

*Meaningful democracy presupposes the ability of all people to pull their limited resources, to form and develop ideas and programmes, put them on the political agenda, and act to support them. For it is in the learning life of associations, organisations and movements that common problems, which reverberate first in individual life histories are distilled and transmitted in amplified form to the public sphere.*

**GTZ/UNECA PROGRAMME ON  
CIVIL SOCIETY AND POLITICAL CONSENSUS BUILDING**

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*Foundations, development and potential of*  
**CIVIL SOCIETY IN AFRICA:**  
**AN ASSESSMENT AND STRATEGIC PERSPECTIVE<sup>1</sup>**

*Volume III*  
**A REVIEW OF THE POST 1989 POLITICAL TRANSITION:  
THE INFLUENCE OF CIVIL SOCIETY - A NIGERIAN CASE STUDY**

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*Report prepared as part of the*  
Assessment of Lessons Learned for Popular Participation in  
Political Consensus Building and the Current State and Potential of CSOs in Africa:  
Foundations of new Strategies and approaches

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<sup>1</sup> This is a consultancy report presented to GTZ as part of a contractual fulfilment. It is made of four volumes. Volume I is a theoretical construct for civil society development in Africa, volume II is the context of state-society relations, volume three is an analysis of the influence of the project on political transition in Africa, volume four is the strategic perspective and way ahead.

*Volume III*  
**A REVIEW OF THE POST 1989 POLITICAL TRANSITION:  
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**THE ROLE OF CIVIL SOCIETY  
IN THE TRANSITION**

Students, churches, urban workers organised in labour unions are among civil society organisations that played a crucial role in resisting arbitrariness. These organisations have been spearheading the democratic struggle well before the recognition of political parties and the installation of pluralism. The leading role in the transition was without doubt played by the press, the private press in particular, which reported daily on what was stake in the state's repression of the pro-democracy struggle. Better yet the interdictions, the multiple trials by the state against journalists and newspaper publishers have not dampened the combative fervour of a free press more and more numerous.

In the African case, in a short period of time, the youth began to join the armed struggle in large numbers. The new recruits were given military training and a comprehensive and general political education on the essence of peoples revolution in general and the Tigrayan People's New Democratic Revolution in particular. The most important factor for mobilisation again was the organisation of *Baytos* (civil society organisation) and the wise management of local resources for organisational purposes. Around mid-1978, there were *Baytos* from the village to the provincial levels.

- The effort of these groups and the struggle waged by students and urban workers in particular have often turned violent reaching its height during the riots in Zambia and Mali, leading to democratic elections in Zambia and a military coup d'état in Bamako.
- In Cameroon, the tragedy engendered by “ghost town” operations was another indication of the unhappiness of urban dwellers who were confronted to the effects of an economic crisis associated to the authoritarian regimes were already suffering from a crisis of confidence. The eruption of young people in political life was an important phenomenon for the consolidation of the democratic movement that shook the apathy of workers unions traditionally subordinated to the regime. These organisations have served as a forum and often provided the core constituency for the formation of new political parties.
- This is obvious in most countries like Zambia, Ghana, and Mali. While highlighting the autonomy and competence of these organisations to provide some checks and balances against the arbitrariness of those in power, it is not always clear these organisations themselves espouse democratic principles or are democratic. This explains the ease with which those in power were often able to co-opt these organisations that are dominated first by their corporatist character. The Nigerian case holds many examples of labour union manipulation not to speak of the federal state ability to break the unity of action of those organisations, which were spearheading the democratic movement.

Notwithstanding these problems, it is the action of these civil society's organisations feeding the vigour of the democratic movement that made possible the recognition of multi-partyism and the mushrooming of political parties. After so many years of banishment and void in the political sphere such mushrooming of parties could not have been totally unexpected.

- If in Zambia and Mali for particular circumstances the opposition has been able to triumph at the ballot box the incumbent regimes have maintained themselves in Ghana, Cameroon, Mozambique for reasons having to do with, among others, the splintering of opposition political parties.
- The situation in Nigeria is stuck since the nullification of the 1993 presidential elections and the return of the army to power.

## THE ISSUES

The disenchantment with the ruling party among the broad spectrum of opposition groups and NGOs who had very high expectation from the transition at the beginning to multi-party democracy have been caused by several crucial issues. There is considerable consensus among the political parties and civil society groups on the mode of amending/adopting the constitution of 1996, management of the electoral process and the Bill of Rights.

