

NATIONAL CITIZENS REPORT

ON

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



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1.0 Executive Summary

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 21 yrs 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 civil society, a relatively free press courageously engaging with governance and the institutions of the state have helped considerably in driving these processes towards broadening the country's democracy and deepening 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.

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 Capital, thirty-six states and 774 local government areas. It consists of three arms of government as enshrined in the constitution and 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 the 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.

Key Findings

- Nigeria has signed and ratified the ACDEG and 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 haven not been adopted into the body of national laws, its provisions do not enjoy status of the force of law and cannot 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 characterizes 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 practice with respect to fidelity to the provisions, letter and spirit of the frameworks, as well as to the enforcement of compliance with the frameworks is extremely weak and circumspect. 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. This perception is evident from the perception survey undertaken during the citizens score card assessment process. 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.

Main 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.

2.0 Introduction & Context

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. The dawn of the 4th Republic and the new democratic dispensation came with its promise of a society built on the tenets of participatory and inclusive democracy, including the holding of regular and periodic free and fair elections, the observance of rule of law and an envisioned society that provides for meeting the wellbeing and security of the people, and the enjoyment of an array of rights, built to meet the needs and aspirations of her citizens.

These aspirations, which had driven the anti-military and pro-democracy popular struggles of the previous decades, were captured and enshrined in the provisions of the 1999 Constitution of the Federal Republic of Nigeria [CFRN] as amended, particularly in the provisions of Chapters Two - titled Fundamental objectives and directive principles of state policies, and Four – titled Fundamental Human Rights.

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 May 29th 1999 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 civil society, a relatively free press courageously engaging with governance and the institutions of the state have helped considerably in driving these processes towards broadening the country's democracy and deepening 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 country's democratic journey has not been without its contradictions of progress and setbacks. The credibility and acceptability of the constitution, given its origins, still remains contentious with citizens calling for a constitution that is driven by the people, rather than one bequeathed by the military, and that in some ways still undermines and places limitations on the core principles of democracy including participation, transparency, gender equality, social inclusion, the rule of law, relationship between the levels of administration and the arms of government, and accountability among others. Unfortunately, these inherent contradictions and anomalies continue to largely impact negatively on the conduct of government business. The widespread lack of acceptability of the 1999 CFRN [as amended] finds expression in the more or less permanent character of the constitution reform process in Nigeria, as virtually every National Assembly session has undertaken a constitution reform process all through the 4th Republic. The contentious nature with respect to the enforceability and justiciability of the provisions of chapter two of the 1999 CFRN as amended, best exemplifies this tension.

For instance, contrary to the provisions of Section 16 (1)b, and (2)c of chapter two of the 1999 CFRN [as amended], the commonwealth of the country is still largely concentrated in the hands of a few. The National Bureau of Statistics (NBS), in a report about poverty and inequality from September 2018 to October 2019, said 40 percent of people in the country lived below its poverty line of 137,430 naira (\$381.75) a year representing 82.9 million people; a troubling indication that governance is not at the service of the people and leaves much to be desired with respect to the duty of the state in upholding the socio-economic and political rights of citizens.

Relatedly Undemocratic practices by state functionaries continue to undermine the independence and survival of democratic institutions and ultimately governance outcomes are not responsive of the needs and aspirations of the people which should be the primary purposes of governance and as enshrined in the country's constitution and international democratic instruments that it is a signatory to.

Additionally, the country's electoral process remains a sore point of the country's democratic journey. The country's elections at all levels, though considerably more so at subnational than at national levels, have always been marred by irregularities and its outcomes are often hotly disputed and not a reflection of the peoples' choice. The country has so far witnessed six (6) successive elections in the journey of democratic consolidation and attempt to build and strengthen the needed structures and framework for democracy to thrive. These have been within the context of undertaking deliberate efforts towards realising the tenets of the provisions of global and regional standards and framework for democratization.

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. It is important at this juncture to note that the African Charter is designed to foster the adherence to Democracy, Good Governance and Rule of Law and respect for Human rights by all state parties that have ratified it.

This report is therefore an attempt to x-ray the nexus between the country's democratic process and experience, and the (ACDEG), measuring the relative level of compliance and or divergence of the Nigeria practice from the tenets of the charter, which provides a framework for democracy and governance on the African continent. The charter is thus an instrument that provides a basis for measuring the democratic health of nations via-a-vis its provisions which is a consensus among African states on what democracy and governance should be.

Nigeria as a signatory has a responsibility to domesticate the Charter and ensure its national policies and frameworks for democracy and governance are in tune with the provisions of the charter.

The charter also provides for actions by Non-state actors towards actualizing the domestication of the charter by mobilizing citizens towards engaging the state in its domestication efforts.

'The Africa We Want' is such an initiative conceived as a Pan African project towards mobilizing citizens engagement in the domestication of ACDEG, it aims at educating and mobilizing citizens action towards democratic processes including elections that are responsive to the ideals enshrined in the ACDEG.

This report presents a holistic look on these engagement and the progress government has made in ensuring that the ACDEG is domesticated and governance process are in synch with the provisions of the charter as reflected in the country's legal frameworks and political practice for elections, governance and democratic ideals.

3.0 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.

Basically the primary methodology adopted in the preparation of the Citizens' Report on the status of governance and the implementation of the Africa Charter on Democracy, Elections and Governance in Nigeria is a critical analysis and synthesis of primary materials and documents from which status of governance and implementation of ACDEG will be derived and articulated.

The primary documents that were critically reviewed and analysed include:

1. ACDEG
2. Final Revised Legal Analysis [commissioned by AAN]
3. Electoral Audit Report [Commissioned by AAN]
4. Community Score Card [CSC] assessment report [Undertaken by AAN in project areas]
5. The CSC protocol and CSC for CRM Final documents for guidance in reviewing CSC assessment report

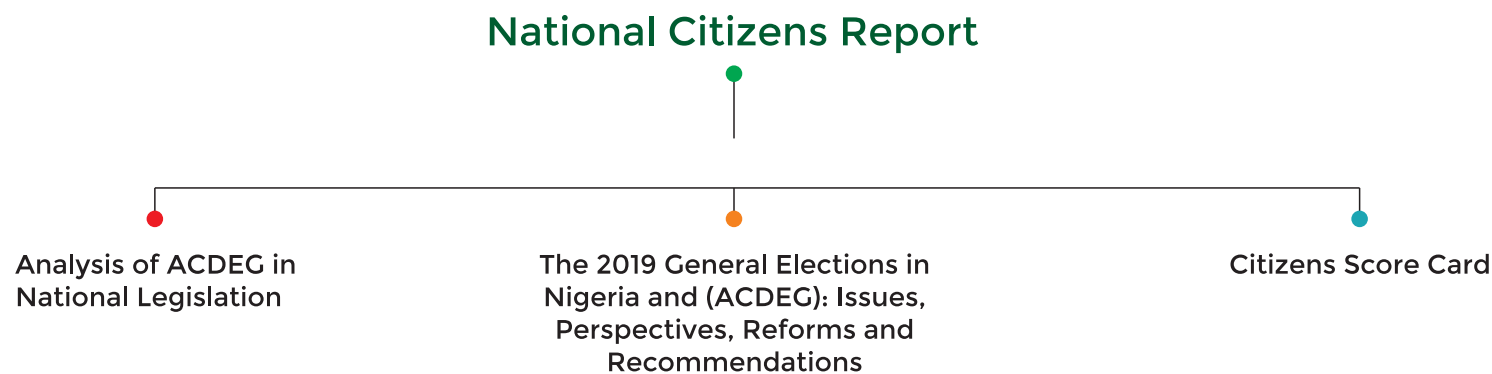


Fig 1: National Citizens Report Methodology

3.1 DATA COLLECTION AND ANALYSIS

Data collection and analysis for the report is based on literature review and critical review of relevant documents and published reports from the 'Africa We Want' project related to ACDEG implementation in Nigeria including; Analysis of ACDEG in National Legislation, Audit of the 2019 Elections and a Community Score Card on ACDEG implementation in Nigeria. The report draws copiously in its analysis from the above while secondary sources include but are not limited to the 1999 Constitution of the Federal republic of Nigeria, the Electoral Act, Election observation reports.

