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Notes From Editor-In-Chief

The Plateau State University, Boko, was established in 2007 pursuant to the Plateau State University Law, 2005. It commenced academic activities with four Faculties namely (a) Arts (b) Social Sciences (c) Natural and Applied Sciences and (d) Management Sciences. In order to upgrade the University to a 21st Century University, the Senate of the University in its wisdom, later approved the establishment of four additional Faculties and a Postgraduate School. The four Faculties are (a) Health Sciences (b) Environmental Sciences (c) Education and (d) Law.

In 2022, the National Universities Commission carried out a resource verification exercise with a view to determining whether the University was prepared, and had on ground the needed resources, for smooth take off of the new faculties. The Commission granted approval to all the new faculties to commence academic activities for the 2023/2024 academic session. Consequently, the first set of students were admitted into the law programme of the University and the students are currently in 200 level.

Immediately we came in as pioneer lecturers, the dream of publishing a flagship Journal of the Faculty became imminent. Therefore, with great zeal and determination and coupled with the efforts of all the lecturers in the faculty and that of our lecturer and mentor, Professor Alphonsus Okoh Alubo, SAN, who is with us on sabbatical leave, we were propelled to move this dream to fruition. It was agreed at the Faculty Board Meeting that the name of the journal would be: PLATEAU STATE UNIVERSITY LAW JOURNAL VOL. 1 No. 1. Call for Papers was sent out sometime in June, 2024 with a deadline of 25th August, 2024. To our utter amazement, subscriptions for the journal came from across different faculties of law in all the six geopolitical zones of Nigeria, thereby giving the journal semblance of national spread and balance.

I like to appreciate most sincerely, the lecturers of the Faculty for not resting on their oars to ensure the fulfilment of this flagship journal, which shall remain a bi-annual journal of the Faculty of Law of the University. In a similar vein, I also thank immeasurably all academics, legal titans and practitioners from across Nigeria who, not only believe in this Journal, but also quickly responded with subscriptions and contributions to ensure its success.

The management of the University, ably led by the Acting Vice Chancellor, Professor Shedrack Gaya Best, also deserves commendation for the support given to us in all facets towards the realisation of this herculean task. I am equally highly indebted to our crew of Editorial Board of the Faculty

Journal and our reviewers for the dedication, commitment and resilience exhibited in ensuring the realisation of this project. Our team of Editorial Advisory Council, which is made up of very senior and experienced Professors of varying lengths of experience and exposure in different fields of law is also deserving of commendation. Without their wisdom, counsel and guidance, this project would not have been feasible and realizable. I thank them tremendously.

Finally, to God Almighty, who is the ultimate director and determiner of all things on earth and in heaven, is the glory!

**Mark Yilkaghan Danung Ph.D., BL, MCI Arb. (UK), Notary Public
Editor-in-Chief**

From The Editor's Desk

It is axiomatic to say that we are elated at the Plateau State University as the Maiden Edition of the Law Journal rolled off the press. It looked like a mirage when the idea of establishing the Journal was conceived, long before I joined Plateau State University on sabbatical leave.

The Faculty of Law reconstituted Editorial Board hit the ground running with call for articles for two months, ending on the 25th August, 2024. Indeed, a gumbo of materials came in, long before the expiration of the deadline. Such articles were immediately sent out for peer-review and pedantically and fastidiously evaluated. Being a young faculty, staff were pleasantly nonplussed and flummoxed that the contributions were oversubscribed, with over 30 articles. Most of the articles were on different subjects ranging from inflation, rape, ECOWAS, matrimonial causes, etc made successful entry into the Journal. The diversity of contributions must be accentuated. Articles came in from Delta State, Oyo, Ibadan, Kwara, Zaria, Abuja, Jos, Benue, the Law School and a bouquet of states. The Editorial Committee and the Editor are extremely grateful to contributors. May the good Lord keep them and bless them beyond measure.

Indeed, articles have also been written on a farrago of areas: Admiralty; Debottlenecking the Law to restrain and Suppress the Abuse of Lasses in Nigeria; Beyond the Present: Contemporary

Examination of Rule of Law, Democratic Governance, etc.; Electoral Act and the Test of Admissibility of Evidence; Medical Confidentiality; *Locus Standi*; Juvenile and Criminal Justice Administration; Revisiting Good and Old Positivism; Small Arms and Light Weapons: Desensitization of Legislative Inflation, Rape, ECOWAS, Matrimonial Conflicts and Choice, Banditry, Maritime and Admiralty Issues, Right to or access to Mediocres, etc.

Under the able leadership of the young, dynamic, effervescent and ebullient Dean of Law, it is ennobling to have the Journal, in fact.

We look forward to receiving your new contributions when the next call for papers is made.

Prof. Alphonsus Okoh Alubo, SAN Editor

Note to Contributors

Manuscripts could include articles, case comments/reviews and book reviews. Manuscripts should not normally exceed **6000 words**.

Author's Guidelines 1.

Language:

The language of the manuscript must be English (British standard).

Originality:

Manuscripts submitted for consideration must not have been accepted for publication or published elsewhere.

Title page:

The title page should be separate and should include: (i) The name(s) of the author(s), (ii) A concise and informative title, (iii) The affiliation(s) and address(es) of the author(s), (iv) The email address, and telephone numbers of the corresponding author.

Abstract:

Please provide an abstract of 150 to 200 words, which must include the objectives of the study, methodology, findings, and summary of recommendations.

