

**THE ROLES AND CHALLENGES OF ETHIOPIAN
NATIONAL HUMAN RIGHTS INSTITUTIONS IN THE
PROTECTION OF HUMAN RIGHTS IN LIGHT OF THE
PARIS PRINCIPLES**

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Executive Summary

This paper strongly emphasized on the important role of Ethiopian national human rights institutions in the protection of human rights within the country. Accordingly, the aim of this research is to assess the compliance of Ethiopian national human rights institutions enabling legislation with the Paris principles. In so doing, the paper identified the gaps that exist within the law. Further, it analyzed the possible challenges on the effective functioning of these institutions particularly from the point of independence, accessibility, operational efficiency and accountability. The paper, additionally, examined the important relationship between Ethiopian national human rights institutions and non-governmental organizations. Hence, the research discovered the adverse effect of Ethiopian restrictive law on non-governmental organizations on the effectiveness of national institutions from the Paris principles perspective. Based on the findings, the paper proposed the amendment of Ethiopian laws on national human rights institutions and non-governmental organizations. Moreover, national institutions and government should play an active role in all aspects to enhance the effectiveness of these institutions.

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Acronyms

- | | |
|-----------|--|
| 1. AU | African Union |
| 2. CPR | Civil and Political Rights |
| 3. CHR | Commission on Human Rights |
| 4. COE | Council of Europe |
| 5. ECOSOC | Economic and Social Council |
| 6. ESCR | Economic, Social and Cultural Rights |
| 7. FDRE | Federal Democratic Republic of Ethiopia |
| 8. HPR | House of Peoples' Representatives |
| 9. ICESCR | International Committee for Economic, Social and Cultural Rights |
| 10. ICCPR | International Covenant on Civil and Political Rights |
| 11. NHRIs | National Human Rights Institutions |
| 12. NGOs | Non-governmental Organizations |
| 13. OHCHR | Office of the High Commissioner for Human Rights |
| 14. OAU | Organization for African Union |
| 15. UDHR | Universal Declaration of Human Rights |
| 16. UNCHR | United Nations Center for Human Rights |
| 17. UNDP | United Nations Development Program |
| 18. UN | United Nations |

Introduction

The concept of human rights widely spread in the world following the adoption of Universal Declaration of Human Rights (UDHR). International organizations, government, non-government organizations, and associations work on human rights matter. Additionally, national human rights institutions (NHRIs) work with a primary objectives to promote and protect human rights. The concept of national human rights institutions gained high international attention after the adoption UDHR.

Following a series of efforts, United Nations (UN) finally got successful to prepare international guidelines (Paris principles) that deal with the status of NHRIs. Though these guidelines were not, initially, binding on the states, presently it attains the status of customary law due to obedience of many states to the principles. International acceptance of these guidelines facilitates the concept to further penetrate at a regional level. Accordingly, Council of Europe and African officials has worked a lot to encourage the establishment of national human rights institutions by member states.

If we take the case of Africa, many African countries currently established national institutions to ensure the promotion and protection of human rights. Ethiopia is a country that has passed through four different regimes. However, the concept of NHRIs, particularly Institute of Ombudsman, first introduced in the 1974 draft constitution. Unfortunately, the attempt has ended up in vain. The second attempt was made during the enactment of the 1995 constitution.

This constitution is the first successful document to lay down a landmark foundation for the establishment of NHRIs. The aim of this paper is, therefore, to assess the founding legislation of Ethiopian human rights institution in light of Paris principles. To this purpose, the paper is divided into three chapters. The first chapter gives a general overview of national human rights institutions.

To this effect, it assesses the different definition forwarded by different scholars and institutions, it discusses types of national institutions and different approaches countries follow while establishing these institutions. It further touches upon the development of NHRIs at international and regional level in general and in Ethiopia in particular. Further, deep discussion will be made why national institutions are necessary when there are other organizations devoted on human rights issue. Lastly, it will illustrate the difference between national institutions and non-governmental organizations.

The second chapter is analysis of the Ethiopian legal framework regarding national human rights institutions in general. Further, it emphasizes on the different roles given to them by the same law from the angle of Paris principles. National human rights institutions have various responsibilities accorded to them by the international guidelines. In this chapter, assessment will be made to what extent such roles are recognized by Ethiopian law and to what extent the institutions are properly discharging these responsibilities. Further, the chapter will assess the cooperation of these institutions with other institutions, particularly NGOs to effectively perform their function. Lastly, discussion will be made on the status of NHRIs decision and to what extent other entities comply with it.

The third chapter devotes the whole part in assessing challenges on the effectiveness of Ethiopian national human rights institutions from the point of Paris principles. To this effect, the independence of these institutions will be discussed from different aspect. The chapter also focuses on the issue of accessibility, accountability and operational efficiency- to what extent they are efficient, accessible to the constituency and accountable to the public. Lastly, the paper will give comprehensive conclusion on the whole part and forward necessary recommendations that can be a solution to the existed problem within the institutions.

For the successful accomplishment of this paper, reference is made to the experience of different countries. Such reference is used to amplify the problems and strong parts within Ethiopian NHRIs. Though, the scope of my paper is confined into three chapters, I believe readers of this paper will acquire enough knowledge about the situation of NHRIs in Ethiopia.

Chapter One

General Overview of National Human Rights Institutions

1.1. Definition and Types of National Human Rights Institutions

One of the hottest and critical issues in the modern democratic society is the promotion and protection of human rights. Activities of different associations, religious institutions, non-governmental organizations (NGOs) and governmental organizations touch upon, either directly or indirectly, human rights issues.¹ Additionally, national human rights institutions (NHRIs) also play significant role in the protection and promotion of human rights at domestic level. These human rights actors are the product of democratization process that has taken place in various countries.²

National institutions are placed as a bridge between government and civil society being distinct either from traditional government organ or NGOs.³ Different writers and institutions have forwarded different definition of NHRIs. For instance, the United Nations (UN) initially defined these institutions:

¹ Office of the High Commissioner for Human Rights (OHCHR), **National Institution for the Promotion of Human Rights**, UN Human Rights Fact Sheet # 19, April 1993, p. 3: Mass-media, trade unions, the legislature and courts can be mentioned as important example.

² Ibid, p.6

³ Anne Smith, **The Unique Position of National Human Rights institutions: A Mixed Blessing?**, Human Rights Quarterly, John Hopkins University Press, Vol 28, 2006, p. 908

*as bodies whose functions are specifically defined in terms of promotion and protection of human rights and are neither judicial or law making organs.*⁴

However, this definition does not reflect the true feature of NHRIs. It is too broad to include all institutions at national level, which are different from the government, engaged in human rights activities such as NGOs, churches and various unions. Cognizant of this fact, UN currently adopted another definition for national institutions. It reads as:

*A body which is established by the government under the constitution, or by law or decree the functions of which are specifically defined in terms of the promotion and protection of human rights.*⁵

Though it is relatively a better definition, it literally gives the impression that national institutions are not discrete from government organs. National institutions, though are established by the government, should be independent from state organs for effective observance and assurance of human rights protection.

Another definition of NHRIs emanates from the work of Anna-Elina Pohjolainen. Pursuant to her, these institutions can be described as:

*Independent bodies established by a national government for the specific purpose of advancing and defending human rights at the domestic level.*⁶

This definition could describe the real character of national institutions. It clearly tells that they should be independent from the government involvement even if they are established by the

⁴Supra note 1, pp. 3 and 6

⁵ Linda C. Reif, **Building Democratic Institutions: The Role of National Human Rights Institutions in Good Governance and Human Rights Protection**, Harvard Human Rights Journal, Vol. 13, 2000, pp. 5-6

⁶ Anna-Elina Pohjolainen (Dr), **The Evolution of National Human Rights Institution: The role of the United Nation**, Danish institution for human rights, 2006, p. 1. Available at: http://www.nhri.net/pdf/Evolution_of_NHRIs.pdf/, January 16, 2010, 12:20pm

government further stating the purpose of their foundation. This definition has a drawback for it does not mention how government could establish them that is, whether it is by constitutional act, legislative text or other means. This will unlock the door for the government to set up national institutions using easily amenable laws, which ultimately affect their independence.

Though a range of definitions are forwarded, the author believes that a good definition of national institutions should include some common elements. These are:

- They should be established by the government as independent bodies;
- They must be established as domestic institutions;
- They are established by laws not easy to amend, i.e. either constitution or legislative acts
- They specifically deal with the promotion and protection of human rights.

Majority of NHRIs that exist in various countries are grouped into two common categories; that is, “*Human rights commission*” and “*Ombudsman*”.⁷ Human rights commissions are engaged in assuring protection and observation of human rights.⁸ Ombudsman, on the other hand, controls government official and protect the rights of individuals who alleged to be victim of maladministration.⁹ Descriptions of both institutions unequivocally divulge that human rights commission has wider scope as it covers human rights protection both at the private and public sphere whereas ombudsman mandate extends only to maladministration by government officials.

⁷ Supra note 1

⁸Center for Human Rights (UN), **A hand book on the Establishment and Strengthening of National Institutions for the Promotion and Protection of Human Rights**, Professional training series # 4, Geneva, 1995, p. 7

⁹ Supra note 1, p. 4

There is also less common but important type of national institution called “*specialized national human rights institutions*”.¹⁰ These institutions are established particularly to protect the right of vulnerable and disadvantaged groups, such as “persons belonging to ethnic, linguistic, and religious minorities, indigenous people, non-nationals, migrants, immigrants, women, children, refugees, the poor and disabled people.”¹¹ Hybrid national human rights institution, in the other name “*Human rights ombudsman*”, is another type of national institution started to mushroom from 1990s onwards.¹² This institution undertakes the function of human rights commission and ombudsman office.

In spite of the existence of different types of national human rights institutions, countries select the suitable model depending on their historical experience, tradition, other countries experience, and prevailing political, social and legal circumstance of a particular country.¹³ There are commonly three approaches while establishing these institutions; namely single system, dual system and multi-organ system.¹⁴ The single system refers to the situation where a legal system has established either human rights commission or ombudsman.

According to the author, this system is not best to follow since it creates an undue burden on single institution affecting its effectiveness. Additionally, the existence of only ombudsman in a country is not adequate as the act of private organs remains unchallenged. Dual system refers to the approach where both human rights commission and ombudsman are established in a country.

¹⁰ Supra note 8, p. 8

¹¹ Ibid

¹² Supra note 6, p. 18

¹³ Ibid, p. 16

¹⁴ L.M.F Besselink, **Types of National Institutions for the Protection of Human Rights and Ombudsman Institutions: An Overview of Legal and Institutional Issues**, HUMAN RIGHTS COMMISSION AND OMBUDSMAN OFFICE: NATIONAL EXPERIENCE THROUGH OUT THE WORLD, (H/Selassie G/ Selassie et al. (Ed.)) Kluwer Law International, Dordrecht, Netherlands, 2000, p.157

This approach further includes those countries that established Hybrid office (Human rights Ombudsman).

The last approach refers to the situation where there are a number of human rights commissions and Ombudsman offices such as child rights commission/ombudsman, women rights commissioner/ombudsman, and disabled person rights commission/ombudsman and so on. The author argues that, compared to the other two, this approach is better productive in the protection of human rights for many specialized professionals are involved. Swedish experience, for instance, depicts the last approach is implemented. Similarly, Ethiopian NHRIs follow the same approach.

1.2 Historical Development of National Human Rights Institutions

1.2.1 Development at international level

The international community has increasingly recognized the important contribution of NHRIs to ensure respect for and effective implementation of human rights at domestic level since 1990s.¹⁵ However, the history of national human rights institutions goes back to 1946 when the issue was first addressed by the Economic and Social Council (ECOSOC)¹⁶, two years before the General Assembly declared the Universal Declaration of Human Rights (UDHR) as “a common standard of achievement for all peoples and all nations.”¹⁷

¹⁵ Supra note 6, p. 30

¹⁶ Supra note 5, p. 3

¹⁷ Supra note 8, p. 4

The ECOSOC, in 1946, made a recommendation for member states “to consider establishing information groups or local human rights committees within their respective countries to further work of the Commission on Human Rights (CHR).”¹⁸ Initially, many member states were not happy with the idea of establishing national institutions highly dedicated to the promotion and protection of human rights. Hence, the same issue was raised after fourteen years in the ECOSOC resolution and call government of each State to encourage the establishment of these institutions.¹⁹

Subsequently, discussion on the effective assistance of these bodies in the promotion and protection of human rights was increased. Accordingly, the CHR organized a seminar to draft guidelines for the structure and functioning of national institutions.²⁰ The Seminar was productive since it was closed with the adoption of the first international guidelines embracing the functions and structure of these bodies. Following 1978 guidelines, national institutions acquired large international attention and a considerable number of national institutions were established mainly with the support of United Nations Center for Human Rights (UNCHR).²¹

However, these guidelines were not complete because firstly, it does not include all those ways that lead to the effectiveness of these institutions. Secondly, the guidelines did not mention the independence feature of national institution in the part that deals with their structure. As a result, the first International Workshop was held in Paris, in 1991, and concluded with the adoption of “Principles related to the status of national institutions (Paris Principles)”, which was

¹⁸ Economic and Social Council Resolution 2/9 of 21 June 1946 on Commission on Human Rights, Section 5

¹⁹ Economic and Social Resolution 772 B (XXX) of 25 July 1960

²⁰ Supra note 8, p. 4: The Seminar was on national and local institutions for the promotion and protection of human rights in Geneva, in 1978.

²¹ Supra note 6, pp. 47-48 and Supra note 8, p. 4

subsequently endorsed by the United Nations Commission for Human Rights and later by General Assembly.²²

The principles further advanced the first international guidelines and includes general framework in the composition and independence of national institutions and the appointment of its members.²³ The guideline, however, did not give a definition for NHRIs. There was also a high contention that the principles are framed solely with high attention on human rights commission that it should not be applicable to other national institutions. However, currently, state practice proved that the principles are applied to all national human rights institutions.

The writer supports the latter position as the ultimate goal of any type of NHRIs is to promote and protect rights of individuals. The guidelines are formulated in a general form without any specification on how full compliance to the principles can be achieved. This is a challenge for states to secure full-fledged implementation of the principles. Despite of the above, the principles are “considered as the minimum standards for the establishment and operation of domestic human rights institutions.”²⁴

The other landmark in the history of national human rights institutions is the preparation of the 1993 World Conference on Human Rights held in Vienna.²⁵ The conference was organized with the core objective to examine the purpose of national institutions and concluded with the

²² Economic and Social Council, E/C 4/1992/43 and General Assembly resolution 48/134 of 20 December 1993

²³ Economic and Social Council, E/CN.4/2005/107, p. 3

²⁴ Ambani John Osogo, **Oval Slides in Triangular Spaces? Anchoring National Human Rights Institutions in ‘Tripartite’ Commonwealth Africa**, (LLM thesis, Center for Human Rights, University of Pretoria), South Africa, 2006, p. 11

²⁵ Ibid

adoption of the Vienna Declaration.²⁶ The declaration affirmed the important role of NHRIs in the promotion and protection of human rights; and calls each state to strengthen their national institutions based on the Paris principles.²⁷ The same effort was undertaken by other international institutions, particularly the Commonwealth Secretariat and the International Ombudsman Institutions, outside the UN system.²⁸

1.2.2 Development at the regional level

The development of national human rights institutions was not limited in the UN fora. The adoption of Paris principles and series conferences highly inspired the development of NHRIs to go beyond the UN frame work and deeply penetrate at regional levels.²⁹ Accordingly, an extensive activity was carried out in the Council of Europe (CoE) to establish this body; and they were also highly emphasizing on the creation of co-operation between the national institutions themselves.³⁰

Since the 1982 seminar was highly dominated by representative from ombudsman, the CoE has decided to act as a forum to facilitate cooperation between ombudsmen in the promotion and protection of human rights.³¹ Following the meeting held in Madrid, in 1985, the Committee of Ministers adopted a recommendation for member states to work on the empowerment of

²⁶ Ibid

²⁷ Ibid

²⁸ Supra note 8, p. 6: The Commonwealth has sponsored many international and national workshops for national institutions and adopted far-reaching materials and guidance for the establishment of new institutions, moreover, the Institution of Ombudsman also devoted attention to the work of ombudsman from the human rights aspect.

