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MODEST HARVESTS: ON THE SIGNIFICANT (BUT LIMITED) IMPACT OF HUMAN RIGHTS NGOS ON LEGISLATIVE AND EXECUTIVE BEHAVIOUR IN NIGERIA

OBIORA CHINEDU OKAFOR*

INTRODUCTION

This article is devoted to the highly important task of mapping, contextualizing and highlighting the significance of some of the *modest* achievements that have been made by domestic human rights NGOs in Nigeria.¹ As limited as the development of these NGOs into much more popular (and therefore more influential) movements has tended to be, they have nonetheless been able to exert significant, albeit modest, influence within Nigeria.²

Utilizing a broadly constructivist approach, this article will show that these NGOs have helped foster *modest* harvests of subtle human rights transformations within the Nigerian polity.³ To put it in Susan Waltz's terms, these NGOs have helped foster "subtle but important [pro-human rights] alterations"⁴ in the nature of legislative and executive thought and action in Nigeria. Subtle alterations—even *transformations*—have occurred in the nature of the "logics of appropriateness"⁵ that had hitherto been prevalent in the

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¹ As I use it in this article, the expression "human rights NGO" refers to those NGOs that describe themselves as such. These groups shall hereafter be simply referred to as "NGOs".

² For more on the reasons for the disturbing failure of these groups to develop into popular movements, and their consequent inability to optimize their influence within the Nigerian polity, see *Legitimizing Human Rights NGOs: Lessons from Nigeria*, above n. *.

³ Contrast my assessment of the overall impact of these groups (between 1987–2001) as "*modest*" with Peter Agbese's 1994 conclusion that these same groups had by that date "achieved *immense* successes" in Nigeria. See P.O. Agbese, "The state versus human rights advocates in Africa: the case of Nigeria", in E. McCarthy-Arnolds, D.R. Penna, and D.J. Cruz Sobrepena (eds.), *Africa, Human Rights and the Global System: The Political Economy of Human Rights in a Changing World*, Westport, CT, 1994, 167. Emphasis supplied.

⁴ See S. Waltz, "Making waves: the political impact of human rights groups in North Africa", (1991) 29 *Journal of Modern African Studies* 481 at 482.

⁵ See K. Sikkink, "Human rights, principled issue-networks, and sovereignty in Latin America", (1993) 47(3) *International Organization* 411, at 416–417. See also M.E. Keck and K. Sikkink, *Activists Beyond Borders*, Ithaca: Cornell University Press, 1998, at 1–16; and T. Risse

country. In Kathryn Sikkink's terms, "reformulations in understandings"⁶ have definitely occurred in Nigeria, in part as a result of the sustained efforts of these NGOs. In effect, these activist organizations have played a critical role in the generation of the *correspondence* that has sometimes occurred between the thinking and actions of legislative and executive officials in Nigeria (on the one hand), and the norms espoused by these NGOs (on the other hand).⁷ Significantly because of the activist work of these NGOs, the very conception of legislative process has altered to accommodate ever-deepening consultations with civil society groups; some existing legislation has been changed; and new laws have been proposed and/or passed. And significantly as a result of the humanist efforts of the NGOs, executive action and behaviour has now become much more human rights sensitive.

However, a note of caution is appropriate at this juncture. It is realized that, as Laurie Wiseberg and Harry Scoble have long noted, the impact that NGOs achieve cannot always be measured *with precision* in multi-causal situations.⁸ I also agree with John Gerard Ruggie that the paradigm of causality is now in a state of epistemological chaos.⁹ As such, the argument that is advanced here is not that the work of these NGOs simply "caused" the Nigerian legislature and executive to behave in certain ways. The modest argument that is being advanced is that the sustained efforts of these NGOs have constituted *one* critical (even pivotal) factor in the production of the pro-human rights alterations and reformulations that have been observed in Nigeria during the relevant period. As such, I do not seek to *attribute to these NGOs a very high degree of impact*. On the contrary, my overall conclusion is in fact that these NGOs have not yet attained their full potential, largely because almost all of them are steeped in a popular legitimization crisis that has, over time, affected negatively their capacity to exert a much greater degree of influence within Nigeria.

Similarly noteworthy is the special analytical difficulty that is involved in accounting for the influence of human rights NGOs in our time. Given the "moral plateau" that the human rights movement has now attained,¹⁰ it is

and K. Sikkink, "The socialization of international human rights norms into domestic practices: Introduction", in T. Risse, S.C. Ropp, and K. Sikkink (eds.), *The Power of Human Rights: International Norms and Domestic Change*, Cambridge, Cambridge University Press, 1999, 5.

⁶ See K. Sikkink, *ibid.* at 437.

⁷ By "correspondence" I mean the alterations in conduct within the judiciary, legislature and executive that can to a significant extent be attributed to these NGOs, even when there is no clear evidence that these domestic institutions simply "complied" with the appeals and demands made directly to them by these NGOs. For a fuller explanation of this concept, see O.C. Okafor, "Do international human rights institutions matter? The African system of human and peoples' rights, quasi-constructivism, and the possibility of peacebuilding within African states", (2004) 8 *International Journal of Human Rights* (forthcoming). Hereinafter referred to as O.C. Okafor, "Peacebuilding".

⁸ See L.S. Wiseberg and H.M. Scoble, "Recent trends in the expanding universe of NGOs dedicated to the protection of human rights", in V.P. Nanda, J.R. Scarritt, and G.W. Shephard (eds.), *Global Human Rights: Public Policies, Comparative Measures, and NGO Strategies* (Boulder, Westview Press, 1981) 229 at 256-257; and H.M. Scoble and L.S. Wiseberg, "Amnesty International: evaluating the effectiveness of a human rights actor", (Sept-Oct. 1976) *Intellect* 79. See also A. Fowler, "Assessing NGO performance: difficulties, dilemmas, and a way ahead", in M. Edwards and D. Hulme (eds.), *Beyond the Magic Bullet: NGO Accountability and Performance in the Post-Cold War World*, West Hartford, Kumarian Press, 1996, at 169.

⁹ See J.G. Ruggie, "Peace in our time? Causality, social facts and narrative knowing", (1995) *American Society of International Law Proceedings* 93 at 94.

¹⁰ See M. Mutua, "The ideology of human rights", (1996) 36 *Virginia Journal of International Law* 589 at 589.

often tempting to accept the auto-evaluations and self-assessments of these NGOs with less scepticism than might be warranted. For, as Susan Dicklitch has correctly noted:

"Nongovernmental organizations (NGOs) have a certain mystical, venerable quality to them. They are often portrayed as fighting for the poor and helpless, especially in developing countries . . . It is thus sometimes difficult to develop a clear, unbiased, and realistic understanding of what role NGOs really do play in the context of democratic transition and human rights protection."¹¹

As Nelson Kasfir has suggested, most scholars and donors have, to varying degrees, been guilty of this pitfall.¹² However, a social scientist's search for a tolerable level of scholarly distance must always be pursued if the NGO impact assessments that are offered here are to be reasonably credible.

Again, while NGOs may consciously or unconsciously tend to overstate their effectiveness, many governments often understate quite significantly the impact and value of these NGOs. For instance, in the Nigerian context, NGO activists have tended to claim that:

"The NGOs in Nigeria have made *tremendous* contributions toward the expansion of the country's democratic space, through mobilization of the people to appreciate civil, democratic values and governance."¹³

Yet government officials have tended to disagree strongly with this admittedly overstated self-assessment. While most such officials may not go quite as far as he has, many of them have tended to agree with Senator Ibrahim Kura Mohamed that these NGOs have been:

"... nothing but armchair politicians ... [and that] you cannot be dining and wining in Geneva and make noise about democracy in Nigeria. To be candid with you they are nothing but a bunch of hypocrites."¹⁴

Although the reality is much closer to the NGO account than to this senator's rather hypercritical conclusion, a realistic assessment of the impacts of these NGOs within Nigeria must locate it somewhere between these two poles. The challenge here is to map, with as much precision as is possible, the location of this phenomenon along that continuum.

Furthermore, it is also important to note here that an accurate understanding of the level of influence that these NGOs have exerted within Nigeria cannot be achieved without adequate account being taken of the extremely harsh conditions under which they had to function.¹⁵ For much of the period under study, these NGOs functioned under a form of military rule that was novel in orientation, frightening in the extent of its brutality, and suffocating in its degree of repression. As Ayo Olutokun has recently noted:

"It is generally agreed that, for most of the 1990s, Nigeria regressed to a form of military autocracy, which abandoned the consensual format of the military

¹¹ See S. Dicklitch, "Action for development in Uganda", in C. Welch (ed.), *NGOs and Human Rights: Promise and Performance*, Philadelphia: University of Pennsylvania Press, 2000, at 182.

¹² See N. Kasfir, "Civil society, the state and democracy in Africa", (1998) 36(2) *Commonwealth and Comparative Politics* (special issue) 123 at 123-124.

¹³ See (1999) 1(1) *Legislative Mandate* (A CAPP Publication) at 12. Emphasis supplied.

¹⁴ See (1999) 1(1) *Legislative Mandate* (A CAPP Publication) at 35-36.

¹⁵ See O. Oko, "Lawyers in chains: restrictions on human rights advocacy under Nigeria's military regimes", (1997) 10 *Harvard Human Rights* 257 at 260-261. See also Agbese, above, n. 3 at 165.

governments of the 1970s and 1980s in favour of personalized military power marked by state violence.”¹⁶

Thus, to be meaningful, any scholarly assessment of the significance of the influence exerted by these NGOs must situate the relevant data within this context.

In order to demonstrate the validity of the propositions that have been put forth above, I have organized the rest of this article into five sections. In the next section, I will consider the question of the extent to which these NGOs have influenced legislative process and action in Nigeria. Following that, I will focus on their impact on executive thought and action in Nigeria. Then I will discuss briefly the factors that have facilitated the modest success that these NGOs have so far enjoyed in Nigeria in influencing executive and legislative processes and action. In the penultimate section I will offer a brief overall assessment of the extent of the influence exerted by these NGOs within Nigeria and pose a number of crucial questions regarding the reasons for the modest and *limited impact* of this influence overall. Following this segment, I will conclude the article by commenting briefly on the lessons that NGOs in other comparable countries might learn from the Nigerian experience.

