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**PART 1: The United Nations Charter vs. 1999 Constitution under its Sections 12 Directly Affected Nigeria's Obligation to Truthfully Implement the UN Convention on the Rights of Persons with Disabilities (CRPD) and all other UN Treaties Signed and Ratified by Nigeria**

**How Nigeria and her section 12 of the 1999 Constitution, knowingly and intelligently violated all mandates set by the United Nations Charter and its Treaties Agreements**

This valid, arguable and verifiable Nigeria's section 12 of 1999 Constitution directly, became part of the underlying causes of decades of Nigeria's endemic corruption, Insecurity, Terrorism, Insurgency, Banditry, kidnapping, armed robbery, irreconcilable community disputes, mismanagement and embezzlement of funds derived from exploration and sales of crude oil and gas, lack of Disability and women inclusive, digital economic developments, innovation and technology, etc., which were successfully passed down from one leadership to another, and now inherited by HE President Muhammadu Buhari and his administration.

On April 25, 1945, 75 years ago, the final text of the United Nations Charter was unanimously adopted at the San Francisco Conference. On June 26, 1945 it opened for signature and it also entered into force on October 24, 1945 following its ratification by the original five members. Today, most UN member States, including our Federal Republic of Nigeria, who was not part of the original members, until October 7, 1960, have signed and ratified the UN Charter.

On October 7, 1960, the Federal Republic of Nigeria became a member of the United Nations and on same day, signed and ratified the UN Charter. As a result, Nigeria agreed to fully implement the United Nations Charter as agreed on June 26, 1945, when it was adopted. They include the entire Treaties signed and ratified by Nigeria.

One of those treaties signed and ratified by Nigeria, which is the major area of concerns to our members of 31 million Nigerians with disabilities; 15 million Almajiris, millions of Internally Displaced Persons (IDP) and other victims of man-made/natural disasters and retired older Nigerians who suffers from age related disabilities is, the **United Nations Convention on the Rights of Persons with Disabilities (CRPD)**, which Nigeria signed and ratified with its accompanying Optional Protocol, on March 30, 2007 and September 24, 2010, respectively.

It is deceitful to the UN member States and its 1945 governing Charter, the United Nations Secretary-General and Deputy Secretary-General, Former members of the United Nations Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities [A/RES/60/232]; United Nations Department of Economic and Social Affairs (DESA), United Nations Division of Social Policy and Development (DSPD), UN Special Rapporteur on the Rights of Person with Disabilities, United Nations Office of the High Commissioner for Human Rights (UN-OHCHR),



the United Nations Secretariat for the Convention on the Rights of Persons with Disabilities; United Nations Committee on the Rights of Persons with Disabilities (CRPD), International Disability Alliance (IDA) and her over one billion persons with Disabilities Worldwide and the Joint National Association of Persons with Disabilities of Nigeria (JONAPWD) and several others that, our Federal Republic of Nigeria, knowingly or deliberately and intelligently signed and ratified the United Nations Convention on the Rights of Persons with Disabilities and its accompanying Optional Protocol under the mandates set by the 1945 United Nations Charter, despite being fully aware that because of the 1999 Nigerian Constitution’s Section 12 that is a Dualist legal system, **“The constitution ... accords no special status to treaties; the rights and obligations created by them have no effect in domestic law unless legislation is in force to give effect...”**

**1999 NIGERIAN CONSTITUTION SECTION 12 DUALIST LEGAL SYSTEM ---** How it Directly Affected Nigeria’s Truthfulness in Implementing the United Nations Convention on the Rights of Persons with Disabilities and all other UN Treaties signed and ratified by Nigeria.



**Description of Photo from L-R: HE Ambassador Dr. Chijioke Wigwe, HE. Ambassador Obi-Okoye, Deputy Permanent Representative, Permanent Mission of Nigeria to the UN and Chief Eric Ndubueze Ufom, President/CEO of Equal Rights for Persons with Disabilities, who represented Nigerians with Disabilities in directly witnessing Her Excellency, Ambassador Prof. U. Joy Ogwu, sign the UN Convention on the Rights of Persons with Disabilities at its accompanying Optional Protocol on March 30, 2007, at the UN General Assembly Hall, UN Headquarters, New York**

But then, it is sad and very unfortunate that under Nigeria’s 1999 Constitution, section 12, Nigeria always signs and ratifies every UN Treaties, including the United Nations Convention on the Rights of Persons with Disabilities, despite being aware that Nigeria’s Constitution has violated all mandates set by the UN Charter.