²⁹ Supra note 6, p. 55

³⁰ Ibid, p. 57

³¹ Committee of Ministers (COE), Resolution 85 (8), **on the cooperation between the ombudsman of member states of the Committee of Ministers and between them and the Council of Europe**, 23 September 1985: First Seminar held in Siena, in 1992, where most of the participants were representatives of ombudsman, parliamentary commissioners and other similar bodies.

ombudsman, and to work and cooperate for the proper implementation of human rights instruments.³² The CoE framework awarded much attention to human rights commissions after the endorsement of the “Human Rights Ombudsman”.³³

The role of national human rights institution also got attention in the Organization of African Union (OAU) framework. During the adoption of African Charter on Human and Peoples’ Rights, in 1981, member states agreed to adhere to human rights principles incorporated under international instruments and any instruments adopted by OAU; and to establish cooperation among themselves and internationally with the view to provide a better life to peoples of Africa.³⁴ Accordingly, the Charter declared duty of member states to establish and promote NHRIs.³⁵ However, there was no crystal-clear role of these institutions defined in the early stages as they were not properly distinguished from states and NGOs.

Subsequently, a series of conferences on NHRIs were held in Africa, where the first conference resulted in the adoption of Yaounde Declaration, which acclaims the establishment of NHRIs to advance human rights and rule of law.³⁶ In the same conference, member states agreed to create the Coordinating Committee of African National Human Rights Institutions which would work

³² Committee of Ministers (COE), Recommendation No.R (85) 13 of the Committee of Ministers of the Council of Europe to the member states on the institution of ombudsman , 23 September, 1985

³³ Supra note 6, p. 57

³⁴ See the preamble of **African Charter on Human and Peoples’ Rights**, adopted in the 18th conference of Heads of States and Government, Nairobi, Kenya, June 1981

³⁵ Ibid, Article 26: It is the only human rights instrument that embraces the issue of national human rights institutions.

³⁶ First Conference of National human Rights Institutions in Africa, held in Yaounde, Cameroon, 5th-7th February 1996

in close collaboration with the International Coordinating Committee and UN Commission for Human Rights.³⁷

Later on, in the 24th ordinary sessions of African Union (AU), national institutions were granted an *observer status* with the commission.³⁸ For this purpose national institutions should be established by the constitution or other national law of member states in accordance with the Paris principle. Though they are required to assist the Commission in the promotion and protection of human rights their role is not specifically provided. In 2004 the AU conducted the first conference on national human rights.

The main objective of the conference is to encourage the development of these institutions in areas where they are not established, to exchange ideas between the different NHRIs and develop a mechanism to implement human rights instruments at the domestic level.³⁹ The Union also calls for these institutions to work in collaboration with AU organs, the African commission on human and people's rights, NGOs and other human rights institutions. Currently, Africa has more than twenty NHRIs represented in the International Coordination Committee.⁴⁰

³⁷ Ibid

³⁸ African Commission on Human and Peoples' Rights, meeting at its 24th Ordinary Session from 22nd -31st October 1998, Banjul, Gambia

³⁹ Conference organized by the African Union in collaboration with the office of the High Commissioner of Human Rights and coordinating committee of African national human rights institutions at the head quarters of the African Union In Addis Ababa, Ethiopia, 18th -21st October 2004

⁴⁰ **Resolution on Granting Observer Status to National Human Rights Institutions in Africa**, Available at: <http://www.umn.edu/humanrts/africa/res-observer.html>, 17 January 2010, 9:48pm: Currently, Africa has more than 20 national human rights institutions represented in the International Coordination Committee by Cameroon, Morocco, South Africa and Togo.

1.3 Development of National Human Rights Institutions in Ethiopia

Ethiopia is characterized as a country that experienced four constitutions in different regimes where human rights are accorded recognition, though, in different degree.⁴¹ The first constitution introduced by the Emperor, in 1931, did not incorporate any provision that deals with human rights issues; however, in 1955, the Emperor came up with a revised constitution that has some parts dealing with some aspects of human rights.⁴² After the Derg government took power, the 1987 constitution was introduced to the country which relatively gave guarantee to fundamental human rights.⁴³

Nonetheless, the period prior to 1991, described by dreadful human rights violations. The government did not tolerate any accusation made against its officials. It is possible to say that constitution hardly accommodate human right protection more than writing it down in a piece of paper. A great change in the development of human rights has come when the present government over threw the previous one. The recognition of UDHR in the transitional charter, in 1991, is a landmark for the development of human rights in Ethiopia.⁴⁴

Likewise, a wide range of fundamental rights and freedoms are recognized in the 1995 Federal Democratic Republic of Ethiopia (FDRE) constitution⁴⁵. Moreover, it declares all international agreements ratified by Ethiopia to be taken as integral law of the land and stipulates the rights guaranteed in the constitution be interpreted in line with the principles of UDHR, International

⁴¹ Bertus Praeg, **Ethiopia and Political Renaissance in Africa**, Nova science publisher Inc., 2006, p. 198

⁴² Ibid

⁴³ See the 1987 Ethiopian constitution, Addis Ababa, Ethiopia, 1987: During this regime Ethiopia was governed by the Communist system.

⁴⁴ Supra note 41

⁴⁵ FDRE government, **The Federal democratic Republic of Ethiopia Constitution**, Proclamation No. 1, 1995, Addis Ababa, Ethiopia, Article 13-44

Covenants on Human Rights and International instruments adopted by Ethiopia.⁴⁶ Since 1998, Ethiopian government has ratified 16 international and regional human rights instruments.⁴⁷

After a great experience about the unbridled sovereign power of the Emperor regime, the concept of NHRIs, for the first time, was proposed in the draft constitution of 1974.⁴⁸ The constitution took the classical Scandinavian ombudsman, like Sweden, as a model and made Ethiopian ombudsman accountable to National assembly.⁴⁹ However, there was a difference between the Swedish and Ethiopian ombudsman. For instance, in the former, the parliament is allowed to elect one or more ombudsman while it is not true in the Ethiopian case; and Ethiopian ombudsman is not empowered to initiate legal proceeding and present it to the court deliberation.⁵⁰

The second attempt to establish NHRIs is made in the 1995 FDRE constitution. It stipulates these institutions to be established by the House of Peoples' representatives (HPR).⁵¹ Accordingly National human rights commission and Institute of Ombudsman established five years following the adoption of the constitution by proclamation 210/2000 and 211/2000 respectively. The writer agrees that the present government has made lots of improvements in the field of human rights by awarding constitutional recognition to fundamental human rights.

Further, it established institutions devoted to the promotion and protection of these rights. According to the 2009 periodic report these institutions has undertaken various activities in

⁴⁶ Ibid, Article 9 (4) and 13(2)

⁴⁷ Supra note 41

⁴⁸ The 1974 Draft Constitution of Ethiopia: Chapter nine, Addis Ababa, Ethiopia, 1974: This draft constitution deals with ombudsman, such as matters relating to the appointment and removal of the ombudsman, the assessment of administrative malpractice by the office, the independence of the ombudsman in discharge of his obligations and administer its staff in accordance with the civil servants administration law.

⁴⁹ Yihenew Tsegaye, **Reading Material for Administrative Law**, (Unpublished, AAU, Faculty of Law), 2006, p. 133: The notion of Ombudsman was first introduced in Sweden in 1809.

⁵⁰ Ibid

⁵¹ Supra note 45, Article 54, 55 (14) and (15)

promoting and protecting human rights since its operational inception including awareness creation, compliant handling and reviewing legislation.⁵² However, these bodies are still facing various problems that challenge their effectiveness in achieving their objectives and government is negligent to take measures.

1.4 The Need for Having National Human Rights Institutions

Though the concept of national institutions is a long time phenomena it reached its climax after the adoption of Paris principles. The support of international community for the domestic establishment of NHRIs is one of the best ways to enhance the effective implementation of human rights norms. This is especially true in countries recovering from internal conflict and oppression undergoing transition to a democratic society.⁵³ Important role of national institutions has been acknowledged by many organizations, and many actors carried out different activities relating to these institutions.⁵⁴

Traditional government organs, especially regular courts, are not adequate for the effective protection of human rights due to diverse reasons like lack of professionals specialized in the area of human rights. Though they are constitutionally obliged to observe and ensure the promotion and protection of human rights, for example Article 13 (2) of FDRE constitution, in cooperation with the other government organs, in reality they do not give much attention to cases involving human rights issues.

⁵² General Assembly, **Ethiopia's National Report Under the Universal Periodic Review Mechanism**, A/HRC/WG.6/6/ETH/1, Geneva, 30 November-11 December 2009, p. 19

⁵³ Supra note 6, p. 1

⁵⁴ Ibid

The rigid character of courts is also another obstacle for effective implementation of human rights without the help of NHRIs. C. Ray Kumar affirmed this argument in his article saying:

*The protection and promotion of human rights are clearly important functions of the state. [.....]But there is something fundamental and basic about National Human Rights Institutions (NHRIs) that is different of the state [.....] National Human Right Institutions' exclusive mandate is to protect and promote human rights. While various functions of other institutions can ensure the protection and promotion of human rights, this is the core mission and fundamental purpose of National Human Rights Institutions (NHRIs).*⁵⁵

However, as these institutions are responsible to Parliament, the government might interfere in their work under the guise of supervision and make them less accessible to human rights violations. This is one of the situations faced by the Ethiopian NHRIs. The other drawback is that most of these bodies, though are expected to cover wide range of human rights violation, in reality are highly concerned about the protection and implementation of civil and political rights (CPR). As stated by Kumar:

The international community has neglected the obligations under the international covenant on economic, social and cultural rights with its nearly uniform focus on the International Covenant on Civil and Political Rights (ICCPR). This has contributed to National Human Rights Institutions focused attention to addressing violation of

⁵⁵ C. Raj Kumar, **National Human Rights Institutions and Economic, Social and Cultural Rights: Towards the Institutionalization and Developmentalization of Human Rights**, Human Rights Quarterly, John Hopkins University Press, Vol. 28, 2006, p. 759

*civil and political rights. [.....], economic, social and cultural rights (ESCR) are given much less attention than CPR.*⁵⁶

The enforcement mechanism for ESCR is very weak compared to CPR. This indicates that national institutions should devote their time to these rights too. The two groups of rights are interdependent that one cannot be properly protected without the other. Therefore, working on CPR by itself is not adequate in the promotion and protection of human rights.

The Paris principles do not make explicit reference to either CPR or ESCR, but simply states that national institutions should be devoted to the protection and promotion of human rights; however, the principles guarantee a “broad mandate as possible” to national institutions that they should address issues concerning ESCR.⁵⁷ South Africa Human Rights Commission, for instance, is clearly empowered to monitor economic, social and cultural rights.⁵⁸

Additionally, the silence for the violation of ESCR is considered as legitimatizing the violent act of the government. Cognizant of this fact and the vagueness of Paris principles, the committee of economic, social and cultural rights in its nineteenth session (1998) recognized the great role that can be played by the national institutions in the promotion and protection of economic, social and cultural rights. It states that:

The Committee notes that national institutions have a potentially crucial role to play in promoting and ensuring the indivisibility and interdependence of all human rights.

⁵⁶ Ibid, p. 758

⁵⁷ Morten Bergsmo (ed.), **Human Rights and Criminal Justice for the Downtrodden: Essay in Honor of Asbjorn Eide**, Martinus Nijhoff Publishers, Lieden, Boston, 2003, p. 642

⁵⁸ Ibid

*Unfortunately, this role has too often either not been accorded to the institution or has been neglected or given a low priority by it. It is therefore essential that full attention be given to economic, social and cultural rights in all of the relevant activities of these institutions.*⁵⁹

Despite of this, the importance of NHRIs is widely acceptable in the promotion and protection of human rights; as a result, they are mushrooming all over developed and developing countries. However, many NHRIs faced the problem of compliance with the Paris principles for various reasons, which are the subject matter of this paper.

1.5 Difference between National Human Rights Institutions and NGOs

Both NHRIs and human rights NGOs are highly engaged in the promotion and protection of human rights at the national level. To this effect, they play some similar role including creation of human rights awareness and oversight of government actions concerning human rights matters.⁶⁰ Nonetheless, these two bodies have their own core differences. The first main distinction emanates from the structure of these institutions in their founding legislation.

National human rights institutions are established by the government using either the constitution or legislative acts with a broad officially-adopted mandate to control governmental action in

⁵⁹ Economic and Social Council, **The Role of National Human Rights Institutions in the Protection of Economic, Social and Cultural rights: General Comment 10**, E/C.12/1998/25, 14th December 1998

⁶⁰ Mu'taz Qafishen, **Defining the Role of National Human rights Institutions With Regard to the United Nations**, (PhD candidate in International Law, Graduate institute of International Studies, Geneva), Legal report series 36, 2004, p. 21

relation to human rights.⁶¹ They are founded as quasi-governmental institution having an exclusive and independent place between the executive and the judiciary.⁶² NGOs, however, are part of civil society independent of the government, and the state does not necessarily adopt their mandate.”⁶³

The other difference lies on their relation with UN. NGOs have a *consultative status* inside UN whereas the relation between UN human rights body and NHRIs, relatively speaking, is not crystal-clear.⁶⁴ More importantly, NGOs, as human rights activist, can play a significant role in influencing the government to establish NHRIs for better promotion and protection of human rights at domestic level.

Additionally, NGOs can work in collaboration with the government and national institution for the effective protection of human rights.⁶⁵ Lastly, the source of fund is the other distinguishing factor between national institutions and NGOs. The former has a permanent budget allocated by the government without restriction and limitation, though they can search for additional sources, whereas NGOs collect their fund from different local and international donors.⁶⁶

⁶¹ Supra Note 22

⁶² National Human Rights Institutions: **Amnesty International Recommendation for effective protection and promotion of Human Rights**, 1 October 2001, AI INDEX : IOR 40/007/2001, p. 1

⁶³ Supra note 60

⁶⁴ Economic and Social Council resolution 1296 (XLIV) of 23 May 1968 which superseded by Res. 1996/31, 25th July 1996 and **Rule of the Procedure of Economic and Social Council**, United Nations, New York, 1992, Rule 80-84 and Supra note 62, p. 22: National human rights institutions work with UN human rights bodies not as alternative to government or NGOs but complement the work of government and NGOs as they are independent institutions.

⁶⁵ Supra note 62, p. 3-4 and Supra note 22: composition of national human rights institutions should include representative from human rights NGOs and coordinate with them for the effective promotion and protection of human rights.

⁶⁶ Supra note 62, p. 23 and **Nonprofitexpert.com, Non-governmental organizations**, Available at: <http://www.nonprofitexpert.com/ngo.htm>, January 26, 2010, 11:16pm

Chapter Two

The Legal Regime and Roles of Ethiopian National Human Rights Institutions in Light of the Paris Principles

2.1 Domestic Legal Foundation

The Paris principles eloquently provided that NHRIs shall be established by constitution or ordinary statutes.⁶⁷ Amnesty international, in its recommendation, reaffirmed this requirement stating the independence of national institutions can be maintain if they are established by legislations, preferably, the Constitution since decrees or other orders can easily be amended.⁶⁸ After a long time effort, the FDRE constitution of 1995 got successful in laying down the landmark for the foundation of NHRIs. This constitution has two provisions dealing with the establishment of ombudsman and human rights commission separately. The provision concerning ombudsman reads us:

*“It (the House of Peoples’ Representative) shall establish the Institution of Ombudsman. It shall elect its members. It shall determine by law the powers and functions of the institution.”*⁶⁹

The Institute of Ombudsman can be established by the parliament of a country, by the people themselves or the executive organs.⁷⁰ Ombudsman established by the parliament is referred as parliamentary ombudsman and it is accountable to the parliament only. There is also institutional

⁶⁷ Office of the UN High Commissioner for Human Rights (OHCHR), **Paris Principles Relating to the Status of National Institutions**, General Assembly Resolution 48/1993, Section A (2)

⁶⁸ Supra note 62, pp. 2-3

⁶⁹ Supra note 45, Article 55 (15)

⁷⁰ Mehari Tadele, **The Roles of Ethiopian Ombudsman Institution: Presentation Made to Government Officials and Civil Associations**, Ethiopia, 2006, p. 2

ombudsman, for instance, ombudsman for students in a particular university. Ombudsman can further be established inside various executive organs like ombudsman for a specific bank.

