



Commission On Human Rights And Administrative Justice Ghana

**Annual
Report
1998**

Annual Report 1998

Commission On Human Rights
And Administrative Justice Ghana



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Published by the Commission On Human Rights
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Foreword



COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE

*The Honorable Justice D. F. Annan
Speaker of the Parliament of the
Fourth Republic of Ghana,
Parliament House
Accra*

In accordance with the provisions of Article 218(g) of the 1992 Constitution and Section 7(1)(h) of the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456), I have the honour to present the fifth Annual Report of the Commission for the period of January 1, 1998 to December 31, 1998.

Yours Sincerely,

Emile Francis Short
Commissioner

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MISSION STATEMENT

The Commission on Human Rights and Administrative Justice (“the Commission”) exists to enhance good governance, democracy, peace and social development by promoting, protecting and enforcing fundamental human rights and freedoms and administrative justice as a means of advancing democracy and good governance in Ghana.

These objectives will be achieved by:

- Ensuring a culture of respect for the rights and obligations of all people in Ghana
- Dispensing and promoting justice in a free, informal and relatively expeditious manner
- Ensuring fairness, efficiency, transparency and application of best practices
- Using a well-trained and motivated workforce and the most modern technology.

In carrying out all these activities, the Commission will maintain its impartiality, independence and the plurality of its workforce, and collaborate with other governance institutions and civil society.

ORGANISATIONAL FRAMEWORK OF THE COMMISSION

The following flow charts illustrate the organizational framework of the Commission From the National to Regional and District levels.

Diagram A

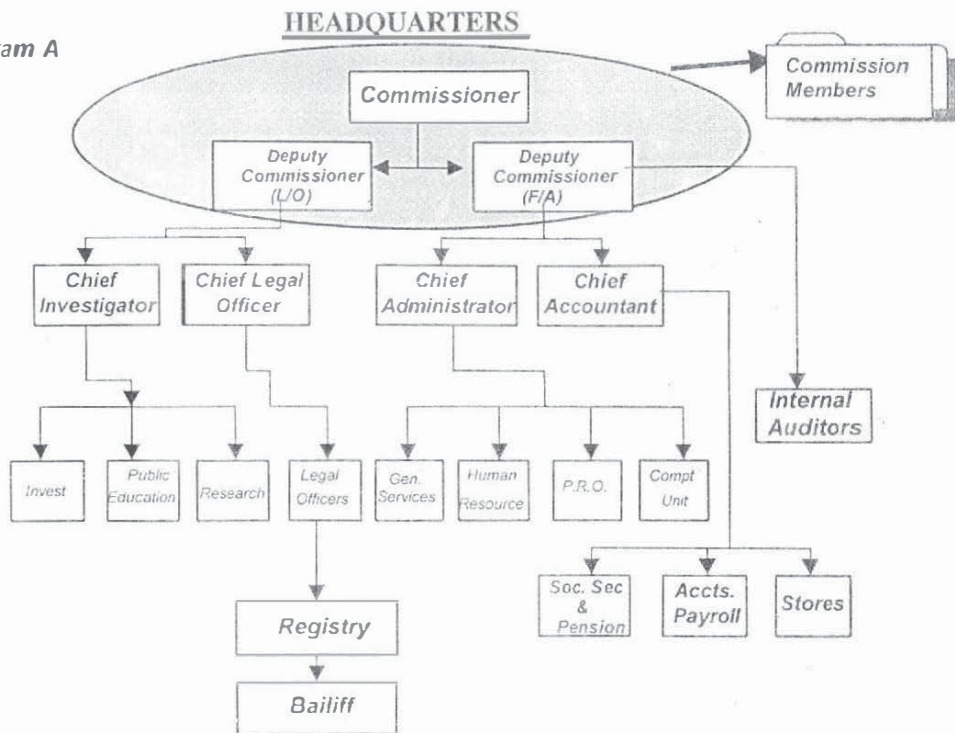


Diagram B

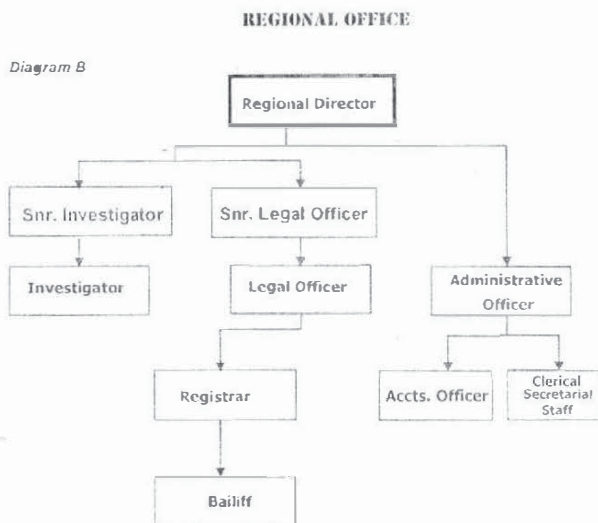
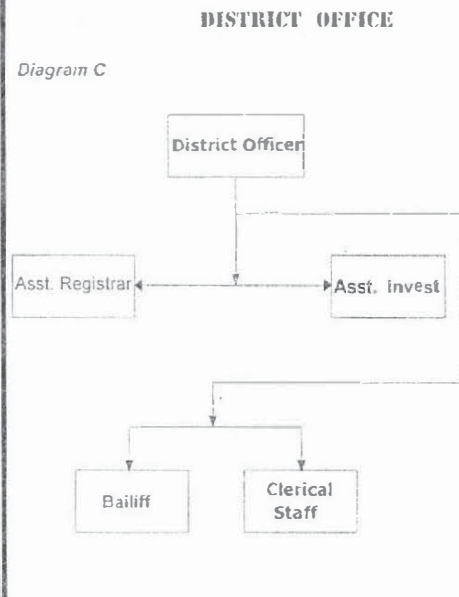


Diagram C



COMMISSIONER'S REMARKS

It is with great pleasure that I present the fifth annual report of the Commission. The year 1998 was filled with both opportunities and challenges, with time and financial constraints being the twin controlling factors for accomplishments and activities undertaken or achieved.

Another Busy Year

The year under review was a very busy and productive one. The Commission again received and processed a record number of complaints and did so without sacrificing the high quality of its services at the altar of numbers. The Commission received and investigated 5,459 complaints. In all, it disposed of 4,121 cases through mediation and adjudication.

Public Education

In accordance with Article 7(1)(g) of the *Commission on Human Rights and Administrative Justice Act (Act 456)* of 1993, the Commission organized several educational programmes across the country to educate the various sections of the public on fundamental human rights, freedoms and responsibilities.

The programmes also offered the public the opportunity to express their views on the Commission's performance and make suggestions and contributions for future development of programmes by the Commission. This gave the Commission the benefit public feedback and a chance to evaluate public perceptions of its performance.

Relying mostly on the support of its benefactors, the Commission organized a number of in-house training seminars aimed at improving its performance. It also staged many workshops and seminars for the public. The objectives of these educational activities were:

- to raise and deepen public understanding and acceptance of the role, functions and powers of the Commission; and
- to enhance societal appreciation of, and commitment to, fundamental human rights, freedoms and responsibilities under the 1992 Constitution of Ghana.

The Commission believes that human rights education is key to advancing good governance, democracy and development in Ghana. Accordingly, the Commission calls on Government and the donor community to invigorate their support for the Commission's educational efforts in order to broaden awareness of human rights values, norms and principles. We believe that investment in human rights education is

one of the surest ways of ensuring greater social justice, freedom, equality, justice and dignity for all.

Anti-Corruption Efforts

During the year under review, the Commission vigorously pursued its anti-corruption mandate through investigations and education. Notably, it collaborated with several key civil society partners and government to organize a National Integrity Workshop at the Accra International Conference Centre from October 21st to 22nd, 1998. A comprehensive account of this timely and important initiative appears later in this report.

Celebration of the 50th Anniversary of the Universal Declaration of Human Rights

In conjunction with the United Nations Information Centre (UNIC), the Commission organized a series of activities in December 1998 to commemorate the 50th anniversary of the *Universal Declaration of Human Rights* (UDHR). Among the activities were:

- i) A Justice Theatre dramatizing various human rights issues
- ii) Radio and television programmes designed to raise public awareness of the Declaration and human rights generally
- iii) A public forum on human rights
- iv) A Visual and Language Arts Project competition for primary, junior and senior secondary school students.

Several human rights NGOs participated in the programmes. A full account of the activities commemorating the anniversary appears later in this report.

Cooperation with NGOs

One of the most important constitutional and statutory mandates of the Commission is the obligation to enhance public awareness of fundamental human rights and freedoms. The year 1998 was also witnessed tremendous growth in fostering cooperation and collaboration between the Commission and human rights NGOs in pursuit of the human rights agenda.

The Commission embarked on a number of activities that underscored its recognition that it cannot, all alone, effectively discharge the responsibility of fostering a culture of human rights in Ghana. Our objective was to encourage the NGOs to vigorously contribute their quota in this area, to learn from them as appropriate, and to engineer networking among them. A summary of some of these timely and important initiatives appear later in this report.

Press Statements

Over the course of the year, the Commission also issued a number of press statements on several topical and compelling human rights issues.

Throughout the year, the Commission was deeply concerned about the continuing deterioration in relations between the police and the public. We convened a press conference in September at which we urged both sides to exercise circumspection and to demonstrate maturity and mutual respect for each other, in order to ensure a free, democratic and well-ordered society. We condemned the unjustified mass arrests and the use of deadly force by the police, which resulted in the deaths of several unarmed civilians in several parts of the country. The Commission also condemned civilian attacks on police and the gruesome killing of two police officers in Ablekuma, a suburb of Accra.

The Commission viewed these tendencies as a reflection of growing impunity and lawlessness in Ghanaian society, a situation that had to be urgently addressed by Government acting in concert with the Council of State, the Police, National Commission on Civic Education, National Media Commission, National House of Chiefs, civil society organizations and the Commission, among others.

Regrets

The Commission's salary and remuneration scheme continued to be uncompetitive relative to the prevailing regime at several cognate institutions in the country. As a result, it lost many capable and well-trained legal officers and other support staff to sister institutions with better salaries and incentive package.

Throughout the year, the Commission continued with the difficult task of securing better employment conditions for its staff in order to retain them. Indeed, maintaining high employee morale remained one of the Commission's most challenging preoccupations.

Funding and Donor Support

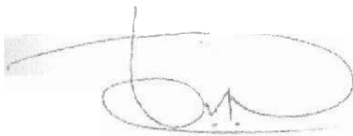
The Commission is funded from the Consolidated Fund based on a budget, which must be approved by Parliament. As emphasized in previous annual reports, financial and logistical support from the government is perennially insufficient. Yet, staffing remains incomplete. In addition, the Commission has an obligation to open branches in all 110 administrative districts in the country in order to meet its statutory obligation to assure public access to its services.

The Commission continued to face the challenge of doing more with less. Donor support continued to be a vital lifeline for initiating, sustaining and finalizing several educational and institutional capacity-building projects.

Once again, on behalf of the Commission, I wish to extend my heart-felt gratitude to our key benefactors, notably the Danish Embassy, the British High Commission, the US Embassy and the Konrad Adenauer Foundation. Funding from these donors served to strengthen the Commission's capacity to discharge its constitutional mandate. The funding enabled us to acquire equipment such as telephones, facsimile machines, computers and their accessories and photocopiers for our head office and some of our regional and district offices. They have resulted in improvements in our technical capacity to communicate more efficiently with our regional and district offices spread throughout the country.

