2010

NATIONAL HUMAN RIGHTS COMMISSION AND THE PROMOTION AND PROTECTION OF HUMAN RIGHTS IN NIGERIA - REFLECTIONS, EMERGING CHALLENGES AND SUGGESTIONS FOR EFFECTIVENESS

OVUNDA V. C. OKENE, PhD, Rivers State University of Science and Technology, Port Harcourt, Nigeria

Available at: https://works.bepress.com/ovunda_v_c_okene/33/
Abstract:

In recent years, there has been an upsurge of international attention on the role of National Human Rights Institutions (NHRIs) in the promotion and protection of human rights. This growing interest is explained by an increased understanding and recognition among states, international and non-governmental organisations of the important role NHRIs play in promoting and protecting human rights. This article evaluates the extent of the promotion and protection of human rights by the National Human Rights Commission of Nigeria (NHRCN) after 15 years of its existence. The article considers the establishment, mandate, activities, and the challenges facing the NHRCN. It also considers the Paris Principles which is the 'normative' benchmark for measuring the effectiveness of National Human Rights Institutions (NHRIs). This article argues that, despite some modest achievements, the NHRCN has not lived up to its expectations in the promotion and protection of human rights in due to a number of significant problems and challenges, including poor funding, lack of autonomy, accessibility and a host of other problems. This article argues that more should be done to address the plethora of problems affecting the effective functioning of the NHRCN in order to enable it safeguard the enjoyment of human rights in Nigeria. Consequently, suggestions for the enhancement of the role and effectiveness of the NHRCN in the promotion and protection of human rights are put forward and discussed.

1. Introduction

This paper evaluates the impact of the National Human Rights Commission of Nigeria (NHRCN) in the promotion and protection of human rights in Nigeria. The issue of the role of National Human Rights Institutions (NHRIs) in the promotion and protection of human rights is one of increasing global concern and importance. The formation of the United Nations (UN) in 1945 due to the horrendous and grotesque abuse of human rights during the Second World War was the first catalyst for the

---

*Ph.D. (Essex, UK); Senior Lecturer and Head, Department of Private and Property Law, Faculty of Law, Rivers State University of Science and Technology, Port Harcourt, Nigeria. The author's articles have appeared in the International Journal of Human Rights, the International Journal of Civil Society Law, the International Journal of Not-for-Profit Law, Recht in Afrika, University of Botswana Law Journal, Sri Lanka Journal of International Law, African Journal of International and Comparative Law, the European Journal of Legal Education and the Journal of Commonwealth Law and Legal Education. I would like to dedicate this paper to my dear mother, Madam Felicia N. Okene - for her inestimable love. The author can be reached at: ovcokene@yahoo.com

setting up of National Human Rights Institutions

In 1946, the foundation for the setting up of NHRIs was laid at the second session of the UN Economic and Social Council (ECOSOC). At this session, it was agreed that it was desirable for member States to consider establishing bodies in form of ‘information groups or local human rights committees’ that will serve as a conduit for collaborations with the UN Human Rights Commission. The idea of setting up NHRIs was again raised for discussion in 1960, with a call that NHRIs should play active role in the promotion and protection of human rights. This was followed by a seminar on National and Local Institutions for the Promotion and Protection of Human Rights held in Geneva in September 1978 to articulate the guidelines for the role of NHRIs in human rights protection, which guidelines were endorsed by the UN Human Rights Commission. The UN General Assembly in 1979 also discussed the question of NHRIs and States were urged to set up NHRIs and to ensure that their independence and integrity are guaranteed by local laws. The Paris Conference the Role of National Human Rights Institutions in the Promotion and Protection of Human Rights (7-9 October 1991) was a watershed in the historical development of NHRIs. The conference led to the emergence of a set of guidelines and principles to regulate monitor and improve the promotion and protection of human rights by NHRIs. These principles came to be known as the Paris Principles. Subsequently, the International Human Rights Conference in Vienna also harped on the role of NHRIs in the promotion of human rights.

