

**Reconsideration of the human rights violations investigations commission in Nigeria, 1966-1999.**

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**Abstract**

*This article reconsiders the Human Rights Violations Investigation Commission (HRVIC) in Nigeria, its anatomy, predicaments, and evidence of implementation of the report. The paper argues that the need for a detailed study of the HRVIC to capture its predicaments and implementation of the report by successive governments is long overdue. Military rule in Nigeria began in 1966 and lasted till 1999 with a history of human rights abuses and a reign of terror. To heal the wounds of prolonged authoritarian rule in the country, the HRVIC was established following the successes of other truth commissions in Africa, Latin and South America. Drawing on literature, qualitative data, as well as the theory of social change and the theory of transformative justice, the paper sheds light on the subject matter. This study reveals that the implementation of the HRVIC Report has begun with the posthumous award on Moshood Abiola, the Police Reforms, and the Prison Reforms among others. The study establishes that the predicaments of the commission emanated from the perceived target attack of the military class. At the heart of this discourse is the fact that comprehensive implementation of the report and a review of the Nigerian Constitution would probably set the stage for "true federalism and a new Nigeria."*

**Keywords**

Commission, human rights-violations, HRVIC-Report, military-rule, Nigeria,

**Introduction**

The Human Rights Violations Investigation Commission in Nigeria otherwise known as the Oputa Commission was one of the peace-building efforts since 1966. The commission was set up by the democratically elected government of Olusegun Obasanjo in 1999, to heal the wounds of prolonged military rule and



human rights violations between 15 January 1966 and 28 May 1999.<sup>1</sup> It was also an attempt at peace-building among different ethnic groups, particularly; those that felt marginalised or deprived of the opportunity to rule the country. However, this experiment suffered a setback in the hands of the military class who felt that they were targeted for humiliation and consequently approached the court for justice. In the process, the constitutionality of the commission was challenged and an injunction obtained from the Supreme Court of Nigeria which made it difficult for the HRVIC to publish its report or obtain justice and truth for victims of human rights abuses from 1966 to 1999.<sup>2</sup> This paper is important because reconsideration of the HRVIC and its predicaments have not received adequate scholarly treatment. More importantly, are the emerging evidence that aspects of the HRVIC Report have been implemented without publicity by successive government contrary to the assumption that the HRVIC in Nigeria was a failed attempt.

Several works already exist on Nigeria's truth commission and these include Ikhariale; Ikhariale<sup>3</sup>; Zwanbin<sup>4</sup>; Adeyemo<sup>5</sup>; Yusuf <sup>6</sup>;

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<sup>1</sup> [http://www.oputa.com.ng/2002/Synoptic Overview of HRVIC Report: Conclusions and Recommendations \(Including "Chairman's Foreword" Presented to President, Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria, Chief Olusegun Obasanjo GCFR submitted by Human Rights Violations Investigation Commission. May, 2002, accessed August 8, 2019; HRVIC Report Vol. 1-7 Available at](http://www.oputa.com.ng/2002/Synoptic%20Overview%20of%20HRVIC%20Report%20Conclusions%20and%20Recommendations%20Including%20Chairman's%20Foreword.pdf)

<http://www.justiceinperspective.org.za/images/nigeria/Nigeria%20puta%20Recommendations.pdf> accessed May 2019.

<sup>2</sup> United States Institute of Peace, <https://www.printfriendly.com/p/5mSn8M>. accessed November 14, 2019, 1-4.

<sup>3</sup> M. Ikhariale, "The Oputa Reports: An Unfinished Job," [http://www.nigerdeltacongress.com/oarticles/oputa\\_reports.htm](http://www.nigerdeltacongress.com/oarticles/oputa_reports.htm), 2008, 1-4, accessed October 12, 2019.

<sup>4</sup> E. Zwanbin, "The Challenges of Transitional Justice in Nigeria: Echoes from the Oputa Panel, 1999," *Journal of Language, Technology and Entrepreneurship in Africa* 8, 2(2017): 73-91.

<sup>5</sup> D.D. Adeyemo, "Transitional Justice after the Military Regimes in Nigeria: a Failed Attempt,"? Unpublished LLM Degree in Transnational Criminal Justice, University of the Western Cape, South Africa. 2013.

Guaker<sup>7</sup>; and Akhiehiero<sup>8</sup>, among others. The interesting aspect of these studies lies in the fact that the authors discussed the task of the commission and its inability to achieve truth and justice without an in-depth analysis of the composition of the Nigerian state and her struggle for unity since 1914.

The authors also highlighted the objectives and mandate of the commission but were unable to conclude as to whether the mandate was adequate or not to prosecute perpetrators and provide justice to victims, these are some of the missing gaps. Also debatable was the hasty conclusion of Guaker and Adeyemo who in their different works claim that the commission was “a failed attempt” without a second look at the on-going implementation of the report which is of great concern to this paper.

My objective in this paper is to reconsider the HRVIC in Nigeria, 1999-2002, its predicaments and evidence of implementation of the report by successive administrations. It is an important aspect of knowledge because of the perceived attack on the military class and the broader issue of ethnicity. Therefore, this paper discusses the clarification of terms and theories, the background to Nigeria’s challenges, the anatomy of the HRVIC, the predicaments of the commission, as well as evidence of implementation of the report. The conclusion of the paper brings together the various arguments, findings and recommendations.

### **Clarification of Terms and Theories**

This study is situated in the larger context of transitional justice, human rights abuses and authoritarian rule. A truth commission is a fact-finding process that borders on abuses of human rights.

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<sup>6</sup> H.O.Yusuf, “Travails of Truth: Achieving Justice for Victims of Impunity in Nigeria,” *The International Journal of Transitional Justice* 1 (2007): 268-286.

<sup>7</sup> E. Guaker, “A study of the Nigerian truth commission and why it failed,” Unpublished Master’s Thesis, University of Bergensis, 2009.

<sup>8</sup> P. Akhiehiero, “The Constitutionality and Powers of the Human Rights Violations Investigations Commission (Oputa Panel),” *University of Benin Law Journal* 7, 1 (2001/2002): 116-135.

Its major task is to identify victims and perpetrators to forestall future occurrence. According to some commentators, “a truth commission is an official body, often created by a national government to investigate, document, and report upon human rights abuses within a country over a specified period”<sup>9</sup> As Hayner puts it:

Truth commissions are typically tasked with some or all of the following goals: to discover, clarify, and formally acknowledge past abuses; to address the needs of victims; to “counter impunity” and advance individual accountability; to outline institutional responsibility and recommend reforms, and to promote reconciliation and reduce conflict over the past.<sup>10</sup>

When we juxtaposed the views of both authors, we can deduce a common denominator and a confluence of ideas. In the first, both scholars agree that there must be human rights violations, authoritarian regime, victims, and government’s intention to ‘heal the wounds’. In the second sense, there must be government’s willingness to investigate, end the impunity of the autocrats and establish a rule of law. A truth commission is not a court of justice; it cannot punish offenders, rather it refers to its findings and recommendations to the government for further prosecution of offenders. This mechanism was employed in South and Latin American countries during the probe of the military juntas.

