



EXECUTIVE SUMMARY

ON

Status of Implementation of African
Charter on Democracy Elections and
Governance (ACDEG) Nigeria



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INTRODUCTION

After more than 15 years of unbroken military rule Nigeria returned to democracy with the conduct of military regime supervised multi-party elections in 1999.

Since the inauguration of the 4th Republic on the 29th of May 1999 Nigeria has enjoyed over 21yrs of unbroken civil rule and democracy. During this period, the country has conducted five successive post inauguration general elections, leading to the change of successive governments through elections that are largely adjudged to be getting better on the strength of electoral reforms, including the replacement of a hitherto ruling party by an opposition party in the 2015 general elections. This period has also witnessed the growing autonomy and assertiveness of the different arms and levels of government, gradually giving meaning to and strengthening the concept and practice of separation of powers of the different arms of government. A vibrant and civil society, a relatively free press robustly and courageously engaging with governance and the institutions of the state have helped considerably in driving these processes towards the broadening of the country's democracy and deepening of her democratic practice. The emergent result has been a nation nudging on the edge of greatness if it can fix its politics and economics.

The 1999 constitution provides the overall framework for governance in the country including the management of the electoral process. The Electoral Act 2010 is the legislation drawing its mandate from the constitution, that makes elaborate provisions for the management, conduct and governance of elections and the electoral process in Nigeria. The country is also signatory to different regional and international conventions and charters that speaks to basic minimums for democracy, elections and governance. Key among these is the African Charter on Democracy, Elections and Governance (ACDEG). Nigeria along with other countries in Africa adopted and signed on to the ACDEG 2007. Specifically, Nigeria ratified the charter in July 2007.

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METHODOLOGY

The citizen's report is a synthesis of various reports developed during the implementation of the project. It is an analysis of the ACDEG provisions and the extent to which it finds expression in National legislation, governance processes, elections and electoral processes, and the functioning of democratic institutions; as well as the extent to which governance and democratic outcomes meet the needs and aspirations of citizens.



OVERVIEW OF DEMOCRACY AND GOVERNANCE IN NIGERIA

Nigeria is a federal republic and runs the presidential system of government modelled to what is obtainable in most presidential democracies. It has three tiers of government, the federal, thirty-six states, a Federal Capital Territory and 774 local government areas. It consists of three arms of government as enshrined in the constitution as obtained in the presidential system; the executive that designs and implements policies as well as legislation made by the national Assembly and processes declared by the judiciary; The Legislature that makes laws, appropriates expenditure, oversees the executive activities, and represents citizens in delineated constituencies; and the Judiciary, that interprets the constitution and legislation, and adjudicates in cases towards implementing provisions of the constitution and legislations.

Democracy and governance are two interwoven concepts that touches on the key challenges of state reforms and the quest for development and progress among African states; it is however possible that the formal, institutional and procedural elements of democracy can exist without effective governance in the sense that it does not necessarily guarantee that public officials and institutions produced by the democratic process will be subjected to the norms of transparency, accountability and the rule of law (Egwu, Ibeanu 2007). This inherent contradiction seems to be the bane of crises of democracy and governance in Nigeria.

It is on the basis of the foregoing, and given the constitutional and statutory commitments of Nigeria, including its commitments to the ACDEG which it has ratified, and on the backdrop of the aspirations of her citizens, that the determination was made to interrogate the status of compliance of Nigeria to the ACDEG, which resulted in the preparation of the Citizen's Report on the status of Nigeria's implementation of and compliance with the commitments enshrined in the provisions of the ACDEG.



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KEY FINDINGS

Nigeria has signed and ratified the ACDEG but not domesticated the charter. Nevertheless, the principles of the charter can be seen reflected in different pieces of legislation including the general principles of the constitution, fundamental objectives and directive principles of state policy, and the electoral framework amongst others. The implication of the non-domestication of the charter however is that the charter has not yet been adopted into the body of national laws, therefore its provisions do not enjoy status of the force of law, and cannot thus be directly enforced within the country's jurisdiction.

