where a position exists under the special provisions under this section, ample opportunity must be given, and information disseminated to women widely;

(ii) these measures undertaken pursuant to the provisions of this section shall be gradually discontinued when the objectives of equality of opportunity and treatment have been achieved, provided further that no special measure shall be in place and be enforced for a period of less than 10 years or more than 25 years.

(b) For the purpose of the special measures provided in sub section 1 of this section, it shall be mandatory for all organs or agencies of government, public or private institution, commercial or corporate body, community, or other entity to ensure:

(i) in the case of political and public sphere, that a minimum of 35 per cent of all offices, positions, or appointments is reserved for women;

(ii) in the case of employment, credit or other economic sphere in the public or private, a minimum of 35 percent of all offices, facilities, positions or appointments is reserved for women;

(iii) in the case of educational placement and school enrollment, including award of scholarships, bursaries, or such allocations, that parity is ensured for boys and girls, men and women;

(iv) In the case of primary school enrolment, mechanisms should be put in place to ensure parity in enrolment and retention of boys and girls;

(v)In all other cases, a minimum of 35 percent is reserved for women.

(c) Without prejudice to the provisions of subsections (a) and (b) of this section, all organs or agency of government, public or private institution, commercial or corporate body, community, or other entity, shall take appropriate measures to protect the maternity status and reproductive health of women, including allocation of special facilities, time, and resources aimed at protecting maternity, and such special measures shall not be considered discriminatory.

Modification of Socio-Cultural Practices

5. Every organ or agency of government, public or private institution, commercial or corporate body, community, or other social entity, including educational institutions shall have the responsibility to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of gender stereotyping, prejudices, and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes, or the roles for men and women, and to this end:

(i) every public or private educational institution shall ensure the adoption of appropriate teaching methods and curriculum including provision of facilities that emphasise the promotion of equality of all sexes in all circumstances and for all purposes, including choice of career, equal participation and inclusion of all persons in all activities of the school or institution;

(ii) the family as a unit of society shall ensure that values, practices or

other forms of rearing of children, ward and young people in the family and community, or other forms of socialization, is not discriminatory, and promotes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children;

(iii) Widows shall not be subjected to inhuman, humiliating or degrading treatment;

(iv) A widow shall automatically become the guardian and custodian of her children, after the death of her husband, unless this is contrary to the interests and the welfare of the children;

(v) A widow shall have the right to remarry, and in that event, to marry the person of her choice;

(vi) A widow shall have the right to an equitable share in the inheritance of the property of her husband and shall have the right to continue to live in the matrimonial house. In case of remarriage, she shall retain this right if the house belongs to her or she has inherited it;

(vii) Women and men shall have the right to inherit, in equitable shares, their parents' properties;

Elimination of discrimination in Political and Public Life

6. Every organ or agency of government, public or private institution, commercial or corporate body, community, or other entity, shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right to:

(a) participate fully in all political activities, including the right to vote and be voted for in all elections and public referenda, and to be eligible for election to all publicly elected offices and bodies without any restriction, limitation or barriers whatsoever;

(b) participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

(c) be given, on equal terms with men and without any discrimination, and without prejudice to the provisions of section 6 of this bill, the opportunity to represent such organ or agency of government, public or private institution, commercial or corporate body, community, or other entity, in any official capacity, or to represent the Federal Republic of Nigeria or any part of the federation at the national, regional or international level, and to participate in the work of international organizations without any restriction whatsoever.

Elimination of discrimination in education

7. Every organ or agency of government, public or private institution, commercial or corporate body, community, or other entity shall take all appropriate measures to eliminate discrimination against women in the field of education to ensure on the basis of equality of men and women, and without prejudice to the provisions of section 6 of this bill:

(a) The same conditions for career and vocational guidance, for access to studies and for the achievement of certification in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general technical, professional and higher technical education, as well as in all types of vocational training;

(b) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim;

(c) The same and equal opportunities to benefit from scholarships, bursaries, and other study grants;

(d) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

The same Opportunities to participate actively in vocational, extra curriculum, and other non-academic activities of such school private or public educational institution including in sports and physical education.

