Background to the Establishment of the NHRC

The National Human Rights Commission of Nigeria was a child of difficult circumstances. Although at its Vienna meeting in 1993, the United Nations had recommended that each member country should establish a National Human Rights Commission, Nigeria had taken no steps towards doing so. It was under the rule of a military government which – although it had seized power promising to make human rights a major focus – had soon degenerated into a repressive dictatorship which was caught between its repeated (and often postponed) promises to return the country to democratic civilian rule, and its desire to perpetuate itself in office. The military ruler, General Ibrahim Babangida, had repeatedly postponed the steps by which the country was to return to civilian rule, and had at last decreed that only two political parties – a National Republican Convention (NRC) and a Social Democratic Party (SDP) – would be allowed. The parties were established and financed by the military régime, which had repeatedly sent the politicians back to the starting post. However, it had eventually run out of excuses and tricks. While the Vienna conference on Human Rights was taking place, the Presidential election – the last in the series of elections which were supposed to complete the transition to civil rule – was being held on the 12th of June 1993, although there had been a last-minute by an “NGO” to prevent the election from taking place. Although the régime had to allow the election to go ahead, when it became apparent that its favoured candidate was losing, it cancelled the election, throwing the country into turmoil.

By the end of that year, 1993, the tide of protest and demonstrations had forced Babangida to “step aside”, but instead of installing Bashorun M.K.O. Abiola, the winner of the June 12th election, into office as President, he had set up an Interim National Government (ING), which was supposed to hold fresh
elections. However, after the courts declared the ING illegal, it had lasted only a few weeks before being ousted by Babangida’s former second in command, General Sani Abacha, who had remained as Minister of Defence.

Abacha now took power, and like Babangida before him, made the right noises to placate the human rights/pro-democracy community, in particular, by offering a Sovereign National Conference (SNC) at which the basis of Nigeria’s federation was expected to be re-negotiated. He appointed leading opposition politicians and pro-democracy figures as Ministers in his government, and with these measures, prevented Nigerians from properly reading ominous meanings which his dissolution of all the structures of the interrupted Babangida transition programme: the two houses of the National Assembly, the state governors and the state legislatures, into all of which offices people had been elected on the platforms of the NRC or the SDP, and which – at state level – had been fully governing for over a year.

Abacha soon reneged on his promise of a SNC, and meanwhile, it became clear that he did not intend to hand over to Abiola as had apparently been expected. And when, on the anniversary of his election, Abiola declared his intention of taking up his mandate, Abacha had him arrested, clamped into detention and charged with treason. Later that year (1994) a strike by the oil workers – the industry which provides over 95% of Nigeria’s income – who demanded Abiola’s release and installation as President prevented Abacha from showing his fangs fully, but by 1995, the oil workers’ strike was over and their leader was in detention. A new threat had arisen in the form of a resolution by the Constituent Assembly (Abacha’s much emasculated version of the SNC) that the military should leave power by January 1996. Abacha now moved to consolidate his power, sacking most of the pro-democracy politicians whom he had appointed as Ministers, especially those with any following of their own, but more importantly, by the invention of a phantom coup plot in which the prime mover of that resolution – retired Major-General Shehu Yar’Adua – was implicated. Yar’Adua had been deputy to retired General Olusegun Obasanjo who had overseen the successful transition from military dictatorship to civil rule in 1979, and the latter (who is now Nigeria’s elected president) was also to be arrested and convicted for complicity in what was clearly a non-existent coup plot. The Civil Liberties Organisation (CLO) had applied for and been refused permission to monitor the trials. Although, apart from an opening session the trials were held in secret, well-substantiated reports of the torture to which some of the accused had been subjected in order to force them to implicate others, had already leaked out.

1 In the opening session, one of the military officers accused – who had previously held office as a military governor of a state where he had ruled with a rod of iron – specifically asked: “Where are the human rights people?”
While Obasanjo was given only a life sentence, others had been sentenced to
death. But Obasanjo had acquired the status of an international statesman
since handing over to civilian rule in 1979. He had been proposed as
Secretary-General of the United Nations, and was a member of the
Commonwealth (of former British colonies) Eminent Persons Group which
was involved in mediation efforts in South Africa. In addition to Obasanjo,
four journalists had been convicted, as had a leading pro-democracy
campaigner, Dr. Beko Ransome-Kuti of the Campaign for Democracy, the
coalition which had led the demonstrations that forced Babangida out of
office in 1993. As a result, the trial had attracted a great deal of international
attention and there was an outcry when the sentences were announced.
Whether because of this or because he was aware that there was in fact no
coup, Abacha had eventually bowed to the pressure, commuting the death
sentences and reducing the terms of imprisonment.