In the African context, the African Charter on Human and Peoples’ Rights 1981 (the African Charter) established the African Commission on Human and Peoples’ Rights which became a model as far as NHRIs in Africa are concerned. Indeed, a conjoined reading of Articles 26 and 45(1)(c) of the African Charter lends support to the establishment of NHRIs in Africa. The First African Conference of National Institutions for the Promotion and Protection of Human Rights held in Yaounde, Cameroon (5-7 February 1996), also emphasised the importance and role of NHRIs in

---

4 ECOSOC Resolution 2/9, 21 June 1946.
6 SJHRJSSR/2, chapter V, 18-29 September 1978.
the promotion of human rights.l" Recently, again, the Ninth International Conference on National Human Rights for the Promotion and Protection of Human Rights which took place in Nairobi (21-24 October 2008) was devoted to the role of NHRIs in administering justice and the protection of human rights. The Nairobi conference led to the endorsement of the "Nairobi Declaration 2008" where these issues were fully articulated.11 Indeed, these conferences and sessions undoubtedly demonstrate the importance attached to NHRIs in the promotion and protection of human rights. More significantly, the fact that many of the conferences and sessions are now held in Africa also demonstrates the increased focus on African countries to ensure the human rights of its citizens. These developments have thus brought to the fore the need for NHRIs in Africa to redouble their efforts in the promotion and protection of human rights.

The purpose of this article is to evaluate the current situation in Nigeria as regards the promotion and protection of human rights by the National Human Rights Commission of Nigeria ("NHRCN"), in the light of global expectations from NHRIs to effectively deliver on ensuring the promotion and protection of human rights. In particular, what contributions have the NHRCN made to the promotion and protection of human rights in Nigeria? What are the problems and challenges militating against the effective protection of human rights by the NHRCN? How can the NHRCN be strengthened and made to effectively protect human rights in Nigeria? It is to these questions that this article seeks to reply. Indeed, apart from its own uncritical and irregular annual reports,12 there is little detailed scientific study of the NHRCN in order to assess its impact in safeguarding the enjoyment of human rights in Nigeria. This article is thus crucially significant, as it not only contributes to the literature on making NHRIs more effective, it also renders a critical account of Nigeria's efforts in this regard. Moreover, after 15 years of the existence of the NHRCN, a re-evaluation of its role, activities and impact in the enjoyment of human rights is appropriate.

The article examines the establishment, structure, mandate, activities, and the challenges facing the NHRCN. As a basis for assessment, the article examines the Paris Principles which provides the normative benchmark for measuring the effectiveness of NHRIs. This article argues that, despite some modest achievements, the NHRCN has not lived up to its in the promotion and protection of human rights due to a number of significant problems and challenges, including inadequate funding, lack of autonomy, accessibility and so on. This article further argues that more should be done to address the plethora of problems affecting the effective functioning of the


11ICCInternational Conference (Nairobi on Rights) <ombudsman.org.na/index.php/I56-nairobi-declaration > (Last accessed 24 October 2009)


NHRCN in order to enable it safeguard the enjoyment of human rights. Consequently, suggestions for the enhancement of the role and the effectiveness of the NHRCN in the promotion and protection of human rights in are put forward and discussed. Before going into substantive issues, however, it may be helpful to briefly take an overview of Nigeria’s obligations under international human rights law.

2. Nigeria's Obligations under International Human Rights Law

Nigeria is a member of the international community" and also a party to several international treaties that impose an obligation to respect, protect, and fulfill the human rights. These treaties include the Convention on the Elimination of All Forms of Discrimination Against Women (the "CEDAW"), the Convention on the Rights of the Child (the "CRC"), the International Convention on the Elimination of All Forms of Racial Discrimination (the "ICERD"), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the "CAT"), the International Covenant on Civil and Political Rights (the "ICCPR"), and the International Covenant on Economic, Social and Cultural Rights (the "ICESCR"). These treaties impose on Nigeria the obligation to deter and prevent violations of those rights, and to investigate, prosecute, and remedy their abuses.

