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The Role of the National Human Rights Commission (NHRC) in Post Conflict Situations in Nigeria

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Abstract

The main thrust of this paper is to examine the role of the National Human Rights Commission in post conflict situations in Nigeria. Given the series of conflicts and security challenges across the country, there is no doubt that with conflict underway, serious human rights violations will be recorded. And for there to be meaningful restoration of peace, issues of human rights must be addressed. Thus, the National Human Rights Commission established by the government in 1995 has the mandate of handling issues of human rights in areas where conflict has been experienced. However, it is pertinent to note that the mandates of the NHRC in post conflict situations differ from during times of peace as well as the challenges the face. Data from both primary and secondary sources reveal that the role of the Commission's in post conflict situations includes investigation of post conflict complaints, encouraging human-rights negotiations with conflict parties; obtaining justice and reparation for victims, monitoring and evaluating governments' post conflict policies *inter alia*. Though challenged by inadequate funding, lack of unskilled staff, lack of autonomy, the paper emphasizes that the NRHC is well-positioned to do significant and important work in post conflict situations.

Key words: NHRC, Human Rights, Conflict, Post Conflict Situation, Nigeria

Introduction

The import of respecting, protecting and enforcing human rights had long been established since the adoption of the Universal Declaration on Human Rights (UDHR) by the United Nations General Assembly on 10 December, 1948, after gross human rights violations were recorded during the First and Second World Wars. Undoubtedly, it became clear that “in conflict situations, wherever civilians are at risk, there is by definition an infringement of the individual’s right to personal security, and in most cases infringements of a number of other rights” (Lockhart, 2006:1) and the need to address these violations after such conflict is very crucial to avoid a relapse or create a larger-scale conflict as well as to build conditions for sustainable peace. The United Nations Commission on Human Rights (UNCHR) seeing the need to achieve more success in promoting and protecting of human rights, adopted the Paris Principles (recounts the position and operation of national institutions for the protection and promotion of human rights) by Resolution 1992/54 of 1992, and later adopted by the United Nations General Assembly in its Resolution 48/143 on 20th December, 1993. In light of this adoption, the UNCHR enjoined all member states to establish independent National Human Rights Institutions (NHRIs) that will nationally drive the promotion and protection of human rights in their respective countries in all situations.

However, human rights practitioners and scholars are of the opinion that in post conflict situations, the actions required of NHRIs differ from the protection and promotion of human rights during peace times as well as the challenges they experience. Also, Murray (2007) posited that, “...the credibility and effectiveness of an NHRI is not only measured on how it operates on a regular basis and how it fulfils its mandate, but also in times of crisis, how it responds to those emerging situations.” This is so because as O’Flaherty (2004) maintained, “peace agreements may trade off human rights protection for some other goal, such as when they institutionalize arrangements that either reflect existing patterns of discrimination or create new ones” (p. 4). Furthermore, he stated that “peace processes can also exacerbate victimization by failing to address past patterns of abuse, above all when they fail to tackle issues of justice and of redress for victims” (p. 4).

Thus, according to the Human Rights Implementation Centre of the University of Bristol (2011), “NHRIs, as national, local bodies with a sound knowledge and understanding of international human rights are uniquely placed to assist in understanding the underlying causes of the conflict and propose ways forward that would accommodate internationally accepted human rights standards” (p. 1) The Centre further states that “NHRIs also face challenges in highlighting the human rights agenda and internationally recognised human rights standards during times of conflict and post conflict situations in particular. Yet it is important that they do so: human rights may be a new concept for many, even within institutions, and there is a challenge of raising awareness of human rights generally” (2011, p. 2).

In Nigeria, the National Human Rights Commission of Nigeria (NHRC) was established in 1995 as the highest national human rights body. Considering the series of conflicts ravaging the Nigerian polity, ranging from insurgency, herdsmen and farmers conflict to electoral and environmental conflicts etc, the NHRC is well positioned to play certain roles in post conflict situations that will promote, protect and enforce human rights. Without doubt, the Commission will be faced with various challenges while carrying out its mandates; nevertheless, it must remain proactive, transparent, honest, impartial, independent and flexible (possibility of the need to change strategies in post conflict situations). It is within this framework that this paper

examined the role of the National Human Rights Commission in post conflict situations in Nigeria.

Definitions of Terms

The terms relevant in the paper are human rights and (post)conflict. What do they mean?