But in the meantime, repression had increased at home, and the CLO had
suffered because it had been identified as one of the prime backers of the
Campaign for Democracy, and perhaps also because it had sought permission
to monitor the trials of those accused in respect of the alleged coup. Its offices
had been raided and two of its principal full-time employees were in
“administrative” detention, i.e. indefinitely and without charge.

At the same time, indigenes of the oil-producing areas were becoming more
insistent in their demands for a fair share in the wealth which was being
produced from their lands, and for which they were getting only pollution
and repression. The leading organisation in this regard was the Movement
for the Survival of the Ogoni People (MOSOP), but the government had
succeeded in creating divisions among the Ogoni, and this had led to the
murder of four prominent Ogonis in 1994. This was seized upon as a means
of getting rid of the leadership of MOSOP, and by 1995, the trial of the author,
poet and playwright Ken Saro-Wiwa, who was the leader of MOSOP, and
other Ogoni leaders before a special tribunal, drew to a close with the
conviction and sentencing of nine of them, including Saro-Wiwa, to death for
murder.

Again, there was an international outcry, with appeals for clemency from all
over the world, including President Nelson Mandela of South Africa, Prime
Minister John Major of the United Kingdom and other leaders of the
Commonwealth who had gathered in Auckland, New Zealand for a meeting
of heads of government of its member countries. But whether because he
under-estimated the concern of the international community, or because he felt that having spared the alleged coup plotters he was in danger of not being feared or taken seriously, Abacha rejected all such pleas. Indeed, not only did he reject them, he had the Ogoni 9 executed while the Commonwealth Heads of Government Meeting was taking place.

It should be noted here that the increasing repression at home had already led to a decision on the part of the human rights community to internationalise the situation in Nigeria, and as a result, they were represented at the New Zealand meeting, led by Olisa Agbakoba, the author’s predecessor as President of the CLO, and Saro-Wiwa’s son, Ken Wiwa. No doubt their presence was a spur to the Commonwealth, which was outraged. John Major described the executions as “judicial murder”, while Nigeria was suspended from the body. South Africa cancelled a football match with Nigeria saying that it could not vouch for the reaction of its citizens to Nigerians in the wake of the executions, while Uganda offered to host a special session of the African Commission on Human and People’s Rights which would have the situation in Nigeria as its primary focus.

The meeting, which took place in December expressed deep concern at the human rights situation in Nigeria and condemned the execution of the Ogoni 9, as well as calling for the release of the alleged coup plotters.

The following year, Nigeria’s standing in the international community continued to decline. In New York, the country’s turn to make one of the periodical reports to the Committee established by the United Nations to monitor compliance with the Convention on Civil and Political Rights had come, and armed with data supplied by the Nigerian human rights community and international NGOs, the members of the Committee put questions to which - the verbatim reports published in the Nigerian press showed - the country’s representatives did not have any concrete response. This was to be followed by the session of the United Nations Commission on Human Rights in Geneva, at which the country was again in the dock over its human rights record. Despite the objections of Nigeria’s mission to Geneva, the UNCHR appointed a Special Rapporteur on Nigeria, his job was to monitor and report on the human rights situation in the country.

Meanwhile, the Secretary-General had appointed a special mission to the country to Nigeria and this was due to visit the country in April 1996.
The Nigerian government had been taken somewhat unawares by the sustained international condemnation. Clearly its diplomatic missions were not really up to the task of defending the indefensible. As mentioned above, the human rights community had already determined to internationalise the struggle for democracy and human rights in the country: hence their presence in New Zealand at the crucial moment. Although the government now resorted to measures such as the seizure of passports to prevent Nigerian NGOs from presenting any case or lobbying for stricter measures to be taken against the country, this was hardly effective given the number of prominent Nigerians who had been driven into exile, the large Nigerian diaspora, and the fact that many members of the opposition and pro-democracy movement were still in communication with their counterparts overseas.

While the régime was always ruthless in the elimination of those whom it perceived as serious direct threats to its continued stay in power – as was shown the same year by the murder of Kudirat Abiola, senior wife of the winner of the June 12th election who made no secret of her determination to use all the resources at her disposal to fight for her husband’s freedom and installation as President of Nigeria, as well as other assassinations and attempted assassinations – it was clear to thinking members of the Abacha junta that if it was to be able to effectively counter the information about its human rights practices coming out of the country, it would have to actually have some positive developments and good news to present to the international community.

The National Human Rights Commission

It was this thinking which led to the establishment of the National Human Rights Commission (NHRC).