The duty to investigate and punish also derives from the right to a legal remedy that these treaties extend to victims of human rights violations. Under international law, governments have an obligation to provide victims of human rights abuses with an effective remedy—including justice, truth, and adequate reparations—after they suffer a violation. Under the International Covenant on Civil and Political Rights (ICCPR), for example, governments have an obligation "to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy.,, The ICCPR imposes on states the duty to ensure that any person shall have their right to an effective remedy "determined by competent judicial, administrative or legislative

"Nigeria joined the United Nations Organisation (UNO) on 7 October 1960, a week after she attained independence. Nigeria is also a member of a dozen or more inter-governmental organisations of a specialised nature related to the UNO, such as the International Labour Organisation (ILO), the World Health Organization, etc.

16 Ratified April 19, 1991.
17 Ratified January 4, 1969.
20 Ibid.
21 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of international Human Rights Law and Serious Violations of International Humanitarian Law, March 21, 2006, adopted by the 60th session of the United Nations General Assembly, A/RES/60/147, paras. 11 (c) and 24. Para. 11: "Remedies for gross violations of international human rights law and serious violations of international humanitarian law include the victim's right to the following as provided for under international law: (c) Access to relevant information concerning violations and reparation mechanisms." Para. 24: "States should develop means of informing the general public and, in particular, victims of gross violations of international human rights law and serious violations of international humanitarian law of the rights and remedies addressed by these Basic Principles and Guidelines and of all available legal, medical, psychological, social, and all other services to which victims may have a right of access."
22 ICCPR, art. 2(3)(a).
authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy.\textsuperscript{23}

At the regional level, the African Charter on Human and Peoples’ Rights ("the African Charter") states that every individual shall have the right to liberty and to the security of his person and as such no one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained." Furthermore, every individual shall have the right to have his cause heard. This comprises: (a) the right to an appeal to competent national organs against acts of violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force; (b) the right to be presumed innocent until proved guilty by a competent court or tribunal; (c) the right to defence, including the right to be defended by counsel of his choice; (d) the right to be tried within a reasonable time by an impartial court or tribunal.\textsuperscript{25}

There are also specific obligations on states to prevent and punish torture and disappearances. Thus the African Charter provides that "every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status, and that all forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited."\textsuperscript{26}

It is significant to note that the African Charter has not only been ratified by Nigeria but has also been incorporated into Nigerian municipal law. The Charter was ratified by Nigeria on 19 January 1981,\textsuperscript{27} and was incorporated into Nigerian domestic law on 17 March 1983 as the African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act 1983 ("the African Charter Act"). The preamble to the African Charter Act proclaims that it is "necessary and expedient to make legislative provisions for the enforcement in Nigeria of the African Charter by way of an Act of the National Assembly." The African Charter Act has not been repealed and is deemed to be an existing law enacted by the National Assembly, the Federal legislative organ of Nigeria.\textsuperscript{28} The domesticking provision of the African Charter Act states as follows:

\begin{itemize}
  \item \textsuperscript{23} ICCPR, art. 2 (3)(b). See also Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of international Human Rights Law and Serious Violations of International Humanitarian Law, March 21, 2006, adopted by the 60th session of the United Nations General Assembly, A/RES/60/147, principle II.3.(d). "The obligation to respect, ensure respect for and implement international human rights law and international humanitarian law as provided for under the respective bodies of law, includes, inter alia, the duty to: (d) Provide effective remedies to victims, including reparation, as described below."
  \item \textsuperscript{24} Article 6 of the African Charter.
  \item \textsuperscript{25} Article 7, Ibid.
  \item \textsuperscript{26} Article 5, Ibid.
  \item \textsuperscript{27} See Article 26 of the Vienna Convention on the Law of Treaties (VCLt 81 L.M.679, which incorporates the time-honoured principle in international \textit{pacta sunt servanda} bona fide into the Charter.
  \item \textsuperscript{28} See Cap. 10 Laws of the Federation of Nigeria, 1990.
  \item \textsuperscript{29} See the Second Preambular paragraph to the African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act 1983.
  \item \textsuperscript{30} Section 315 (1) (a) of the 1999 Constitution of Nigeria provides that: "Subject to the provisions of this Constitution, an existing law shall have effect with such modifications as may be necessary to bring it into conformity with the provisions of this Constitution and shall be deemed to be - (a) an Act
\end{itemize}
"As from the commencement of this Act, the provisions of the African Charter on Human and Peoples' Rights which are set out in the Schedule to this Act shall, subject as thereunder provided have force of law in Nigeria and shall be given full recognition and effect and be applied by all authorities and persons exercising legislative, executive and judicial powers in Nigeria."\(^{31}\)

