

A COMPARATIVE
LEGAL
ANALYSIS
ON THE ACDEG

African Charter on Democracy Elections &
Governance and the Nigeria Constitution



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Director of Programmes
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EXECUTIVE SUMMARY

The African Charter on Democracy, Elections and Governance (The Charter) was adopted on 30th January 2007 as the African Union's main normative instrument to set standards for better governance across the continent. It came into force in February 2012 after ratification by fifteen (15) States in accordance with Article 48 of the Charter. The Charter aims to reinforce the commitment of the States Parties of the African Union towards the protection of democracy and the rule of law, as well as human rights. Among its paramount objectives are: Adherence to principles of democracy and human rights; Rule of law premised on supremacy of constitutions; Regular free and fair elections; Strengthening governance institutions; Promoting the fight against corruption; Promoting citizen participation and civil society; Promoting gender balance and best practices in the management of elections.

Nigeria, with a view to fully committing to these values, signed the charter in July 2007 under the then President Umaru Musa Yar' Adua's administration but ratified five years later in January 2012 under the Goodluck Ebele Jonathan administration thereby making Nigeria a state party to the Charter. However, Nigeria is yet to domesticate the Charter in line with its national constitutional requirements. Its ratification, however, signifies the country's determination in ensuring the implementation of the Charter's objectives in its National laws and institutions and fulfilling its obligations under the Charter. As a state party to the Charter,

Nigeria is expected, as its core obligation under Article 44 of the Charter to:

- Initiate appropriate measures including legislative, executive and administrative actions to bring its national laws and regulations into conformity with the Charter;
- Take all necessary measures in accordance with constitutional provisions and procedures to ensure the wider dissemination of the Charter and all relevant legislation as may be necessary for the implementation of its fundamental principles;
- Promote political will as a necessary condition for the attainment of the goals set forth in the Charter;
- Incorporate the commitments and principles of the Charter in its national policies and strategies.

It is in this light that this report reflects on Nigeria's implementation of its commitments to the principles and objectives of the charter under Article 44. A comparison would be drawn between the provisions of the charter the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and other relevant laws, treaties - both local and international; identifying problematic clauses and proffering recommendations, and assessing government's level of compliance with the Charter

COMPARATIVE ANALYSIS

ARTICLE FROM ACDEG	Linked Clauses in National Constitution and other National Legal Instruments	RANKING	Remarks/Comments/Areas for Improvement
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ELECTORAL PROCESS

