

The Significance and Limits of NGOs in Human Rights Protection in Nigeria

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Abstract

Although concern for human rights dates back to antiquity, through the various stages of socio-economic formations up to the modern era, and there are many international human rights instruments to which many nations across the globe are signatories, it is lamentable that all over the world egregious human rights violations have not abated. This is because of lack of fidelity to human rights goals by governments and the virtual failure of executive agencies established to ensure the promotion and protection of human rights. This paper therefore examines the imperative need for NGOs in human rights protection. The paper also provides historical sketch of human rights NGOs and highlights their challenges. It concludes by charting an agenda to surmount the challenges with a view that human rights NGOs in Nigeria will be able to optimally fill the gap created by the failure of executive agencies.

Civil society, represented by non-governmental organizations, has become an important actor in world society. Of particular relevance are groups concerned with development, human rights and the environment. They increasingly influence and even shape international politics.

Asbjorn Eide.¹

Introduction

The importance of human rights promotion and protection is now well recognised and formalized.² The existence and proliferation of municipal and international legal instruments on human rights are eloquent testimony of the importance and relevance of human rights. These rights which have gained universal acceptance are said to be inherent, inalienable and imprescriptible.³ At the international, regional⁴ and domestic levels, apart from standard setting, concrete mechanisms have been designed and constructed to ensure optimal realization of these rights. The establishment of legal frameworks and erection of institutional infrastructure at domestic level for the promotion and protection of human rights is particularly important because states remain primarily responsible in international law for ensuring protection of human rights within their jurisdictions.⁵

On the relevance of national institutions in human rights promotion and protection, Antonio A.C. Trindade⁶ has rightly observed that:

Today, progress in the international protection of human rights depends largely on national measures of implementation. International protection requires national measures to implement human rights treaties and to strengthen national institutions linked to the full observance of human rights and rule of law. International and domestic jurisdictions complement each other in the constant struggle against manifestation of arbitrary power.⁷

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¹ The historical significance of the Universal Declaration, in Human Rights: 50th Anniversary of the Universal Declaration, International Social Science Journal; vol. 1 No. 4 1998, Blackwell Publishers Ltd.

² Asbjorn Eide The Charter of the United Nations, 1945 in imprecise language makes reference to human rights in 6 sections. Authoritative articulation of human rights is provided in the Universal Declaration of Human Rights, 1948; International Covenant on Civil and Political Rights, 1966; International Covenant on Economic, Social and Cultural Rights 1966 and a host of Conventions, Declarations and Resolutions.

³ U.O. Umozurike, "The Present State of Human Rights in Africa" [1986]L.J Calabar; Faculty of Law, University of Calabar, Calabar; P. 62 at 63. See also, E. Pagels, "The Roots and Origins of Human Rights", in A.H. Henkin, ed. Human Dignity, The Internationalization of Human Right New York; Aspen Institute for Humanistic Studies, 1979 at 9.

⁴ There are now well established regional systems for human rights protection. See E.g, the European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950; The Inter-American Convention on Human Rights, 1969 & The African Charter on Human and Peoples Rights, 1981.

⁵ Human Rights International Protection, Monitoring, Enforcement 257 [Janusz Symonidies, ed 2003].

⁶ Since 1948, over 60 human rights treaties and declarations have been negotiated and adopted at the UN., M.O.U. Gasiokwu, Human Rights, History, Ideology and Law Jos: FAB Educational Book, 2003 at 253.

⁷ The interdependence of all human rights obstacles and challenges to their implementation – in Human Rights. Anniversary of the U.U at Int. Soli Sci journal, at 519.

Nigeria, in apparent acknowledgement of, and fidelity to, its international obligation has established seemingly solid institutional infrastructure towards the promotion and protection of human rights.¹ Regrettably, the institutional infrastructure – the various governmental and quasi-governmental bodies established to ensure the promotion and protection of human rights in Nigeria suffer functional limitations.² Being controlled, either directly or indirectly by the government, through funding, composition of membership, and provision of operational guidelines among others, it is evident that the efficiency of these bodies will be compromised and undermined by governmental interference.³ Where government or any of its agencies is accused of human rights violation, victims may not have any meaningful redress as the institutional mechanisms may be hamstrung in playing an impartial role.

The functional limitations of the institutional mechanisms; that is, the executive agencies for human rights protection, provide unique justification for, and the imperative need to, look up to non-governmental organizations to help in the project of human rights promotion and protection. NGOs play an increasingly important role in world politics as well as human rights issues. Thus, it has been asserted that they “are increasingly becoming an important force, in part because of claims that they are efficient and effective”, and are “innovative, flexible, independent and responsive to the problems of poor people at the grass-roots level”.⁴ The existence of human rights NGOs is part of what has been described as a “tumultuous amplification of the number and ambit of institutions consecrated to ensure compliance with international legal obligations and settlement of disputes arising therefrom.”⁵

The primary objective of this work is to examine the justifications for, and limits of, NGOs and suggest measures to ensure optimal realization and enjoyment of human rights in Nigeria through their activities in view of the evident failure of the executive agencies. In discharging this mandate, part II provides the background by undertaking historical sketch of human rights NGOs, at the international level and in Nigeria. Part III examines the imperative need for human rights NGOs while Part IV highlights the challenges facing human rights NGOs in Nigeria Part V, makes recommendations geared towards optimal implementation of human rights in Nigeria, followed by a short conclusion.

Part II - Meaning

The Meaning and Evolution of NGOs in Nigeria.