Keywords:

Please provide 3 to 6 keywords which can be used for indexing purposes.

Sub-divisions of articles:

Divide your article into clearly defined and numbered sections (1, 2, 3, etc). Subsections should be numbered 1.1, 1.1.1, 1.2, etc. Note that abstract should not be included in section numbering.

References and citation:

Author(s) should adhere to the Nigerian Association of Law Teachers Uniform Citation and Documentation Standards accessible at www.naltng.org

All authors are responsible for checking the accuracy of all references.

All manuscripts should be typed on A4 paper size, using Times New Roman with character size font 12 and 1.5 line spacing.

All manuscripts to be considered for publication should be submitted in soft copy to the Editor: aalubo@yahoo.com and copied to the Editor-in-Chief: ogboruit@yahoo.com

Publication Policy

Opinions expressed in the Journal are those of the authors and do not reflect the views of the publisher essentially.

Please accept our warmest regards.

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ANALYSIS OF THE CONTRIBUTIONS AND CHALLENGES OF NATIONAL HUMAN RIGHTS COMMISSION IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS IN CONTEMPORARY NIGERIA

Dennis Francis Fwangje[□]
Francis M. Kwede^{□ □}

Abstract

*In 1948, the United Nations adopted the Universal Declaration of Human rights as the global benchmark required by all countries to promote, protect and respect human rights of all its citizens. Despite the robust legal framework for the promotion and protection of Human Rights in Nigeria, human rights violations and abuses are witnessed on a daily basis particularly insecurity, kidnapping, lack of provision of adequate social amenities, lack of enforcement of socioeconomic rights, poverty and corruption. The National Human Rights Commission (NHRC), was established to address violations of such human rights. However, it has been constrained in performing optimally in that regard. The inability of the NHRC in Nigeria to adequately tackle the Human rights violations and abuses were some of the motivations for this article. The article also found out that the inability to enshrine socioeconomic rights of citizens, provision of social amenities, executive lawlessness, poor funding of the commission and the nonjusticiability of social and economic rights in Nigeria were the setbacks for the effective discharge of the commission's mandate. Additionally, the study recommended that Chapter II of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) should include a clause with the justiciability of socio-economic rights of citizens, provision of social amenities and to create a robust legislative legal framework for effective discharge of the Commission's mandates. The study also recommended proper funding, autonomy and independence from the executive and legislative arms of government and independence of the judiciary to enhance effective discharge of the statutory mandates of the Commission in Nigeria.*¹

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Keywords: Analysis, contributions, challenges, human rights, promotion and protection.

Introduction

This article examines the role, contributions and challenges facing the National Human Rights Commissions in Nigeria. It also provides the proposal for the amendment of the legal framework as a means of tackling the challenges through recommendations for effective and efficient discharge of its statutory mandates.

Background for the Establishment of National Human Rights Commission of Nigeria

The National Human Rights Commission of Nigeria (NHRCN), was established in consonance with the United Nations Initiative with the support and recommendation of the Economic and Social Council. The World Conference on Human Rights held in Vienna in 1993, noted the roles played by Human Rights Institutions and mandated all states to establish the Human Rights

Commission.² The Conference known as the “Paris Principle”, set out guidelines for the establishment and operation of National Human Rights institution in Nigeria. The NHRC was established during the military regime of General Sani Abacha when human rights violations and abuses were at the peak perpetrated by the Government and its agencies and security apparatus in Nigeria. In October 1995, in reaction to international and local pressures particularly that of the UN, the Abacha regime quickly established the NHRC through Decree 22 of 6th October 1995. The first Governing Council of the Commission was inaugurated on 17th June 1996. It was recognized that each country should choose the framework which best suits its peculiar needs of the Country in response to the recommendation by the United Nations General Assembly that National Human Rights Institutions be established by member states. The Nigerian Government established the National

Human Rights Commission by the National Human Rights

¹ United Nations General Resolution Number 48/134 on 20th December, 1993.

Statutory Functions of National Human Rights Commission in Nigeria

The National Human Rights Commission of Nigeria, is a creation of the law which provides its statutory functions as follows:

- a) Deal with all matters relating to the promotion and protection of human rights as guaranteed by the Constitution of the Federal Republic of Nigeria 1999 (as amended), the United Nations Charter and the Universal Declaration on Human

Rights, the International Convention on the Elimination of all forms of Racial Discrimination, the International Convention on Economic, Social and Cultural Rights, the Convention on the Elimination of all forms of Discrimination Against Women, the International Convention on the Elimination of all forms of Racial Discrimination; the Convention on the Rights of the Child; the African Charter on Human and Peoples Rights and other International and Regional Instruments on Human Rights to which Nigeria is a party.