This provision speaks for itself; it demonstrates Nigeria's commitment to be bound by the letter and spirit of the African Charter. Perhaps more importantly, it also means that the African Charter has the status of domestic law in Nigeria and can actually be invoked before a court of law in Nigeria against any breach of the rights and freedoms guaranteed by the African Charter. In *Communication JJ5/96 SERAC v. Nigeria*,\(^{32}\) for example, the African Commission held Nigeria to be in breach of its regional-international obligations under the provisions of the African Charter relating to right to satisfactory environment stating that, since Nigeria has incorporated the African Charter into her domestic law, all rights contained therein can be invoked in Nigerian courts including those violations alleged by the complainants.\(^{34}\)

Nigeria is therefore under an obligation to respect, protect and fulfil the rights guaranteed both under these international legal instruments and the African Charter in accordance with the principle of *pacta sunt servanda*, which states that, "[e]very treaty in force is binding upon the parties to it and must be performed by them in good faith."\(^{35}\) Moreover, a party may not invoke the provisions of internal law as a justification for its failure to perform a treaty.\(^{36}\)

3. An Overview of the Paris Principles on National Human Rights Institutions (NHRIs)

The Paris Principles constitute the key source of normative standards for national human rights institutions (NHRIs). As noted above, the Paris Principles were adopted at the international workshop on the role of the NHRIs in the promotion and protection of human rights in Paris in 1991.\(^{37}\) The key features and essential requirements of the Paris Principles are that NHRIs should be established in the national Constitution or by law that clearly sets out its role and powers and that its

---

\(^{31}\) See Section 1.


\(^{33}\) See Articles 24 and 16.


\(^{36}\) Ibid, Article 27.

mandate should be as broad as possible." In addition, NHRIs should have pluralism of membership and co-operate with a range of social and political groups and institutions, including non-governmental organisations (NGOs), judicial institutions, professional bodies and government departments."

Furthermore, according to the Paris Principles, NHRIs should have an infrastructure that allows them to carry out their functions. Particular importance is attached to the need for adequate funding so as to enable the institution "to be independent from government and free from financial control which might affect this independence.T"

The Paris Principles also provide that NHRIs should make recommendation and proposals to government on various matters relating to human rights, including existing and proposed human rights violations, and the national human rights situation in general." NHRIs are also required to promote teaching and research on human rights and organise public awareness and education programmes.Y NHRIs are entitled to consider any issue falling within their competence without authorisation from any higher authority. They are entitled to hear any person or gather any evidence needed to consider matters falling within their competence; they are also to publicise their decisions and concerns and to meet regularly.43

Furthermore, the Paris Principles list particular obligations with regards to the quasi-judicial nature of NHRIs. These are that NHRIs are: (1) To seek an amicable settlement through a binding decision or on the basis of confidentiality; (2) To inform petitioners of their rights, and available remedies, and promote access to them; (3) To hear complaints and transmit them to competent authorities; and (4) To make recommendations to competent authorities."

As can be the overall emphasis of the Paris Principles covers four principal areas. The first covers the responsibilities and competence of national institutions; the second covers the composition of NHRIs, including the guarantee of independence and pluralism; the third area covers the modus operandi of NHRIs; while the fourth area covers the principles concerning the status of NHRIs which have quasi-judicial functions, that is, the power to hear to hear and adjudicate on complaints or petitions on individual situations. With these issues properly addressed and articulated in a country's human rights there can be little doubt that such an institution would be able to perform effectively in enhancing the promotion and protection of the human rights of its citizens. However, in addition to the Paris Principles, political will

---

39 Article 3 Paris Principles.
40 Article 2, Ibid.
41 Article 4 (d), Ibid.
42 Article 3, Ibid.
43 Ibid.
44 Ibid.
and an effective judiciary are other factors that are necessary for the success of NHRIS.  