3.2 ANALYSIS GUIDING QUESTIONS

The key questions guiding the analysis and development of the report include, but are not limited to the following:

- What is the current status of the national legal framework in the country? And what is the extent to which these are in sync with the ACDEG Provisions?
- What is the degree or extent of alignment, if any, between provisions of existing national legal frameworks; the behaviour of government and its institutions, as well as of the political class; nature of expression of strong commitment to; and the measure of progress on implementation of the ACDEG provisions in the country?
- What are the key issues and processes in the Nigerian electoral processes? What are the steps being taken to address these issues? And to what extent are the processes and the steps being taken to address issues responsive to the ACDEG provisions?
- What are the perceptions of citizens on the key governance and democratic principles in the country, on the one hand? And, on the other hand, what are citizens' perceptions of the extent to which these are responsive to the ACDEG Provisions?

4.0 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 and 774 local government areas. It consists of three arms of government as enshrined in the constitution and 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.

The third wave of popular democratic struggles and movements in the 90s saw to the emergence of civil rule and fledgling democratic states on the back of long periods of military rule across the continent. Nigeria was no exception as increasing pressure from its intensifying prodemocracy and anti-military struggles saw it returned to democracy after the multi-party elections of 1999. This period was one of great expectations for the Nigerian people for change on the back of democratic ideals and the opportunities it presented for the emergence of governance systems that are responsive to the needs and aspirations of the people. However, the transformation expected in Nigeria and most African countries saw the liberties and rights expected to be enjoyed by citizens begin to be largely undermined by the very nature of governance that evolved on the back of experiences of colonialism, broken democracies and a long periods of military dictatorship occasioned by the military incursion into the realm of governance. This had promoted a concept of state power modelled around authoritarianism, exclusion of most of the people from the governance architecture of the state and her processes, and abuse of the economic, political and other rights of citizens.

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.

OVERALL GOVERNANCE

The Mo Ibrahim Index of African Governance [IIAG] in its 2018 reports shows improvement on overall governance in Nigeria. The index points to a +2.4 increase in its score from 2008 – 2018 using its key indicators of safety and the rule of law, human development, sustainable economic opportunities and participation and human rights as basis for scoring and ranking. The above is reflective of the country's successive transitional elections, the existence of constitutional and institutional framework for democracy and governance, existence of relatively vibrant civil society, and a relatively strong and independent media among others. However, with countries like Kenya, Morocco and fellow West Africans Cote-d'Ivoire increasing scores by +6.1, +7.3 and 12.7 respectively, Nigeria needs to undertake more far reaching actions that engenders good governance and enable it to improve its overall democratic credentials.

A deeper look at some of the key indicators reveals the underlying issues that continue to undermine the consolidation of democracy and good governance in the country and dealing in real terms with the fundamental challenges bordering on actualizing the socio-economic and political rights of citizens, building independent and resilient democratic institutions at the service of democracy and citizens, ensuring open and transparent governance processes, as well as enabling and guaranteeing the rule of law and constitutionalism as the basis of statecraft, and

most importantly protection of the fundamental human rights of citizens within the context of the universality and indivisibility of all human rights.

ELECTIONS AND GOVERNANCE

Elections presents one of the key indicators of measuring the democratic health of a country, it provides the opportunity for citizens to evaluate and change its leaders and overhaul its leadership where necessary. It should be noted that holding periodic elections do not necessarily translate to a thriving democracy. Nigeria has had six elections that have resulted in transition of four different leaders and national governments including an election where an incumbent was defeated and an opposition party elected to form a new government, an indication that its electoral politics and the desire for change through the legitimacy of the ballot box and not unconstitutional means are gaining a foothold in the country. However, the country's electoral process still leaves much to be desired. Elections in Nigeria are characterized by wholesale fraud, violence and intimidation, interference by state institutions and judicial theft, inadequacy or confusion of the laws guiding the electoral process, monetization and vote buying among other challenges that are re-occurring with a ruling class that lacks the political interest and will to effect any change as they are primary beneficiaries in the grand scheme to personalize power and corner state resources to serve their pecuniary interest and those of their cronies.

The cumulative effect of these have been emergence and enthronement of questionable mandates against the backdrop of the rise of the phenomenon of vote and voter suppression, vote and voter exclusion, hotly disputed elections, low election turn outs, and pervasive election violence and election related insecurity.

Nigeria's recent electoral democratic history is replete with attempts at reforming the electoral process in the country; for instance in 2007, the Justice Uwais Electoral Reform Committee was constituted by the then winner of the disputed 2007 presidential general elections, Musa Yar-Adua who acknowledged the deeply flawed nature of the elections that brought him to power. Again in 2017 the Senator Ken Nnamani Electoral Reform Committee was set up by President Muhammadu Buhari while every legislative house since the return to democracy have also attempted a review of the electoral act.

Despite these efforts The Situation Room, Nigeria's foremost citizen led engagement with the electoral process in its report of the 2019 general elections points clearly to re-occurrence of the challenges that the reform processes have attempted to deal with in the past. The report states that many of the lapses recorded during the elections would have been adequately dealt with and avoided had the electoral act amended by the national assembly been signed into law; and that the elections failed to meet the threshold for credible elections. The Situation Room then went on to reiterate the call for further reforms to deal with the challenges that the 2019 elections threw up.

Given the near permanent recurrence of similar challenges all through previous electoral cycles, the 2019 election observation report and those of other domestic and international observers seem to look like the work of copycats from previous election; an indication that much of the electoral reform process has seemed to be more of motion without movement, and that much more still needs to be done in evolving an electoral process that guarantees the right of citizens to choose their leaders which is one of the fundamental rights of citizens in an electoral democracy.

THE RULE OF LAW

Chapter two of the 1999 Constitution on Fundamental Objectives and Directive Principles of State Policy clearly provides that the Nigerian state shall be based on the principles of democracy and social justice. Chapter 2.14(2b & c) goes further to state that b. the security and welfare of the

people shall be the primary purpose of government; and c. the participation by the people in their government shall be ensured in accordance with the provisions of this Constitution. But while the constitutional framework for governance are clear in its provisions, the reality of governance practices is a far cry from the letter and spirit of the constitution. There is thus a crisis of governance and leadership in Nigeria as these are primary driven by self-interest beyond and above the public good. It can be argued that this is a function of a largely flawed electoral process where leaders who emerge do not owe allegiance to the constitution or to the people, but rather to the manipulative mechanisms that ensured their election into office including godfathers, political cabals operating behind the scenes within political parties and other shadowy ancillary interests.