Human Rights

In the words of Ukwunah (2009), “every person created by God is entitled to some fundamental or basic rights. The rights include those to life, personal safety, participation in politics and government; that is the right to vote and be voted for among others” (p. 130). Human rights are rights inherent to all human beings, whatever our nationality, place of birth, place of residence, sex, national or ethnic origin, religion, colour, language, or any other status. We are equally entitled to our human rights without discrimination (UNDHR, 2015). Nickel (2004) was of the view that, human rights are international norms that help to protect all people everywhere from severe political, legal and social abuses. Enebe (2008) posited that human rights are mostly viewed as the inalienable rights of people. They are legal entitlements which every citizen must enjoy without fear of the government or fellow citizens.

Post Conflict Situation

While the term conflict can be defined as a “felt struggle between two or more independent individuals over perceived incompatible differences in beliefs, values, and goal, or differences in desire for esteem, control and connectedness” (Wilmot & Hocker, 2011, p. 11). Peace and conflict scholars and practitioners claimed that the term “post conflict” is very difficult to define in spite of its linguistic simplicity which connotes a period after a conflict has occurred. Nonetheless, attempts have been made to define the term ‘post conflict’ by scholars such as Brown, Langer and Stewart (2011, p. 4), who stated that “in big international wars, a formal surrender, a negotiated cessation of hostilities, and/or peace talks followed by a peace treaty marks possible “ends” to conflict. While Junne and Verkoren (2005) claimed that the term ‘post conflict’ is a situation in which open warfare has ended, and for many years, such situation may remain tense and can easily decline into large scale conflict. For Lakhadah Brahimi (2007) “the end of fighting does propose an opportunity to work towards lasting peace, but that requires the establishment of sustainable institutions, capable of ensuring long-term security” (p. 3). However, Brown, Langer and Stewart asserted that “one way of overcoming problem of defining and identifying the post-conflict periods beginning and ending is to adapt a process-oriented approach in which post conflict states are seen as lying along a transition continuum where the achievement of different milestones signifies progress towards a more sustainable peace.

The National Human Rights Commission (NHRC) of Nigeria

The National Human Rights Commissions was established by the National Human Rights Commission Act, 1995, as amended by the NHRC Act, 2010 in line with Resolution 48/134 of the 1992 United Nations Assembly which enjoined all member states to establish independent national institutions for the promotion and protection and enforcement of human rights. The commission serves as an extra judicial mechanism which safeguards the human rights of the Nigerian population. It is an establishment geared towards the creation of an environment for human rights. It also provides avenues for enlightenment, research and dialogue in order to create awareness on human rights issues (www.nationalhumanrightscommission.com). With

over 20 branches across Nigeria, the Commission has a Governing Council which consists of 16 members made up of a chairman who shall be a retired Justice of the Supreme Court of Nigeria or the Court of Appeal or a retired Judge of the High Court of a State and an Executive Secretary. The members of the Council are appointed by the President on the recommendation of the Attorney – General of the Federation. Nnamani (2011) averred that “the Commission as the highest National Institution dealing with human rights has presented a common front on human rights and put in place adequate mechanisms for the effective promotion and protection of human rights in Nigeria.” He further stated that “through a consultative and collaborative process the commission has developed a National Action Plan for the promotion and protection of human rights in Nigeria. The National Action Plan includes effective complaint mechanism, regular hosting of enlightenment seminars, workshops, rallies and continuous reengineering of its strategies. It is expected to be a benchmark on which Nigeria’s human rights records can be judged”. Currently, the Executive Secretary of the Commission is Mr. Anthony Ojukwu.

The Role of the NHRC in Post Conflict Situations in Nigeria

The role of the NHRC in post conflict situations are outlined as follows:

- **Advocacy for Human Rights for Affected people and Vulnerable Groups**

During conflicts many Nigerians do not know their rights have been infringed upon. Thus, an important role of the NHRC is advocacy for the promotion, protection and enforcement of human rights of affected people and especially for vulnerable groups (women and children, prisoners and internally displaced persons-IDPs). The NHRC has carried out several advocacy programmes and visits to enlighten members of the public on their rights and the need for them to report any abuses to the commission across the country and now more especially in the north east which has been ravaged by the Boko Haram crises. This advocacy also covers Internally Displaced Person (IDPs) and refugees (as a result of the conflict).

- **Criticism of Government and Others who have Committed Human Rights Violations**

The NHRC has the mandate of criticizing the government, groups and individuals who have committed human rights violations during conflict. As an independent body, they should not be subject to retaliation or intimidation as a result of their role and the Commission must enjoy autonomy and protection to perform their duties in post conflict areas.