The Paris Principles have, however, been criticised for several reasons. The Paris Principles are said to rely on too much legalism, they are not often judged on how they can be used as a resource by other and how much attention they pay to those vulnerable in society. Another criticism is that the Paris Principles do not make it obligatory that national institutions possess the power to hear and consider complaints, but set out suggestions for how it should deal with them. Murray also argues that, while the Paris Principles provide a useful starting point for consideration they do not deal with the nuances of how NHRIs operates in practice, and moreover, that there are tensions between the criteria outlined in the Paris Principles.

Despite the criticisms, however, the Paris Principles have been universally embraced as providing an impressive normative framework for assessing the effectiveness of NHRIs. There is no doubt that in the practical implementation of the Paris Principles it can be expected that, given the peculiarities and the particular situation of a country, some margin of appreciation must be allowed, but this should be not such as to undermine the promotion and protection of Human Rights.


The National Human Rights Commission of Nigeria (NHRCN) was created in 1995 by the National Human Rights Commission Decree 1995 (now codified as National Human Rights Commission Act, Chapter N. 46 Laws of the Federation of Nigeria 2004) ("the Act"). The preamble to the Act asserts that the purpose of the NHRCN is to, *inter alia*, facilitate the implementation of treaty obligations, the creation of an enabling environment for the recognition, the promotion and the enforcement of all recognised rights. In addition, the NHRCN is to provide a forum for public enlightenment and dialogue on and to limit controversy and confrontation over allegations of human rights violations and to reaffirm the sacred and inviolable nature of human and other fundamental rights.

Section 2 of the Act creates a governing council responsible for the discharge of the functions of the NHRCN. Sections 3 and 4 respectively make provisions for the tenure of office and cessation of membership by persons constituted under section 2 of the Act. For present purposes it is pertinent to state in full the functions of the NHRCN which is stipulated in section 5 of the Act as follows:

- To deal with all matters relating to the protection of human rights as guaranteed by the Constitution of the Federal Republic of Nigeria
Charter on Human and Peoples’ Rights, the United Nations Charter, the Universal Declaration on Human Rights, and other International treaties on human rights to which Nigeria is a signatory.

- Monitor and investigate all alleged cases of human rights violations in Nigeria and make recommendation to the Federal Government for the prosecution and such other actions as it may deem expedient in each circumstance;
- Assist victims of human rights violation and seek appropriate redress and remedies on their behalf;
- Undertake studies on all matters pertaining to human rights and assist the Federal Government in the formulation of appropriate policies on the guarantee of human rights;
- Publish, from time to time, reports on the state of human rights protection in Nigeria;
- Organise local and international seminars, workshops and conference on human rights issues for public enlightenment;
- Liaise and co-operate with local and international organisations on human rights with the purpose of advancing the promotion and protection of human rights;
- Participate in all international activities relating to the promotion of human rights;
- Maintain a library, collect data and disseminate information and materials on human rights generally; and
- Carry out all such other functions as are necessary or expedient for the performance of its functions.

Furthermore, section of the Act stipulates that the NHRCN shall have powers to: (1) do all such things which by the Act or any other enactment are required or permitted to be done by the NHRCN; and (2) do such other things as are necessary or expedient for the performance of its functions under the Act.

It is apparent from the above provisions that the NHRCN is given very broad powers to respond to and deal with various issues regarding the promotion and protection of human rights in Nigeria. Under its promotional mandate, the NHRCN is to: collect documents, undertake studies and research, organise seminars, symposia and conferences, disseminate information, encourage national and local institutions concerned with human rights, and in appropriate cases, give its views or make recommendations to Government; to formulate and lay down principles and rules aimed at solving legal problems relating to human rights in Nigeria. With regards to its protective mandate, the NHRCN is expected to: Monitor and investigate all alleged cases of human rights violations in Nigeria and make recommendation to the Federal Government for the prosecution and such other actions as it may deem expedient in each circumstance. The NHRCN also has the mandate to assist victims of human rights violation and seek appropriate redress and remedies on their behalf. Clearly, the NHRCN has wide mandate to ensure the promotion and secure the protection of human rights in Nigeria. The pivotal question therefore is whether this wide mandate has been fulfilled. The next two sections shall now examine the achievements and problems of the NHRCN.