1. The Constitution: The populace, the opposition argues, should ideally be given optimum opportunity to debate as widely as possible any proposed change in the constitution in order to reach a consensus. The broad consultation does not necessarily have to be through a referendum but neither should it be confined to the recommendations of a constitutional commission and the wisdom of a parliament in which the ruling party controls the necessary majority to pass legislation with 'little' opposition. It should be possible to fulfil the aspirations of the people to participate fully in the introduction of such a basic and important document as the constitution. Aside of the issue of adequate public participation, the 'perception' that particular provisions of the Constitution are introduced for the purpose of damaging specific persons or political forces is very prevalent.
2. The Electoral Process. Another contentious issue is the fairness of the totality of the electoral process, beginning with the registration of voters up till the actual voting. Registration of voters and conduct of both Presidential and Parliamentary elections are governed by the Electoral Act. The electoral commission was constituted barely a month to the elections. A situation whereby registerable voters have difficulty in fulfilling their civic duty of getting registered, obtaining a voters card and not having reasonable avenues for correcting any anomaly before election must not be justified on the basis of administrative expediency because it is not likely to produce a free and fair election.
3. The Bill of Rights. While the Bill of Rights is firmly entrenched in the African Constitutions, the negative terms in which many of the rights are provided have become a source of divergence. Opposition groups articulate that The Bill does not cover the full

range of rights and freedom guaranteed under the international Bill of Rights, such as equality before the law, the right to take part in the state, an enforceable right to compensation for unlawful arrest or detention, etc. In addition to the above general limitations, most of the guaranteed rights contain numerous derogatory clauses. These clauses allow the Legislature to enact laws that might result in the taking away of the subsistence of rights granted. It is thus possible to obstruct the full participation of political opposition groups and parties in the political process.

The right of assembly should be subject to only one condition, that it is, exercised peacefully. Similarly, the protection of the right to freedom of expression must not only be observed, press freedom in particular must be promoted so as to ensure accountability of the governors to the governed. The state's monopoly of the electronic media needs to be addressed, as the development of responsible journalism will make an important contribution to democratisation. The dominant position which States occupy makes it needs to display restraint in resorting to extra judicial means and criminal proceedings, particularly where there are other means available, for reply to the perceived unjustified attacks and criticisms of its adversaries in the media. There is of course also the need for the media to create a self-regulatory professional body for journalists, backed by law, to enforce ethics and standards. The media policy document released by the Ministry of Information and Broadcasting Services could provide a baseline from which efforts to improve freedom of expression in Africa can be built.

4. The Judiciary is said to be the last hope of the common human being against tyranny. Hence, the judiciary must be independent of both the Legislature and Executive, in theory as in practice. However, the independence of the judiciary implies much more than the separation of powers. It involves ensuring that the judiciary has the capacity to fulfil its duties and functions. Inadequate human and fiscal resources will affect not only the quality but also the quantity of justice. Justice delayed is justice denied, hence situations where there is delay because of courts congestion denies justice to the litigant. Indeed, obsolescent knowledge of the law without the necessary tools for updating it makes injustice inevitable. Uncertainty of tenure and inadequate remuneration of the officers of the court leaves them more easily susceptible to corruption and intimidation. Surreptitious attacks on the judiciary from any quarters merely undermine the confidence of the populace in the institution and this is a way of laying a foundation for the breakdown of law and order. The Judiciary in Africa has shown that it can rise to the challenge of dealing with any interference in the performance of its duty without fear or favour as evidenced by some of the decisions, which have emanated both before and since the beginning of the transition to a stable democracy.
5. Political parties are vehicles through which democracy is practised. Africans, in readopting the multi-party system in 1991 had vowed against the one party system and underscored that democracy is best practised where power is not concentrated in the ruling party or under the one-party state. This logic should have made the acceptance of the opposition a sine qua non. Unfortunately, opposition claims that State "regards opposition parties as undesirable nuisances, rather than partners in progress" and State claims that "the opposition parties are overly-anxious to seize power, rather than seek

national reconciliation;” has disempowered the stakeholders to participate meaningfully in building national consensus. It is therefore neither unusual nor surprising that situation is one of acrimony rather than reconciliation between the ruling party and the opposition parties.

## **Section II RECOMMENDATIONS PERSPECTIVES FOR CHANGE AND BUILDING SUSTAINABLE DEMOCRACY**

Africa and Africans are and must be the ultimate determinants of their own democratic fate. It is clear that for the current democratic movement to survive, a balance should be created between the state and civil society. Whatever the technical construction chosen to express democracy in Africa, the sustainability of the system will depend on how its understanding of social groups and institutions of the rights and obligations of citizenship and respect for democracy. The culture of accepting victory with modesty and defeat with honour must become entrenched in the political culture of Africans and Africa.