- **Investigation of Post conflict Human Rights Abuses**

The Commission has the responsibility of investigating all alleged cases of human rights abuses that were committed during conflict and make proper counsel to the Federal Government for the trial and such other actions. The investigation panel must be transparent, impartial and honest in their report. The members must be men and women of credibility and integrity and of sound judgement. The commission has recorded about one million cases of human rights violations in the country between 2017 and 2018, of which were attributed to the spate of conflict in the country, which include the Boko Haram and Farmers/Herders conflict in some parts of the country (Pulse.ng, 2018). According to the Executive Secretary of the commission “the commission had recorded more than 100,000 cases of human rights violations and abuses in Borno, where Boko Haram had wrecked so much havoc” (Pulse.ng). Several investigation panels have been constituted to look into such issues. For instance, during the clash between the Nigerian Army and the Shiite Group in Kaduna between the 12 to 14th December, 2015,

the NHRC constituted a 5-man Special Investigation Panel to look in to the matter and a draft report of their investigation was published (*Vanguard Online*, 2015).

- **Establishment of Dialogue and Ensure Human Rights-Centered Negotiations**

According to the United Nations Human Rights Council Progress Report (2014:19), “establishing dialogue with parties to a conflict is part of reconciliation and peace-making process. Representatives of the most vulnerable groups and affected people should be involved in those dialogues”. Therefore, one role of the NHRC in post conflict situations also includes encouraging dialogue between and with conflicting parties aiming to ensure the promotion, protection and respect of human rights of the affected people especially vulnerable and marginalized groups. Hence, the NHRC must take steps to ensure that negotiations are human rights- centred between and with conflicting parties, including in peace agreements and monitor their implementation. Also, outcomes of negotiations must be just and fair and the NHRC as a third party must be impartial, honest and transparent. Ukwunah (2009) maintained that “this will ensure that the contending parties buy into the scheme that is supposedly fair to all concerned, while the institutional mechanism ensure equal treatment of all contending parties” (p. 126).

- **Collaboration and Partnership for Effective Post Conflict Performance**

Managing post conflict situations can be very difficult and the Commission cannot do the work of promoting and protecting human rights alone. NHRIs are uniquely placed to have the potential to bring a range of diverse stakeholders together. Hence, the commission ought to collaborate with Non-Governmental Organisations (NGOs), Civil Society Organisations, Faith-Based Organisation, other human rights agencies (e.g. Public Complaint Commission) regional and international organisations and also representatives of conflict parties. They are also crucial partners in advocacy for respect for human rights generally but also for a stronger mandate for the NHRC. For instance, the NHRC in collaboration with the United Nations High Commission for Refugees (UNHCR) has moved to protect the human rights of IDPs in north East region.

- **Evaluation of Government’s Post Conflict Actions and Policies**

The NHRC has the mandate of impartially assessing the human rights situations and advising the government on the respect, promotion and protection of human rights and humanitarian law in post conflict periods. According to the Human Rights Implementation Centre, University of Bristol (2011, p. 2) in a policy paper, stated that “NHRIs have an on-going responsibility to provide advice to the Government, and other actors, on the application of international human rights and humanitarian law, in particular to ensure that non-derogable rights continue to be observed without limitations and in respect of other rights that any derogations made are in compliance with international law.” Monitoring and evaluating government actions and policies are part of the role they should play in post conflict situations. After conflict, government usually makes new policies and carries out certain actions. Thus, the Commission is burdened with the role of monitoring and evaluating government actions and to ensure that they are not human rights complaints.

- **Obtainment of Justice and Reparation for Victims of Conflict**

“Justice is a course of action that is in consonance with the provision of the law governing a society, community or country. Justice encourages the protection of the rights of the citizens, their interest, personal and group safety, and the protection of one’s property” (Ukwunah, 2009,

p. 125). During conflict, human rights are usually eroded and the victims of these violations demand and cry out for justice. Ukwunah (2009) further stated that victims “usually insist that someone must be held responsible for the vicious and horrible treatment meted out to them. Something needs to be done to avert further maltreatment that gradually erodes family and communal units” (p. 125). Hence, the commission’s role is to obtain justice and reparation for victims of conflict. The Commission can play the role of hearing grievances, giving voice to those who have suffered and while doing this, they must display impartiality, transparency and honesty. The UNHRC Progress Report (2014) stated that:

After conflict, it is extremely important to develop a transitional justice strategy including reconciliation and reparation mechanisms. A transitional justice strategy is a set of rule, public policies, and institutions that are used at bringing conflicts to an end and at the same time ensuring the rights of victims to truth, justice and reparation (p. 19).

