**Proposal by ActionAid Nigeria to the Senate Committee on the Review of the Nigerian Constitution**

**Creation of more states:** At a time when, even the National Assembly has concluded that many states in Nigeria are insolvent, it is difficult to understand or agree that the country needs more states. Our observation is that most states exist and survive on account of expected revenue from the Federation Account, having failed or being unable to generate enough revenue internally. The widely-canvassed view of the creation of another state in the South-East geopolitical zone to ‘achieve equality/equity’ is not a strong argument. This is because it is premised on the ‘equality’ of all the geopolitical zones in every way. If such argument prevails, it follows therefore that after the creation; all other five geo-political zones apart from North-West should legitimately request an additional state to bring their number to seven, like there is in North-West or alternatively, dissolution of a state in the North-West to ensure the so-called equality of zones. Such argument could be further extended to include equality in the number of local governments per state and per senatorial district.

**Recognition of the Six Geopolitical zones:** We do not see any strong necessity for the inclusion of this in the Constitution. Standard practice of federalism recognises states as federating units. The creation of another level or structure above the federating units is superfluous and would unduly increase the cost of governance.

**Role for traditional rulers:** We acknowledge that as Africans, we still hold dearly to our cultures and traditions, including some level of recognition and allegiance to the traditional leadership structures at those levels. However, we believe that the concept of republicanism, which the Nigerian federation has been since 1963, is parallel to the system of traditional political government. We therefore disagree in totality with the suggestion to provide ‘Constitutional roles’ for traditional rulers. Our reasons against these are as follows:

1. To the extent that traditional rulers are not popularly and democratically elected by ALL the people (men and women) who make up the given geographical territory of the monarchy and to the further extent that ALL the people (men and women) are not equitably qualified to vie for such positions, this proposal runs contrary to the democratic nature of a modern state such as we have or try to sustain.
2. The idea of monarchy is one that creates rulers and subjects and such is contrary to the principles of freedom and liberty for which a democracy guarantees.
3. Unlike ‘constitutional monarchies’ such as the United Kingdom, Belgium, Holland or Spain where there is little or no dispute as to the pre-eminence of a single monarch in the entire country, Nigeria does not have such pre-eminent traditional ruler, neither at the federal nor at most state levels. Attempting to foist any such traditional ruler on the rest at this point would create anarchy.
4. Based on the argument in (c) above, the country may be unduly torn apart by arguments as to which traditional rulers should be recognised at each given moment.
5. Suggesting constitutional roles for traditional rulers may also lead to suggesting constitutional roles for other leaders who draw on large followers’ base such as religious leaders, with the same challenges as stated above.
6. We suggest that the present practice of governments engaging and consulting with traditional and religious leaders as the occasion demands should be continued and encouraged, akin to the engagement of other groups such as professional or trade unions. This need not be provided for under the Constitution.

**Local government:** The present constitution recognises the existence of local governments and actually lists them out in a schedule. Its mere ‘guarantee’ of a system of government by ‘democratically elected’ governments at that level has, in practice been spurned by the state governments with impunity, through the collusion of the executive and the legislature. Thus across the states, we have caretaker local government administrations which, although provided for by the various state local government laws, may be termed statutory but are unconstitutional and thus illegal. Added to the above is the notorious fact that revenue allocations to local government areas from the Federation Account are often trapped by the state governments. To address this anomaly, we opine that elaborate provisions be made in the constitution for the operation of the local government areas and the power to make local government laws to provide for functions and powers should reside in the National Assembly and allocations to the local government from the Federation Account should be paid directly to those government accounts. Furthermore, given the near impracticability of the current provisions for the creation of new local government areas, we opine that the Constitution be altered to restrict the creation of more local government areas.

**Taking out the following from the Constitution:** (a) Land Use Act, (b) NYSC Act, (c) Code of Conduct. We do not agree that these provisions should be excised from the Constitution, especially the Code of Conduct, that being a strong basis for holding public officers to account. We however agree that the Land Use Act requires some amendments.