The implication is that public officials, governance institutions, its processes and outcomes are still largely opaque, discretionary, and non-transparent and accountable while sanctions are largely either nonexistent or ineffective for curtailing, punishing and deterring corrupt practices and abuse of office. It is the impunity fueled by these discrepancies that is at the root of the problems of poverty, hunger, illiteracy, lack of access to economic opportunities which drive the range of socio-economic and political challenges bedeviling the country including; terrorism, banditry, kidnapping and other social vices as the people resort to self-help to deal with the absence of an effective and responsive state, that delivers basic social services and meets the public good.

GOVERNANCE AND DEMOCRATIC INSTITUTIONS

The institutions at the service of democracy and governance in Nigeria are largely weak and ineffective, and remain susceptible to the machinations of the executive arm of government riding on the overtly centralized power and resources at its disposal. The incursion of the executive arm into the independence of the other arms of government have largely undermined the separation of powers required for the check and balance required in a democratic state. This anomaly is even far worse at the sub-national levels where state governors seems to be in total control of the institutions of the state, almost like mini emperors. These has resulted in a cocktail of gross abuse of processes, lack of proper legislative oversight and hamstrung judicial processes that serve to undermine the rule of law rather than uphold it.

In 2019 the Chief Justice of Nigeria was removed from office on the back of an overtly executive agenda that was executed without adequate regards for the principles and practice of separation of powers and manipulation of judicial process. These practices have largely undermined the notion of democratic institutions and governance at the service of social justice and continues to build mistrust between the people and the state.

Also, all through the two decades since the inauguration of the current 4th Republic, the courts have been playing incredibly significant roles in determining the outcome of elections. It is these spates of judicial interventions that have led to the phenomenon of off-season elections in the country, where some governorship elections are held off the main cycle. More recently since the 2015 general elections, we have seen situations where votes cast during elections have been overturned and cancelled by the Supreme court, as a result of the implication of conclusion of pre-election matters arising from acrimonious intra party disputes, at the apex court. In some instances, such as in Rivers state during the 2019 general elections, a major political party could not present candidates for any of the contested elective offices for Rivers state during that election because of such court rulings. This phenomenon of vote cancellation as a result of judicial decisions is an expression of a subset of the twin and mutually reinforcing phenomena of Votes Suppression and Voters suppression gaining increasing momentum in the polity.

Situation Room Report 2019 general elections

CIVICUS People Power under Attack 2019 <https://monitor.civicus.org/Nigeria.PeoplePowerUnderAttack/>

SHRINKING CIVIC SPACE

The CIVICUS Monitor downgraded Nigeria from 'obstructed' to 'repressed' in its People Power Under Attack 2019 report. A repressed rating for civic space means that democratic freedoms - such as the freedom of expression, peaceful assembly, and association - are significantly constrained in Nigeria. In recent times this has been the state of state-civil society relations in Nigeria. On the back of the failure of governance to meet the basic social and development needs of citizens, governments, including the government of the day has been systematically trying to stifle dissent in public discourse and citizens action.

Recently the country has seen attempts to stifle the civic space through legislation with introduction of bills including the Independent National Commission for the Prohibition of Hate Speeches Bill a.k.a. "Hate Speech Bill," the "Bill for an Act To Provide For The Establishment Of The Non-Governmental Organizations Regulatory Commission For The Supervision, Co-ordination And Monitoring Of Non-Governmental Organizations' among others. Many perceive the Bills as an attempt by the government to place limitations on the freedom of expression and association of citizens and obstruct and repress citizens actions for change; fundamental human rights enshrined in the constitution of Nigeria. This cynicism is not farfetched and is strengthened from experiences of how other similar laws such as the Cybercrime Act and Terrorism (Prevention) (Amendment) Act 2013 are being used against journalists, bloggers and other activists. These experiences include journalist Agba Jalingo of online news outlet CrossRiverWatch, who was arrested on 22nd August 2019, detained for more than six months, still facing treason and terrorism charges (presently released on bail); and Journalist Jones Abiri among others. Similarly a proposed 'Revolution Now' protest against bad governance in August 2019 was forcefully quashed by the state and its proponents arrested and charged with treason for christening their actions 'Revolution Now' suggesting an attempt to unseat the government of the day through unconstitutional means. National protests organised by a broad coalition of citizens organisations - The Freedom Rally group, demanding unconditional release of all political detainees, was equally attacked by pro regime thugs brandishing weapons on December 23rd 2019.

5.0 ACDEG and Democratic Aspiration in Africa

The democratic experience in Africa has seen its fair share of challenges and collective frustration with respect to what democracy should be for its people. With democratization spreading across the continent in the 90s, its operationalization saw varying expression of state understanding and application of democratic principles as well as varying degrees of abuse of its processes to serve the pecuniary interest of its ruling classes. Constitutional subversion, state interference in election processes towards pre-determined ends, a negation of the rights of citizens in the interest of regime survival rather than the rule of law for democratic consolidation and societal good, largely became the norm of democracy and governance on the continent. These upped the ante of the popular citizens' demand for good governance on the continent coupled with increased external pressure occasioned by the resurgence of liberal democracy on the back of the collapse of the Soviet Union, as well as the conditionalities of good governance as the basis of support by resurgent multilateral development institutions. These realities informed the aspirations for a new democratic culture and collective responsibility towards improving the democratic experience for Africans hence the conversations that led to the 2007 African Charter on Democracy, Elections and Governance (ACDEG)

The ACDEG is a continent-wide normative framework for democratic consolidation. As at January 2019, the charter had been signed by 46 and ratified by 32 of the 55 AU member states. In terms of its scope and ambition, the ACDEG is different from other instruments as it combines, in a holistic manner, the key elements of democracy, human rights and governance. Its stated objectives are to enhance the quality of elections in Africa, promote human rights, strengthen the rule of law, and improve political, economic, and social governance. To that end, it regulates both the accession to, and exercise of, political power. Particular attention is paid to unconstitutional changes of government, including through the possible use of sanctions imposed at individual and state level. Initially designed by its predecessor, the Organisation of African Unity (OAU), as a tool to counter the armed removal of incumbent leaders, including with the support of neighbouring countries, the unconstitutional change of government norm has increasingly been invoked to challenge the undemocratic practices of incumbents. The AU response to developments in The Gambia in January 2017 is the latest case in point (Wiebusch, M, Aniekwe, et al 2019a).

The Charter is explicit in its provisions towards constitutionalism as the bases of existence of African states with strong respect for and promotion of democratic principles including; the rule of law, gender equality, transparency, accountability & participatory and responsive governance with regular free and fair elections conducted through and with strong independent democratic institutions at the service of democracy and nation building. It has informed and was designed to inform policy initiatives and legal frameworks of governance and democratic institutions that are contextualized to suit national realities and aspirations. However, its formative process and acceptability at the national level remains a key concern as engagement such as the Africa We Want project points to limited knowledge of its existence in the democracy and governance ecosystems at national level in many countries.