The support also aided the Commission to achieve remarkable success in its operations, as the donations enabled the Commission to equip its investigators, administrative staff and legal officers with appropriate skills to make them more effective and efficient.

In closing, I wish to acknowledge and thank my Deputy Commissioners, Mr. Benjamin K. Oppong and Mrs. Angelina Mornah Domakyaareh for their dedication. I would also like to thank all the Departmental and Regional Directors and their staff for their commitment and loyalty without which we could not have accomplished so much. And I commend our local and international friends for their kind support and encouragement.

A handwritten signature in dark ink, appearing to read 'E. Short', with a large, sweeping flourish above the name.

EMILE FRANCIS SHORT
COMMISSIONER

SIGNIFICANT ACTIVITIES AND DEVELOPMENTS (Domestic)

Staffing Policy Framework and Developments

Section 10 of the Act 456 of 6th July 1993 establishing the Commission stipulates that:

- (1) The Commission shall establish in each Region and District of Ghana an office of the Commission.
- (2) The Commission shall appoint an officer to head each Regional or District office of the Commission.
- (3) The Commission may create such lower structures as would facilitate its operations.

The administrative structure and legal framework to facilitate the operations of the Commission include the Commissioner and two Deputy Commissioners who must qualify to be appointed as Justice of the Court of Appeal and High Court Judges respectively. The Commission members are supported by four Departmental Directors, who responsibility for the Legal, Investigations, Administration and Accounting departments.

The regional offices are headed by Regional Directors who are experienced lawyers, whilst university graduates, who are not necessarily lawyers, head the district offices.

As at December 31, 1998 the total staff strength of the Commission was 470, including the Commissioner and two Deputy Commissioners.

The Commission has offices in all the ten regional capitals of the country. It continues to open more district offices to reach out to a wider section of the population at the local level, in line with statutory obligation and the government's decentralization programme. In 1998, the Commission opened 25 new district offices, bringing the total number of district offices to 72, out of the required full compliment of 110.

During the year under review, the Commission filled the position of Chief Investigator, at the headquarters. Since assuming office, the Chief Investigator, who also serves as the Commission's Director of Public Education and Research, has contributed immensely to the development and implementation of innovative programs to educate the public about their fundamental human rights and responsibilities under the Fourth Republican Constitution and about the functions of the Commission generally.

The Public Education & Research Unit was given a new lease on life. Its enhanced educational drive has resulted in a wider societal appreciation and acceptance of human rights principles and values. A major preoccupation of the revitalized Public Education Unit is the development of effective communication and equity policies and strategic plans as well as documentation relating to human rights and administrative justice

issues. The Unit also assists the Administration Department in the preparation of the Commission's responses to communications received by Government from the United Nations Organization in fulfillment of Ghana's obligations under various international instruments.

Public Education

Articles 7(1)(g) and (h) of *Act 456* mandate the Commission to:

- (g) educate the public as to human rights and freedoms by such means as the Commissioner may decide, including publications, lectures and symposia; and
- (h) report annually to Parliament on the performance of its functions."

In line with the above, as well as Article 218(f) of the 1992 Constitution mandating the Commission to educate the public on fundamental human rights and freedoms, the Commission continued its public education drive throughout the 10 regions of Ghana.

The Commission also undertook community-based educational programmes, which took the form of town-hall meetings, workshops, radio call-in shows, lectures and seminars, to foster a culture of respect for fundamental human rights and freedoms in Ghana.

The broad objectives of the educational programmes were to:

- a. deepen public understanding of the functions of the Commission;
- b. enhance public awareness of human rights, freedoms and responsibilities as enshrined in the 1992 Constitution;
- c. offer the public the opportunity to express their views on the work of the Commission its functions and to make suggestions and contributions for future development of programmes by the Commission, and
- d. evaluate public perceptions of the Commission and its performance

The awareness-raising programmes focused, among other issues, on children's rights, violence against women, sexual harassment, teenage pregnancy, drug abuse, divorce, paternity, bail, dissolution of marriage and custody of children, etc.

The Commissioner and other members of staff frequently participated in radio and television programmes to discuss human rights issues and the Commission's work. They also spoke to religious groups at their places of worship, and to elementary, secondary and university students and workers about human rights, freedom and civic responsibilities, among other topics.

Regional Directors of the Commission and District Officers spoke at several public fora to educate the public and heighten people's awareness of their rights. Two key pilot

educational projects were undertaken and evaluated in the Northern and Volta Regions of the country.

Several of the Commission's educational programmes were evaluated by a random sample of participants. The purpose was to determine their appreciation of the programme goals and implementation strategies. To facilitate this, at the end of each forum questionnaires with qualitative and quantitative assessment components were distributed at random to some participants. This monitoring device, employed to assess the efficacy of the Commission's public education programmes, tested the public's perceptions of the Commission's role in protecting human rights and fostering a human rights culture in the country. The feedback was generally very positive and encouraging, while a few constructive criticisms and suggestions for improvement were received.

Seminar on the Role of Opinion Leaders in the Promotion of Human Rights

The Commission organized a three-day seminar in Kumasi from March 31 to April 2, 1998 to provide a forum for open debate on the role of traditional and religious leaders in the promotion of human rights. Sponsored by the United Nations Educational Scientific and the Cultural Organization (UNESCO), the seminar afforded opinion leaders the opportunity to address burning human rights issues facing the nation, particularly in respect of certain traditional customs and cultural practices which need to be reviewed.

The objective was to enlist the support and leadership of traditional authorities, notably chiefs and religious leaders, in eradicating traditional practices that are injurious to human dignity in the context of an evolving human rights culture in the country. It was widely attended by key opinion leaders and vanguards of tradition and culture throughout Ghana.

Creation of a National Integrity System

In collaboration with its coalition partners, the Commission laid the foundation for the establishment of a national integrity system at the first National Integrity Workshop held at the Accra International Conference Center from October 20-21, 1998. The workshop, which had as its theme "Towards a Collective Plan of Action for the Creation of a National Integrity System", was organized against the backdrop of increased public recognition of the huge developmental costs of corruption and the need to depoliticize anti-corruption efforts in the country in order to ensure their success.

The staging of the Integrity Workshop by the Commission and its partners reflected their conviction that building broad-based coalitions of individuals, civil society organizations and public institutions is an important strategy for success in combating corruption. Collaboration with key institutions such as the Executive Branch,

Parliament, the Judiciary, the Serious Fraud Office, the Attorney General's Department, the media and civil society organizations is a cornerstone of Commission's strategy towards effective fulfillment of its anti-corruption mandate.

Given the limited success of previous attempts to combat corruption based on legislation and prosecution, participants at the workshop favoured a national integrity system with primary emphasis on changing systems rather than blaming individuals. The national integrity system would highlight preventive aspects in order to make corruption a high-risk, low-gain undertaking.

This new approach to combating corruption would also focus on instituting legal and administrative reforms to limit the opportunities for corruption. It will further strengthen the enforcement of existing laws and incorporate a concerted and long-term public education campaign to enable the public to better appreciate the real costs of corruption and their obligation to support the anti-corruption drive by reporting and refraining from corrupt conduct.

The Commission's role in combating corruption derives from statutory and constitutional provisions. Notably, Article 218 of the Constitution mandates the Commission to promote public ethics and to investigate allegations and complaints of corruption and abuse of office among public servants.

Proposals for an Anti-Corruption Unit and Powers of Prosecution

Stakeholders at the National Integrity Workshop called for the establishment of an Anti-Corruption Unit (ACU) within the Commission to boost our institutional capacity to effectively and efficiently respond to the challenges of investigating corruption and educating the public about preventing and reporting this growing canker in Ghanaian society.

Workshop participants also agreed that contemporary efforts to combat corruption must ultimately include a bold review of Act 456 to give the Commission, as a specialized agency, the power to prosecute cases of corruption that it investigates, and for which it considers prosecution to be warranted. It is envisaged that this legislative reform would go in tandem with the establishment of an Anti-Corruption Unit within the Commission to professionally handle all corruption cases.

The Commission is poised to establish the ACU to further augment its capacity to investigate allegations of corruption throughout Ghana.

Roundtable Conference on the Treatment of Suspected Witches

During the year, the Commission received several credible reports that some women in parts of the Northern Region of Ghana were being subjected to degrading and inhuman treatment on the suspicion that they were witches. Primarily poor, old women, some of the suspects had been lynched to death, while the “lucky ones” had been banished from their homes and communities. Some found shelter at the Gambaga Witches Camp, which serves as a safe haven for banished “witches”. The Commission conducted investigations into the reports with a view to dealing with the problem.

On December 17, 1998, the Commission organized a Roundtable Conference on the plight of these women. The objectives of the conference, which took place in the Northern Regional capital, Tamale, were to:

1. Discuss the treatment of alleged or suspected witches in Northern Ghana;
2. Consider whether, and to what extent, the treatment of suspected witches violate any human rights of the suspects;
3. Devise appropriate strategies for preventing the violation of the fundamental human rights of persons suspected to be witches;
4. Consider the possibility of redressing the violation of the rights of suspected witches.
5. Explore mechanisms for the rehabilitation of the suspected witches ; and
6. Devise a comprehensive programme for enhancing public awareness about the rights of persons accused or suspected of witchcraft.

The consultations proved useful in containing the situation, reducing the incidence of attack, banishment and lynching of so-called witches, and in fostering respect for the rights of vulnerable members of our society. The conference mapped out a strategy for a sustained and comprehensive educational campaign to enhance public awareness of the rights of persons accused or suspected of witchcraft. Institutions and persons to be involved in the process of effecting changes in the ill-treatment of alleged witches were identified and encouraged to prevent assault, harassment, banishment and lynching to death of suspected witches.

Among the NGOs which participated in the roundtable discussions were FIDA, WILDAF and the Presbyterian Church, all of which were actively involved, to varying degrees, in the protection and promotion of the rights of these most vulnerable members of society.

Further plans are underway to secure the release of these women and to reintegrate them into mainstream society.

Public Relations

The Commission's annual reports provide the most extensive information for the Parliament of Ghana and the public. Annual reports also serve the function of accountability although, by their very nature, they often tend to be prepared and submitted well after the reporting year.

To overcome this time lag problem in reporting, the Commission, throughout the year, published in the print and electronic media various aspects of its work including some of its important decisions for the benefit of the general public. The co-operation of the media was extremely important in the Commission's effort to promote human rights and administrative justice, and to inform the public about its activities.

The Commission also held a number of press conferences and issued press statements on a variety of topical issues throughout the year, addressing public concerns on such disturbing matters as violence against women and deteriorating police-community relations. The Commission consulted widely in the search for solutions to these perennial forms and sources of pervasive human rights violations.

INTERNATIONAL ACTIVITIES (Seminars & Conference)

During the year 1998, several members and staff of the Commission attended a number of conferences and courses, which reflected in the strengthening of international cooperation between the Commission and its counterpart organizations abroad.

From 8-12 June, a three-member delegation comprising an investigator, a legal officer and the Commissioner visited the Danish Human Rights Centre in Copenhagen. They also made courtesy visits to other democratic and human rights-enabling institutions and facilities in that Scandinavian country.

The Chief Investigator also participated in the CIVITAS West and Central African Conference in Dakar, Senegal, in June. The theme was the Consolidation of Democracy through Civic education.