- b) Monitor and investigate all alleged cases of human rights violations in Nigeria and make appropriate recommendations to the Federal Government for the prosecution or any such other actions as it may deem expedient in each circumstance.
- c) Assist victims of human rights violation to seek appropriate redress and remedies on their behalf.
- d) Undertake studies on all matters pertaining to human rights and assist the Federal, State and Local Governments where it considers appropriate in the formulation of appropriate policies on the guarantee of human rights.
- e) Publish and submit from time to time to the President, National Assembly, Judiciary, State and Local Governments Reports on the state of human rights protection and promotion in Nigeria.
- f) Organize local and international seminars and conferences on human rights issues for public enlightenment.
- g) Liaise with local and international organizations saddle with the responsibility of promoting and protecting human rights in Nigeria.
- h) Participate in such manner as it considers appropriate in all international activities relating to the promotion and protection of human rights

- i) Receive and investigate complaints concerning violations of human rights and make appropriate determination as may be deemed necessary in each circumstance.
- j) Examine any existing legislation, administrative provisions and proposed bill or bye-laws for the purpose of ascertaining whether such enactments or proposed bills or bye-laws are consistent with international, regional and municipal human rights norms and standards.
- k) Prepare and publish in such manner as the Commission considers appropriate guidelines for the avoidance of acts or practices with respect to the functions and powers of the Commission under this Act.
- l) Promote understanding of public discussions of human rights issues in Nigeria.
- m) Undertake research and educational programmes and such other programmes for promoting and protecting human rights and coordinate any such programme on behalf of the Federal, State or Local Government on its own initiative when so requested by the Federal, State or Local Government and Report concerning the enactment of legislation on matters relating to human rights.
- n) On its own initiative or when requested by the federal, state or local government report on actions that should be taken by the federal, state or local government to comply with the provisions of any relevant international human rights instruments.
- o) Refer any matter of human rights violation requiring prosecution to the Attorney-General of the Federation or of a state, as the case may be.
- p) Where it considers it appropriate to do so act as a conciliator between parties to a complaint.
- q) Where it considers it appropriate with the leave of the court hearing the proceedings and subject to any condition imposed by the court, intervene in any proceeding that involves human right issues.

The Powers of the Commission

The Commission has statutory powers in accordance with the law establishing the Commission, as follows:

- a) Conduct its investigations and inquiries in such manner as it considers³ appropriate. Institute any civil action on any matter it deems fit in relation to the exercise of its function under this Act.
- b) Appoint any person whether or not such person is in the public service to act as an interpreter in any matter brought before it and to translate any such book, paper or writing produced to it.
- c) Visit prisons, Police Cells and other places of detention in order to ascertain the conditions and make recommendations to the appropriate authorities.
- d) To determine the damages or compensation payable in relation to any violation of human rights where it deems this necessary depending on the circumstances of the case.
- e) Co-operate and consult with other agencies, and Governmental and Non-governmental organisations as it may deem appropriate; and
- f) Do such other things as are incidental, necessary, conducive or expedient for the effective performance of its functions under this Act.

The Commission whenever it appears to the Chairman, upon information and after such inquiry as he shall think necessary, that there is reasonable cause to suspect that in any place there is evidence of the Commission of any offence under this Act, he may by written order, direct an officer of the Commission to obtain a court order to: a) Enter upon any land or premises or by any agent or agents duly authorized in writing for any purpose which in the opinion of the Council, is material to the functions of the Commission and, for the purpose of obtaining evidence or information or inspecting or taking copies of any document required by or which may be of assistance to the Commission and for safeguarding any such document or property which in the opinion of the Council ought to be safeguarded for any purpose of its investigations or proceedings.

- b) Summon and interrogate any person or authority to appear before it for the purpose of a public inquiry aimed at the resolution of a complaint of human rights violation.
- c) Issue a warrant to compel the attendance of any person who after having been summoned to attend fails, refuses or neglects to do so and does not excuse such failure, refusal or neglect to the satisfaction of the Commission.

³ Section 6 (1) of the National Human Rights Commission (Amendment) Act 2010.

- d) Compel any person, body or authority who in its opinion, has any information relating to any matter under its investigation to furnish it with any information or produce any document or other evidence which is in his or her custody and which relates to any matter being investigated and
- e) Compel the attendance of witnesses to produce evidence before it.

Also, the Commission's autonomy in the conduct of its affairs, is as contained in the Act that in exercising its functions and powers under this Act, the Commission shall not be subject to the direction or control of any other authority or person. The Commission's Act, provides that it is an offence for any person, body or authority to:

- f) Refuse to provide evidence, including documentary evidence to the Commission in response to a written request to do so.
- g) Obstruct or do anything to prevent any member of the Council or an employee of the Commission from the lawful exercise of any of the functions conferred on the Commission by this Act
- h) Punish, intimidate, harass or discriminate against any person for co-operating with the Commission on the exercise of its function under this Act;
- i) Refuse to comply with lawful directives, determination, decision or finding of the Commission.

A person who commits an offence under sub-section (4) of this section, is liable on conviction to imprisonment for a term of six (6) months or to a fine of N100,000.00 or to both such imprisonment and fine. Based on the statutory powers of the Commission, NHRC has powers to institute any civil cases against any person with a limited jurisdiction not to handle criminal cases directly except by recommending to the Attorney General of the Federation or State for prosecution.

Thematic Analysis of the Areas of Focus of the Commission The mandate of the Commission, which have been streamlined into nineteen (19) thematic areas of focus for the enhancement of maximum performance ⁴ are: Women and Gender Related Matters, Children, Corruption, Election and Good Governance, Prison, Police and Detention

⁴ P. 6 of 2021 Annual Report of NHRC.

Centres and Regulatory Agencies, Environment, Niger Delta and Development, Education, Freedom of Peaceful Assembly, Association, Religion, and Belief, Torture and Extra- Judicial killings, Law Reforms and Law Review, Independence of the Judiciary and Access to Justice, Labour, Food and Shelter, Terrorism and other Related Violence, Health, Freedom of Expression and the Media, Human Rights and Business, Rights of Persons with Disabilities, Refugees, IDPs, Migrants, and Asylum Seekers and Human Rights Defenders.