THE INFLUENCE OF HUMAN RIGHTS NGOs ON LEGISLATION AND LEGISLATIVE ACTION WITHIN NIGERIA

One remarkable feature of the state–NGO relationship in Nigeria is that even during the darkest days of military rule in that country, NGOs were still able to exert a *modest* measure of influence on legislation and legislative action in Nigeria. Laws were repealed or modified by various military regimes *in part* as a result of sustained campaigns launched by many of these NGOs. The legislative process itself was also positively affected. NGOs have also been able to achieve the same modest measure of success during the period of civilian rule between 1999 and 2001. I will now discuss a number of examples of the kind of influence that these NGOs have been able to exert on legislation and legislative action in Nigeria.

The position during the 1987–1999 era of military rule

Even under the various military regimes that ruled Nigeria during the period under study, NGOs managed to exert a modest level of influence on legislation and legislative action. In a number of cases, they did contribute significantly to the success achieved by a coalition of various oppositional forces in forcing the relevant military regimes to publicly alter their own expressed logics regarding the appropriateness of certain legislative provisions. In this way these NGOs did help reformulate understandings regarding the appropriateness of the content of certain legislation. The following are some accounts of such cases.

¹⁶ See A. Olutokun, “Authoritarian state, crisis of democratization and the underground media in Nigeria”, (2002) 101 *African Affairs* 317 at 317–318.

*The Civil Disturbances (Special Tribunal) Act of 1987*¹⁷

This legislation was enacted by the Babangida military regime in March 1987. It provided for the establishment of a special tribunal to conduct the trial of persons charged with offences related to a communal or civil disturbance. The tribunal was to be composed of a serving or retired superior court judge as its chair, and four other members, "one of whom shall be a serving member of the Armed Forces".¹⁸ It also provided for the confirmation of any conviction or sentence passed by the tribunal by the *Armed Forces Ruling Council*, the military junta that controlled both the executive and legislative branches of government in Nigeria during the relevant period.¹⁹ Thus, persons convicted and/or sentenced by the tribunal had no right of appeal to another judicial body. As importantly, the Decree had also ousted the supervisory powers of the High Courts over the proceedings of the tribunal.²⁰

As a result of communications filed and arguments advanced by NGOs, the presence on the tribunal of a serving member of the armed forces, the ouster of the jurisdiction of the regular courts to review the decisions of the tribunal, and the absence of a judicial right of appeal from the decisions of the tribunal, were repeatedly pilloried in very explicit terms in a number of decisions issued by the African Commission. In the *Zamani Lekwot* case, the Commission found that all of these features were clear violations of the African Charter.²¹ The Commission also expressed similar views regarding one of these features in *Civil Liberties Organization v. Nigeria*²² (which was filed and argued by the Civil Liberties Organization (CLO)). Similarly, in a number of decisions and resolutions, the Commission has pilloried and declared "Charter-illegal" the kind of "ouster clause" that was contained in the relevant Decree.²³ At its second extraordinary session, primarily convened in order to deal with the execution of Ken Saro-Wiwa and the rest of the Ogoni nine, as well as with other aspects of the Ogoni matter, the Commission also expressed similar concerns regarding the compatibility of this law with the African Charter.²⁴ These features of the Decree were also criticized at a number of other international fora.²⁵

On 5 June, 1996, the notorious Abacha-led military government promulgated the *Civil Disturbances (Special Tribunal) (Amendment) Decree*. This Decree removed the Armed Forces member of the tribunal, and provided for the right of appeal to a Special Appeal tribunal. This was a great victory for the NGOs that had brought and pursued several cases related to these matters before the African Commission and before international public opinion; and that had

¹⁷ See Cap. 53, Laws of the Federation of Nigeria, 1990.

¹⁸ *Ibid.*, s. 2. Emphasis supplied.

¹⁹ *Ibid.*, s. 7.

²⁰ *Ibid.*, s. 8.

²¹ See *The Constitutional Rights Project (in respect of Zamani Lekwot and 6 others) v. Nigeria*, Communication No. 87/93, reproduced in Institute for Human Rights and Development, *Compilation of Decisions on Communications of the African Commission on Human and Peoples' Rights*, Banjul, The Gambia, 1999, at 38–41 (Hereinafter referred to as "Compilation of Decisions").

²² Communication No. 129/94, reproduced in "Compilation of Decisions", *ibid.* at 64–67.

²³ For instance, see *ibid.*

²⁴ See *Final Communique of the Second Extraordinary Session of the African Commission on Human and Peoples' Rights*, held in Kampala, Uganda, 18–20 December, 1995 (on file with the author) at para. 16.

²⁵ For instance, see the United Nations General Assembly's *Resolution on the Situation of Human Rights in Nigeria*, A/RES/50/199 of 22 December, 1995.

campaigns so fiercely in the Nigerian courts of law and public opinion against these provisions. Surely, a significant portion of the credit for this important alteration in official understandings regarding the appropriateness of these kinds of special tribunals is attributable to the work done by these NGOs.

*The State Security (Detention of Persons) Act of 1984*²⁶

This legislation was passed by the Babangida military regime in 1984. It aimed to "... empower the Federal Military Government to detain persons for acts prejudicial to State Security for a period not exceeding six months *at a time*, and to provide for a review of such detention."²⁷ This law was subsequently amended by the *State Security (Detention of Persons) (Amendment) (No. 2) Decree No. 14 of 1994*. Passed into law by the Abacha military regime, this latter decree introduced a new section 2A into the existing Act that precluded courts from issuing the writ of habeas corpus or any other such writ aimed at the production in court or release from detention of any person detained under the 1984 Act (formerly referred to as Decree 2 of 1984).

As a result of communications brought before it by some NGOs, the African Commission specifically declared this legislation (as amended) to be "Charter-illegal".²⁸ Its prohibition of the issuance of the writ of habeas corpus by the courts clearly offended the guarantees of the right to liberty under the African Charter. Similarly, the Act contained a so-called "ouster clause" that sought to bar the courts from assuming jurisdiction over any suit brought in connection with that Act.²⁹ The Commission also condemned this type of clause as, *inter alia*, a violation of the Charter's guarantee of the right to a fair trial.³⁰

On 7 June, 1996, the Abacha military regime promulgated the *State Security (Detention of Persons) (Amendment) (No. 2) (Repeal) Decree No. 18 of 1996*. This last Decree repealed Decree 14 of 1994, thus restoring the legal capacity of the courts to issue a writ of habeas corpus or the like so as to order the production in court or release from detention of a person detained under the 1984 Act. In addition, that military regime ordered a wide-ranging review of the cases of all those detained under the Act. About 12 persons regained their freedom as a result of this particular review.³¹

This is another example of the ways in which the efforts of NGOs have helped in direct and indirect ways to produce a very valuable form of "correspondence"³² between the dictates of human rights norms and the laws passed by the Nigerian military government of the time. The sustained pressure brought to bear on this government by these NGOs and popular forces

²⁶ See Cap. 414, Laws of the Federation, 1990.

²⁷ Ibid, long title of the Act. Emphasis supplied.

²⁸ See *Constitutional Rights Project and the Civil Liberties Organization (on Behalf of Ken Saro-Wiwa) v. Nigeria*, Consolidated Communications No. 137/94, 154/96, and 161/97, reproduced in Institute for Human Rights and Development, *Compilation of Decisions on Communications of the African Commission on Human and Peoples' Rights*, Banjul, The Gambia, 1999, at 150-168.

²⁹ Section 4 thereof.

³⁰ See the *Zamani Lekwot Communication*, above n. 21.

³¹ See *Nigerian Democracy: The Journey So Far*, Abuja, Federal Ministry of Information and Culture, 1998, 188.

³² This concept was defined at the beginning of this article. Again for an extensive development of the concept, see O.C. Okafor, "Peacebuilding", above, n. 7.

through publicity campaigns, and suits both in the Nigerian courts and at the African Commission, did bear some legislative fruit.

*The Newspapers Registration Decree No. 43 of 1993 Case*³³

In 1993, the then Babangida-led military government of Nigeria annulled the democratic election on 12 June that year of Moshood Abiola as President of Nigeria. The mass media was vociferous in its condemnation of this dictatorial action. In response to the hostile posture of the mass media, the Babangida regime promulgated Decree No. 43 of 1993. This decree set out a number of extremely stringent conditions that had to be met before a newspaper could lawfully operate in Nigeria. These conditions included the payment of huge sums of money by newspaper publishers and fresh registration of all newspapers circulating in Nigeria, which registration was to be renewable at periodic intervals. Two Nigerian NGOs, Media Rights Agenda and the Constitutional Rights Project, collaborated and filed a communication at the African Commission alleging that this Decree was Charter-illegal. The Commission held that the Decree violated several provisions of the African Charter. The collaborating NGOs then filed a matter in the Lagos High court asking the court to declare the Decree null and void. A massive media campaign was also begun. Part of the resources that these NGOs relied on in making their case before the Nigerian courts and before the court of public opinion in Nigeria was this decision of the African Commission. At the Lagos High Court, HUMPONU-WUSU, J., dismissed the preliminary objections of the military government and found for the NGOs. In dismissing this objection, it held that since the African Charter was a part of Nigerian law *vide* Chapter 10 (which has the force of a decree), and since Chapter 10 conferred jurisdiction on the court, he had jurisdiction to try the case. More importantly, the court also held that any domestic legislation (including Decree 43 of 1993) that was in conflict with the Charter was void to the extent of that conflict. This was a momentous decision in the league of the decision of another Lagos High Court judge in the *Zamani Lekwot* case.