The term, “non-governmental organizations” is difficult to define with scientific precision.⁶ Thus, it has been said that the term escapes “simplistic definitions”.⁷ In the Charter of the UN, no attempt was made to define the term although reference was made to NGOs in Article 71 which created informal relationship between the UN and NGOs.⁸ The attempt made by the Conference on Security and Cooperation in Europe to define the term is, arguably, inadequate and unsatisfactory. According to the Conference,⁹ non-governmental organizations are “those who declare themselves as such according to existing national procedures; with a bar only on those using or publicly condoning violence or terrorism.”

Perhaps Black Law Dictionary¹⁰ provides a more informative definition when it defines the term as “any scientific, professional, business, or public-interest organization that is neither affiliated with nor under the direction of a government; an international organization that is not the creation of an agreement among countries, but rather is composed of private individuals or organization”. They are organizations that are not a part of

¹ These include the courts, National Human Rights Commission, The Legal Aid Council and Public Complaint Commission.

² This is why human rights implementation in Nigeria remains marginal.

³ For instance Ludmila Alexeeva, the 82-year old Russian human rights activist recently resigned from the presidential human rights council after the administration decided to change the way it chooses members of the 27 member body because of the fear that the Council may come under the influence of government. Alexeeva then declared that Russia needs a non governmental civil and human rights council. See, www.voanews.com/content/russia-human.

⁴ Cahit Bagci, Historical Evolution of NGOs NGO Proliferation in the Post-Cold War Era, “The Journal of Turkish Weekly, www.turkishweekly.net/article/222/

⁵ Cessare P.R. Romano, “The Proliferation of International Judicial Bodies: The Pieces of the Puzzle,” 31 U.Y.U.J. Int’L & Pol 709 [1999] [quoting William of Ockham].

⁶ See, R. Bretf, the Role and Limits of Human Rights NGOs at the United Nations, Political Studies, vol. 43 Issue Sup.1 96-110 [Aug. 1995]. Non-Governmental Organizations; en.m.wikipedia.org/wiki/non-governmental-organization.

⁷ Cahit Bagci; Historical Evolution of NGOs; NOG Proliferation in the Post Cold War Era, “The Journal of Turkish Weekly, [www.turkishweekly.net/article/222/lastaccess 25/9/2013 at 07.04](http://www.turkishweekly.net/article/222/lastaccess%2025/9/2013%20at%2007.04).

⁸ Article 71 of the Charter provides that “the Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence.

⁹ Document of the Moscow meeting of the Conference on the Human Dimension of the CSCE, 199 para 43 CSC E Helsinki Decisions 1992 Ch. 1 para 16.

¹⁰ B.A. Garner, Black’s Law Dictionary 7th ed, St Paul, MINN: West Group, 1999 at 1076.

government and are not conventional for-profit businesses.¹ Characteristically, they pursue wider social aims that have political aspects but are not openly political organizations such as political parties.

The basic attributes of NGOs may be spotlighted without amplification. They are essentially autonomous, that is, independent through legal and operational autonomy; non-profit making and major part of their funds must come from voluntary contributions.

It is significant to stress that the mere fact that grant, aid or financial contribution is made by a government or any of its agencies to a NGO does not defeat its character.

Historical Sketch

The evolution of human rights NGOs pre-dates the formation of the UN and the adoption of its Charter in 1945 although they achieved formal, universal recognition only after the setting up of the body.² According to Davies,³ international non-governmental organizations have a history dating back to at least 1839 and it has been estimated that by 1914, there were 1083 NGOs. However, the more formal relationship of non-governmental organizations with international organizations was formalized for the first time by Article 71 of the Charter of the United Nations by which the Economic and Social Council was authorized to “make suitable arrangements for consideration with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations, after consultation with the Member of the United Nations concerned.”

Perhaps the oldest human rights non-governmental organizations was the Anti-Slavery Society which played an important role in procuring the adoption of the Convention on the Abolition of Slavery in 1926, and later, in 1956, of the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery.⁴ NGOs also played dominant role, through what has been described as “energetic lobbying”⁵ in the inclusion of articles relating to human rights in the UN Charter at the San Francisco Conference. Ever since, there has been no looking back by human rights NGOs in ensuring international protection of human rights.

The emergence of international human rights NGOs was essentially, a direct response to the imperative need to promote human lives, their physical, material and spiritual well-being. Notable international human rights NGOs in existence today include Amnesty International, Children Defence Fund, Human Rights Action Centre; Human Rights Watch; Human Rights without Frontiers; and National Association for the Defence of Coloured People.

In Nigeria, like the international scene, the evolution of human rights NGOs was a reaction to the autocratic, repressive, and inhuman military rule in the country which engendered the subversion of the social, economic and political rights of the people.⁶ Military rule which was characterized by arbitrariness, impunity, lengthy detention without trial and other egregious human rights violations, provoked in 1987, the formation of Civil Liberties Organisation which was the first human rights non-governmental organization in Nigeria.⁷ Soon after this, and owing to the widespread human rights repression of the then military regime of General Ibrahim Babangida, and the consistent deliberate abortion of the hope for democratic government by that regime, many other human rights NGOs sprang up and this growth was further accelerated by the draconian regime of General Sani Abacha which succeeded the interim government of Chief Ernest Shonekan.⁸ Thus, it has been said that “the growth of these non-governmental organizations could be traced to consciousness and a concern for the preservation of liberty which they conceived was gradually being eroded”.⁹

NGOs in Nigeria not only fought against human rights repressions but for the enthronement of democratic government. According to Nwankwo,¹⁰ “for most part of the period of military rule in Nigeria,

¹ Although they may receive governmental funding, they maintain their independence and non-governmental status by excluding government representatives from membership in the organization.