The implementation of the Charter has also seen far reaching test of its capacity to change behavior and respond appropriately to attempts at undermining its provision.

For its implementation, the Charter foresees a multi-level governance framework. At the continental level, different AU institutions are referred to, including the Assembly; the Executive Council; the PSC; the AU Commission; the African Court on Human and Peoples' Rights; the African Peer Review Mechanism; the African Commission on Human and Peoples' Rights; the Pan-African Parliament; the Economic, Social and Cultural Council; and the New Partnership for Africa's Development. At the regional level, the different Regional Economic Communities (RECs¹) [are expected to designate focal points for the co-ordination, evaluation, and monitoring of the implementation of the Charter in order to ensure the participation of stakeholders, particularly civil society organisations, in the process. At the national level, the Charter requires the involvement of government, parliament, judiciary, political parties, electoral bodies, armed and security forces, public administration, public institutions that promote and support democracy and constitutional order, media, private sector, civil society organisations, and citizens.](#)

To operationalise this intricate web of institutions and actors, an African Governance Architecture (AGA) was established in 2011. The AGA is a platform for dialogue between various stakeholders including the AU organs, RECs, and institutions with a mandate to promote governance, democracy, and human rights in Africa. In particular, it is supposed to enhance co-ordination, co-operation, and synergy between all actors involved in the implementation of the ACDEG. (Wiebusch, M, Aniekwe, et al 2019b)

CURRENT STATUS OF ACDEG IMPLEMENTATION AND GOVERNANCE IN NIGERIA.

Nigeria is a signatory to many international instruments in democracy and political governance. It has never shied away from a commitment to international standards to inform local policies and frameworks for actualizing its democratic aspirations as a sovereign nation. Some of the instruments the country has signed unto include the Charter of the United Nations, the International Convention on Civil and Political Rights amongst others at the global level; the African Charter on Human and People's Right, African Charter on Democracy, Elections and Governance at the continental level; and the ECOWAS Protocol on Democracy and Governance at the regional level

Despite these overwhelming commitments to signing these instruments, there still exists a huge gap between the commitment in signing these instruments and their application at the national level.

Nigeria, with a view to fully committing to the values of ACDEG, signed the charter in July 2007 and ratified it five years later in January 2012 thereby making Nigeria a state party to the Charter. However, Nigeria is yet to domesticate the Charter in line with its national constitutional requirements. Section 12 (1) of the Constitution of the Federal Republic of Nigeria 1999 dealing with treaty domestication provides the process by which a treaty might be made a part of Nigerian law. "No treaty between the Federation and other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly". Despite this however, its ratification, signifies the country's determination in ensuring the implementation of the Charter's objectives in its National laws and institutions and the fulfilling of 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.

CHALLENGES WITH THE DOMESTICATION AND IMPLEMENTATION OF ACDEG IN NIGERIA:

In undertaking an assessment of the status of domestication, it is important to look at the challenges militating against the domestication of ACDEG and other international instruments. While these challenges could be national in nature, it also has some bearing on the processes leading to the birth of the instruments.

- The government of Nigeria approach to participation in the development, signing unto and ratification of these instruments are often undertaken by the executive arm of government alone. The legislature who are expected to put into motion the process of the domestication are neither in the know of the development process, nor are they carried along. This usually results in mistrust and avoidable disagreement between the executive and legislative arms that undermine and unnecessarily delays efforts at domestication.
- The exclusion of the legislature from the process until the time for domestication is often compounded by the exclusion or sidelining of core segments of the executive arm of government, often the Ministry of Justice from the processes. In the 2018 National Justice policy for instance, the Ministry of Justice had identified as a challenge the fact that it is often unaware of treaties and agreements entered into on behalf of the Federal Government of Nigeria by certain institutions of the government.
- The constitutional requirement for enacting legislation that requires amending the constitution is a cumbersome process that requires the participation of the legislature of all the 36 states requiring 2/3 support of the legislative houses and support of 2/3 of the country's bicameral legislature; the Senate and House of Representatives.
- The absence of the political will and commitment by the political class to drive the agenda of domestication is a major challenge; Where immediate gains are not envisaged, and the charter has the potential of undermining the ability of this class to continue to subvert the existing systems to perpetuate themselves in power.
- The country lags behind in its reporting responsibilities and obligations. Article 49 calls for state obligations to reporting; “State Parties shall submit every two years, from the date the Charter comes into force, a report to the Commission on the legislative or other relevant measures taken with a view to giving effect to the principles and commitments of the Charter; with an uncoordinated front between the Federal Ministry of Foreign Affairs, the National Assembly and the Ministry of Justice this has become a huge challenge. The engagement of the Africa We Want project discovered a huge disconnect between these groups in relation to efforts at domesticating the charter
- 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.

LEGAL AND POLICY STATUS OF IMPLEMENTATION OF ACDEG IN NIGERIA

This section presents a summary of progress in national legislation towards domestication of the articles of ACDEG cumulative. Use the rating guide [colours & letters] to indicate progress level.

This analysis is undertaken by aggregating provisions that speak to areas rather than a chronological order as provided in the ACDEG document. The analysis has been divided into the following sub-sections: Electoral Process, Human Rights and Rule of Law & Constitutional Order.

The rag rating is undertaken from assessing the availability of national legal framework for the ACDEG provisions, an analysis of practice in real terms with a review of the 2019 general elections and an assessment of citizens perception on the level of compliance with the ACDEG provisions. This is informed by an appreciation of the fact that the availability of policy, and the existence of law do not necessarily translate to compliance in practice

| RAG Ratings: | | | | |
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| Domestication Achieved /on track (i.e. legislation provisions currently meets ACDEG provisions) | G | Not Achieved/severely off track (legislation far off from meeting ACDEG provisions) | R | No legislation planned or envisaged: |
| Partially achieved/off track (i.e. legislation not quite meeting ACDEG provisions) | A | No indication of concurrence with local laws: | | |

| ARTICLE FROM ACDEG | National Constitution and Legal Instruments | RAG Rating | Remarks/Comments/Areas for Improvement |
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| ELECTORAL PROCESS | | | |
| Article 17 State Parties re -affirm their commitment to regularly holding | Section 153 of the 1999 Constitution (as amended) provides for the establishment of | | These provisions provide for re -affirmation of the country's commitment to holding regular transparent, free and fair elections. |

