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AFRICAN CHARTER ON DECENTRALISATION, LOCAL GOVERNANCE AND LOCAL DEVELOPMENT

Introduction



The African Union (AU) adopted the 'African Charter on the Values and Principles of Decentralisation, Local Governance and Local Development' in 2014. The Charter is the first real effort of the AU to promote decentralised systems of governance on the continent. It provides a framework for local governance, which parties to the Charter are required to implement in their respective countries.



The Charter is a response to the many problems linked to centralised governance in Africa, such as poor service delivery, and unaccountable and unresponsive governance. The Charter aims to improve the livelihoods of people on the continent through effective decentralisation. The potential of the Charter to realise this goal hinges on three factors:

- i. AU members signing it, and ratifying it (i.e. adopting a national law to bring the content of the Charter into domestic law)
- ii. the subsequent effective implementation by member countries, and
- iii. the nature of the decentralisation framework.

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Similar to most international instruments, member states of the AU will be legally bound by the Charter once they have ratified it. As of the end of 2019, only 17 of the AU's 55 member countries had signed the Charter, while only a further six have ratified it.

What are the Charter's strengths and weaknesses?



Democratic local government

The Charter has several promising provisions that seek to promote democratic local governance. It requires that local governments be managed by democratically elected councils and executive bodies. It also directs central governments to enact legislation that recognises the right and duty of communities to participate in local governance.



Existence of local government

The Charter requires that member states recognise the institution of local government in ordinary national legislation, as opposed to national constitutions. So it does not offer strong protection for the existence of the institution of local governments (see also Factsheets #4 and #5). The Charter does, however, afford sound protection for the existence of individual local governments by, among other things, requiring consultation with such local governments before they are disestablished, merged or have their boundaries altered. (See Fact Sheet #4.)



Powers and functions

The Charter allows member states the discretion to decide the powers of local governments. Some member countries may thus not decentralise functions that are important to local governments' development mandate, even after ratifying it. However, once a central government makes the decision to decentralise powers and functions, the Charter requires that they be full and exclusive, which suggests an element of final decision-making powers.



Revenue raising

The Charter recognises that it is important that local governments raise a significant part of their revenues on their own, which requires the decentralisation of taxing powers. It is, however, silent on either the types of taxes or the tax rates that they can levy, which impacts how much of their own revenue local governments can raise. The Charter also requires that member states allow local governments to borrow money, albeit in a responsible way. Lastly, the Charter encourages the adoption of other methods to raise the revenue necessary for local economic development, such as public-private partnerships.



Intergovernmental transfers

The Charter provides a sound framework with regard the transfer of funds from the central government to local government as a whole, as well as to each local authority. It states that a percentage of revenue raised by the national level must be transferred to local governments. It also states that conditional and non-conditional grants must be in keeping with the principles of sustainability, adequacy, transparency and predictability.



Natural resources

The Charter mandates central governments to put in place mechanisms that would ensure that communities benefit from the exploitation of local natural resources. Central governments are further required to equitably redistribute such proceeds across local governments and communities.



Financial autonomy

The Charter requires that central governments enact legislation that gives local authorities 'the full responsibility to manage financial resources at the local level' – article 16(5)(a). While the role of central governments to oversee the expenditure of revenue at the local level is recognised, the Charter states that such a role should be exercised without undermining local financial autonomy.



Administrative autonomy

The Charter directs member states to give local governments the power over their administrations, including the hiring, promoting and firing of personnel (see Fact Sheets #4 and #5).



Supervision of local government

The Charter requires that central government have oversight over local government finances, and over the establishment of mechanisms to monitor the compliance and performance of local government in its financial duties. It recognises different forms of support that should be provided to local authorities: financial, administrative and technological. Central governments are also encouraged to capacitate local governments through various forms of capacity building programmes.

While the Charter's monitoring and support regime is progressive, the regime on national intervention into local government is not. The Charter does not expressly mention the need to regulate or limit senior governments' intervention powers over local governments. It also does not call for oversight mechanisms when such intervention powers are invoked. These omissions present a danger to local autonomy, as defined in Fact Sheet #4.



Intergovernmental cooperation:

The Charter provides a framework for intergovernmental cooperation to ensure viable and effective local governments. Among other things, it recognises the need for senior governments (central and provincial) to consult local governments on matters that affect them. The right of local governments to form associations is also recognised, as well as the need for central governments to support these associations.



Local Development

The Charter seeks to promote the role of local government in local development. It requires central governments to work closely with local authorities in the development of legislative, financial and institutional frameworks that enable and promote private sector and community development investments or initiatives. The Charter states that local authorities should be accountable to local communities for the adoption and implementation of local development decisions and policies, as well as for the management of financial resources. It also requires that local authorities develop pro-poor initiatives and pay particular attention to marginalised and vulnerable groups.



Traditional leaders

As explained in Fact Sheet #9, traditional leaders remain relevant in many parts of Africa. Unfortunately, the Charter fails to expressly recognise their role or provide guidance on their relationship with local governments. It only requires that, in exercising their powers, local authorities take into account and show regard for local realities, values, and customs – which in the African context includes the role of traditional leaders.

In summary

The Charter's framework for decentralisation puts local government at the centre of service delivery and local development by committing its members to bottom-up democratic governance. It offers a foundation on which to build decentralisation for development.