In this light, the NHRC must ensure that a transitional justice strategy is put in place to for affected people of the conflict.

Organisation of Local and International Conferences on Post Conflict Human Rights Protection

Okene (2010) stated that the commission’s role is to “organise local and international seminars, workshops and conference on human rights for public enlightenment” (p. 9) with particular focus on post conflict societies where there are usually high-level violations of human rights. Thus, from time to time, the NHRC should organise conferences, workshops and sessions, conduct rallies, air television and radio programmes that will enlighten the public on human rights issues during conflict and in times of peace. Also, the NHRC must also “maintain a library, collect data and disseminate information and materials on human rights generally” (Okene, 2010, p. 9).

- **Inspection and Decongestion of Prisons after Conflict**

After conflict, alleged perpetrators of violence are usually arrested, detained and tried. The NHRC has the role of inspecting prisons to ensure that these alleged perpetrators are not unlawfully arrested and detained, and trial is not delayed. Even after found guilty, prisoners still have rights which must be protected by the NHRC. Araromi (2015, p. 169) noted that “some rights are denied the prisoners by prison administrators and, by extension, the State by lack of will to promote enabling environment and treatment to the prisoners.”

African prisons have been likened to zoos. “The difference is that the public can see animals in zoos, see their conditions and are encouraged to understand their needs. People in prison however are in places of isolation where they are put into cages and cells where no-one can see them or their conditions they cannot show their anguish and are not able to talk to the public their conditions are not visible and therefore the administration is not accountable to the public” (Justice Action, 2018)The conditions prevalent in Nigerian prisons and manner in which this prisoners are treated under the Nigerian context is not compliance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (*Newswatch Times*, 2013) or even under a democratic administration in which human rights protection should be top priority. Thus, the NHRC should ensure to visits prisons after conflicts from time to time “to inspect the prisons and consult with inmate, prison officers and staff with a view to improving the living

conditions so as to comply with international standards for prison conditions and human rights for prisoners and remandees” (Okene, 2010:9).

Challenges of the NHRC in Post Conflict Situations

The Commission faces various challenges which affect their performance in post conflict situations.

Highlighting Human Rights Agenda and Internationally Recognised Human Rights Standards

According to the Human Rights Implementation Centre of the University of Bristol;

NHRIs also face challenges in highlighting the human rights agenda and internationally recognised human rights standards during times of conflict and in post conflict situations in particular. Yet it is important that they do so: human rights may be a new concept for many, even within institutions, and there is a challenge of raising awareness of human rights generally.

So many people are not conversant with the concept of human rights and what it entails. So many people do not even know when their rights have been violated or denied or even when they have committed human right crimes. Also, employing internationally recognised human rights standards in times of conflict has become very difficult for the Commission.

1. Inadequate Funds

Inadequate funds by the Commission often frustrates its desire to effectively carry out investigations, wider campaigns and advocacy programmes, provide legal aids for victims as well as other activities. It is stated that the state offices of the commission are said to receive meagre amount of money per annum to fund electricity, water, internet, research and monitoring and investigation of complaints amongst others. According to the Executive secretary of the NHRC, “the greatest challenge of the commission to implement its mandate has been poor budgetary provision.... The commission is poorly funded when compared to the funding of the NHRIs in smaller countries like South Africa, Ghana, Kenya and Uganda” (Pulse.ng, 2018). A staff of the Commission who pleaded anonymity stated that “*there are inadequate infrastructures to work with. We do not have sufficient offices spaces; tables, photocopiers, stationary, vehicles for fieldwork etc. It can be frustrating sometimes*”.

2. Inadequate Skilled and Trained Personnel for Post Conflict Situations

Inadequate skilled and trained personnel for post conflict situations are some of the challenges of the Commission. The environment of post conflict societies is quite different from the environment during times of relative peace. Post conflict environments are usually filled with suspicion, distrust, fear, uncertainty and suppressed anger; being fragile anything done wrong can even cause more harm and lead to a relapse of the conflict. The NHRC staff may also risk their own lives if they do not have the skills to work in such a tense environment.

3. Lack of Autonomy

There is the problem of lack of autonomy of the Commission. While autonomy is the vital force for the Commission, practically achieving the required level of independence and maintaining the ability to function effectively comes with its challenges. Okene (2010) posited that:

Critical to the effective operation of a national human rights institution is the ability of the institution to operate without the interference from government or other quarters. This is notwithstanding the fact that these institutions are established by and, therefore, derive their powers from legislation, making them inextricably linked to the Government. Despite this connection, the need for independence of national human rights institutions has been prominently emphasized in the Paris Principles (p. 13).