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<sup>9</sup> R. G. Teitel, “Transitional Justice Genealogy,” *Harvard Human Rights Journal* (2003): 69-71; George Kasapas, “An Introduction to the Concept of Transitional Justice: Western Balkans and EU Conditionality,” UNISCI, Discussion Paper, no.18 (October 2008), 64.

<sup>10</sup> P. B. Hayner, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*, 2<sup>nd</sup> ed., (New York: Routledge Taylor and Francis Group, 2011), 20.

Two interrelated theories are useful to this study. These are the “theory of change”<sup>11</sup> and the “theory of transformative Justice.”<sup>12</sup> Though there exist other theories such as the theory of justice,<sup>13</sup> liberal theory,<sup>14</sup> and the realist approach,<sup>15</sup> among others. The theory of change was propounded by Alfredo Ortiz Aragon and Alfredo Ortiz Macedo. According to the authors, the “theory of change can be understood in terms of setting out underlying assumptions about the relationships between desired outcomes and the way proposed interventions are expected to *bring them about*.”<sup>16</sup> Extending the idea, Andrea Anderson pointed out that a “theory of change provides ‘a way to describe the set of assumptions that explain both the mini-steps that lead to a long-term goal and the connections between ...activities and the outcomes of an intervention.’”<sup>17</sup>

Therefore, it is noted from the above that “theories of change” can have both negative and positive outcomes since it is based on assumptions and expected goals. In the case of Nigeria, the HRVIC was well-conceived but was ambushed by the military elite using the Supreme Court. The report was finally submitted but was not implemented at the time despite the good assumptions of

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<sup>11</sup> Alfredo Ortiz Aragon and Alfredo Ortiz Macedo, “A Systemic Theories of Change: Approach for Purposeful Capacity Development,” *IDS Bulletin* 41(3)(2010): 89.

<sup>12</sup> Wendy Lambourne, “Transformative justice, reconciliation and peace-building” in Susanne Buckley-Zistel, Teresa Koloma Beck, Christian Braun and Friederike Meith ed., *Transitional Justice Theories* (New York: Routledge, Taylor and Francis Group, 2014), 19-39.

<sup>13</sup> D.A.Crocker, “Reckoning with Past Wrongs: A Normative Framework,” *Ethics and International Affairs*, (13) (1999):43-64.

<sup>14</sup> J. Rawls, *A Theory of Justice* (Cambridge, M.A: Harvard University Press, 1971), 62.

<sup>15</sup> D. Dyzenhaus, “Leviathan as a Theory of Transitional Justice,” in Williams, M.S., Nagy, R. and J. Elster (eds) *Transitional Justice* (New York: New York University Press, 2012).

<sup>16</sup> Aragon and Macedo, “A Systemic Theories of Change,” 89, Quoted in Paul Gready and Simon Robins, “Transitional Justice and Theories of Change: Towards evaluation and understanding,” *International Journal of Transitional Justice* 14 (2020), 280-299 doi: 10.1093/ijtj/ijaa008.

<sup>17</sup> Andrea A. Anderson, “Theory of Change as a Tool for Strategic Planning. A Report on Early Experiences” (New York: The Aspen Institute: Roundtable on Community Change, 2004), 2.

government for reconciliation and peace-building and the long time goal of healing. On the other hand, Wendy Lambourne's "Theory of Transformative Justice" is more appropriate for our discussion. According to the author, the theory of transformative justice "requires rethinking our focus on 'transition' as an interim process that links the past and the future, to 'transformation' that implies long-term, sustainable processes embedded in society...Transformative justice requires a transformation in social, economic and political structures and relationships."<sup>18</sup>

The theory pays attention to psychosocial processes, socio-economic conditions and political contexts. The author emphasised that these elements have to be dealt with to enable the implementation of the rule of law, to stimulate the transformation of the antagonistic relationships between the parties to the conflict, and to build sustainable peace.<sup>19</sup> When we juxtaposed the two theories, it is clear that events differ from country to country and what occurred in South America may not follow the same pattern and change in Africa. Besides, the field of transitional justice is extremely heterogeneous and laden with different schools of thought; therefore, no single theory (monocausal) can capture the complexities of conflict, human rights violations, peace-building and transitional justice.

Moreover, the HRVIC in Nigeria interrogated some of these elements - psychosocial processes, socio-economic conditions and political contexts in its quest for peace-building and reconciliation. The contemporary period has shown that some of the recommendations of the HRVIC have been implemented as underscored in an aspect of this study.

### **Background to Nigeria's Challenges**

Nigeria is one of the richest countries in Africa and sometimes referred to as the giant of Africa with a population of over 140

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<sup>18</sup> Wendy Lambourne, "Transformative justice, reconciliation and peace-building" in Susanne Buckley-Zistel, Teresa Koloma Beck, Christian Braun and Friederike Meith ed., *Transitional Justice Theories* (New York: Routledge, Taylor and Francis Group, 2014), 19-39.

<sup>19</sup> Buckley-Zistel, Beck, Braun and Mieth, "Transitional justice theories: An introduction," in Buckley-Zistel, Beck, Braun, and Meith ed., *Transitional Justice Theories*, 1-16.

million.<sup>20</sup> It is made up of diverse ethnic groups, languages, and cultures. The dominant groups were the Yoruba, Hausa, and Igbo, and they had long been in contention for political space and hegemony. The country also boasts of some natural features such as the Rivers Niger and Benue, forest zone, and savannah grassland.<sup>21</sup> On the economic front, the country thrived on agriculture, production and manufacturing, as well as trade.<sup>22</sup> Available evidence suggests that it was the oil economy that changed the fortunes of the country but there was little to show in terms of development due to corruption and sectionalism of the political elite.

Before the coming of the British, the various ethnic groups had their political, economic, and social organisations, but were connected through inter-group relations. With the introduction of colonial rule and subsequent amalgamation of Southern and Northern Protectorates of Nigeria in 1914, obstacles to national integration were cleared for progressive political and economic unity. But the constitutional arrangement introduced by the colonial administration was lopsided and thus a legacy of maladministration and divide and rule policy which hampered nation-building.

As Smith underscored:

The world should hold the British accountable for an unstable Nigeria because, at independence, Britain did not hand over a model democracy, what they handed over were an arranged, custom-built democracy. The various pre-independence constitutional conferences in London were a charade to

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<sup>20</sup> Max Siollun, 'Preface' *Oil, Politics and Violence, Nigeria's Military Coup Culture (1966-1976)* (New York: Algora Publishing, 2009), 1.

<sup>21</sup> T. Falola, A. Mahadi, M. Uhomobhi and U. Anyanwu, *History of Nigeria Vol.1, Nigeria before 1800 AD* (Ikeja: Longman Nigeria, 1989), 14.