<p>Article 17 State Parties re-affirm their commitment to regularly holding transparent, free and fair elections in accordance with the Union's Declaration on the Principles Governing Democratic Elections in Africa. To this end, State Parties shall:</p> <ol style="list-style-type: none"> 1. Establish and strengthen independent and impartial national electoral bodies responsible for the management of elections. 2. Establish and strengthen national mechanisms that redress election related disputes in a timely manner. 3. Ensure fair and equitable access by contesting parties and candidates to state controlled media during elections. 4. Ensure that there is a binding code of conduct governing legally recognized political stakeholders, 	<p>Section 153 of the 1999 Constitution (as amended) provides for the establishment of an independent electoral umpire in Nigeria known as the Independent National Electoral Commission (INEC). To strengthen its independence, Section 158 (1) stipulates that INEC should not be subject to the direction or control of any other authority or person.</p> <p>There are extant laws and regulations in Nigeria that institute mechanism for settling election disputes (detailed in Part VIII – Sections 133 – 145 - of the 2010 Electoral Act – as amended), ensure equitable access of political parties to state resources (Section 121 of 2010 Electoral Act, as amended, etc.) and code of conduct that regulates the activities of election stakeholders (such as Code of Conduct for Political Parties, Guideline for Election Observation, Media Code of Conduct, etc.)</p>		<p>These provisions provide for re-affirmation of the country's commitment to holding regular transparent, free and fair elections.</p> <p>However, public confidence in INEC is low due to general perception that it is susceptible to the whims and caprices of the ruling party. The country's electoral act bestowed the power to appoint the Chairman of the electoral umpire in the President.</p> <p>The significance of national mechanism to redress election related violence cannot be over-emphasized. In fact, it bemoaned the option of political violence as a way of settling election dispute. However, for technical reason, many petitions have been thrown out without affording parties the opportunity to call evidence to prove their case. The swearing in of winner pending the determination of litigation, etc. are other challenges of the law. More so, treatment of pre-election matters as merely civil litigation case is a serious challenge.</p> <p>Non-compliance to the existing law that mandate all political parties not to use state resources in their campaigns and ensure equal access to state facilities by ruling parties is also a challenge. Ruling parties arbitrarily use state resources such as the media during campaigns and sometimes deny opposition parties equal access to the resources remains a major problematic in the nation's electoral process.</p> <p>Hate speech during campaigns, use of thugs, vote buying, abduction of INEC officials, intimidation and harassment of voters, etc have also characterized</p>
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<p>government and other political actors prior, during and after elections. The code shall include a commitment by political stakeholders to accept the results of the election or challenge them through exclusively legal channels.</p>			<p>harassment of voters, etc have also characterized the country's elections. Thus, elections have so far not been free or fair.</p> <p>INTERNATIONAL INSTRUMENT: Article 5(b) ICCPR</p>
<p>Article 19</p> <ol style="list-style-type: none"> 1. Each State Party shall inform the Commission of scheduled elections and invite it to send an electoral observer mission. 2. Each State Party shall guarantee conditions of security, free access to information, non-interference, freedom of movement and full cooperation with the electoral observer mission. 	<p>Although, there is no law that legally mandates INEC to invite the Commission to observe elections in Nigeria. However, the practice over the years has been that INEC invite AU to observe the country's elections. This is evident in statements issued by the Commission on successive elections in Nigeria.</p> <p>The INEC guideline for election emphasizes the need to ensure information sharing with observers but not personal safety and security of observers.</p>		<p>Nigeria has partially fulfilled provisions of the articles. INEC always invite the African Union to send electoral observers and guarantee their free movement across the country in pre-election, election and post-election periods. However, the guideline for election says that personal safety and security of observers are their own responsibility but not INEC. Although, INEC in collaboration with security agency in the country deploy security personnel to create condition for safety.</p>
<p>Article 21</p> <ol style="list-style-type: none"> 1. The Commission shall ensure that these missions are independent and shall provide them with the necessary resources for that purpose. 2. Electoral observer missions shall be conducted by appropriate and competent experts in the area of election monitoring, drawn from 	<p>Section 15 and 42 –; Section 17 Section 19 (c)</p>		<p>These provide that all forms of discrimination shall be prohibited.</p> <p>However, there have been instances of women who have been told to step down. Discrimination against women remains a recurring factor in the social order which should be founded on freedom, equality and justice. Nigeria's foreign policy objectives provide for this but progress has been abysmally low. The lack of a definite state policy on the participation of women in decision making processes constitutes a major setback to the implementation of the charter by the Nigerian government. Women represent</p>