**SECTION 12 OF THE 1999 NIGERIAN CONSTITUTION MANDATED THAT:** “No treaty between the Federation and any 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”

Therefore, per this Section 12 of the 1999 Nigerian Constitution, which is a Dualist Legal System, without Legislative direct intervention, the entire United Nations Treaties signed and ratified by Nigeria, Including the United Nations Convention on the Rights of Persons with Disabilities automatically has no effects on the Nigerian Constitution and entire Domestic Laws.



**DOMESTIC APPLICATIONS OF THE UNITED NATIONS CHARTER’S TREATIES ---**

**Monist -Dualist** Legal Systems Framework and how they directly, affected true implementation of the United Nations Treaties by every UN Member States, especially, the United Nations Convention on the Rights of Persons with Disabilities (CRPD) by the Federal Republic of Nigeria, who knowingly or deliberately and intelligently signed and ratified it with Its accompanying Optional Protocol on March 30, 2007 and September 24, 2010, respectively.

**“Scholars employ the terms ‘Monism and Dualism’ to describe different types of domestic legal systems.<sup>12</sup> Used in this sense, dualist states are states in which the constitution ... accords no special status to treaties; the rights and obligations created by them have no effect in domestic law unless legislation is in force to give effect to them’.<sup>13</sup> In contrast, [t]he essence of the monist approach is that a treaty may, without legislation, become part of domestic law once it has been concluded in accordance with the constitution and has entered into force for the state’.<sup>14</sup>”** Please See the attached Santa Clara Law Commons, page 3 titled; I-Monism and Dualism or visit:

<https://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=1620&context=facpubs>

BARR. OKEKE & ANUSHIEM, LL.B, BL, LL.M, Private Legal Practitioner based in Awka, Anambra State, Nigeria, in his publication titled, “Implementation of Treaties in Nigeria: Issues, Challenges and the Way Forward,” ABSTRACT Stated that;

“Treaties between Nigeria and other subjects of international law do not transform into domestic laws unless they are specifically domesticated, that is, enacted into laws by the National Assembly. But the National Assembly has, over the years, shown little interest in discharging this all-important constitutional task; hence, most treaties, which Nigeria is a party to, have not been domesticated many years after their ratification. And this has stripped Nigerian legal system of the requisite support and complementarity which it ought to derive from those ratified but domesticated treaties. The objective of this paper is to examine the relevance of treaties in the development of the Nigeria legal system and the place of treaties in the hierarchy of Nigerian law. The paper also examines the causes of poor implementation of treaties in Nigeria, as well as the effects of the 1999 Constitution (Third Alteration) Act, 2010 on the application of treaties in Nigeria. The research methodology adopted by the researchers is purely doctrinal whereas the approaches employed herein are chiefly analytical, descriptive and prescriptive. This paper concludes that noninvolvement of the National Assembly in the negotiation of treaties is largely responsible for the poor implementation of treaties in Nigeria. The researchers therefore, recommend immediate amendment of the Treaties (Making Procedure Etc) Act, 2004 by the National Assembly so as to make the participation of the National Assembly compulsory in treaty-making in Nigeria. Also, the paper recommends an outright repeal of section 12 of the 1999 Constitution so that every treaty to which Nigeria is a party shall be justiciable in Nigeria without any legislative intervention.” Please See the attached Appendix 2 for details.



Per the aforementioned valid, arguable and verifiable statement of facts, it is obvious, that Nigeria entered into these treaties, without an intention to comply with the provisions. The issue being, that Nigeria by virtue of Section 12 of the 1999 Constitution, runs a dualist system making it impossible to enact these laws domestically.

Reviewing Nigeria's commitments to these treaties, it is obvious that the country has failed to meet its obligations towards international treaties, making it difficult for Nigeria to move forward with the rest of the world.