Labour as one of the thematic areas, has not been effectively handled. There have been incessant labour strikes, labour unrest and yet the Commission has not intervened or convened a meeting between the stakeholders in the labour dispute to reach an amicable negotiation and settlement. The thematic areas of the Commission are very wide and robust. It is obvious that it has not effectively discharged its mandates as expected in thematic areas, corruption and good governance, due to the existing legal framework. The Commission has not collaborated effectively with EFCC, ICPC and other agencies responsible for fighting of corruption and to ensure good governance. Apparently, corruption and bad governance are the cankerworm and impediments for the realization of human rights in Nigeria.

Contributions of NHRCN

Several Executive Secretaries of the Commission served the Commission meritoriously and made landmark achievements.

Worthy of note is Bem Angwe, the then Executive Secretary of the Commission from 2012 to 2016. He made remarkable achievements for the Commission, particularly the investigation of human rights violations; promotion and protection of right of vulnerable groups such as prisoners, Women, Children and Persons with Disabilities; advocacy, sensitization and seeking enforcement of rights of victims of human right violations and monitoring and

enforcement of Human Rights Violations. The detailed achievements of the commission since inception are as follows:

Promotion and Protection of Human Rights

One of the Commission's mandates as stated in the Preamble of the Act, is to create the enabling environment for extra judicial recognition, promotion and enforcement of all rights recognized and enshrined in the Constitution of the Federal Republic of Nigeria 1999 (as amended) and other laws in Nigeria. Additionally, the Commission is empowered in Section 5(3) of the Act, to monitor and investigate all alleged cases of human rights violations/abuses in Nigeria and make appropriate recommendations to the President for the prosecution and such other actions as it may be deemed expedient in each circumstance. In compliance with provision of the law and the mandates of the Commission, the Commission receives complaints from any person alleging violations of his/her human rights and has put in place a complaint treatment mechanism.

In a statement issued by the Executive Secretary of the NHRC on 2nd May, 2024, the Commission renewed its commitment to promote (uphold) and protect (safeguard) the fundamental human rights of Nigerians, "including right to freedom of expression and the press in all circumstances"⁵ The Executive Secretary hinged his assurance on the provisions of the National Human Rights Commission Act, 1995 (as amended), which empowers the Commission to address matters relating to human rights promotion and protection guaranteed by the constitution of Nigeria and human rights legal instruments in Nigeria. The statement further noted the unfortunate incidents/challenges faced by journalists in Nigeria: intimidations, unlawful attacks and deaths, in addition to environmental challenges with which they are confronted. Some other issues that the Commission has made statements on recently, include call on the Federal Government to alleviate the suffering of Nigerian workers;⁶ condemnation of bullying at the British International School and call for investigation of the matter,⁷ and the plan by the Commission to partner with an NGO to facilitate access to child's rights.⁵

⁵ Ojukwu, T., 'We shall continue to uphold protection of press freedom in Nigeria' National Human Rights Commission, 2nd May, 2024, <https://nhrc.gov.ng/nhrcmedia/news-and-events/474-we-shal-continue-to-uph> accessed on 5th May, 2024. The Statement was issued on 3rd May. The theme of the 2024 celebration was 'A press for the planet: Journalist in the face of the Environmental Crisis.'

⁶ National Human Rights Commission (NHRC), 'We shall continue to uphold protection of press freedom in Nigeria' 2nd May, 2024, <https://nhrc.gov.ng/nhrc-media/news-and-events/474-we-shall-continue-to-uph> accessed on 5th May, 2024

⁷ NHRC, 'NHRC condemns bullying at British International School, seeks independent investigation, 26th April,

Partnerships and Collaboration with Governmental and Non-Governmental Organisations

It is unfortunate that government apparatus as major human rights violators, especially the security agencies controlled by Federal

Government in the country.⁹ There is need for collaborative partnership with government agencies and international organizations in promotion and protection of human rights in Nigeria. It was the Commission in collaboration with other agencies of government, in order to effectively implement its programmes through proactive and pragmatic approach that brought about the enactment of Child Rights Act in 2003. It is continuously working for wholistic application of the Act, which led to thirty-four (34) states domesticating the Child's Right Act in Nigeria. The Commission also in collaboration with the National Assembly, facilitates the passage of some human rights laws particularly the Law on Violence Against Women, the law on Domestication of the Convention on the Elimination of All Forms of Discrimination Against Women and the Freedom of Information law. The Commission in collaboration with the Nigerian Police, achieved tremendously in the areas of:

- (i) Development of human rights curriculum for Police Colleges
- (ii) Establishment of Human Rights Committees and
- (iii) Establishment of Human Right Desk in Police Stations

The Commission in conjunction with some Non-Governmental Organizations championed the promotion and protection of human rights. The Commission receives financial and technical assistance from international organizations particularly UNICEF, UNDP, DFID, embassies and foundations to fund human rights promotion and protection agencies in Nigeria. The Commission also received support ¹⁰from the MacArthur Foundation to carry out public enlightenment programme on the National Action Plan for the promotion of human rights in Nigeria.