<sup>22</sup> G.O. Ogunremi, "The Structure of Pre-Colonial Economy," in G. O. Ogunremi and E.K. Faluyi ed., *An Economic History of West Africa since 1750* (Ibadan: Rex Charles Publication, 1996), 14-30, specifically, 14-15.

ensure that the talks went the way of Her Majesty's government.<sup>23</sup>

Smith also averred that the new constitution for an independent Nigeria which emerged from the conferences of 1957-8 was the result of cooperation between the North, the East, and the British Government.<sup>24</sup> Also noted was the fact that the 1959 Federal Elections in Nigeria were rigged and coalitions formed even before the election results were known.<sup>25</sup> From the above one can deduce that colonial rule in Nigeria was one of the factors that hindered the unity and progress of the Nigerian State, it also laid the foundations of corrupt practices and election rigging.

Nigeria's political development after independence was fraught with challenges due to a constitutional crisis, regional, and ethnic politics. <sup>26</sup> Added to this, was the behaviour and unethical practices among the Nigerian political class which fostered sectionalism, nepotism, and prebendal politics. <sup>27</sup> These culminated in military intervention in 1966 with attendant human rights violations and the use of impunity. It was on the strength of ethnic and regional dichotomy that the Northern military officers launched a bloody putsch on July 29, 1966, that remove Aguiyi Ironsi regime because the first coup was tagged Igbo coup.<sup>28</sup>

With the military incursion into politics, the Nigerian Constitution was suspended and replaced with decrees and repressive laws. Military rule continued until October 1979 when a short-lived democratic government was entrenched and lasted

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<sup>23</sup> Harold Smith Quoted in Ayodele Akinkuotu, "The Evils the British Did," *Tell Magazine*, March 7, 2005, 33; Also see Cover Stories, "If Nigeria is Unstable, Hold the British," *Tell Magazine*, March 7, 2005, 34.

<sup>24</sup> Akinkuotu, "The Evils the British Did," 34.

<sup>25</sup> Akinkuotu, "The Evils the British Did," 34.

<sup>26</sup> O. Nnoli, *Ethnic Politics in Nigeria* (Enugu: Fourth Dimension Publishing Co. Ltd, 1978), 215-217

<sup>27</sup> R.A. Joseph, *Democracy and Prebendal Politics in Nigeria, The Rise and Fall of the Second Republic*. (Ibadan: Spectrum Books Ltd. 1999), 5-6.

<sup>28</sup>W. Alade Fawole, *Nigeria's External Relations and Foreign Policy Under Military Rule, 1966-1999* (Ile-Ife: Obafemi Awolowo University Press Ltd, 2003), 53.



till December 1983 before it was overthrown by the Buhari/ Idiagbo regime.<sup>29</sup> Since then, it had been one form of the military regime after another until 1999 when the Obasanjo civilian government came to power.

Therefore, to heal the wounds of prolonged military rule from 1966 to 1999 the Nigerian government established the HRVIC.<sup>30</sup> It was set up against the backdrop of successes of transitional justice in South Africa,<sup>31</sup> Argentina,<sup>32</sup> and Chile,<sup>33</sup> to mention but a few. As the Chairman of the Commission indicated, "In our comparative analyses of the work of truth commissions in Argentina, Chile, Guatemala, Uganda and South Africa...any society that has gone through the trauma of unbridled human rights violations and abuses is invariably confronted with a choice... revenge and/or Nuremberg-type trials; and (b) forgiveness and reconciliation."<sup>34</sup>

This implied that the commission made efforts to understand the workings of transitional justice in other countries contrary to the public assumption that there was no background investigation before the task, hence the cul-de-sac. In Nigeria, the option of 'forgiveness and reconciliation' was adopted on two grounds: First, the situation in the country at the time was volatile because the newly elected government in the country had not settled down in the office, hence the need for tact and diplomacy in order not to truncate the nascent democracy. This is why one of the commentators opined that amid a delicate transition, truth-

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<sup>29</sup> B. Onuoha and M. M. Fadakinte, ed., *Transition Politics in Nigeria 1970-1999* (Ikeja: Malthouse Press Ltd, 2002), 1.

<sup>30</sup> <http://www.Oputa.commission>.

<sup>31</sup> J. L. Gibson, "The Contributions of Truth to Reconciliation: Lessons from South Africa," *Journal of Conflict Resolution* 50, 3 (June 2006): 409-432.

<sup>32</sup> K. Sikkink and C. Walling, "Argentina's Contribution to Global Trends in Transitional Justice," in Naomi Roht-Arriaza and Javier Mariezcurrena, eds., *Transitional Justice in the Twentieth-first Century, Beyond Truth Versus Justice* (London: Cambridge University Press, 2006), 301-324.

<sup>33</sup> A. B. de Brito, *Human Rights and Democratization in Latin America: Uruguay and Chile* (New York: Oxford University Press, 1997), 193.

<sup>34</sup> <http://www.Oputa.commission>, 7.

telling can also increase tensions. Therefore, the government must enter this arena with care.<sup>35</sup>

Second, the military junta that relinquished power to the democratically elected government left the stage unwillingly but with an eye for military intervention should the need arise. Therefore to blame the commission for its inability to prosecute the dictators at the time would have been likened to 'stirring an active volcano.' This is because it would not only have invited a reprisal, but ethnic tension in the land since most of the authoritarian Heads of State came from a section of the country. These were some of the predicaments of the commission in the quest for truth, reconciliation, and justice.

### **The Anatomy of the Commission**

The HRVIC in Nigeria was borne out of a desire to heal the wounds of past abuses caused by military rule for about three decades. At the outset, the commission was entrusted with the task of investigating human rights abuses that occurred between 1983 and 1998 and also given three months to accomplish its task. But the duration and scope were criticized by the Civil Liberty Organisation (CLO) and well-meaning individuals who noted that the time frame was restrictive. This led to the amendment in scope and date of submission of the report which covered between June 14, 1999, and May 2002 (2 years, 11 months).<sup>36</sup>

The extension proved critical because of the size and ethnic composition of the country, as well as the need for people not to believe that a particular regime(s) was the target. Therefore, on the heels of issuing past Heads of States a summons, they were acquainted with the facts rather than speculating that they were being singled out for persecution.<sup>37</sup> This move appeared instructive in the eyes of political thinkers but little would the commission know that they would be ambushed in the end by the retired military generals using the court.

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<sup>35</sup> Hayner, *Unspeakable Truths*, 23.

<sup>36</sup> <http://www.oputa.commission>.

<sup>37</sup> HRVIC Report, Synoptic Overview.

<http://www.nigerimuse.com/nigeria-watch/oputa> accessed September 19, 2019).

The extension of time also was to give the commission enough space to attend to the myriads of violations that occurred during the Nigerian Civil War (1966-1970), described as the 'Igbo massacre.' An oversight of this all-important event would have sent bad signals on the unity of the Nigerian state and the question of nation-building. Based on the amendments, it was assumed in some quarters that the Nigerian government was not properly educated on the task of transitional justice. This also lends credence to the issue of funding experienced by the commission during the period, similar to the travails of the Sierra Leone Commission that was starved of necessary funds for its operation. Another question of great importance is what was the composition of the membership of the commission? This will help us to understand whether membership of the commission was adequate for the task or not since it was part of the arguments of critics.