Again, there is the problem of financial and personnel autonomy. The Human Rights Implementation Centre of the University of Bristol Policy Paper (2011, pp. 2-3) asserted that autonomy “is believed to encompass the ability of the NHRI to operate without influence from not only government but also other stakeholders and other political forces. It includes a NHRI’s financial independence, independence of its personnel and the overall perceived independence of the institution.”

4. Lack of Accurate and Updated data on Victims of Conflict especially Vulnerable Groups

The NHRC ‘s performance is restricted by lack of accurate and complete data on victims of conflict especially vulnerable groups such the IDPs, prisoners, and refugees. In an interview with a legal practitioner, he stated that “*in Nigeria, we lack accurate statistics of people affected by conflict. It becomes so difficult for the Commission and even other agencies who work in conflict areas*”. Given such statement, the Commission finds it daunting to effectively discharge its duties and properly address the human rights problems after the conflict.

5. Poor Staff Welfare

Staff welfare has been said to be one of the challenges of the Commission. For instance, Anaba in Vanguard (2016, March 31), stated that “some staff in Lagos office had once complained of lopsided leadership of the Commission as well as neglect of the staff offices. It was alleged that staff members were transferred to where they are now redundant.” As a result of these issues, staff morale at both the state offices and even headquarters is very low. Another staff of the Commission who also pleaded for anonymity stated that “*staff welfare is poor, salaries are not even enough to cater for your family, the office environment is not conducive, and how do the Government expect us to work well?*”.

6. Lack of Support by International Bodies and National Authorities for Effective Performance

The NHRC is faced with the challenge of inadequate support by national authorities, civil society organisations and international organisations. For effective discharge of their duties, the Commission needs the support of international bodies and other national agencies. They can share ideas, data information that will make the work of the Commission easier.

The Way Forward

The commission needs sufficient funds and resources to carry out its functions in post conflict areas. Also, infrastructures and equipment should be provided for the Commission. Vehicles for field work, internet, computers, telephones, stationeries should be made adequately available and a comfortable working environment for staff should be put in place in order to enhance the performance of both the staff and the Commission in general.

The NHRC staff must be trained specifically to work in post conflict societies in order to avoid causing more harm than good or risking their own lives. This can be done through training and workshops to meet international standards for workers of human rights in post conflict environments. Staff welfare should also be a priority in order to give them the morale to work effectively. Providing maximum security for NHRC workers is also very vital given that anger and tension still looms in the air in order to effectively carry out their duties.

Public enlightenment/campaigns and education on human rights must be increased and should be carried out from time to time. This can be done through conferences, symposia, workshops, rallies, television and radio programmes etc. The NHRC must enjoy autonomy and should not be subject to reprisal or intimidation from government or other bodies as a result of their mandated activities. They need to cooperate with the government but also be able to stand back and critique when the situation so requires. International bodies, national authorities and representative of the conflicting should provide more support and assistance to NHRIs for effective performance.

Okene (2010) posited that to be more effective, it is suggested that the NHRCN should establish branch offices in all the local government areas across the country.” Nigeria has over 700 Local Government Areas; opening branches in all LGAs will give the people more and quicker access to the Commission and also to report cases of human rights violations in a timely manner. The human rights of vulnerable groups such as prisoners, women and children, IDPs and refugees must not be neglected. For effective performance, the NHRC must get accurate and updated data on the needs and complaints of these groups. Also, there is need for digitisation of the commission

Conclusion

The paper examined the role of the National Human Rights Commission of Nigeria in post conflict situations. It is seen here that since the United Nations resolution 43/134 of 1993 which paved way for the establishment of independent National Human Rights Institution in all member states. The NHRC in Nigeria since its establishment has long had a history of protecting, promoting and enforcing the rights of citizens across the nation. Specifically, they have a significant and important role to play in post conflict situations-investigating post conflict human rights complaints, ensuring that negotiations are human rights-centred, obtaining justice for victims, ensuring prisoners’ rights, advising the government to ensure their post conflict actions and policies does not infringe on human right. Nevertheless, the performance of the Commission has been affected by inadequate trained personnel and funding, lack of autonomy, inadequate support by international organisations and national authorities. Recommended ways for effective performance included organising local conferences and sessions for more public enlightenment, improving staff welfare, sufficient funding and provision of infrastructure amongst others. The paper however encouraged the Commission to remain committed to its duties in spite of the challenges.

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