² See R. Brett, Op. Cit. at 110.

³ T.R. Davies, “The Rise and Fall of Transnational Civil Society: The Evolution of International Non-Governmental Organizations since 1839” in City University London Working Paper Steve Charnoritz “Two Centuries of Participation: NGOs and International Governance,” Michigan Journal of International Law Winter, 1997.

⁴ John Humphrey, *No Distant Millennium, The International Law of Human Rights*, Paris; Unesco, 1989 at 143.

⁵ Ibid.

⁶ Newswatch Magazine, June, 29, 1992 at 15.

⁷ See, Clement Nwankwo, “Human Rights and the Challenges of NGOs in Nigeria”: in A.O. Obilade, & C. Nwankwo [eds] *Text For Human Rights Teaching in Schools, Lagos*: Constitutional Rights Project, 1999 at 258

⁸ The abysmal situation of human rights resulted in Nigeria becoming a pariah state international arena and the country was put on the agenda of the United Nations Commission on Human Rights for five consecutive years.

⁹ Newswatch Magazine, June, 29 1992 at 15.

¹⁰ Nwankwo, Op. Cit. at 261.

especially the period between 1987 and 1998, human rights NGOs played a crucial role in the struggle to promote and protect human rights. They pushed for the exit of the military from the politics of the country”.

A fundamental feature of notable human rights NGOs in Nigeria is that they are founded directed and managed by lawyers,¹ and they include Civil Liberties Organisation, [CLO], Committee for the Defence of Human Rights [CDHR], National Association of Democratic Lawyers [NADL], Campaign for Democracy [CD]; Human Rights Africa, Constitutional Rights Project [CRP]; The Foundation for Legal Aid and Human Rights [FLAHR]; and Centre For Human Rights and Development [CHRD].²

Part III - Imperative of Human Rights NGOs

The internationalization of human rights and the continued declaration and affirmation of their universality, inalienability and immutability are profoundly inspiring. It is also remarkable that many governments across the globe are signatories to major international human rights instruments³ by which they commit and dedicate themselves to the protection and promotion of human rights. With this, it becomes tempting and a hypnotically arresting thesis not only to assume but pontificate that human rights are guaranteed adequate protection. Regrettably, this is not the case. Governments often demonstrate evident lack of commitment to human rights implementation.

This lack of fidelity to human rights goals among nation-states across the globe, among other reasons provides unique justifications for the existence of NGOs. A brief examination of the various justifications for human rights NGOs will now be undertaken.

i. Government’s infidelity to human rights goals

Governments across the globe -the advanced democracies, developing countries and the so-called third world-are noted to have failed to demonstrate the needed fidelity and commitment to the promotion and protection of human rights.⁴ Indeed, it is an undeniable and inescapable fact that governments across the globe remain the greatest human rights violators. Thus, it has been noted that “nowhere in the world is the flawless observance of human rights a mass cultural fact. And if history has taught us anything, it is that even the most democratic countries are prone to commit even egregious human right abuses...”.⁵ To demonstrate the limitless frequency and gravity of egregious human rights violations by governments, a learned author aptly described them as the “major human rights predators”.⁶ In the words of Narima,⁷ a one time president of the Indian Bar Association while delivering a lecture in Indian Bar Association 50th Anniversary in 1997,

The great violators of the most basic human rights – the right to peace – are sovereign governments obsessed with national security. Although we do have an impressive body of international law, with scores of international Covenants and conventions, in the end, they do not add up so much.

A learned author⁸ would add that it is an “egregious and fundamental error to place faith in fundamental human rights and the dignity and worth of the human person in State hands”⁹ because “the records of the nations both small and large have shown beyond doubts since 1948 that all governments have the tendency as well as the propensity to violate human rights”.¹⁰

¹ See, A. Ibidapo-Obe, *Essays on Human Rights Law in Nigeria*, Lagos: Concept Publications Limited, 2005 at 270.

² For detailed history of human rights NGOs in Nigeria, see Ibidapo-Obe, *ibid*, Nwankwo, Op. Cit. at 255.

³ There is an impressive adoption of the International Bills of Rights, among other international human rights instruments by nation-state across the globe- For instance, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights have been adopted by many nations across the globe.

⁴ See, J.A. Dada, “Judicial Remedies for Human Rights Protection in Nigeria”, *Journal of Law, Policy and Globalization, International Institute for science, Technology, & Education*, vol. 14 [2013]1. J.A. Dada & M. Ibanga, “Human Rights Protection in Nigeria: From Rhetoric to Pragmatic Agenda”, *African Journal of Law and Criminology*, Volume 1, Number 2, (2011) 93.

⁵ O.C. Okafor and S.C. Agbakwa, on legalism, popular Agency and “Voice of suffering. The Nigerian Human Rights Commission in Context, *Human Rights Quarterly* 24 [2002] 719.

⁶ M. Mutua, “Human Rights: A Political and Cultural Critique”, 2002 at 2. Cited by C.A. Odinkalu, *Back to the Future, the Imperative of Prioritizing for the Protection of Human Rights*, [2003] *Journal of African Law*, 1-37.