There are huge differences between the two. Based on the UN Charter governing ratifications of Treaties, it mandates Nigeria and all other Nations, upon signing and ratifying the UN CRPD to authorize the Legislative Branch of the Government of the signing country, to implement the Treaty's mandate, especially, the UN CRPD Article 4.

Therefore, The Legislative branch, has the sole responsibility to amend, Nigerian's Constitution, the Discrimination Against Persons with Disabilities (Prohibition) Act 2018, under the mandates set by the UN CRPD, article 4 and other laws and as well as, monitoring its full implementations, to ensure full compliance.

This part of the 1999 Nigerian Constitution's Section 12, has been a hindrance to the implementation of international treaties, no matter how beneficial, they may be. In fact, it seriously affected the enactment, readings by both the Senate and House of Representatives, Harmonization, votes, passage and assent into law of the Discrimination Against Persons with Disabilities (Prohibition) Act 2018, establishment of an Independent Implementation Commission because these critical stages has failed to comply by the UN CRPD Article 4.3 as described above on paragraph one of this page 5.

This is because the 1999 Nigerian Constitution, section 12 which grossly violated the United Nations Charter, especially, the entire United Nations Treaties signed and Ratified by Nigeria, to include, the United Nations Convention on the Rights of Persons with Disabilities, directly affected Nigeria's, President Muhammadu Buhar and his Administration's war against Corruptions, Terrorism, Insurgency, Bandits, Armed Robbery, Kidnapping, irreconcilable violent disputes amongst different Communities, etc...

It also directly affected Nigeria's Legislative Process and Nigeria's True implementation of the United Nations Convention on the Rights of persons with Disabilities under its Article 4, while enacting, harmonizing, voting, assent into law for formation of an independent Commission for the Discrimination Against Persons with Disabilities (Prohibition) Act 2018 (Nigerians with Disabilities Act (NDA)).



**SUGGESTED LONG LASTING SOLUTIONS TO THE WRONG SECTION 12 OF 1999 NIGERIAN CONSTITUTION**

BARR. OKEKE & ANUSHIEM, LL.B, BL, LL.M, Private Legal Practitioner based in Awka, Anambra State, Nigeria, in his publication titled, “Implementation of Treaties in Nigeria: Issues, Challenges and the Way Forward,” ABSTRACT Stated that;

“4. The Role of the National Assembly in the Implementation of Treaties in Nigeria The role of the National Assembly in the domestication of treaties in Nigeria is not only primary, but also exclusive. Thus, section 12 (1) of the 1999 Constitution provides that ‘no treaty between the Federation and any other country shall have the force of law [in Nigeria] except to the extent to which any such treaty has been enacted into law by the National Assembly.’<sup>24</sup> This section makes it very clear that the National Assembly is the only legitimate organ of government that is responsible for implementing treaties in Nigeria. The logic behind this provision is not far-fetched: the National Assembly is the only entity empowered by the Constitution to make laws on behalf of the federal Government. Of course, it would amount to usurpation of the legislative powers of the National Assembly if a treaty that is made by the executive is allowed to have the force of law in Nigeria without the intervention of the National Assembly. Thus, it was once observed that ‘law-making power is given to the Legislature, not to the Executive. Accordingly, the signing of a treaty by the Executive cannot promulgate law.’<sup>25</sup>;

“The power of the National Assembly to enact laws for the purpose of implementing treaties is not limited to matters under the Exclusive Legislative List and Concurrent Legislative List, but also extends to matters under the residual list. Hence, section 12 (2) of the 1999 Constitution provides that “[t]he National Assembly may make laws for the Federation or any part thereof with respect to matters not included in the Exclusive Legislative List for the purpose of implementing a treaty.” This subsection specifically empowers the National Assembly to make laws for the Federation or any part thereof with respect to matters in the Concurrent Legislative List and residual matters for the purpose of implementing a treaty. It is, however, our view that this subsection is a mere surplusage as regards matters included in the Concurrent Legislative List because section 4 (4) (a) of the Constitution has already empowered the National Assembly to make laws with respect to matters included in the Concurrent Legislative List. It would have sufficed if the National Assembly was empowered by the said section 12 (2) to make laws with respect to matters not included in the Exclusive Legislative List and Concurrent Legislative List. This was in fact the case under the 1963 Constitutions which empowered the Parliament to make laws for the Federation or any part thereof with respect to matters not included in the Exclusive Legislative List and Concurrent Legislative List for purposes of implementing treaties;

