ANALYSIS OF AND RECOMMENDATIONS ON THE WORKING DOCUMENT "*TOWARDS AN AFRICAN CHARTER FOR LOCAL GOVERNANCE*"

An Input for an Expert Group Meeting on the "*African Charter on the Values and Principles of Decentralisation*", held in Yaounde, Cameroon – 7 to 9 May 2012.

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PURPOSE

- Provide a brief analysis, with recommendations, of the report "*Towards an African Charter on Local Governance*" which was commissioned by the AU Commission in 2009.

- Structure of Analysis & Recommendations Report:

  1. Towards a Common Understanding of the Term "Charter"
  2. The African Union (AU) and Decentralisation, Local Government and Local Governance
  3. Conceptualising Decentralisation, Local Government and Local Governance in Africa
  4. Challenges and Problems of Decentralisation in Africa;
  5. Assessment of the Principles of Decentralisation
  6. Elements of a Structure for the African Charter on Decentralisation, Local Government and Local Governance
  7. Structuring a Process for Dialogue, Consultation and Adoption

UNDERSTANDING THE TERM "CHARTER"

- *A document outlining the principles, functions, and organization of a corporate body; a constitution* (Free Dictionary)

- Various examples of Charters

- Based on perusal of various definitions - common assumptions and characteristics that most Charters share are:

  - *Aspirational*
  - *Core Values and Principles*
  - *Content Specific*
  - *Behaviour-changing*
  - *Defined signatories and membership*
  - *Defined corporate form and authority*
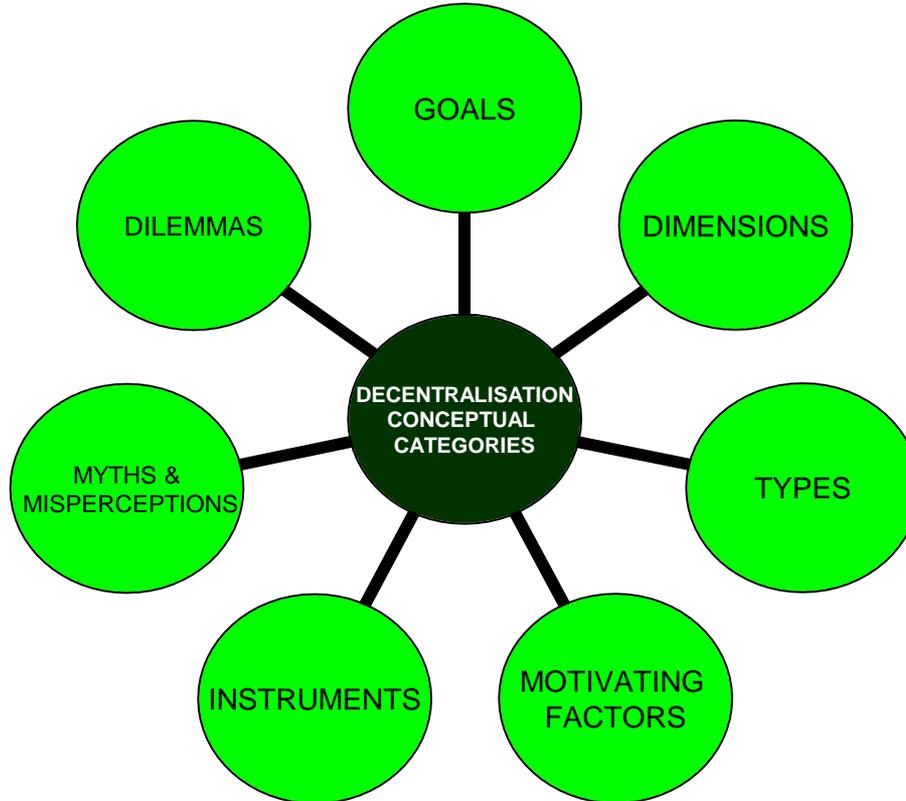 - *Progressive Realisation and Implementation*

AU & DECENTRALISATION, LOCAL GOVERNMENT AND LOCAL GOVERNANCE

❑ Evidence across the African continent and within the AU shows ground swell of support for decentralisation and local governance

❑ Issues of emphasis and nuance:

a) Strengthening local democracy in public life must be paramount in the African policy paradigm on decentralisation.

b) Must be an inextricable link between local democratic governance and sustainable development.

c) Territorial governance from the local level must grapple more decisively with the complementarity of local urban governance and local rural governance and development in Africa.

d) Experiences and lessons of decentralisation in Africa must be more simply and succinctly summarised.

e) Need to articulate various levels of governance on the continent e.g..Pan-African / continental, Regional, Country, Provincial / State / District (Inter-mediate sub-national level), Local government, and Community / Commune / Village / Ward

f) Status and role of (organised) local government in international affairs requires more debate and clarification.

g) Traditional forms of governance in Africa and what this means for Decentralisation requires more work

CONCEPTUALIZING DECENTRALISATION IN AFRICA

"most authors are agreed that decentralisation within the state involves a transfer of authority to perform some service to the public from an individual or an agency in central government to some other individual or agency that is 'closer' to the public to be served" Turner and Hulme (1997)

State of Decentalisation in Africa:

1. **Countries at once both centralised and decentralised**

2. **Africa has the weakest formal local government structures**

3. **Historical trajectory: regional, colonial & country differences**

4. **4 types of local urban governance**

CHALLENGES AND PROBLEMS OF DECENTRALISATION IN AFRICA: ISSUES FOR DEBATE

1. **Not all African countries have constitutionally entrenched or protected decentralisation** and local government.