The Abacha régime clearly hoped that in addition to being able to deflect any criticism of its human rights record by pointing to the existence of the NHRC, it would also be able to control it so as to secure favourable human rights reports. This was apparent right from the composition of the body. Under the Decree by which it was established, the NHRC was to be headed by a retired Judge who had either been the Chief Judge of a State, or a Judge of the

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2 For example, preventing the author – by then President of the CLO - from attending the Committee on Civil & Political Rights in New York and the UNCHR session in Geneva.
3 For example, the author addressed an international conference on Nigeria in London over the telephone while unable to travel due to passport seizure.
Court of Appeal or of the Supreme Court (the apex court). Its other members were required to be three members from human rights NGOs, to represent civil society, three members from the media, two of whom must be from the private media. Then two members who must be legal practitioners, and three others who were to represent a variety of interests relevant to human rights promotion and protection. In appointing members of the NHRC, the government was expected to pay due regard to the diversity of the country which contains at least 40 major ethnic groups whose members adhere to two major faiths – Christianity and Islam – as well as a host of indigenous religions.

Although it should be emphasized that many of those appointed by the government could be described as neutral, one of the three members appointed was the son of one of the murdered Ogoni 4, for whose murder the Ogoni 9 had been hanged. As a child of a man who had been a political opponent of Ken Saro-Wiwa, it could hardly be expected that he would have much sympathy for the position of the human rights community which had not only given Saro-Wiwa so much support during his trial, but which had also led the outcry against his execution, even though all dispassionate assessment of the trial was unequivocal in its condemnation of the process, the verdict and the precipitate execution.

The CLO itself became involved in some controversy over the matter when amongst those announced was a legal practitioner who was said to be representing the CLO. Although the gentleman claimed to be a member of the CLO, the organisation had not been consulted over his appointment, nor had it nominated him or anybody else to be a member of the NHRC. His claim to be representing the CLO or any human rights organisation for that matter, was therefore as spurious as it would be for the author to claim to be representing the Federal Republic of Nigeria at this meeting simply because she happens to be a citizen of that country.

There were therefore serious questions about the NHRC and the likelihood that it would be impartial and honest about the human rights situation in the country right from the onset.

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4 And as many as 250 generally identified ones, ranging from the 30 million or so Yoruba to the 500,000 Ogonis.
Under the Decree by which it was established, the NHRC is required to monitor and investigate all alleged cases of human rights violation and to make appropriate recommendations to the government, for example, whether to prosecute offenders or take any other necessary action. It is also to assist victims of human rights violation and to seek redress on their behalf.

A fundamental aspect of its work is human rights education, both for the public, and more importantly, for public officers, for these are most likely to be responsible for human rights violations.

Although those within the Abacha junta who felt that the government's image would be improved by the existence of the NHRC had succeeded in having it established, and in getting members appointed to it, the régime was ambivalent about nursing what might well turn out to be a viper to its bosom, as the loud protestations of independence - even by the person purportedly representing the CLO - must have given it pause for thought. At any rate, having established the NHRC, it promptly forgot about it, and apart from providing it with offices and some little equipment for its headquarters, it failed or refused to provide it with the funds with which to begin any meaningful inroads into the human rights situation in the country.

Matters might well have remained in this situation indefinitely: the government perhaps imagined that as long as its members were provided with a few of the perks of office - cars, office space in expensive Abuja, occasional trips for out-of-town members to Abuja to lodge at government expense - they would not show any interest in doing any actual work. Then, a Muslim Northerner was appointed as Secretary of the Commission. It should be explained that the prevailing - and generally erroneous - "wisdom" in Nigeria is that any member of the Northern elite (ipso facto any Northerner appointed to any position by governments, most of which have been headed by those from the Northern part of the country) will go along with the status quo, and that issues of human rights and democracy are only of concern to Southerners. Such assumptions rest on the false premise that every member of a ruling Northern elite will be either sufficiently short-sighted or morally deficient enough acquiesce in a situation which leaves the majority of the people in the North poor and backward, but are often subscribed to by members of the ruling elite who ought to know better. Thus the régime itself may have assumed that it had done enough to ensure that the NHRC would remain idle and satisfied.
In fact, as observed above, many members of the Commission, and in particular its Secretary, were ready and willing to fulfil their mandate, and to bring about an improvement in the human rights position of Nigeria. But at this point, the failure or refusal of the government to fund the body became a real stumbling block to its operations. It was in this context that the reaction of the human rights NGO community became important and relevant.

The NGO reaction

As noted above, the NGO community had every reason to be suspicious of the NHRC. It had clearly been established as a propaganda exercise, while the appointment of a son of one of the murdered Ogoni 4, and of a person who falsely claimed to be representing the CLO – Nigeria’s oldest indigenous human rights organisation – were hardly favourable signs. Apart from one of those representing the media, few of its members were known in any context at all, let alone in a human rights context.