<p>continental and national institutions such as, but not limited to, the Pan-African Parliament, national electoral bodies, national legislatures and eminent persons taking due cognizance of the principles of regional representation and gender equality.</p> <p>3. Electoral observer missions shall be conducted in an objective, impartial and transparent manner.</p> <p>4. All electoral observer missions shall present the report of their activities to the Chairperson of the Commission within a reasonable time.</p> <p>5. A copy of the report shall be submitted to the State Party concerned within a reasonable time.</p>			<p>only 6.2% of legislators at the National level and 5.25 at the state level. This is despite several campaigns by various civil society organizations and affirmative action by some political parties, to meet up with its obligations under Article 29 of the Charter. Nigeria must as a matter of urgency initiate and implement an official state policy on women in politics across all areas of government.</p> <p>Article 8 of the charter aligns with the constitution in eliminating discrimination, however, the rights of disadvantaged groups are not fully protected by administrative measures of the state; the number of elective offices held by women, young persons, persons with disabilities and migrants remain minimal and there is no official state policy to address this deficiency.</p> <p>The Constitution was recently amended to reduce the requisite age for participation in some elective positions, however, the policies adopted by political parties negates this rule as some practices makes this equitable political participation highly impossible. As the number of internally displaced persons in Nigeria continues to grow due to natural disasters and lack of security, the government is yet to come up with adequate policies to address the rights of internally displaced persons to participate in governance. Discrimination against the LGBT community is still an official policy negating any form of political participation. These factors negate the attainment of the objectives in Article 31.</p> <p>INTERNATIONAL INSTRUMENTS: Art 7 UDHR, Art 18 ACHPR, CEDAW, Art 4,20,24 and 26 ICCPR, Article 2 UDHR</p>
<p>Article 22</p> <p>State Parties shall create a conducive environment for independent and impartial national monitoring or observation mechanisms.</p>	<p>Section 22 of the Constitution</p>		<p>This provides that state parties shall create a conducive environment for independent and impartial national monitoring or observation mechanisms.</p> <p>National Monitoring or observation is principally conveyed by the press. Therefore, the freedom of the press remains important to achieving this obligation which should continually be encouraged.</p>

<p>Article 20 The Chairperson of the Commission shall first send an exploratory mission during the period prior to elections. This mission shall obtain any useful information and documentation, and brief the Chairperson, stating whether the necessary conditions have been established and if the environment is conducive to the holding of transparent, free and fair elections in conformity with the principles of the Union governing democratic elections.</p>			<p>This provides that the African Union would have pre-election exploratory missions to ensure that the necessary conditions are on ground for a free and fair election.</p> <p>Nigeria has been actively involved in this process; the African Union meets with CSOs and the INEC to exchange ideas and see how best to better the conditions for a free and fair election.</p>
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HUMAN RIGHTS

ARTICLE FROM ACDEG	Linked Clauses in National Constitution and other National Legal Instruments	RANKING	Remarks/Comments/Areas for Improvement
<p>Article 7 State Parties shall take all necessary measures to strengthen the Organs of the Union that are mandated to promote and protect human rights and to fight impunity and endow them with the necessary resources.</p>	<p>Chapter two and three of the Nigeria's 1999 Constitution (as amended) extensively deal with human rights issues in Nigeria. While chapter two provides direction to state policy to promoting human rights, chapter four (Sections 13-21) spells out socio-economic, political and cultural rights of Nigerians.</p> <p>In December 2017, the President signed Anti-Torture Act which penalizes acts of torture and other cruel, inhumane and degrading treatment. It prescribes 25 years imprisonment for torture offender.</p> <p>There is also institutional arrangement for promotion and protection of human rights in the country. This includes the</p>		<p>Notwithstanding legal and institutional frameworks, Nigerians continue to face variegated human rights challenges. Arising from violence extremism, inter-communal and tribal conflicts, etc. in some parts of the country, several Nigerians have been deprived their fundamental and inalienable right to life. Interventions of the security agents to douse tension have resulted to extra-judicial killings in many parts of the country.</p> <p>In fact, the most significant human rights issues in Nigeria include extrajudicial and arbitrary killings; disappearances and arbitrary detentions; torture, particularly in detention facilities, including sexual exploitation and abuse; use of children by some security elements, looting, and destruction of property; the establishment of civilian detentions in military facilities, often based on flimsy evidence; denial of fair public trial; executive influence on the judiciary; infringement on citizens' privacy rights; restrictions on freedoms of speech, press, assembly, and movement; official corruption; lack of accountability in cases involving violence against women and children, including female</p>