The concept of ombudsman first developed in Sweden in 1809 to investigate and report to the parliament citizen complaints against government officials.⁷¹ It then widespread to other Scandinavian countries- Finland, Denmark, Norway- and joined the international arena.⁷² Though there are different kinds of ombudsmen in Sweden, Ethiopia established parliamentary ombudsman taking Swedish parliamentary ombudsman as a model. This institution is not established by the constitution but proclamation enacted by the parliament.

Like the case of Swedish parliamentary ombudsman⁷³, the first statement of the provision asserts the existence of parliamentary ombudsman within the country, which is accountable to the legislature. Based on this interpretation, Ethiopian Institute of Ombudsman was established by proclamation No. 211/2000. According to the second statement, the HPR is empowered to elect member of this institution.

There is a committee established for the purpose of nominating candidates, who can be appointed upon the receipt of a two-third vote of the house.⁷⁴ Moreover, the words of the constitution say “it shall elect its members” rather than “it shall elect ombudsman”. This demonstrates that Ethiopia is moving to multi-ombudsmen system. The great advantages of

⁷¹ Gernald E. Caiden (Ed.), **International Handbook of the Ombudsman: Country Survey**, Greenwood Press, England, 1983, p. 179

⁷² Walter Gellhorn, **Ombudsmen and Others: Citizens’ Protectors in Nine Countries**, Harvard University press, Massachusetts, United States, 1966, p. 194

⁷³ Ibid, p. 203

⁷⁴ FDRE government, Institution of Ombudsman Establishment Proclamation, Proclamation No. 211/2000, **Federal Negarit Gazeta**, Addis Ababa, Ethiopia, 2000, Article 11 and 10

multiple ombudsmen are that they have specialized persons in different aspects of administration; besides, it can make quick decision. Accordingly, the parliament established the Council of Ombudsman consisting of the chief ombudsman, the deputy chief ombudsman, ombudsman heading the children and women affairs and ombudsman heading branch offices.⁷⁵

As per the last statement in the constitutional provision, the establishment proclamation listed down the power of the institution. In previous time, large and discretionary power was conferred on the administrating organ that gives it power to arbitrarily intrude in the daily lives of people.⁷⁶ Thus, the institution is founded with the aim to control the power of the executive branch of the government and prevent maladministration. Recently, this institution is granted with the responsibility to ensure proper enforcement of the proclamation on media and informational freedom.⁷⁷

Having uniform definition for maladministration is difficult as many forward their own understandings. However, Ethiopian law has defined the word in order to avoid ambiguity regarding the power of ombudsman. Hence, maladministration is:

*"Acts committed or decisions given, by executive government organs, in contravention of administrative laws, the labor law or other laws relating to administration."*⁷⁸

⁷⁵ Ibid, Article 8: Sweden also has multi-ombudsmen system which includes parliamentary ombudsman, Chancellor of Justice, the equality ombudsmen and ombudsman for children. The parliamentary ombudsman also incorporates four ombudsmen.

⁷⁶ Supra note 49, p. 136

⁷⁷ FDRE Government, Media and Informational Freedom Proclamation No. 590/2000, **Federal Negarit Gazeta**, Addis Ababa, Ethiopia, 2000, part 3.

⁷⁸ Supra note 74, Article 2 (5)

Many administrative activities are highly linked with human rights. The existence of maladministration has its own negative connotation in the rights of individuals. Therefore, the measures taken by this institution to bring about good governance avoiding maladministration is of a great help to promote and protect human rights. Similarly, it set forth assuring the respect of human rights by the executive organ as one of its objectives.

Besides ombudsman, human rights commission is the other NHRI developed within Ethiopian legal system. The concept of this institution, like the case of ombudsman, was not on the table during the previous regimes. It was introduced for the first time in the 1995 FDRE constitution. The provision dealing with this issue reads as:

*“It (House of Peoples’ Representative) shall establish Human Rights Commission and determine by law its power and functions.”*⁷⁹

Five years after the adoption of this constitution, the HPR enacted proclamation No. 210/2000 on the establishment of human rights commission. This body is also established by legislation and not by constitutional act. It has a wider range of power in the protection and promotion human rights that it can entertain all human rights violation committed by government organs and other entities.⁸⁰ Ombudsman, however, has no right to examine human rights violation in the private sector.

⁷⁹ Supra note 45, Article 55 (14)

⁸⁰ FDRE government, The Ethiopian Human Rights Commission Establishment Proclamation, Proclamation No. 210/2000, **Federal Negarit Gazeta**, Addis Ababa, Ethiopia, 2000, Article 6-7

Though, the constitution advocates the foundation of single commission, close reading of Article 8 reveals the fact that the legislature purports the establishment of multiple systems of human rights commission such as Commissioner of children and Commissioner of women affairs'. The election procedure for human rights commissioners is similar to member of the Institute of Ombudsman.⁸¹ The 2009 periodic report stated that the institution has carried out diverse activities in the area of human rights from the time of inception.⁸²

2.2 Cooperation of Ethiopian National Human Rights Institution with NGOs

NHRIs must develop a strong cooperation with other human right institution, either domestic or from other countries, international organizations like UN, governmental organs and NGOs. This same fact is affirmed in the Paris principles to assure effective functioning of national institutions.⁸³ The UN Handbook on the Establishment of National Institutions reiterates similar concept being aware that national institutions cannot work alone and be well productive.⁸⁴

To secure a well facilitated communication with other organs and national institutions, it is highly recommended to prepare "memorandum of understanding".⁸⁵ According to the Paris principles, well organized and strong communication has a great significance to expand the

⁸¹ Ibid, Article 10 and Article 11

⁸² Supra note 52, p. 19: It includes activities such as organizing awareness creation programs, handling complaints and reviewing legislations.

⁸³ Supra note 67, Section A (3) (e)

⁸⁴ Supra note 8, p. 14

⁸⁵ Supra note 62, p. 4

operational degree of national institutions.⁸⁶ National institutions should use this opportunity to exchange expertise, experience and information on different human rights violations.⁸⁷

Establishing good relationship, particularly with NGOs, is fundamental as it facilitates information exchange on human rights issues, providing feedback on the performance of national institutions, and benefit from knowledge and expertise of NGOs.⁸⁸ Different national institutions are also strengthening their cooperation with governmental organs, international organs and NGOs to be more successful in the promotion and protection of human rights.⁸⁹

Cognizant of the above benefits, Ethiopian law expressly declared the need to establish relationship with federal and regional government organs.⁹⁰ Accordingly, Ethiopian national institutions have links with as between themselves, and with other bodies like the Ministry of Justice, Ministry of Education, Anti-corruption Commission, Ethiopian Communication office and Regional Houses.⁹¹ Human rights commission, particularly, developed cooperation with International and Regional Human Rights Commissions like East Africa Human Rights Commission Branch Office, UNDP; and other countries like Uganda, Ireland and Philippines human rights commissions.⁹²

⁸⁶ Supra note 67, Section C (g)

⁸⁷ Supra note 62, p. 4

⁸⁸ Supra note 5, p. 26

⁸⁹ Bernand G. Ramcharan (ed.), **The Protection Role of National Human Rights Institutions**, Martinus Nijhoff Publisher, Bosten, 2005, p. 170: For instance Uganda human rights commission has formed a coordination committee composed of different organizations including Electoral Commission and NGOs to carry out a coordinate civic education.

⁹⁰ Supra note 74 and 80, Article 19(g) and 21 (7)

⁹¹ Human Rights Commission, **Compilation of Five Years Annual Report for the House of Peoples' Representatives**, Addis Ababa, Ethiopia, 2010, pp. 19-20

⁹² Ibid, pp. 20-24

The enabling legislation further expressly specified the need to establish working relation with NGOs.⁹³ Smooth relationship with NGOs is vital for Ethiopia NHRIs for several reasons. For one thing, they can serve as a great source of fund to the institutions in addition to the budget from government. In the absence of branch offices, they assist national institutions to reach victims that are geographically and politically isolated. Further, they contribute to the effective work of these institutions through exchange of best experience, expertise and information on human rights violations.

Though NGOs have important role, their involvement might affect the independence of NHRIs.⁹⁴ Hence, national institutions should be cautious to maintain their independence. Having this in mind, Ethiopian national institutions have developed working relation with NGOs that work on the area of human rights. Human rights commission, for instance, developed relation with Save the Children, Action Aid, Human Rights Council and Women Lawyers Association.⁹⁵

In spite of the above, the government recently came up with a bottle neck proclamation on the establishment of human rights NGOs within the country. This proclamation provided a restrictive and stringent requirement to inaugurate human rights NGOs. Accordingly, human rights NGOs can be established only if they can secure 90% of their fund from internal sources.⁹⁶ In a country where many of the population live under poverty, such provision is very impracticable.

⁹³ Supra note 90

⁹⁴ Supra note 3, p. 941

⁹⁵ Supra note 91, p. 22

⁹⁶ FDRE Government, Proclamation to Provide for the Registration and Regulation of Charities and Societies, Proclamation No. 621/2009, **Federal Negarit Gazeta**, Addis Ababa, Ethiopia, 2009

As a result, many human rights NGOs are currently liquidated. To mention some, Women's Lawyer Association and Human Rights Council are victims of the law. Other NGOs, like Action Aid and Action professionals' Association for the People, has shifted their field of work towards development. In a geographical large country where no branch offices are available, such harsh measure has adverse effect on the effectiveness of national human rights institutions.

2.3 Roles and Functions of Ethiopian National Human Rights Institutions in Light of the Paris Principles

The Paris principles focus on two core points that is “mandate” and “independence” of NHRIs. National institutions are vested with the mandate of promotion and protection of fundamental right of citizens.⁹⁷ To this effect, these institutions are given “broad mandate as possible to be clearly set forth in a constitution or legislative text.”⁹⁸ This broad mandate refers to the range of legal basis to protect and promote human rights and range of responsibilities.

Broad range of legal basis of national institutions is necessary to ensure that certain rights are not left out from protection; and assist to give remedy for violation that falls between gaps in the domestic law. The same issue was addressed by the Special Advisor on National Institutions to the OHCHR while preparing guidelines in cooperation with Amnesty International.⁹⁹ Hence, national institutions should engage in the promotion and protection of constitutionally guaranteed rights, and rights incorporated in international instruments whether it is ratified by a particular country or not.

⁹⁷ Supra Note 67, Section A(1)

⁹⁸ Ibid

⁹⁹ Walter Gelland and Jennefir Gannett, **National Human Rights Institutions in the Asia-Pacific Region**, 2007, p. 13-15

Though the Paris principles are vague regarding ESCR, International Committee for Economic, Social and Cultural rights (ICESC) acknowledged the crucial role of NHRIs to promote the indivisibility and interdependent nature of all human rights.¹⁰⁰ Therefore, the legal basis of national institutions should cover the whole range of international human rights instruments to ensure compliance with Paris principles.

The proclamation for Ethiopian human rights commission sets the protection, respect and enforcement of human rights as its core objectives.¹⁰¹ Institute of Ombudsman, on the other hand, has the objective of ensuring good governance through respecting rule of law and protecting human rights.¹⁰² Currently, it includes ensuring the protection and implementation of proclamation on media and informational freedom.

The founding legislation for ombudsman does not specifically mention the range of legal basis for the institution from the aspect of human rights. According to Mr. Kenen Sona, Senior lawyer of Ombudsman, Ethiopian national institutions are devoted in the protection of constitutionally guaranteed rights and ratified international human rights instruments.¹⁰³ Human rights commission proclamation, however, clearly stated its legal basis to include constitutional rights and ratified international instruments.¹⁰⁴

¹⁰⁰ Supra note 59.

¹⁰¹ Supra note 80, Article 5

¹⁰² Supra note 74, Article 5

¹⁰³ Mr. Kenen Sona, **Senior Lawyer of Ombudsman**, Interviewed on September 10, 2010, 2:00pm

¹⁰⁴ Supra note 80, Article 2(5)

Looking at the Experience of others, for instance, Uganda human rights commission, the legal basis of national institutions include ratified and non-ratified international human rights instruments.¹⁰⁵ The arrangement in Ethiopia law limits the mandate of these institutions as they cannot refer to international instruments not ratified by the country. The same problem is also face by Swedish ombudsman as the precise content of human rights is not specified in the constituting Acts.¹⁰⁶

Ethiopian law does not specifically indicate whether mandate of national institutions embraces ESCR. The South African human rights commission, for example, is specifically mandated to monitor this category of rights.¹⁰⁷ Observance of the practice in Ethiopia, similar to the law, indicates that less time is devoted for the promotion and protection of ESCR. Institute of Ombudsman, however, dealt with administrative matters relating to right to education inside vocational schools, with particular emphasis on disabled people and women.¹⁰⁸

The range of responsibility is the other crucial part discussed under the mandate of NHRIs. These responsibilities are broadly categorized into promotional role and protection role. According to the Paris principles, the broad categories of responsibilities further put into five categories. These are advisory role, monitoring, education, quasi-judicial role and contact with

¹⁰⁵ Supra note 89, p. 167

¹⁰⁶ It is only the Children's Ombudsman that refers to international instrument though it is confined to UN convention.

¹⁰⁷ Supra note 57

¹⁰⁸ FDRE Institute of Ombudsman, **Report submitted to the legal and administrative committee in the House of Representatives**, Addis Ababa, 2010, p. 9

international organizations.¹⁰⁹ The list, however, is not exhaustive. Ethiopian NHRIs carry out lots of duties to successfully attain their objective.

2.3.1 Awareness creation

The adoption of different legislations for the protection of human rights are not enough for its full realization unless there are institutions engaged in the promotional work at a national level.¹¹⁰ Accordingly, Paris principles grant NHRIs the competence to promote human rights through education.¹¹¹ Education, even under repressive government, assists to change the attitude of different sect of the community for the endorsement and effective implementation of human rights.

In Uganda, for instance, people were ignorant of human rights, albeit it is in their constitution, as they have passed through traumatic times under dictator leadership.¹¹² This makes them to be accustomed to dreadful human rights violation. Currently, they are showing attitudinal change due to continuous awareness creation program of the commission. There are various approaches adopted by NHRIs to enhance familiarity of the people to human rights matter. The first one relates with collecting, producing and disseminating informational materials.¹¹³

¹⁰⁹ Supra note 67, Section A (3)

¹¹⁰ Supra note 8, p. 18

¹¹¹ Supra note 67, Section A (1)

¹¹² Supra note 89, p. 169

¹¹³ Supra note 8, p. 18

National institutions need to obtain information regarding human rights and have the ability to distribute such information effectively and efficiently. They are responsible to collect and avail information including:¹¹⁴

- The total organization of the institutions together with its annual report;
- Information on the mechanism for the protection of human rights both at the national and international level;
- Materials on the international human rights instruments including information on ratification or reservation made by a particular state; and material on domestic legislations important to human rights;
- State reports made to charter-based treaty bodies and comments on the reports.