In July, the Commissioner and the Chief Investigator attended the 2nd Conference of the African National Institutions for the Promotion and Protection of Human Rights in Durban, South Africa. The conference was a gathering of heads of national human rights institutions to review the state of human rights in individual countries, and to devise plans for improving the African human rights situation and ensuring greater networking and information exchange among such institutions. The leaders, who were addressed by the South African President at the time, Mr. Nelson Mandela, and the UN High Commissioner for Human Rights, Mrs. Mary Robinson, made a solemn commitment to greater advocacy in human and people's rights in Africa.

At the end of July, the Board of Trustees of the Africa Ombudsman Center held its first board meeting in Dar-es-Salaam, Tanzania. Mr. Emile F. Short, the Commissioner, was unanimously elected Chairman of the Board.

The Commissioner also attended the seminar on Accountability and Transparency in Government in Washington, DC, USA. The seminar aimed at helping participants deepen their understanding of the US system of Government and to improve public access to governance institutions in Africa. The seminar thoroughly reviewed existing structures, mechanisms and standards for holding public officials accountable.

The Chief Legal Officer of the Commission participated in a special two-week study programme organized by the Commonwealth Secretariat for ombudsmen and other similar complaint-handling human rights organizations. The training focused on the role of the Ombudsman in improving public services and in raising awareness of the importance of the Ombudsman in facilitating access to justice.

* The idea for the formation of the Board of Trustees for the African Ombudsman Center came up during the 5th Ombudsman Conference held in Accra in 1997. The Center is the umbrella organization coordinating the activities of all Ombudsman and Human Rights Institutions in Africa

At a conference held in Niamey, Niger, in December 1998, the Deputy Commissioner (*Legal & Operations*) shared the Commission's experiences in fostering cooperation and collaboration between itself, as a statutory national human rights institution, and NGOs working in the field of human rights in Ghana.

From December 7-10, the Commission participated in a major international convention on the promotion of economic, social and cultural rights. Jointly sponsored by the Commonwealth Secretariat and the Government of Ghana, the Convention brainstormed on impediments to the advancement of these so-called "second generation rights" and explored and examined strategies for ensuring their greater attainment throughout the Commonwealth.

The Commissioner and the Chief Investigator presented papers at the well-attended Convention in Accra and, together with several members of staff of the Commission, participated in its workshops. The Convention was timed to coincide with, and commemorate, the 50th anniversary of the Universal Declaration of Human Rights.

CO-OPERATION AND COLLABORATION WITH HUMAN RIGHTS NGOs

Fostering a culture of human rights is an enormous task, which should not be left to any one group or institution alone. It is crucial that multiple partners in the human rights field co-operate and collaborate to tackle this multi-prong challenge.

The Commission has long recognized this as an area of potentially useful cooperation with human rights NGOs and other civil society organizations such as religious bodies, schools (including colleges and universities), trade unions and professional groups. Indeed, the Commission has, over the years, cooperated and collaborated with several NGOs in the pursuit of different dimensions of the human rights agenda in Ghana, including the prevention of rights abuses and the liberation of persons in virtual servitude or bondage.

The Commission takes the responsibility of fostering cooperation with human rights NGOs so seriously that the Commissioner, who is the Chief Executive of the Commission, has personally taken on the task of leading and managing this schedule, with the assistance of the Chief Investigator and Director of Public Education and Research. The Chief Investigator has day-to-day responsibility for maintaining ties with the human rights NGO community and for reporting to the Commissioner.

The task of cultivating and entrenching a human rights culture in any developing country is truly challenging, even for those with generous financial and logistical support, if any. Networking and collaboration are necessary and indispensable components of any effective human rights development effort. The Commission is convinced that statutory human rights agencies must accept the challenges and enjoy the rewards of institutional co-operation with NGOs. This is too important an obligation for any one to pay lip service to; it is important, the Commission believes, that rhetoric matches actions.

Profile of Co-operation and Collaboration in 1998

The Commission worked with various human rights NGOs to develop, and effectively implement programmes and strategies to promote human rights.

Through the instrumentality of several civil society organizations and the Commission working together, the Parliament of Ghana has pursued a programme of cultural review by virtue of which it has enacted a number of laws supportive of human rights and social justice. Some of these laws are also intended to eradicate cultural practices and traditions, which derogate from the dignity of the human being. The most salient of these legislative enactments are those abolishing female genital mutilation (FGM), the infamous *trokosi* system in which vestal virgins, mostly young girls, are held in virtual slavery in atonement for the alleged transgressions of their family members.

1. Seeking the Liberation of Trokosis

It is anachronistic that in a rapidly changing high-tech world, a cultural and religious system that virtually turns young girls and women into slaves, known as *trokosis*, should be maintained in contemporary Ghana. Found mainly in parts of the Volta and Greater Accra Regions, the trokosi system is a practice whereby young, vestal virgin girls are held in bondage in fetish shrines to atone for the alleged sins and crimes of their relatives. The practice, in the view of the Commission and most Ghanaians, amounts to an infringement of the fundamental human rights of the victims to personal dignity and integrity.

Following its establishment in 1993, the Commission expressed outrage at the practice, and, in 1994, dispatched a team of investigators to a number of the shrines. Following a report submitted by the investigators, the Commission joined hands with the National Commission on Civic Education (NCCF) and International Needs (Ghana), an NGO, to organize lectures, workshops, and community meetings for the fetish priests, queen-mothers and chiefs of some of the areas where trokosi is prevalent. The dialogue resulted in the release of some of the trokosi.

A law was passed in 1998 by Parliament to outlaw all forms of customary servitude, including the *trokosi* system. However, as with all legislation affecting tradition or religion, enforcement has become a problem. Much remains to be done to change the attitudes of the public, especially the practitioners.

The Commission is in the process of finalizing plans to educate the police and the general public on the new law. The Commission would, thereafter, encourage random prosecutions by the police of any person or persons who will be found to be practicing the trokosi system.

2. Defending the Human Rights of Persons Accused of Witchcraft

As noted earlier, the Commission and several human rights NGOs and religious bodies participated in a roundtable conference on December 17, 1998 to devise appropriate strategies for preventing the violation of the fundamental human rights of persons suspected to be witches in northern Ghana. They also explored mechanisms for the rehabilitation of the suspected witches. The Commission and its partners devised a comprehensive program to enhance public awareness of the rights of persons accused or suspected of witchcraft.

FIDA, WILDAF and the Presbyterian Church were among the key partners in this project.

3. Combating Corruption: National Workshop on Integrity

The Commission has a statutory obligation to prevent corruption and to investigate allegations of corruption. Earlier in 1998, the Commission actively collaborated with the Center for Democracy and Development (CDD), in designing a survey questionnaire on public perceptions of corruption in the delivery of health and education services in Ghana. As noted earlier, in October, the Commission and other civil society organizations such as the Center for Democracy and Development staged a highly successful national Workshop on Integrity designed to identify and implement strategies for preventing corruption and effectively acting against this debilitating cancer in our society. The partners in this initiative included several civil society organizations.

Other Areas of Cooperation with NGOs

The Commission participated in educational programmes initiated by some of these credible and effective NGOs. It, for instance, supported the work of FIDA in the campaign to prohibit clitoridectomy or Female Genital Mutilation (FGM) in Ghana.

Institutionalization of Cooperation

In order to better enhance a wider societal appreciation of human rights values, principles and practices, the Commission emphasized the need to focus cooperative efforts of actors in the human rights community. This was in furtherance of on-going efforts started in April 1997, when the Commission convened a three day-seminar for NGOs involved in various types of human rights work in the country. Over 120 representatives from local human rights NGOs took part in the seminar. The purpose of the meeting was to evolve effective measures of cooperation and collaboration between the human rights NGOs and the national institution on human rights and administrative justice.

In a three-point resolution adopted at the conclusion of the meeting, the participants called for the establishment of a framework for cooperation and collaboration between the Commission and all human rights NGOs in the following key areas:

1. Monitoring human rights abuses
2. Acting jointly against bribery and corruption
3. Networking and coalition-building
4. Education and training (Projects/Programs)
5. Publication of human rights information brochures (with emphasis on common themes, accuracy of content and referral schemes)
6. Research and publication
7. Advocacy (for constitutional and statutory amendments to strengthen and improve human rights protection scheme)

8. Lobbying for the ratification of United Nations human rights conventions and protocols and their incorporation into local legislation.
9. Funding (sourcing and pulling of resources together)

This resolution was in response to a felt need in the country for such joint initiatives. It was also in furtherance of the conclusion reached at the UN Conference on Human Rights held in Vienna in 1993, which stressed the importance of continued dialogue and cooperation between government and non-governmental organizations.

The resolution also called on the Commission, as the national institution responsible for promoting and protecting fundamental human rights and freedoms, to facilitate the formation of a coordinating network between the Commission and the human rights NGOs.

Second Round-table Conference on Cooperation and Collaboration

In the ensuing months, the Commission had the opportunity to review the nature and performance of some of these NGOs and, on that basis, was able to invite the more credible and effective ones to a follow-up meeting on September 29th, 1998.

The purpose of the meeting was to consolidate earlier efforts over the past couple of years to evolve a strategy for collaboration and cooperation between the national human rights institution and the plethora of civil society organizations in the promotion of human rights.

Among the key NGOs in the coordinating network were:

- a. The Ghana Committee on Human and People's Rights
- b. International Needs Ghana
- c. The 31st December Women's Movement
- d. The Ghana Committee on Human and Peoples' Rights (GCHPR)
- e. International P.E.N
- f. International Federation of Women Lawyers (FIDA),
- g. The Center for Conflict Resolution
- h. Women in Law and Development
- i. Commission Africaine des Promoteurs de la Sante et des Droits de l'homme (CAPSDH)
- j. The Human Rights Study Center of the Faculty of Law, University of Ghana, Legon
- k. Amnesty International

Some of the notable human rights NGOs in the country were unable to attend the meeting due to prior commitments. Among them were Women in Law and Development (WILDAF) and Non-Violence International.

1. Networking & Coalition Building

The purpose of the meeting was to devise practical and workable strategies to invigorate the commitment of the Commission and the NGOs to strengthen cooperation for human rights education in Ghana. The Commission advised that the human rights NGOs should acquaint themselves with the work of each other. It also encouraged them to participate in the programmes of each other when necessary to achieve maximum effect. By so doing, they would collaborate among themselves and build themselves into recognizable teams.

The Commission also pledged to invite human rights NGOs to its national conferences and seminars and to encourage them to stage information/literature fairs as a means of informing the public and each other about themselves.

2. National Human Rights Advisory Council

It was also decided that a national advisory council, to be known as Ghana Human Rights Network ("the Human Rights Network"), would be established to serve as additional "ears on the ground" to assist the Commission in its work of identifying pressing human rights issues worthy of the Commission's urgent attention and intervention. It would also assist in disseminating and exchanging information in order to ensure broad acceptance of human rights principles, values and practice in Ghana.

In furtherance of this goal, a planning committee was struck comprising the CAPSDH, International Needs (Ghana), International Pen, GCHPR and Amnesty International. The committee was mandated to articulate the objectives of the Human Rights Network and its structure, and to take steps to formalize its formation.

The Future of Co-operation between the Commission and the NGOs

1. Broadening the scope of Co-operation

The Commission drew up an inventory of other human rights organizations, including those serving the needs and interests of persons with disability, street children and environmental activists, to whom it would subsequently send invitations to join the Network.

2. Creation of NGOs Desk

The Commission also warmly received a proposal by the NGOs to create an NGO Desk at its offices and to provide a hotline for the NGOs and the general public. This would enable the NGOs to easily liaise with the Commission on human rights issues of importance. The Desk would also provide an efficient information system on human rights NGOs. The Commission advised, however, that it would not, in the interest of

natural justice, fairness and equity, fast-track cases or complaints filed with it by NGOs simply because they were filed by NGOs.