It is important to note that following the decisions of the Commission and the Nigerian court, Decree No. 43 was very rarely enforced by the military government, and was soon repealed. It is a matter of regret though that the Press Council Decree No. 60 of 1995 which contains similar provisions was promulgated by the government on the very day that Decree 43 was repealed. However, this later Decree has not been enforced at all to date. Media Rights Agenda (MRA) is now challenging the legal validity of this latest Decree in the law courts.³⁴ However, for all intents and purposes, the Decree seems to be a dead letter. This fact is a testimony to the de-legitimizing effects of the court's decision, a ruling that would have been extremely unlikely without the

³³ For the African Commission version of this case, see Communications No. 105/93 and 130/94. For the same case before the Nigerian Courts, see *Richard Akinola v. General Ibrahim Babangida and 3 Others*, Suit No. M/462/93. See also Transcript of Interview with KM, 24 May, 2000 (on file with the author). For a second similar case before the Nigerian courts, see *Incorporated Trustees of Media Rights Agenda and Another v. Hon. Attorney-General of the Federation*, Suit No. FHC/L/CS/908/99.

³⁴ See *Incorporated Trustees of Media Rights Agenda and Another v. Honourable Attorney-General of the Federation*, Suit No. FHC/L/CS/908/99, Federal High Court, Lagos.

empowering earlier decision of the Commission, and most importantly, the catalytic role played by two Nigerian human rights NGOs.

Here again, the success that was enjoyed by the MRA and the Constitutional Rights Project (CRP) in getting this Decree repealed was a result of their creative deployment of a number of resources to that struggle: the Charter, the Commission, the mass media, and the courts (a virtual network of "like-minded" institutions). In moves that bore a striking resemblance to those made in the *Zamani Lekwot* case, the Commission and the mass media were approached by these NGOs as a way of strengthening the hands of a local judge. The Commission ruled in favour of the NGOs. The Commission's decision, as well as other arguments based on Nigerian law, were cited to the local judge. This judge then held in favour of the NGOs. All the while, a massive press campaign had been waged to sensitize the public and embarrass the ruling military regime. A combination of these measures worked (even if partially in the last case).

And although many factors were obviously at play, the supportive intervention of a Nigerian judge, who had been convinced by these NGOs regarding the validity and social utility of a set of novel legal arguments, was clearly central to generating the positive result in this case. In this way, therefore, did two Nigerian human rights NGOs effectively catalyze the development of Nigerian jurisprudence in ways that advanced and continue to advance the search for human dignity in that country and elsewhere. Here again, the contribution of NGOs to transformations in judicial reasoning—to reformulations in understandings—is palpable. The efforts of NGOs helped to foster a level of "correspondence" between the actions of the Nigerian military "legislature" of the time, and the dictates of the human rights norms espoused by these NGOs.

The position during the new civilian dispensation (between 1999–2001)

Under the somewhat more favourable conditions of civilian rule, many of these NGOs have managed to insert themselves and their values more firmly into the process of legislation in Nigeria. This has helped to produce subtle alterations of pre-existing attitudes regarding the appropriateness of civil society and popular participation in the Nigerian legislative process. With the inauguration of elected civilian governments at all levels of governance in Nigeria, the need to monitor the processes and institutions of civil rule warranted the establishment by the CLO of its "Democracy and Governance Project".³⁵ The project monitors developments at the national and state legislative assemblies, and publishes *Democracy Review*, a quarterly newsletter.³⁶ It also works with other NGOs in the drive to consolidate Nigerian democracy through the instrumentality of constitutional and legislative reform.³⁷ This has led to the CLO's modest success (in partnership with a number of other NGOs) in ensuring that a number of proposed and already enacted pieces of legislation became much more human rights friendly. For instance, the content of the "Anti-Corruption Act", and the yet to be enacted

³⁵ See Civil Liberties Organization, *Accounts and Activities for 2000*, Lagos, CLO, 2001, at 6.

³⁶ Ibid.

³⁷ Ibid.

"Freedom of Information Bill" have, from the observations of a number of key legislators, benefited from the input of NGOs such as the CLO and Media Rights Agenda (MRA).³⁸ Indeed, the Freedom of Information Bill was drafted by a group of NGOs led by MRA.³⁹ Similarly, HURILAWS (Human Rights Law Service) participated in the drafting of the Anti-Corruption Act.⁴⁰ These NGOs were also successful in helping keep up the public pressure that was mounting on the National Assembly to pass the Anti-Corruption Act.⁴¹ Indeed, as a senior activist has noted, the Nigerian President met with the leaders of some of these NGOs and specifically asked for their help in raising the tempo of public pressure on the National Assembly, so as to ensure the speedy enactment of this law.⁴² The National Assembly enacted this law with relative ease and speed.

It is also most noteworthy that one of the very first legislative acts of the new civilian administration was the repeal of certain notoriously harsh military decrees that in the twelve years before 1999 had been the focus of an extraordinary level of activism and criticism by NGOs. By an *Extraordinary Gazette* issued on 9 June, 1999, only ten days into the new regime, the following military decrees were repealed with effect from 29 May, 1999 (the first day of the new regime): the Constitution (Suspension and Modification) Decree No. 1 of 1984 (which virtually abrogated all the human rights contained in Chapter 4 of the Constitution); the States Security (Detention of Persons) Decree No. 2 (which allowed the previous military regimes to detain anyone without the possibility of judicial review); and the Students' Union Activities (Control and Regulation) Decree No. 22 of 1998 (which prohibited any form of student unionism on Nigerian campuses).⁴³

Similarly, the Senate has recently repealed a number of anti-media legislation enacted by various past regimes.⁴⁴ These recently repealed laws include the *Newspapers (Amended) Act of 1964*, and the *Defamatory, Offensive Publications Decree No. 49 of 1966*.⁴⁵ This important legislative action was a clear, if partial, response to a sustained media and legal campaign that had been mounted for several years by a coalition of actors led by NGOs such as the MRA.⁴⁶

Also noteworthy here is the central role played by NGOs in the passage into law of the National Agency for Traffic in Persons (Law Enforcement and Administration) Bill of 2001.⁴⁷ While the chief moving spirit behind the bill was an NGO known as the Women Trafficking and Child Labour Eradication Foundation (WOTCLEF), many other NGOs also participated in the

³⁸ For instance, see Transcripts of Interview with IW, 30 August, 2001 (on file with the author).

³⁹ See Civil Liberties Organisation, *Accounts and Activities for 1999*, Lagos, CLO, 2000, at 50–51.

⁴⁰ See Transcripts of Interview with AO, 17 August, 2001 (on file with the author).

⁴¹ See B. Ibhawoh, *Human Rights Organizations in Nigeria: An Appraisal Report on the Human Rights NGO Community in Nigeria*, Denmark, The Danish Centre for Human Rights, 2001, at 28.

⁴² Transcripts of Interview with OA, 20 August, 2001 (on file with the author).

⁴³ See *National Assembly Debates: Fourth Assembly, First Session—House of Representatives*, Official Report, Vol. 1, No. 10. See also *Extraordinary Gazette* of 9 June, 1999, Lagos, Federal Government Printers, 1999.

⁴⁴ See *The Guardian*, 21 February, 2003 online at <http://odili.net/news/source/209003/feb/21/22.html> (visited 21 February, 2003).

⁴⁵ Ibid. See also <http://www.thisdayonline.com/archive/2003/02/19/20030219edi01.html> (visited 16 May, 2003).

⁴⁶ See *The Guardian*, 21 February, 2003, online at <http://odili.net/news/source/209003/feb/21/22.html> (visited 21 February, 2003).

⁴⁷ See *National Assembly Debates: House of Representatives*, 16 May, 2001, at 3.

struggle to draft, publicize, and eventually pass this bill into law.⁴⁸ The House of Representatives also passed this Bill into law that same year.⁴⁹

Importantly, certain members of the National Assembly (the federal Parliament), including many who have championed some of this human rights-friendly legislation, have noted the educational benefits that accrue to them from the lobbying that NGOs have done within the Assembly.⁵⁰ For instance, in the context of the push for a law outlawing human trafficking, one of the principal legislative proponents of that law has noted that although the influence of NGOs on the Bill may have been less than it could be, simply because this particular Bill was introduced by the government, the efforts of NGOs have nevertheless been of significant effect. In his words:

"First and foremost, you should note that this bill and other related bills are essentially government bills . . . Being a government bill, the extent of NGOs direct influence remains low level, and perhaps insignificant. *However, we (some Hon. Members, including myself) did receive educative memos from NGOs in respect of the bill seeking to influence our thinking on the issue at stake . . .* On the influence of the NGOs, I am not saying that NGOs may not have had a more direct influence or contribution to the bill, perhaps before it was introduced on the floor of the House. *Of course you should know that Mrs. Abubakar [the wife of Nigeria's Vice President] is involved with an NGO that handles Women's and Children's issues. I only said what I said to the extent of my knowledge and involvement.*"⁵¹

Of equal importance, many members of the National Assembly and of some of the various state legislative houses now seem to be taking the work and input of many of these NGOs more seriously than they have in the past. A few examples will be offered here. In October 2000, the Senate Committee on Human Rights specifically requested memoranda from NGOs on ways of improving the status of women in Nigeria.⁵² The then Chair of this Committee, Senator Abubakar Danso Sodangi, had also convened a stakeholders' roundtable in February 2001 that discussed a proposed Civil Societies Act. This Bill seeks to establish a Civil Societies Commission and provide for the registration of societies and the incorporation of trustees for certain communities, bodies and associations. The CRP, CLO, CAPP (Community Action for Popular Participation) and many other such groups were represented at this roundtable.⁵³ Similarly, Senator Stella Omu, the then Chief Whip of the Senate, had on at least one occasion, invited many of these NGOs to participate in a public presentation of the bills that she had brought before the Senate.⁵⁴ Each of these moves to involve these NGOs in the work of the Senate is attributable, in part at least, to the work that these NGOs have done in sensitizing the Nigerian literate elite regarding human rights issues, as well as to the growing reputation of these NGOs *among the literate elite* as knowledgeable and useful partners in the human rights area.⁵⁵ This was certainly not the case in the past.