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| <p>transparent, free and fair elections in accordance with the Union’s Declaration on the Principles Governing Democratic Elections in Africa.</p> <p>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, 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>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>However, public confidence in INEC is low due to general perception that it is susceptible to the whims and caprices of the ruling party at any point in time. The independence of the Commission is threatened by the fact that the chairperson, national commissioners of INEC and the 37 resident electoral commissioners in each state and the FCT are still appointed by the President subject to confirmation of the Senate. This remains a structural weakness as it concerns the independence of the INEC.</p> <p>An independent body under the oversight of the Supreme Court could for instance be responsible for overseeing applications and shortlisting candidates for the positions of Chair, National Commissioners and Resident Electoral Commissioners for INEC. Shortlisted candidates can then be passed on to the President, who picks from the shortlisted candidates and forwards the final shortlist to the Senate for ratification.</p> <p>The significance of national mechanism to redress election related violence cannot be over -emphasized. In fact, it mitigates the attraction of the option of political violence as a way of settling election dispute. However, there are fundamental issues that needs to be addressed for the legal mechanisms to serve its purpose of justice. The swearing in of a winner pending the determination of litigation is a case in point and calls for reform.</p> <p>Section 134(2) stipulates that “An election tribunal shall</p> |
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| | | | <p>deliver its judgement in writing within 180 days from the date of the filing of the petition”. Accordingly, in January 2019, the chairmen and members of the election petitions tribunals for the 2019 general elections were duly sworn in by the acting Chief Justice of Nigeria (CJN), Justice Tanko Mohammed. Despite these cases of compliance with the ACDEG on the establishment and strengthening of Election Tribunals, some processes and actions undermined compliance to the ACDEG. For example, suspension of the Chief Justice of Nigeria, Walter Onnoghen by the President on 25th January 2019 – just few days to the general elections – on the grounds of false assets declaration, put to question the integrity of the constituted Election Tribunals and independence of the judiciary, including the Election Tribunal in dispensing election petitions for the 2019 general elections.</p> <p>This controversial suspension of the CJN few days to election did not only violate Article 2(5) of the ACDEG which required State Parties to “Promote and protect independence of the judiciary”, it also demonstrated abuse of pre-election processes by the executive given that appointment of members of Election Tribunals is an integral pre-election activity and is the exclusive mandate of the Chief Justice.</p> <p>More so, treatment of pre -election matters as merely civil litigation case is a serious challenge. It has led to situations where the eventual final determination of pre-election matters by the Supreme Court has led to the</p> |
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| | | | <p>overturning of the results of elections because of the implication of the interpretation of the final court ruling.</p> <p>It has been proposed that all pre-election matters must be concluded before the election is held, failing which the holding of elections automatically voids the existing pre-election matter in court.</p> <p>Similarly, it is also proposed that Election petitions should be concluded before winners take the oath of office.</p> <p>Non-compliance with 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 continues to be a challenge. Ruling parties arbitrarily use state resources such as the media during campaigns and sometimes deny opposition parties equal access to the resources.</p> <p>However, Unlike what obtained in many states in the 2015 elections and past general elections, it appears opposition parties at the state and federal levels had increased access to state owned media for campaign purposes in the 2019 general elections.</p> <p>Again, the proliferation and popularization of private print and electronic media in Nigeria has opened wider platforms for political parties and thus reduced demand</p> |
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| | | | <p>and patronage of state-owned media.</p> <p>One key issue that needs to be dealt with is the increasing level of deliberate orchestration of hate speech and fake news election campaign strategies that have the capacity incite violence and undermine free and fair conduct of elections</p> <p>In line with the above provisions of Article 17 of ACDEG, during the 2019 general elections, presidential candidates of the political parties including President Muhammadu Buhari of the All Progressive Congress (APC) and the main opposition candidate Atiku Abubakar of the People's Democratic Party (PDP) signed a peace accord deal, pledging peaceful presidential and legislative elections.. The candidates also pledged to "respect the outcome of free, fair and credible elections"⁴. The peace deal though brokered by the Chairman of the National Peace Committee (NPC) Abdulsalami Abubakar (Rtd. Gen.), a former military Head of State. it is becoming a mechanism for building commitment to non -violence during elections in the country</p> <p>The Peace Accord was also replicated at the state level. This is a demonstration of compliance with the ACDEG</p> |
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⁴ ibid

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| | | | <p>guidelines on political parties organizing.</p> |
| <p>Article 19</p> <p>1. Each State Party shall inform the Commission of scheduled elections and invite it to send an electoral observer mission.</p> <p>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> | <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>INEC election guidelines usually recognize election monitoring and observation, while INEC regularly accredits both domestic and foreign election observation missions and groups. For the 2019 general elections for instance INEC had accredited a total of 144 election observation missions –</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>The responsibility for the security and safety of election observation missions could be integrated into the mandate of the Inter Agency Election Security Task Force to ensure a uniform framework for coordinating election security for all stakeholders.</p> |

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| | <p>116 domestic and 28 foreign.</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>Article 21</p> <p>1. The Commission shall ensure that these missions are independent and shall provide them with the necessary resources for that purpose.</p> <p>2. Electoral observer missions shall be conducted by appropriate and competent experts in the area of election monitoring, drawn from 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,</p> | <p>INEC Guidelines provide for the independence and autonomy of the election observation missions and groups.</p> <p>Furthermore, the accreditation process ensures that competent groups with expertise and capacity for election observation are the ones eventually selected and accredited for election observation purposes.</p> | | <p>The electoral process in Nigeria is open to independent monitoring and observation as required by ACDEG provisions</p> <p>In the 2019 elections, 28 number of international bodies and institutions were accredited to observe the elections with clear guidelines that provided for the independence of such missions</p> <p>Additionally, 116 national bodies were accredited as domestic election observers.</p> <p>Election Observation Reports were prepared, officially released and submitted to INEC by all the international observer groups and a majority of the domestic observer groups.</p> <p>In addition, INEC creates a forum for engagement with election observation reports, reviewing the findings,</p> |

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| <p>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>observations, and recommendations with stakeholders.</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 makes a provision for this.</p> | | <p>INEC guidelines provides for independent national observation of elections. INEC registered 116 number of local election observation missions in the 2019 general elections</p> |
| <p>Article 20</p> <p>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</p> | <p>The AU Commission sent an exploratory mission to Nigeria prior to the conduct of the 2019 general elections.</p> <p>However, Nigeria's electoral law—the 2010 Electoral Act as amended makes no direct provision for Nigeria to accept mandatorily the exploratory mission of the AU Commission prior to conduct of</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> |

| in conformity with the principles of the Union governing democratic elections. | general elections | | |
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| HUMAN RIGHTS | | | |
| ACDEG Article | National Constitution/National Legal Instruments | Ranking | Remarks/Comments |
| <p>Article 7</p> <p>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>Chapters two and four of the Nigeria's 1999 Constitution (as mended) extensively deal with human rights issues in Nigeria. Chapter two provides for fundamental objectives and directive principles of state policy in (Sections 13-24) and spells out socio-economic, environmental and cultural rights of Nigerians.</p> <p>Chapter four on the other hand spells out provisions for the fundamental rights of Nigerians.</p> <p>Furthermore, in December 2017, the President signed Anti-Torture Act which penalizes acts of torture and other cruel, inhumane and degrading treatment. It prescribes</p> | | <p>Notwithstanding legal and institutional frameworks, Nigerians continue to face variegated human rights abuse and violations challenges. Some of these violations and abuse Arise from violent extremism, inter -communal and tribal conflicts; as well as from deliberate actions and inactions of the state and its institutions, particularly in the hands of the security and law enforcement institutions.</p> <p>In some parts of the country, several Nigerians have been deprived of their fundamental and inalienable right to life.</p> <p>Interventions of the security agents to douse tension have sometimes resulted to extra -judicial killings in many parts of the country, and have shown a basic lack of understanding and respect for human rights</p> <p>Sometimes deliberate, and sometimes inadvertent restrictions on freedoms of speech, press, assembly, and movement largely undermine the provisions of the</p> |