2024, <https://nhrc.gov.ng/nhrc-media/news-and-events/471nhrc-condems-bullying> accessed on 5th May, 2024. The incident involved a female student at the school located at Gwarinpa Abuja, who repeatedly slapped another fellow student over an undisclosed reason

NHRC, 'NHRC to partner with NGO to facilitate Access to Child Education' 26 April, 2024, <https://nhrc.gov.ng/nhrc-media/news-and-events/470-nhrc-to-partner-with-ngo> accessed on 5th May, 2024. The Executive Secretary of the NHRC, Dr. Tony Ojukwu, OFR, SAN (Abuja), Kogi state and Nasarawa state. It solicited partnership with the Commission as it planned to mark the 2024 Children's Day on 27th May. It also sought to enter into a memorandum of understanding (MOU) with the Commission for partnership on education matters

⁹ See for example "Police lead in human rights violations by Robert Egbe in *The Nation* October 6, 2015 p.4; "who will rescue the Police? By Gabriel Amalu in *The Nation* October 6, 2015, p.35; and "Police Officers and respect for human rights" by Daniel Bulusson in *Daily Trust* October 6, 2015 p.41. "Soldiers on the loose" in *The Nation* Oct. 16, 2015 pp.44 and 48. "Checking Police Killings" Editorial in *The Guardian* Oct.21, 2015 p. 18. E.Onyegbula, F. Ake, E. Aham and U. Tiveruahor "another Trigger-Happy Cop Shoots bus drivers dead in *Vanguard* Oct.31,2015 p.6. Emma Amaize and Egufe Yafugborhi "Police Officers run riot in Delta, kill man" in *Niger Delta Voice* Nov. 17, 2015 p.2. Chidi Nkwopara "Trigger-happy Policeman shoots ESUT Student" in *Vanguard* Nov.9, 2015 p.6. Joseph Wantu "Pandemonium as NAF Personnel allegedly invade Benue Community" in *The Guardian* Nov.9, 2015 p. 11. E. Usman and O. Omonisa "Orgy of Extra-Judicial killings: Policing The Police" in Saturday *Vanguard* Nov. 28, 2015 pp.13, 14, 15 5 p. 16.

⁶ *NHCR Annual Report.2021*, p. 31

¹¹ Ibid p.32.

Inspection of Nigerian Correctional Centres and Detention Centres The Nigeria Correction Centres, play a critical role in the Criminal Justice Administration. The Correctional Centres, are to ensure that rights of Prisoners are protected and not violated. In order to monitor the human rights situation and the state of the prisons, the Commission carries out periodic visits to correctional centres and other detention centres. The Commission in collaboration with Open Society Initiative for West Africa (OSIWA), the Legal Aid Council and the Nigeria Correctional Centres, inspected more than sixty-eight (68) prisons in the country. The Commission discovered that most of the Correctional Centres, were in a pathetic human rights situation and about 50% are congested, filthy and in poor sanitary conditions, health care facilities are inadequate with poorly trained manpower, welfare service for both prisons staff and inmates were very poor and below the acceptable standards. Also, the facilities for vocational training are inadequate. The Commission's visits revealed the pathetic, medical and health challenges of the inmates due to poor health facilities within the correctional Centre. The pathetic conditions of prisoners in Prison Custody and the inability of the government to provide them with the basic necessities of life is a violation of human rights by government and in violation of Section 14 of the Constitution of the Federal Republic of Nigeria 1999 (as amended),⁷ which provides for the welfare and security of the people as the essence of government in any country. The rights are tied to the right to health as guaranteed in the Nigerian Constitution⁸ and the International Covenant on Economic, Social and Cultural Rights.

Training of Experts for the Promotion and Protection of Human Rights

The Commission's held training on Enforceability of Awards and decisions of the National Human Rights Commission, targeted at building the capacity of Lawyers and Staff of the Commission in Protection and Enforcement Departments. It was aimed at improving their knowledge on the enforceability of the decisions of the Commission and also the role of the Commission as contained in the Administration of Criminal Justice Act, 2015 and Anti-Torture Act, 2017 as it relates to the mandate of the

Commission. The role of the Commission in the elimination of Female Genital Mutilation (FGM) in the country, the UNFPA under the UNFPA/UNICEF Joint Programme on the Elimination in the training of stakeholders on Human Rights Framework for Addressing Female Genital Mutilation in Imo, Ekiti States and other States in the country, is commendable. The participants were drawn from relevant MDAs, CBOs, FBOs, Media, Security Agents, Traditional Rulers and CSOs/NGOs.

The training activities were as follows:

- 1) Legislative advocacy training on women's rights to educate participants to join in the advocacy towards the domestication and implementation of international treaties, laws and policies to end violence against women.

¹² See Section 14 of CFRN 1999 (as amended).

¹³ See section 17(2) (c) (d), 33, 35, 36, 37 & 40 of CFRN 1999 (as amended).

- 2) Training on Access to Justice and Independence of the Judiciary by equipping the staff with knowledge on the standard procedures in investigating matters relating to denials of access to justice and public enlightenment on insurgency, communal conflicts and other related violence in Nigeria.

Complaints Received and Handled Appropriately in line with the Mandate of the Commission

The Commission commenced operations in 1996 and received only 41 complaints in its first year. The aggregate number of complaints received by the Commission from 1996 to 31st December 2021 totaling to 8,122,674 (Eight Million, One Hundred and Twenty-Two Thousand, Six Hundred and Seventy-Four) were properly handled in line with its statutory mandate.⁹

Correctional Centres' Reform Initiative

There is massive rehabilitation of correctional centres and improvement of correctional centres, medical and training facilities accounting to millions of Naira. The correctional centres reform initiated in 1999 following the recommendation by the NHRC commenced in the year 2000. Since its establishment, the Commission observed that Nigerian correctional centres were overcrowded, dilapidated and deplorable. Besides, there is poor feeding, inadequate health and absence of recreational facilities. The Commission therefore embarked on aggressive advocacy to promote the establishment of modern prison system that would uphold the dignity of the inmates as human beings.