These institutions can acquire such relevant materials from the government, NGOs and from those inter-governmental organizations like UN.¹¹⁵ The information should include investigation conducted by the institutions and measures taken as it has a contribution to increase public awareness on human rights issues.¹¹⁶

The second approach used by NHRIs is via organizing promotional events and encouraging community initiatives.¹¹⁷ This includes organizing competition or lecturer on human rights, exhibition in memory of anniversaries like Human Rights Day; and they should also encourage those who work on creating human rights awareness program.¹¹⁸ Ethiopian national institutions celebrated various human rights days such as March 8 (Women's day); and human rights

¹¹⁴ Ibid, pp.18-19

¹¹⁵ Ibid, p. 19

¹¹⁶ Ibid

¹¹⁷ Ibid

¹¹⁸ Ibid

commission highly participated in the organization of different Moot Court in cooperation with higher institutions.¹¹⁹

According to Amnesty International recommendation, the other promotional strategy involves educating part of the society that are highly engaged in the field related with human rights- law-makers, administrative decision-makers, judges, lawyers, the medical profession, teachers, social workers, prison officers, police officers, and the armed forces.¹²⁰ Similarly, Ethiopian human rights commission has conducted, within five years, different workshops and trainings for law-makers, judicial organs, Women's Association, Sheria Courts, Election boards and police officers.¹²¹

Ethiopian human rights commission is explicitly mandated to “educate the public, using mass media and other means, to enhance its tradition of respect and enforcement of, rights upon acquiring sufficient awareness about human rights, whereas the establishment proclamation for ombudsman is silent”¹²² The same problem is face by some of Swedish ombudsman.¹²³ However, the list of Ethiopian NHRIs mandate is open-ended that education program can also be run by Ombudsman.¹²⁴

Accordingly, Institute of Ombudsman works to enhance public consciousness using town holes in different region of the country, post cards, table calendars, and public screen; organizing panel

¹¹⁹ Supra note 108, p. 8 and Supra note 93, pp. 39-40

¹²⁰ Supra note 62, p. 19

¹²¹ Supra note 91, pp. 27-31

¹²² Supra note 80, Article 6 (3)

¹²³ **Act Concerning the Equality Ombudsman**, Swedish Code of Statutes: 2008: 568, issued on 2008, Section 2 and **Swedish Ombudsman for Children's Act**, Swedish Code of Statute no: 1993: 335, issued 13 may 1993, Section 3: Parliamentary Ombudsman and Chancellor of Justice are not accorded with awareness creation role.

¹²⁴ Supra note 74, Article 6 (7): The institution shall have the powers and duties to **perform such other functions** as are related to its objectives.

discussion on good governance and human rights with different sect of the society-executive organs, school communities, compliant receiving committees, and the parliament.¹²⁵

NHRIs should work with the media to undertake their promotional function effectively. The media can serve as valuable instrument to promote public consciousness about human rights. Therefore, they should be free from any government control save to some exceptions; and freedom of expression should not be barred due to undemocratic private interest.¹²⁶

Media can cooperate with NHRIs in raising awareness through informing the public about the existence of the institution and its work, educating about the rights and duties of individual, informing about human rights situation in national and international level and divulging the result of investigation carried out by the institutions together with its recommendations.¹²⁷ Ethiopian NHRIs use media (Radio and Television) and widely circulated newspapers (like Addis Zemen) to disseminate information about the institution, on rights of children, women and persons with disability.¹²⁸

In addition to newspaper, national institutions utilize brochures and leaflets to distribute information on human rights, good governance, and their functions and best practices of the institutions. Though it is an appreciated strategy, the degree of distribution is very narrow as limited copies are available. Documentary films, talk shows and distribution of human rights

¹²⁵ Supra note 108, pp.5, 6 and 10

¹²⁶ Toby Mendel, **Freedom of Information: A Comparative Legal Survey**, UNESCO, 2003, pp. 33-36

¹²⁷ Supra note 8, p. 19

¹²⁸ Supra note 108, and Supra note 93, pp. 33-34

instruments is another mechanism designed to promote human rights.¹²⁹ The use of a single language while disseminating information is another chronic problem in a country where multiple languages are spoken.

2.3.2 Monitoring and supervision role

Monitoring is the other key task of NHRIs. According to the Paris principles this task has broader scope. Firstly, it involves oversight compliance of all laws and directives to human rights provisions; secondly, supervise the compliance of government organs and other entities to the wide range of laws that exist within a particular country.¹³⁰ Hence, national institutions should be active to guarantee successful outcome. The word law also includes rules that deal with human rights issues.

Similarly, supervision and oversight is the main task of Ethiopian NHRIs. Reference to the founding legislation of ombudsman shows the institution power to monitor whether the act of executive organ is in accordance with the law.¹³¹ Unlike Swedish ombudsman, ombudsman is further bestowed with the power to supervise compliance of administrative directives, administrative decision and practices to constitutionally guaranteed rights and ratified international human rights instruments.¹³²

¹²⁹ Supra note 91, pp. 32-35

¹³⁰ Supra note 89, pp. 26-30

¹³¹ Supra note 74, Article 6(3)

¹³² Ibid, Article 6(1) and See Commissioner for Civil Rights Protection of Poland, **National Ombudsmen: Collection of Legislation from 27 Countries**, Warsaw, 1989, Sweden Parliamentary Ombudsman, Article 6, See also Act Concerning the Swedish Equality Ombudsman, Section 1:1 and Swedish Children's Ombudsman Act, section 2: The Swedish parliamentary ombudsman and Chancellor of justice has no power to supervise compliance to human rights. However, the equality ombudsman and ombudsman for children supervise compliance of Swedish law to the discrimination act and UN convention on Child rights respectively.

Same role is also played by Ethiopia human rights commission. The law accords to it the responsibility to ensure the respect of human rights by citizens, government organs, and other entities; it also has the duty to monitor the compliance of laws, regulations, directives, and government decisions with constitutionally guaranteed rights and ratified international human rights instruments.¹³³ Till present time, the commission worked in monitoring areas like prisons and police stations, orphanages and the 4th national election to prevent human rights violations.¹³⁴

Though supervision and oversight is taken as the core function of Ethiopian ombudsman, this function of the institution is not efficiently carried out due to lack of professionals.¹³⁵ In spite of this, the institution exert some effort to supervise and oversight the different laws and activities of the government from the point of children's and women's rights. Absence of professionals is also the critical problem faced by human rights commission.¹³⁶ They are very negligent to monitor compliance of other government organs, save the police and prison officers, due to the high political influence. In other words, appointees are highly affiliated with politics that challenges effective monitoring of government organs. Lofty reliance on the government budget can be indicated as other strong reason.

¹³³ Supra note 80, Article 6(1) and 6(2)

¹³⁴ Supra note 91, pp. 42-49

¹³⁵ Supra note 103

¹³⁶ Anchinesh Shiferaw, **Reporting and Advising Officer for Human Rights Commission**, Interview on September 30, 2010

2.3.2 Compliant handling and Investigation

NHRIs have the competence to engage, in addition to promotion, in the protection of human rights.¹³⁷ This is because the act of promotion without any effort to protect those rights is meaningless. One of the means to protect human rights is through investigation made by NHRIs. Act of investigation can be made either upon the initiation of these institutions or on the basis of complaints submitted by the victim.¹³⁸ In both cases, they have the duty to inform the findings to the complaint or relevant organization.

2.3.2.1 Complaint handling

Quasi-judicial role is given to national human rights institutions under the Paris principles; however, they are not part of ordinary courts that their powers and procedures are quite distinct. According to Paris principles, complaint can be submitted either directly by the victim or by third person.¹³⁹ Many NHRIs entitle “any person” to lodge a complaint that fall within the institutions competence.

From Swedish experience, “**anyone**” has the right to submit complaint to ombudsman.¹⁴⁰ They broadly interpreted the word to include citizens, non-citizens, and organization/corporations.¹⁴¹ Amnesty International affirmed similar interpretation stating for effective promotion and

¹³⁷ Supra note 67, Section A(1)

¹³⁸ Ibid, Section D

¹³⁹ Ibid

¹⁴⁰ Supra note 72, p. 210

¹⁴¹ Walter Gelland and Jennifer Gannett, **Providing Guardianship of Fundamental Rights and Essential Governmental Oversight: An examination and Comparative Analysis of the role of Ombudsman In Sweden and Poland**, New England Journal of International and Comparative Law, 2003, p. 527

protection of human rights it is imperative for all people to have the opportunity to communicate with these institutions irrespective of their status under national law.¹⁴²

Following the same model, Ethiopian law allows either natural or artificial persons to submit complaint before national human rights institutions.¹⁴³ The law further does not put age as a limitation to institute complaint. The phrase “natural person” should be interpreted to include non-citizens. Otherwise, these institutions will be less conscience concerning non-citizens, which adversely affects full-fledged protection of human rights within the broader society.

As a rule, the victim must have the principal right and power to institute a complaint before national institutions. This is due to the presumption that victim has adequate knowledge about the incident; moreover, he has primary right to decide on whether to lodge a complaint or not.¹⁴⁴ However, national institutions accept third party complaints when the victim is not personally capable to lodge a complaint due to mental or physical disability, declaration of absence, or death.

Ethiopian NHRIs, taking in to consideration the above facts, allow the victim’s relative, spouse, representative or any third party to bring the complaint on his behalf.¹⁴⁵ Depending on the gravity of maladministration or human rights violation, they also receive anonymous complaints.¹⁴⁶ Such complaint system is allowed to give legal protection for those persons who

¹⁴² Supra note 62, p. 15

¹⁴³ Supra note 74, Article 22, and Supra note 80, Article 22, 2 (5), and 2 (6)

¹⁴⁴ Supra note 8, p. 30

¹⁴⁵ Supra note 74 and 80, Article 22 (1)

¹⁴⁶ Ibid, Article 22

are reserved from bringing a complaint in fear of high government officials. Others, like commission of Uganda, provide such protection solely through the request of confidentiality.¹⁴⁷

Most important point to be mentioned is the legislations for Ethiopian NHRIs do not mention the procedure of class action. This same issue is not also incorporated in the Paris principles. This forces the institutions to treat similar cases in isolation that impede speedy solution. It creates a lot of burden on the institutions; and further they may not secure the necessary changes in the community since awarding individual remedy alone is not enough.¹⁴⁸

It is a necessary requirement that subjective and objective criteria on admissibility of complaints be put in clear words to avoid vague and broad interpretation.¹⁴⁹ One of the unique features of Swedish parliamentary ombudsman Act is that it lists those authorities that ombudsman can supervise and those organs to which the supervision of ombudsman cannot extend.¹⁵⁰ It further explains the object matter covered by the institution. This makes selection of cases uncomplicated and avoids jurisdictional disputes.

Close examination of Ethiopian Ombudsman legislation reveals that it relatively tries to express what kind of object matters this institution can oversight. It supervises acts or decisions of the executive organ in contravention of administrative law, the labor law and any laws relating to administration in every part of the country.¹⁵¹ On the other hand, the commission is given broad

¹⁴⁷ Supra note 89, p. 166

¹⁴⁸ Supra note 8, p. 30

¹⁴⁹ Supra note 8, p. 28

¹⁵⁰ **Act with instruction for the Swedish Parliamentary Ombudsman**, Swedish Code of Statutes: 1986:765, issued on 13 November 1986, Section 2

¹⁵¹ Supra note 74, Article 22 and 2(5)

power to supervise human rights violations by any government organs and other entities within the country.

Nonetheless, overlapping of jurisdiction is the core problem as between Ethiopian NHRIs that people lodge their complaint in both institutions.¹⁵² This is because many administrative issues are interlinked with human rights and ombudsman further works on the protection of human right as one objective. Interestingly enough Ethiopian law governs the situation stating, firstly, such issue to be settled by mutual negotiating, and, in default, the organ before which the case is primarily lodged shall undertake the investigation.¹⁵³

National institutions should take a step to facilitate effective communication between itself and complainants. The Swedish parliamentary ombudsman surprisingly allows complaints to be made only in writing.¹⁵⁴ Such scheme does not take into consideration illiterate complaints and those living in isolate part of the country. Ethiopian NHRIs, however, admits complaints made in any form, such as in a written form or orally.¹⁵⁵

The use of e-mail, fax and telephone are other means to ensure effective communication between national institutions and potential complainants. Ethiopian law leaves a gap to ensure the application of these means. For instance, in year 2009 the Institute of Ombudsman resolved 42 cases through telephone.¹⁵⁶ In a country where many people are living in very remote areas, this

¹⁵² Supra note 103

¹⁵³ Supra note 74 and 80, Article 29

¹⁵⁴ Supra note 150, Section 17

¹⁵⁵ Supra note 74 and 80, Article 23 (1) and Supra note 8, p. 17

¹⁵⁶ FDRE Institute of Ombudsman, **Annual Report Made to the House of Representatives**, Addis Ababa, 2009, p.11

complaint lodging method facilitates quick resolution to a particular case. It further slightly curbs the problem of accessibility to these institutions as branch offices are not yet inaugurated.

There is a great likelihood for a country to exist with many minority languages. Hence, national institutions should use interpreter without compromising the value of confidentiality and impartiality to tackle language constraints. Interesting feature of Ethiopian NHRIs is that they allow complaints to be made using any working language of the region within the country.¹⁵⁷ This curbs the problem of language barrier as Ethiopia is a country with different languages.

Similar to Swedish parliamentary ombudsman, albeit it is not obligatory, the complaint is advised to produce evidence that supports his allegation.¹⁵⁸ It stated for the complaint to submit a document in his possession if it is necessary to deal with and assessing the case at hand.¹⁵⁹ Nevertheless, the statutes do not guarantee the rights of complaints to access any information related to their case for the purpose of presenting evidence together with their complaint.

2.3.2.2 Power to investigate

National institutions have the responsibility to make investigation and give response to victim's complaint as stipulated under last section of Paris principles. Investigation can be made either on the basis of complaints submitted or on the basis of self initiation.¹⁶⁰ Accordingly, the Swedish

¹⁵⁷ Supra note 74 and 80, Article 23 (3)

¹⁵⁸ Ibid, Article 23 (2)

¹⁵⁹ Supra note 150, Section 17

¹⁶⁰ Mehari Tadele, **Ethiopian Institute of ombudsman and Its Role in Building Democratic System**, Addis Ababa, Ethiopia, 2001, p. 20

ombudsman, for instance, exercises its supervision power through assessment of complaint and other inquires.¹⁶¹

In the former instance, these institutions have the duty to select those cases that fall under their competence and return those which are not to the proper authority within a reasonable time.¹⁶²

The complainant, on the other side, has the right to be informed the decision of national institutions whether the complaint is rejected, accepted or referred to another organ within a reasonable time. Similar to Swedish ombudsman, Ethiopian NHRIs can refer the case to the appropriate organ; particularly at times all local remedies are not completely exhausted.¹⁶³

Observance of the practice depicts that, in 2009, the Institute of Ethiopian Ombudsman closed 647 cases due to lack of jurisdiction.¹⁶⁴ The principle of exhaustion is not explicitly provided in the establishment proclamation of human rights commission. However, the commission referred 8 cases to the appropriate organ till present time.

Similar to Sweden,¹⁶⁵ Ethiopian national institutions have the duty to inform their decision on the acceptance of the submitted complaint. However, this does not prevent a person from bringing a legal action on the same ground.

As it is evident from the above outline, national institutions have a duty to initiate investigation and respond to a wide-range of national violations. During such investigation, national

¹⁶¹ Supra note 150, Section 5

¹⁶² Supra note 67, Section D(1)(C)

¹⁶³ Supra note 74, Article 22 and Supra note 150, Section 18: Swedish ombudsman has the power to return complaint where it is of a nature to be appropriately decided by another authority and that authority does not previously review the matter.

¹⁶⁴ Supra note 156, p. 11

¹⁶⁵ Supra note 150, Section 19

institutions should give priorities to dreadful human rights violations.¹⁶⁶ They have also full right to access necessary evidentiary information, examine the person who possesses the relevant evidence, and examine witnesses prior to giving any decision. This mechanism is designed to facilitate prompt and effective solution for the alleged violation.