“The process of enacting a treaty into law in Nigeria by the National Assembly is in pari materia with the process of enacting an ordinary bill into law.<sup>26</sup> However, a bill for an Act of the National Assembly for purposes of implementing a treaty with respect to matters outside the



Exclusive Legislative List shall not be presented to the President for assent.<sup>27</sup> It is not very clear why this provision is limited to bills involving matters outside the Exclusive Legislative List. It is submitted that all bills for Acts of the National Assembly for purposes of implementing treaties shall not be presented to the President for assent, because those treaties were ab initio signed and ratified by the Executive arm of Government which is headed by the President himself.” Please see details attached as Appendix 2

Therefore, there is an urgent need for direct interventions by our Nigerian National Assembly’s Legislatures, the Senate and House of Representatives, United Nations Secretary-General and Deputy Secretary-General, United Nations Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities [A/RES/60/232], United Nations Department of Economic and Social Affairs (DESA), United Nations Division of Social Policy and Development (DSPD), UN Special Rapporteur on the Rights of Person with Disabilities, United Nations Office of the High Commissioner for Human Rights (UN-OHCHR), the United Nations Secretariat for the Convention on the Rights of Persons with Disabilities; United Nations Committee on the Rights of Persons with Disabilities (CRPD), International Disability Alliance (IDA), towards Amending Section 12 of the 1999 Nigerian Constitution so that it will retroactively, dating back to October 7, 1960, no longer have any kind of direct or indirect effects on any the entire UN Treaties signed and ratified by our Federal Republic of Nigeria, especially, the United Nations Convection on the Rights of Persons with Disabilities (CRPD). Please See, the 1945 United Nations Charter and Section 12 of the 1999 Nigerians Constitution, the United Nations Convention on the Rights of Persons with Disabilities Optional Protocol and [Article 4 – General obligations](#), [Article 5 – Equality and non-discrimination](#), [Article 12 – Equal recognition before the law](#), [Article 13 – Access to justice](#), [Article 14 – Liberty and security of person](#), [Article 15 – Freedom of torture or cruel, inhuman or degrading treatment or punishment](#), [Article 16 – Freedom from exploitation, violence and abuse](#), [Article 18 – Liberty of movement and nationality](#), [Article 21 – Freedom of expression and opinion, and access to information](#), [Article 32 – International cooperation](#), [Article 33 – National implementation and monitoring](#), [Article 35 – Reports by States Parties](#), and [Article 37 – Cooperation between States Parties and the Committee](#). Please See also, the Discrimination Against Persons with Disabilities (Prohibition) Act 2018.

**QUESTIONS AKED:**

Why did the 1999 Nigerian Constitution’s Section 12 violate the United Nations Charter?

**ANSWER:** Yes.

Why did the 1999 Nigerian Constitution’s section 12, directly barr Nigeria from Truthfully Implementing the Entire United Nations Treaty Signed and Ratified by Nigeria?



**ANSWER:** Yes because Section 12 is a dualist system, which violated the UN Charter.

Did Nigerian Constitution's Section 12, directly affected Nigeria from truthfully implementing the United Nations Convention on the Rights of Persons with Disabilities (CRPD), which Nigeria signed and ratified with its accompanying Optional Protocol on March 30, 2007 and September 24, 2010 respectively?

**ANSWER:** Yes because;

- a. Nigeria grossly violated the UN CRPD Article 4.3 and

Can 1999 Nigerian Constitution's Section 12 be corrected?

**ANSWER:**

Why did Nigeria, knowingly or deliberately and intelligently, mislead or misinformed and lied to the United Nations on October 7, 1960, by joining the United Nations and agreed to fully implement all mandates of its Charter, while Nigeria knew that section 12 of the Nigerian Constitution runs as a dualist system making it impossible for Nigeria to implement the entire UN Treaties which Nigerian signed and ratified, including the United Nations Convention on the Rights of Persons with Disabilities?

Why

Chief Eric Ndubueze Ufom, President/CEO

Mrs. Ngozi Pauline Ikebuaku, Executive Secretary