⁷ F.S. Narima, “International Human Rights Law and Sovereignty of States: Role and Responsibility of Lawyers”, *IBA-Human Rights Institute News*, Vol. 2 No. 2 October, 1997 at 22-24.

⁸ T. Abayomi, *Non-Governmental Organizations in the Protection and Promotion of Human Rights in Africa: Critique of Approach and Methods in C.O. Akpamgbo [ed] Perspectives on Human Rights: Vol. 12, Lagos FM.J.; 1992 at 176.*

⁹ *Ibid*

¹⁰ *Ibid*.

The perplexing paradox of governments which should rightly be the “protectors” of human rights turning into their “predators” can easily be explained. A wide gap exists between mere formal subscription to human rights standards and actual practice.¹ Thus, it has been noted by two learned authors² that mere ratification of international human rights instruments and the establishment of institutional infrastructure for human rights protection are false and misleading barometer to measure the fidelity of a government to human rights protection.

A captivating explanation on why nation-states across the globe have not been able to match their records of impressive codification with actual practice was offered by a learned author³ who declared that:

Governments find it difficult to vote against what is deemed to be good; what a vast majority of people of the world want, and what consequently makes good political sense for Governments to be for, if only to give lip service to.

To fortify and validate the thesis that nation-states remain the major human rights predator, the situation in Nigeria is aptly illustrative. Under the various governments, military and democratic, egregious human rights violations by government and its agencies have continued unabated. In lamenting human rights violations by governments in Nigeria, the present author⁴ had occasion to declare that:

As in the inglorious days of military rule, frequent cases of extra-judicial and unresolved killings,⁵ unjustifiable torture of detainees by security agents,⁶ unbridled curtailment of press freedom⁷ and objectionable arrest and detention⁸ still reign supreme.

A banquet of unpalatable infractions of human rights by Nigerian Government was provided by the United States Human Rights Reports for 2008⁹ to include:

...abuse of power by the police, deprivation of life and infringement on individuals freedom... extra-judicial killings by security forces, use of lethal and excessive force, impunity for abuses by security forces, torture, rape, and other cruel, inhuman or degrading treatment of prisoners, detainees and criminal suspects, harsh and life threatening prison and detention centre conditions.¹⁰

The situation today is not any better. Indeed, Amnesty International in its 2012 Report on Nigeria noted that the country’s human rights situation in the year has “deteriorated”.¹¹

If government which has the primary mandate to ensure the promotion and protection of human rights is the major violator of the rights, then protection of the rights must be sought outside government. Indeed it has been asserted that “globally, the champions of human rights have most often been citizens, not government officials. In particular, nongovernmental organizations (NGOs) have played a primary role in focusing the international community on human rights issues”.¹²

ii. **Weak Institutional Infrastructure for Human Rights Protection**

It has been insightfully noted that the major deficiency in the human rights regime across the globe is not the absence of good standards and laws, but one of enforcement.¹³ Effective enforcement of human rights

¹ O. C. Eze, *Human Rights in Africa, Some Selected Problems*, Lagos: Nigeria Institute of International Affairs, 1984 at 255-256 P.N. Bhagwati, the Governor of the Judicial Colloquium Bangalore, 24-26 February, 1988 in *Domestic Application of International Human Rights Norms*, London. Commonwealth Secretariat, 1988 at 3.

² J.A. Dada & M.P. Okom, “A Critical Appraisal of Institutional Infrastructure for Human Rights Institutional Protection in Nigeria”, *African Journal of Social Sciences*, vol. 3, Number 1, March, 2012 at 64

³ M. Halem, “The Domestic Application of International Human Rights Norms” in *Developing Human Rights Jurisprudence*, op. cit. at 101.

⁴ See, J.A. Dada; “Human Rights Protection in Nigeria: The Past, the Present and Goals for Role Actors for the future”, *Journal of Law, Policy and Globalization, International Institute for Science, Technology, & Education*, vol. 14 [2013] at 7

⁵ Cases of unresolved high profile murders include that of Chief Bola Ige, SAN then Attorney-General and Minister of Justice of the Federation, Chief Harry Marshall, the a Chieftain of the ruling party, the Peoples’ Democratic Party.

⁶ See Amnesty Report, www.amnestyinternational.com. See also, *Saturday Punch*, September 13, 2008 at 2 & 49.

⁷ Many Newspaper houses including *Insider* and *The Week* were raided and their publications confiscated.

⁸ For example, many labour leaders were arrested and detained in consequence of their organization and participation in strikes.

⁹ The Report, titled, *Human Rights Reports for 2008* signed by the then Secretary of State, Hilary Clinton. For excerpts, see *Tell Magazine*, No. 16 April, 202009 with the caption, *Nigeria: Great Nation, Poor Human Rights* at 22-24.

¹⁰ *Ibid.*

¹¹ www.amnesty.org/en/region/nigeria/report-2012.

¹² *United for Human Rights, Making Human Rights a Fact*, www.humanrights.com/voices-for-human-rights/human-rights.

¹³ C.E. Obiagwu, “International Human Rights Framework, A Challenge to Nigerian Courts” in *Current Themes in the*

largely depends on the domestic machineries of the national governments.¹ It is for this reason that major international human rights instruments mandate State parties to take appropriate domestic measures to ensure the realization of the rights proclaimed.² Although Nigeria, in recognition of its obligation as a signatory to major human rights instruments, has established relevant institutional mechanisms such as the courts³ and the National Human Rights Commission,⁴ for human rights protection, regrettably, the mechanisms are weak, and incapable of providing strong and effective platform to meaningfully discharge their mandates.