<p>Article 7 State Parties shall take all necessary measures to strengthen the Organs of the Union that are mandated to promote and protect human rights and to fight impunity and endow them with the necessary resources.</p>	<p>establishment of the National Human Rights Commission (NHRC), the Public Complaints Commission (PCC), the Truth and Reconciliation Commissions (TRCs) and several investigative panels.</p>		<p>genital mutilation/cutting and sexual exploitation of children; trafficking in persons; early and forced marriages; and forced and bonded labour.</p>
<p>Article 27 In order to advance political, economic and social governance, State Parties shall commit themselves to:</p> <ol style="list-style-type: none"> 1. Strengthening the capacity of parliaments and legally recognized political parties to perform their core functions; 2. Fostering popular participation and partnership with civil society organizations; 3. Undertaking regular reforms of the legal and justice systems; 4. Improving public sector management; 5. Improving efficiency and effectiveness of public services and combating corruption; 6. Promoting the development of the private sector through, inter alia, enabling legislative and regulatory framework; 7. Development and utilization of information and communication technologies; 	<p>Chapter 2 of the Constitution provides a comprehensive framework for advancing socio-economic and political governance in the country. It mandates the government to fight corruption, enhance the country's justice system, promote freedom and foster partnership with relevant stakeholders for developmental purposes, etc. The country's 2010 Electoral Act (as amended) recognizes political parties as major stakeholders in elections and electoral/political process.</p> <p>In terms of corruption, there are good number of legal and institutional frameworks that have been established to serve this purpose. For example, to achieve the goal of combating corruption, several Anti-Corruption Agencies (ACAs) have been created by Acts of Parliament. The country had an amended Administration of Criminal Justice Act that is meant to strengthen the justice system, and various measures to promote efficiency and effectiveness of the public service.</p>		<p>The recent signing of the Not-too-young-to-run Bill in Nigeria signals the country's readiness to promote participation of over 60% of its population in the political process. Gains have also been made in the area of building capacity of the parliament and involvement of political parties in the electoral process. However, the country's inability to translate this into the development of the country is still a challenge. The country is consistently on the lower rung of development ladder.</p> <p>Despite the seemingly improved working environment for civil society organizations, governments have been introducing bills to regulate and constrict its activities. Many experts have argued that this conflicts with the country's constitution and international laws. The country is still grappling with the problem of corruption. The Thabo Mbeki's high-level panel report on Illicit Financial Flows (IFFs) shows that the 38% of IFFs from West Africa is from Nigeria. Corruption Perception reports of Transparency International have consistently scored Nigeria low.</p> <p>Also, on preventing the spread and combating the impact of diseases such as Malaria, Tuberculosis, HIV/AIDS, Ebola fever, and Avian Flu; in 2014 Nigeria successfully combated the spread of the Ebola disease in Nigeria.</p> <p>However, there is still room for improvement in the area of prevention of outbreaks via enlightenment on health and health care related areas such as keeping the immediate environment clean. There is need for the government to increase allocations and disbursements to the health sector to foster health care.</p>

<p>8. Promoting freedom of expression, in particular freedom of the press and fostering a professional media;</p> <p>9. Harnessing the democratic values of the traditional institutions; and</p> <p>10. Preventing the spread and combating the impact of diseases such as Malaria, Tuberculosis, HIV/AIDS, Ebola fever, and Avian Flu.</p>			
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Rule of Law & Constitutional Order