Ethiopian NHRIs also have the power to conduct investigation on its own initiation.¹⁶⁷ Human rights commission, for instance, conduct investigation, in its own initiation, on government measures to stop demonstration opposing the election of 2005 and on violations occurred during different ethnicity conflicts.¹⁶⁸ These institutions can access any information and examine witnesses to give proper decision; therefore, the law imposed obligation on any person to assist them in the process of discharging their duties.¹⁶⁹

Observance of the practice, however, demonstrates that some entities are not cooperative enough to give information necessary for investigation purpose. According to 2010 ombudsman report, six government entities were not willing to cooperate in the investigation process.¹⁷⁰ Moreover, unlike the Polish Commissioner, there is no provision that talks about the right of Ethiopian national institutions to conduct on-site inspection. In practice, however, they go from place to place particularly prison institutions to collect relevant information to decide a case.

¹⁶⁶ Supra note 62, p. 11. “It includes violations of the right to life and security of the person, the right to physical and mental integrity, including the right not to be tortured; as well as to the right not to be arbitrary arrested or detained.”

¹⁶⁷ Supra note 74 and 80, Article 24 (2)

¹⁶⁸ Supra note 91, p. 44

¹⁶⁹ Supra 74 and 80, Article 25 and 38

¹⁷⁰ Supra note 108, p. 5

Absence of provision in the founding legislation dealing with period of limitation is the biggest problem faced by Ethiopian NHRIs.¹⁷¹ The Swedish parliamentary ombudsman cannot conduct investigation on cases that date back two or more years.¹⁷² Lack of same provision in the Ethiopian legal regime hinders the effectiveness of these institutions due to the disappearance of witnesses and evidentiary documents. Cognizant of such facts, ombudsman institution suggested amendment of the law to include period of limitation to bring complaint.¹⁷³

The law puts limitation on the investigating jurisdiction of these institutions similar to the case of Swedish parliamentary ombudsman. Accordingly, these institutions cannot investigate cases pending before the court for the sake of protecting court independence.¹⁷⁴ However, some countries, like Australia human rights commission, are mandated to intervene in court proceeding involving human rights issue.¹⁷⁵ The commission is also granted with the power to act as *amicus curie* in human rights matters.¹⁷⁶

Out of many advantages, such strategy is of an assistance to create human rights awareness within the judiciary. Further, it helps to develop a law which is consistent with international human rights standards. National institutions might also help the court to collect all relevant evidence before reaching to a decision. Looking at the Ethiopian law, NHRIs are not given such

¹⁷¹ Ibid, p. 21

¹⁷² Supra note 150, Section 20

¹⁷³ Supra note 108, p. 21

¹⁷⁴ Supra note 74 and 80, Article 7(2)

¹⁷⁵ Supra note 89, pp. 8-10

¹⁷⁶ Ibid

power. Further they, unlike Swedish ombudsman, cannot initiate legal proceeding against people suspected of a crime except for the purpose of securing cooperation of entities.¹⁷⁷

Ethiopian law also limited the jurisdiction of national institutions not to investigate the decision of the parliament as it is accountable solely to the people; and decision made by the security and defense force, save the Commission. However, the meaning of “executive organ” in the founding legislation of ombudsman goes beyond its ordinary interpretation and cover ordinary courts.¹⁷⁸ Hence, ombudsman can entertain problems relating to court administration. Administrative matters in security and defense forces are also within the competence of ombudsman.

Following a series investigation the Swedish parliamentary ombudsman concludes a case declaring the decision made by officials is in breach of the law; it can also prosecute an official suspected of a crime.¹⁷⁹ Ethiopian NHRIs, however, can solely give an opinion or recommendation on the decision of different authorities or existed laws based on the outcome of its investigation.¹⁸⁰ On the plus side, the commission highly works in collaboration with higher institution to ensure the proper functioning of legal aid centers in different part of the country.

2.3.3 Legislative review

The Paris principles declared one of the responsibilities of NHRIs is to ensure the harmonization of national legislation with international human rights instruments that state is a party; and its

¹⁷⁷ Supra note 74 and 80, Article 41 (1) and (2) and See Supra note 152, Section 6: The Swedish parliamentary ombudsman can bring a legal action against people suspected of a crime following a series of investigation.

¹⁷⁸ Supra note 160, p. 25 and See Donald C. Rowat, **Why an Ombudsman to Supervise the Courts?** IN THE INTERNATIONAL OMBUDSMAN ANTHROPOLOGY: SELECTED WRITINGS FROM THE INTERNATIONAL OMBUDSMAN INSTITUTION, [Linda C. Reif], Hague, 1999, p. 58

¹⁷⁹ Supra note 150, Section 6

¹⁸⁰ Supra note 74 and 80, Article 6

effective implementation.¹⁸¹ Accordingly, they are highly engaged in reviewing existed and proposed legislations and assist in drafting new legislations and formulation of policies.¹⁸²

Though ensuring consistency of laws with human rights is primarily given to government organs, national institutions play a role as an additional safeguard in the legislative process. Swedish parliamentary ombudsman is engaged in giving advice regarding the application of a law to ensure uniformity.¹⁸³ However, it does not refer to international human rights instruments. Such role, albeit to a limited extent, is played by Equality Ombudsman and Children Ombudsman.¹⁸⁴

Reference to Ethiopian legislation, NHRIs carry out the task of legislative review to avoid contradiction of laws and decisions of government with constitutionally guaranteed rights and rights under the ratified international instruments.¹⁸⁵ The responsibility of these institutions to make an in-depth investigation either by their own initiation or upon individual compliant assists them to identify the inadequacy in existed legislations. Additionally, Ethiopian national institutions undertake studies and research to identify the source and means of curbing human rights violations.¹⁸⁶

Availability of research facilitates their task in reviewing existed legislation. Subsequently, they have to conduct a research on the implication of law inadequacy on human rights from the national and international standards perspective.¹⁸⁷ This is because the legislation under review by these institutions should be related to human rights either directly or indirectly. This year

¹⁸¹ Supra note 67, Section A (3)(b)

¹⁸² Ibid, Section A(3A)(i)

¹⁸³ Supra note 150, Section 6

¹⁸⁴ Ibid, Section 3 and Supra note 125, Section 3

¹⁸⁵ Supra note 74 and 80, Article 6

¹⁸⁶ Supra note 74, Article 6(5)

¹⁸⁷ Supra note 8, p. 24

ombudsman gave 15 topics on children's right, women rights and good governance to five higher institutions and more than half of the work is completed.¹⁸⁸ Human rights commission also signed a contract with four universities to make a research on human rights areas, for example, concerning the inclusion of human rights as a course in different educational levels.

Their ability to comment on the proposed legislation is of great importance as modifying a draft law is easier than the existed one. National institutions review the content of the draft legislation to determine its compliance with human rights and evaluate its potential implication on human rights.¹⁸⁹ They can also assist the government while drafting a new law, which may result from the initiation of these institutions. This has a vital role to incorporate human rights standards into domestic legislations and ensure state compliance with international human rights standards.

Close look at the Ethiopian case depicts that there is no clear provision which states that national institutions can review bills, proposed legislations or assist in the law making process. It simply gives them the mandate to recommend the revision of existed law or formulation of new laws.¹⁹⁰

In the case of Sweden, for instance, the Act explicitly provides that ombudsman can make a representation in the Swedish parliament or the government while amending legislation.¹⁹¹ This more guarantees compliance of the law with human rights instruments.

In addition to reviewing legislations, NHRIs have the role to review policies and recommend the formulation of a new one. Such task is related with other responsibilities of these bodies. For

¹⁸⁸ Supra note 108, p. 12

¹⁸⁹ Supra note 8, p. 24

¹⁹⁰ Supra note 74 and 80, Article 6

¹⁹¹ Supra note 150, Section 4

instance, while visiting prisoners, they might find out that the policy on the condition and manner of detention is not adequate. This enables them to advise the government to come up with a new policy. Similar responsibility is bestowed on Ethiopia national institutions.

2.4 Advisory Role and Status of National Human Rights Institutions Decision

Depending on the outcome from the task of monitoring, legislative review, or investigation, NHRIs can give a decision. However, this decision is not binding; rather it is made in a form of opinion, advice or recommendation.¹⁹² The institution works with a belief that others will give a strong concern to comply with the outcome of its investigation or decision.¹⁹³

Advising the government is one role of national human rights institutions. After exhaustive investigation on gaps that existed related to human rights, national institutions can advise the government on what to do to alleviate the problem. Ethiopian human rights commission, for instance, advised the government on law and policy matters concerning children rights, rights of disabled people, and women's rights.¹⁹⁴

They further have the power to submit opinion, recommendation, or proposal to the parliament or any other concerned organ to conform to fundamental human rights, adopt new legislations; or amend legislations or administrative practices.¹⁹⁵ It also relates to promoting the ratification and

¹⁹² Supra note 67, Section 4 (d)

¹⁹³ Supra note 160, p. 13

¹⁹⁴ Supra note 91, pp. 51-62

¹⁹⁵ Supra note 67, Section A (3) (a) (i-iv)

effective implementation of human rights instruments.¹⁹⁶ Making a non-binding recommendation is one of the features that make national institutions quite distinct from ordinary courts.

Decision of national institutions should not create the feeling of defeat on the sued entity that it enhances the compliance.¹⁹⁷ Competent authorities have an obligation to give response to recommendations made by NHRIs within a reasonable time. In case of non-compliance, national institutions should use all the necessary measures to pressurize these entities, such as public shame, special report to the parliament and international pressure.¹⁹⁸

Governments are accountable in the sense that they are in charge to ensure effective performance of national institutions. Accordingly, it should be cooperative to comply with any recommendations and opinion of these institutions. In spite of this, lack of cooperation from concerned organs is a critical problem faced by NHRIs. Many national institutions, for instance India human rights commission, are experiencing the same problem.¹⁹⁹

Ethiopian NHRIs are not an exception to this problem. In its 2010 report, the Institute of Ombudsman revealed that two governmental entities were not willing to be abided by its decision and correct their mistakes.²⁰⁰ The law adopted a mechanism to pressurize obedience to the recommendation of Ethiopian NHRIs. These are publicizing the wrongful act of concerned

¹⁹⁶ Ibid, Section A (3) (b) (c)

¹⁹⁷ Supra note 160, p. 13

¹⁹⁸ Supra note 62, p. 18

¹⁹⁹ Supra note 89, p. 140: There are many instances where the recommendation made by Northern Ireland human commission is neglected by the government.

²⁰⁰ Supra note 108, p. 5

organs and special report to the parliament respectively. However, none of these methods are used by the institutions.

Instituting criminal action to force compliance with decisions of national institutions is the other tactic recognized under Ethiopian statute.²⁰¹ These provisions declared the criminal liability of any person who is not willing to produce documents or fails to take measure within three months following the receipt of recommendation or suggestion from the institution. These institutions, particularly ombudsman, started to apply this strategy better than those mentioned in the above.

Ato Kenen Sona, however, explains the reason for non-compliance to the recommendation of NHRIs from the quality angle. He said that poor quality in the work of these institutions is the main reason for negligence of other entities to cooperate. Many cases are decided without exhaustive evidentiary documents analysis or proper witness examination that many entities lose confidence on the outcome. According to him, enhancing work quality of the institution is best way to guarantee cooperation from concerned organs.

The above discussed roles of Ethiopia NHRIs are not exhaustive. Ethiopian human rights commission plays additional roles such as consultancy on human rights matters, participate in international human rights meeting, conference or symposia, and forward opinion on human rights reports to be submitted for international organ.²⁰² However, absence of adequate legal professionals and fund are huge barriers in the work of Ethiopian NHRIs.

²⁰¹ Supra note 74 and 80, Article 41 (1) and (2)

²⁰² Supra note 80, Article 6(6) (7) (9)

Chapter Three

Challenges Faced by Ethiopian National Human Rights Institutions in Light of the Paris Principles

The foundation of NHRIs does not automatically guarantee its effectiveness.²⁰³ Having this in mind, the Paris principles recognize the presence of some factors for the effective functioning of NHRIs.²⁰⁴ These are independence, accessibility, operational efficiency and accountability of these institutions.²⁰⁵ In this chapter, challenges of Ethiopian NHRIs from the angle of these different factors are discussed thoroughly.

3.1 Independence

As evident from the outline above, NHRIs established under the Paris principles shall enjoy an important degree of independence from government and other organs. They should be able to carry out their duties autonomously without any interference and obstruction from other entities. It has an essential contribution to maintain the credibility of national institutions.²⁰⁶ Hence, the need to maximize the independence of these institutions is not debatable. Nonetheless, it does not mean that national institutions are absolutely separate from the government.

²⁰³ Supra note 5, p. 23

²⁰⁴ Ibid, p. 23

²⁰⁵ Supra note 67, Section B and C

²⁰⁶ Claes Eklundh, **The Independence of Ombudsman**, THE WORK AND PRACTICE OF OMBUDSMAN AND NATIONAL HUMAN RIGHTS INSTITUTIONS (Articles and Studies), The Danish Center for Human Rights, Copenhagen, Denmark, 2002, p. 13.

As stated in the UN handbook, NHRIs always depend on government relating their establishment, regulation of their mandate, and accountability.²⁰⁷ Accordingly, there are four levels of independence enjoyed by national institutions. These are: legal and operational autonomy, financial autonomy and independence with regard to appointment and dismissal procedures.²⁰⁸

3.1.1 Independence through legal and operational autonomy

NHRIs should be granted an independent legal personality through their founding legislation to avoid intrusion in their activity from any branch of government and protect them against undue influence from other political parties or entities. Accordingly, they should be created by constitution or legislative act, rather than executive decree or order.²⁰⁹ Strong legal basis safeguards the institutions' independence for it is less susceptible to amendment, and government influence. Having this in mind, most national institutions are established either constitutionally or legislatively.²¹⁰

Ethiopian NHRIs are not also an exception to this scheme. Their set up is made using legislative acts. The founding legislations declared national institutions to be an “**autonomous organs** of the Federal Government having their own **judicial personality** being answerable to the House.”²¹¹ Like the case of Swedish parliament²¹², Ethiopian parliament cannot give direction on

²⁰⁷ Supra note 8, p. 10.

²⁰⁸ Supra note 3, p. 913

²⁰⁹ Supra note 67, Section A and Commonwealth Secretariat, **National Human Rights Institutions: Best Practice**, 2006: The same idea is reflected under the commonwealth best practice guidelines.

²¹⁰ Benaifer Nowrojee (Human Rights Watch), **Protectors and Pretenders?** Government Human Rights Commission in Africa (2001). Available at: http://www.ichrp.org/paper_files/Michelle_Parlevliet_125_w_02.doc, December 28, 2009, 3:30pm. For example, Uganda human rights commission is established by constitutional act.

²¹¹ Supra note 74 and 80, Article 3

how NHRIs can deal with individual complaints. It cannot further give comment on the method used by these institutions afterwards.

Operational autonomy is also another mechanism to grant national institutions the required independence to function effectively. “It refers to the competency and capacity national institutions have at their disposal.”²¹³ Such autonomy ensures the ability of these institutions to deal with its internal affairs in the absence of interference from other individuals.²¹⁴ To this effect, national institutions should adopt internal rules and procedures that cannot be modified or repealed by any other organ; and their decision and recommendation should not be reviewed by another authority except such power is vested by the founding legislation.²¹⁵

The most important indicator of operational independency of NHRIs linked with its power to make an autonomous investigation.²¹⁶ This includes compelling organizations which are not willing to cooperate by threatening them to bring a legal action against them.²¹⁷ If we look at the Ethiopian law, it imposes such duty on any person to enable these institutions discharge their power and duties properly and effectively.²¹⁸ Looking at the practice, however, divulges the fact that many government agencies are not willing to cooperate with national institutions.