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| | <p>25 years imprisonment for torture offender.</p> <p>There are also many institutional arrangements for promotion and protection of human rights in the country. This includes the establishment of the National Human Rights Commission (NHRC), the Public Complaints Commission (PCC), the Consumer Protection Council (CPC), Servicom, and the Ad-hoc Truth and Reconciliation Commissions (TRCs); as well as several investigative panels that have been constituted to investigate rights abuses and make recommendations for redress.</p> | | <p>constitution that guarantees such rights and democratic principles</p> <p>While the country has established structures that serve the protection of rights, the ability of such structures to deliver on their mandates are compromised by executive and legislative impunity and a discriminatory judicial system skewed in favour of the ruling class and economically and politically advantaged citizens</p> <p>The argument for the non-justiciability of chapter two of the constitution undermines the ability of the country to ensure the security and wellbeing of her citizens, and its ability to contribute in strengthening regional structures at the service of human rights</p> <p>While the country meets its financial obligations to continental bodies and institutions, it continues to default in its treaty obligations such as independent assessment, assessment reports to bodies such as the African Commission for Human Rights, ACDEG amongst others; thereby inadvertently weakening the institutions and undermining their capacity to play their envisaged roles towards ensuring accountability and compliance effectively.</p> |
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| <p>Article 27</p> <p>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 | <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.</p> <p>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 a good number of legal and institutional frameworks that have been established to serve this purpose.</p> <p>For example, to achieve the goal of combating corruption, several Anti-Corruption Agencies (ACAs) have been created by Acts of</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.</p> <p>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 in several development rankings.</p> <p>Despite the seemingly improved working environment for civil society organizations, governments have been introducing bills to regulate and constrict their activities. Many experts have argued that this conflicts with the country's constitution and international laws.</p> <p>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> |
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| <p>information and communication technologies;</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> | <p>Parliament.</p> <p>The country also a comprehensive framework for criminal justice in the 2015 Administration of Criminal Justice Act that is meant to strengthen the justice system.</p> <p>Several measures have also been put in place to promote efficiency and effectiveness of the public service delivery.</p> | | <p>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. However, Nigeria continue to be bedeviled by several recurring infectious and other diseases due in large part to the inadequate funding of her healthcare delivery system, and the parlous and dilapidated condition of her Primary Healthcare Delivery system, placing avoidable and disproportionate burdens on ill resourced secondary and tertiary healthcare systems across the country.</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>The combination of the weakening and emasculation of the third tier of government, the local government administrations, in large part by the state governments, and the existence of atrophied traditional institutions within ungoverned community spaces have contributed considerably to the inability to harness the democratic</p> |
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| | | | values of traditional and community institutions towards ensuring delivery of good governance in the interest of collective enhancement of the public good. |
| <p>Article 29</p> <p>1. State Parties shall recognize the crucial role of women in development and strengthening of democracy.</p> <p>2. State Parties shall create the necessary conditions for full and active participation of women in the decision-making processes and structures at all levels as a fundamental element in the promotion and exercise of a democratic culture.</p> <p>3. State Parties shall take all possible measures to encourage the full and active participation of women in the electoral process and ensure gender parity in representation at all levels, including legislatures.</p> | <p>Section 15 and 42 –; Section 17 Section 19 (c) of the 1999 CFRN as amended</p> | | <p>These sections of the constitution provides for the participation of the people in their government and provides for the prohibition and eradication of all forms of discrimination.</p> <p>Discrimination against women remains a recurring factor in the social order which should be founded on freedom, equality, social inclusion and justice. The lack of a definite mandatory and obligatory 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.</p> <p>Women represent only 6.2% of legislators at the National level and a paltry 5.25% at the state level.⁵ 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.</p> <p>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</p> |

⁵ Center for Democracy & Development, Fact Sheet: Women in Elective Offices in Nigeria, July 2018

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| | | | <p>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 enactment of obligatory state policy on the participation and representation of women, youth, people living with disabilities and other vulnerable groups and the establishment of a statutory Equal opportunities Commission to enforce compliance will go a very significant way in aligning intention with practice.</p> |
| <p>Article 30</p> <p>State Parties shall promote citizen participation in the development process through appropriate structures. A</p> | <p>Chapter 2 Section 14 (2c)</p> <p>‘the participation by the people in their government shall be ensured in accordance with the provisions of the constitution</p> | | <p>This is one area where a lot still needs to be done. Presently there are no structured processes for the involvement of citizens in determining development priorities of the state</p> <p>Key processes such as budgeting are largely not inclusive. Allocation of resources are determined by government bureaucrats while citizens are invited to participate in budget hearings and public hearings in consideration of legislative proposals these are inadequate to mobilise citizens participation and influence in these public policy processes.</p> |
| <p>Article 31 1.</p> <p>State Parties shall promote participation of social groups with</p> | <p>Section 17 (3a), Section 15</p> <p>PART I (2) of the 2010 Electoral Act</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</p> |

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| <p>special needs, including the Youth and people with disabilities, in the governance process.</p> <p>2. State Parties shall ensure systematic and comprehensive civic education in order to encourage full participation of social groups with special needs in democracy and development processes.</p> | <p>provides that in addition to the functions conferred on INEC by the Constitution, the Commission shall have power to:</p> <p>(a) conduct voter and civic education; and</p> <p>(b) promote knowledge of sound democratic election processes.</p> <p>NOT too young to run law [amends the age limits with regards to representation in the constitution]</p> <p>National Disability Act</p> | | <p>participation highly impossible.</p> <p>Recently the country signed the Persons with Disability Law but the state policies and processes are still largely not responsive to the needs of persons with disability.</p> <p>Furthermore, although the Acts grants a transition period of five years for public and private sector institutions to comply with the provisions of the Act, no visible step is being taken to ensure that institutions and their processes will be compliant by the end of the transition period.</p> <p>It maybe necessary to demand and ensure that all relevant institutions covered by the Act are mandated to prepare and official publish the 5 year transitional plan to ensure compliance as a first step.</p> <p>As the number of internally displaced persons in Nigeria continues to grow due to natural disasters, violent conflicts and lack of security, the government is yet to come up with adequate and consistent policies to address the rights of internally displaced persons to participate in governance.</p> <p>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</p> |
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| | | | <p>Article 31.</p> <p>While the electoral guidelines provide citizens engagement, In practice however, many structural impediments appear to have remained entrenched in place undermining the realization of its provisions.</p> <p>Aligning practice with legal and policy frameworks requires extensive work around mobilizing citizens to engage the electoral processes and all stakeholders within the electoral process.</p> <p>Political parties will be expected to do much more in this regard also, as the primary and only platform for electoral representation.</p> <p>Political parties will need to be held accountable and pressured by citizens to change, and to play a non-obtrusive and facilitative role in ensuring compliance.</p> |
| Rule of Law & Constitutional Order | | | |
| ARTICLE 5 | Section1(2) of the Constitution stipulates that the Federal Republic | | The intendment of these provisions is that state parties |

State Parties shall take all appropriate measures to ensure constitutional rule, particularly constitutional transfer of power.