<p>ARTICLE 5 State Parties shall take all appropriate measures to ensure constitutional rule, particularly constitutional transfer of power.</p>	<p>Section 1(2) of the Constitution stipulates that the Federal Republic of Nigeria shall not be governed, nor shall any persons or group of persons take control of the Government of Nigeria or any part thereof, except in accordance with the provisions of this Constitution.</p>		<p>The intendment of these provisions is that state parties shall ensure constitutional transfer of power. In fulfillment of this and as was reinforced by the provisions of Chapter 7 of the Charter, there have been democratic elections at the state and federal levels of government. Also worthy of note is the smooth transition of power to an opposition party in 2015 general elections.</p> <p>The Nigerian electoral process is a work in progress; the process of the election, together with the subsequent dispute resolution mechanisms undergoes constant changes to meet up with emerging realities. However, the inability of the electoral body and/or the relevant agencies in prosecuting electoral offenders work against the reforms and progress achieved. There have been calls for the establishment of a special tribunal to handle election offences. These calls must be heeded and proper measures put in place if the entire system is to be preserved. Stiffer penalties should also be prescribed and implemented on electoral offenders, and politicians found complicit should be proscribed from participating in future elections.</p> <p>INTERNATIONAL INSTRUMENTS: Art 21 UDHR, Article 5(b) ICCPR, Preamble 3 NEPAD Declaration On Democracy, Political, Economic And Corporate Governance</p>
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<p>Article 11</p> <p>The State Parties undertake to develop the necessary legislative and policy frameworks to establish and strengthen a culture of democracy and peace.</p>	<p>The 1999 Constitution of Nigeria (as amended) provides a detailed framework for the promotion of culture of democracy and peace. All chapters have spelt out how power is distributed, process and procedure of governance, rights of citizens, judicial process, to mention a few, which are prerequisite to deepening democracy and promoting peace in a country.</p>		<p>State parties shall undertake to develop the necessary legislative and policy frameworks to establish and strengthen a culture of democracy and peace.</p> <p>On this, Nigeria established the Independent National Electoral Commission. The independence of the National Electoral body has been enhanced over the years with minimal interference by the government. In 2010, the constitution was amended to make the Electoral body financially independent by making the commission's expenditure to be deducted directly from the consolidated revenue fund. Furthermore, the Electoral Body is empowered to make rules and regulate its own procedures without recourse to the President. This has led to several innovations by the electoral body, which includes, the introduction of the Permanent Voters Card, Biometric Register of Voters and Smart Card Readers which contributed to the defeat of an incumbent president in the 2015 elections.</p> <p>INTERNATIONAL INSTRUMENT: Article 2 ICCPR</p>
<p>Article 14</p> <ol style="list-style-type: none"> 1. State Parties shall strengthen and institutionalize constitutional civilian control over the armed and security forces to ensure the consolidation of democracy and constitutional order. 2. State Parties shall take legislative and regulatory measures to ensure that those who attempt to remove an elected government through unconstitutional means are dealt with in accordance with the law. 3. State Parties shall cooperate with each other to ensure that those who attempt to remove an elected government through unconstitutional means are dealt with in accordance with the law. 	<p>Section 1(2) and Section 130 of the Constitution. These two provisions only deal with control of the President over the security forces, especially the military, but not provide punitive measure against incursion of military in politics.</p>		<p>Since 1999, the President of the Federal Republic of Nigeria has been exercising full control of security forces. The position of the Constitution is clear in terms of incursion of security forces in politics. However, there is absence of legislative framework to deal with intrusion of security forces in politics.</p>

<p>Article 10</p> <p>1. State Parties shall entrench the principle of the supremacy of the constitution in the political organization of the State.</p> <p>2. State Parties shall ensure that the process of amendment or revision of their constitution reposes on national consensus, obtained if need be, through referendum.</p> <p>3. State Parties shall protect the right to equality before the law and equal protection by the law as a fundamental precondition for a just and democratic society.</p>	<p>Section 1(1) of the 1999 Constitution (as amended) emphasizes the supremacy of the Constitution while the authority to amend the Constitution is derived from section 9 of the Constitution. The latter section provides that an amendment may be proposed with a two-thirds majority vote in both the Senate and the House of Representatives.</p>		<p>The Constitution is supreme and provides for a process for amendment/alteration which has been followed at every point an amendment/alteration was called for. However, aside from full participation of members of National Assembly and State Houses of Assembly in the process of amendment, the extent to which inputs of ordinary citizens are considered in the process is debatable.</p>
<p>Article 16</p> <p>State Parties shall cooperate at regional and continental levels in building and consolidating democracy through exchange of experiences.</p>	<p>Section 19 of the Constitution focuses on foreign policy objectives of the Nigerian State. It emphasizes the importance of promoting international cooperation for the attainment of peace and just society with specific focus on Africa.</p>		<p>Since independence, Nigeria has been an active member of several international organizations and involved itself in peace building and democratic strengthening. Recently, the country played a leading role in ensuring that the outcome of elections in The Gambia was respected by the then incumbent President, Yahyah Jammeh, who had ruled the country for over 25 years.</p>
<p>Article 36</p> <p>State Parties shall promote and deepen democratic governance by implementing the principles and core values of the NEPAD Declaration on Democracy, Political, Economic and Corporate Governance and, where applicable, the African Peer Review Mechanism (APRM).</p>			<p>Since NEPAD was adopted at continental level in 2001, the Nigerian government pursued policies and programmes focusing on the alleviation of poverty in the country. Following the adoption of NEPAD, the administration of former President Olusegun Obasanjo introduced National Poverty Eradication Programme (NAPEP). There have been avalanche of similar intervention since then. These include Youth Empowerment Scheme (YES), Rural Infrastructures Development Scheme (RIDS), Social Welfare Service Scheme (SOWESS), SURE-P, Social Investment Programme, etc.</p> <p>Despite all these programmes, poverty remains endemic and pervasive in Nigeria. The country can be improved if attention is paid to the fulfilment of a set out programme and adequate resources deployed and effectively managed towards its achievement.</p>