⁴⁸ See *The Guardian*, 17 May, 2001, online at <http://ngrguardiannews.com>.

⁴⁹ Ibid.

⁵⁰ See Transcripts of Interview with IW, 30 August, 2001 (on file with the author).

⁵¹ See Transcripts of Interview with IW, 30 August, 2001 (on file with the author).

⁵² <http://www.nigerianassembly.com/Sen...0hearing%20on%20Human%20rights.html> (visited 19 February, 2002).

⁵³ See (2001) 2(10) *Assembly Watch* (A CRP Newsletter) at 1-2.

⁵⁴ Ibid. at 6.

⁵⁵ This much was acknowledged in the valedictory speech of the immediate past Senate President Pius Anyim. See <http://odili.net/news/source/2003/may/29/15.html>.

What is more, certain state assemblies now seem to be taking the work of these NGOs more seriously than they have in the past. For one, some of these state assemblies have now passed into law bills that were drafted and sponsored by NGOs. For example, the law prohibiting harmful widowhood practices that was recently enacted by the Enugu State House of Assembly was initially mooted, drafted and pushed by a coalition of 50 human rights NGOs and civil society groups (that included WACOL).⁵⁶ This legislation also enjoyed very strong support from the start from a number of state legislators.⁵⁷ It took about two years of hard work to push it through this legislative house.⁵⁸ The Delta State House of Assembly has also enacted legislation prohibiting the practice of female circumcision in the state.⁵⁹ This law came into effect in April 2001. The Edo State House of Assembly⁶⁰ and the Cross River State House of Assembly have done likewise.⁶¹ In all these cases, the lobbying work done by human rights NGOs and civil society groups was an important factor in the passage of the laws, as importantly, many of the NGOs that have been lobbying for the enactment of a Freedom of Information Law by the National Assembly have, quite remarkably, been able to enlist the very public support of the Lagos State House of Assembly in this effort. For example, at the session of the House of Representatives (the lower house of the National Assembly) on 10 April, 2000, a resolution of the Lagos State House of Assembly calling for a quick enactment of this Freedom of Information Law was read.⁶² This kind of NGO-State Assembly coalition is virtually unprecedented in Nigerian political history. It is noteworthy that the MRA and the CLO (two of the NGOs that constitute the sample of NGOs that are the focus of this study) were largely instrumental in bringing about the consideration of this Freedom of Information Bill by the National Assembly.⁶³

THE INFLUENCE OF NGOS ON EXECUTIVE THOUGHT AND ACTION IN NIGERIA

As will be demonstrated here, NGOs have also helped to produce subtle but nevertheless significant alterations in the thinking and actions of the Executive branch of government. They have also helped to foster reformulations in executive branch understandings of the appropriateness or otherwise of military rule. This should not surprise discerning observers of the global human rights scene. That governments the world over—even relatively dictatorial regimes—tend to be sensitive to the kind of pressure that is sometimes generated by human rights NGOs has been widely acknowledged.⁶⁴ For instance,

⁵⁶ See (2001) *Legislative Advocacy* 35–36, 41–42 (WACOL Publication). This law was passed on 8 March, 2001.

⁵⁷ Ibid.

⁵⁸ Ibid. See also (2002) 1(1) *Action Woman* (WACOL Publication), at 8.

⁵⁹ See *The Vanguard*, 11 April, 2001 at 1.

⁶⁰ See <http://allafrica.com/stories/200105140301.html> (visited 16 May, 2003).

⁶¹ See <http://www.vanguardngr.com/news/articles/2001/june/11062001/d2130601.html> (visited 16 May, 2003).

⁶² See 4th National Assembly, 3rd Session, No. 57, 10 April, 2000.

⁶³ See (2000) 12(6) *Liberty* (a CLO Publication) at 40.

⁶⁴ See G.W. Shepherd, "Transnational development of human rights: the third world crucible", in V.P. Nanda, J.R. Scarritt, and G.W. Shephard (eds.), *Global Human Rights: Public Policies, Comparative Measures, and NGO Strategies*, Boulder, Westview Press, 1981, 213 at 216. See also D. Weissbrodt, "The contribution of nongovernmental organizations to the protection of human rights", in T. Meron (ed.), *Human Rights in International Law: Legal and Policy Issues*, Oxford,

Kathryn Sikkink has, among other points, noted that the nature of the US State Department's "human rights country reports" was positively altered as a result of the State Department's interactions with USA-based human rights NGOs. In her own words:

"Because [USA] State Department officials did not want to offend foreign officials or undermine other policy goals, their early human rights reports were often weak. However, the State Department reports did serve as a focal point for human rights groups, which were able to create annual public events by issuing responses to the reports. The reports and counter reports attracted press coverage on human rights, and the critiques of the State Department reports held the department up to higher standards in its future reporting. Domestic human rights organizations in repressive countries in turn learned that they could indirectly pressure their governments to change practices by providing information on human rights abuses to human rights officers in US embassies for inclusion in the US annual country-specific reports."⁶⁵

Similarly, Susan Waltz has exposed the modest but significant influence that Tunisian human rights NGOs have exerted on the executive branch of the Tunisian government (and thus on the society at large) during the regime of President Ben Ali. According to her:

"Activists in Tunisia have gathered enough support from those in authority—and have in fact themselves found their way into seats of power—that even formal rules of political fair play have been largely rewritten. Tunisia's infamous state-security court has been abolished, and the practice of incommunicado pre-trial detention known as *garde-a-vue* has been curtailed; with these changes two of the regime's most effective tools for muffling dissent have at least been diminished."⁶⁶

Waltz has also reported on a similar phenomenon in Morocco in the 1990s, where one of that country's major human rights NGOs "was successful in putting human rights on the agenda constructed and otherwise controlled by the king", demonstrating as a result that the Moroccan governance system "commonly viewed as closed is, in fact, not impervious to social pressure."⁶⁷

NGOs have exerted similar kinds of modest but significant influence on executive thought and action in Nigeria. From influencing the Executive's actions during the days of military rule to exerting an impact on the new civilian administration, these NGOs have contributed quite appreciably to the production of *modest* human rights harvests. They have secured the release of administrative detainees by the Executive; they have successfully pressured successive military regimes to direct the suspension of certain obnoxious trials and executions; they have been successful at pressuring even military-controlled executives (which also controlled the law-making function) to direct that important changes be made in the content of laws; they have been successful at pressuring successive military regimes to refrain from enforcing some draconian laws; they have been partly successful at pressuring the executive to alter its attitude to the struggle of the Niger Delta communities for more control over their own resources and for better environmental

Clarendon Press, 1984 at 403; and H. Wang and J. Rosenau, "Transparency international and corruption as an issue of global governance", (2001) 7 *Global Governance* 25 at 39–40.

⁶⁵ See K. Sikkink, above, n. 5, 411 at 422.

⁶⁶ See S. Waltz, above, n. 4.

⁶⁷ *Ibid.* at 498–504.

protection; their senior activists have secured important and relevant appointments to governmental agencies; they have facilitated many of the important activities of the Nigerian National Human Rights Commission; they have influenced the nature and work of the Nigerian Human Rights Investigation Panel (the so-called Oputa Panel); they have contributed to the atmosphere that led to the formation of human rights units within the federal ministry of justice and within at least one state ministry of justice; they have helped make important changes to Nigeria's national telecommunications policy; and they have (alongside popular social agents such as guerrilla journalists) helped to force an end (at least for now) to 15 years of military rule in Nigeria.

The release of administrative and other detainees

One key example will suffice here to illustrate the contribution of NGOs to the release of administrative and other detainees.

In *Constitutional Rights Project (in respect of Wahab Akanmu and others) v. Nigeria*, Communication No. 60/91, the CRP petitioned the African Commission on behalf of one hundred detainees who had been tried, convicted, and sentenced to death for armed robbery in accordance with the Armed Robbery and Firearms Decree, 1974. The Decree under which their trial proceeded made no provision for an appeal from this conviction and/or sentence. The Commission found that the Decree violated Article 7(1)(a) of the African Charter, and recommended that the petitioners be compensated. Due to the efforts of the CRP who deployed the Commission's decisions locally by mounting publicity campaigns in pressing the government to release these detainees, all of the detainees were eventually released.

Suspension of trials and commutation of death and other draconian sentences

The activist work done by NGOs has sometimes led to relatively dramatic results: trials have been unexpectedly suspended and death sentences commuted to prison terms. This has had extremely important positive effects not just on the lives of those who have benefited directly from these efforts but also on the social climate in the country. These victories have also helped sustain the zeal and momentum required for these organizations to last the distance in their sustained efforts at fostering positive transformations in the human rights situation in the country. A few examples will suffice to illustrate this point.

At its second extraordinary session held in Uganda in December 1995, just after the Nigerian government had executed Ken Saro-Wiwa and the rest of the "Ogoni nine", the African Commission decided to ask the Chair and Secretary General of the Organization of African Unity (now the "African Union") to "express to the Nigerian authorities that no irreparable prejudice is caused to the nineteen Ogoni detainees whose trial is pending."⁶⁸ This indication of interim measures was in fact transmitted to the Nigerian government, and followed up with an on-site investigative mission. The proposed trial of the Ogoni 19 (second group) was stayed, and they were all later

⁶⁸ See *Final Communiqué* (on file with this writer).

released without a trial. It would of course be implausible to argue that the trial of these detainees was stayed *only because* of the efforts of NGOs. A number of other factors were clearly at play as well. There had been a massive international outcry over the trial and execution of the first group of the Ogoni detainees. The African Commission had also indicated interim measures, the local press had given the matter a great deal of media attention, and Nigeria had been clearly embarrassed by its strong condemnation in public by South Africa and Zimbabwe (a treatment that is usually reserved for the very worst cases within the Organization of African Unity, and even then rarely meted out). Nigeria had also been expelled from the Commonwealth. But here again, NGOs were *central* players in the generation of each and every one of these other factors. The work done by these NGOs in sensitizing both the Nigerian and international public and the African Commission about the plight of the Ogoni led to some limited benefits.