Monitoring of Human Rights Violations

The Commission followed up cases of human rights violations across the country including cases that were reported by the mass media. It sensitized the citizens on the impact of human rights violations with a view to educating both the violators and the

victims. The Commission held a public inquiry on a complaint received on the killing of 8 squatters and the injury of others in an uncompleted building in Apo, Gudu District of Abuja on September, 2013. The Governing Council Enquiry Panel was to consider the following 3 principal issues:

- (i) Whether victims were indeed members of Boko Haram?
- (ii) Whether taking into account of all the circumstances the force applied in the operation was proportionate to any threat identified or directed at the security operatives or the general public and
- (iii) Whether in the circumstances, the killings were lawful or unlawful

The Commission issued a report and decision on 7th April 2014 where it concluded that the killings were unlawful violation of the right to life of the deceased victim. Accordingly, a ten

¹⁴ See NRHC Report 2021.

Million Naira (N10, 000, 000.00) Only compensation for each of the deceased persons, was awarded.

Audit of Police and other Detention Centres

The Commission carried out an audit of the detention centres of the security agencies like the Police, Nigerian Drug Law Enforcement Agency, Nigerian Customs Service, Immigration, SSS, etcetera. In 2008, the Commission carried out a nationwide audit of Police Detention Centres to ensure their compliance with the minimum standards of international law. The outcome showed that most of the public detention centres visited, did not meet up with the national or international standards and made appropriate recommendations to government, the Commission constituted a panel on Police Reforms and Prison decongestion had a component for improving the existing state of detention centres in Nigeria.

Challenges Facing the Commission

The Commission has performed substantially well despite the challenges hampering the effective actualization of the Commission's mandate. As a result of the imperfections of the legal framework in tackling human rights violations and abuses which is caused by lack of adequate funding, operational constraints, ignorant population, executive lawlessness and general violations of human rights by law enforcement agencies. All these factors are the key constraints on the effective functioning of NHRIS¹⁰. These challenges could be explained as follows:

(i) Shortage of Adequate Funding

The question of funding of the Commission is critical. This is because not only the Commission's activities are strengthened by adequate funding. It also strengthens its operations and independence. The Federal Government of Nigeria has reaffirmed its commitment to the promotion, protection and enforcement of human rights by providing the enabling environment for the NHRC to effectively realize its mandates and supporting it to own its offices and thereby "entrench its independence and strengthen its strive to protect the rights of citizens."¹¹ Moreover, the Government pointed out that as a

¹⁵ <http://www.hrhc.net/nhris/asiapacnhris.rtf> accessed on 14th May, 2019.

¹⁶ See, NHRC, 'FG Affirms its Commitment to Provide Enabling Environment for Human Rights Protection in Nigeria' 1st May, 2024, <https://nhrc.gov.ng/nhrc-media/news-andevents/472-fg-reaffirms-its-commitment> accessed on 5th May, 2024. The commitment was expressed through the Attorney-General of the federation, and Minister of Justice, Prince Lateef Olasunkami Faabami, SAN on the occasion of the commissioning of the Lagos State office of the NHRC. ¹⁷ Ibid

mark of its commitment to the independence of the NHRC under its enabling Act and the Paris Principles,¹⁷ where the Commission depends on the goodwill of the President for funding and related activities. This portends a great challenge, as it has the tendency to undermine the independence and operational efficiency of the Commission. The Executive Secretary has identified the indices of its independence under the Paris Principles. One of the indices is ownership of its offices. He noted that due to inadequate resources in the Commission, it could not own its offices, the way it had done from 1996 when the Commission began its operations to 2002¹². Given the lean financial resources available to the Commission, the Executive Secretary, appealed to National Assembly and the Budget office of the Federation to “appropriate more funds to help the Commission further realize its mandate to provide adequate protection to Nigerians when their rights are violated.”¹³ From the speech of the Secretary, it is crystal clear that funding is a major challenge to the Commission; yet, the independence of the Commission under section 6(5) of the enabling Act, cannot be achieved without (adequate) funding. Although the primary source of funding of the Commission is the Federal Government budget, its Act permits it to receive financial support and donations from other sources for the purposes of promotion and protection of human rights in Nigeria.¹⁴

(ii) The Inadequacy of the Enabling Act

The Commission is hamstrung by the inadequacy of the enabling Act, in which the Commission cannot derive its statutory powers outside the one specifically granted under the Act²¹. The lacuna of the legal framework of the Commission is reflected in the inability of the Commission to enforce its awards or recommendations without recourse to the Courts. It has no full power of the Court to sanction violators of human rights and imprison any violators of human rights without obtaining order from the Court. Therefore, the statutory powers of the Commission need to be expanded to ensure that the Commission has the enforcing powers of the Court for effective enforcement of the award of the Commission. Having identified the

¹⁸ Ibid, see also, George, L., Insight: Nigerian Rights Panel, underfunded and overmatched, begins probe of powerful military’ Reuters, 7th February, 2023, <https://www.reuters.com/world/africa/nigerian-panelunderfunded-overma> accessed on 5th May, 2024.