Elimination of discrimination in employment

8. Every organ or agency of government, public or private institution, commercial or corporate body, community, or other entity shall take all appropriate measures to eliminate discrimination against women in the field of employment, occupation or profession, in order to ensure, on a basis of equality of men and women, and without prejudice to the provisions of section 6 of this bill:

(a) The right to work commensurate with skill, competence, expertise and knowledge, as an inalienable right of all human beings;

(b) The right to equal employment opportunities, including the application of the same criteria for selection, promotion and assignment of responsibilities in employment;

(c) The right to free choice of profession and employment, and equal treatment and consideration in the areas of promotion, job security and all benefits and conditions of service including training and retraining opportunities;

(d) The right to equal remuneration of persons of equal skill, competence, expertise and knowledge, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

(e) The right to social security, particularly in cases of unemployment, sickness, physical challenges, old age and other incapacity to work, as well as the right to paid leave;

(f) The right of a woman in employment to maternity leave or any such leave or concession relating to her maternity needs, shall not limit or restrict her right to equal treatment as provided under this section;

(g) The right of everyone to the protection of the person's health including maternal health, and to the person's safety in work place, including the safeguarding of the function of, and choices in, reproduction and maternal or paternal responsibilities. Accordingly, no rule, regulation or policy of any organ or agency of government, public or private institution,

commercial or corporate body, or other entity shall limit or restrict or otherwise strictly regulate the period or conditions, an employee undertaking maternity leave or other advantages in the workplace relating thereto.

Elimination of discrimination on grounds of marital status

9.-(a) Every organ or agency of government, public or private institution, commercial or corporate body, community, or other entity shall prevent discrimination against women on the grounds of marriage, marital status, or maternity; accordingly, shall:

(i) not dismiss, restrict or otherwise impose any disadvantage on any person in respect of employment, contract, or other occupational engagement, whether in the public or private sphere, on the grounds solely of the person's marital status, circumstances of birth, condition of pregnancy, maternity leave, or such other reasons relating to the person's maternal or paternal status;

(ii) ensure enforcement of maternity leave with pay or with comparable social benefits without loss of former employment, promotion, advantage, or other allowances which otherwise are due to the person;

(iii) provide necessary supporting social services to enable parents in employment to combine family obligations with work responsibilities and participation in public life, in particular through the establishment and development of child-care facilities in the work premises;

(iv) Provide special protection to women during pregnancy in types of work and practices harmful to them.

(b) Protective regulations, policies and practices relating to matters covered in subsection (a) of this Section and the other sections of this bill, shall be reviewed as often as necessary in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

Elimination of discrimination in Health

10.-(a) Every agency, organ, body, authority, public institution or private enterprise shall take all appropriate measures to eliminate discrimination against any person on any ground whatsoever, in the field of health care. Accordingly, every organ or agency of government, public institution, commercial or corporate body, or other entity responsible for

providing public health care services shall ensure that all women who are pregnant and within 2 years of delivery, and all children under the age of 12, are given free and quality health care services, including provision of all necessary medical, surgical, diagnostic, and pharmacological supplies;

(b) Notwithstanding the provisions of subsection (a) of this section, all organs or agencies of government, public or private institution, commercial or corporate body, community, or other entity shall ensure provision and access to appropriate services and information in connection with Health status of the spouses, the pre natal, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation;

(c) Every man and woman is entitled to receive the necessary material, medical, psychological, socio and legal assistance through governmental agencies and / or non-governmental agencies providing such assistance; as well as being informed and availed access to legal, health and social services and other relevant assistance.

Elimination of Discrimination on Socio-Economic Grounds

11. Every organ or agency of government, public or private institution, commercial or corporate body, community, or other entity shall eliminate discrimination against women in all areas of economic and social life in order to ensure, on the basis of equality between men and women, the same rights, in particular:

(a) the right to family benefits;

(b) the right to equal access between men and women to capital, credit, including informal sector, small and medium scale loans, mortgages and other forms of financial credit;

(c) the right to participate in recreational activities, sports and all aspects of cultural life.

Right to choose Indigenship and Identity

12. -(a) Every organ or agency of government, public or private institution, commercial or corporate body, community, or other entity shall grant to women and men equal rights to acquire, confer, change or retain

their indigeneship, and in particular, shall ensure that neither marriage, divorce nor widowhood shall deny a woman the right to choose or retain her citizenship and identity and she shall have the choice, without hindrances, limitations, disadvantages or conditions, to retain her maiden name;

(b) Every person shall have the right to define and assert his or her identity, and accordingly, no rule, regulation or guideline shall impose on any persons, place of abode, domicile, state of origin, or name.

Right to Confer Citizenship

13. Women shall have equal rights with men to confer their citizenship on their children.

The Rights of persons in Rural Communities

14. Every organ or agency of government, public or private institution, commercial or corporate body, community, or other entity shall:

(a) Take into account the particular problems faced by rural women and the significant roles which they play in the economic survival of their families, including their work in the informal non-monetized sectors of the economy, and shall ensure the application of the provisions of this Bill to women in rural areas;

(b) Take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on the basis of equality between men and women, that they participate in and benefit from rural development and, accordingly, shall ensure to such women the right to:

(i) participate in the identification, design and implementation of development projects at all levels;

(ii) benefit directly from social security programmes;

(iii) obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;

(iv) organize self-help groups and co-operatives in order to obtain access to economic opportunities through employment or self-employment.