#### **Membership of the Commission**

The questions that generated broader issues are: What was the nature of membership of the commission, can we justify that it was adequate for the task or not? Indeed, membership of the commission was drawn from the six geo-political zones of the country to fit into ethnic configuration and equitable representation. The commission was made up of eminent Nigerians with good standing in public service. Beginning with the Chairman, Hon. Justice Chukwudifu Oputa (rtd), Mrs Elizabeth Pam (Member), Abubakar Ali Kura Michika (Member), Rev. Mathew H. Kukah, member, Mallam Mamman Daura (Member), Dr Tunji Abayomi (Member), and Mr T. D. Oyelade (Secretary).<sup>38</sup>

One of the early challenges of the commission was the resignation of some members. These were Abubakar Ali Kura Michika (member), Mallam Mamman Daura (member), Dr Tunji Abayomi (member), and Mr T.D. Oyelade (secretary). They were subsequently replaced by Dr Mudiaga Odje, SAN, OFR, (member), Barrister. Bala Ngilari, (member), Alhaji Lawal Bamali (member), and Mr N. B. Dambatta (secretary).<sup>39</sup> The rejection of some

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<sup>38</sup> <http://www.Oputa.commission>.

<sup>39</sup> <http://www.Oputa.commission>.

members to serve the nation did not go down well with the majority of the public because it was an opportunity to contribute to nation-building. But the information in the public domain revealed that the task of nation-building was challenging and contentious. Others stressed that their actions were privately considered and not opposed to the welfare of the state.

With the replacement of these members, there was a ray of hope that the appointees were “people of high standing.” Yet, some politicians contended that the appointment was lopsided. According to them, there were no representatives from the CLO.<sup>40</sup> Also pointed out was that members were largely drawn from the Christian religious faith to the disadvantage of Moslems and traditional religious worshippers.<sup>41</sup> Also mentioned was that some members had no prior knowledge of transitional justice compared to those of the South Africa Truth Commission.

More demanding was the argument of the CLO that the present membership was inadequate for the task compared to that of South Africa Truth Commission which had 17 Commissioners, and appointed through a consultative process with track records, as well as experts from different disciplines and vocations, compared to the 8 men Oputa Commissioners. But these arguments were strange to a lot of people because the commission was a Nigerian project and not that of a group or tribe. It is simply an effort in peace-building and not a mathematical equation of numbers. The argument in respect of the composition of members was not addressed by the government and neither did the commission oppose the status quo because it appeared to be adequate for the task.

With the appointment of new members, the instrument that established the commission was also amended just like the duration and scope. There was also a change of name from “The Human Rights Investigation Panel” to “The Judicial Commission of Inquiry for the Investigation of Human Rights Violations.”<sup>42</sup> The change of name led to the amendment in the initial terms of reference for the commission. Therefore the salient amendments

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<sup>40</sup> Interview with Nwabuwa Okonwa, Lagos, 26 May, 2019.

<sup>41</sup> Interview with Bahiru Mohammad, Lagos, 28 May, 2019.

<sup>42</sup> <http://www.OputaCommission.com>.

included the reference in terms of reference (a) and (b) in the amended instrument to “gross violations of human rights...,” as opposed to the more specific reference to “...all known or suspected cases of mysterious deaths and assassinations or attempted assassinations...” in terms of reference (i) and (ii) in the original terms of reference.<sup>43</sup> The question, therefore, is what might have informed the upgrading of the commission? The request to upgrade the commission was to gain acceptance, have the powers to enforce the rules and regulations and be able to invite perpetrators to testify. It was equally to conform to globally acceptable standards and principles of transitional justice.<sup>44</sup>

It is clear from our discussion that there were gaps in the coordination of the HRVIC in Nigeria at the beginning. This is seen in the amendments in membership and duration of time as indicated above. Similarly, the idea that members were supposed to receive special training or participate in workshops on transitional justice need not have been a matter of debate but great importance for effectiveness. Though, it is in the public domain that in April 2000, the commission appointed independent researchers and experts from the CLO and the academia to understudy issues on human rights violations, legal issues and the writing of research reports which were done in nine months.<sup>45</sup>

This researcher also recognized that the HRVIC selected research teams of lawyers, historians and social scientists to write background papers on various aspects of the mandate and terms of reference but in all, this was not sufficient. The point being made is that members of the commission were supposed to hold a retreat where grey areas need be discussed and harmonised, particularly, the constitutionality of the mandate and the position of the Nigerian Constitution in respect of truth commission. These were some of the lessons of the HRVIC in Nigeria. Apart from the composition, a cursory look at the commission’s objectives and terms of reference will help us to situate the commission’s work in a wider historical context.

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<sup>43</sup> <http://www.OputaCommission.>

<sup>44</sup> <http://www.OputaCommission.>

<sup>45</sup> <http://www.OputaCommission.>

### **Objectives and Terms of Reference**

Many years after the ambush of the commission, there is still speculation whether the objectives and terms of reference of the commission were adequate or not for the task. In this section, an attempt shall be made to offer insight into the argument and by extension take a position as to whether the commission had the powers to summon persons, arrest and imprison violators of human rights or not. As the Chairman, Justice Oputa explained:

The main objective of this major undertaking is to document for posterity details of human rights violations in this particular, significant period in the development of Nigeria. It is also to help to unveil the nature, character and dynamics of human rights violations that might have occurred in each of the geopolitical zones, as well as provide details about the involvement of key agencies of the state, such as the police, the prisons, the military and other security agencies, in the violations of the rights of Nigerians.<sup>46</sup>

In the same vein, Olusegun Obasanjo said, "The paramount intention of the commission was to pave the way for reconciliation and thus move the country forward in peace and harmony."<sup>47</sup> He also stressed, "We want to reconcile all those who feel alienated by past political events, heal wounds inflicted on our people and restore harmony in our country. We want the injured and the seemingly injured to be reconciled with their oppressors or seeming oppressors. That is the way to move forward."<sup>48</sup>

It is noted that the main objectives of the HRVIC in Nigeria were 'healing and reconciliation.' And when we considered the views of Justice Oputa and President Obasanjo, there seem to be a connection in the understanding of the issues at stake, that is, to do everything possible to uncover the truth and bring about reconciliation rather than bitterness, discord and punishment. In

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<sup>46</sup> <http://www.OputaCommission>.

<sup>47</sup> Obasanjo qtd. in <http://www.OputaCommission>.

<sup>48</sup> Obasanjo qtd. in <http://www.OputaCommission>.

the case of Hungary, for example, its primary aim was not to punish the criminals but to unmask them since its jurisdiction was rather limited.<sup>49</sup> While that of the South African Commission was to investigate gross human rights violations, defined as killing, abduction, torture, and severe ill-treatment. Therefore, every truth commission has its objectives, and this had to do with situations and circumstances.

