

# **MY EXPERIENCE IN DRIVING THE MANDATE OF THE NATIONAL HUMAN RIGHTS COMMISSION OF NIGERIA AND THE CHALLENGES OF NHRI'S IN THE AFRICAN SUB REGION**

**By**

**MRS K.F.AJONI**

*Presented at the Conference for Commonwealth National Human Rights Institutions, Marlborough House, London, 26-28 Feb 2007.*

## **THE MANDATE**

**The mandate of the NHRC is set out under its functions in section 5 of the enabling Act**

The mandate of the Commission is very wide and gives the Commission the room to assume jurisdiction over a large number of issues. It gives the Commission the flexibility it requires to protect and promote human rights in the country.

## **FUNCTIONS**

- a) From the foregoing, it can be seen that the Commission's mandate can be achieved through promotional, protectional and advisory, activities. These activities are best carried out jointly with other stakeholders though some of them can be carried out by the Commission alone.

## **THE GOVERNING COUNCIL**

Section 2(1) and (2) of the Act provides for a Governing Council "which shall be responsible for the discharge of the functions of the Commission". The Governing Council consist of a Chairman who must be a retired justice of the Supreme Court of Nigeria or the Court of Appeal or a retired judge of the High Court of a State, and 15 other members made up of the following:

- a) a representative each of the following Federal Ministries, i.e.:
  - i) Justice;
  - ii) Foreign Affairs;
  - iii) Internal Affairs;

- b) three representatives of registered human rights organizations in Nigeria;
- c) two legal practitioners who shall not have less than 10 years post qualification experience;
- d) three representatives of the media, at least, two of who shall be from the private sector;
- e) three other persons to represent a variety of interests; and
- f) the Executive Secretary of the Commission, who is the Chief Executive of the Commission, implements the decisions of the Council and oversees the day-to-day administration of the Commission.

Experience from the pluralistic nature of the governing council shows that it is a major strength of the Commission and provides a pool of human resource to drive the various aspects of the mandate of the Commission.

### **ZONAL OFFICES**

In order to extend the reach of the Commission, the Governing Council opened zonal offices in the six geo-political zones of the country namely:

		<i><u>Headquarters</u></i>
1)	South-West zonal office -	Lagos
2)	South-East zonal office -	Enugu
3)	South-South zonal office -	Port-Harcourt
4)	North-West zonal office -	Kano
5)	North-East zonal office -	Maiduguri
6)	North Central zonal office -	Jos.

The establishment of zonal offices has helped the Commission to reach the rural communities. Complaints on human rights violations received from the rural communities increased tremendously after the establishment of zonal offices. As a result of the reach achieved through the establishment of zonal offices, the Commission will in the near future establish state offices and local government offices as soon as its funding improves.

### **COMPLAINT PROCEDURE**

As I stated above, the establishment of the zonal offices was aimed at reaching out to the grass root so that victims of human rights violation did not have to come to Abuja head office before their complaints are treated. The complaints procedure of the Commission allows any of the following to lodge a complaint before the Commission:

- a) any person acting on his/her own behalf;
- b) any person acting on behalf of another who cannot act in his/her own name;
- c) any person acting as a member of or in the interest of a group or a class of persons; and
- d) an association acting in the interest of its members.

All complaints submitted to the Commission must be in writing addressed to the Executive Secretary sent either directly to the Commission's headquarters, No 19 Aguiyi Ironsi Street, Maitama, P. M. B. 444, Garki – Abuja, or sent through a zonal office of the Commission. The Executive Secretary or a designated staff of the Commission or any other person chosen by a complainant can write on behalf of any person who is unable to do so by himself/herself. Any complaint to the Commission must contain the full name and address of the complainant and/or the person on whose behalf the complaint is being made, the nature of the injustice, violation or harm the complainant or the alleged victim has suffered and the relief being sought by the complainant.

The Commission will reject complaints when their contents do not fall within its jurisdiction as provided by its law; or when the complaint is unwarranted, unfounded, based on hearsay or rumour; or when the language of expression is couched in an abusive, insulting or disparaging manner or when the subject matter of the complaint, is already before a court of law or any other statutory body or where the complainant is anonymous. It is however, important to note that the Commission can on its own take cognizance of human rights violations and investigate same without and before waiting for any person to lodge a complaint.

Where the Commission's Council is satisfied that the complaint is admissible, it will order an investigation by the Commission's department of investigation or by a Council member. The Commission may also request the police, NGOs, or any appropriate public institution to investigate a complaint and report to the Council. The complaints treatment mechanism of the Commission is aimed at affording as much accessibility as possible to complainants. This has achieved commendable result over the years but we think that we can do more to achieve accessibility. In this regard, the commission has redesigned its website and provided access to lodge complaints and get replies through the internet. This is still being test run and will become fully operational before the end of 2007.