There was also a call for the establishment of a Human Rights NGOs Directory with a website on the Internet in order to facilitate greater and easier access to information on human rights.

3. Enhancing Education and Training

The Commission devised a comprehensive program to educate several human rights NGOs on basic principles of human rights, once funding was secured. This would ensure a common appreciation of the fundamental principles of human rights and, hence, consistency in the messages delivered to the public. A study of relevant portions of Ghana's 1992 Constitution relating to human rights was to be included in any such training programme. To facilitate this, the Commission proposed a "Train-the-Trainers" workshop. The Commission and the NGOs were to jointly seek funding from the donor community for this programme.

COMMEMORATION OF THE 50TH ANNIVERSARY OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

December 10, 1998 marked the 50th Anniversary of the Universal Declaration of Human Rights (UDHR) by the United Nations. Described in some quarters as the single most important legal and moral document in human history, the UDHR has constituted the basis for the advancement and protection of human rights, the enactment of constitutions, and the promotion of democratic values and social justice generally. It continues to inspire and inform liberation struggles around the world, as well as the quest for greater fairness, equity and democracy.

To celebrate this important milestone, the Commission and the United Nations Information Centre (UNIC) organized a series of initiatives aimed at enhancing public awareness of the **provisions** of the UDHR and the *relevance* of the UDHR to their everyday lives. They also sought to highlight the importance of promoting respect for the UDHR and the domestic human rights law and ensuring their *enforcement*.

Four central elements of the celebratory activities were (1) a Visual and Language Arts Project (VALAP) competition for elementary and secondary school students in the country; (2) a Public Forum on Human Rights; (3) a Justice Theatre; and (4) a Publicity Campaign on the UDHR.

- (1) A Visual and Language Arts Project (VALAP) competition for primary, junior and senior secondary school students
- (2) A Justice Theatre dramatizing various human rights issues
- (3) A series of radio and television programmes designed to raise public awareness of the Declaration and human rights generally
- (4) A public forum on human rights

1. The VALAP

The purpose of the VALAP was to foster an increased awareness in the schools and community groups of human rights and human rights issues, both locally and internationally. It provided an opportunity for young people in school to reflect on such issues as:

- (a) the importance of human rights to their lives;
- (b) the consequences of human rights violations;
- (c) the need to respect the rights of other persons;
- (d) the need to appreciate the complexity of human rights issues;
- (e) the importance of valuing gender, family, racial, ethnic, religious and political diversity in society;

- (f) strategies for preventing discrimination
- (g) strategies for enhancing the wellbeing of disabled persons, homeless children, poor families and other disadvantaged groups
- (h) positive ways of expressing dissent and resolving conflicts and disagreements in the family, the school and the community; and
- (i) how to increase tolerance and acceptance of other people who are different from themselves.

Under the project, students were encouraged to explore various human rights themes and issues through visual and language arts.

Teachers and parents were requested to encourage and support their children to participate in the competition but to leave the youngsters to personally undertake and complete their individual projects. School authorities and teachers assisted the UNIC and the Commission by screening student entries and forwarding from each school only the top two entries to The Director of Operations and Chief Investigator of Commission.

Projects were received in the following three categories:

1. Language Arts: Short stories, poems, songs, scripts for radio/television or theatre, articles, essays report for research projects or scrap books with photos of problem-solving in action and classroom newspapers that reflect an important human rights theme.
2. Visual Arts: posters, collages, murals, wall hanging, paintings, drawings or cartoons, photographs and three-dimensional works such as sculptures, carvings, mobile or puppet shows that depict a human rights theme.
3. Multimedia: audio productions (dramatic or documentary), video productions (dramatic or documentary), computer multimedia presentations or the worldwide web (Internet) presentations may be entered.

Entry Categories & Awards

Project entries were accepted from students in the following three categories: Class 4 to Class 6, Junior Secondary School (JSS) and Senior Secondary School (SSS). There were cash prizes in all categories. Thirty Honourable Mention certificates, one per region per category, were given to the very good regional entries not selected for the cash prizes.

Selection Criteria

A total of 2170 entries were received in all three categories. A team of judges chosen from Commission, UNIC and media selected the winning entries. The greatest emphasis in the review/selection process was placed on presentation of message, evidence of learning, originality and quality of presentation. Artistic, linguistic and technical merit was considered according to age level categories. Particular attention was given to evidence that a specific human rights issue in the classroom or in the wider community had been addressed, with emphasis on process and participation.

The VALAP may become a permanent feature of the annual celebrations marking the International Human Rights Day, which falls on December 10th of every year.

2. Public Forum

The second major element of the activities undertaken to celebrate the 50th Anniversary was a Public Forum on Human Rights, which was staged on December 10, 1998 at the Accra International Conference Centre. The forum attracted 150 participants. It provided a platform for participants to consider a wide variety of human rights topics relating to the broad theme of **“The Relevance of the UDHR to the Contemporary World”**.

Chaired by the Commissioner, presenters at the forum addressed such diverse issues as:

1. The Universal Declaration of Human Rights: From Dreams to Reality;
2. Universality of Human Rights and Education for Human Rights;
3. Balancing Human Rights, Responsibilities and Resources in Volatile Economic Times;
4. Ensuring the Sustainability of Democracy through Observance of Human Rights; and
5. Freedom of Expression in a Multi-Media Universe: Rights, Limits and Responsibilities.

Panel presenters came from human rights NGOs, media, academe and Government, among others. The presentations were followed with a vibrant open forum at which many participants made valuable comments, asked probing questions and received satisfactory answers. The Commissioner moderated the function.

3. Justice Theatre

The activities marking the occasion was crowned in the evening of December 11 with a drama/dance spectacle by the Abibigroma, Resident Theatre Company of the University of Ghana's School of Performing Arts. It featured such human rights issues as sexual harassment and the treatment of persons with disability.

The evening's programme also featured a performance by the Children's Orchestra of the National Theatre, as well as a dance drama ("the Burning Flag") by Hayor Dance Company of the W.E.B. Du Bois Centre in Accra. The skits/performances were interspersed with interactive Question & Answer periods. Over eight hundred people attended the performance, which was staged at the National Theatre in Accra. The Commissioner for Human Rights and Administrative Justice, Mr. Emile Francis Short, and Mr. Abdoulie Jannah, the UNDP Resident Representative and the UN Resident Coordinator in Ghana, made brief remarks at the function. The audience listened to a video message from the UN Secretary-General, Kofi Annan, and was also treated to a film show on the making of the Universal Declaration of Human Rights, entitled "For Everyone Everywhere".

4. Publicity on the UDHR

On December 10, 1998, the UNIC and Commission distributed copies of the UDHR in the English language, as well as in eleven Ghanaian languages, including Akwapim Twi, Asante Twi, Dagaare, Dangbe, Dagbani, Ewe, Fante, Ga, Kassem and Nzima.

The UNIC Director, Ms. Margaret Novicki, the Commissioner, and the Chief Investigator granted several media interviews. They also participated in several interactive radio and television programmes on themes related to human rights and the celebration of the UDHR.

THE STATE OF HUMAN RIGHTS IN GHANA

On December 10, the Commission issued a press statement on the state of human rights in Ghana. Below are excerpts from the statement¹:

1. Introduction

The 50th anniversary of the Universal Declaration of Human Rights ("the Declaration") provides an auspicious occasion for the Commission on Human Rights and Administrative Justice to issue a statement on the state of human rights in Ghana. Adopted in reaction to the atrocities of the Nazi holocaust, the Declaration embodies the collective aspirations of the international community to fashion a world in which such barbarity and gross human rights violations would not occur.

The rights contained in the declaration were intended as

"a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration in mind shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance..."

The Declaration recognizes the inherent dignity and equal and inalienable rights of members of the human family as the foundation of freedom, justice and peace in the world.

The adoption of the Declaration energized the worldwide human rights movement and gave shape and direction to the aspirations of colonized peoples for freedom and justice. The decolonization of Africa and the end of apartheid in South Africa represent some of the clearer gains of Declaration.

Increased impetus has also been given to the human rights movement by the United Nations' adoption of other international human rights instruments. The most significant of these are the following:

- (a) *The International Covenant on Civil and Political Rights 1966,*
- (b) *International Covenant on Economic Social and Cultural Rights 1966,*
- (c) *The Convention on the Rights of the Child 1989*
- (d) *The International Convention on the Elimination of All Forms of Racial Discrimination 1965, and*

¹ *The Commission intends to make "The State of Human Rights in Ghana" a regular feature of its annual reports.*

(e) *The Convention on the Elimination of All Forms of Discrimination Against Women 1979.*

By virtue of the Declaration, the international community has recognized women's and children's rights as integral parts of human rights. The proclamation of regional human rights instruments, such as the *African Charter on Human and Peoples Rights*, the *European Convention on Human Rights* and the *Inter-American Convention on Human Rights*, have also served to embolden the agenda of the international human rights movement.

In addition, African countries have also adopted a Protocol to the African Charter of Human and Peoples Rights, which provides for the establishment of an African Court of Human and Peoples Rights.

The foregoing represents a seminal advance in humanity's quest for greater freedoms, greater social justice and greater social development anchored in a culture of respect and observation of human rights.

Post-Independent Ghana

One of the key inspirations for the independence struggles in Ghana, which culminated in our gaining political independence from British colonial rule in March 1957, was our fundamental conviction that the justness of the right to self-determination and national sovereignty. Freedom and justice, and equality and progress, were integral aspects of our collective vision at the time.

Notwithstanding this primary belief in human rights, Ghana's political history since 1957 has been rather chequered; various repressive laws promulgated under a variety of civilian and military regimes, served to put a chill on human rights in our country for a long, long time.

Economic, social and cultural rights did not fare any better in much of post-independence Ghana. Gross mismanagement of the economy, inadequate appreciation of the import of socio-cultural rights and a generalized looting of the state coffers by various regimes, conspired to erode and effectively diminish real prospects for growth in the attainment of these rights. Poverty and destitution abounded. Ethnic prejudice and tribal discrimination, culturally-based violations of group rights, especially the rights of women, children and minority ethnic groups, characterized our past. Individual rights violations, such as violence against women, sexual harassment and enslavement of women and girls, as well as so-called house-helps, also abounded. These were not even conceived as human rights issues.

2. A Profile of the Past Five Years

a. Constitutional Guarantees of human Rights

Ghana has enjoyed civilian constitutional rule since January 1993. In the last five years, our country has witnessed several progressive developments in the human rights front.

For one thing, the creation of the Commission in July 1993 has been an unqualified development in our march toward the cultivation and entrenchment of a culture of respect for human rights. By the time of the creation of the Commission, the nation had undergone bitter experiences of gross human rights violation perpetrated by Ghanaians against Ghanaians.

Chapter 5 of the 1992 Constitution spells out the fundamental human rights of all people in Ghana. Article 14(b) states that: "Every person shall be entitled to his personal liberty and no person shall be deprived of his personal liberty, except in certain circumstances". Article 14(3) states that a suspect cannot be detained for more than 48 hours without being put before court. Article 14(5) provides that a person who is unlawfully arrested, restricted or detained by any other person shall be entitled to compensation from that person. Article 15(1) of the Constitution provides that the dignity of all persons shall be inviolable.

These and other human rights provisions in the Constitution give concrete expression to the desire to strengthen and maintain a culture of human rights in Ghana.