5. The NHRCN's Contribution to Human Rights Promotion and Protection: Progress That Has Been Made
The pivotal question here is what contributions have the National Human Rights Commission of Nigeria (NHRCN) made to the promotion and protection of human rights in Nigeria? There are a number of areas in which the NHRCN has successfully recorded a number of achievements. These include the following:

5.1 The Use of Special Rapporteurs

In the exercise of its functions, the NHRCN has appointed a Special Rapporteur for each of its thematic areas of interest (which includes both civil and political rights and social and economic rights matters such as children, the police, prison, judiciary, education, women, environment, food, shelter, etc.). This approach is quite unique and innovative as it is capable of assisting in realising the objectives of human rights promotion and protection in Nigeria. The Commission seems to have emulated the United Nations treaty bodies and the African Commission on Human and Peoples' Rights which bodies employ the use of Special Rapporteurs in their activities. This would enable to the Special Rapporteurs to pay particular attention to the issues within their various portfolios and thus enhance the prospect of guaranteeing the enjoyment of human rights in the Special Rapporteurs' domain. This is also conforms to the accepted practice in international law. However, while the appointment of Special Rapporteurs is a welcome development, their effectiveness in the promotion and protection of human rights within their thematic domains remains to be seen.

5.2 Prison Inspection/Decongestion

One important area where the NHRCN has made some impact concerns visits to prisons across the country from time to time. The main purpose of the visits was to inspect the prisons and consult with inmate, Prison Officers and staff with a view to improving the living conditions so as to comply with international standards for prison conditions and human rights for prisoners and remandees. Most of the complaints by inmates during the visits concerned delayed trials, failure to get copies of judgements and proceedings for lodging appeals. Some of those conditions have been resolved while others are still under investigation. More significantly, the NHRCN has successfully intervened to secure the release of unlawfully detained prisoners, including political prisoners. For example, in 2007, one Tolulope Ebenezer Omotola, a 2006 graduate of Political Science of the University of Lagos was arrested and detained on malicious grounds, but the National Human Rights Commission intervened and secured his release from police detention. The criminal charges made against him were subsequently dropped by the police, for lack of evidence.

5.3 Opening up of Regional Offices


The NHRCN has succeeded in opening up regional offices in every state of Nigeria in an effort to reach out to the people. This is a commendable development as each state office is now able to handle cases of human rights abuses more promptly than the previous situation where all cases had to be processed from the headquarters with the attendant problems of logistics and cost to the claimants. The state offices can now handle peculiar issues and conflicts emanating from their different regions such as land issues, security risks, cattle rustling and disarmament.

5.4 with Government Institutions and NGOs

The NHRCN has also succeeded in relating with other Government institutions and networking with NGOs. Working with Government institutions and other human rights NGOs provides the NHRCN important information on human rights abuses and thus help the Commission to formulate strategies required to meet the needs of the rural populace. There is no doubt that community based organisation and other NGOs are closer to the people and are thus able to identify the people's needs and can easily provide possible solutions to the NHRCN to meet these needs.

5.4 Accountability to the

Since its inception in 1995, it was only in 2005 that the NHRCN started implementing the requirement of accountability to the public in the form of annual reports. Nevertheless, this is a commendable development as it enables the public to evaluate the effectiveness of the Commission's activities, the quality of its programmes and whether it has sufficiently addressed human rights issues in Nigeria, and to criticise where appropriate. However, the NHRCN should ensure that most of their reports are distributed widely to reach all nooks and corners of Nigeria. This could even be taken further by translating the annual reports into local languages.54

Overall, there is no doubt that the NHRCN has impacted significantly on human rights protection and promotion in Nigeria. This account is far from exhaustive, as there are many more areas where the NHRCN is continually making progress.55 However, the NHRCN still faces some problems and challenges which affect its effectiveness.