²¹² Supra note 206, p. 14

²¹³ Supra 3, p. 914

²¹⁴ Supra 8, p. 11

²¹⁵ Ibid

²¹⁶ Supra note 89: See the contribution of different independent national human rights institutions in the protection of human rights.

²¹⁷ Supra 8, p. 11

²¹⁸ Supra note 74 and 80, Article 38

The Institute of Ombudsman, for instance, could not secure the cooperation of six government organizations last year during its investigation process.²¹⁹ The institution did not take any action in response to such situation until this year where it starts an investigation to institute criminal proceedings. As mentioned in chapter two, this problem experienced by other countries NHRIs, for example Northern Ireland human rights commission and India human rights commission.

3.1.2 Independence through financial autonomy

To secure true independence of NHRIs, their budget should not be subject to interference by any branch of the government. The same idea is also articulated under the Paris principles stating that “national institutions should have suitable infrastructure to execute their conduct, particularly adequate funding.”²²⁰ To this effect, financial source of NHRIs should vividly be specified in the enabling legislation.²²¹

As eloquently put in the Paris principles, this strategy shields the funding of these institutions from being controlled by the government or any other organ and enables them to have its own “staffs and premise independent of the government”.²²² Hence, NHRIs do not only determine its priority and activities, but have the freedom to appoint staffs and have adequate resource to ensure financial competency.²²³ Granting responsibility to propose the amount of their annual

²¹⁹ Supra note 108, p. 5. “The Institute of Ombudsman has initiated a legal action against those organizations who failed to cooperate with national institution as requested.”

²²⁰ Supra note 67, Section B (2)

²²¹ Supra note 8, p. 11

²²² Supra note 67, Section B(2)

²²³ J and K Human Rights Commission: The Healing Can Begin Here, **Human Rights Feature Fortnightly**, 2005. Available at: <http://www.hrdc.net/sahrdc/hrfeatures/HRF127.htm>., December 28, 2009, 12:00pm

budget to be submitted directly to the parliament manifests financial autonomy of national institutions.²²⁴

The approval and allocation of budget should not be made by the executive organ for national institutions to be perceived as independent by the public. This budget of national institutions should be separate and distinct from other branches of the government.²²⁵ Furthermore, financial autonomy should be accompanied with continuous funding for national human rights institution to enable them design and develop its activities with confidence about being able to be fulfilled.²²⁶ Total reliance on government fund is another ground that affects independence of national institutions.

True independence of national institutions will be in question when they are wholly dependent on government to secure adequate funding. This puts them to the whims of government and has to establish friendly working relationship with it. Such has adverse effect on the power of the institutions to criticize wrongful act of the government. The fund of Cameroon human rights commission, for instance, has been reduced for criticizing government abuse during state emergency.²²⁷ Hence, government should not influence the budget of national institutions relying on any decision or recommendation made by them.

Similar to the above, NHRIs should not rely solely on donors funding. NGOs are the major sources of fund for national institutions other than the government. Nonetheless, national

²²⁴ Supra note 8, p. 11

²²⁵ Ibid

²²⁶ Supra note 62, p. 23

²²⁷ Supra note 210, "The commission of Zambia, who is already in short of funding, lost government premise promised to it after it commented on the torture made against coup detainees."

institutions should not receive financial support from these entities as they might attempt to interfere with their work. The difference of national institutions from NGOs does not allow such intrusion.²²⁸ The above illustration amplifies the problem to be faced if there is total reliance on funding either from the government or donors. Hence, national institutions must use both sources to secure their independence and enhance their effectiveness and credibility.

Unlike the case of Swedish ombudsman,²²⁹ Ethiopian law clearly stated the sources of fund for NHRIs. Accordingly, the budget of these institutions should be drawn from budgetary subsidy to be allocated by the government.²³⁰ The law further stated that national institutions can draw their budget from sources like “**assistance, grant and any other sources.**”²³¹ Availability of the latter source of funding guarantees, at least in paper, independence of Ethiopian national institutions.

Though Sweden has no provision on the issue of budget relating its national institution, practically; parliament decided on it upon the request of the institute. The same strategy is followed by Ethiopian NHRIs. These institutions determine their budget and submit it to the parliament for approval.²³² This scheme has basic importance to secure the independence of these institutions.

However, the law further declared that “monies obtained from any of the above sources an amount equivalent to a quarterly portion shall, in advance, be deposited at the National Bank of

²²⁸ Supra note 3, p. 922

²²⁹ Thomas Tries Hansen et. al, **Comparative Charts on Ombudsman and National Human Rights Institutions, THE WORK AND PRACTICE OF OMBUDSMAN AND NATIONAL HUMAN RIGHTS INSTITUTIONS** (Articles and Studies), The Danish Center for Human Rights, Copenhagen, Denmark, 2002, p. 173

²³⁰ Supra note 74 and 80, Article 36(1) (a)

²³¹ Ibid, Article 36(1)(b)

²³² Ibid, Article 19(2)

Ethiopia or any other bank designated by the Bank, and shall be utilized, in accordance with financial regulations of the government, for purpose of implementing the objectives of national institutions.”²³³ The application of such strategy gives unnecessary power to the government to intrude in the financial autonomy of national institutions and have control over the spending power of their budget.

The other critical problem regarding the independence of Ethiopian NHRIs has an inextricable link with their exclusive reliance on budget from the government. Though the law grants the right of these institutions to draw their budget from other sources, the practice demonstrates that majority of the money comes from the government.²³⁴ Hence, the government might punish those institutions that are active against its will through deliberate reduction of budget. The adoption of restrictive law on NGOs exacerbates this problem of national institutions.

National institutions cannot balance the source of their budget as most of the NGOs that work on human rights matters are in the process of liquidation for they cannot fulfill the requirement of the new law. This all prevents national institutions from freely giving their comment or recommendation against abusive act of the government. Unfortunately, albeit the institutions do not want to reveal, absence of strong monitoring and supervising mechanism emanates from this condition. Hence, it is quite difficult to say Ethiopian NHRIs have true financial independence.

²³³ Ibid, Article 36 (2)

²³⁴ Supra note 91, p. 66: In five years time the commission collected its money from other donors like UNICEF and UNDP. But the amount of money from these organizations is very insignificant as compare to the government fund. Additionally, the government pays the salary of national institutions staff.

3.1.3 Independence through appointment and dismissal procedure

Appointment and dismissal mechanisms are one of the fundamental ways to maximize the true independence of NHRIs. These institutions should be able to appoint and dismiss its members free from any extraneous influence. This has a great connotation on their effectiveness. “The granting of legal and financial autonomy is insufficient in the absence of specific measures to ensure independence of members of national institutions.”²³⁵

The founding legislations should specifically incorporate conditions that deal with “methods of appointment, criteria for appointment, duration of appointment, issue of reappointment, dismissal procedure, members’ privilege and immunity.”²³⁶ These conditions are critical to ensure the independence of its members as it has paramount importance for the independence of the institutions. The process of appointment should be “transparent and politically neutral.”²³⁷

To begin with, the method of appointment should involve representative bodies, particularly the parliament and civil society.²³⁸ Appointment procedure that does not involve the above groups not only fails to comply with the Paris principles but cannot effectively serve as a bridge between the government and civil society.²³⁹ The mechanism of appointment should be clearly stated in the founding legislation. In Ethiopian, the Chief, deputy and other Commissioner/Ombudsman are appointed by the parliament upon receipt of two-third majority vote.²⁴⁰

²³⁵ Supra note 8, p. 11

²³⁶ Ibid

²³⁷ Supra note 3, p. 923

²³⁸ **Appointment Procedure of National Human Rights Institutions**, Paper for the Discussion of the International Coordinating Committee of National Human Rights Institutions 4, 13 April 2006. Available at: http://www.nhri.net/pdf/OHCHR_Appointments_Procedure_Paper_E.pdf , December 28, 2009, 4:00pm

²³⁹ Supra note 3, p. 923

²⁴⁰ Supra note 74 and 80, Article 10 (1)

However, the nomination of appointees is made by a nomination committee. The committee is composed of mainly members from the parliament and the court. Accordingly, Speaker of the House, Speaker of the House of Federation, five members elected by the House from its members, two members elected by the joint agreement of opposition parties having seat in the House, President of the Federal Supreme Court, representative of Orthodox Church, Islamic Church, Evangelical Church, and Catholic Church.²⁴¹ However, representative from religious bodies have no place in the nomination committee of ombudsman.

Close scrutiny of the committee discloses that many of the members have strong affiliation with the leading political party. There are only two members from the opposition party with less probability that they will take part in the five members elected from the house. This enhances the probability of nominating appointees that works hand-in-hand with the government that the later will face less criticism. The engagement of civil society in the nomination procedure does not entail recognizable significance.

The appointment procedure should give enormous concern to the criteria of appointment. This mostly relates with education qualification and obedience to various norms like honesty. Similarly, Ethiopian law puts as criteria: loyalty to the Constitution, nationality, health condition, educational qualification, previous criminal records, attitude towards human rights, age, and various values.²⁴² From this angle, it will not be erroneous to say national institutions are following a good model. However, it is very recently that staffs are practically appointed using open vacancy under the application of these criteria. They used to hire people of their interest

²⁴¹ Ibid, Article 11

²⁴² Ibid, Article 12

despite of his qualification. Hence, the appointees are relatives of different Ministers, and many staff member are supporter of the ruling government.

The above explanation magnifies the crucial requirement for appointees to be politically neutral and person with high integrity. In the absence of this characteristics, it is high unlikely that national institutions will get confidence of the public.²⁴³ The burden to cultivate this kind of appointees lies on the appointing committee and appointment procedure. The composition of national institutions should not be an “extension of the government, but an organ that supervise the government and willing to speak against it whenever it is necessary”.²⁴⁴

The independence of Ethiopian NHRIs through its composition is always under the threat of government influence. High affiliation of the nominating committee to the government challenges the appointment of politically neutral officials. This is basic obstacle experienced by many national institutions. For instance, the South African human rights commission, with transparent appointment procedure due to civil society and parliament involvement, is facing the danger of political appointees.²⁴⁵ Independence through composition should also extend to other staffs of national institutions. The latter should have the competence to appoint their personnel without any government intrusion.

National institutions can attain their independence through pluralism. Pluralism refers to the recognition of difference such as in language, race, culture, and religion.²⁴⁶ According to the

²⁴³ Supra note 209, at 29

²⁴⁴ Supra note 3, p. 925

²⁴⁵ Ibid, p. 926

²⁴⁶ Ibid, p. 928

Paris principles, NHRIs need to recognize and accommodate such diversity of social force.²⁴⁷

Unrepresentative composition of national institution has a significance role to lessen public confidence. Dominance of section of the society makes the public doubt the independence these institutions.

Close examination of Ethiopian law divulges that no concern is given about the diversified composition of NHRIs. Practically, however, human rights commission tries to accommodate the diversity within its staffs. The existence of such gap, in the law, broadens the way for the government to place people of its interest in key positions that ultimately affects their independence and undermine public confidence.

Ethiopian law has a strongest part from the angle of ensuring independence of NHRIs. It tried to strength the independence of national institutions by way of prohibiting investigators and appointed officials engagement in other areas of work.²⁴⁸ This prevents the clash of interest that challenges the independent work of these people. The law additionally inserted the concept of immunity from civil and criminal liability for appointees and investigators regarding acts committed in their official capacity.²⁴⁹ This helps the specified persons to discharge their duties independent of any fear from government officials.

²⁴⁷ Supra note 67, Section B (1) (a-e) “The composition of national institutions should guarantee pluralist representation of the social force (civil society) involved in the promotion and protection of human rights through representatives of NGOs responsible for human rights; trade unions, social and professional organizations; trend in philosophical religious thought; universities and qualified experts; parliament; and government department.”

²⁴⁸ Supra note 74 and 80, Art. 18 (1)

²⁴⁹ Ibid, article 35

However, there is no provision on the issue of privilege to institutions' staffs as another safe guarder of national institutions. Further, the law fixed term of office to be five years and is renewable.²⁵⁰ Such assists officials of national institutions to discharge their responsibility without a fear of threat from any branch of the government. The duration, however, should not be too short to ensure the stability of national institutions. The Swedish ombudsman does not guarantee security of tenure for its officials.²⁵¹ However, it is compensated by adoption of a dismissal procedure to be done by the unanimous consent of the parliament.²⁵²

Dismissal procedure is also highly connected with the independence of national institutions.²⁵³ The Paris principles recommended that there should be safeguards against arbitrary dismissal. Hence, the founding legislation should clearly stipulate details on the ground for dismissal that naturally should relate to ascertainable serious wrongdoings.²⁵⁴ Accordingly, Ethiopian law expressly specified the ground for removal to include resignation, violation of human rights or other laws, incompetence, and termination of his term of office.²⁵⁵ Different grounds other than the one stated in the above cannot be a reason of dismissal.

However, removal, other than on the ground of resignation, will be effective following the investigation made by Special Inquiry Tribunal and where the recommendation of this tribunal is upholds by two-third majority vote of the parliament.²⁵⁶ Hence, the final power to dismiss is granted to the parliament. The Special Inquiry Tribunal has the same composition like the nominating committee, but has different members. Granting the power of investigation to a

²⁵⁰ Ibid, Article 14

²⁵¹ Supra note 206, p. 14

²⁵² Ibid, p. 14

²⁵³ Supra note 8, p. 11

²⁵⁴ Ibid

²⁵⁵ Supra note 74 and 80, Article 15

²⁵⁶ Ibid, Article 16

tribunal that has high affiliation to the government has a treat to the independence of national institutions as they might not give correct decision when the person under investigation has high connection with politics. This will be even worse when the leading party has majority seat in the parliament.

3.2 Accessibility

Accessibility to the population it is designed to protect is one feature of effective national human rights institutions. The same concept is also recognized under the Paris principles. Accessibility of these institutions is highly influenced by the whole organizational structure and procedures followed.²⁵⁷ National institution, which is perceived as responsible, effective and works to augment its relationship with clients, should develop its accessibility to the public. Accessibility has to be seen from two aspects that is familiarity of the public about the institution and physical accessibility.

3.2.1 Awareness of the national human rights institutions

National institutions will be readily accessible when the public has enough awareness as to its existence and the various functions it carries out. National institutions should strongly use all the necessary means to make themselves known to individuals that benefits from its activities.²⁵⁸ In other words, they should enhance their visibility especially to groups of individuals that are

²⁵⁷ Supra note 8, p. 13

²⁵⁸ Ibid

susceptible to human rights violations. As it is evident from chapter two discussions, awareness creation is one of the roles played by NHRIs.

Accordingly, this task embraces the responsibility to enhance the public knowledge about existence and functions of the institutions.²⁵⁹ The French ombudsman, for instance, highly devoted to publish different interviews and articles relating the mission, activities and concrete solutions that can be offered by the institutions using the general press.²⁶⁰ The main obstacle in Ethiopia from this regard is only few languages are used when it is a country with multi-linguistic system. Observance of the above matter from Ethiopian perspective demonstrates that the population is less acquainted with NHRIs.

The primary reason has strong nexus with the location of their office. For instance, office of Ethiopian human rights commission was initially located inside HPR campus and later it moved to a location extremely far from the center of the city.²⁶¹ Currently, Ethiopian national institutions succeed to bring their office to the center which increases their visibility to the beneficiary groups. Moreover, cognizant of the importance of website service, the institutions opened the service to provide the public information about their institution.²⁶² Accordingly, they upload information about the institutions and their function that is updated all the time. This increases the familiarity of the public towards these institutions. They further started to use different

²⁵⁹ National human rights institutions can use various means particularly leaflets, brochures, and medias to promote public awareness of the institutions. However, high concern should also be given to people who live in very isolated areas.