Despite this however, the human rights community realised that this was a body which could be used to good effect in the struggle for human rights, and determined to work with the NHRC in those areas where co-operation might prove possible. Early in the life of the Commission a leading human rights NGO, the Constitutional Rights Project, held a workshop the specific objective of which was to find ways in which the NHRC could be made effective. At that time it had not become apparent that funds for extensive work in the field would not be forthcoming for the NHRC, and in a paper delivered at the workshop, the author expressed concern that the funds which it was expected would be available to the Commission should not be wasted on setting up the traditional civil service infrastructure of x quality of refrigerator, y design of armchair, x number of cars and so on in the Federal Capital at Abuja, which was far more expensive than any other part of the country, but should rather be devoted to establishing a presence in the various nooks and crannies of the country, and to reaching out to those areas which the NGO community, with its limited resources, could not reach. The NHRC was also urged not to wait for complainants to come to it, but rather, to carry out investigations itself, researching and documenting abusive practices and taking practical steps to remedy them. Other participants at the workshop examined the legislation by which the NHRC had been established, and in addition to pointing out those areas where the Commission was weak, examined and highlighted ways in which it could make the most of such powers and authority as it did have.

In short, the Nigerian human rights community did not adopt a hostile attitude of non-cooperation with the NHRC as it might well have been
expected to do given its antecedents and the circumstances in which it had been set up, particularly since it was suspected that it had been established to whitewash the government and its human rights practices. There were two major reasons for this decision.

The first was that although the NHRC had been set up because of the political situation in the country, with the military dictatorship casting about for ways in which to perpetuate itself in office so that it could continue with what was later revealed as unprecedented and shameless wholesale looting of the country’s money, the greater bulk of human rights cases involved people who would not have considered themselves as having anything to do with politics at all. Most people who fell victim of human rights abuses did not do so because of political repression, but because of an almost institutionalised culture of human rights abuse within the public service, particularly those parts of it concerned with law enforcement: the police and the prison service. Indeed, the CLO had been founded in 1987 – not because of Babangida’s military dictatorship as such – but because it did not appear to be living up to its early undertaking to make human rights a focus of his administration. CLO’s first actions were in regard to the hundreds of ordinary people who had been arrested on suspicion of minor offences such as “wandering”\(^5\), thrown into prison and simply forgotten – for over a decade in some cases. It was when it became apparent that, quite apart from the fact that the human rights which CLO was established to protect included the right to vote and be voted for, to have a say in the government of one’s country, such abuses were flourishing as a direct result of the situation of political repression in the country. This was not because those being arrested were political activists, but rather because the law enforcement agencies could not be called to account for their actions by a régime which might at any time wish to rely on them to quell demonstrations or riots, or to arrest political opponents and keep them locked up. Such a régime must perforce turn something of a blind eye to the abuses to which ordinary citizens were being subjected – principally because by arresting innocent people, the police personnel could make money by charging money for “bail”, or by charging money for supplying food or other necessities to their prisoners. The institutionalisation of such practices was soon followed by the practice of making complainants who wanted crimes investigated pay, and eventually of course by the practice of taking money to set free suspects against whom there might indeed be sufficient ground for a criminal charge, and accepting money from people to arrest innocent persons against whom they had a grudge, failed business venture, unpaid debt etc. etc.

\(^5\) Being apparently a vagrant, a person of no fixed address or means of livelihood.
That such abuses were rife was no secret. But there was little political appetite for correcting them: instead, the police was being politicised – refusing permits to those who wished to demonstrate against government, but allowing hired crowds to march its favour, meeting opposition protests with force and tear-gas, disrupting meetings, seminars, conferences and book launches on “orders from above” wherever it was suspected that opposition figures or pro-democracy activists might be meeting.

Then, it was also felt that the NHRC ought to be active in pursuit of the economic, social and cultural rights which Nigeria had pledged to uphold. Although there were some human rights NGOs which were specifically devoted to the promotion and protection of such rights, most were primarily concerned with civil and political rights, and it was felt that this was a field in which the NHRC might be able to have some impact.

The Nigerian human rights community never expected that the NHRC would tackle the Abacha régime on the political situation in the country, but it was felt that there more than enough human rights abuses going on for it to work on without ever becoming directly involved in political controversy. The human rights field in Nigeria was large enough to accommodate several ploughshares, and human rights groups determined that they would do their best to ensure that the NHRC was one of the hands on the tiller in the enormous work that had to be done.

The second reason for the readiness of the human rights community to work with the NHRC was the hostility which they were themselves facing from the government, and which was hindering their ability to do effective work with those government agencies which were responsible for the most human rights abuses.