The Commission has a viable and effective complaints mechanism for treating complaints on allegations of human rights violation. In the first five years (1996 – 2001), the Commission received a total number of 1,278 complaints while in the 2<sup>nd</sup> half (2001 - 2006), it received a total of 2,548 complaints. This shows that there has been an increase in the number of complaints received by the Commission over the equivalent period. The increase in complaints received in the past 5 year period may be attributable to the advent of democracy and increase in awareness drive and activities which has led to greater awareness on human rights issues. The data represented in the table below captures the statistical details of the number of complaints received from inception of the Commission to the end of 2006, a ten year period.

From table "A" below, in 2004, a total number of 287 complaints were received, while in 2005, the number of complaints rose by 92% to 551. In the past 3 years, there has been a steady rise in the number of complaints received and treated by the Commission. The ability to process more complaints may be linked to increase in capacity building efforts, increased accessibility to the public and deployment of ICT to facilitate its work.

Table "B" on Treatment of complaints shows that in the ten-year period spanning 1996 – 2006, the total number of complaints received was 3,940. The total number of admissible complaints in this period was 2,868 while 1,072 complaints were inadmissible. Of the admissible complaints, 1,388 have been treated and concluded while 1,480 complaints are pending and are at various stages of investigation.

**TABLE "A": NATURE OF COMPLAINTS RECEIVED FROM 1996 – 2006.**

Year	Degrading Treatment by Law Enforcement Agencies (LEA)	Unlawful Arrest & Detention by LEA	Extra Judicial Killings	Disobedience Of Court Order	Delay in Hearing of Appeal\Lack of Fair-Hearing	Domestic Violence/ VAW	Child Abuse/Child Abandonment	Dismissal/Termination of Appointment	Non-Payment of Benefits & Entitlement	Communal Clashes	Environ-mental Issues	Appeal for Prerogative of Mercy	Land & Landed Properties	International Complaints	Threat to Life	Others	Total
1996	3	12	-	2	3	-	-	7	2	-	2	3	-	2	-	5	41
1997	20	30	6	3	8	-	-	18	6	-	3	9	-	-	-	11	114
1998	39	47	6	7	18	4	-	53	15	-	6	9	-	3	-	14	221
1999	24	42	8	14	2	3	1	176	24	1	-	5	14	2	-	27	343
2000	53	82	17	13	8	9	10	224	61	4	8	8	-	-	-	62	559
2001	68	71	20	15	4	11	16	195	66	6	3	8	26	-	-	48	557
2002	20	62	11	10	2	11	20	81	64	2	16	10	19	2	82	9	421
2003	25	51	6	4	7	32	3	89	56	2	5	11	27	-	48	66	432
2004	26	43	5	3	2	32	15	43	61	-	-	4	4	-	21	28	287
2005	42	102	13	4	10	58	30	73	76	-	1	2	11	1	35	93	551
2006	41	70	6	1	2	24	55	41	73	2	2	2	17	3	28	47	414
<b>Total</b>	<b>361</b>	<b>612</b>	<b>98</b>	<b>76</b>	<b>66</b>	<b>184</b>	<b>150</b>	<b>1000</b>	<b>504</b>	<b>17</b>	<b>46</b>	<b>71</b>	<b>118</b>	<b>13</b>	<b>214</b>	<b>410</b>	<b>3940</b>
<b>%</b>	<b>9.16</b>	<b>15.53</b>	<b>2.5</b>	<b>1.93</b>	<b>1.68</b>	<b>4.67</b>	<b>3.81</b>	<b>25.38</b>	<b>12.79</b>	<b>0.43</b>	<b>1.17</b>	<b>1.80</b>	<b>2.99</b>	<b>0.33</b>	<b>5.43</b>	<b>10.41</b>	<b>100.01</b>

TABLE "B "

**TREATMENT OF COMPLAINTS: 1996 - 2006**

<b>YEAR</b>	<b>TOTAL RECEIVED</b>	<b>ADMISSIBLE</b>	<b>INADMISSIBLE</b>	<b>CONCLUDED</b>	<b>PENDING</b>
1996	41	29	12	28	1
1997	114	85	29	73	12
1998	221	133	88	89	44
1999	343	135	208	100	35
2000	559	286	273	95	191
2001	557	377	180	143	234
2002	421	356	65	114	242
2003	432	388	44	122	266
2004	287	271	16	92	179
2005	551	476	75	319	157
2006	414	332	82	213	119
<b>TOTAL</b>	<b>3940</b>	<b>2868</b>	<b>1072</b>	<b>1388</b>	<b>1480</b>

**PRISON DECONGESTION**

The strength of the Commission lies in its capacity to advise the Federal Government on all issues of human rights. To this extent the Commission has undertaken extensive tours and inspection of prisons in Nigeria. Our recommendations and interest paved way for the Federal Government's interest in the prison. It set up committees to deal with the issue of decongestion of prisons and prison rehabilitation. Over 6,000 people were released from various prisons across the country and over ₦2 billion was expended on the rehabilitation of our prisons. The Governing Council of the Commission has also sent to Government its findings and recommendations on the protracted Niger-Delta issue. The efforts of the Commission also resulted in the Self-Accounting Status of the Nigerian Prisons presently. Presently the Commission's audit of the prisons in collaboration with the National working Group on Prison Reforms and Decongestion and the Open Society Initiative for West Africa has resulted in government adoption of massive reforms in the prison sector. It is also hoped that the Commission's ongoing audit of detention centers will make the Federal government to

embark on substantial reforms in the that sector which has suffered so much neglect with the resultant adverse effect on human rights.