The establishment of the Commission in 1993 was a clear manifestation of the determination on the part of the framers of the 1992 Fourth Republican Constitution of Ghana to give human rights issues centre stage on the national development agenda. The Commission's enabling statute, *Act 456*, gave the Commission the mandate to investigate complaints of violations of fundamental human rights and freedoms, injustices and corruption, abuse of power and unfair treatment of persons by public officers in the exercise of their duties, with power to seek remedy in respect of such acts or omissions and to provide for other related purposes.

b. Legislative Developments in Human Rights

The Parliament of Ghana has operated for five years now. During this period, it has pursued a programme of cultural review by virtue of which it has enacted a number of laws supportive of human rights and social justice and intended to eradicate cultural practices and traditions, which derogate from the dignity of the human being. The most salient of these legislative enactments are those abolishing female genital mutilation (FGM), the infamous *trokosi* system in which vestal virgins, mostly young girls, are held in virtual slavery in atonement for the alleged transgressions of their family members.

Parliament has also enacted a law this past July prohibiting infant and child marriages. The law, which raises the marriageable age to 18, holds the potential to correct this dehumanizing, degrading and mentally violent cultural practice.

Parliament has also passed a law that establishes free, compulsory, universal basic education as a top national priority. The Commission is of the view that this development, which is in consonance with the Directive Principles of State Policy and specific constitutional provisions on the rights of the child, represents a significant advance in the promotion of children's right to education. Beyond the formulation of this policy, the Commission calls on government and all of society to take concrete steps to ensure the actualization of the child's right to education.

c. Gender Equality

The Government is to be commended for pursuing a vigorous policy of ensuring greater gender equality in Ghanaian society. Its development of a policy on **Affirmative Action for Women** is a giant step in the right direction. If well implemented, the policy will likely enhance social justice in our country by redressing the structural and systemic imbalance in the labour force participation of women relative to men, especially at the highest levels of the employment ladder where significant management policies and governmental decisions are made.

There has been a general and appreciable increase in the scope of civil and political rights of the people. Political parties operate freely alongside a free, independent and robust media. The media landscape across the country is richly nourished with private FM radio stations, private television and recording stations, as well as publishing companies.

Nevertheless, the Commission remains extremely concerned about the continued existence of criminal libel laws in this country. Such laws must be quickly repealed as they represent a chill on freedom of expression. They also put a damper on efforts to combat corruption and ensure transparency.

d. Police-Community Relations

In the last few weeks, several media reports have highlighted the unfortunate state of relations between the police and the civilian community. For quite some time now, the Commission has been gravely concerned about the encircling gloom of deterioration in police-citizen relations in this country. Indeed, relations between the police and several communities have also deteriorated to a disturbing level. This is typified by the infamous incidents at Akwatia and Ablekuma in which scores of civilians were injured in face-offs with the police.

The Commission condemns without qualification all forms of civilian aggression against the police. In particular, we are extremely appalled by the alleged killing of two police officers in the course of their normal duties at Ablekuma.

The Commission calls on the general public to recognize the fundamental role of the police in maintaining law and order, without which peaceful civilian life would be impossible. This recognition enjoins the public to respect the police and to support and encourage them in the performance of their rather difficult functions.

Nevertheless, the Commission has been horrified by the apparent careless abandon with which the police carried out its investigation into the alleged killings in Ablekuma. The Commission views with extreme displeasure and disappointment the wanton destruction of property and indiscriminate mass arrests by the police in that township.

The Commission is of the view that those who wield the use of deadly force in society shoulder an onerous responsibility; they bear the burden, notwithstanding the rather difficult social and economic environment within which they function, to exercise superior restraint and circumspection when interactions with the public become tense and difficult.

Incidents of police use of deadly force against individuals and whole communities in our country, as reactions to real or perceived civilian aggression toward the police, represent a low point in the state of relations between the police and the populations they are pledged to serve and protect. The frequency of "stray-bullet episodes" potentially reflects a lesser exercise of discipline and restraint by our peace officers. It also reflects, in the view of the Commission, the long distance which the Commission, the police and the public have to travel in forging a wider appreciation of human rights values, standards and norms in our society.

The Commission has also been concerned about police brutalities perpetrated against individuals on mere suspicion of having committed crimes. Police use of deadly force in arresting or handling defenseless suspects is hardly justifiable in a free and democratic society.

Furthermore, the Commission views with great dismay recent physical and verbal attacks on some Liberians and Nigerians in the country for their alleged responsibility in the death of several people, especially women, in the Mateheko and Dansoman suburbs of Accra. Even if the suspicion that such foreigners are involved in these gruesome murders turns out to be well-founded, it should not give rise to attacks on such residents generally.

Everyone in Ghana is entitled to the equal and full protection of the law and to due process of the law.

Moreover, the Commission wishes to caution that such generalized attacks can result in similar reprisals on Ghanaians resident in the home countries of such foreign nationals and elsewhere.

Over the years, the Commission has organized educational seminars and workshops for the police, with a view to raising their level of awareness about the fundamental rights of citizens. These efforts have also aimed at informing the police about their obligation to truly uphold the rule of law by considering all persons as innocent until proven guilty in a court of competent jurisdiction.

In the coming months and years, the Commission will intensify its educational efforts to sensitize the public about the importance of according greater respect to the police.

3. Summary of Assessment

Overall, there has been a commendable rise in Parliamentary democracy and the liberalism. On the whole, human rights have improved greatly since the coming into force of the 1992 Constitution and the creation of the Commission. Arbitrary arrests and detentions, etc. are gradually becoming a thing of the past. The aim of the Commission's awareness campaign is to cultivate a human rights culture among Ghanaians.

Ghanaians have also witnessed generalized improvements in the scale of enjoyment of economic, social and cultural rights. There is, in addition, an on-going cultural review in the country, the objective of which is to eradicate elements of our cultures and traditions, which are degrading or dehumanizing.

4. The Future of Human Rights in Ghana

Over the years, the Commission has urged the Government to intensify its efforts to comply with its obligations under international human rights and humanitarian laws in the promotion of basic freedoms and human dignity for all person.

On the occasion of the 50th Anniversary of the Universal Declaration of Human Rights, the Commission wishes to congratulate the entire nation for her participation in ECOMOG. The Commission is proud of Ghana's contribution to the restoration of peace and democracy in Liberia and Sierra Leone. It also views with great satisfaction Ghana's provision of safe haven for thousands of refugees from a number of African countries in our sub-region, as well as her contribution to humanitarian aid in Rwanda in 1994. All these underscore Ghana's staunch commitment to the development of the international humanitarian support system.

The Commission also acknowledges with pride the nation's continued participation in peace-making and peace-keeping in Lebanon, Bosnia and Cambodia.

Once again, the Commission urges Parliament to quickly ratify the *International Covenant on Civil and Political Rights*, as well the *International Covenant on Economic, Social and Cultural Rights*.

5. The Role of the Commission in Promoting a Human Rights System in Ghana

Among the several initiatives the Commission has undertaken in furtherance of the goals of human rights in the country, we wish to single out the following for special mention:

a. Inspection of Ghana's Prisons, Police cells and Prison Camps

Since 1995, the Commission has carried regular inspections into the prisons, police cells and prison camps in the country. The inspections reveal that conditions in the nation's prison are simply appalling. There is overcrowding, poor feeding, prevalence of skin diseases and poor sanitary conditions. There are pregnant women in our prisons, some of whom give birth in the prisons.

There are, in addition, several juveniles who were either on remand or serving jail sentences in adult prisons, contrary to Article 15 (4) of the Constitution. Some of the juveniles said they were advised by the police to inflate their ages to avoid serving longer terms in borstal institutions.

The inspections conducted at police cells throughout the country revealed that suspects received worse treatment in police cells than convicts in prisons. Most cells were poorly ventilated, and suspects had to sleep on the bare floor. Many cells, particularly in the urban areas, were heavily congested and unhygienic.

Recommendations

Subsequent to the 1995 inspection, the Commission submitted a report to the Executive branch of the Government for action to be taken on the recommendations. Copies were also sent to some government departments. The response to the findings and recommendations contained in the reports was positive and various remedial measures have been taken. For example, the feeding allowance for convicted prisoners and suspects in the police cells has been increased. The Department of Social Welfare has also moved to transfer juveniles from adult prisons into borstal institutions.

The courts have heeded the recommendation by the Commission on pregnant women by imposing non-custodial sentences in less serious offences. Not much has been done with respect to the problems facing remand prisoners, with the result that some of them remain on remand without trial.

In spite of the recommendation made by the Commission with regard to the imposition of more non-custodial sentences as a means of reducing congestion in the prisons, the courts have continued to impose custodial sentences even for minor offences. Concerning the plight of some convicts awaiting execution, Government has acted by commuting some of the death penalties to life imprisonment. Some prisoners have also been released on grounds of ill-health, old age, etc.

b. Campaign to end the Death Penalty

The death penalty remains an ugly blotch on the country's human rights record sheet. It is deeply regrettable and unfortunate that the call by the Commission for the abolition of the death penalty has not received the attention it deserves, with the result that it remains on our statute books.

c. Monitoring and Review of Official and Customary Practices

Since its inception, the Commission has monitored, and in some instances conducted research and investigation into, certain official and customary practices that violate the fundamental human rights of individuals and groups. Some of these practices are unlawful detentions, violations of prisoners' rights, slavery, forced labour and degrading and dehumanizing treatment of women and children. These are the dimensions of human rights violations, which are not often reflected in the published statistics. In the coming year, the Commission pledges to commit itself even more vigorously to this monitoring and preventive role. And it will couple these measures with active investigation, mediation and adjudication as appropriate.

STATISTICAL OVERVIEW

This section reviews the statistical data on complaints received and the status of cases investigated by the Commission between 1 January and 31 December 1998.

The Commission received 5459 complaints and disposed of 4121 representing 75.5% of the total.

Trends in Complaint Resolution

Since its inception in July 1993, The Commission has received a total of 23,744 complaints, out of which it has disposed of 16,638 representing 70.1%.

1998 stands out as the year in which more complaints were resolved, accounting for 25% of the total number of cases closed since 1993. (Refer to Table 1 below, which provides a comparison of complaints processed from 1993 to 1998).

Fig. 2 shows the trend of case receipt at the Commission since July 1993. Between 1993/94 and 1995, there was an increase of 2,758 cases closed with a further increase of 247 between 1995 and 1996. Though there was a drop between 1996 and 1997, a considerable rise of 379 complaints was resolved amicably between 1997 and 1998.

Fig 1

Total Closed in Active Year

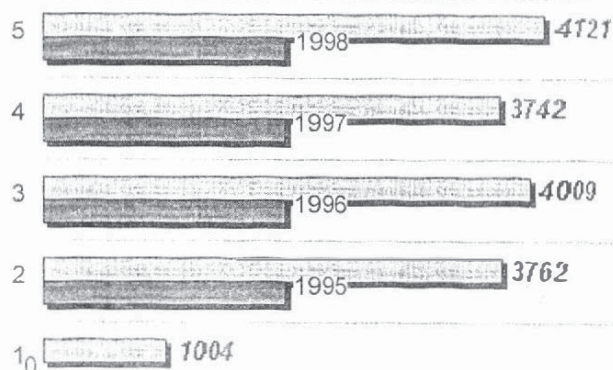


Fig.2

Cases Received

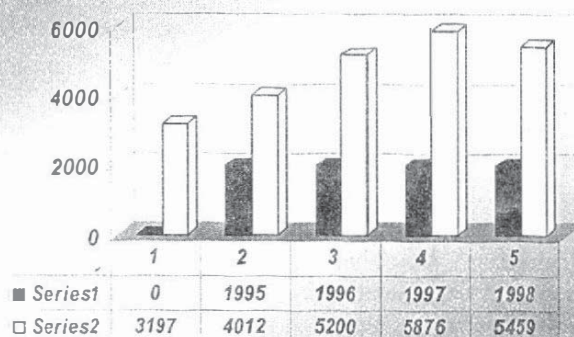


Table 1

Year	Cases Received	Total Received + Pending Previous	Total Closed in Active Year	Total Pending at end of Active Year
1993/1994	3197	3197	1004	2193
1995	4012	6205	3762	2443
1996	5200	7643	4009	3634
1997	5876	9510	3742	5768
1998	5459	11227	4121	7106
Total Received (1993-1998)	23744	Total Closed (1993-1998)	16638	Actual Pending since inception = 7106

Closed Cases

A total number of 4,121 complaints were resolved during the year under review. This number includes cases carried over from the previous year.