As noted above, the Abacha régime did not enjoy a long honeymoon after it took over from the illegal Interim National Government in November 1993. The following year it faced a direct political challenge from both the supporters of Abiola – who came together under the National Democratic Coalition (NADECO) and from the Constituent Assembly which was supposed to be drawing up a new constitution for the country, but which had instead turned its attention to the exit date for the military. As the régime dealt with its various opponents and waxed stronger, it made it clear that those groups which opposed military rule or which called for a return to democracy or the installation of Abiola as President were to be seen as
political enemies. It therefore became politically undesirable for any
government officer to be seen having too close a relationship with any human
rights group.

The effects of this withdrawal were not immediately apparent. Early in 1995
the CLO had held a workshop under its police project, the objective of which
was to draw up programmes by which the Nigeria Police Force would be
trained and educated on human rights matters. It was recognised that
whatever the origins of police forces in other countries, the police force in
Nigeria had been established by the former colonial masters primarily to quell
political or other protests and to maintain the country under colonial rule.
The practice of using policemen from one part of the country to repress the
people in another part – a deliberate and cynical exploitation of ethnic
differences – was also part of the colonial method of policing the country. The
antecedents of the Nigeria Police Force were therefore anti-people, tribalist
and alienated from the community right from the start. The same might be
said of the prison service, the whole concept of prisons being almost
unknown prior to the advent of colonial rule. It was felt that only by dialogue
with NGOs and other stakeholders, and by education and training could the
police realistically expect to tackle the problems which this history was
causing in present-day Nigeria, and to eradicate the culture of human rights
abuse which had taken root in the force.

The CLO’s March 1995 workshop had been attended by the Inspector-General
of Police himself, and when the report of the workshop was produced, its
presentation to the police was carried on network television and broadcast to
the whole country. It was planned that this would lead to much wider
training which would eventually lead not only to making human rights a
specific part of the curriculum in the police colleges through which all recruits
into the force must pass before becoming police officers, but to regular re-
training and re-orientation even after such officers might have started work.

By the end of that year however, the climate had become too frosty for any
such open collaboration with human rights groups. On the principle that “my
enemy’s friend is my enemy”, friendship with human rights groups which
were challenging the military dictatorship’s right to remain in office became a
bad career move which might even land one on the wrong side of the door to
the police cells.
In such a situation, the NHRC came as a welcome shield and go-between for human rights groups which were still determined to work with the law enforcement agencies and others to tackle the human rights abuses for which they were largely responsible. NGOs which wanted to work with government bodies – admittedly in apolitical areas – would secure the support of the NHRC for whatever programme they wished to undertake. In time the NHRC came to be active partners, but the main importance of its role in the early stages was that it enabled the police, the prison service or whichever body a human rights NGO might wish to work with to present an innocent face to whichever supporter or member of the military junta might wish to challenge it for collaborating with “those anti-government NADECO people”.

In the case of the CLO, it had long determined that one area where training in human rights issues was urgently needed was the lower court system: the part of the judicial system with which most Nigerians who ever had anything to do with the law came into contact. The titles of the two reports tell the whole story of what the CLO’s research had established regarding the administration of justice in these courts: *Justice Denied* looked at the system in the lower courts in Northern Nigeria, while *Justice For Sale* examined the lower courts in the southern part of the country. The support of the Danish Centre for Human Rights for a series of training workshops across the country had been secured, and the National Judicial Institute – the body established by government to see to the training of judges – had been contacted to ensure that the lower court judges, who were government employees, would attend. But until the NHRC was contacted, the officials of the NJI were anxious and jittery about associating with a human rights NGO such as the CLO, which was in the forefront of the pro-democracy movement. The involvement of the NHRC made all the difference and allowed those many judges who had sympathy and respect for human rights NGOs to openly associate with such subversive elements!

Even then, it took the intervention of the Secretary to the NHRC to prevent the State Security Services from disrupting the opening session of the first major workshop, which was to be addressed by the President of the Court of Appeal. \(^6\)

Other human rights groups were equally able to have meaningful programmes with government agencies because of the involvement of the

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\(^6\)The second highest court in the country. Sitting in several divisions across the country, the President of the Court leads the 20-30 odd judges who sit as Justices of the Court of Appeal.
NHRC. The effect of such collaborations was to de-demonise the human rights community. Many government participants in programmes organised by human rights NGOs expressed surprise and appreciation for the insights and training that they had received, and many openly admitted that their impression of human rights groups had been that they were only out to pull government down. It was a revelation to them that human rights activists did not have horns cloven feet, and that human rights was about improving government!

