

## CONSTITUTION AMENDMENT REQUIRES THE GOVERNMENT TO DIRECT ITS POLICY TOWARDS ENSURING FOOD SECURITY

***TITLE: Constitution of the Federal Republic of Nigeria, 1999 (Fifth Alteration) (No.34) Act to require the Government to direct its policy towards ensuring right to food and food security in Nigeria, and for related matters.***



This Amendment, which was just assented to by the President inserts the Right to Food and Food Security as a Fundamental Objective and Directive Principle of State Policy in Chapter two of the Constitution. It replaces the words “*suitable and adequate food*” in **Section 16 (2) (d)** with the words “*right to food and food security.*” It also creates a new **section 16A** which says that the State shall direct its policy towards ensuring strategies that guarantee food availability, accessibility, and affordability; continuous upgrade of food production, conservation and distribution methods; and food security measures that protects the country from compromise.

Food is a basic human need. The right to food security (or right to be free from hunger and starvation) is recognised and established under international law and treaties such as the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the African Charter on the Rights and Welfare of the Child. It requires governments to take steps to achieve the full realisation of the right to adequate food in their countries. This right however does not mean that the government should give away free food but that it should ensure food availability, accessibility, and affordability.

Nigeria's National Development Plan for 2021 to 2025 notes that food security exists when all people have adequate access to sufficient safe and nutritious foods that meet their dietary needs and food preferences for an active healthy life. Several countries have the enforceable right to food embedded in their national constitutions e.g., Congo, Cuba, Ecuador, Ethiopia, Guatemala, India, Kenya, Malawi, Mexico, and South Africa.

Generally, Fundamental objectives and Directive principles of State Policy in Chapter two of the Constitution requires the government to recognize the social and economic needs of citizens such as education, employment, health, economic empowerment, etc. However, they are not enforceable in a court of law, unlike the human rights outlined in Chapter four of the Constitution – for example, the Right to Life, Right to Personal Liberty or Right to Fair Hearing.

Justiciability (i.e., enforceability) of certain socio-economic rights and right to food has been an ongoing conversation in Nigeria's constitution amendment process. The original version of this Act, before its adoption by the National Assembly, was a bill to make the right to food enforceable as a human right by creating a right to food in Chapter four of the Constitution. This would have placed a legally enforceable duty on the State, but it appears the government is not ready to take this bold step. Arguments against justiciability of socio-economic rights typically focus on undue burden on government and potential friction between the arms of government in interpretation and implementation.

In Nigeria, food security is threatened by

many factors such as insecurity and flooding which has ravaged thousands of acres of farmlands, crops and livestock across the country. Also, the quality of arable land has declined significantly due to climate change and poor land management, thus posing serious threats to agricultural productivity. Attempts to use special intervention funds such as the Ecological Fund to manage this problem has been hindered by corruption and mismanagement. With media reports of soaring food prices and a looming hunger crisis, food security interventions don't seem to be having their intended impact

It is important to recall that food security problems, policies and interventions are not new to Nigeria. The first recorded poverty alleviation intervention in Nigeria was the Farm Settlement Scheme (FSS) in the 1960s/post-independence period. It was initiated in the old Western region and targeted young school leavers to support them in developing a farming career, especially on production of cash and food crops. It was however short-lived. Several food production and agricultural development projects followed in the successive era. In fact, it seemed to be a key feature of the military regime – from General Yakubu Gowon's Agriculture Development Project (ADP) to General Obasanjo's Operation Feed the Nation (OFN). Obasanjo's Land Use Decree (now Land Use Act) promulgated in 1978 which was said to be aimed at empowering the government to expand land ownership in Nigeria and by implication support food production has turned out to be a bane to development, only serving to enrich an elite few and entrenching inequitable land distribution and administration.

Other failed attempts include Shehu Shagari's Green Revolution Programme (GRP) and General Buhari's Go-Back-to-Land Programme, both in the 80s.

National Development Plans adopted by successive civilian governments also highlighted food security as a major policy issue however change in government, lack of commitment, poor monitoring, corruption and mismanagement of funds ensured that these initiatives did not make sustainable gains. Unfortunately, continued frequent programmatic changes around food security and agriculture would continue to impact sustainable food production and accessibility in Nigeria if firmer measures are not taken.

Like aforesaid, the inclusion of this provision in Chapter two of the Constitution does not create a right or binding obligation on the State that can be enforced in a court of law but merely a persuasive or guiding principle.

Therefore, this new amendment will have no bite. Current economic challenges presented an opportunity for the government to make a bold decision or statement on this subject. In other words, adopting the right to food security as an independent enforceable right in Nigeria's Constitution would have made a difference.

Compared to what existed in the Constitution, this amendment is an improvement. But weighed against the country's food crisis and Nigeria's history, it offers little relief as a guarantee of food availability, accessibility, and affordability for poor Nigerians. Inevitably, it would result to no significant change in conditions without strong political will by the government to aggressively implement pro-people policies and laws that can lift Nigerians out of poverty and hunger.





## About PLAC

Policy and Legal Advocacy Centre (PLAC) is a non-governmental organization committed to strengthening democratic governance and citizens’ participation in Nigeria. PLAC works to enhance citizens’ engagement with state institutions, and to promote transparency and accountability in policy and decision-making process.

The main focus of PLAC’s intervention in the democratic governance process is on building the capacity of the legislature and reforming the electoral process. Since its establishment, PLAC has grown into a leading institution with capacity to deliver cutting-edge research, policy analysis and advocacy. PLAC receives funding support from donors and other philanthropic sources.

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