Summary Closure

The Commission amicably resolved and closed 1322(32.1%) complaints by *mediation* in 1998. (Refer to Table 2 below)

The Commission rejected 354 (8.1%) complaints for *lack of jurisdiction* while 210(5.9%) were rejected for being submitted by persons deemed to have *no standing* because they were not directly involved in the matters complained of.

The Commission used its discretion to reject 131(3.2%) complaints for being submitted *out of time* as they were submitted more than 12 months after the events complained of had occurred.

The Commission *discontinued* processing 1068(25.9%) complaints because they had either been a) abandoned or b) specifically *withdrawn* by complainant, or c) *lapsed* under section 2(4) of C17 (refer to page 74).

242(5.9%) complaints were *referred to other fora* for resolution.

Substantive Closure

724(17.6%) of closed cases were disposed of substantively after full investigation and adjudication.

Table 2

CLOSED CASES					
Nature					
SUMMARY CLOSURE	Southern	Northern	HQ	Total	% over 4121
<i>Transferred</i>	77	*	13	90	2.2
<i>Referred to other Fora</i>	197	21	24	242	5.9
<i>No Standing</i>	89	100	21	210	5.1
<i>Out of Time</i>	75	15	41	131	3.2
<i>Discontinued</i>	407	453	208	1068	25.9
<i>Jurisdiction</i>	143	96	95	334	8.1
<i>Mediated</i>	471	818	33	1322	32.1
Sub-Total				3397	
SUBSTANTIVE CLOSURE					
<i>Adjudicated</i>	232	284	208	724	17.6

Fig. 3

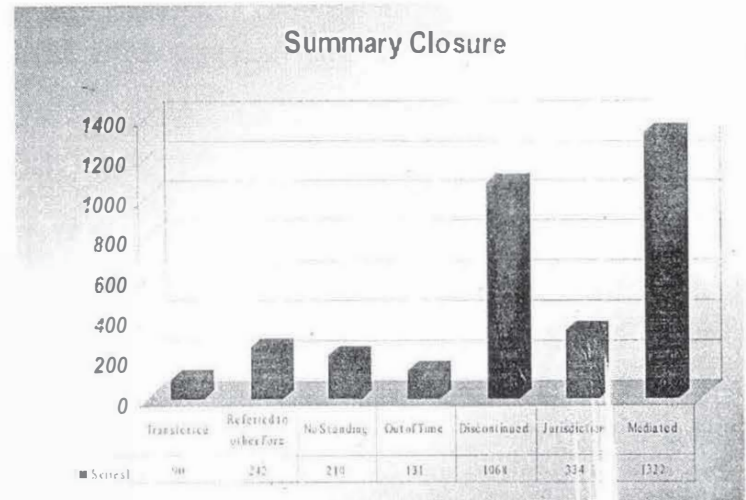
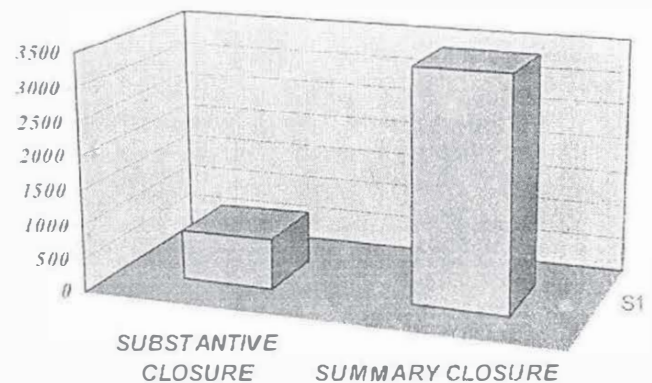


Fig. 4

Method of Closure



Category

Sector Distribution

Complaint Received in 1998

Regional offices of the Commission have been grouped into three sectors; Southern, Northern and Headquarters.

The Southern sector comprises *Central, Western, Volta, Eastern and Greater Accra* regions. The Northern sector is composed of *Ashanti, Northern, Brong-Ahafo, Upper East and Upper West* regions.

Statistics for 1998 show that the Southern sector received more complaints than the Northern Sector and Headquarters. The Southern Sector accounted for 2667(49%) of the total of 5459 cases received nationwide in the active year.

SECTORS

Fig. 5

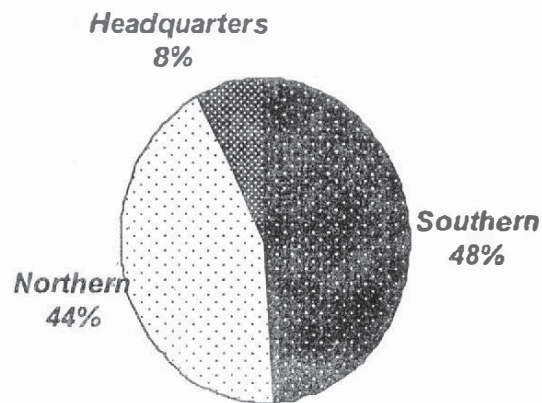


Table 3

Sectors	Labour Related	Property	Human Rights (General)	Misc.	Family	Total
<i>Southern</i>	828	618	437	321	465	2669
<i>Northern</i>	493	622	581	207	476	2379
<i>Headquarters</i>	197	78	31	62	43	411
<i>Total</i>	1518	1318	1049	590	984	5459

Classification of Complaints

The classification of complaints is done on the basis of the substantive problem reported by the complainant.

1. Labour-related cases

Complaints classified as *labour-related cases* include i) *Cessation of Appointment* ii) *Entitlement* iii) *Discipline*.

There were altogether 1518 labour-related cases representing 28% of the complaints received in 1998 with a breakdown as shown in *Table 4*.

A comparison of the share of labour-related cases over the years indicates that such complaints increased by 0.1% between 1995 and 1996, decreased by 9.7% between 1996 and 1997, and dropped again by 5% between 1997 and 1998. (Refer to *Table 5* & *Fig. 7*)

Fig.6

Labour Related Cases

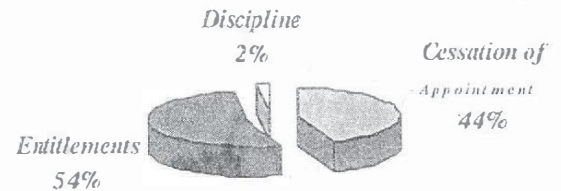


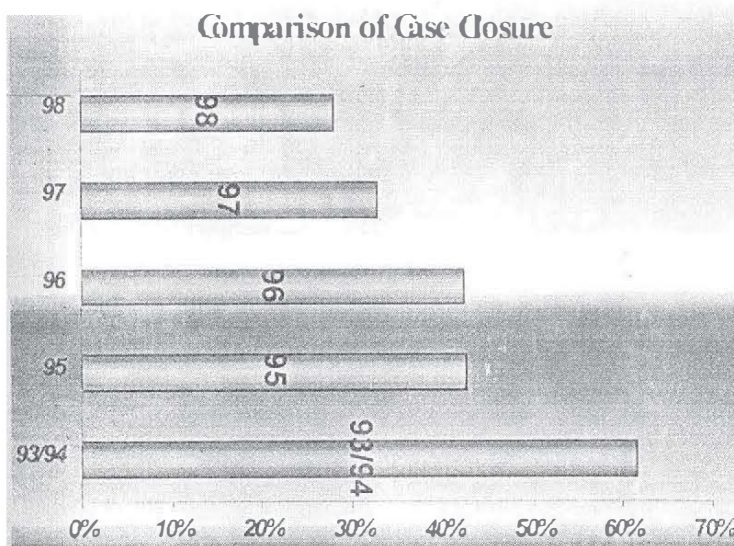
Table 4

Labour-Related	Amount	%
Cessation of Appointment	673	44
Entitlements	811	53
Discipline	34	2
Total	1518	100

Table 5

Year	Labour-Related Cases	Active Year's %
1993/94	1036	61.5%
1995	1709	42.60%
1996	2209	42.50%
1997	1929	32.80%
1998	1518	28%

Fig. 7



a. Cessation of Appointment

Cessation of Appointment refers to wrongful dismissals, termination of appointment, and resignations, redeployment/redundancy.

Complaints of employment cessation numbered 673, which represented 12.3% of the total number of cases in 1998.

The Southern sector received 55.4% being the highest percentage of *cessation of appointment* complaints. The Headquarters accounted for 16.34% (i.e. 110) of cases on *cessation of appointment*, while the Northern sector recorded 28.23%.

Table 6 shows that cases relating to cessation of appointment are more prevalent in the Southern sector.

Fig.8

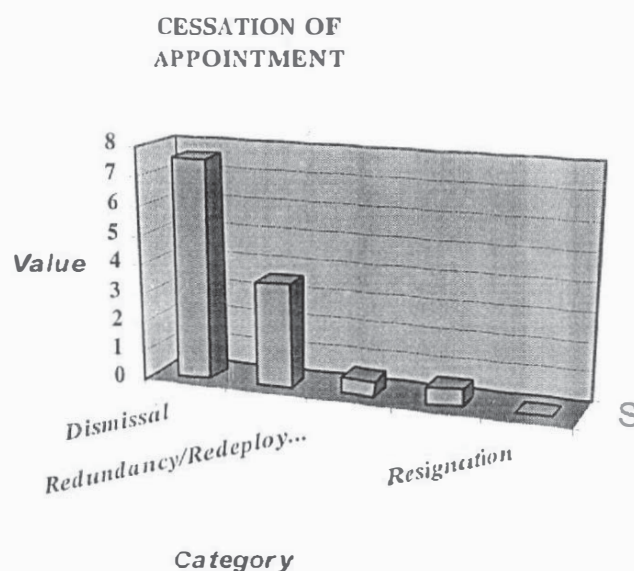


Table 6

CATEGORY					
Cessation of Appt.	Southern Sector	Northern Sector	Hq.	Total	%over 5459
<i>Dismissal</i>	250	101	64	415	7.60
<i>Termination of Appt.</i>	94	75	26	195	3.57
<i>Redundancy/Redeployment</i>	18	6	6	30	0.55
<i>Retirement</i>	11	8	13	32	0.59
<i>Resignation</i>	*	*	1	1	0.02
Total	373	190	110	673	12.33
%over 673	55.42	28.23	16.34		

b. Entitlements

Pensions and Gratuities, End of Service Benefits and Salary arrears, among others comprise *Entitlement* complaints, which accounted for 811 representing 14.9% of the total number of cases received nationwide.

End of Service Benefits, and Salary-related complaints accounted for 64% of all entitlement cases in the year under review.

Fig.9 & Table 7 show a trend in labour-related cases occurring more in Southern sector than in the Northern sector.