### **THEMATIC AREAS OF FOCUS**

In furtherance of the attainment of its mandate, the Commission in the year 2000, drew up a Strategic Work Plan which spanned years 2000 – 2004. The plan had identified twelve main thematic areas of focus. To facilitate comprehensive work on these thematic areas, Special Rapporteurs, from among the Governing Council Members, were appointed for each theme. Desk Officers amongst the staff were also appointed on each thematic area to compliment and support the work of the Special Rapporteurs. In 2005, following the need to review the strategic workplan of the Commission, the thematic areas of focus were increased to fifteen.

### **AMENDMENT OF THE NATIONAL HUMAN RIGHTS COMMISSION ACT, 1995**

The Commission was established by a military regime in 1995. in order to enhance its independence and efficiency, some suggested amendments expected to strengthen the Commission in the discharge of its mandate have been articulated in a draft amendment bill now before the parliament. The bill introduces the following amendments:

- a) Granting the Commission power of access to all the information that it requires to deal with complaints of human rights violations;
- b) Power to issue subpoenas for the production of documents and to summon witnesses and parties before it.
- c) Funding of the Commission to be under the Consolidated Revenue Fund.
- d) Expressly empowering the Commission to resolve matters through arbitration, negotiation, mediation and litigation as a last resort;
- e) Making express provision for the Commission's independence and autonomy;
- f) Making it compulsory that inquiries or correspondence on human rights matters emanating from the Commission must be responded to within a stated time frame;
- g) Power to enforce decisions of the governing council on complaints/ cases treated;
- h) Entrenching the Commission in the Constitution.

### **CHALLENGES**

Realizing the mandate of the Commission has not been without some daunting problems mainly due to funding and in areas of investigation and treatment of complaints. A lot more would have been accomplished by the Commission if it has power to compel response to its enquiries compel attendance at public sittings and compel production of documents.

Staff of the Commission and Council members should also be conferred immunity from prosecution in the discharge of their functions. But this is being redressed through the proposed amendments to the Act, which is now before the National Assembly.

**FUNDING** has been a perennial problem. Support of development partners has been a major relief as government funding had proved very inadequate. Establishment of a human rights fund to be contributed to by all tiers of government and corporate concerns could provide a pool of funds for the human rights community to carry out their activities including the Commission. The issue of inadequate funding cuts across the sub-region as most of the human rights Commissions are faced with poor funding from the government.

**LEVEL OF EDUCATION** The low level of education is a major problem cutting across the entire African sub region. Someone can not claim his/her right unless the person is aware of those rights. It is difficult to preach the message of human rights to the ignorant and uneducated. This factor seems to account for the low level of awareness of human rights in the sub-region.

**POVERTY AS AN ISSUE.** Poverty is a human rights issue and low level of enjoyment of human rights results in poverty in the community. Poverty issue in the African continent is a direct evidence of unavailability of the basic rights of citizens. In societies where the basic rights are common place, poverty is not prevalent. National Institutions in the African region are faced with the burden of preaching the message of human rights to an ignorant and poor community. This has a negative impact on the level of success in human rights awareness creation.

### **SUPPORT FROM THE EXECUTIVE**

Under the Paris Principles, the executive arm of the government has the responsibility to set up national institutions. Most of the Governments in the subregion have strived to set up such institutions. However the issue of independence or full autonomy of these national institutions are still relative to the local environment because a model that can work in a given country may not work in another country. The experience in the subregion is that there is no uniformity of model in the establishment of national institutions. Most of the national institutions are not well funded by the government and mostly rely on support from development partners to execute their activities and programs. Government support merely comes in the form of payment of staff salaries and rent.

### **RELATIONSHIP WITH THE COURTS**

The National Human Rights Commission of Nigeria is not a substitute or rival to law courts in Nigeria. The Commission rather complements the activities of law courts in Nigeria. We operate a complaint treatment mechanism. The

mechanism is meant to complement the work of the courts, which primarily have the constitutional duty to enforce fundamental human rights. Our Commission makes a difference and targets the poor and downtrodden as well as the rich by offering services, which are free and inexpensive, non-technical, less time consuming and more accessible to the public. The Commission does not interfere when a matter is in court. Most of National Institutions in the region carry out a complementary role to that of courts. Some can register their decisions like court decisions making such decisions enforceable like court decisions. Most have merely persuasive authority and depend on goodwill to enforce their decisions.

### **RELATIONSHIP WITH THE PARLIAMENT**

Most of the NHRI'S do not send their reports to parliament but this should be the case. They simply send their report to the executive arm. However most of the parliaments are very supportive of the National Institutions especially in the area of improving their budget. There should be increased oversight of the parliament on the activities of National institutions so that their problems can be properly addressed by the parliament especially in the area of funding.

Thank you.

Mrs K. F. Ajoni  
Executive Secretary,  
NHRC, Nigeria.