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.

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.

Whereas there has been substantive compliance and alignment with this provision with respect to legal instrument and practice at the national level, and with respect to elections into the state executive and legislatures; the reality is that the practice has largely been in breach of this intendment of these provisions with respect to local government council elections conducted by state governments in Nigeria.

The implication of this is that civil society, the media and other stakeholders require to further mobilise citizen action to compel state governments and political parties to respect the provisions of the 1999 CFRN as amended in Section 7 with respect to the nature and character of local government administration in Nigeria.

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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>The Nigerian constitution provides for the independence of the institutions at the service of democracy. It vests powers to make law in the legislature for peace order and good governance and vest judicial powers in the courts. The independence of these institutions is guaranteed by the constitution.</p> <p>However, maintenance of the autonomy of the other arms of government and the observance of the principle of separation of powers has continued to be a challenge due to repeated executive overbearance and interference in the internal affairs of the other arms of government to promote executive interests.</p> <p>The over concentration of power in the executive have led to abuse of due process and the rule of law with no consequences, largely undermining the growth of democracy and exacerbating impunity.</p> <p>As revealed in the Community Score Card on the assessment of compliance with the ACDEG, there is still a distrust by the people of the capacity of state institutions to act independently towards the aspirations of citizens</p> |
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| <p>Article 14</p> <p>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.</p> <p>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.</p> <p>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> | <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 does not provide punitive measure against incursion of military in politics.</p> <p>The Armed Forces Act, the Nigeria Police Act and the other establishment and management acts of the various security and law enforcement agencies, contain provisions that ensures civilian control and oversight of the military, security and law enforcement agencies.</p> | | <p>Since 1999, the President of the Federal Republic of Nigeria has been exercising full control of security forces.</p> <p>Contrary to Federal practice where internal security is the shared responsibility of federal and constituent states, and under the exclusive preserve of federal and state policing authorities ; in Nigeria, internal security is under the exclusive legislative list, while policing the armed forces are regularly drafted to perform internal security and policing duties.</p> <p>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 and punish 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</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</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> |

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| <p>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>Representatives.</p> | | <p>Whereas the constitution does not provide for the mechanism of referendum for constitutional amendment, it does provide for the involvement of all the legislatures of the constituent states of the federation in the constitutional amendment process.</p> <p>The cumbersome manner and politicization of the constitution review process also undermines the dynamism needed in advancing legal reforms towards dealing with contemporary democratic challenges and newer aspirations of the Nigerian people with respect to how they are and wish to be governed.</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.</p> <p>Nigeria has always been at the forefront of sub regional efforts to ensure democratic consolidation, initiating and leading missions for democratic restoration and national reconciliation.</p> <p>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> |

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| <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>Nigeria has been part of the NEPAD and accompany APRM processes since their inception.</p> <p>Nigeria has since established a functional national country office for NEPAD, and has through the office coordinated its engagement with several multilateral policy engagements such as the Common Africa Agriculture Development Program [CAADP].</p> <p>Nigeria also underwent the APRM process in 2007.</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.</p> <p>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 situation can be improved if attention is paid to the fulfilment of a set out programme and adequate resources deployed and effectively managed towards their realization and achievement.</p> |
| <p>Article 44</p> <p>State Parties commit themselves to implement the objectives, apply the principles and respect the commitments enshrined in this Charter as follows:</p> <p>(a) State Parties shall initiate appropriate measures including</p> | <p>The 1999 CFRN as amended in all of its parts, chapters, sections and attached schedules contain provisions that largely incorporate the objectives principles and commitments of the ACDEG.</p> <p>Many of these have also been</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)</p> |

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| <p>legislative, executive and administrative actions to bring State Parties' national laws and regulations into conformity with this Charter;</p> <p>(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;</p> <p>(c) State Parties shall promote political will as a necessary condition for the attainment of the goals set forth in this Charter;</p> <p>(d) State Parties shall incorporate the commitments and principles of the Charter in their national policies and strategies.</p> | <p>elaborated upon in various legislations that have been enacted in furtherance of the constitutional provisions.</p> <p>However, the basic act to demonstrate the commitment of Nigeria as a state party to realization of Article 41, and the implementation of the ACDEG, beyond signing and ratification of the charter has yet to be taken.</p> <p>This is step of domestication of the charter to enable it to have the force of law within the country's jurisdiction.</p> | | <p>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, accessible, and widely published.</p> <p>It would be counterproductive, and contrary to the commitment made under the charter if most of the Nigerian populace cannot read the contents of existing laws.</p> <p>This brings to the fore the question of education/literacy and its link with poverty; and raises the issue of what sustainable governance plans and initiatives are on ground to tackle these sectors of deficiency in a holistic manner.</p> <p>The level of political will present with the ruling class within any polity can be measured through the existence, content and processes of policy, legislative and institutional frameworks available for ensuring governance in the polity.</p> <p>This political will, measured in this way, is a function of the level of participation, involvement and engagement of citizens in the governance processes.</p> <p>Political will is a result of robust civic life and citizen action.</p> |
| <p>ACDEG LEGAL LINK IN YOUR COUNTRY</p> | <p>The ACDEG is yet to be domesticated by Nigeria.</p> | | <p>The domestication and adoption into the body of national laws of the ACDEG, is the preeminent legislative action needed to provide a firm basis for this legal link.</p> |

CITIZENS' PERCEPTIONS OF COMPLIANCE WITH PROVISIONS OF ACDEG

'The Africa We Want' is an initiative conceived as a Pan African project towards mobilizing citizens engagement in the domestication and implementation of ACDEG. It aims at educating citizens and mobilizing citizens action towards democratic processes including elections that are responsive to the ideals enshrined in the ACDEG. The Citizens Scorecard, an exercise conducted across six selected states of the country, is an attempt to highlight citizens perception on the extent to which governance are responsive to the ideals of the ACDEG. This is very important because at the end of the day citizens are at the receiving end of governance outcomes.

In this regards Nigerians continue to demonstrate high level of commitment to democracy and have shown resilience and patience towards building a democratic culture and society by actively promoting and supporting democratic processes. Despite the 'hazardous' nature of politics and the huge challenges that have characterized the country's democratic experience given the previous decades of military dictatorship, Fifty Percent (50%) of respondents across the six states and the FCT recognize that there is relative freedom of expression however this is being threatened by recent proposed actions by government, including attempts at regulating the media (formal and informal) space through the social media bill, and the affront on freedom of the press on different fronts, including the arrest and arraignment of journalists and citizens for their opinion on issues. The freedom of expression is a fundamental right enshrined in both the 1999 CFRN and the ACDEG. It provides the leeway for citizens participation in public life.

One of the key indicators of the health of electoral democracy is the place of political party organizing, while citizens have a right to participate and have not in any way been denied this right, the internal contradictions of political party organizing in the country has remained a sore point of Nigeria's democratic journey. While the object of the survey was to determine if there are any encumbrances to enjoying this right, it is important to state that the nature of organizing in political parties have largely discouraged citizens participation. Taking a cursory look at pre 2019 election litigation, INEC reported that there were 396 court cases where INEC was joined with respect to disputed party primaries, while it further received 302 requests for certified true copies of INEC monitoring reports of party primaries, preparatory to institution of court cases. Additionally, INEC had also received 52 petitions from aggrieved party members dissatisfied with conduct of their party primaries: indicative of the rancorous state of internal political party processes in the country.