(v) have access to agricultural credit and loans, marketing facilities,

appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes.

Rights in matters relating to marriage and family life

15. Every organ or agency of government, public or private institution, commercial or corporate body, community, or other entity shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and shall ensure, to women and men.

(a) The right to enter into marriage;

(b) Right to freely choose a spouse;

(c) Rights and responsibilities during marriage and at its dissolution including choosing whether to retain maiden name or adopting a family name;

(d) Rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children including decisions relating to welfare and upbringing of their children. In all cases the best interests of the child concerned shall be paramount;

(e) Rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

(f) Complimentary and corresponding rights and responsibilities with regard to custody, guardianship, ward ship, trusteeship and adoption of children.

Prohibition of Violence Against Women

16. -(a) All forms of violence against women are prohibited, whether the violence takes place in private, family or public sphere, including unwanted or forced sex, or traditional, religious or cultural practices harmful to the health, well-being and integrity of the woman;

(b) All forms of violence against elderly women including sexual abuse, and discrimination based on age are prohibited;

(c) All forms of violence against women with disability including sexual abuse, and discrimination based on disability are prohibited;

(d) Every educational, school or training authority in the state shall promote peace education through curricula and social communication in order to eradicate elements in traditional and cultural beliefs, practices and stereotypes which legitimize and exacerbate the discrimination against women, persistence and tolerance of violence against women;

(e) All forms of trafficking in women' and children, abuse and exploitation of women and children in any manner or way, and medical experiments on women without their informed consent, or on children without the informed consent of their parents or legal guardian, are prohibited;

(f) Any person who violates the provisions of sub-section (a) - (e) of this section shall, without prejudice to section 20 of this Bill, be guilty of an offence and liable to:

(I) imprisonment not less than one year or to a fine of not less than Five Hundred Thousand Naira only, or to both imprisonment and fine.

Provisions relating to marriage and matrimonial causes

17. Subject to the subsisting provisions of the Marriage Act, Child Rights Act, and the Matrimonial Causes Act:

(a) No marriage shall take place without the free and full consent of both parties;

(b) the minimum age of marriage for women shall be 18 years;

(c) every marriage shall be recorded in writing and registered in accordance with national laws, in order to be legally recognized;

(d) a woman and a man shall jointly contribute to safeguarding the interests of the family, protecting and educating their children;

(e) during her marriage, a woman shall have the right to acquire her own property and to administer and manage it freely.

Provisions relating to offences and sentencing including costs, damages and compensations

18.-(a) Any person, organ or agency of government, public or private institution, commercial or corporate body, community, or other entity, or any representative of such organ or agency of government, public or private institution, commercial or corporate body, community or other entity, who fails or neglects any of the duties imposed under this bill shall be liable to an offence,

and on conviction, to such term of imprisonment not less than one year, or such fine not less than five Hundred Thousand Naira or both imprisonment or fine as the court may impose considering the entire circumstances of the case;

(b) Any person who suffers violation of his or her rights, or becomes victim of any action, omission, or inaction of any organ or agency of government, public or private institution, commercial or corporate body, community, or other entity, or any representative of such organ or agency of government, public or private institution, commercial or corporate body, community or other entity shall be entitled to fair and adequate compensation as may be determined by the court, taking into consideration the special damages suffered, as well as social, psychological, emotional and health related burden suffered by such person by reason of such action, omission or inaction aforesaid;

(c) Any person, or official of anybody or entity, be it in a public or private institution or community who condones, aids, facilitates and abets any other person, body or entity to fail or neglect or omit in any of the duties imposed under this bill shall be liable and the provisions of sub section (a) and (b) of this section shall apply to such a person or body;

(d) Where a corporate body, agency, institution or community is liable under sub section (a) and (b) of this section, the chief executive, leader, or head of such corporate body, agency, institution or community shall have the primary responsibility of the punishment imposed by the court in accordance with the said section, and where there is continued failure or omission or neglect to comply with the duty imposed after the punishment prescribed in this section, such chief executive, leader, or head of corporate body, agency, institution or community shall be personally liable for such punishment as may be imposed by the court, taking into consideration the provisions of sub sections (a) and (b) of this section;

(e) The court may in addition order such exemplary damages,

public apology, or such redress or restitution as may be deemed appropriate in the circumstances by the court.

PART B

The Commission

19. The Federal Character Commission herein after called the "Commission" is hereby vested with the powers to enforce and implement the provision of the Bill.