The functional limitations of the various governmental and quasi-governmental bodies established in Nigeria to ensure human rights promotion and protection make it imperative to seek extra-governmental intervention in the quest for optimal implementation of human rights.

iii. **Need for Multifarious Strategies and Approaches**

It is widely recognised that in order to ensure effective implementation of human rights, wide-ranging strategies and approaches are required. Indeed there is no enforcement mechanism, which can exclusively and adequately ensure optimal human rights protection. The need for multifarious strategies was trenchantly articulated by Atonio A. Cancado Trindade⁵ as follows:

There is a great need to conceive new forms of protection for human beings facing the present diversification of sources of violations of their rights. Virtually all existing mechanisms of protection were conceived as responses to human rights violations. New responses are now needed. The current paradigm of protection [for the individual vis-à-vis public power] runs the risk of becoming insufficient and anachronistic, as inadequately equipped to confront those violations. New responses should be conceived on the understanding that the State remains responsible for those violations that it fails to prevent.

Bhagwatti has also noted that:

It must be recognised that the enforcement of human rights cannot just be the pleasure of lawyers, judges and courts nor is adjudication by the courts the only method by which human rights can be enforced. A wide range of alternatives has to be explored in order to change some old ways of thinking...

Thus, in addition to judicial and other governmental protection agencies, human rights NGOs are a veritable tool to drive the goal of human rights.

From the above, it becomes clear that the role of NGOs in the promotion and protection of human rights is not only extensive but very important and crucial.⁶ To demonstrate the importance and near indispensability of human rights NGOs in the implementation of human rights, the role characteristically played by them may now be highlighted as follows:

- a) **Investigative role** – This essentially entails conducting inquiry in order to unearth and expose human rights abuses for possible remedial action.
- b) **Advocacy role** – This is a promotional and educational role by which human rights NGOs undertake systematic sensitization of the populace on human rights issues. Victims of human rights abuses are enlightened on appropriate steps to take to secure redress. This role includes collecting, producing and disseminating information materials and organizing promotional events to draw attention to human rights.

Domestication of Human Rights Norms, C.C. Nweze & O. Nwankwo, (eds) Proceedings of the CIRDDOCS Judicial colloquia on Domestic Application of International Human Rights Norms, Enugu: Fourth Dimension Publishing Co. Ltd, 2003, at 59.

¹ J.A. Dada, Domestic Measures for Human Rights Protection in Nigeria, in E. Essien [ed] Law: All-Round Excellence, Essays in Honour of Professor Peter Umah Umoh, Osy-Ghana: Toplaw Publications Ltd; 2012 at 226.

² See, e.g. Preamble, Universal Declaration of Human Rights, 1948, GA Res. 2174 [iii] & Articles 8; See also, Article 2, International Covenant on Economic, Social and Cultural Rights, 1966.

³ Section 6 of the 1999 Nigerian Constitution unequivocally vests judicial powers in the court while section 46.

⁴ CapN 46, Laws of the Federation of Nigeria, 2004.

⁵ A.A. Cancado Trindade, "The Interdependence of all Human Rights-Obstacles and Challenges to their Implementation", International Social Science Journal, Dec. 1998 at 518.

⁶ For further reading on the role of NGOs, See, "strengthening of the United Nations: An Agenda for further Change", UN Doc. A/57/387. NGOs and" The Human Rights Movement, The Advocate for Human Rights," www.stopvaw.org/ngos-and-the-human-rights-movement.

- c) **Legal Assistance** – By this role, legal aid is given to indigent victims of human rights violations in order to secure for such persons, appropriate redress.
- d) **Research Role-** This role obligates human rights NGOs to undertake research into human rights issues which can aid policy formulation.
- e) **Networking Role-** By this role, contacts are established with national, regional and international bodies and agencies involved in human rights issues for co-operation, support and necessary synergy in the advancement of human right.
- f) **Monitoring role-** This role essentially involves observing the level of compliance with human rights especially by government and non-governmental agencies.

Part IV -Impediments to the Effectiveness of Human Rights NGOs

Without doubt, human rights NGOs in Nigeria have not been able to fill the gap created by the near absence of executive agencies in human rights promotion and protection. This being the case, it is imperative to undertake, albeit briefly, critical legal scholarship that interrogates the ineffectiveness of the NGOs with a view to purging them of the malaise. The factors limiting the effectiveness of NGOs in Nigeria can be classified into four, namely, issue of access to justice, inclement political environment; funding; and distrust in the human rights NGOs. For clarify, it is proposed to briefly examine each of these factors.

i. Access to Justice

Access to justice which connotes the availability of accessible, affordable, comprehensible justice systems, and the dispensation of justice fairly, speedily and without discrimination, fear or favour,¹ is crucial to human rights implementation.