6. Problems and Confronting the NHRCN

6.1 Inadequate

One of the greatest challenges to the NHRCN is inadequate funding. The meagre budget allocations to the wage, non-wage and capital development budget of the NHRCN affects its core activities. Proper funding is essential to an effective and autonomous NHRI. The absence of proper funding portends great danger to an

independent NHRI.\textsuperscript{56} The consequence of this is poor performance and inability of these institutions to meet the desired need of human rights promotion and protection. The Paris Principles unambiguously provides that "national institutions shall have an infrastructure which is suited for the smooth conduct of its activities, in particular adequate funding.\textsuperscript{57} Indeed, the National Human Rights Commission of Nigeria (NHRCN) has acknowledged that lack of adequate funding is one of the greatest challenges to realising its mandate.\textsuperscript{58} Due to lack of funding, the NHRCN is unable to recruit capable hands to ensure good results with regard to their activities. It is therefore not surprising that the NHRCN also has the problem of lack of qualified and experienced personnel. Furthermore, while the lack of adequate funding of the NHRCN can be attributed to inadequate budgetary allocation, it has been found that in some cases government deliberately withhold funding in order to render the NHRCN impotent.\textsuperscript{59} This rather schizophrenic attitude of praising the work of the NHRCN and at the same time starving it of adequate funds suggests that the government does not want to see the NHRCN succeed. The lack of proper funding has also affected the ability of the NHRCN to recruit qualified personnel to facilitate the work of the NHRCN.

It is suggested that this problem could be tackled by making the NHRCN self-accounting and creating a consolidated fund from which the NHRCN could draw its funds.\textsuperscript{60} Clearly, reliance by the NHRCN on approvals from the executive or its departments to enable it carry out its activities is counterproductive and also affects the independence of the NHRCN. The Committee of the CRC has, for example, warned that "the powers and mandate of national human rights institutions may be meaningless, or the exercise of their powers limited if the national intuitions does not have the means to operate effectively to discharge their powers."\textsuperscript{61} One must hope that the NHRCN is provided with adequate funding to enable it carry out and sustain its activities.

6.2 Implementation of decisions/ Orders/ Advice/ Recommendations

One of the challenges facing the NHRCN is that of ensuring that the victims of human rights violations realise the appropriate remedy for such violations, in the form of monetary compensations, abatement, restitution, or other appropriate remedy. This is because the NHRCN has powers to only make recommendations or give advice.

Indeed, given the growing number of complaints relating to human rights violations, it is doubted if the present system is capable of ensuring better protection of human

\textsuperscript{57} \textit{Ibid}
\textsuperscript{61} Committee on the Rights of the Child (CRC), General Comment No.2, The Role of Independent National Human Rights Institutions in the Promotion and Protection of the Rights of the Child
rights, particularly of weaker sections of society. As regards complaints, the
NHRCNC is authorised to enquire and investigate matters relating thereto and if on
such inquiry a violation is detected, recommend prosecution or other action as may be
appropriate. This means that if the government does not respond promptly to the
recommendations of the NHRCN it would be difficult to ameliorate the human rights
violations in question.

It is suggested that the NHRCN should be given more powers to make binding
decisions, give orders or advice and to ensure that such decisions or orders are carried
fully into effect in order to secure greater protection of human rights in Nigeria.
Furthermore, a victim’s compensation fund could be established to ensure prompt
compensation to all victims of human rights violations.V

6.3 Lack of Independence

Critical to the effective operation of a national human rights institution is the ability of
the institution to operate without the interference from government or other quarters.
This is notwithstanding the fact that these institutions are established by and, therefore, derive their powers from legislation, making them inextricably linked to the
Government. Despite this connection, the need for independence of national human
rights institutions has been prominently emphasized in the Paris Principles. Does the
NHRCN enjoy legal and operational independence? Does the NHRCN have clearly
defined appointment and dismissal procedures? Does it control its own finances? Is it
composed of individuals capable of acting independently? These questions are
important indicators to ascertain the extent of the independence of the NHRCN.