The specific terms of reference in the case of Nigeria are: (1) to ascertain or establish the causes, nature and extent of all gross violations of human rights committed in Nigeria between January 15, 1966, and May 28, 1999. (2) to identify the person or persons, authorities, institutions or organisations which may be held accountable for such gross violations of human rights and determine the motives for the violations or abuses, the victims and circumstances thereof and the effect on such victims and the society generally of the atrocities. (3) determine whether such abuses or violations were the product of deliberate State policy or the policy of any of its organs or institutions or whether they arose from abuses by state officials of their office or whether they were acts of any political organisations, liberation movements or other groups or individuals.<sup>50</sup>

Others include (4) recommend measures which may be taken whether judicial, legislative or institutional to redress injustices of the past and prevent or forestall future violations or abuses of human rights. (5) To make any other recommendations which are, in the opinion of the Judicial Commission, in the public interest and are necessitated by the evidence. (6) To receive any legitimate financial or other assistance from whatever source which may aid and facilitate the realisation of its objectives.<sup>51</sup>

At the same time, the commission was statutorily required to submit its interim report to the President of the Federal Republic from time to time but shall, in any case, submit its final report not later than one year from the date of its first public sitting or within such extended period as may be required by the President

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<sup>49</sup> J. Pataki, "Dealing with Hungarian Communists' Crimes," RFE/RL Research Report, 28 February 1992, 21-22.

<sup>50</sup> <http://www.OputaCommission>.

<sup>51</sup> <http://www.OputaCommission>.

in writing.<sup>52</sup> However, some scholars were critical of the terms of reference during the period. To them, it was not well spelt out and the powers not clearly defined. Others believe that it was too elaborate and blanket to accomplish set objectives. However, the commission is better appreciated when we understood the dynamics of transitional justice which according to the government was not revenge and punishment, but healing and reconciliation. Therefore the main issue is to discover the intention of the government in the search for truth and justice for victims of past abuses in Nigeria since the commission was not an instrument of vendetta.

In the words of an informant, "It was probably the call for revenge that motivated the retired Military Generals and past Heads of State to fight against the commission because they were the target."<sup>53</sup> Another informant observed that "the cry in some quarters that the commission's terms of reference must be followed to the letter was perhaps one of the factors that motivated the Hausa/Fulani oligarchy to protect their political hegemony and future goals.<sup>54</sup> Nevertheless, it is clear that the commission's objectives and terms of reference were adequate and comprehensive for the task, but can we say the same about the mandate?

### **The Mandate of the Commission**

Since the judgment of the Supreme Court of Nigeria, the mandate of the commission has been under intense scrutiny by authors, jurists, and experts. Some authors argued that the mandate was not adequate for the task. Others believe that the mandate and constitutionality of the commission cannot be contested because it was rooted in the powers of the President and the Nigerian Constitution.<sup>55</sup> For many, the essential question is what was the mandate of the commission? The mandate of the commission was to ascertain the causes, nature, and extent of human rights violations or abuses committed between January 15, 1966, and May 28, 1999.<sup>56</sup> It was for this purpose that the commission was

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<sup>52</sup> <http://www.OputaCommission>.

<sup>53</sup> Interview with Salisu Bello, Lagos, 27 May, 2019.

<sup>54</sup> Interview with Adama Bashiru, Lagos, 28 May, 2019.

<sup>55</sup> Akhiero, "The Constitutionality and Powers," 118.

<sup>56</sup> <http://www.OputaCommission>.



set up under the Tribunals of Inquiry Act, Chapter 447, Instrument No.8 of 1999, and Laws of the Federal Republic of Nigeria.<sup>57</sup> As the Chairman of the Commission argued, "A word on our approach to our mandate is pertinent here. In searching for the truth about our past, we tried to adhere scrupulously to the requirements of due process and fair hearing and the canons of historical and cultural scholarship."<sup>58</sup> This statement has left us pondering, particularly the salient points, such as, "our past' and 'fair hearing." These clearly showed that the commission was only a bridge-builder as against the thinking of the public that it would arrest and punish, or become a jailor of a sort.

Another issue of great importance was the instrument that established the commission. This has raised fundamental arguments on two fronts. First was the refusal of the three Heads of State - Generals Mohammadu Buhari, Ibrahim Babangida, and Abdusalami Abubakar, and their lieutenants to appear before the public hearings of the commission. The second was the pronouncement of the Supreme Court on the illegality of the commission in the eyes of the law, i.e. "that the HRVIC cannot summon General Babangida to give evidence on the allegation that he and his security chiefs were responsible for the murder of Dele Giwa' because the law does not back the work of the commission."<sup>59</sup>

With this judgment in place, the predicaments of the HRVIC in Nigeria began. As Guaker noted, the three former Heads of State have successfully challenged the constitutionality of the Commission's coercive powers. The courts agreed with the appellants and held that those powers infringed the fundamental rights to liberty guaranteed by Section 36 of the Constitution.<sup>60</sup> Writing in the same vein, Yusuf noted that there is no unanimity of opinion on the effect of the Supreme Court judgment in the case on the enforceability of the recommendations.<sup>61</sup> This

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<sup>57</sup> Cap 447, Laws of the Federation of Nigeria, 1990.

<sup>58</sup> <http://www.OputaCommission>.

<sup>59</sup> <http://www.OputaCommission> ; Akhiero, "The Constitutionality and Powers," 117.

<sup>60</sup> Guaker, "A study of the Nigerian truth commission,"

<sup>61</sup> Yusuf, "Travails of Truth," 273.

means that the court would have given a wider interpretation of the different sections of the law, to bring it to the knowledge of the public, who in turn would weigh the various angles to the debate. More importantly is the question, where were the senior advocates of the Supreme Court when the mandate of the commission was framed or was it a case of political intrigues or conspiracy theory? Whatever was the position of the Supreme Court on the commission's work, it was clear when it granted that the commission lacked constitutional powers to invite Babangida and his lieutenants, and also, that the powers of the commission were not entrenched in Nigerian Constitution.

We can deduce from the above that the former Heads of State and their cronies would not appear before the commission because of perceived attack and the fear of ethnic vendetta since the annulment of June 12, 1993 Elections in Nigeria was a denial of Yoruba presidency and the Commission was sitting in Lagos. Babangida also reiterated that Lagos was not safe for him to appear before the commission because "the guilty are afraid when no one pursueth." The implications of the issue were wide-ranging; would the court override the instrument that established a commission? Would the Supreme Court over-rule the powers of the President of Nigeria that established the commission? On the interpretation of the mandate, one of the jurists said:

The President constituted the Human Rights Violations Investigation Commission (hereinafter referred to as "Oputa Panel"). The latter was constituted by the President of the Federal Republic of Nigeria by Statutory instrument No. 8 of 1999 as amended by Statutory Instrument No. 13 of 1999 in the exercise of the powers conferred upon him by section 1 of the Tribunals of Inquiry Act 6, 1990 and "all other powers enabling him in that behalf."<sup>62</sup>

The foregoing suggests that the legality of the commission lies in powers of the President. The President of the Federal Republic of

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<sup>62</sup> Akhiero, "The Constitutionality and Powers," 118.