¹⁹ Ibid

²⁰ See, National Human Rights Commission, 2021 Annual Report <https://www.nigeriarights.gov.ng/filespublications/AnnualReport/2021-annual-report> accessed on 5th May, 2024. The Commission has received support from MacArthur Foundation, Ford Foundation, the European, Embassy of Switzerland, Open Society initiative for West Africa and the United Nations System. Ibid ²¹ Sections 5 and 6 of the SAHRC Act.

challenges of the legal framework, the study recommended the amendment of the existing Act to tackle the emerging challenges affecting the Commission.

(iii) Inability to enforce Socio-economic Rights

The Commission has made frantic effort at the enforcement of Political and Civil Rights to the detriment of the economic, social and cultural rights. These efforts are made bearing in mind that Nigeria is a signatory to the International Covenant on the Economic, Social and Cultural Rights and has also domesticated the African Charter on Human and Peoples Rights. The realization of the Political and Civil Rights was anchored on the socio-economic rights of the citizens. However, the socio-economic rights in Nigeria are not justiciable like that of South Africa which empowered SAHRC to enforce socio-economic rights for the benefit of the citizens.

One of the arguments or defences for compartmentalisation or progressive realization of human rights is alleged resource constraints. Ideally, human rights should be universal, interdependent, interrelated and mutually reinforcing. However, some states cannot guarantee socio-economic rights to their citizens, and instead go for civil and political rights that have little or no financial implications to governments. This state of things places citizens in uncertainty as they continue to wait indefinitely for the government will provide them with such rights. Civil and political rights cannot be fully realised without socio-economic rights.¹⁵

Alemika is of the view that ‘civil and political rights cannot be enjoyed to the exclusion of socio-economic well-being and development of the citizen and the nation in general.’²³ She doubts the plausibility of the view that non-availability of resources could be responsible for not providing socio-economic rights, given the material wealth of African nations, especially Nigeria.¹⁶ Instead, she regards it as lack of political will by successive leaders. Furthermore, Alemika argues that the implications of nonjusticiability of economic, social and cultural rights (ESCRs) has several consequences, like high rate of youth unemployment, of crime and social insecurity.¹⁷ The scholar lauded the establishment of the (Nigeria’s) National Human Rights Commission in 1995; but regrets that the body cannot protect ESCR because of its nonjusticiability nature.¹⁸ She however, sees a ray of hope in justiciability of right to education because of the enactment of the Child’s Rights Act 2003, if backed by judicial activism.¹⁹ Whereas the prospects, justiciability and enforcement of ESCRs remain bleak, Alemika offers a way out, when she says ‘...it should be possible for citizens to enforce their rights against

²² Zecharia, M. and Dauda, L.P., ‘Institutional and Constitutional constraints to the realization of economic, social and cultural rights in Nigeria’ 1 NJCL (2013), p.313. ²³ Alemika, E.I., ‘The Non-Justiciability of Chapter II of the 1999 Constitution: Implication for Development in Nigeria’ 1 BIU Law Journal (1) (2011), P.365.

²⁴ Ibid 379.

²⁵ Ibid 368.

²⁶ Ibid 363.

²⁷ Ibid 364.

the government by seeking for Court order for compliance or such government faces impeachment for inefficiency and non-performance.’

Dakas²⁰ identifies the arguments underpinning the non-justiciability of ESCRs. He dislodges these arguments by ‘deconstructing the fallacies and ambivalence’ inherent in them. The arguments are bifurcation of rights into positive and negative rights; resource constraints; institutional illegitimacy/democracy deficit, institutional capacity. He argues that not all the realization of ESCRs, requires positive actions by government; for instance, housing. Moreover, on the institutional capacity argument, it is countered by the fact that Judges/the Courts have the capacity to promote and protect human rights and can engage experts in areas where they have no expertise. Dakas believes that Nigeria can learn from the experiences of South Africa and India who have made tremendous progress in advancing ESCRs, and that Nigeria should utilize the opportunity of its domestication of the African Charter on Human and People’s Rights.

(iv) Inaccessibility of the Commission to majority of the Citizens The Head Office is located at Abuja with five other Zonal Offices to cater for a population of over two hundred (200) million Nigerians. The location and the few available zonal offices make it inaccessible to majority of the citizens living in the rural areas to lodge their complaints. It is on record that most of the compliant received by the Commission were from the Federal Capital Territory where the Headquarters of the Commission is located and not from the rural populace.²¹ Accessibility is one of the cardinal requirements for an effective National Human Rights Institution. The Commission, presently has twentythree (23) state offices across various states in Nigeria, inclusive of Abuja Metropolitan office to carter for the human rights needs of adjourning states to the Federal Capital Territory, Abuja"²² out of 36 states of the federation. As at 2008, it was reported in the Commission's Annual Report as follows "The Commission urgently requires operational vehicles for field activities including undertaking investigation of complaints, research into human rights issues, monitoring of human rights violation amongst others for effective

implementation of its activities and mandates."²³

²⁸ Dakas, D.C.J, ‘From Constitutions to Constitutionalism’. A Constitutional Imperative in Nigeria (Being the 2013 Distinguished Professor of Law Lecture, 18 November, 2013), especially ppp. 82 – 110, entitled: “Welfare of the people”: Deconstructing the Fallacies and Ambivalence Underpinning the Non-justiciability of Conundrum in ESC Rights Discourse and Implementation in Nigeria. Given the incapacity of the Courts to adjudicate on or enforce ESCRs, Dakas citing section 14(2), 143(11), 188(11), 69 and 110 of the Constitution, restates the provision of section 14 of the Constitution that sovereignty belongs to the people; hence, the people or electorate can impeach a political office holder. See pp. 109-110

²⁹ Annual Report 2003 pp. 36-37.