The need to take urgent measures and steps begin the process of building the political culture that would underpin this rich cultural resource is key to enhancing the democratic process and a window of opportunity for peaceful co-existence. The process of peaceful dialogue, which characterised the transition from one-party to multi-party system of democratic rule, must be constantly resuscitated and incorporated into the system of governance as means of alternative conflict management. This involves tolerance of opposing viewpoints and the acceptance of divergent view with the intention of reaching an acceptable compromise. Insofar as existing perspectives on political reform in Africa neglect to pose the problem of articulation of democracy as a relatively autonomous mode of analysis in which democracy projects impose ideology upon states and societies from the outside; democratisation would consist of a set of activities in which “universal” concepts and standards of governance are merely "applied to", as distinct from produced or re-produced in, African contexts and conditions.

Even at the level of application alone, it is largely overlooked that international models may enter societies through a proliferation of programmes and mechanisms that hinder the growth of open and effective transition process, retarding the development of indigenous democratic-system experience and capacity. The main strategy for participatory and inclusive democratic development will therefore largely depend upon a consideration of the mechanisms that must be framed, structured and negotiated, and eventually and hopefully accepted. The following are initial “building blocks” for a comprehensive democratisation programme over a long period of time, of which the modalities, structuring and sequencing will constitute the agenda for dialogue. Indeed a commitment to an agreed agendum will allay the fears of all stakeholders of the backsliding of democratisation in Africa.

- 1) Constitutional Review should be high on the Agenda. There are various tested and acceptable modules for the enactment and adoption of viable constitution. The bottom line is that whatever emerges as the end product should be the wish of the people

themselves. It must be stressed that a referendum requires a highly enlightened populace and the overall perceived awareness of the issues by the populace will determine and justify the need for referendum.

- 2) Structures and institutions for the review of the electoral processes. Elections are the most striking manifestation of the sovereignty of the people, who would feel cheated if the value of their vote were distorted or negated by unfair electoral processes. Consequently one of the greatest threats to democracy arises from unfair or manipulative electoral processes and systems. While efforts should be made to educate the public about the importance of performing this civic duty, it is incumbent on the state to streamline the performance of this duty adequately. The electoral process is a crucial democratic force and it may be necessary to sustain it by introducing new democratic rules. Hence, there is a need for adequate supportive institutional capacity and adhering closely to the provisions of the legislation governing the electoral processes.
- 3) Electoral Administration, a responsibility of the Electoral Commission, established under the provision of the constitution, is a very vital institution and must be seen to be impartial and independent. It must also have the necessary capacity to fulfil the onerous duty of not only compiling a correct register of voters, but also making the register available to the public in sufficient time to receive and correct complaints before such register is validly used for an election. The voters' register can be initiated to correct anomalies. Since the register should have been due for a review around this time, by law, positive action to implement the law will be a step in the right direction. The Electoral commission should take the initiative to perform its legally defined duty of producing a valid register of voters and issuance of voters cards. The independence of the commission having been assured, the legal procedures for challenging unsatisfactory individual election results should be enhanced. There is also a serious need to critically examine the electoral systems inherited from the colonial rule in order to facilitate a more responsive system of representation in parliament.
- 4) The constitution of the Anti-Corruption Commission, Drug Enforcement Commission and Human Rights Commission - with representatives of all shades of opinion and classes within the society - will ensure that alleged threats and actual violations of human rights are channelled through an independent institution and addressed with objectivity. Although there is not substantive evidence that the judiciary is being manipulated proactive measures may be necessary to restore the confidence of the people in the judicial system and its officers. Strengthening the independence of the Judiciary, by creating awareness and accountability within the executive, however, would mean supporting the democratic process more meaningfully.
- 5) Capacity building of the political parties and civil society organisations and the foundation of a think tank. Africa has very little, if any, experience in open democratic discourse and is unfamiliar with the critical values and practices that anchor democratic culture and tradition. In the African case, in the face of the fact that past and present "Constitutions" had never actually been effectively established, especially as democratic structures, they are criticised for failing "to protect the rights of the citizenry". Such gross