Nigeria constituted it by the powers granted him not only by section 1 of the Act but also in the discharge of all other powers conferred upon him, enabling him in that behalf and this included executive powers vested on the President by section 5 of the Constitution of the Federal Republic of Nigeria 1999.<sup>63</sup> Furthermore, one of the scholars stated “that the Tribunals of Inquiry Act Cap. 447 is an existing law within the meaning of the 1999 Constitution and therefore a valid enactment. The Act was promulgated as Decree No. 41 of 1966 by the Federal Military Government... it took effect as existing law and a Federal enactment under section 315 of the 1999 Constitution.”<sup>64</sup>

From the above analysis, one can deduce that the mandate of the commission was not only broad but adequate to ‘invite victims and perpetrators alike. The commission also had the powers to effect an arrest to ensure compliance but it did not exercise this authority because of its objectives. This is highlighted in the chairman’s statement, “We have tried to be faithful to our terms of reference and our mandate. This has been the *raison d’etre* as well as the *leitmotif* of our work at the commission. If this Report contributes, even in the smallest way, to a national *risorgimento*, then our work will not have been in vain.”<sup>65</sup>

Apart from the commission’s core objectives which centred on “healing and reconciliation,” it was obvious that the establishment of the commission was ill-timed because the military cabal was still very powerful. The commission in its composite ruling argued that although Section 10 of the Act empowers it to issue a warrant of arrest to any person failing to attend on the summons, it believed that discretion is usually the better part of valour. This is also encapsulated as thus, “The commission is on a reconciliation process and one does not reconcile under duress... The failure or refusal of our former Heads of State to attend has rudely shaken the faith and confidence of Nigerians in the reconciliation process.”<sup>66</sup> As we know, it is because military rule thrives on a culture of impunity,

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<sup>63</sup> Akhiero, “The Constitutionality and Powers,” 118-119.

<sup>64</sup> Akhiero, “The Constitutionality and Powers,” 118.

<sup>65</sup> <http://www.OputaCommission>.

<sup>66</sup> <http://www.OputaCommission>.

which means that the leaders were both above the law and beyond punishment.

It is clear from our discussion that the commission was duly and constitutionally established. It is also palpable that it had the powers of the President of Nigeria and backed by the Constitution of the Federal Republic. It is also safe to argue that the debate in the public domain that the commission had a weak mandate cannot be substantiated. Therefore issues relating to the three former Heads of State as well as the declaration of the courts were put to rest by the Government of Nigeria to save the nascent democracy. Perhaps, this is why Kasapas emphasised that the “forgive and forget” approach has often been justified on the grounds of promoting societal reconciliation or as the only viable solution where former human rights abusers preserve significant power concerning the new regime.”<sup>67</sup>

Therefore, considering its circumstance, an attempt by the commission to become authoritarian to achieve justice would have undermined the process and objectives of the commission. It became clear to the commission that the nature of Nigeria’s chequered and fractured history demand that the commission’s work should serve as a mirror to reflect the trials and tribulations of our country.

### **The Predicaments of the Commission**

The predicaments of the HRVIC came from different fronts between 1999 and 2002. First was the long-standing political disunity in Nigeria. Second, was the inherent challenges in the work of the commission, and third the ambush of the retired Generals and the conspiracy theory of the Supreme Court. In the first, the unity of the Nigerian State is still a matter of great debate in many quarters. This is because of the dichotomy among various ethnic groups in the country which led to human rights violations and efforts at peace-building.

Since Nigeria’s independence, there has been a lack of fate in the Nigerian polity, particularly among the three dominant cultural groups. For instance, a gathering of Igbo leaders to chart a course of progress and development for its people was often perceived

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<sup>67</sup> Kasapas, “An Introduction,” 59-61.

as a discussion of secession. Also a meeting of the pan-Yoruba group, 'the Afenifere' was often misconstrued as an agenda for separation. Similarly, the coming together of northern leaders known as the "Arewa Consultative Group" (ACG) in Kaduna was often viewed with misgivings. This sentiment had long affected the progress of the country due to the absence of true federalism and equality. It was also the fear of domination that led to the introduction of the "quota system," "federal character" and "revenue sharing formula" in the country.<sup>68</sup>

Arguably, these principles have introduced mediocrity in the name of equity as against excellence. Perhaps, this is what informed Achebe statement, "What has consistently escaped most Nigerians in this entire travesty is the fact that mediocrity destroys the very fabric of a country as surely as a war-ushering in all sorts of banality, ineptitude, corruption, and debauchery."<sup>69</sup> His idea on how Nigeria can move forward was eloquently articulated in his celebrated work, *The Trouble with Nigeria* (Achebe 1983). The many troubles of Nigeria are indicators of a fragile state; little wonder some observers described Nigeria as "a failed state."<sup>70</sup> Others ask, "Nigeria: What Manner of Federation is this?"<sup>71</sup>

Also worrisome is the fact that the problem of ethnic politics between the Yoruba and the Igbo did not allow any meaningful cooperation and collaboration against perceived domination of the north. Though, the Nigerian Civil War was fought over half a century ago; till date, Igbo presidency is still far from reality which is a sad reminder of the paradox of the acronym "Gowon," meaning "Go on with one Nigeria."<sup>72</sup> The Yoruba also had their

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<sup>68</sup> Asiwaju, A.I. 'The Evolution of Nigerian Culture,' in Akinjide Osuntokun and Ayodeji Olukoju ed. *Nigerian Peoples and Cultures* (Ibadan: Davidson Press, 1997), 22-43, specifically, 38-39.

<sup>69</sup> C. Achebe, *There was a Country, A Personal History of Biafra* (London: Penguin Books Ltd, 2012), 236.

<sup>70</sup> Jide Ibietan and Joshua Segun, "Leadership and the Failed State Status of Nigeria (2010-2012). *An Enquiry*," *Acta Universitatis Danubius Administratio* 5, 1 (2013): 49-69.

<sup>71</sup> E.O. Oyewo, "Nigeria: What Manner of Federation is This?" Inaugural Lecture, University of Lagos, 20 March, 2019.

<sup>72</sup> J. I. Elaigwu, *Gowon: The Biography of a Soldier-Statesman* (Ibadan: West Books Publishers Ltd, 1986), 137.

memories especially the June 12, 1993 Elections in which the infamous Association for Better Nigeria (ABN) helped to scuttle under the Babangida regime.<sup>73</sup>

This event led to the isolation of Nigeria in the comity of nations and by extension the sanction of European countries. These were some of the issues that contributed to the predicaments of the HRVIC in Nigeria. Can the authoritarian regimes provide answers to these all-important issues without scathing themselves in the Public hearing of the HRVIC? Would they be able to convince Nigerians that they had no hand in the murder of Dele Giwa, publisher of the *Newswatch Magazine* in 1986, the murder of Kudirat Abiola and the hanging of Ken Saro Wiwa, the Ogoni Environmental Activists in 1995?<sup>74</sup> Indeed, these were matters of great concern to the HRVIC, for which it was ambushed by the retired Generals who exploited the Nigerian judicial system.