The Reaction of the NHRC

As noted above, there were clear advantages for human rights NGOs in collaborating with the NHRC. But what of the Commission? Why was it ready to associate with those labelled as enemies of government?

Perhaps the first and major reason was the nature of the people who made up the Commission, and in particular, its Secretary, Dr. Ibrahim Tabiu. Although few of its members were known for human rights work, they were to prove far less malleable than the Abacha régime must have expected. Rather than wait for permission to collaborate with NGOs, the NHRC took the initiative of making its own decisions. No doubt had it sought permission this might have been refused. But it was determined to establish its independence, and this could not be done by asking for permission to carry out its mandate.

In addition, the fact that few of the Commission’s members were versed in human rights work made them anxious to acquire skills, knowledge and expertise. By the time that the NHRC came into being, the human rights community, led by the CLO which had been founded in 1987, had several years experience behind it. The NHRC was anxious to tap into that knowledge, and the human rights community was ready to oblige.

Equally important was the failure of the government to properly fund the NHRC. It wished to be taken seriously and to make its mark, but was deprived of the resources with which to carry out any operations. It had little experience of how to raise funds to carry out its projects, and was aware that the government was attempting to stir up sentiment against human rights groups because many of them received most of their funding support from overseas countries. By collaborating in programmes with other NGOs however, it was relieved of the burden of fund-raising.
Working with human rights NGOs also exposed the NHRC to the whole human rights field, and also put them in touch with overseas bodies and agencies which could offer training and courses for its own personnel. NGOs were generous about making their own partners available to the NHRC and it was able to take full advantage of these.

The Government's Objectives

As stated, the Abacha junta's aim in establishing the NHRC was to secure some favourable propaganda on its human rights record. But despite the periodic release of some of its political prisoners, the government's human rights record remained abysmal with fresh arrests, attacks on newspapers - even after the practice of proscribing papers had ceased - and detention of journalists. The assassinations of prominent pro-democracy activists remained a stain on its record even though the responsibility for such crimes was only a well-founded suspicion.

Unfortunately for the government, the NHRC was not prepared to call black “white” in order to satisfy the régime. It was well aware that it had to fight to establish its credentials in a field where many were already sceptical, and as a propaganda tool for the government, it was a complete failure. Its performance was very much to the contrary. When the UNCHR Special Rapporteur, Soli Sorabjee, sought to visit the country to investigate the human rights situation, the government attempted to frustrate his mission by denying him permission to visit the country. In addition to contacting several local human rights groups, Sorabjee also made contact with the NHRC, seeking information on the human rights position in certain specific areas. The NHRC in turn sought information from the human rights community which was only too happy to oblige. Sorabjee compiled his report largely on the basis of such information, and it was presented at the UNCHR in Geneva in 1998. By this time the Abacha government had realised the importance of such international fora and ensured that it was fully represented at every international meeting where it might come under attack for its human rights record. Nigeria's Minister of Foreign Affairs, Tom Ikimi, was therefore present when the Special Rapporteur made his report, and in responding to the contents, sought to dismiss the whole thing as a figment of Sorabjee's

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7 Including the CLO’s Executive Director, Abdul Oroh, released after a year in detention without trial, and the CLO’s head of Human Rights Education, Chima Ubani, released after fifteen months.

8 Revelations since the return to civilian rule have made it clear that the Abacha régime was behind all the assassinations, both successful and unsuccessful.
imagination (confident as he was, that the Rapporteur had not visited Nigeria). Sorabjee insisted upon, and was granted a right of reply, and in responding, he rejected Ikimi’s charges and stated that the contents of the report were based upon information supplied to him by Nigeria’s own National Human Rights Commission!

The Present Situation

The Abacha régime ended on the 6th of June 1998 when its leader expired in the arms of two Indian prostitutes. By that time the human rights situation in Nigeria had deteriorated completely. Abacha’s deputy, General Oladipo Diya, was already under sentence of death for involvement in a coup plot uncovered in December 1997. Meanwhile, as the pro-democracy movement under the United Action for Democracy challenged Abacha’s plans to succeed himself in office as a civilian president with open defiance and demonstrations, and more Nigerians spoke out against Abacha’s self-succession scheme, he had turned to wholesale arrests which had forced many pro-democracy and human rights activists into hiding.9

But even during those difficult days, the NHRC continued to work with human rights NGOs on the programmes which had been identified as being of relevance to the long-term inculcation of pro-human rights actions and practices in government agencies. There is no doubt that it spoke against the ongoing political repression in only muted tones, but in general, it made its recommendations directly to government: without a great deal of publicity, it is true, but the recommendations were made - for example, when those accused and convicted for involvement in the 1997 coup plot, the NHRC made recommendations to Abacha’s government which however, were not put into practice before his death. Again, it had investigated the situation with regard to overcrowding in prisons, and made recommendations to the government, but it was only when General Abdulsalami Abubakar took over from Abacha in June 1998 that any of the recommendations was put into effect, and a Prisons Decongestion and Reformation Committee was set up under the leadership of the Attorney-General of the Federation. This toured the prisons with the NHRC and some NGOs particularly concerned in Penal reform, and this resulted in the release of over 10,000 prisoners in the 11 months of the Abubakar administration. Again, as a result of the collaboration between the NHRC and NGOs concerned with prison reform, a huge amount was set aside for reformation to improve the infrastructure in Nigerian prisons.