Fig. 9

ENTITLEMENTS

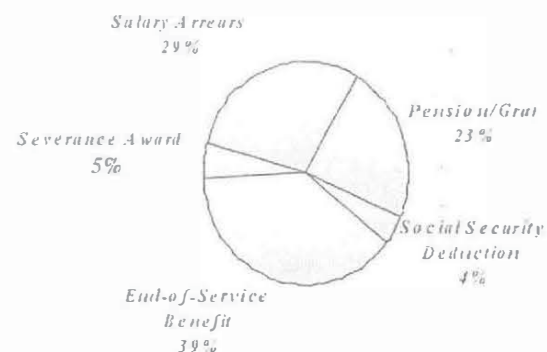


Table 7

Entitlements	Southern Sector	Northern Sector	Hq.	Total	% over 5459
Pension/Gratuity	51	104	21	176	3.22
Social Security Deduction	12	16	3	31	0.57
End-of-Service Benefit	221	67	9	297	5.44
Severance Award	34	2	4	40	0.73
Salary Arrears/Discr etc.	122	81	17	220	4.03
Insurance Claims	1		1	2	0.04
Accident Claims	2		3	7	0.13
Leave Allowance	1		4	5	0.09
Provident Fund	2			2	0.04
Compensation (Admin)		11	6	17	0.31
Other Entitlements		14		14	0.26
Total	446	295	68	811	14.86
% over 811	54.99	36.37	8.38		

c. Discipline

Suspension and interdiction, lack of promotion, and denial of transfer opportunities, among others, constitute *Discipline* complaints; these complaints accounted for only 0.62% (34) of the total of such cases.

Headquarters accounted for 55.9%, which was higher than the sum of such complaints received by both southern and northern sectors.

2. Property Cases

Complaints on Land Title, Inheritance, Confiscation and Tenancy, among others, fall under Property Cases.

A total of 1,318 complaints were received nationwide in this category, out of which the Northern sector received 47.2%. The difference in percentage between the Northern and Southern sectors was quite negligible - 0.3%.

Only 78 property-related cases, representing 5.92% of the national total of 1318 cases were reported at the headquarters.

Generally, property complaints claimed 24.14% of the overall number of cases received in 1998.

Fig. 10

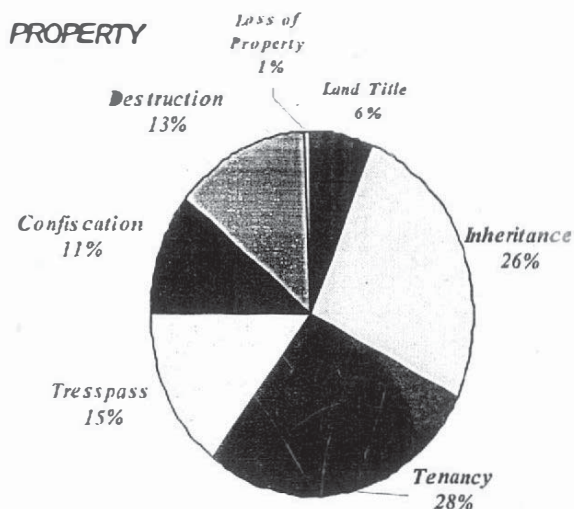


Table 8

Property	Southern Sector	Northern Sector	Hq.	Total	% over 5459
Land Title	42	32	8	82	1.50
Inheritance	163	167	15	345	6.32
Tenancy	141	222	8	371	6.80
Trespass	99	88	5	192	3.52
Confiscation	63	48	32	143	2.62
Destruction	103	65	8	176	3.22
Loss of Property	7	*	2	9	0.16
Total	618	622	78	1318	24.14
% over 1318	46.89	47.19	5.92		

3. Human Rights (General)

Complaints relating to unlawful arrests and detention, discrimination, various forms of harassment and unfair treatment come under the rubric of general human rights.

Such complaints accounted for 1,049(19.2%) of the total number of cases recorded nationwide in 1998. Various forms of unfair treatment and harassment constituted 83 % of the total of 1,049 cases received on basic rights.

Fig. 11

Human Rights (General)

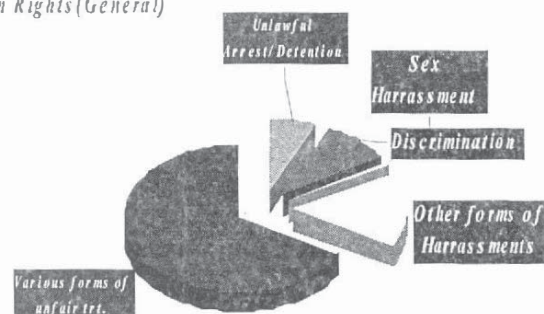


Table 9

Human Rights(General)	Southern Sector	Northern Sector	Hq.	Total	% over 1049
Unlawful Arrest/ Detention	41	16	13	70	1.28
Discrimination	25	76	1	102	1.87
Sex Discrimination	2	*	4	6	0.11
Other forms of Harrassments	57	112	*	169	3.10
Miscellaneous	312	377	13	702	12.86
Total	437	581	31	1049	19.22
% over 1049	41.66	55.39	2.96		

4. Family Disputes

The range of cases comprising Maintenance of Child/Spouse, Paternity/Maternity and child abuse constitutes family-related complaints. Fig. 12 shows a persistent increase in cases relating to maintenance of child/spouse. Out of a total of 984 family complaints, 654 representing 66.5% were on maintenance of child/spouse.

(See Table 10 and Fig. 12 for additional information)

Nature of Family Disputes

Fig. 12

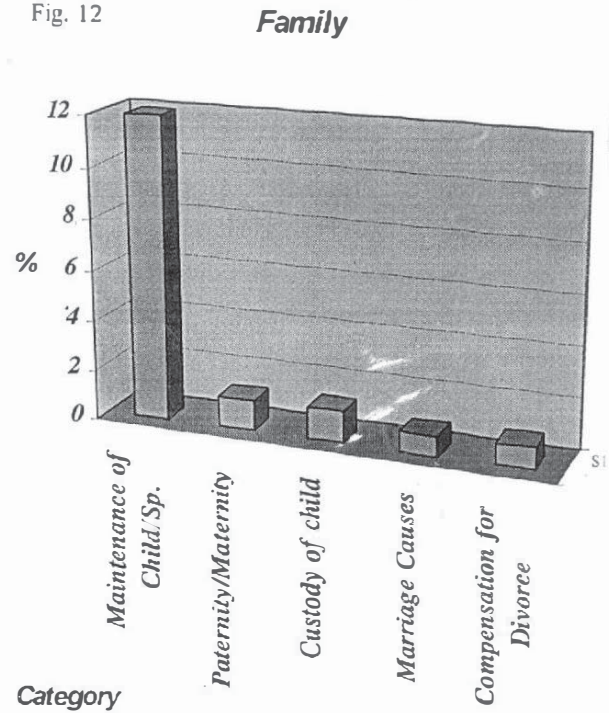


Table 10

Family	Southern Sector	Northern Sector	Hq.	Total	% over 5459
Maintenance of Child/Sp.	287	346	15	648	11.87
Paternity/Maternity	23	41	3	67	1.23
Custody of child	26	36	6	68	1.25
Deprivation of Education	13	5	1	19	0.35
Marriage Causes	41		2	43	0.79
Medicare	21			21	0.38
Domestic Violence	1			1	0.02
Protection of Child/Sp.	43			43	0.79
Intestate Succession	10		6	16	0.29
Compensation for Divorce		47		47	0.86
Other Family Matters		1	5	6	0.11
Child Abuse			5	5	0.09
Total	465	476	43	984	18.03
% over 984	47.26	48.37	4.37		

Respondents

Private

As in previous years, complaints were filed against private individuals, private sector organisations and state institutions.

Private individuals constituted the highest category of respondents:- 2,507 complaints representing 46% of the total number of cases recorded nationwide.

Private organisations were the respondent in as many as 614 complaints, which represented 11.25% of total number of cases lodged with the Commission in the year under review.

State

The Ghana Police Service, the Civil Service and several Public Services institutions stood out amongst the services category, together accounting for 12.6% of respondents. The number of complaints against these bodies increased by 121 between 1994 and 1995, by 51 between 1995 and 1996, decreased by 57 between 1996 and 1997 and decreased again by 19 between 1997 and 1998.

Within a period of 4 years (1995-1998), the Commission received 1,000 complaints in which the Police Service was the respondent. This represents 5% of the total number of complaints received by CHRAJ since its inception.

Corporations/Companies

Table 11

Corps./Companies	Southern Sector	Northern Sector	Hq.	Total	% over 5459
Corporations	81	28	9	118	2.16
Companies	139	42	8	189	3.46
Total	220	70	17	307	5.62
% over 307	71.66	22.80	5.54		

Table 12

Summary on other Respondents

Miscellaneous	Southern Sector	Northern Sector	Hq.	Total	% over 5459
Private Individuals	846	1515	146	2507	45.92
Private Organisations	317	230	67	614	11.25
Certain Public Organisations		39		39	0.71
City Express	4		3	7	0.13
President's Office	1			1	0.02
National Service Secretariat	3			3	0.05
WAEC	6		2	8	0.15
District/Municipal Assemblies	35	9		44	0.81
Schools/Colleges	20	3		23	0.42
Banking Institutions	11			11	0.20
SSNIT	12	8		20	0.37
URA	8	12		20	0.37
House of Chiefs	5	2		7	0.13
GPRTU	8		2	10	0.18
BNI	1			1	0.02
Divestiture Implem'tn Comm.			2	2	0.04
CIIRAJ			7	7	0.13
Others	13	32	6	51	0.93
Total	1290	1850	235	3375	61.82
% over 3375	38.22	54.81	6.96		

Commissions	Southern Sector	Northern Sector	Hq.	Total	% over 5459
Public Services Commission	106	13		119	2.18
CAC	1			1	0.02
Lands Commission	3			3	0.05
Total	110	13	*	123	2.25
% over 123	89.43	10.57	*		

Departments	Southern Sector	Northern Sector	Hq.	Total	% over 5459
Accountant-General's Dept.	9	1		10	0.18
Registrar-General's Dept.	1			1	0.02
Attorney-General's Dept.		2		2	0.04
Feeder Roads	2			2	0.04
Total	12	3	*	15	0.27
% over 15	80	20	*		

Boards	Southern Sector	Northern Sector	Hq.	Total	% over 5459
Cocobod	6		3	9	0.16
Land Evaluation			2	2	0.04
Meat Marketing			3	3	0.05
Museums & Monuments			2	2	0.04
Total	6	*	10	16	0.29
% over 16	38	*	62.50		

Summary on other Respondents

Table 13

Services	Southern Sector	Northern Sector	Hq.	Total	% over 5459
Audit	2		1	3	0.05
Ghana Police	112	59	49	220	4.03
Ghana Prisons	10	16	3	29	0.53
Gh. National Fire Service	4		3	7	0.13
Gh. Education Service	53	53	13	119	2.18
Internal Revenue Service	8		3	11	0.20
CEPS	5		16	21	0.38
Civil Service	99	125	8	232	4.25
Immigration Service	1		2	3	0.05
Judicial Service	11		13	24	0.44
Postal Service	1		3	4	0.07
Ghana Armed Forces	10	6	5	21	0.38
Other Public Services	109	125	2	236	4.32
Total	425	384	121	930	17.04
% over 930	45.70	41.29	14.92		
Ministries	Southern Sector	Northern Sector	Hq.	Total	% over 5459
Food & Agriculture	5	1	3	9	0.16
Health	14	6	2	22	0.40
Lands & Forestry	10		7	17	0.31
Interior	5		1	6	0.11
Education	1			1	0.02
Works & Housing			3	3	0.05
Trade			1	1	0.02
Social Welfare			1	1	0.02
Foreign Affairs			3	3	0.05
Mines & Energy	3		1	4	0.07
Finance	1			1	0.02
Defence	1			1	0.02
Communication	2			2	0.04
Total	42	7	22	71	1.30
% over 71	59.15	9.86	30.99		

SAMPLE OF DECIDED CASES

CHRAJ/422/96/1093 - PETITION FOR REINSTATEMENT

The Complainant, a former bursar, was dismissed from the Ghana Education Service (GES) on the instruction of the Special Audit Task Force (SATF) for embezzlement of state funds. Although he denied the allegation, he, pursuant to an order from the SATF, paid back the monies alleged to have been embezzled. He then petitioned the Commission for a review of the decision to dismiss him.