The commission was equally beset with internal challenges, such as the lack of a definite legal instrument to prosecute and enforce or direct to a court of competent jurisdiction. It was also burdened by the lack of technical expertise. Since the commission was only a panel of enquiry or a fact-finding commission. It was expected to function side by side with a judicial court to try and punish offenders as was the case in other countries or at least refer matters of great atrocities to the International Criminal Court (ICC) in The Hague for further adjudication since the commission did not possess the powers of victor justice or the authority to award damages.

Additionally, most members of the commission did not possess the technical and scientific know-how to extract the 'absolute truth' from violators and victims and this frustrated the efforts of witnesses and victims for retributive justice, some of whom even refused to make a second appearance in the public hearing,

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<sup>73</sup> T.O. Opeibi, *Discourse, Politics and the 1993 Presidential Election Campaigns in Nigeria: A Re-invention of June 12 Legacy* (Ibadan: Straightgate Publishing, 2009), xv-xvi.

<sup>74</sup> E. Ugwu, "In Search of Justice," *Newswatch Magazine*, 16 August, 1999, 34.

similar to the discontent of victims who learnt that compensation and reparations (materials or symbolic) were not part of the commission's task. It was also frustrating to know that records of arrest and offence, interrogation and deaths were virtually unavailable to the commission for examination; hence the denials of security officers implicated by witnesses in the torture, detention, or murder of loved ones.

The absence of local interpreters and translators in the Zonal Offices across the six geo-political zones of the country was a factor, knowing full well that not all witnesses could write their statement or speak in the English language. Consequently, victims who would have provided first-hand information were handicapped as their reports were either written by a third party or did not represent their opinion and thoughts. Apart from the internal hitches, the commission was beset with external challenges. For instance, the government of Olusegun Obasanjo did not demonstrate the political will to partner with the commission. This is evident in the fact that it starved the commission of the necessary funds for its activities, the same way it ignored the request of the commission for suitable office accommodation in Abuja. In consequence, members were crowded in an office that did not afford them space for meaningful proceedings.

More worrisome is the fact that the democratic government did not provide them with the latest digital tape-recorders and video equipment that would have enhanced the process. It was based on these predicaments that the chairman of the commission said, "But it was not an easy task. We had to overcome serious obstacles and constraints - some institutional, some organizational, some legal, some cultural, some political, some logistical and financial and some inevitably arising from the very nature of a truth commission like ours."<sup>75</sup>

Thus, the attack on the commission by the Generals using the courts was not surprising to political thinkers because their appearance before the commission will have initiated a new era in Nigeria's polity, as well as set the pace for true federalism. But since the retired Heads of State understood that they were

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<sup>75</sup> <http://www.OputaCommission, 4>.

targeted to account for the violations of human rights, they sought the protection of the judiciary. The impunity to ignore the commission summons arose from the fact that they understood the conflicting interpretation of the Nigerian Constitution, similar to developments in Uganda and El Salvador where military high commands responded with unkind statements against the nations' truth commissions and their verdicts.<sup>76</sup>

Also worthy of mention was the alleged threat to life and pressure on members of the commission to throw a hammer into the work. And when this attempt failed, power politics and the manipulation of the judiciary by the retired Generals became an option. These challenges were not peculiar to HRVIC but a culture of the Nigerian government. The country had a culture of not implementing official reports for the public digest. For instance, the Okigbo Panel Report was not published even when it was submitted to the government that established it, neither was the National Political Reforms Conference (NPRC) of February 21, 2005, headed by Justice Niki Tobi, a Supreme Court Judge published<sup>77</sup>

Also, the National Conference convoked by President GoodLuck Jonathan was not published and neither was it implemented. Therefore some scholars don't have to refer to HRVIC in Nigeria as "a failed attempt" because the report was not published by the government that established it? To the best of our knowledge, it was only a panel of enquiry and the powers to publish and implement remained with the government that established it.

### **Evidence of Implementation of Report**

For about a decade or so, the Nigerian government had commenced the implementation of aspects of the recommendations of the HRVIC Report. Though, this development was without much publicity because of the challenges of ethnicity and politics. The report was suspended by the government at the time of submission in 2004 because of

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<sup>76</sup> M.L. Popkin, *Peace without Justice: Obstacles to Building the Rule of Law in El Salvador* (USA: Pennsylvania State University Press. 2000), 159-160.

<sup>77</sup> Iyibosa Uwugiaren, "And the Jamboree Begins," *Insider Weekly*, March 7, 2005. 25-28.



court injunction but was later deposited in Nigerian University Libraries, archives and online without the sanction of the Supreme Court of Nigeria.

Beginning with the recent implementation of the report, the *Punch Newspaper*, dated June 7, 2018, stated, "Buhari declares June 12, Democracy Day."<sup>78</sup> The report highlighted that Moshood Abiola had been posthumously granted the highest honour in Nigeria, the Grand Commander of the Federal Republic,(GCFR) and June 12, every year will henceforth be celebrated as 'Democracy Day' as against May 29, hitherto observed by previous administrations. This appeared to be a symbolic compensation on Moshood Abiola the acclaimed winner of June 12, 1993 Elections as recommended by the HRVIC headed by Justice Oputa.

However, it was symbolic that Moshood Abiola was posthumously compensated, but what happened to other freedom fighters of June 12, 1993 Elections? Why was the president of the country not restored to the Yoruba as full compensation rather than the continuity of the oligarchy? Chief Moshood Abiola, Alhaji Kingibe, and Gani Fawehinmi were not the only freedom fighters of democracy, to the best of our knowledge. The likes of Chief Frank Ovie Kokori and Chief Wariebi K. Agamene of the Natural Union of Petroleum and Natural Gas Workers (NUPENG) and Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN) who championed "the mother of all strikes" in Nigeria and the *Afenifere* group need be compensated for their struggle.<sup>79</sup> The compensation of a few probably seemed inadequate because the ethnic politics of one section of the country over others has continued without addressing the question of true federalism.

There was also a recommendation for the reduction in the size of the army and this was carried out by the Obasanjo Administration. The reduction in the size of the force was

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<sup>78</sup> Adetayo, O. Akinkuotu, E., Adepegba, A., and Fabiyi, O. " Buhari declares June 12 Democracy Day, Honours Abiola with GCFR," *The Punch Newspaper*, June 7, 2018, 1, 10.