As part of its broad campaign to abolish the death penalty, HURILAWS filed the case of *Onuoha Kalu v. State*.⁶⁹ In this case, HURILAWS challenged the constitutionality of the death penalty. This suit and other aspects of the anti-death penalty campaign contributed significantly to the decision of the Executive to institute certain penal reforms, culminating in the grant of amnesty to certain categories of prisoners who had been on death row.⁷⁰ It is instructive that the Nigerian President has now gone on (public) record as supporting the abolition of the death penalty in Nigeria.⁷¹

The CRP has also been able to persuade the new civilian regime to grant presidential pardons to three persons who were alleged to have been wrongly convicted and sentenced to life imprisonment by the Miscellaneous Offences Tribunal for dealing and transporting contraband goods.⁷²

The CLO has had some impact in this respect. For example, in 1994, CLO activists visited three prisons at Enugu, Abakaliki and Nsukka (all in the former Enugu State).⁷³ This CLO mission found that many people were being detained for far too long without just cause.⁷⁴ These findings were widely reported in the press by the journalists who were part of the CLO team.⁷⁵ The Chief Judge of Enugu State eventually invited the CLO to be part of his own visit to these same prisons.⁷⁶ During his visit, he exercised his powers under the law and ordered the release of 80 or so persons who were being held while they awaited their trials (also known as ATPs).⁷⁷ Similarly, in the same year, the CLO was able to persuade a Lagos High Court to order the release of 136 ATPs being held at the Ikoyi prison in Lagos.⁷⁸

In all of the above situations, pressure mounted by one or more NGOs was a critical factor in securing the desired outcome. The efforts of these NGOs led

⁶⁹ [1998] 13 N.W.L.R. 531.

⁷⁰ See Transcripts of Interview with AS, 13 March, 2000 (on file with the author). See also Human Rights Law Service, *Annual Report 1997-1998*, Lagos, HURILAWS, 1998, at 11-13.

⁷¹ See *Thisday*, 17 October, 2002, at <http://allafrica.com/stories/200210170396.html> (visited on 20 October, 2002).

⁷² See (1999) 9(30) *Constitutional Rights Journal* 4.

⁷³ See CLO, *Annual Report 1994*, Lagos, CLO, 1994, at 26-27.

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*

⁷⁷ *Ibid.*

⁷⁸ *Ibid.* at 29.

to the infliction of a slight but significant dent on the argument offered by the Executive that the extant governmental behaviour had been appropriate. In showing just how inappropriate such behaviour was, these NGOs have helped to catalyze an ongoing reformulation in the nature of pre-existing understandings regarding the extant matters.

Catalyzing the modification of legislation by military governments

Under the Nigerian military, the Executive exercised complete control over the law-making function. Given the nature of Nigeria's governance architecture during this military era, legislative action was in effect executive action. Legislative action could not, and did not, proceed except with the approval of the Executive. It is for this reason that I consider all the pro-human rights changes that were made to military decrees during this era to be *both* legislative and executive action at one and the same time. As these changes have already been considered elsewhere in this article, they will not be recounted here.

Fostering increased governmental sensitivity regarding the Niger Delta Region

This is one area in which some NGOs such as the Movement for the Survival of Ogoni People (MOSOP) and Environmental Rights Action (ERA) have, in alliance with other civil society actors (and even politicians), virtually forced the Nigerian Executive to make important changes to the policies and actions that affect that region.⁷⁹ Their efforts have also fostered a vastly increased level of sensitivity on the part of the Nigerian government to the abuses that have been wrought on the Niger Delta peoples and their environment.⁸⁰ For instance, in 1992, as a result of much civil society (including NGO) agitation, the then ruling military junta established the Oil Mineral Producing Areas Development Commission (OMPADEC), and increased the percentage of the national revenue that was allocated exclusively to these areas on the basis of derivation from 1.5% to 3%.⁸¹ As a result of continued agitation in the Niger Delta, this was again raised to 13% in 1999. This very steep rise reflected the Nigerian government's vastly increased (although still inadequate) sensitivity to the Niger Delta problem.⁸² In the year 2000, in response to continued agitation, the new civilian government of President Obasanjo set up the Niger Delta Development Commission (NDDC) to accelerate the development of that oil-bearing region.⁸³ The NDDC replaced the OMPADEC.

What is more, the Nigerian government has become much more sensitive to the need to rein in the oil companies that operate (often rapaciously) in the Niger Delta. In the words of Ikelegbe:

"The government has become *more sensitive* to the environmental and social responsibilities of oil companies to the Niger delta [peoples], and has recently

⁷⁹ See A. Ikelegbe, "Civil society and conflict in the Niger Delta region of Nigeria: ramifications of civil society for a regional resource control", (2001) 39 *The Journal of Modern African Studies* 437.

⁸⁰ Ibid. at 460.

⁸¹ Ibid.

⁸² Ibid.

⁸³ Ibid.

become consistent in calling on MNOCs to negotiate and reach memoranda of understanding with the host communities, honour agreements, and be responsive to Niger delta problems.”⁸⁴

The major role that was played by NGOs in this marked transformation in executive policy and action was mainly to raise the tempo of the public and legal discourse on the abuse of the Niger Delta, and maintain its currency as a national discursive question. This contributed to the mobilization of favourable public opinion. Even more importantly, especially in the case of organizations like the MOSOP, the inhabitants of the Niger Delta, who have suffered most from the historical neglect of the area, were mobilized quite effectively at the grassroots.

This does not of course mean that the goals of the Niger Delta struggle have all been accomplished. Far from it. In fact, many important setbacks, such as the retaliatory massacre of civilians that occurred at Odi in 1999 illustrates the enormity of the obstacles that stand in the way of a full realization of those goals.⁸⁵

The point, however, is that the attitude, policies, and actions of the government to these problems have improved *markedly* since NGOs (and other civil society groups) began to campaign for fundamental changes in these attitudes, policies, and actions; and that these improvements occurred *partly* as a result of such campaigns. Indeed, as scholars like Ikelegbe have recognized, the very “authority and legitimacy” of the control and allocation of Nigeria’s oil resources by the federal government has been fundamentally challenged and diminished, *in part* as a result of the efforts of a number of NGOs.⁸⁶ A reformulation in the understanding of what is and is not appropriate in the circumstances has therefore occurred, however modest its extent.

Appointments of activists to relevant governmental agencies

The kind of subtle and modest influence that NGOs have often had on executive action in Nigeria is illustrated by this passage from an interview with a senior activist in which he recounts how Ayo Obe, the current President of the CLO, came to be appointed to the Board of the Police Service Commission by the current federal government of Nigeria. [The Police Service Commission (Establishment) Act of 2001, section 2(1)(a)(iii), provides explicitly for the appointment of a representative of NGOs to the Board of the Commission.]⁸⁷ In the words of this senior activist:

“At the inception of his administration, [President] Obasanjo was reluctant to engage with civil society groups. We had a meeting with him after the NGO retreat at Lekki [near Lagos] and we pushed for institutional reforms (e.g., the military and the police) and the need to deepen democracy ... Before that meeting (which took place in June 2000), I had earlier written to Mr. President

⁸⁴ Ibid. Emphasis supplied.

⁸⁵ Ibiyinka Oluwale Solarin, “Nigerian federalism: the lesson of Odi”, Nigeriaworld: online: http://nigeriaworld.com/feature/publication/solarin/federalism_odi.html (visited 25 October, 2001); see also “Genocide in Odi”, online: <http://lists.essential.org/shell-nigeria-action/msg00701.html> (visited 6 October, 2000), see further T. David-West, Jr., “The Niger Delta: a call for reparations”, Nigeriaworld: online: <http://nigeriaworld.com/feature/publication/david-west/reparations.html> (visited 25 October, 2001).

⁸⁶ See A. Ikelegbe, “Civil society and conflict”, above n. 79, at 463.

⁸⁷ See (2000) 6(1) *Assembly Watch* (A CRP Newsletter) at 5–6.

following a chance meeting with him and in the letter I recounted the discussions we had during the chance meeting. That letter was instrumental to the meeting of June 2000. Following this June 2000 meeting . . . the President of the CLO, Ayo Obe, was appointed to the Police Service Commission.”⁸⁸

Senior activists have also been similarly appointed to a number of other government agencies that are clearly important from a human rights perspective. For instance, Tunji Abayomi, the founder/CEO of Human Rights Africa (HRA) was initially appointed to the Oputa Panel (but later removed allegedly because of a perceived conflict of interest);⁸⁹ two NGO activists were appointed to the National Committee on Prison Decongestion by the Abdulsalami Abubakar regime;⁹⁰ and a number of activists have served on the board of the Nigerian National Human Rights Commission (NNHC).⁹¹

It is deducible from the very fact that a number of activists have now been appointed by the Executive to sit on these important agencies that the Nigerian Executive has at least begun to take them a little more seriously than it previously did. What is more, by sitting at tables where important policy decisions are taken, these activists now have more of a chance to influence the course of the agencies on whose boards they serve. It will now be much harder than was previously the case for decisions to be made in those boards without input from NGOs.

Influence on the Nigerian National Human Rights Commission (NNHC)

Much of the outreach work that the NNHC has done so far has been facilitated by the NGOs. For instance, the CLO has collaborated with the NNHC in mounting training workshops for lower court judges.⁹² As a result of CLO-NNHC collaboration, similar training workshops have been held for police and prison officers.⁹³ The CRP and the NNHC have also worked together to create and disseminate human rights radio jingles and establish a 30-minute human rights program called “Rights and Duties” on Ray Power Radio.⁹⁴

Overall, these NGOs have enjoyed a symbiotic relationship with the NNHC, one that has ensured that certain government agencies now take these NGOs much more seriously.⁹⁵ At the same time, the NNHC’s willingness to work with and assist these NGOs has lent that governmental body a measure of (albeit modest) legitimacy within the local and international human rights community. It would not have otherwise acquired such legitimacy given its origins as a child of the infamous Abacha military regime.