Functions of the Commission

20. The Commission shall, in addition to the powers confers on it in the Constitution, carry out the following functions:

(a) Monitoring and supervision of the implementation of the Bill;

(b) Promote gender equity and the entrenchment of social justice in all spheres of life;

(c) Organize meetings, conferences, symposia and other enlightenment for the entrenchment of full rights to men and women on equal terms for the full advancement and development of Nigeria;

(d) Investigate and make application to the appropriate court or tribunal for an order of assessment of practices of any person, organ, body, institution, private or public organ in accordance with the Bill;

(e) Liaise with the National Human Rights Commission and other such bodies relating to enforcement of fundamental rights;

(f) Prepare and submit periodic reports on the state of implementation of the Bill to the Government and other appropriate bodies;

(g) Perform such other functions and activities as may be specified by any law or enactment;

(h) Undertake such other activities as are expedient for giving full effect to the provisions of this Bill.

Legal obligation to give information to the Commission

21. Any Officer of the Commission investigating the commission of an offence under this Bill may cause any person:

(a) To attend; and

(b) To produce any relevant materials or evidence before such officer for the purpose of being examined in relation to any matter, which may assist in

the investigation of the matter.

22. A person, representative of an organ, body, institution summoned, is obliged to appear and produce all relevant information required under the notice within his/ her knowledge or which is available to such person.

23. 1. (a) Willfully refuses to appear in response to a written notice to attend; or

(b)Willfully refuses to produce such materials or evidence as requested by the Commission with regards to which the officer of the Commission has reasonable grounds for suspecting or believing that an offence under this Bill or under Chapter IV of the 1999 Constitution has been or is being committed;

(c) Makes or procures another person to make any statement in the information which such person knows or believes to be false or misleading in a material particular; or

(d) Intentionally obstructs another person in the exercise of the power conferred by this Bill; commits an offence.

(2) An individual who commits an offence under subsection (1) above, is liable on summary conviction to imprisonment for a term not exceeding one month or a fine not exceeding fifty thousand Naira and Corporate Five Hundred Thousand or to both such fine and imprisonment.

(3) Any Corporate Organization that commits an offence under Sub-Section (1) above, is liable on conviction to a fine of not less than Five Hundred Thousand Naira only.

Failure to comply with direction for reversal of discrimination

24. Where the Commission upon receipt of a complaint and after due investigation gives a direction under this Bill and an individual, community, institution, public or private enterprise fails to take any step to reverse any act of discrimination, the Commission may proceed to initiate proceedings against such person, organ, body, institution, public or private enterprise in the appropriate court.

Jurisdiction

25. The High Court of the Federal Capital Territory shall have original jurisdiction to look into applications arising from any breach of the provisions of this Bill.

Procedure

26. Procedure shall be in accordance with the procedure under the Fundamental Rights (Enforcement Procedure) Rules 2009, or any other rules of procedure for the time being applicable to the court.

Miscellaneous

27. If an offence under this Act is proved to have been committed with the consent or connivance or is attributed to any neglect on the part of any director, manager, secretary or other similar officer of a body corporate, or any person who was purporting to act in any such capacity, such officer as well as the body corporate, commit an offence and are liable on conviction to imprisonment for not less than One Year, or to a fine of Five Hundred Thousand Naira or to both imprisonment and fine.

Interpretation

28. Unless the context otherwise states or as contained in the Interpretation Act (Cap 123 LPN 2004), the following words are intended to mean:

"Abuse" includes physical, psychological, sexual, verbal, economic, social, cultural or similar mistreatment or mishandling which interferes with the integrity of a female or male human being;

"The Convention" means the United Nations Convention on the Elimination of All Forms of Discrimination against Women;

The "Covenant" means either the International Covenant on Social and Political Rights or International Covenant on Economic, Social and Cultural Rights;

"The Commission" means the Federal Character Commission as established under the Constitution of the Federal Republic of Nigeria (As amended);

"The Chairman" means the Chairman of the Commission;

Introduced Newly:

"Constitution" means the Constitution of the Federal Republic of Nigeria, 1999 (as amended);

"Court" means any court with jurisdiction over issues of marriage in the Federal Capital Territory;

"Discrimination against any person" shall mean any distinction, exclusion or restriction made on the basis of his or her sex or gender or other condition or status", which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by any person, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field;

'Women" include the girl child;

"Men" include the boy child;

"Members" mean the Members of the Commission;

"The Protocol" means the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa;

"Staff' means the staff of the Commission;

"Violence" includes physical, psychological, sexual, verbal or emotional maltreatments or assault;

"Violence against women" means all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflicts or of war;

Citation

29. This Bill may be cited as Gender and Equal Opportunities Bill, 2015.

EXPLANATORY MEMORANDUM

This Bill seeks to Incorporate and Enforce certain Provisions of the United Nations Convention on the elimination of all forms of discrimination against women, the protocol to the African Charter on Human and People's Rights on the rights of women in Africa.