**Immunity clause:** Much has been said about the provision of Section 308 of the Constitution which immunes certain public officers from prosecution while they are in office. While we agree that all citizens should be equal before the law, we recognise that immunity from prosecution is not an alien concept in democracy. Besides, the said provision does not offer immunity in perpetuity but only for a specific period. Those immune at any given period are also limited to only 74 persons (36 state governors + 36 state deputy governors + 1 president + 1 vice president). Given our recent experience of state governors having running battles with the government at the centre, we are constrained to speak against the removal of the immunity clause, conscious that its removal may occasion the use of ‘federal might’ to hound state governors.

**Nigeria Police Force:** We agree with the retention and continuation of a federal police structure, decentralised in such a way that state governments have stronger supervisory roles over state police commissioners in the maintenance of law and order in those locations. We equally recommend that the method of appointment of the Inspector General of Police should be reformed to guarantee the tenure of office and protect the office holder from undue influence from the president.

**Rotation of executive offices among senatorial districts of a State:** While we sympathise with the clamour of many Nigerians for all component units of the country and a state to be equally entitled and have access to the highest political offices at every level of government, we urge caution against reducing politics to a mere game of rotation at the detriment of efficiency and capability. We opine that such rotational principles be left to the political parties to determine if they so wish. Additionally, the component ethnic or geopolitical groups are also in a position to negotiate space and take advantage of political spaces provided to extend their interests. We equally need to draw attention to the fact that the complexities of every geographical political entity (country, state, local government etc) go beyond ethnic and linguistic diversities to include such diversities as gender and (dis)ability. To that extent, we would rather support the recognition of the country’s gender diversities and the adoption of Affirmative Action in the composition of both the executive and the legislative arms of government at all levels.

**Gender and Special Group:** In line with some of the arguments in 13 above and in line with the principles of Affirmative Action, we recommend the review of the Constitution to provide that in the composition of the offices of chief executives and their deputies under the Constitution, both men and women shall hold alternate positions, e.g. where a man is president, the vice president should be a woman. We equally propose the reservation of at least one senate seat per state during each tenure, for filling by a woman. We believe that the details of this could be effectively worked out by the electoral body.

**Mayoral status for the Federal Capital Territory Administration:** It is a fact that the Federal Capital Territory is not a state but is treated as one in many circumstances, according to the provisions of the Constitution. It is therefore strange that while citizens in every part of the country elect their local government councillors, local government chairpersons, members of the state house of assembly, members of the house of representatives and the senate as well as the president, citizens resident in FCT do not elect the head of their territory, like their fellow citizens in the state elect their state governors. The head of the FCT administration is instead an appointee of the president. To address this anomaly, we therefore support the proposal to create a mayoralty in the FCT so that residents of the territory could directly elect the chief executive of their administration and hold them to account.

**Residency and indigene provisions:** The continued reliance on indigene as status for accessing political positions has led to scores of conflicts across the country. We have seen instances where communities and individuals who have lived continuously in a particular location for upward of 50 years are still regarded as ‘non-indigenes’ or ‘settlers’, even when they contribute much to the development of such areas and stand to suffer equally with other longer-existing persons and communities, in the event of disasters in the areas. The Constitution even makes reference to ‘indigenes’ in the proviso to Section 147(2) on the appointment of ministers of government of the federation, yet nowhere in the Constitution is there a definition of the word. We opine that the Constitution should either only refer to ‘residence’ or define ‘indigene’ to include persons who have maintained long residence of 10 years in a particular location. We further propose that the section of the Constitution that guarantees against discrimination should include indigenes as basis of discrimination.

**Any other matter:** We would like to make the following submissions and urge the National Assembly to consider in the review of the Constitution to reflect such. Our aim here is to have a reduction in the cost of administration:

1. Remove the proviso to Section 147(2) of the Constitution that mandates the president to appoint a minister from each state of the federation.
2. Put a ceiling as to the number of ministries that may exist at the federal level to not more than 20 and at the state to not more than 12.
3. Limit the number of special advisers that may be appointed to not more than half the number of ministers or commissioners.
4. We strongly support the operation of a unicameral federal legislature, instead of the present bicameral legislature.

We hope our position would help deepen the national discussions on the Constitution review.