⁸⁸ See Transcripts of Interview with OA, 20 August, 2001 (on file with the author).

⁸⁹ *Newswatch*, 6 November, 2000, online: <http://allafrica.com/stories/200011060060.html> (visited 20 February, 03).

⁹⁰ See Prisoners Rehabilitation and Welfare Action (PRAWA), *Annual Reports* 1998, Lagos, PRAWA, 1998, at 30.

⁹¹ See <http://www.nopa.net/Justice/messages/1.shtml> (visited 16 May, 2003).

⁹² See Transcripts of Interview with AC, 27 March, 2000 (on file with the author).

⁹³ *Ibid.*

⁹⁴ *Ibid.*

⁹⁵ For more on this, see O.C. Okafor and S.C. Agbakwa, “On legalism, popular agency and “voices of suffering”: the Nigerian National Human Rights Commission in context”, (2002) 24 *Human Rights Quarterly* 662 at 669–700, 708.

Influence on the composition and work of the Oputa Panel

On 4 June, 1999, shortly after the inauguration of the current civilian regime, the executive branch of the federal government established the *Human Rights Violations Investigation Commission*, otherwise referred to as the "Oputa Panel". The panel was charged with investigating and documenting the serious human rights abuses that had occurred in that country between 1966 and 1998.⁹⁶ Chaired by Chukwudifu Oputa (a retired Supreme Court Judge), the panel was constituted by some well-known human rights activists, including the CEO of Human Rights Africa. The very fact that a significant number of the members of this commission were appointed from the NGO community is itself a measure of growing influence of these NGOs on executive action in Nigeria.

The Oputa Panel subsequently appointed the representatives of some NGOs to serve on its six sub-committees. These NGO representatives were asked to assist the commission in researching and probing the serious human rights abuses that had occurred in the six geo-political regions of the country.⁹⁷ Thus, a number of NGOs were able to exert some influence on the panel's work.⁹⁸ They researched the allegations of human rights violations that were brought before the panel, and provided an important portion of the "independent" evidentiary basis on which the Commission's report is based.

What is more, many other NGOs were also able to influence the work and final conclusions of the panel by submitting memoranda, attending sessions of the panel, and raising important questions concerning many of the human rights violations that had occurred during the relevant years. In particular, the CLO, CRP, and Socio-Economic Rights Initiative (SRI) prepared and handed in memoranda to the panel that highlighted wide-ranging human rights abuses committed against its members, and the general public.⁹⁹

Human rights units in some federal and states Ministries of Justice

One *mostly indirect* effect of the work of NGOs in securing a more important place for human rights in the thinking and behaviour of the Executive branch of government in Nigeria is the increasing willingness of the federal and state governments to set up or strengthen previously non-existent human rights units within their various Ministries of Justice. The federal government has recently strengthened the human rights unit within the Federal Ministry of Justice.¹⁰⁰ What is more, the recent formation of the Directorate for Citizens'

⁹⁶ See <http://www.africaaction.org/adna/bpn0008.htm> (visited 16 May, 2003). See also BBC News, 21 May, 2002, online: <http://news.bbc.co.uk/1/hi/world/africa/2000691.stm> (visited 20 February, 2003), see also "Truth Commissions Digital Collection" online: <http://www.usip.org/library/truth.html> (visited 20 February, 2003).

⁹⁷ See (2000) 10(36) *Constitutional Rights Journal* 25.

⁹⁸ Although the Panel's Report was been submitted to the Federal Government on 21 May, 2002, it had not been made public as at 17 May, 2003. see also <http://news.bbc.co.uk/1/hi/world/africa/2000691.stm> (visited 17 May, 2003).

⁹⁹ See (1999) 11(5) *Liberty* (a CLO Publication) 6.

¹⁰⁰ This unit had been established some years back. See Concluding Observations of the United Nations Committee on the Elimination of Racial Discrimination: Nigeria, A/48/18 of 15 September, 1993, online at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/A.48.18](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/A.48.18), paras. 306-329.En?Opendocument (visited 17 May, 2003).

Rights within the Lagos State Ministry of Justice was the fruit of the collaborative efforts of that state's executive branch and certain NGOs and civil society organizations. In Ibhawoh's words: "The Directorate, which includes the office of the Public Defender, is an independent ombudsman-like institution charged with investigating public complaints of human rights abuses in the state."¹⁰¹

Catalysing the end of military rule in Nigeria

NGOs were at the forefront of the campaign to end military rule (read Executive dictatorship) in Nigeria.¹⁰² This campaign was of course eventually successful in achieving its objective of ending military rule. As Clement Nwankwo, one of the most senior of the contemporary breed of Nigerian human rights activists, has stated:

"NGOs . . . played a crucial role in *ameliorating* the harshness of military rule by providing legal assistance to victims of human rights abuse, creating awareness and building up [a measure of] public opinion and opposition to continued military rule in the country."¹⁰³

Ikelegbe, a scholarly observer of the Nigerian civil society scene, agrees with Nwankwo's admittedly interested assessment of the contribution of these NGOs to the de-legitimization and eventual abrogation of military rule in Nigeria.¹⁰⁴ In Ikelegbe's words:

"The activities of civil society [of which these self-described human rights NGOs formed an important part] were *to some extent* able to put pressure on 'arbitrary military rule, promote the rule of law, protect socio-economic and political rights', circumscribe violations and compel government revisions of economic and political reforms. The activities of civil society maintained the challenge and pressure for democratization throughout the period from 1986 to 1999."¹⁰⁵

The authors of a recent independent report on the work of human rights NGOs around the world also endorse this assessment of the Nigerian situation.¹⁰⁶

As suggested by the above quotations, although successful in the end, the struggle waged by these NGOs and other popular forces to end military rule in Nigeria was a long and hard one, and not always fruitful. For example, the struggle against the annulment of the results of the 12 June, 1993, democratic presidential elections was only partially successful. Nevertheless, that phase of

¹⁰¹ See B. Ibhawoh, *Human Rights Organizations in Nigeria: An Appraisal Report on the Human Rights NGO Community in Nigeria*, Denmark, The Danish Centre for Human Rights, 2001, at 37.

¹⁰² See also O. Oko, "Lawyers in chains: restrictions on human rights advocacy under Nigeria's military regimes", (1997) 10 *Harvard Human Rights Journal* 257 at 288.

¹⁰³ See C. Nwankwo, "Human rights and the challenges of NGOs in Nigeria", in O.A. Obilade *et al.* (eds.), *Text for Human Rights Teaching in Schools*, Lagos, Constitutional Rights Project, 1999, 255 at 261. Emphasis supplied.

¹⁰⁴ See A. Ikelegbe, "The perverse manifestation of civil society: evidence from Nigeria", (2001) 39 *The Journal of Modern African Studies* 1.

¹⁰⁵ *Ibid* at 9. Emphasis supplied.

¹⁰⁶ See H. Hershkoff and A. McCutcheon, "Public interest litigation: an international perspective", in M. McClymont and S. Golub (eds.), *Many Roads to Justice: The Law-Related Work of Ford Foundation Grantees around the World*, The Ford Foundation, USA, 2000, 283 at 287.

the struggle was a critical factor in the eventual success of the anti-military project in Nigeria. As Julius Ihonvbere has correctly noted:

"For the first time since the January 1966 coup, popular organisations [and human rights NGOs] had challenged the military and forced it to make far-reaching concessions. Though failing to achieve their ultimate goal of a full restoration of democracy, a multitude of groups in Nigeria's new civil society had succeeded in expanding the political landscape, checking the hitherto unabridged power of the armed forces, opening up political spaces for deeper penetration and mobilization, and putting issues of democracy, empowerment, and social justice firmly on the national agenda."¹⁰⁷

Such was the gradual and incremental nature of this struggle—one that was catalysed and led by NGOs.

That the Nigerian political scene has been much more human rights friendly since the end of military rule in 1999 is suggested in a passage from an interview with a very senior and knowledgeable Nigerian activist. In his own words:

"Because there has been a more congenial atmosphere for human rights to thrive, we have taken advantage of the National Human Rights Commission, the Oputa Panel, the various Ministries of Justice, the Human Rights and Petitions Committee of the various Houses of Assembly and the National Assembly to further push for the better protection of human rights in Nigeria and to seek redress for victims of abuse."¹⁰⁸

As such, if the political climate in Nigeria is now much more human rights friendly, NGOs ought to take a significant portion of the credit. As another activist has noted, the end of military dictatorship has opened up the government more than a crack, creating even more room for NGOs to engage with and influence government officials and institutions.¹⁰⁹ The jury is still out, however, on the extent to which this increased space to manoeuvre can lead to a significant increase in NGO influence within the government and within the Nigerian polity. In the meantime, it remains clear that the influence exerted by these NGOs has thus far been of a rather modest nature.

Women's issues

The work of NGOs (especially those devoted to women's issues) has been responsible in part for some modest alterations in the behaviour of the executive branch of government in Nigeria. A couple of examples will serve to illustrate this point.

Firstly, the post-1999 Obasanjo-led federal government has appointed more women ministers than any other regime in Nigerian political history. This has in part been in response to a sustained campaign by women's groups (including women's NGOs) to increase women's political status in Nigeria.

¹⁰⁷ See J.O. Ihonvbere, "Are things falling apart? The military and the crisis of democratization in Nigeria", (1996) 34 *Journal of Modern African Studies* 193 at 204.

¹⁰⁸ See Transcripts of Interview with FF, 25 August, 2001 (on file with the author).

¹⁰⁹ See Transcripts of Interview with OD, 25 May, 2000 (on file with the author).

Indeed, the Obasanjo regime's action in this regard was in partial fulfilment of its promise to allocate thirty per cent of its cabinet posts to women.¹¹⁰

Even more striking is the relatively recent experience of WACOL (Women's Aid Collective) in Enugu state. In 1998, WACOL filed a court action against the Enugu state government challenging the complete exclusion of women from that state's cabinet.¹¹¹ In a modest response to this suit, the state governor appointed one woman to his cabinet, and re-established the state's Ministry of Women's Affairs, a department that he had earlier scrapped.