Nigeria has in place the necessary regulatory and institutional framework and guidelines for the conduct of free and fair elections and managing transition in a democracy including mechanisms for redress of infractions the contestation for power that healthy democratic contest through elections present. These includes the constitution, the electoral act, electoral guidelines, an independent electoral management body and special judicial arrangement through election tribunals that largely conform to the ACDEG principles. However, there are still fundamental challenges with operationalization of these frameworks and the behavior of the political class that largely undermine these provisions. These can be seen clearly in unwholesome practices such as election rigging, violence, vote buying, manipulation of the electoral laws, judicial theft of electoral mandate, interference of security and other institutions in the electoral process that have some to characterize the country's electoral process including the just concluded 2019 general elections

On governance generally, there is a wide gulf between legislative reality of policy and legal provisions and the practice of good governance. Nigeria has in place many of the required legislative, regulatory, policy and institutional frameworks necessary for the full implementation of the ACDEG; however, the challenge is with implementation and practice. This is with respect to fidelity to the provisions, the letter and spirit of the frameworks, as well as the feeble, weak and circumspect efforts in relation to enforcement of compliance with the frameworks. Here is a classic case of Practice not conforming to policy and laws; where practice is represented as serial breach of agreed and binding frameworks by public officials and institutions; and where those profiting from breach of rules are elevated above the law and rewarded with impunity.

There is a seeming lack of trust and confidence in the state and its institutions and processes by the citizens. This is expressed in their perception of the performance of government and governance as poor. Analysis points to a below average assessment in the key areas of the perception matrix including the enjoyment and upholding of fundamental rights, citizens participation in governance, independence & responsiveness of democratic institutions, policies, and practice.



RECOMMENDATIONS

1. The Federal Government of Nigeria [FGN] should take immediate steps to domesticate the ACDEG. This should be done by the Executive arm of government fulfilling its obligation by presenting the ACDEG to the National Assembly [NASS] for its incorporation into our national laws through a binding vote to adopt and authorize the ratification of the charter.
2. The FGN should immediately put in place a multi-stakeholder process, at the core of which is a whole of government [including representation from the arms and levels of government] and all of society [including civil society, media, and citizens and community organisations] approach to undertake an immediate assessment of the status of compliance of Nigeria's national frameworks with the ACDEG; identify gaps; workout the modalities for filling the gaps; and set out a timeline for ensuring full compliance.
3. In line with ACDEG's principle of inclusivity and political plurality, legal requirements should be made for political parties to have minimum representation of women, youths (between age of 18 and 35) and People With Disability (PWDs), among candidates for elections. Failure to comply with the criteria should be sanctioned with denial of access to the ballot.

For instance, with respect to women representation, adoption and implementation of an enforceable mandatory legislation and regulation that provides that "No gender shall constitute less than 40% or more than 60% of elective and appointive political positions in general, and of political parties' candidates lists after party primaries for election purpose can be considered.

And with respect to Youths, similar legislation should also make it mandatory that no less than 30 to 40% of elective and appointive positions, and candidates' list of political parties for election purposes must be occupied by young persons.

And for PWDs, this should be cross cutting in such a way that PWDs must make up at least 15% of elective and appointive positions, and of political parties' candidates list for an election, whether of male, female or youths across board.

The gender rule of no less than 40% and no more than 60% shall be applicable across board to both the youth and PWD representation as well.
4. Furthermore, for the purpose of enforcement and compliance with the representation mandates, there will need to be put in place an institution like an Equal Opportunities Commission to monitor compliance and enforce the mandatory requirements.

In the case of elections, and to ensure enforcement of the representation rule, INEC should be empowered to enforce compliance, and deny defaulting political parties access to field candidates in the election for which they have failed to meet the representation requirement.



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