9 The CLO was a particular target because it was a prominent member of the UAD, and both the author, its Executive Director and other leading officers of the CLO had gone into hiding after its founding President had been arrested on his return to the country.
The NHRC is now re-positioning itself for the new era of civilian rule in Nigeria. It has been re-constituted, and its members hold three-day meetings once a month in different parts of the country - in any one of the 36 state capitals - in order to bring its activities closer to the people. The first day of such meetings is generally devoted to publicising the presence and work of the NHRC, and in addition to publicity campaigns, the NHRC holds a “human rights forum” at which problems peculiar to the state in which the meeting is being held will be discussed by relevant stakeholders, such as government, market women, the private sector, religious organisations etc. Often the issues raised are as much matters of general public concern as human rights issues, and the concerns of government are given as much prominence as those of individual citizens: for example, in the oil-producing Delta State, a major concern is the environmental degradation which oil exploration has brought to the region. But while environmental issues were discussed at the human rights forum of the NHRC held there recently, the question of pipeline vandalization was also raised. This of course is the government’s description. The truth lies somewhere between poorly maintained pipelines carrying refined petroleum products away from the areas where they are produced, which may deteriorate and start leaking, and the anger and desperation of people left without fuel, leading them to deliberately break the pipelines in order to tap the petroleum products for their own use and for sale. In recent years such leaking pipelines, thronged with those hoping to join the thriving trade in black market fuel, have exploded on several occasions, often leaving many burned to death or horribly injured. Another recent forum in the northern part of the country concerned itself with conflict resolution.

Despite these activities, few people seem to be aware of the existence of the NHRC, or its exact mandate. It is necessary for it to publicise itself a great deal more. At present, all that the NHRC can do in respect of specific complaints referred to it, is to investigate and make recommendations to the relevant branch of government involved in the human rights abuse. As the Commission becomes more experienced and confident, it has come to realise the importance of having more extensive powers. For now, no public officer is obliged to co-operate with it or to provide information, nor is government obliged to act on its recommendations. It can only advise the Attorney-General of the Federation if a prosecution needs to be brought. Conscious of the limitations on its powers, the NHRC has submitted a Bill to the National Assembly which will give it increased powers, to summon witnesses, to subpoena records and information, and which will require those affected to comply with its decisions. By the proposed legislation it also seeks to establish its independence, both in matters connected with funding, and in its operations in general.
This legislation however, is yet to be enacted, and in the meantime, the NHRC must function as a form of alternative dispute mechanism, to which poor and indigent or illiterate victims of human rights abuses can turn for speedy and cheap arbitration or dispute settlement. In addition to publicising itself and educating the public on how to use its services, the NHRC also has cases referred to it by human rights NGOs.

Any Relevance for Taiwan?

The Nigerian NHRC was established by a dictator’s decree in an instant, and its members were all chosen by the same dictatorship which was responsible for so many human rights abuses. The Taiwanese Commission is to be established only after the passage of a law - which will be debated and to which citizens will contribute - through the legislature. The Nigerian body was a reaction to the hostile international environment which the dictatorship had created for itself. No such situation can be said to exist in Taiwan: rather, the proposal for the establishment of a national human rights commission is a reflection of a growing awareness on human rights issues on the part of Taiwanese citizens themselves.

In such circumstances, is the experience of Nigeria as it has been outlined above, relevant to Taiwan at all? It is suggested that even if only by way of showing what to avoid, the experience of Nigeria or any other country which has such a body is relevant. Certainly the experiences and exchange of ideas and information at this international conference will enrich any future contributions which the author may make to the activities of the NHRC in her own country.

It can be seen that the human rights struggle in Nigeria, and the establishment of the National Human Rights Commission itself cannot be divorced from the international context in which the country has found itself. Nigeria had signed up to many of the relevant international instruments, from the Universal Declaration of Human Rights, through the Conventions on civil and political rights and on social, economic and cultural rights, the Conventions on children’s rights and on the elimination of all forms of discrimination against women, through to the African Charter on Human Civil and Political Rights. While awaiting a continent-wide Court with power to handle human rights cases, the sub-regional trade grouping to which Nigeria belongs, the
Economic Community of West African States (ECOWAS) has already agreed to establish a West African Court which may be expected to exercise such jurisdiction.