Miscellaneous instances of the impact of NGOs on executive thought and action in Nigeria

There are many other instances of NGO influence on the executive in Nigeria that are not easily categorized under one of the above headings. A few of these will be discussed below.

In the early 1990s, the CLO campaigned against, and effectively stopped, the construction of a dam—the Rafin Zaki dam—that would have drastically affected the rivers, their eco-systems and the economy of the people of North-Eastern Nigeria.¹¹² The CLO has also helped pressure the Federal Environmental Protection Authority into making a 67 million naira (about US\$250,000) payment to the Ulemon community (near Benin) that had suffered some deaths and illness as a result of a faulty urban waste management scheme.¹¹³ Similarly, the CLO pressured the federal government into paying 2.5 million naira (worth about US\$85,000 at the time) to the families of victims of a wrongful shooting by the police.¹¹⁴

THE FACTORS THAT HAVE FACILITATED NGO INFLUENCE IN NIGERIA

A number of factors have *combined* to facilitate the modest successes described above. No single factor was on its own determinative, although some were more important than others in different contexts.

First, these NGOs have been more effective when they have worked in coalitions and adopted co-ordinated strategies than when they have gone it alone. The paucity of funds and human resources that characterize almost all of these groups has combined with the enormous size of Nigeria's population and the prevalence of human rights violations to ensure that no single NGO has had the capacity to tackle effectively any one type of violation. This situation dictated a strategy of coalition building that has been embraced to some extent by these NGOs, however imperfectly. As Bonny Ibhawoh has put it:

“[In the 1990s] the human rights community realized that to be effective in their campaign for human rights and democracy in the country, there was need for

¹¹⁰ Remi Oyo, “Politics: Nigeria forms the largest cabinet since independence”, online: http://www.oneworld.org/ips2/july99/11_31_036.html (visited 20 June, 2003). The Vice-President, Atiku Abubakar, argued that Obasanjo's regime has appointed more women to his cabinet than any other administration in Nigeria.

¹¹¹ See J. Ezeilo, *Gender, Politics and the Law*, Enugu, WACOL (Women's Aid Collective), 1999, at 15.

¹¹² See CLO, *Annual Report 1994*, Lagos, CLO, 1994, at 225–229. See also (1995) 6(3) *Liberty* (a CLO Publication) at 23.

¹¹³ See CLO, *ibid.* at 225–229.

¹¹⁴ See (1995) 6(3) *Liberty* (a CLO Publication) at 20.

them to cooperate, coordinate their activities and pool their collective efforts towards their goals. This need led to the formation in 1992, of the Campaign for Democracy (CD), an umbrella organization for 42 human rights organizations and pressure groups working for the enthronement of democracy in Nigeria.”¹¹⁵

Similar umbrella groups such as the United Action for Democracy (UAD)¹¹⁶ and the Transition Monitoring Group (TMG)¹¹⁷ have also been formed by these NGOs. To the extent that they have been deployed, these umbrella groups have helped in the effort to maximize the utilities of these NGOs by pooling their human and financial resources, eliminating duplication, and showcasing their considerable numbers.

Secondly, the success that these NGOs have enjoyed in Nigeria would not have been possible without the extraordinary pool of human resources that have had a remarkable capacity to innovate in the face of adversity and seeming hopelessness.

Thirdly, another major factor that contributed to the success that these NGOs have enjoyed in Nigeria is their ability to actively cultivate and enter into a kind of “virtual alliance” with the progressive wing of the Nigerian judiciary, as well as with the very dynamic independent press in Nigeria. The press was, for obvious reasons, critical in the process of (de)legitimation. It was particularly important because of its widely acknowledged extraordinary courage and resilience.¹¹⁸ Judicial decisions that certain laws were *ultra vires* were crucial in the battle for the moral high ground and popular acclaim in Nigeria. With part of the judiciary and most of the press on their side, the job that these NGOs had to do was definitely easier.

Fourthly, another factor that definitely facilitated NGO success in Nigeria is their ability to creatively, nimbly, and strategically deploy international texts and institutions (such as the African Charter on Human and Peoples’ Rights and the Commission that is charged with implementing it) *within* the domestic courts and other such local contexts. In so doing, they were able to enlist the virtual alliance of the African system in their efforts to influence state and society in Nigeria. The ways in which this played out in the *Zamani Lekwot* and *Newspaper Registration* cases is proof positive of this point. A look at the records of the African Commission discloses the fact that these NGOs have, much more than the NGOs of any other African country, utilized the African system and influenced its activities. In this way has the African Commission been sensitized and “recruited” by these NGOs toward the goal of positively affecting governmental action in Nigeria.

The ability of these NGOs to focus some amount of international (read mostly western) pressure on the Nigerian government is also a factor that helped empower them in their struggle to affect the direction of governance in the country. While the international community did not pile as much pressure on the Nigerian governments of the relevant period as they could, they still brought significant pressure to bear on those regimes. In many (though not all) cases, this was definitely helpful to the cause of these NGOs in softening, to some extent, the government’s resistance to the changes that were sought.

¹¹⁵ B. Ibhawoh, *Human Rights Organizations in Nigeria: An Appraisal Report on the Human Rights NGO Community in Nigeria*, Denmark, The Danish Centre for Human Rights, 2001, at 10.

¹¹⁶ *Ibid.* at 11.

¹¹⁷ *Ibid.* at 12.

¹¹⁸ See A. Olutokun, above, n. 16.

This was especially true with regard to NGO efforts to alter positively the *Civil Disturbances (Special Tribunal) Act of 1987* and the *State Security (Detention of Persons) Act of 1984*. In both cases, some (albeit soft) pressure was brought to bear on the Nigerian government by the United Nations.

A pivotal factor is perhaps the fact that the deep cleavages within the Nigerian state¹¹⁹ have made Nigerian political culture much more amenable to negotiation and popular pressure than is commonly acknowledged in the literature. Because of these deep cleavages, the ruling elite has found it conducive to their continued mutual access to power and to the very survival of the Nigerian state to attempt to accommodate—to the minimal extent necessary to ensure stability—the more stridently expressed yearnings of each segment of the population. They have recognized the value of enjoying a modicum of popular legitimacy (or at least tolerance), however minimal in extent. In any case, no regime, however dictatorial, has ever survived for long based purely on its repression of popular resistance. Thus, within the kind of political culture that prevailed in Nigeria, repression was often moderated (and made to seem tough but reasonable all the same) by mostly marginal, though sometimes remarkable, concessions to the more vociferous or stinging criticisms, especially those that bear the imprimatur of some legal authority, like decisions of the courts, the African Commission or the United Nations. It is this kind of complex political culture that allows some limited room, even within dictatorial regimes, for the kind of success that these NGOs have so far enjoyed in Nigeria.

In the end, the factor that brought all the other factors into play, and was therefore the most pivotal, was the unrelenting disposition, remarkable tenacity and extraordinary courage of the activists who ran these NGOs. Given the harshness of the context in which they were forced to work, success was only possible through their perseverance in the inevitably long march toward their objectives. Some activists were killed, many went to jail, and the vast majority were targeted for harassment by the security forces. Yet most of them never left the country, and never gave up their struggle to humanize these regimes.

OVERALL ASSESSMENT OF THE LIMITED (BUT SIGNIFICANT) NATURE OF THE NGO HARVESTS IN NIGERIA

Overall, it is clear from the above account that these self-described human rights NGOs have been influential to *some extent* within Nigeria. However, it is also clear that they have not exerted nearly as much influence as they could have. Compared to the influence exerted within Nigeria and other countries by some other kinds of human rights movements, these NGOs can realistically be said not to have achieved their full potential. For instance, unlike the Zambian, labour-led, pro-democracy movement (which actually won political power),¹²⁰ and the anti-apartheid movement in South Africa (which has

¹¹⁹ See O.C. Okafor, *Re-Defining Legitimate Statehood: International Law and State Fragmentation in Africa*, The Hague, Martinus Nijhoff, 2000.

¹²⁰ On the success of the Zambian pro-democracy struggle in the early 1990s, see J.O. Ihonvbere, *Economic Crisis, Civil Society, and Democratization: The Case of Zambia*, Trenton, Africa World Press, 1996.

markedly reformed the state),¹²¹ Nigerian NGOs have not, to any appreciable degree, been able to either install themselves (or like-minded persons) within the government itself, or to deeply transform the state. Despite their central role in ameliorating, de-legitimizing and ending military rule in Nigeria,¹²² these NGOs have continued to operate from the margins of political power even in post-military Nigeria. Had they been able to command the kind of widespread allegiance and commitment required, it would have ensured that the government took them much more seriously. The *modest* extent of the influence that these NGOs have been able to exert within Nigeria is illustrated somewhat by the anecdotal response of one very senior activist when asked about the degree of influence that his organization has had on the government of Nigeria. In his own words, he is "not really sure whether there has been any influence. Probably the influence has been subtle, but [he] can't really say that it has been tangible or overt."¹²³

The reasons for the modest and limited nature of the influence that these NGOs have exerted within Nigeria is intimately linked to the conceptual and institutional limitations that characterize these NGOs, and can only be briefly outlined here for reasons of space.¹²⁴ In each case, a conceptual or institutional problem impeded the capacity and ability of most of these NGOs to optimize their connection with the needs and aspirations of ordinary Nigerians, and earn their commitment.¹²⁵ Yet, since their leverage on the government was to a large extent dependent on the level of their popularity with ordinary Nigerians, the existence of this kind of popular commitment was critical for their success.¹²⁶ The relevant conceptual and institutional limitations will now be dealt with in that order.