²⁶⁰ Valerie Fontaine, **The French Ombudsman as Mediator-Communication and Accessibility**, THE WORK AND PRACTICE OF OMBUDSMAN AND NATIONAL HUMAN RIGHTS INSTITUTIONS (Articles and Studies), The Danish Center for Human Rights, Copenhagen, Denmark, 2002, p. 37

²⁶¹ Supra note 91, p. 10

²⁶² Ibid

broadcasting means, such as television and radio, to promote public awareness about the institutions.

Having close relationship with NGOs that directly or indirectly works on human rights has importance to enhance the visibility of national institutions. NGOs can assist national institutions by disseminating information on their existence and function; particularly in remote areas.²⁶³ However, due to the present Ethiopian NGO proclamation, which hinders the establishment of NGOs, Ethiopian national institutions have very loose communication with NGOs.

To conclude, though it is impossible to say the whole public knew about the existence and function of these institutions, presently recognizable parts of the population are aware of these institutions. This can be proved looking at the amount of individual complaints received by these institutions per annum. For instance, Ethiopian Institute of Ombudsman entertains more than 2000 cases in one year.²⁶⁴ The number of complaint received by human rights commission is also growing from year to year. However, more has to be done with main emphasis on people from remote areas.

3.2.2 Physical accessibility of national human rights institutions

²⁶³ From the discussion under chapter two, it is one of the reasons that necessitate a strong communication between non-governmental organization and national human rights institutions. See Supra note 5, p. 14

²⁶⁴ Supra note 108, p. 3

In addition to distributing extensive information about national institutions and their functions, it is further essential to make sure their physical accessibility to the beneficiaries.²⁶⁵ Access to national institutions in geographically larger countries is very problematic. Practically, on the other hand, many national institutions' offices are located in major population areas.²⁶⁶ This has a great impact in obstructing the accessibility of national institutions to the people living in isolated part of the country.

To curb the above problem, NHRIs are recommended to open regional or local offices. The Paris principles clearly stipulated the importance of adopting similar scheme.²⁶⁷ These offices have vital importance to facilitate easy communication with “national institutions in larger countries, or a country where there is population living in remote and inaccessible locality, or where there is serious transportation difficulty”.²⁶⁸ In light of these points, decentralization has great significance to provide prompt and full range of service to the constituency.

In addition to alleviating the problem of inaccessibility, same offices can serve as communication channel between people in the regional part of a country with the main branches.²⁶⁹ However, effective cooperation between the different offices should primarily be ensured. The premises of national institutions should be installed in appropriate places to attract

²⁶⁵ Supra note 8, p. 13

²⁶⁶ Ibid

²⁶⁷ Supra note 67, Section C (e) “The Paris principles declared that, within the framework of its operation, national institutions shall establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its function.”

²⁶⁸ Supra note 62, p. 21: Any complaint should be made directly to national institutions without going to other organs of the government like the parliament. Further, the institutions should be free of charge to the complainants.

²⁶⁹ Supra note 8, p. 13

potential complainants. Amnesty International, for instance, suggests office of national institutions not to be located near military or police states.²⁷⁰

Geographical location of each office, including branch offices, should not be in areas difficult to access. In case of Ethiopia, for instance, previous office of human rights commission was somehow inaccessible as it was located at the extreme side of the capital city. Ethiopian NHRIs have the jurisdiction to entertain violations occurred in any regions of the country. Hence, physical accessibility is indispensable for the effective and smooth activities of these institutions. Cognizant of the same, the law clearly stated the need to have branch offices to be established in other places determined by the HPR.²⁷¹

Despite of the law, absence of branch offices is the critical problem faced by Ethiopian national institutions. In the 2010 report, ombudsman indicates that out of the 2115 individual complaints received; most of the complaints came from Addis Ababa and Oromia region.²⁷² This is because they have easy access due to their physical closeness to the institution. As a result, the institution cannot properly provide service to victims in other part of the country. Initially, head offices were not accessible due to their location. However, presently, they have a better geographical location.

²⁷⁰ Supra note 62, p.22 “This is because potential complaints might fear to bring their cases in fear of being notices and monitored by the security force or police officers. The same is true if these institutions are located in very up-marked areas as the poor and other disadvantaged groups feel uncomfortable to appear in these areas.”

²⁷¹ Supra note 74 and 80, Article 9

²⁷² Supra note 108, p. 3

Though the same problem is experienced by human rights commission, it tried to minimize the problem through the introduction of online complaints lodging system.²⁷³ The strategy, however, cannot bring adequate success for different reasons. For one thing, most of the people living in remote areas are not literate; and most of the literate groups do not have enough knowledge on how to access internet. Furthermore, Ethiopia has internet service in limited part of the country apart from having a very weak connection. Presence of these predicaments challenges the success of the system designed by the institution.

In addition, both institutions started to do some preliminary task necessary for the establishment of branch offices. Similarly, study has been made in different regions of the country to determine readily accessible location for offices and to get other necessary related information.²⁷⁴ Nonetheless, prior approval of the House is necessary before the inauguration of any branch offices. Accordingly, Institute of Ombudsman submitted its study and proposal to the parliament in 2010 though the plan was for 2009.²⁷⁵ Human rights commission does not take any action following its study.

The Paris principles further declared that establishment of strong working group can be a solution to avert the problem of physical inaccessibility. Countries, as an alternative, can organize working groups that can perform works of local or regional offices. In such a way, national institutions can give speedy answer to victim's problems. This system is applicable by the parliamentary ombudsman of Sweden. Absence of regional offices is not a challenge in the

²⁷³ Supra note 91, p. 11: They designed the website for victims to make bring online allegations in case they are not in a position to appear before the institutions in addition to the purpose of publicizing whatsoever information about the institution.

²⁷⁴ Ibid, p. 11 and Supra note 108, p. 13

²⁷⁵ Supra note 103

work of Sweden ombudsman as they can easily communicate with the larger society through its working groups.²⁷⁶ This practice, nonetheless, is not common in Ethiopia.

3.3 Operational Inefficiency

National institutions must ensure its operational system is as efficient as possible. Operational efficiency is inevitable for national institutions to achieve a goal they are established for. It refers to all aspect of an institution's procedures essential to enforce regular programs.²⁷⁷ The gist of operational efficiency is very broad; however, it has an inextricable link with the availability of adequate funding and sufficient human resources.

Hence, operational inefficiency may arise when the institution is "understaffed and under-resourced but overburdened."²⁷⁸

An institution, which is inefficient, will lose its external credibility as it will spoil peoples' perception of the institution as effective and independent. The issue of adequate funding has been explained in detail in the independent section. To put it in short words, funding should be guaranteed in law to assure compliance to Paris principles and effectiveness. Further, national institutions should have their own premises, which is accessible to the constituency and its staffs. Lack of same will highly jeopardize the efficiency and effectiveness of national institutions.

²⁷⁶ **Statement of Compliance With the Paris Principles of the Swedish Ombudsman Against Ethnic Discrimination**, November 2008, Available at: <http://www.nhri.net/2009/Sweden%20Summary%20-%20FINAL.pdf>, September 30, 2010, 10:30pm

²⁷⁷ Supra note 8, p. 15

²⁷⁸ Ibid "Institution's procedure includes from the recruitment and selection of personnel to the development of working methods and rules of procedures."

Observing the situation in Ethiopia, originally, Ethiopian national human rights institutions were located in an area difficult to be accessed by victims. Further, it was difficult for staff members to discharge their responsibility properly. However, offices of these institutions, albeit they do not owe it, are situated in a better building.²⁷⁹ The matter of inefficiency also relates with the number of staff members. It is compulsory for national institutions to hire sufficient personnel for the proper performance of their function. At this point, the personal capacity and efficiency of personnel is very crucial. Hence, national institutions should have the power to hire their own staffs taking into consideration basic function of the institutions and personal qualification of potential candidates.²⁸⁰

However, the critical problem faced by Ethiopian NHRIs is lack of sufficient professionals to properly and effectively discharge their duties. For instance, albeit the task of monitoring is the main role of Ethiopian NHRIs, it is an area almost much work has not been done due to lack of professionals.²⁸¹ The major reason for absence of sufficient relevant staff members is lack of financial resources. In developed countries, like Sweden, fund is not key problem. However, in developing countries like Ethiopia, where national institutions are highly dependent on government funds, it is a basic challenge. Of course, absence of regional or local offices also has a great contribution to aggravate the problem.

²⁷⁹ The Institute of Ombudsman locates its office in a private building where as human rights commission sets its office in one of the government buildings. The government does not construct a separate building to serve as an office for these institutions.

²⁸⁰ Supra note 8, p. 16 “Basic function of the institution can serve as a fundamental guideline to develop detail job description. The description together with personal qualification result a foundation for candidate profile.”

²⁸¹ Supra note 136

It is unlikely that national institutions function with “excess staff and funds; however, they should look for alternative solutions in case scarcity” is faced.²⁸² Hence, Ethiopian NHRIs implement the method of hiring temporary staffs to alleviate the problem of staff shortage that expose the institutions to inefficiency.²⁸³ They also hire employee who are recruited through UNDP.²⁸⁴ The strategy of hiring temporary employees to tackle staff inefficiency might not be an effective solution as the independency of these staffs is highly vulnerable to abuse.

National institutions should also highly rely on continuous training for its staff to ensure efficiency.²⁸⁵ As national institutions are strongly engaged with the promotion and protection of human rights, the training should involve developing staff’s knowledge relating to domestic and international human rights instruments.²⁸⁶ Organizing a forum to exchange experience with other is also a great mechanism to attain acceptable level of staff knowledge.

Lack of experience and executive capacity is the major problem of Ethiopian NHRIs. Hence, they are highly concentrated in building the personal quality of their staffs via the application of different methods. The first one is organizing exchange forums with well experienced national institutions of different countries. For instance, ombudsman participated in experience sharing symposium with Netherland.²⁸⁷ It mostly related with the techniques on how to effectively discharge the roles of national institutions particularly the task of monitoring.

²⁸² Supra note 8, p. 15

²⁸³ Supra note 103 and 136

²⁸⁴ Supra note 91, p. 7

²⁸⁵ Supra note 5, p. 16 “Continuous training should be direct both to the new and existed personnel.”

²⁸⁶ Ibid “An institution involved in training and educational activities itself may seek to train its staff in drafting programs, selecting experts and conducting seminars. For instance, the efficient investigation on human rights violation requires staff trained in special investigation. ” Staff inexperience is critical problem of Ethiopian national institutions, which is a bottle neck for their efficient and effective functioning.

²⁸⁷ Supra note 103

They further participate on national and international meetings relating national institutions and the issue of human rights. Ethiopian human rights commission, for example, was able to take part in the 23rd meeting of international Coordination Committee for National Human Rights Institutions, hosted in Geneva in 2010.²⁸⁸ On the other hand, Institute of Ombudsman sent its members to participate on the 3rd African Ombudsman Meeting in 2010; and selected as member of African Ombudsmen Executive Committee and East Africa Ombudsman Coordinating Committee.²⁸⁹

These institutions took different national and international trainings relating to human rights issue and the task of monitoring.²⁹⁰ In addition to short term training, the institutions designed a system for their staff members to get an education on specific areas and assist them promote level of their knowledge. Similarly, ombudsman gave access for its four lawyers to get Master education in the University of South Africa and other six lawyers in Saint Marry University College.²⁹¹

National institutions, as well, should come up with their own internal rules and procedures to perform its work consistently and efficiently.²⁹² Such rules might govern various issues such as

²⁸⁸ Supra note 91, p. 15 “Additionally, it also take part in the 39th session of African Human Rights and Peoples Commission, 13th session of Human Rights council, and different meetings of Network of African National Human Rights Institutions. ”

²⁸⁹ Supra note 108, p. 10

²⁹⁰ Supra note 91, p. 17 “A 25 days training on children’s right host by Lund University in Sweden, 3 weeks training on human rights and gender equality in Sweden, Investigation training in Canada, training on treaty reporting in Netherland.”

²⁹¹ Supra note 108, p. 11 “It additionally gave computer lesson for 47 of its members for 4 months and 5 days training on strategic planning and management for the purpose of designing a five years institutional plan. ”

²⁹² Supra note 8, p. 15

procedures followed while investigation, fixed period of time for staff meetings.²⁹³ Next to adoption, adherence to this rules and procedures has the potential to maximize institutional efficiency so long as they are free from personal interest and unnecessary bureaucracy.²⁹⁴

Cognizant of the above, Ethiopian NHRIs adopted rules and procedures necessary to achieve their objectives. However, the rules and procedures are confined to limited areas to be considered as efficiency assurance. They adopted rules and procedures relating to compliant handling and investigation.²⁹⁵ This might help to give effective, speedy and quality remedies to victims. The human rights commission, additionally, has rules on the selection and recruitment of personnel, and their duties.²⁹⁶

In addition to developing the capacity of personnel, national institutions should devote their time to fully and strongly equip their office with equipments necessary to carry out their works effectively. This is one of the major problems faced by Ethiopia national institutions. This usually relates with absence of adequate financial sources particularly in Ethiopia where national institutions are highly dependent solely on government funds. Shortage of computers and other electronic materials and limited vehicles are main challenges.²⁹⁷

Though, these institutions are doing a lot to curb the problem of personnel inexperience that has a direct connotation on their efficiency, the problem is still persistent as it cannot address all staff members due to financial shortage. Lack of adequate profession also another problem resulted

²⁹³ Ibid

²⁹⁴ Ibid, p. 16

²⁹⁵ Supra note 156, p. 14: Institute of Ombudsman has prepared manual on rules and procedures of complaint handling using a fund from World Bank.

²⁹⁶ Supra note 91, pp 9-10

²⁹⁷ Ibid, p. 8: The institutions bought, albeit inadequate, office chairs, tables, computers, laptops and other electronic materials like camera, scanner LCD projector, and photocopy. Most of the vehicles are old that they cannot be used for field work.

from the same reason that needs high concern. More potential should be exerted to come up with rules and procedures in additional areas.

3.4 Accountability and Publicity

National human rights institutions have both formal accountability and public accountability.²⁹⁸

The first layer of accountability requires national institutions to submit annual report to the authority that appoints them, usually the parliament. This creates an opportunity for the parliament to scrutinize the performance of these institutions and give recommendation for the correction of mistakes, if any. Hence, the parliament should allocate sufficient time to review the reports. Further, it promotes the transparency of national institutions at times of discharging their responsibilities.

Public accountability requires the accountability of NHRIs to the public at large. To this effect, the reports made by these institutions should be made available to the whole community. Publicity is the best means to guarantee popular accountability, which is also acknowledged under the Paris principles.²⁹⁹ Media and press are used to publicize the works of national institutions and promote accountability of the institutions to the public.

Publicizing the opinion and recommendation of national institutions following an investigation, for instance, can maximize transparency and ascertains the independence of these institutions to the general public.

²⁹⁸ Supra note 3, p. 937

²⁹⁹ Supra note 67, Section C (c) "Within the framework of its operation, the national institutions shall address public opinion directly or through any press organ, particularly in order to publicize its opinions and recommendations. "

It has additional purpose of creating “public shame” on the organ at fault and put pressure to correct its mistakes.³⁰⁰ According to Amnesty International recommendation, “national institutions should be empowered to publicize their material at any time.”³⁰¹ Therefore, access to different broadcasting organs, like media and newspaper, is vital.³⁰² However, national institutions should be careful while selecting the kind of media they use to reach ears of the large community. The illiteracy of the people and the remoteness of their location should be taken as criteria during the selection process. Radio and television are the best means to promote knowledge of illiterate part of the population. In other instance, they can use newspapers, but it must be one that has wide circulation.

National institutions should be careful, albeit transparency and accountability is very crucial, not to publicize sensitive details that might put complaints, their families and human rights defenders into danger.³⁰³ Nonetheless, national institutions cannot use confidentiality defense to hide evidence on human rights violation in every circumstances. Compliance with Paris principles, Ethiopian law incorporated the need for NHRIs to have transparent and accountable operational method.³⁰⁴

³⁰⁰ Supra note 160, p. 14

³⁰¹ Supra note 64, p. 21”In some places national institutions are expected to submit their report to the parliament before they are empowered to publicize it. Frequently, parliamentary time is not available to this purpose that national institutions are effectively silenced.”