All these gave human rights activists a firm handle on which to peg their campaigns both within the country and without. The demand for respect for human rights was predicated not only on promises which we Nigerians were supposed to have made to ourselves, in our own national Constitution, but to the international community through the various treaties and conventions. The situation for Taiwan may be somewhat different, and internally driven: although the relevant treaties and conventions may have been signed by the Republic of China for itself and the mainland, the reality – as recognised by those who have proposed the legislation for the establishment of a National Human Rights Commission – is that the country has been cut off from formal relations with the international human rights superstructure because it is so intricately linked with the United Nations Organisation.

The effect of this may be that there is no foreign “big brother” standing over the shoulder of those who may be responsible for human rights abuses in Taiwan. Instead, the impetus has to come – as it has in fact come – from within. This does not necessarily mean that there can be no control over the human rights situation: in a democracy such as Taiwan, the ultimate sanction is the will of the people and their insistence – through their elected representatives and the other machinery of a modern state governed by the rule of law – upon respect for and adherence to human rights standards, of which they can not – in today’s inter-connected world – in any way remain in ignorance.

There is no doubt that some international scrutiny is useful and important. The United Kingdom, where the author grew up, used to consider itself a bastion of freedom and justice until it allowed its citizens the right to petition the European Court of Human Rights. Judgment after judgment from that court made it clear that the U.K. had fallen far behind its fellow Europeans in recognition of and protection of human rights. Again, many developed countries see no need for any government protection for human rights. Yet, again in the U.K., the enquiry into the case of Stephen Lawrence – a young black teenager whose murder was not properly investigated by London’s Metropolitan Police – concluded that that police force had an “institutionalised culture of racism” which had led them to assume that Lawrence’s black friend was the killer, rather than the three white youths who appear to have been responsible. Such an institutionalised culture of racism is
not all that different from the institutionalised culture of general human rights abuse with which the Nigeria Police has been used to approaching crime prevention and detection. It is precisely for the purpose of eradicating such attitudes that national human rights commissions are necessary. That it has been recognised here in this country that this will not happen simply by good wishes and high ideals is an important milestone.

Like Nigeria, Taiwan does not approach the issue of human rights from the standpoint that its own system is perfect and has nothing to learn from the international community or international standards. The United States is notorious for its refusal to subject itself to international scrutiny over its human rights record: witness the fury when its policies in regard to the application of the death penalty were to be scrutinised by the UNCHR - it was seen as impudence of the highest order. But the International Commission of Jurists (ICJ) had already produced a report which showed clearly that there was a wide streak of racism running through the whole matter of the death penalty in that country: not just in the disproportionate numbers of black persons executed or awaiting execution, but also in the decision of prosecutors to seek the death penalty in the first place: the interesting and unusual thing about the O.J. Simpson murder trial was not the fame of the accused person or the wall-to-wall television coverage, but rather, that this was one of the few cases where a black person accused of killing a white person was not on trial for his life: the prosecutors only charged Simpson with second first degree murder, for which there was no death penalty, a privilege which the ICJ study found was more often reserved for the white killers of black victims. And yet as the U.K.’s experience with the European Court shows, the outside world can often provide a necessary objective assessment of a country’s human rights situation.

However, details of human rights problems are rarely secret from the citizens of a country: indeed, in most cases, it is those within a country who provide the information upon which assessments - e.g. Amnesty International’s annual report - are made. But Taiwan’s isolation does mean that its citizens have to be even more resolute and dedicated in upholding and protecting human rights.

Another lesson that can be drawn from Nigeria’s experience is that a national human rights commission should never be left to paddle its own canoe alone. Constant interaction with and communication with independent human rights NGOs is necessary to ensure that such a Commission - which will, whatever the impetus behind its formation, be a government-created and
government-sponsored body – does not fall into a habit of undue deference to government. Early co-operation with its members is important so that the questioning and even sceptical attitudes that may be necessary to call government to account for any encroachment on human rights can be cultivated and fostered from the start.

The other lessons are perhaps overtaken by events. The Nigerian NHRC had been set up with insufficient powers to give it teeth to uncover information and to enforce its decisions. Should the proposed Bill now before the parliament be passed, the Taiwanese NHRC will not suffer from this problem. Ideally the independence of the Commission would be best guaranteed by not concentrating all the powers of appointment in the hands of the Executive, since most human rights abuses come from those same hands. It would seem that the current proposals recognise this.