The issue of access to justice is a significant constraint to the effectiveness of human rights NGOs. Access to justice has been denied through the use of what has been termed² “negative legal” and access-curtailing devices” such as ouster clauses, limitation acts, protection of public officers from suits, the doctrine of state immunity and the dragon of *locus standi*. *Locus standi* is particularly significant because it is a well established jurisprudential principle in Nigeria that a suit at the instance of a person who has no *locus standi*, that is, a meddlesome interloper, a person who has only remote, hypothetical or no interest³ in the subject matter of litigation, is incompetent and unmaintainable. Often, human rights violations are committed against individuals who are indigent and have no financial capability to seek judicial or administrative redress.⁴ The legal requirement of *locus standi* constitutes a formidable if not insurmountable impediment to human rights NGOs which might have been inclined to undertake public interest litigation.⁵

Another relevant issue here is absence of legal personality. Although a reasonable number of the NGOs are registered with the Corporate Affairs Commission under part C of the Companies and Allied Matters Act, 2004⁶ and *ipso facto* have legal personality, many do not have legal personality. Absence of legal personality constrains an NGO to institute legal action to challenge or redress human rights violations in deserving cases. The only role NGOs which have no legal personality may play is thus limited to (non-judicial) enforcement roles.

It may be noted that in recognition of the importance of juridical personality to the role of NGOs, the Council of Europe adopted the Treaty on the Recognition of the Legal Personality of Non-Governmental Organizations which calls on the contracting states to recognise, as of right, the legal personality and capacity of non governmental organizations if they fulfill certain conditions laid down in the treaty.⁷

ii. Inclement Political Environment.

¹ M.T. Ladan, “Access to Justice and the Justice Sector Reform in Nigeria”, a paper presented at the First International Conference on the state of Affairs of Africa, organized by the International Institute for Justice and Development [11JD] Boston, Massachusetts, USA, Oct, 26-28-2006 available at http://www.ijjd.org/Pdf%20files/Mohammed-Tawfia-Ladan-Justice-Sector-Reform-Nigeria_Nigeria_PDF

² A. Ibidapo-Obe, “Enforcement of Rights and the Problem of *Locus Standi* in Nigeria” University of Ado Ekiti Law Journal, vol. 2, 2003 at 113.

³ *Locus standi* is a term which denotes legal capacity to institute proceedings in a court of law and the expression is often interchangeably used with terms like “standing” and capacity to sue – see *Attorney General of Kaduna State v Hassan* [1985]2 NWLR [pt 8] 483; *Global Transport Oceanico, S.A. O. & anor v Free Enterprises [Nig] Ltd* [2001]2 SCNJ. 244 at 240.

⁴ *Attorney – General of Kaduna State v Hassan*, *Supra*.

⁵ See, Olisa Agbakoba “Role of Non-Governmental Organizations in the Development and Protection of Individual Rights” a paper presented at a High Level Workshop on Individual Rights under the 1989 Constitution, Sept. 28-30, 1992 at 11.

⁶ Cap. C 12 LFN, 2004

⁷ The Treaty was opened for signature on 24 April, 1986.

It is no exaggeration to say that Nigeria's political environment is not only non-receptive, but apathetically hostile to criticisms; even constructive ones. This has led to unjustifiable attacks on political opponents and other pressure groups by successive Nigerian governments. Often, governments hide under the dubious claim of national security to perpetrate their repressions.

The role of human rights NGOs often constitutes irritation to Governments since they draw attention to human rights abuses often perpetrated by Governments and their agencies with the consequence that Governments are exposed to national and international censorship and opprobrium. The embarrassment to which governments are exposed has been referred to as "shame sanction."¹ Since "all governments loathe any check on their powers,"² they often resort to a variety of strategies to dissuade, degrade and defeat NGO members. In Nigeria, the strategies include intimidation, harassment, arrest, detention, torture and killing. Some NGOs activists were driven into exile.³ Many frontline human rights activists like Late Gain Fawehinmi, Late Beko Ransome-Kuti, Femi Falana, Clement Nwankwo and a host of others, were at various times detained in dehumanizing conditions in order to cow them.

It is instructive to observe that the emasculation of human rights NGOs is not a phenomenon limited to Nigeria. For instance in Egypt, Zimbabwe⁴ Cambodia, Algeria Venezuela and Ethiopia, repressive steps have been taken to curtail the activities of human rights NGOs. In some countries, there are legislation passed not only to regulate and monitor the activities of human rights NGOs but to curtail them and punish infractions. In Venezuela, the country's parliament has placed NGOs under permanent surveillance by a state organ and imposes restrictions on foreign funding, with heavy penalties for violations.⁵

A learned author, Rajni Kothari,⁶ while lamenting the erosion of the efficacy of human rights NGOs in India owing to repression by state authorities observed that:

"The struggle against the state is becoming an unequal one, constantly frustrating and causing depletion in ranks, in turn leaving the field to an ageing leadership that is still living in the past as far as its grasp of the human rights problematique is concerned. State violence and state terror are on the increase ... Human rights activists...have been found to fight increasingly losing battles..."

In fact, it has been asserted that human rights NGOs "mostly operate at the pleasure of national government,"⁷ and have little recourse, if asked to cease operation or even leave a state entirely.⁸ Under this type of situation, the impact of NGOs can only be marginal.

iii. Funding

Typical human rights NGOs play both protective and promotional roles using multidimensional strategies. As part of their mandate, they undertake –

- i. Extensive research for their publications,
- ii. Investigation of human rights violations;
- iii. Documentation of violations of human rights standards
- iv. Educating members of the public and providing support to Government for policy consideration,
- v. Mobilization of public for mass action against government's actions or policies which constitute human rights violation.⁹

¹ W. Korey, "NGOs and the Universal Declaration of Human Rights" 5, 1998.

² Abayomi, Op.Cit. at 177.