³⁰ Ibid P.V.

³¹ See Annual Report 2008, p.52. Actually the request had been recommended in 2007 Annual Report 2007, p.44.

(v) Illiteracy

Majority of the citizens are not conversant with the concept of human rights due to illiteracy and do not know when their rights have been violated or denied. Therefore, Government should provide social amenities to cater for the citizens by reducing unemployment, poverty and illiteracy for the effective discharge of the Commission's mandate.

(vi) Inadequate Skilled and Trained Personnel for the Commission

Inadequate skilled and trained manpower is a challenge for the effective discharge of the Commission's mandates.

(vii) Lack of Autonomy

Okene²⁴ has recommended that the Commission should be independent from the interference and influence of the Executive, the Legislature and those in the corridor of powers to allow the Commission serve as a defender of human rights and checkmate the excesses of the arms of government. The study agrees that the independence of the Commission is a pre-condition for effective discharge of its mandate.

(viii) Poor Staff Welfare

Staff welfare has adversely affected the effective discharge of its activities. For instance, "some staff in Lagos office had once complained of lopsided leadership of the Commission as well as neglect of the staff offices."²⁵ The poor remuneration, poor working conditions and low motivation of staff adversely affects the performance of the Commission. As a result of these issues, staff morale at both the state offices and at the headquarters is very low. It is true to state also that things are not about to change because of Nigeria's deep economic problems following especially the removal of subsidy and the catastrophic consequences.

(ix) Inadequate Support Granted by International Organisations and International Non-Governmental Organisations The Commission received support from governmental and nongovernmental organisations in funding some of the activities of the Commission. Unfortunately, the support received, is usually inadequate for the full actualization of its statutory mandates.

Therefore, the Commission should be provided with the needed logistic support from international bodies to execute its mandates.

³² Okene O.V.C. "National Human Rights Commission and the Promotion and Protection of Human Rights in Nigeria: A Reflections, Emerging Challenges and Suggestions for effectiveness". *International Journal of Law and Contemporary Studies*, vol. 4, No. 1 & 2, 2009, P.121.

³³ Anaba in *Vanguard* (2016, March 31).

(x) Lawlessness of the Security Agencies

Increasingly, some state security officials and members of the armed forces have been accused and/or found responsible for violations of human rights²⁶. Thus, many citizens have been tortured by states officials for expressing their news, for protesting against human rights abuse, or pressing for their rights to selfdetermination or protesting economic hardships. Incidents of unlawful arrest and detention and extra-judicial killings have been reported against state officials. One of the latest of the major incidents was the attacks by the military against END-SARS movement, which was a mass rally to protest the brutality and extortion by officers of the special Anti-Robbery squad of the Nigeria Police Force. The challenge for the NHRC is that state forces that should assist it in suppressing human rights violations are implicated in such violations. The Protesters of the end bad governance in Nigeria who are still languishing in prison for exercising their legitimate rights of protest within the ambit of the law.

Conclusion

The article identified the contribution and challenges of National Human Rights Commission in Nigeria. It concluded that concrete steps should be taken to tackle identified challenges. The Federal and State Government and relevant authorities responsible for the promotion and protection should ensure implementation and enforcement of the institutional and legal framework and should as a matter of urgency, put the necessary modalities in place for the amendment of the laws by providing an enabling the environment for the Commission to realize its statutory mandates.

The article identified the numerous challenges hampering the effective discharge of the statutory mandate of the Commission. The article recommend as follows:

1. The existing institutional and legal framework in Nigeria should be amended to address the identified challenges for robust and effective discharge of the statutory mandates of the Commission in Nigeria.
2. The Commission's funding, autonomy, accessibility and enforceability of the awards or recommendations in Nigeria, should be enhanced by putting in place appropriate executive, legislative and judicial measures to tackle the challenges.
3. There should be a legislative and judicial mechanism in place to support all governmental and non-governmental agencies to effectively collaborate with NHRC in the discharge of its statutory mandates.

³⁴ For details, see Obajobi, J.J., 'The Role of the National Human Rights Commission against Human Rights Violation in Nigeria' 3 *Zamfara Journal of Politics and Development* 1 (2022); <https://zjpd.com.ng/index.php/zjpd/article/view/81> accessed on 4th May, 2024. For more information on the above and other violations such as the state of the judiciary, child abuses, discrimination, workers' rights, and so on, look up United States Department of State, Bureau of Democracy Human Rights and Labour, Country Reports on Human Rights Practices for 2022, <https://www.state.gov/up-content/uploads/2023/03/415610-nigeria-2022.human> accessed on 5th May, 2024

4. Federal and State Governments should intensify efforts in the provision of social amenities in order to enhance the promotion and protection of Human rights in Nigeria.
5. Federal and State Governments should effectively discharge their statutory responsibility by providing for the welfare and security of its citizen in Nigeria, which have in the last few years especially, became abysmal.
6. The Government should establish a specialized Human Rights Court to expeditiously handle human rights cases in Nigeria.