The NHRCN Act establishes the Commission as a legal entity, describing it as a 'body
corporate with perpetual succession and a common seal.' In the exercise of its
general powers, the Commission is 'not to be subject to the direction or control of any
other person or authority'. These two provisions, in our view, provide a potentially
adequate legal and operational basis for Commission's independence. The question to
be asked is whether this basis is likely to be effectively utilized to protect and promote
human rights in Nigeria. It appears, however, that the NHRCN does not enjoy any
measure of independence from the Government, even where enabling legislation
sought to grant institutional autonomy. According to the UN Centre for Human
Rights, 'an effective national [human rights] institution will be one which will be
capable of acting independently of a government, of party politics and of all other
entities and situations which may be in a position to affect its work,'63

One glaring case that demonstrates the lack of independence of the NHRCN was
when former president of Nigeria Chief Olusegun Obasanjo in defiance of the Paris
Principles surreptitiously and without consultations with civil society groups and
other stakeholders removed the head of the NHRCN appointed the present head of the
NHRCN. This situation was condemned in the international circles and by civil

---

62 See M. Sekaggya, "Experiences of the Uganda Human Rights Commission in Fulfilling Its Mandate"
Paper presented at the Conference for Commonwealth National Human Rights Institutions, Organised
63 See K. Kindiki, "On the Independence of the Kenya National Commission on Human Rights: A
society groups.” The reason for the removal of the former head of the NHRCN was due to his vocal condemnation of some of government’s illicit actions. Clearly such undue interference in the activities of the NHRCN can cripple its effectiveness and their ability to promote and protect human rights in Nigeria without fear or favour.

7. Recommendations for Future Action

In the preceding discussions, a number of suggestions have already been made. This section is not meant to repeat them but to synthesize and reiterate the salient points for the greater effectiveness of the NHRCN.

7.1 Independence

Independence of the NHRCN is crucial to effective human rights enforcement. The NHRCN must have the ability to operate independently of state control. This is clearly demanded by the Paris Principles. The NHRCN must be given complete independence – legally, operationally, financially and in the modes of appointment and composition to ensure greater effectiveness.

7.3 Improving Human Rights Education

The NHRCN must intensify its role in terms of human rights education. It should organise more seminars, workshops, radio programmes, bill boards, and road shows in order to educate the public on its activities. This would enable all those who suffer human rights violations to respond promptly by way of lodging complaints and filing petitions.

7.4 More Publicity

The NHRCN must give more publicity to its activities and thus create awareness of its existence and services to all and sundry. As mentioned earlier, it should also try to make its annual reports available even to the local populace, and more importantly, translate these reports into several local languages for the benefit of those who cannot read the English Language.

7.5 Decentralisation of Offices to All Local Government Areas

To be more effective, it is suggested that the NHRCN should establish branch offices in all 704 the local government areas of Nigeria. This would enable those who cannot reach the state centres get access to the services of the NHRCN. In Ghana, for example, all the 110 districts have human rights offices created by the Commission for Human Rights and Administrative Justice (CHRAJ).

7.6 Creation of State Human Rights Commissions and Human Rights Courts

Another important measure of ensuring greater protection and promotion of human rights in Nigeria is to give states the power to establish human rights commission and

---

human rights courts. This would make for efficiency; ensure quicker allocation of funds and administrative control to fight human rights violations. This is the approach adopted in India, where states have the choice of establishing human rights commissions and courts in relation to their territory.

8. Conclusion

In the first place, there is little doubt that the creation of the National Human Rights Commission of Nigeria (NHRCN) is a very big step towards human rights promotion and protection in Nigeria. Establishing and maintaining independent national human rights institutions is a challenge world over. This article has demonstrated that, although the National Human Rights Commission of Nigeria (NHRCN) is doing a marvellous work in the promotion and protection of human rights in Nigeria, it still faces a lot of challenges in the complete realisation and redress of human rights violations.

The effectiveness of national human rights institutions depend, as noted above, on adequate infrastructure, independence and proper funding, amongst other issues. Thus, a number of reforms have to be adopted in order to improve the credibility and independence of the NHRCN. It is to be hoped that the suggestions proffered in this paper would be put into serious consideration so as to make the NHRCN meet the challenges of promotion and protection of human rights in Nigeria.