The contradictions in political party organizing is a microcosm of equality in the larger society where the rights enjoyed by citizens are determined by their status. The survey pointed to a society where citizens are treated largely on the basis of the status, they have achieved in society politically, economically, and otherwise; a clear negation of the principles of the ACDEG and its desire at building strong inclusive democratic culture and principles on the continent.

Elections are an important element and the basic minimum of democracy but do not necessarily guarantee the consolidation and entrenchment of democratic values and principles. The freeness and fairness of an electoral process is a combination of factors including the independence of institutions at the service of elections including the EMB, security agencies, the parliaments and its ability to make the extant laws for elections, political parties amongst others. The survey pointed to citizens dissatisfaction with the electoral process largely on account of unwholesome practices that totally negate the standards for the conduct of elections; Interference by security agencies; widespread practice of vote buying orchestrated by political parties; and perception of votes manipulation by the electoral umpire amongst others. From the survey, there was also a fraction of citizens who saw elections as free and fair. The real issue however is the challenge that flawed elections presents to legitimacy of ensuing government, and the extent to which such a flawed process undermines the credibility and legitimacy of the national constitution as the foundation for the rule of law in society.

Relating to the independence of institutions at the service of democracy, an interesting dimension of the survey revealed that while citizens are willing to give democracy a chance and recognize marginal gains in the democratic journey; their perception of the conduct of democratic institutions are at variance with their expectation of the culture of equality, rule of law that are the core of building an egalitarian society that citizens aspire for and ACDEG envisages.

For instance, citizens perception of the courts and the judicial system is one that do not necessarily uphold the rights of citizens and the rule of law; but one whose conduct is determined by other factors including corruption, political and other ancillary interest.

The emergent picture from all of these is a democratic set up that negates the principles of democracy, undermines citizens ability to actively participate in governance, engendering developmental outcomes that are not responsive to the needs and aspirations of the citizens. The implication is far reaching because without the legitimacy of democratic institutions, it is difficult, even near impossible to implement the objectives, principles and provisions of ACDEG, and build a society founded on a culture of democratic participation, inclusive governance, equitable development of all citizens.

6.0 Key Findings

- Nigeria has signed and ratified the ACDEG and 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 haven not been adopted into the body of national laws, its provisions do not enjoy status of the force of law and cannot 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 I practice with respect to fidelity to the provisions, letter and spirit of the frameworks, as well as to the enforcement of compliance with the frameworks is extremely weak and circumspect. 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
- Despite constitutional provisions, systemic barriers continue to hinder the participation of women, young people and people with disabilities in electoral politics and public life in general including in political parties, budgeting and allocation of state resources, the outcomes of state policies, running for elected office in clear negation of the ACDEG principles. Despite the age reduction law popular known as the Not too Young to Run law, in the 2019 general elections, the two major political parties, the APC and PDP, fielded only 24 and 31 women candidates, respectively, for the bicameral National Assembly's 469 seats and only 13 and eight legislative candidates, respectively, under the age of 35. Neither the APC nor the PDP fielded women candidates for governor.
- Ineffectiveness of Monitoring Systems on the implementation of the charter in the country, 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.

7.0 Recommendations:

In order to ensure that the observed gaps are adequately filled, and practice conforms more with policy instruments towards Nigeria achieving greater compliance with the letter and spirit of the ACDEG, the following policy advisories are worthy of urgent consideration and implementation.

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.

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.
2. 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. 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. The NASS in domesticating the charter should empower civil society and institute an institutional mechanism for an independent process for measuring, tracking and monitoring progress on implementation of the ACDEG and preparing for submission to the AU Commission, the required biennial implementation status reports from state parties to the charter.
4. Nigeria Government to Improve electoral laws by imposing stiffer sanctions and creating a special tribunal to try electoral crimes; Improve media laws and administration to increase impartial reportage and eliminate fake news; Improve sensitization on the need for disadvantaged groups to be part of the governance and decision making process.
5. Urgent steps need to be taken to deepen the independence of the judiciary including reforms in the administration of justice to respond to the myriads of human rights abuses and miscarriage of justice which remain the key highlights of Nigeria's human rights history.
6. Government to urgently initiate a tailored robust program of education and awareness building for citizens, and for its personnel especially in institutions with responsibility for government policies that speak to the provisions of ACDEG. This program should be developed and undertaken through the National Orientation Agency [NOA]; teaching of civic education in schools, and similar institutions and processes in collaboration with initiatives such as the 'Africa We Want' project, the media and other civil society actors
7. Given the growing complexity of election management and importance of electronic technology in election management, The Nigeria government should strengthen the capacity of INEC to adopt and implement electronic technology in election management particularly in the area of electronic voting, collation and transmission of results. This would reduce the errors, malfeasance and delays in result tabulation and collation, and equally enhance credibility of the entire electoral process.
8. 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.

Legal analysis on ACDEG. AAN October 2018

Recommendations of the 2019 Elections Audit Report. AAN. August 2019

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 the board.

The gender rule of no less than 40% and no more than 60% shall be applicable across the board to both the youth and PWD representation as well.

9. 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.

8.0 Conclusion

It is important to note that 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.

Nevertheless, ratification signifies the country's intention and determination in ensuring the implementation of the Charter's objectives in its National laws and institutions and fulfilling its obligations under the Charter. And although the charter is yet to be domesticated, several relevant laws, constitutional provisions, and administrative measures that cover many of the provisions and accommodate the objectives and principles of the ACDEG exist within the country. But due to the existence of inadequate administrative measures coupled with weak or non-implementation of the legislations, Nigeria is still grappling with its obligations under the Charter. In this instance, 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.

An example of the above is with regards to elections in general and the 2019 general elections in particular, it is obvious that even though the provisions of Nigeria's electoral instruments; the constitution, the electoral act, and the guidelines for 2019 election as issued by INEC conformed substantially, in theory, with the provisions and requirements of the ACDEG, the electoral process diverged in some important aspects in practical terms.

Another instance suffices, 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 ACDEG has helped to shape the evolution of democracy and governance on the continent, its provisions provide for standards and approaches that conform to global standards in the democratic consolidation process in the democratization of state parties. It is important that member states of the African Union and state parties of the ACDEG do collectively work together to develop a robust and operational mechanism that provides for respect and adherence to the provisions of the charter, as partial compliance or outright noncompliance undermines the efforts at building a democratic Africa that is responsive to the needs and aspirations of her people.

Nigeria can become an example in living the aspirations and realising the principles and tenets of the charter by putting in place the necessary mechanisms for its full actualization in the country working with stakeholders in the democratization journey, and projecting through its leadership role on the continent the potentials for good governance that the Charter envisages.

Drawn from the papers "Benchmarking Nigeria's 2019 general elections against the ACDEG", and "The role of civil society in the 2019 general elections." Both by Jaye Gaskia

This section draws largely from the conclusions of the legal analysis study and the audit of the 2019 general elections report,

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