<p>Article 44 State Parties commit themselves to implement the objectives, apply the principles and respect the commitments enshrined in this Charter as follows: (a) State Parties shall initiate appropriate measures including legislative, executive and administrative actions to bring State Parties' national laws and regulations into conformity with this Charter; (b) State Parties shall take all necessary measures in accordance with constitutional provisions and procedures to ensure the wider dissemination of the Charter and all relevant legislation as may be necessary for the implementation of its fundamental principles; (c) State Parties shall promote political will as a necessary condition for the attainment of the goals set forth in this Charter; (d) State Parties shall incorporate the commitments and principles of the Charter in their national policies and strategies.</p>	<p>Preamble to the Constitution</p>		<p>The provisions reinforce the need for international cooperation and conformity with the national laws and policies by State Parties to ensure dissemination of the charter and relevant legislation, promotion of political will and incorporation of the commitments and principles of the Charter to national policies and strategies.</p> <p>Within this context, the 1999 Constitution (as amended) and other extant laws are developed in conformity with the core principles of the charter. However, there remains the obligation to ensure that these laws are made available and widely published. This would be counterproductive if most of the Nigerian populace cannot read the contents of existing laws. This brings up the question of education/literacy and its link with poverty and what sustainable plans are on ground to tackle these sectors of deficiency holistically.</p>
<p>ACDEG LEGAL LINK IN YOUR COUNTRY</p>			



LEGAL OVERVIEW SUMMARY

For a treaty to be given full effect by Nigerian courts, it must be domesticated by the Nigerian legislature in accordance with the constitution. It is only when the Charter has been domesticated that it can be properly relied on by Nigerians in demanding for its full implementation and adherence to its objectives. The domestication of the Charter will also enhance National provisions on the prohibition of the unconstitutional takeover of government.

However, as earlier pointed out, ratification signifies the country's determination in ensuring the implementation of the Charter's objectives in its National laws and institutions and fulfilling its obligations under the Charter. Due to the lack of administrative measures coupled with lack of implementation of the legislations, Nigeria is still grappling with its obligations under the Charter. Nigerian laws largely reflect the principles enshrined in the Charter. However, while the letters of the law may present a rosy picture of the Nigerian political landscape, the reality is often ugly as the laws are often flaunted by state officials and individuals.

For instance, while Article 4 of the Charter is in agreement with the Nigerian laws on the promotion of democracy, rule of law and human rights, Nigerian State officials have been known to flagrantly disregard court orders and go after perceived opponents ; 'investigations' and 'police enquiries' often surface against members of the opposition parties weeks leading to an election.

The independence of state institutions is one of the major strongholds of a constitutional democracy. This is recognized by Chapter 6 of the Charter. The Nigerian public bodies though

designed to be independent have been known to be very partisan. While major state institutions are constituted by the cronies of the people in power, the office of the Attorney General is constitutionally fused with the political office of Minister of Justice, a political appointee hindering a neutral pursuit of Justice.