2. The observation that that not all local governments in Africa are "autonomous" is a contentious one. **Local government autonomy unqualified is not desirable from the perspective of policy or practice**.

3. In some African countries **the entire population does not fall under local government**. Those excluded from the municipal regime do not gain from its intended benefits elaborated earlier.

4. In some instances there is **no correspondence and complementarity between political, administrative and fiscal decentralisation**.

5. **Coordination mechanisms at a local government** level within a decentralised regime are critical. This is **absent in many African countries**. However, some of the nuanced lessons on coordination and decentralisation show that decentralisation should have multiple foci of coordination, with local government occupying a special place.

6. Moreover what is **missing in the Working Document** is a discussion on the **appropriate levers and tools for coordination in decentralisation**. Development planning can be a powerful tool to bolster decentralisation.

7. It is agreed that **local government associations (LGAs) have a varying legal status in African states**. Other problems of decentralisation in Africa that will require elaboration

8. **Other problems include:** inadequacy of resources; pockets of resistance; financing mechansims and unfunded mandates; role of civil society

ASSESSMENT OF THE PRINCIPLES OF DECENTRALISATION

- Seven Principles are substantially supported with some important amendments:

  1. *The Principle <u>Relative</u> Autonomy*
  2. *The Principle of Subsidiarity*
  3. *The Principle of (Entrenchment- proposed deletion) <u>Differentiation</u>*
  4. The Principle Of Participation
  5. *The Principle Of <u>Co- (or Shared)</u> Responsibility <u>and Complementarity</u>*
  6. *The Principle Of Efficiency*
  7. *The Principle Of Solidarity And Cooperation*

- Rationale for proposed amendments and remarks are offered in the document

ELEMENTS OF A STRUCTURE FOR THE AFRICAN CHARTER ON DECENTRALISATION, LOCAL GOVERNMENT AND LOCAL GOVERNANCE: PROPOSALS

1. **Pre-amble**
   - (We etc, Inspired by, Recognising, Reaffirming, etc)
2. **Definitions**
   - (AMCOD, AU, decentralisation, local government etc)
3. **Objectives**
   - (The objectives and aims of the Charter etc)
4. **Scope of the Charter**
   - (Addresses mainly the matters of decentralisation, local government and local governance in Africa)
5. **Principles**
   - (Relative autonomy, Subsidiarity, Differentiation etc)
6. **Implementation**
   - (Approach to implementation: progressive realisation; entities that are expected to implement the Charter etc)
7. **Monitoring**
   - (Mechanisms for monitoring; intervals of monitoring; peer review etc)
8. **Institutional Mechanisms**
   - (Specification of the scope and status of the membership entity; Relationship to the AU; Secretariat etc)
9. **Multi-Level Governance**
   - (Identification of key bodies across all levels / scales related to Decentralisation, Local Government and Local Governance etc)
10. **Membership**
    - (Definition of membership; process of inclusion and departure of members etc)
11. **Amendments**
    - (Process by which amendments can be effected etc)
12. **Ratification and Signature**
    - (Process of ratifying and becoming a signatory to the Charter)

STRUCTURING A PROCESS FOR DIALOGUE, CONSULTATION AND ADOPTION OF THE CHARTER: 3 PHASES -

Political and technical process will need to interact dynamically

1.   Preparing the Ground:
  - Identifying the main substantive issues and the political, legal and technical consultations that will be required. Start an initial packaging of the issues and stakeholders. The resources required for the entire process must also be identified upfront.
  - Initial selective lobbying on the concept of the Charter must seek to get in principle support for the process from crucial stakeholders, such as the Pan- African Parliament, AUC, RECs, regional LGAs, UCLGA, targetted Heads of State etc.
  - Formalising the Institutional Management Machinery:
  - AMCOD and UCLGA, together with the AUC, to take overall political management responsibility.
  - A broader representative political and technical forum (could be split in two) from the various AU regions must be established to act as the sounding board for the process to develop a road map for dialogue, drafting, consultation and adoption.
  - Formal adoption of a Secretariat and mobilisation of support, resources and a drafting team.

2.   Drafting and Consultation Phase:
  - A zero draft to be prepared for consultation; this must be approved by the overall political management entity.
  - The technical consultations could be regional- / theme- / topic-based with inputs from experts and practitioners etc.
  - Political consultations must be appropriately sequenced.
  - Some form of public involvement via local and regional round tables, citizens' panels, online consultation, etc. will be important
  - Preparation of a final draft (after an agreed number of initial drafts and an approved satisfactory consultative process)

3.   Finalisation and Adoption Phase
  - Submissions of the final draft to the relevant and agreed to political, legal and stakeholder structures for approval.
  - Adoption and publication of the Charter at an appropriate convention bringing together local and regional representatives and representatives of the African institutions, accompanied by a signing session.
  - A campaign to promote the signing of the charter and a publicity campaign.

Thank you