generalisations attempt to assess failure and make a move in a game by reference to a set of rules which on the one hand are alien to the majority of the populace had never been in place and in force on the other. Democracy must actually exist, take definite shape and structure and become a working process, before particular criticisms, claims and demands can be based on it. The great strength of democracy over other political systems is it encourages the expression of different points of views, and all ideas and beliefs are constantly subjected to review and criticism. In this way errors in policy and programmes are exposed and greater accountability is achieved. The values of tolerance is also emphasised by the consideration that democracy is not merely a matter of majority rule. The majoritarian principle is important to establish which party has the right to manage state and administration, but it does not vest it with the authority to disregard the views of other parties or social movements. Given the African situation, one must think of three important functions in building the capacity for a local think -- research, extension and communication. Some areas of concern that could be addressed include introduction of the concept of prospective thinking; relations between the state, civic organisations and the economic reform programmes; human rights in a society in transformation; gender sensitivity - how to identify and combat forms of discrimination; culture, tradition, renewal; and globalisation;

- 6) In keeping with its functions of strengthening civil society and fostering a dynamic and interactive relationship between state and civil society, a major preoccupation of the Think Tank would be the promotion of a rights culture among the population through development of materials for training of trainers, making publications accessible to the public, curriculum development on democracy and good governance and strengthening existing initiatives in civic education. The Think Tank will constantly provide research material on the rule of law, financial accountability and transparency, budgetary policies and priorities, administrative and bureaucratic consistency, political openness, tolerance, participation and communication, and favourable environment for private enterprise.
- 7) Building the Capacity of the legislature, Judiciary and Executive: The training priorities will be informed by ongoing research and an interactive and participative process with the trainees themselves. All three sets of officers or officials understand the separation of powers. Each group has specific functions that compliment the activities of the others. Some of the functions performed by each of these groups should act as checks and balances against abuse by others.
- 8) Capacity building for the spirit of tolerance. Democracy requires that political and policy differences are resolved in a spirit of respect for the views of others. The spirit of tolerance is particularly important during a period of transition to democracy to entrench the values and practices of democracy at a time when a new political order is being established. The spirit of tolerance is enhanced if there is a proper recognition by the opposition of the right and responsibility of the state to run the administration of the country and the recognition by the state of the right and responsibility of the opposition to criticise state policy and administration and to offer alternative ideas and policies, and to lobby for them. One way to achieve the diffusion of power and sustenance of human rights is through the establishment of independent institutions for the performance of

certain state functions: the legislature, judiciary, ombudsman, human rights commission, public service, electoral commission, the director of prosecutions, etc. that ensure basic rights. Two rights are particularly valued in a democracy: the right of association. The right of association is essential for the vitality of civil society as well as of political organisations. The freedom of expression, especially of the press, is indispensable for the dissemination of ideas and policies of individuals and groups and the accountability of state institutions and other organisation, which wield power of others. This right requires access to the media for all points of view. In the transition to democracy it is particularly important that the state owned media should be independent of the control of the state of the day.

- 9) An active and vigilant civil society is necessary for the participation of groups in policy debates, for the promotion and protection of special interests, for the protection of vulnerable members of society, and for the accountability of state and other institutions. Hence the need for a comprehensive civic education. The legitimacy of any democratic process comes from an acceptance of the fairness and transparency of its procedures for elections to state offices and for policy making. The sustainability of democracy depends on the maintenance of public confidence as well as the confidence of political groups in the fairness of these procedures. If a group considers that rules and procedures have been designed or manipulated to its disadvantage, it would withdraw its loyalty to the constitutional and political system and regard itself justified in ignoring or breaking the law in promoting its interests. Civic education training must be a key component of many development programmes and projects. It is fundamental argument that civic education - learning about and appreciating one's rights, duties, obligations and responsibilities as a citizen and the immediate rules, laws and governance structures within which one exercises citizenship is the first and fundamental step in popular participation.

## **NIGERIA Case study**

### **A TRANSITION WHERE MANY LESSONS HAVE BEEN LEARNED**

The purpose of this case study is aimed at illustrating some of the highly refined and complex issues surrounding democratisation using the case of Nigeria and facilitating the process of discourse and dialogue between the various stakeholders in the Nigerian transition to sustainable democracy in this workshop provide a background for. The paper, therefore, attempts to, inter alia

- Assessing the trajectories and components of the Nigerian transition in objective terms,
- Identifying scope, impediments and opportunities for consolidating democratisation in the wake of the 1991 and 1996 elections; This would note the problems of political change and the articulation of transition issues, goals, task, mechanisms, activities; and
- Analysing of a bridging-conciliation strategy - examination of its sources, elements, features and limitations and its implications for democratic transition.