In recognition of the role of media in bringing about change, Article 27 of the Charter directs state parties to promote freedom of expression, in particular freedom of the press and fostering a professional media. Article 17 of the Charter provides that state parties shall ensure fair and equitable access by contesting parties and candidates to state controlled media during elections. Nigerian Electoral Act makes it a criminal offence for any public media house to allocate more time to a specific political party to the disadvantage of other political parties. Furthermore, stakeholders in the media sector have enacted the Nigerian Media Code of Election Coverage to promote the right of media access and dissemination of factual information. These rules are rarely adhered to nor implemented as media houses in Nigeria have proven to be very partisan, protecting the political interest of their financiers. Also is the proliferation of 'Fake News' in the Nigerian media space; Nigerian major media outlets have been complicit in reporting completely false information thereby spreading misinformation, confusion and panic. To curb the effect of fake news, the Nigerian government has launched a campaign against fake news. There is a need for proper implementation of the media laws and sensitization of the public on how to spot fake news and verify media reports. However, care should be taken to avoid gagging the press by over implementation.



CHALLENGES AND MITIGATING FACTORS

The Charter centers on areas which are ordinarily within the ambit of municipal laws. Thus, the Charter emphasizes that it is the States themselves that are primarily bound to implement its stated objectives. The obstacles against the efficient implementation of the Charter in Nigeria include the following:

1. **Lack of Political Will:** It has been stated that Nigerian Laws largely comply with the tenets of the Charter however, implementation and adherence have been minimal. This can be attributed to the insincerity of the Nigerian political class. Politicians take advantage of the lapses in the system and are unwilling to improve or change the status quo as long as it benefits them.
2. **Corruption:** Corruption has eaten through all the sectors of Nigerian establishments, and constitutes an impediment towards the actualization of good governance and sustained development. As one of its core principles, the Charter seeks to promote the fight against corruption. To realize this, there must be concerted efforts by all stakeholders at the national, regional and continental levels.
3. **Ineffectiveness of Monitoring Systems:** Article 49 of the Charter provides that State Parties shall submit every two years, from the date the Charter comes into force, a report to the African Union Commission on the legislative or other relevant measures taken with a view to giving effect to the principles and commitments of the Charter. This obligation on the state parties is

ineffective as a state party cannot impartially prepare a report on which its evaluation will be based. The Charter failed to empower Civil Society Organizations to report directly to the commission on the measures taken by state parties or to set up an organ that will be responsible for conducting fact finding missions in state parties to determine compliance levels.

4. **Traditional Factors:** Customary values in Nigeria also hinder the implementation of the Charter's objectives. Nigeria is generally a patrilineal society, with a strong attachment to land as an extension of the family. These factors ordinarily negate the political development of disadvantaged groups like women, migrants and youths. Nigerians attach strong weight to an individual's place of origin so that a migrant may not be accepted politically by his place of residence. Traditional values also affect the participation of females and youths, who are seen as not suitable for leadership positions in most communities.
5. **Non Domestication:** For an international law like the Charter to be given full effect by Nigerian courts, it must be domesticated by the Nigerian legislature in accordance with the constitution. It is when the Charter has been domesticated that it can be properly relied on by Nigerians in demanding for its full implementation and adherence to its objectives. The domestication of the Charter will also enhance National provisions on the prohibition of the unconstitutional takeover of government.

RECOMMENDATIONS AND CONCLUSION

To ensure optimal performance of its obligations under the Charter, Nigeria is enjoined to do the following:

1. Strengthen its commitment in implementing its laws and attaining the obligations of the Charter.
2. Domesticating the Charter to form part of its national laws.
3. Improve its electoral laws by imposing stiffer sanctions and creating a special tribunal to try electoral crimes.
4. Improve its media laws and administration to increase impartial reportage and eliminate fake news.
5. Improve sensitization on the need for disadvantaged groups to be part of the governance and decision making process.
6. Improve awareness of the provisions of the Charter and its benefits.



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