³⁰² Ibid, p. 20: It has a fundamental use “to publicize the work of national institutions to the general public and create awareness about the service they deliver; it serves as a medium for discussion of human rights; and it assists to enhance knowledge of the whole population about promotion and protection of human rights.”

³⁰³ Ibid, p. 21

³⁰⁴ Supra note 74 and 80, Article 39 (2)

Hence, national institutions in Ethiopia are expected to submit annual report to the parliament. In the parliamentary country, where the majority seat is occupied by a leading party, it is difficult to separate national institutions from political influences. Long story short, accountability of Ethiopian national institutions to the parliament challenges their independence. It is impossible to talk of true accountability and independence until the system allows different parties to have recognizable seats.

Additionally, national institutions must publicize their report and works to ensure popular accountability. Accordingly, the institutions use different media, usually television, radio and newspapers. Ethiopian national institutions have submitted annual reports to the parliament for the last five years. However, none of these reports have been publicized till this time. The Institute of Ombudsman keeps the reports in its library and human rights commission keeps it with the commissioner. Both have stringent procedure for an ordinary person to have easy access to them.

Apart from the above facts, for instance Institute of Ombudsman, tried to publicize its best practices using brochures and fliers.³⁰⁵ Though the attempt of this institution cannot be neglected, it is difficult to conclude that the strategic applied is successful to achieve its goal. This is because, firstly, the number of fliers and brochures were very limited and did not have wide circulation to cover all part of the society. Secondly, Ethiopia has different languages but the publication is usually made using one language only. National institutions only focus on using specific languages. Lastly, the means did not take into consideration illiterate group of the population.

³⁰⁵ Supra note 103

Ethiopian NHRIs are further empowered to use media for the purpose of creating public shame and pressurize accused organs to correct their mistakes. However, such is not practices by these institutions till now. Ethiopian national institutions are also expected to give official report as it may be necessary.³⁰⁶ The phrase “as may be necessary” might be used as a justification to hide evidence on human rights violation when there is high pressure from the government. Despite of the law, Ethiopian NHRIs do not engage in such task till the present time.

Ethiopian human rights commission, however, is under preparation to make official report on human rights condition in Ethiopia.³⁰⁷ The official report reasonably assumed to be of a great help for the institution to exercise its power and discharge its responsibility effectively.

Danger to national security of a state, well-being of individuals, and people lives are the limitation on the need of publicity.³⁰⁸ Though transparency is necessary, Ethiopian national institutions are not allowed to exercise such under the expense of confidentiality. However, care has to be taken not to use confidentiality to conceal information on all human rights violation. Unfortunately, since publicity is not common practice of Ethiopia NHRIs, confidentiality is not a critical problem.

³⁰⁶ Supra note 74 and 80, Article 39 (1)

³⁰⁷ Supra note 91, p. 50

³⁰⁸ Supra note 74 and 80, Article 39 (3): “Ombudsman and human rights commission have the duty to exercise caution in respect of matters to be kept in secret, with a view not to endangering national security and well-being or to protecting individual lives.”

Conclusion and Recommendations

The concept of human rights is a burning issue throughout the world. Many governmental, intergovernmental and non-governmental organizations touch the matter. Similarly, NHRIs are developed primarily to promote and protect human rights at a domestic level. Though many tried to define NHRIs, there is no uniformly accepted definition. However, an institution to be considered as NHRIs should be established either by the constitution or legislative act; it should be independent from the government; it should be established domestically to deal with the promotion and protection of human rights.

There are four types of NHRIs. These are: Institute of Ombudsman, human rights commission, specialized human rights institution, hybrid national institution (human rights ombudsman). Countries use different approach while establishing NHRIs. The first approach is single approach where one type of national institution is established. This approach puts a lot of burden on the institution that creates delay in work. The second is dual approach. This approach enables states to establish both ombudsman and human rights commission. Multi-organ approach is the third strategy where various ombudsman and human rights commission are set up in distinct specialized areas. It is a better approach as it involves many specialized professionals.

International development of NHRIs goes back to 1946 where ECOSO recommends member states to consider the establishment of local human rights committee to further the work of Commission for Human Rights. After a lot of effort, the first international guidelines on the structure and functions of NHRIs were adopted in 1978. However, the guidelines were

incomplete for different reasons which necessitate the adoption of Paris principles in 1991. Subsequently, the concept of NHRIs spread and deeply penetrated at regional level. In Africa, for instance, national institutions acquired observer status within human rights commission.

The concept of NHRIs was not to the attention of Ethiopia before 1991. There was once an attempt to establish ombudsman in the 1974 draft constitution, but it ends up in vain. However, the 1995 FDRE constitution successfully lay down a land mark for the foundation of NHRIs. It gives power for HPR to establish the institutions using legislative acts. Accordingly, HPR adopted proclamation no. 210/2000 and 211/2000 for the establishment of human rights commission and ombudsman respectively. These institutions are accountable directly to the parliament.

The Paris principles acknowledged the importance of national institutions to have cooperation with different international organizations, governmental and non-governmental organizations, as between themselves either domestically or with other countries for the successful accomplishment of their goal. The same concept is also incorporated under Ethiopian law. Accordingly, they have communication with different governmental entities, international organizations and national institutions with other countries. Similarly, they had good relation with human rights NGOs, but such relation is terminated due to the restrictive law on human rights NGOs.

The main concern of Paris principles is the mandate and independence of NHRIs; arguably, it includes Institute of Ombudsman. Mandate refers to the legal basis and range of responsibility.

The principles clearly put that “mandate as broad as possible” should be accorded to these institutions. Hence, the legal basis of national institutions should comprise the whole international human rights instruments. Ethiopian law, however, limited the mandate of NHRIs only to constitutionally guaranteed rights and ratified human rights instruments. Moreover, the institutions do not give much attention to the protection of ESCR.

The principles further granted different responsibilities to human rights instruments, for example, awareness creation, quasi-judicial function, advisory role, monitoring and legislative review. The same range of responsibility is give to Ethiopian NHRIs. The adoption of human rights laws is not sufficient to guarantee its protection. National institutions should highly work on the promotion of human rights through awareness creation. Ethiopian NHRIs apply different mechanism to increase people familiarity about human rights matter.

Accordingly, they can prepare promotional events in a form of competition (for example moot court), lecture, exhibitions, and celebration of human rights day. The can also collect information on human rights and disseminate it to the large public. Such information might also be about the institution and its function. To this effect, they should closely work with media and press. The problem of Ethiopian NHRIs is they use only limited languages when it is a multi-linguistic country. Educating sections of a society that have link with human rights like executive organs, judiciary, legislative organs, and school officials is necessary.

In addition to promotional task, national institutions devote their time on the protection of human rights. Monitoring is one of the mechanisms applied by them to attain their objectives. In this

role, national institutions should control the compliance of laws with human rights instruments- in Ethiopia- the constitutionally guaranteed rights and ratified human rights instruments. They also have the duty to supervise the proper implementation of these laws. Though, it is one of the important task of Ethiopian NHRIs, less work has been done on the area due to lack of professionals and high affiliation of appointees with the government.

High reliance on government fund also impedes these institutions from criticizing the wrongful act of government officials. Compliant handling and investigation is the other role given to NHRIs under the Paris principles. Courts are negligent, in addition to their stringent procedural requirement, regarding the protection of human rights. Hence, the quasi-judicial role of national institutions enables them to make investigation on human rights issues upon individual complaints or up their own initiation. Ethiopia law tried to facilitate easy road for individuals to lodge complaint by allowing third party complaint and anonymous complaint free of charges.

However, they face challenges that affect their effectiveness during investigation. Prior to decision, they examine witnesses and necessary documents. To this effect, the law put the obligation, on any person, to cooperate with national institutions. Practically observation, however, depicts that many entities are not willing to provide the requested information. This is a problem faced by many NHRIs like India human rights commission. Lack of period of limitation for lodging a complaint is the other problem. As a result, these institutions cannot give prompt solution due to the disappearance of witnesses and evidentiary documents.

Investigation power of national institutions is confined to some jurisdictions. Similarly, Ethiopian NHRIs cannot investigate cases pending before a court, decision of the parliament,

decision of the security force and defense force. However, Ombudsman can entertain administration matters within the court, defense force and security force. Nonetheless, the overlapping of jurisdiction between Ethiopian human rights commission and ombudsman is the other challenge. Due to the law failure to clearly separate their jurisdiction, many people institute a case before both institutions.

The law, however, provided solution to this problem. Accordingly, the institutions should try to settle the issue through negotiation, in default; the institution which received the complaint first will have investigation power. National institutions further have the responsibility to ensure harmonization of national legislation with international human rights instruments and its effective implementation. Though legislation review is primary task of government, the Paris principles accorded the same duty to national institutions to assist the government. National institutions review legislation upon their own initiation or using other complaint.

To make legislation review, up on their initiation, national institutions should carry the task of research. Ethiopian NHRIs, accordingly, made a lot of research in collaboration with higher institutions. This helps them to identify the inadequate part of a law. The role of legislative review should cover existed laws, draft laws and assisting government while drafting a law. Looking at Ethiopian law, however, discloses that national institutions are allowed to review existed laws and propose the formulation of new laws and policies. They cannot review draft legislation, which is easy to amend, or cannot take part during the drafting of new legislations.

National institutions play the role of advising the government. Ethiopian human rights commission, for instance, advised the government on women rights, children rights and rights of disabled people. Moreover, they also have the power to give recommendation following monitoring, investigation or legislative review. However, many entities are not ready to correct their mistake based on the recommendation given by these institutions. In this instance, national institutions can use different strategies to pressurized the concerned entity and ensure compliance to the recommendation.

Accordingly, they can use public shame, special report to the parliament and criminal proceeding respectively. The first two have never been practiced by Ethiopian NHRIs. These days, however, they started to bring a legal proceeding against entities who failed to comply with their recommendation. Additional roles are also played by Ethiopian national institutions in compliance with the Paris principles. Human right commission, particularly, participate in different international meeting regarding human rights; it gives consultancy service to victims; it gives opinion as an input to the country report on human rights.

Though, all these roles are played by these institutions, there are core challenges faced by them- in addition the one mentioned in the above-that affects their effectiveness. The first one relates with the concept of independence. Ethiopian national institutions are autonomous bodies that have distinct legal personality. To this effect, they are established using legislative acts. They also need to have operational autonomy to decide on their internal affairs. Financial autonomy is the other means to secure independence of NHRIs. According to the Paris principles, the source

of fund for these bodies should be specified in the foundation legislation. The fund should be adequate to hire their staff, own independent premises and office equipment.

Government should not be the sole source of fund to national institutions. They should seek their fund from other sources like donors. Ethiopian law allows national institutions to draw their fund from government subsidy and other sources. Practically, however, they are highly dependent on government budget. Hence, they cannot criticize the government to the extent needed; it also puts their operational autonomy at stake. Though NGOs are high source of fund for NHRIs, their relation is interrupted due to the restrictive law on NGOs. Further, the requirement to deposit quarterly of the total fund within National bank enables government to put his hand even on monies derived from other donors.

Having a transparent and politically neutral appointment procedure is the other way to secure independence of NHRIs. In Ethiopia, the law clearly governs the appointment and dismissal procedure. However, practically, Ethiopian national institutions did not use open vacancy while hiring staff till recent time. They just recruit people of their interest through recommendation. Further, the nominating committee is composed of members highly affiliated to politics. Therefore, the appointees are not politically neutral. The Special Inquiry Tribunal in the process of dismissal is also not politically neutral, which facilitates arbitrary dismissal.

Accessibility is the other factor that contributes to the effective functioning of NHRIs. This issue should be seen from two angles- awareness of people about the institution and physical accessibility. National institutions should use media and press to enhance people familiarity with

the institutions. The same task has been carried out by Ethiopian NHRIs. Increasing number of cases from time to time reveals that the task is successful. Additionally, national institutions should be physically accessible to the broad community. To this effect, the Paris principles recommend the establishment of working groups, local or regional offices. Additionally, complaints should be made free of charge.

Lack of physical accessibility is the main problem in Ethiopia. Ethiopia is a large country where many people are living in a remote area. As a result, it is difficult to reach those isolated part of the society. Absence of cooperation with NGOs exacerbates the existed problem. Moreover, the head offices are facing the problem of operational inefficiency due to lack of professionals, adequate fund, and sufficient office equipment. The institutions prepare short and long term trainings and forum to exchange experience with other countries so that to successfully alleviate problem of inexperience and executive incapacity. However, what has been done so far is not enough that the problem is still persistent.

Adoption of internal rules and procedure helps to increase efficiency of NHRIs. Cognizant of this fact, Ethiopian national institutions came up with a rule on compliant handling and investigation; human rights commission additionally adopts rules on recruitment and on rights and duties of staffs. However, more rules should be enacted in different areas. Existence of accountability is also necessary for effectiveness of national institutions. NHRIs should be accountable to the government. Hence, they should submit annual report to the parliament to enable the latter scrutinize their performance.

Ethiopian national institutions are similarly accountable to the parliament that they submit reports to the parliament every year. Additionally, they should be accountable to the public. This enhances transparency and ascertains their independence to the public. For the purpose of popular accountability, national institutions are required to publicize their annual report and result of their investigation. Publicity, however, is not common in Ethiopia. Annual reports cannot be easily accessed by the public. The results of investigation are not disclosed to the people.

Institute of Ombudsman uses brochures to publish its best practice. However, the means used is not the best to reach the large community from the point of circulation capacity and language used. The law further grants a discretionary power to these institutions to prepare official reports. Despite of this, human rights commission is working to publicize report on the general human rights situation within the country. However, these institutions should not publicize information that puts the life of the victim or security of the state at stake. However, this should not be used as a shield to cover all evidence on human rights violation.

After closely examining the critical problems faced by Ethiopian national human rights institutions, the writer recommends the following solutions to alleviate the challenges and ensure compliance with the Paris principles.

-The founding legislation of Ethiopian NHRIs should be amended regarding the following points:

- National institutions should be given a broad legal basis that includes those human rights instruments not ratified by Ethiopia. Further, they should devote equal time to the promotion and protection of ESCR
- The jurisdiction of human rights commission and Institute of Ombudsman should clearly separate to avoid overlapping.
- They should be given the power of intervention or act as amicus curie on human rights issue before the court
- NHRIs should be given power to review draft legislation and assist government in drafting new laws.
- Period of limitation for bringing complaint should be set
- Guarantee provision for members of nominating committee and Special Inquiry Tribunal to be politically neutral should be included. The requirement of pluralism should be recognized by the law
- NHRIs appointees and other staff should be given privilege to ensure independency
- Preparation of official reports should not be discretionary unless it is against confidentiality principle
- Provision that guarantees non-interference of government on NHRIs budget must be included

-NHRIs should develop more rules and procedure in other areas in addition to compliant handling and staff recruitment to enhance efficiency; and they should strictly abide by the rules.

-The government should amend the restrictive law on NGOs establishment cognizant of their great role for the success of NHRIs.

-The practice of Ethiopian NHRIs should give high emphasis on the following points:

- National institutions should accommodate as many languages as possible while carrying their promotional task and public accountability.
- NHRIs should start to use public shame and submission of special report to the parliament to pressurize compliance of entities to their decision. In the meantime, they should work hard to increase quality of their work.
- NHRIs should devote much time and attention to effectively discharge the task of monitoring; and government should not intervene on their work.
- Regional or local office should be established. The use of working groups should be developed in the institutions.
- They should increase their public accountability and transparency by publicizing their work to the public using proper means.
- They should work hard to drive funds from other sources and avoid unnecessary reliance on the government. This helps them to equip themselves with better professionals and office equipments. More trainings and exchange forums should be organized to avert lack of experience and executive incapacity.

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