The challenge is clear: to find ways forward by developing structures and mechanics that will not only resolve the immediate stalemate but also lay a solid foundation upon which enduring democracy will thrive.

- I. The issues: The disenchantment with the ruling party among the broad spectrum of opposition groups and NGOs who had very high expectation from the transition at the beginning to multi-party democracy have been caused by several crucial issues. There is considerable consensus among the political parties and civil society groups on the mode of amending/adopting the constitution of 1996, management of the electoral process and the Bill of Rights.
- II. The Constitution: The populace, the opposition argues, should ideally be given optimum opportunity to debate as widely as possible any proposed change in the constitution in order to reach a consensus. The broad consultation does not necessarily have to be through a referendum but neither should it be confined to the recommendations of a constitutional commission and the wisdom of a parliament in which the ruling party controls the necessary majority to pass legislation with 'little' opposition. It should be possible to fulfil the aspirations of the people to participate fully in the introduction of such a basic and important document as the constitution. Aside of the issue of adequate public participation, the 'perception' that particular provisions of the Constitution are introduced for the purpose of damaging specific persons or political forces is very prevalent.
- III. The Electoral Process. Another contentious issue is the fairness of the totality of the electoral process, beginning with the registration of voters up till the actual voting. Registration of voters and conduct of both Presidential and Parliamentary elections are governed by the Electoral Act. The electoral commission was constituted barely a month to the elections. A situation whereby registerable voters have difficulty in fulfilling their civic duty of getting registered, obtaining a voters card and not having reasonable avenues for correcting any anomaly before election must not be justified on the basis of administrative expediency because it is not likely to produce a free and fair election.
- IV. The Bill of Rights. While the Bill of Rights is firmly entrenched in the Nigerian Constitution, the negative terms in which many of the rights are provided have become a source of divergence. Opposition groups articulate that The Bill does not cover the full range of rights and freedom guaranteed under the international Bill of Rights, such as equality before the law, the right to take part in the state, an enforceable right to compensation for unlawful arrest or detention, etc. In addition to the above general limitations, most of the guaranteed rights contain numerous derogatory clauses. These clauses allow the Legislature to enact laws that might result in the taking away of the subsistence of rights granted. The Public Order Act falls within this exception. The use of Public Order Act, especially the police powers of detention and restriction as well as the police powers to approve or disapprove the assembly of persons is causing anxiety. The use of these powers interferes with two

important fundamental human rights guaranteed by the Bill of Rights namely, the right to freedom of movement and freedom of assembly. It is thus possible to obstruct the full participation of political opposition groups and parties in the political process. Following a Supreme Court decision, some modifications were made to the police powers, but this has yet to allay the fears in the opposition quarters as these institutions can revert to old habits.<sup>2</sup>

- V. The Judiciary is said to be the last hope of the common human being against tyranny. Hence, the judiciary must be independent of both the Legislature and Executive, in theory as in practice. However, the independence of the judiciary implies much more than the separation of powers. It involves ensuring that the judiciary has the capacity to fulfil its duties and functions. Inadequate human and fiscal resources will affect not only the quality but also the quantity of justice. Justice delayed is justice denied, hence situations where there is delay because of courts congestion denies justice to the litigant. Indeed, obsolescent knowledge of the law without the necessary tools for updating it makes injustice inevitable. Uncertainty of tenure and inadequate remuneration of the officers of the court leaves them more easily susceptible to corruption and intimidation. Surreptitious attacks on the judiciary from any quarters merely undermine the confidence of the populace in the institution and this is a way of laying a foundation for the breakdown of law and order. The Judiciary in Nigeria has shown that it can rise to the challenge of dealing with any interference in the performance of its duty without fear or favour as evidenced by some of the decisions, which have emanated both before and since the beginning of the transition to a stable democracy.
- VI. Political parties are vehicles through which democracy is practised. Nigerians, in readopting the multi-party system in 1991 had vowed against the one party system and underscored that democracy is best practised where power is not concentrated in the ruling party or under the one-party state. This logic should have made the acceptance of the opposition a sine qua non. Unfortunately, opposition claims that State “regards opposition parties as undesirable nuisances, rather than partners in progress” and State claims that “the opposition parties are overly-anxious to seize power, rather than seek national reconciliation;” has disempowered the stakeholders to participate meaningfully in building national consensus. It is therefore; neither unusual nor surprising that situation is one of acrimony rather than reconciliation between the ruling party and the opposition parties.

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