³ For an x-ray on human rights regime, see E. Biakolo, "The Seven Lean Years" Guardian Newspaper, Saturday 29th August, 1992; C. Nwankwo, Human Rights and the Challenges of NGOs" in Text for Human Rights Teaching in Schools, A.O. Obilade & C.O. Nwankwo [eds] :Lagos: Constitutional Rights Project CRP, 1999; 255 A.O. Mohammed; "Human Rights Abuses in Africa, The Position of Human Rights Organizations", Paper presented at Amnesty International Symposium, 16-6-1999 at 8.

⁴ In Zimbabwe 29 NGOs were proscribed in February, 2013 while many were forced to close down in Ethiopia in 2009. See, www.unarg/apps/news/story.asp?newsID=41858#, legislation have been passed not only to regulate and monitor the activities of human rights NGOs but to curtail them and punish infraction. In Venezuela, the Country's parliament has placed NGOs under permanent surveillance by a state organ and imposes restrictions on foreign funding, with heavy penalties for violations. Similar repressive laws have been passed by other counties like Cambodia and Algeria.

⁵ Similar oppressive laws have been passed by other countries like Cambodia and Algeria.

⁶ R. Kothari Human Rights – A movement in Search of a Theory in Smitu Kothari and H. Sethani, [eds] Rethinking Human Rights: Challenges for Theory and Action 19 [1989] cited in H. J Steiner and P. Alston, International Human Rights in Context, Clarendon Press, Oxford; 1990 at 460.

⁷ Council on Foreign Relations, www.cfr.org/human-rights/rights/global-human-rights-regime.

⁸ Ibid.

⁹ For NGOs process in documenting and reporting human rights violations, See, D.O. Thomas & M. E. Beasley,

Without doubt, these varying strategies require adequate funding for any meaningful result. Many human rights activists in Nigeria, like their counterparts across the globe, are not men and women of means and affluence such that they can finance the activities of their respective NGOs from personal donations. They are therefore constrained to depend on funding agencies especially, foreign aid agencies, for funds. In recent years, governments of developing countries across the globe view with suspicion, donations to non-governmental agencies because of concerns for political self survival. Thus, there are now restrictions on receipt of aids from donor agencies. Much as there is no legislative restrictions on donations in Nigeria as in Venezuela and Algeria, donations to NGOs may be forfeited in Nigeria on grounds of protection of national interests. Legislative and other legal restrictions on donation can stifle the activities of the NGOs.

Besides, and importantly, although the number of human rights NGOs has continued to grow, donor agencies and funds are limited. The implication of this is that competition for funding has not only increased but has occasioned paucity of funds available to various NGOs to meaningfully prosecute their mandates.

iv. Distrust and Dishonesty in Human Rights NGOs Community.

Beginning from the early 1990, there has been an exponential growth of human rights NGOs in Nigeria. As earlier asserted the proliferation of human rights NGOs in Nigeria does not correlate with government respect for human rights in the country. It is tempting to equate the proliferation of human rights NGOs across the globe with improvement in human rights practices. However, a critical evaluation of the activities of human rights NGOs will reveal that the growth in the number of NGOs has marginal impact on human rights protection.¹ This is partly because many human rights NGOs activists are not truly committed to the cause of human rights but merely use their NGOs as umbrella to make money from donor agencies for themselves. Issa Shivji argues that “the sudden rise of NGOs are part of a neoliberal paradigm rather than pure altruistic motivation”.²

Proliferation also brought with it in-fighting, and credibility problem.³ Some human rights NGOs have been accused of partisanship, malice and political interests in their activities. This development engenders role abdication by NGOs as virile human rights watch-dogs. Tunji Abayomi, a notable human rights activist, once dismissed the Report of Civil Liberties Organisation⁴ as “self-serving sensationalism which has no basis or logic.”⁵ He then queried: “should a human rights organization love sensationalism such that it loathes to put the facts out as dispassionately as possible”.⁶ The activities of many NGOs generally constrained a commentator⁷ to dismiss them as “humanitarian face of imperialism.”

The challenge to the legitimacy, credibility and accountability of human rights NGOs has the capacity to blur their vision, actions and efficiency, regardless of the good intentions of their leaders, and members. To validate and authenticate the foregoing thesis, it is relevant to recall that it was once reported that some foreign donor agencies were not enthusiastic in funding some human rights organizations in Nigeria because of the crisis of confidence which was rocking the human rights organization community at a time.⁸

That the above impediments hamstrung effective promotion and protection of human rights NGOs is beyond serious disputations. It is therefore imperative to chart an agenda for reform in order to bolster the value of NGOs in human rights protection in Nigeria.

Part V – Agenda for Reform

In charting an agenda for human rights NGOs to play a positive and transformational role in human rights promotion and protection in Nigeria, it is pertinent to draw attention to the following issues:

First, although Nigeria is now under democratic government, a system of government which guarantees civil liberties and under which human rights thrive, there is no reason to believe that with the emergence of a civilian regime in Nigeria, there is no further need for human rights organizations. Experience has shown that human rights violations will not abate, or be eliminated merely because a country is under civil rule. As already noted, egregious human rights violations are still committed even in advanced technologies and democracies.

“Domestic Violence as A Human Rights Violation” in Human Rights Quarterly, vol. 15, 36, 57[1993].

¹ See, Amanda Murdie, “The Impact of Human Rights NGOs Activity on Human Rights Practices”, International NGOs Journal. Vol. 4 [10]P 421-440, 2009 available at <http://www.academicjournals.org/ingoj>.