Firstly, the conceptual apparatus that has guided the work of most of these NGOs has not been as adequate as it could be. For one, most of these NGOs tended to ignore social and economic rights work during the relevant period (that is 1987–2001).¹²⁷ Yet this was the very period in which Nigerians suffered the worst-ever decline in their standards of living since the birth of that country.¹²⁸ Again, the marginalization of gender issues during the relevant period by far too many of these NGOs was quite problematic since over

¹²¹ On the South African human rights movement's extraordinary influence on the post-apartheid state, see M. Mutua, "Hope and despair for a new South Africa: the limits of right discourse", (1997) 10 *Harvard Human Rights Law Journal* 63; and W. Korey, *NGOs and the Universal Declaration of Human Rights: 'A Curious Grapevine'*, New York, St. Martin's Press, 1998.

¹²² See P.O. Agbese, above, n. 3 at 168.

¹²³ See Transcripts of Interview with OA, 20 August, 2001 (on file with the author).

¹²⁴ For a much more detailed analysis of these reasons, see O.C. Okafor, above, n. 2 (forthcoming) especially at ch. 7.

¹²⁵ See C.A. Odinkalu, "Why more Africans don't use the human rights language", (2000) *Human Rights Dialogue* 3. See also J. Ihonvbere, "Where is the third wave? A critical evaluation of Africa's non-transition to democracy", (1996) 43(4) *Africa Today* 343 at 358.

¹²⁶ Ibid.

¹²⁷ See B. Ibhawoh, *Human Rights Organizations in Nigeria: An Appraisal Report on the Human Rights NGO Community in Nigeria*, Denmark, The Danish Centre for Human Rights, 2001, at 14. See also (1995) 6(3) *Liberty* (a CLO Publication) at 25.

¹²⁸ Peter Lewis, "From prebendalism to predation: the political economy of decline in Nigeria", (1996) 34 *The Journal of Modern African Studies* 79 at 84. See also J. Ihonvbere, "Economic crisis, structural adjustment and social crisis in Nigeria", (1993) 21(1) *World Development* 141 at 145. See further Y. Bangura, "IMF/World Bank Conditionality and Nigeria's Structural Adjustment Programme", in K.J. Havnik (ed.), *The IMF and the World Bank in Africa: Conditionality, Impact and Alternatives*, Uppsala, Scandinavian Institute of African Studies, 1987, 95 at 110, 112.

half of Nigeria's population is female, and an even greater percentage of the underclass is female.¹²⁹ In practical terms, inadequate attention to gender issues impeded NGO's ability to validate themselves with Nigeria's majority female population. Similarly, the marginalization of minority/environmental rights during the relevant time frame by far too many of these NGOs did not bode well for their ability to connect with the yearnings of Nigeria's oil-producing southern minority populations, a key segment of the disenchanted population.¹³⁰ And finally, virtually all of these NGOs failed to tease out and harness the aspects of Nigeria's various local cultures that were likely to advance their human rights catechism. They failed to speak local languages of human dignity, and too easily dismissed local culture as a kind of human rights desert from which no nourishment can be had.¹³¹ In so doing, they missed yet another easily accessible route to the promised land of their own popular legitimization. Clearly therefore, the overarching point being made here is that each of these conceptual inadequacies combined to impede quite significantly the capacity of these NGOs to connect with most ordinary Nigerians and earn their commitment, and therefore reduced the leverage available to them as they strove to induce changes in governmental action in Nigeria.

Secondly, certain institutional features of these NGOs have militated against their capacity to be more influential with regard to the relevant Nigerian governments. For one, although they must be commended for forming effective coalitions in some cases, these NGOs have, in general, tended to operate in an *excessively* fragmented fashion.¹³² This has too often led to unnecessary competition and inefficiencies, with the result that their collective capacity for effective action has not been optimized. Again, this tendency toward a fragmented NGO community has been fed and reinforced by the tendency for breakaway or separate NGOs to be formed for no apparent reason other than the need of a senior or mid-level activist to set up "his/her own" organization.¹³³ This tendency has led to the de-institutionalization of most of these NGOs, and the prevalence of personal rule within most of them.¹³⁴ Besides the inefficiencies entailed, this situation has not been good for the public perception of these activists. Too many ordinary Nigerians have formed a less than favourable impression of many activists as a result, thus impeding the ability of NGOs to validate themselves among this same population. Virtually all of these NGOs have been "foreign-facing" in their fundraising strategies, and have been almost entirely dependent on foreign (read western) donors for most of their income.¹³⁵ This donor-oriented

¹²⁹ See Transcripts of Joint Interview with FM and OC, 2 May, 2002 (on file with the author).
¹³⁰ See generally (1995) 6(3) *Liberty* (a CLO Publication) at 2. See also J.O. Ihonvbere, "On the threshold of another false start? A critical evaluation of pro-democracy movements in Africa", (1996) 31 *Journal of Asian and African Studies* 125 at 126.

¹³¹ See C. Nyamu, "How should human rights and development respond to cultural legitimization of gender hierarchy in developing countries", (2000) 41 *Harvard Int. Law Journal* 381.

¹³² For example, see (2001) 4(1) *Human Rights Defender* (an IHRHL publication) at 7.

¹³³ See A. Ikelegbe, above, n. 104, at 10. This phenomenon is not of course exclusively Nigerian. In relation to other NGOs, Henrik Marcussen has concluded that they do have difficulty working seriously with each other due to "jealousy, rivalry or simply defending their turf". See H.S. Marcussen, "NGOs, the state and civil society", (1996) 69 *Review of African Political Economy* 405 at 415.

¹³⁴ *Ibid.*

¹³⁵ See E. Madunagu, "NGOs and problems of foreign grants", *The Guardian*, 16 May, 2002, at http://www.ngrguardiannews.com/editorial_opinion/article2.

funding strategy has in part been induced by the relative poverty of the Nigerian political economy, and the consequent difficulty involved in raising funds from a relatively impoverished population. However, the relative ease with which foreign funding can be obtained, and NGO's relative distance from the "grassroots", have been major factors in producing this situation. Regrettably, the much readier availability of foreign funds has served as a strong disincentive to these NGOs to regularly cultivate the local population for funds, resources and support, thereby validating themselves among ordinary Nigerians. Another effect of this heavy reliance on foreign funding has been the distortion it has introduced in the program priorities of these NGOs, leading in some cases to a "disconnect" between the programmatic focus of these NGOs and the priorities of most ordinary Nigerians. I am therefore in agreement with Akin Mabogunje that:

"This issue of the sources of funding for [Nigerian] NGOs is of fundamental importance because of the way it often exercises an undue, and perhaps unintended, influence on their priorities, their planning and the development of their institutional capacity."¹³⁶

Again, the NGO community in Nigeria is in general both elitist and urban-centred.¹³⁷ It is very much dominated (though not exclusively populated) by a cadre of very highly educated, legally trained, and largely urbanized activists. The vast majority of these NGOs are also located within the Lagos geographical axis (Nigeria's sprawling economic capital). This NGO community is thus, in Nigerian terms, a quintessentially elite community. What is more, despite the efforts of a few of these organizations to reach beyond their Lagos-centred and urban-focused orientation, the activities of these NGOs have also tended to be concentrated in the urban areas of the country, largely to the exclusion of Nigeria's majority rural population. This has not helped them earn the commitment of most ordinary Nigerians (largely rural dwellers), thereby reducing the leverage they have in relation to the Nigerian government. Overall, certain institutional problems have prevented these NGOs from gaining the support of most ordinary Nigerians, thereby limiting their ability to pressure and influence the Nigerian government.

However, as riddled with problems as the conceptual and institutional praxis of most of these NGOs have been, and as modest as their impact has been, the fact remains that, as has been shown here, Nigerian human rights NGOs have exerted a *significant* degree of influence within Nigeria. This is, in itself, worth celebrating.

CONCLUSIONS AND LESSONS

This article has demonstrated the fact that Nigerian human rights NGOs have against all odds, managed to exert a significant though modest level of influence on legislative and executive processes and action in Nigeria. Laws have been repealed or modified in pro-human rights directions in part as a

¹³⁶ See A. Mabogunje, "Civil society and the environmental quality of African human settlements", (1996) 1(2) *Shelter Watch* 47 at 51. See also J.O. Ihonvbere, above, n. 130, at 131.

¹³⁷ See J. Ihonvbere, above, n. 130, at 140. See also L. Lawson, "External democracy promotion in Africa: another false start?", (1999) 37(1) *Commonwealth and Comparative Politics* 1 at 15 (arguing that "[n]on-governmental organisations (NGOs) are narrow, urban-based and highly fragmented").

result of the efforts of these NGOs. The nature of legislative process itself has also been affected in significant ways. Subtle but significant alterations in executive thought and action have been produced in part as a response to NGO arguments and pressure. Without any coercive apparatus of their own, and with little international coercion as such, these local NGOs have helped shape legal reformulations and transformations of a modest yet significant quality, confirming the validity of much constructivist human rights thought.¹³⁸

Yet the extent of the influence that these NGOs have exerted has been far from optimal. Several of the conceptual and institutional problems that confront these NGOs have militated against the optimization of their capacity to exert such influence.

Overall, there is much to be learned from the experience of Nigerian NGOs. Similar organizations that are in similar positions in similar contexts the world over will do well to recognize and be guided by the factors that have enhanced and negated the efforts of such NGOs. With regard to the factors that have enhanced their success, their active cultivation and creative deployment of concrete and virtual alliances with a wing of the judiciary, the independent press, the African human rights system, and the international community is noteworthy. It is also important to note that they have done best when they have worked together in coalitions and alliances. Again, their local knowledge of and ability to exploit Nigeria's internal political dynamics was salutary. Above all, their unrelenting pursuit of their objectives and their "courage under fire" were irreducible minimums in their road to even modest success. With regard to the factors that impeded their success, it should be noted that the key deficit was their inability to optimize the extent to which ordinary Nigerians felt a sense of commitment to them, to enable them to narrow sufficiently their conceptual and social distance from ordinary Nigerians. This unfortunate situation is attributable to several of the conceptual and institutional problems that characterized their praxis. The lesson to similarly situated NGOs in other places is to avoid these pitfalls to the extent that is possible.

¹³⁸ See K. Sikkink, above, n. 5.