<sup>79</sup> Julius O. Ihonvbere, "Organised Labor and the Struggle for Democracy in Nigeria," *African Studies Review* 40, 3(Dec. 1997), 77-110.

necessitated by the domination of the Hausa and Fulani without recourse to the “quota system” or “the federal character” stipulated in the Nigerian Constitution. Moreover, the decision to prune the military was to give other ethnic regions the same opportunity to rise in rank and power since this was never considered since the Gowon administration. Similarly, in February 2005, there was the inauguration of the National Political Reforms Conference (NPRC) by the government, as recommended by the HRVIC. The purpose of the Conference was to discuss governance and the unity of the Nigerian federation.<sup>80</sup> The conference attracted eminent politicians and the report of the HRVIC was handed over to them as one of the working papers.

Additionally, the commission recommended that a bottom-up, broad-based series of national seminars to discuss the country’s political and constitutional structure be held as a matter of urgency. This recommendation was approved by President GoodLuck Jonathan administration in 2014 when he convened a national conference with representatives from the six geo-political zones of the country. Though, the administration was unable to publish the report before its tenure ended just like the fate of other Panel reports.

Another recommendation by the commission was that government should consciously and assiduously create jobs to reduce crime and poverty. This recommendation was partly implemented by the Jonathan Administration but vigorously pursued by the Mohammadu Buhari Government as cottage industries, infrastructure and manufacturing sectors were revived through loans and government support. Loans were also extended to small and medium scale enterprises, particularly graduates and big-time farmers to have a head-start in agriculture, especially rice farming in the country. Same as the “Traders and Market Moneys Programme” advanced to traders and small-scale Enterprises in the country. Nevertheless, these welfare schemes did not eliminate poverty because of population increase and wealth differentials between the poor and the rich, coupled with the rising wave of inflation in the country

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<sup>80</sup> Uwugiaren, “And the Jamboree Begins,” 25-28.

Equally implemented at the political and judicial levels were the recommendations in the case of General Ishaya Bamaïyi and others pending before the Lagos High Court. The commission in its report emphasised that matters pending before the courts should take their normal course but stressed that, “in the spirit of forgiveness, reconciliation, unity and peaceful co-existence, which the commission has belaboured in its report, the President may wish to consider a political solution as an alternative to the on-going protracted judicial process or else accelerate the hearing of these cases.<sup>81</sup> It was in the spirit of this recommendation that the likes of General Ishaya Bamaïyi, Sgt Rogers, Major Hamza and others were acquitted by the Court of Appeal.

Furthermore, there was a recommendation to stop the violations of workers’ rights to fair pay. The Government of Mohammed Buhari in an attempt to fulfil the recommendations provided the Paris Club Loan to State Governors in 2017 to enable them to settle the arrears of Teachers’ salaries and promotions accumulated over the years. In line with the HRVIC report, there was an overhaul of the country’s prison system, with priority given to the rebuilding and refurbishing of Prison facilities. The Prison Reforms began during the administration of GoodLuck Jonathan where several committees were established for this purpose, including prison decongestion which was concluded in 2018. The outcome of which was the transition from the Nigerian Prison Service (NPS) to the Nigerian Correctional Centre (NCC).

On the other hand, the Nigerian Police Reform had just concluded its work on the salaries and welfare of the Nigerian Police including that of the Special Anti-Robbery Response Squad (SARS), as recommended in the report of the commission. In August 2018, the Government of Mohammed Buhari called for the reform of the notorious SARS, an arm of the Nigerian Police that had long brutalised Nigerians with impunity, how far this reform had gone remained to be seen until the *ENDSARS Youth Protest* across Nigerian in September/ October 2020. It is clear from the above discussion that part of the recommendations of the HRVIC had been implemented in Nigeria contrary to the

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<sup>81</sup> <http://www.Oputa.commission>.

assumptions that it was a failed attempt. However, it is an incontestable fact that the commission achieved truth but not justice for victims of human rights abuses because of the time in our nation's history and the mandate of the commission which is "forgiveness and reconciliation."

### **Conclusion**

We have attempted in this paper to reconsider the HRVIC in Nigeria established by the Obasanjo administration. From the issues raised, it is noted that the problems of the Nigerian State began with the British amalgamation of northern and southern Nigeria in 1914 for purposes of economic expropriation and political convenience. The opportunity for nation-building was compounded by the British constitution engineering in 1946 and 1951 which introduced ethnic politics, sectionalism and lopsided federalism. The attempt to change the existing political order after independence proved abortive. Consequently, complaints of corruption, discrimination, and minority question became worrisome in the Nigerian political space, hence the military intervention of 1966.

This study revealed that two interrelated factors contributed to the establishment of the HRVIC in Nigeria. These are the remote and immediate factors. The remote factor has been traced to the colonial question, while the immediate was the authoritarian rule of the Nigerian military which hampered national development. These abuses culminated in the annulment of June 12, 1993 Elections purportedly won by Moshood Abiola, the presidential candidate of the Social Democratic Party (SDP). The events of the period led to the assassination of Kudirat Abiola, Ken Saro Wiwa, Chief Rewane, and others.

It also brought the country to a standstill in the economic and political fronts. She became a pariah state in the comity of nations. To heal the wounds of authoritarian rule, the democratically elected government of Olusegun Obasanjo established the HRVIC in 1999. The commission was mandated to investigate the violations of human rights from 1966 to 1999 and bring about reconciliation and forgiveness.

This study established that the composition and terms of reference of the HRVIC were adequate for the task of the

commission. It also noted that despite the non-appearance of the three Heads of State at the public hearing, yet, the commission had the powers to arrest and imprison offenders but this was not done because of its mandate, the spirit of reconciliation and healing which the commission was set to achieve. The paper also pointed out the on-going implementation of the HRVIC report in Nigeria. Part of which was the posthumous symbolic award of the Grand Commander of the Federal Republic of Nigeria (GCFR) on Chief Moshood Abiola, the winner of June 12, 1993 Elections. There was also the declaration of “June 12” every year as Democracy Day as against May 29, hitherto observed as Democracy Day in Nigeria.

Also observed in our analysis is the Political Reform Conference (PRC) inaugurated in 2005 by President Olusegun Obasanjo, as one of the recommendations of the HRVIC to help chart a new political agenda. Others included the National Conference organised in 2014 by President GoodLuck Jonathan, the Constitution Review Panel, the Police Reforms, the Prison Reforms and the Welfare of Teachers paid through the Paris Club Loan. Additionally, there was the amnesty to political prisoners in which General Ishaya Bamaïyi, Major Hamza and Sergeant Rogers benefitted in the spirit of reconciliation and unity, to mention but a few.

These achievements by the HRVIC underpinned the “theory of change” and “the theory of transformative justice” highlighted above in our discussion. The paper demonstrated that the HRVIC succeeded to a greater extent despite the court orders and the conspiracy of the retired Generals. More importantly, is that the HRVIC reports are in the archives, the Nigerian Universities, and online for researchers and nations coming out of repressive rule. The study believes that Nigeria needs true federalism; this will help her develop in the political and economic fronts.