² I.G. Shivji, “NGO Discourse: The Role and Future of NGOs in Africa”, Oxford: UK Fahamu, 2007 at 84.

³ See Bashir Adigun, “Cracks in CD, Factions Emerge”, *The Guardian* March, 19, 1990 at 3.

⁴ The premier NGOs in Nigeria, which was founded in 1987.

⁵ Tunji Abayomi, “Non-Governmental Organizations in the Protection and Promotion of Human Rights in Africa: Critique of Approach and Methods” in C.O. Akpangbo [ed] *Perspective of Human Rights*, Lagos: Federal Ministry of Justice Law Review series, vol. 12, 1992 at 178.

⁶ Ibid, See also, A. Neier, “Not All Human Rights Groups Are Equal”, New York Times, May, 27, 1989 at 22.

⁷ Petre Hallward, Tanbou, 11/01/2011, can be assessed at en.wikipe dia.org/wiki/Non-governmental_organization.

⁸ See Emma Eke, “Discord Sets in” in *The African Guardian*, February, 7, 1994 at 8; Ambrose Ako, “Foreign Sponsors Desert Human Rights Groups” in *The Guardian* on Sunday April, 17 1994 at 1.

Second, despite the rhetoric of the equal relevance, interdependence and indivisibility of all human rights, in practice, states often pay little attention to the implementation of social, economic and cultural rights. Indeed, in Nigeria, these rights are observed by the Nigerian state more in breach than in compliance. This is why they have been referred to as “neglected category”¹ of human rights.

Third, Nigeria is still plagued by the heavy burden of corruption which has robbed it of meaningful growth and development.² The problem of poverty and illiteracy had not only meant economic deprivation for the teeming majority of Nigerians but avoidable curtailment of their rights. Many are constrained to live in sub-human condition especially in rural areas without access to basic social amenities. Also, many who are victims of human rights violations are not aware of such violations and when they are aware, are too indigent to seek legal redress.

Fourth, human rights are better protected before violation and not after. This is because remedies – judicial or extra-judicial – may not be adequate to assuage a victim of violation. Even where remedy is adequate, the process of obtaining it may be protracted, expensive or inconvenient.

Against the foregoing realities, it is hereby advocated that human rights NGOs must be much more proactive and engage more in promotional activities rather than politicization of the methods of human rights advocacy. This advocacy is not novel. Abayomi³ has long enjoined human rights NGOs to “work towards bringing systematic change through education, information and exchange of ideas. The value of human rights education was recognised in the UDHR, 1948 which unequivocally advocated “teaching and education.”⁴ There should be a deliberate outreach to the rural communities where structural inhibitions account for gross human rights violations than experienced in urban areas.⁵ Human rights NGOs have mostly concentrated in urban centres. Also, they often denounce human rights violations without offering suggestions. This limits their scope and value. It is, therefore, advocated that human rights NGOs must offer constructive suggestions in appropriate cases on how things can be done differently. Consequently, a more pragmatic and result oriented way of advancing the cause of human rights must be designed and pursued.

It is axiomatic that civil liberties thrive in democracy. NGOs must, therefore, irrevocably commit themselves to the sustenance of democracy in Nigeria. Since democracy is not a potted –plant which can germinate and grow on any soil, they must insist on good governance, with its ingredients of transparency and accountability. It is by so doing that the current democratic experience may not be aborted and the fortunes of human rights meaningfully guaranteed.

Conclusion

Human rights NGOs play a significant role in enhancing the cause of human rights. Regrettably, as demonstrated in this paper, human rights NGOs in Nigeria are hamstrung by a number of formidable impediments which have disrupted, degraded, and gravely undermined their effectiveness. Given the current realities of evident infidelity of government to human rights goals and the virtual failure of executive agencies, it is not only desirable but imperative that human rights NGOs must strive to overcome the challenges confronting them in order to rekindle hope in their capacity, commitment and transparency to play a positive, constructive and transformational role in human rights protection in Nigeria. It is significant to continually bear in mind that for human rights to be effective, they have to go beyond the normative, textual essence and become a part of the legal culture of a given society.⁶ Accordingly, in order to optimize their relevance, it is imperative that they strive to explore strategies aimed not only at overcoming their present limitations but raising the bar of their engagement with human rights promotion and protection in Nigeria.

It is in so doing that human rights will be fully operational and not merely inspirational or remain a goal which is only morally or politically” desirable”.⁷

¹ J.A. Dada & M. Ibanga, Human Rights Protection in Nigeria: From Rhetoric to Pragmatic Agenda African Journal of Law and Criminology, vol. No. 2 [2011] 70-81.

² In demonstration of the gravity of the problem of corruption in Nigeria the country has been repeatedly adjudged by the Berlin-based Transparency International as one of the most corrupt nations in the world.

³ Abayomi, Op. Cit. at 190

⁴ Preamble, UDHR, 1948.

⁵ For Similar view see, J. N. Aduba, The Protection of Human Rights in Nigeria in A.O. Obilade and C. Nwankwo, eds Text for Human Rights Teaching in Schools, Lagos: Constitution Rights Project, 1999 at 136.

⁶ Radhika Coomaraswamy; “To Bellow like a Cow: Women Ethnicity, and the Discourse of Rights” in Cook [ed] Human Rights of Women at 9.

⁷ U.O. Umozurike, in Awa Kalu & Y. Osinbajo [eds], Perspectives on Human Rights, Lagos: Federal Ministry of Justice Law Review Series, vol. 12; 1992 at 282.

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