In response to the Commission's letter, the Respondent stated that it had no record of the Complainant being dismissed from the GES, and it offered to treat him as an interdicted officer.

The Commission held that since the Complainant had not, in fact, been dismissed by the Respondent and had paid the amount he was ordered to pay, and then petitioned for a review of the decision against him, he should be treated as a serving officer.

Accordingly, he was entitled to be paid all his salary arrears since his interdiction. He should thereafter be re-posted or a suggestion made to him to retire with his benefits.

CHRAJ/821/96/247 - ARBITRARY DISMISSAL

The Complainant, a Chief Technical Officer at the Tema Municipal Assembly, lost his job in 1985 on the grounds of inefficiency. The

Complainant denied the charge. He stated that shortly before his dismissal he had been promoted to his present grade; and that he had neither been queried nor called before any disciplinary committee to answer any charge of incompetence.

The Respondent stated in its response that it that they could not assist with the investigation as it had no records relating to the matter.

The Commission consequently conducted a hearing to determine whether the Complainant was inefficient or otherwise. Counsel for the Respondent raised a preliminary objection to the jurisdiction of the Commission on the following grounds:

1. That the complaint did not constitute a violation of fundamental human rights but rather rights arising from a contract of employment.
2. That by the provisions of the Limitation Decree (NRCD 54, 1972), the claim could not be pursued if not made within a period of 6 years.
3. That the Commission "must be subject to all the laws of Ghana and is not law unto itself"
4. That the Transitional Provisions of the 1992 Constitution covered situations where the matter arose 12 years ago.

In response, Counsel for the Complainant submitted that the

Commission had jurisdiction over all cases of abuse of power and unfair treatment and that the Limitation Decree could not prevent the Commission from investigating such allegations.

The Commission overruled the objection of the Respondent's counsel on the grounds that the right to work under satisfactory, safe and healthy conditions also implied the right not to be arbitrarily dismissed or have one's appointment terminated prematurely. In support, the Commission referred to Article 33(5) of the 1992 Constitution and Article 23 of the Universal Declaration of Human Rights.

The Commission concluded that it was not bound by the Limitation Decree and Section 34(5) of the Transitional Provisions of the 1992 Constitution. The Commission expressed the view that the word 'action' as used in that context refers to litigation in the civil court for the enforcement of individual rights or redress of wrongs.

For these reasons, the Commission overruled the preliminary objection of Respondent's counsel and directed that the hearing should proceed.

The Commission later made a finding that the Complainant's rights as a public servant had been violated, and it ordered the TMA to pay the Complainant six years' salary at current salary levels of a Chief Technical Officer.

CHIRAJ/170/96/228 - UNFAIR TREATMENT

The Complainant wanted to establish an educational complex and approached the Tema Development Corporation (TDC) in 1990 for the allocation of a plot she had seen around Michel Camp, a suburb of Tema.

The Complainant applied for the plot and the Respondent informed her that her application had been approved. The Respondent then encouraged her to begin processing the application with her bankers for a loan, and with the Ghana Education Service (GES), which provides certification for the establishment of schools.

After a search by the Archives Department of TDC, the Respondent informed the Complainant that the plot had been leased to one Mr. Ayensu as farmland, but that the lease had lapsed without renewal. However, the TDC did not allocate the plot to the Complainant when she forwarded her application to the Managing Director for endorsement.

The Complainant alleged unfair treatment. The Respondent stated that the parcel of land had not been planned for educational purposes and denied having seen the Complainant's file. Instead, the land had been allocated to a group of Malaysian investors.

The Complainant refuted the Respondent's assertion. The Commission conducted an on-site investigation, which revealed another interested party laying a foundation on the same plot for a school project.

The only issue for determination by the Commission was whether the Respondent should have signed the documents prepared for the Complainant six years ago.

The Commission found that the Complainant was encouraged by the Respondent to build and settle on the parcel of land believing that it would be allocated to her.

The Respondent's refusal to sign the Complainant's documents after dealing with her for six years, and reallocating the property to another party, was unfair in the circumstances.

The Commission upheld the complaint and directed the Respondent to execute the title documents in favour of the Complainant. It also permanently prohibited the other interested party from entering the land.

**CHRAJ/619/95/276 -
FORCED TRANSFER OF FOREIGN
CURRENCY**

The Complainant, a businessman, alleged that in 1993 he was unlawfully detained by the Bureau of National Investigations (BNI) and coerced to transfer £40,000 from his foreign account into an account in favour of the Government of Ghana. He sought a refund of the £40,000 unlawfully taken from him, with interest.

The Respondent claimed that it suspected that the Complainant had illegally acquired vast sums of money, which had been transferred into his foreign account. The Respondent also stated that after investigation, and as a

mark of reconciliation, an agreement had been reached with the Complainant under which he transferred £40,000 to the Government and the people of Ghana.

The Commission found that the Respondent's action in freezing the Complainant's bank account and coercing him to transfer £40,000 to an account of the Government of Ghana was illegal. The purported agreement, if made at all, was made under duress. The Commission further noted that Government condoned the Complainant's alleged conduct by transferring part of the alleged ill-gotten money for its own use.

Therefore the Commission rejected the Respondent's defense and upheld the Complainant's petition and directed the Respondent to pay the Complainant £40,000 with interest.

**CHRAJ/705/95/1442
CLAIM FOR RETIREMENT
BENEFITS**

The Complainant, a labourer, had worked for the Respondent for 33 years prior to retiring. The complainant's requests to be paid a monthly pension, the same as other labourers, was rejected.

The Respondent, using General Order "400", replied that the Complainant did not qualify for pension as his annual salary was less than c240.

The Commission found that General Order 400 had been varied to cater for workers such as the Complainant. The variation was later nullified due to abuse.

The Commission was satisfied that General Order 400 was discriminatory and violated the Complainant's fundamental human rights under the Constitution. The Commission therefore recommended that the Complainant be paid his retirement benefits.

**CHRAJ/726/95/1280 -
DENIAL OF ALLOWANCE**

The Complainant was seconded to the Respondent as Senior Internal Auditor. He was paid all allowances as a member of management for 5 years. By a letter dated 15th March 1995, the Complainant was requested to return to his parent organization. He consequently applied for his accumulated leave, but the Respondent withheld his leave allowances due.

The Respondent stated that the Complainant, as a seconded officer, was not entitled to any allowance once his term of office with them had ended. The Respondent contended that the Complainant was not a member of its permanent staff and therefore was not covered by either the Collective Bargaining Agreement or the Management Conditions of Service. The Respondent stated that all allowances paid to the Complainant earlier were wrongful and should be refunded.

The Commission found that the Complainant was entitled to his accumulated leave and considered the Complainant to be a member of the Respondent's staff when he was on leave.

The Commission therefore recommended payment of all allowances and fringe benefits due to the Complainant.

**CHRAJ/769/94/1278 -
WRONGFUL DISMISSAL**

The Complainant, a director in the civil service, learned on a radio announcement that he had lost his job.

The Respondent stated that it had no comment to make as the termination emanated from the Castle, the seat of Government. A special sub-committee of the National Investigations Committee which investigated the affairs of the Ministry of Trade, and whose recommendations were relied on by the Government in retiring the Petitioner stated that the Complainant had been retired for being ineffective.

The Commission found that, in terminating the Complainant's appointment, due process, as laid down by the *Civil Service Act 1960 CA 5* (as amended by *Civil Service Law 1993 PNDCL 327*), had not been followed. The Commission, therefore, recommended the reinstatement of the Complainant and payment of three years' salary, on current levels, as compensation. The Commission's decision followed the Supreme Court decision in the case of Baiden v. Ghana National trading Corporation 1991, IGLR 567. The formula approved by the Supreme Court considered that two years salary was appropriate and adequate for a five year period during which a worker was wrongfully dismissed for indiscipline.

**CHRAJ/0B/CN/565/89/1801 -
ACQUISITION WITHOUT
COMPENSATION**

The Complainant's parcel of land was earmarked for the construction of a Technical Institute in Koforidua, capital of the Eastern Region of Ghana. Compensation was paid for the destruction of crops but not for the plot of land itself. The Complainant therefore sought the return of the plot of land.

The Respondent stated that Government had not acquired the land and that compensation would only be paid when an Executive Instrument on the acquisition was published.

The Commission found that the parcel of land had not been legally acquired by Government and ruled that if the appropriate Executive Instrument covering the acquisition was not passed within 3 months, then the Complainant should re-possess the property.

**CHRAJ/648/97/1605 -
RESTORATION OF PRE-EMPTION
RIGHTS**

The Complainant, a former employee of the Ghana Publishing Corporation (GPC), sought the intervention of the Commission to restore his right of pre-emption to purchase house No. 65 A or 65 B. The Respondents had caused a publication in the press indicating their intention to sell GPC properties to sitting tenants. The Complainant on 13th March, 1996 tendered to purchase the property at ₵14 million. The Complainant repeated his offer to purchase the house on 25th September, 1997. The

Respondents, by a letter dated 13th October, 1997, stated however that the house had already been sold.

The Commission investigated the matter and found that the Divestiture Implementation Committee (DIC) sold the property to the highest bidder.

The Commission was therefore not satisfied that the Complainant had been denied the right of pre-emption. The Commission criticised the DIC for requesting that the Complainant make a bid at a time it had already accepted an offer.

In view of the foregoing the Commission upheld the Complainant's case and ordered a full restoration of Complainant's right of pre-emption.

**CHRAJ/101/97/1570 - CLAIM
FOR LATE HUSBAND'S BENEFITS**

The Complainant's husband worked for the Respondent as a driver until his death in October 1995. The Complainant's husband was found drunk in the company of six other drivers. Her husband was dismissed whilst the others were not. Shortly after his dismissal, the Complainant's husband suffered a stroke from which he never recovered. He subsequently died. The Complainant sought redress for the alleged unjust treatment of her husband, which she claimed led to his untimely death.

The Complainant claimed that, as a result of her husband's dismissal, he lost all entitlements and benefits that would have been due him for his 11 years' service.

In its reply, the Respondent indicated that the deceased was a habitual drunkard who disregarded several warnings to stop drinking whilst on duty. They therefore had no alternative but to eventually dismiss him. The circumstances under which the deceased left the service of the Respondent did not entitle him to any other benefits than those paid him.

The Commission found that the dismissal had been fair due to the serious nature of the misconduct. The Complainant was advised that her only remedy was to pursue her late husband's Social Security claims.

CHRAJ/312/97/1572 -REQUEST FOR REINSTATEMENT

The appointment of the Complainant was terminated on 7th February 1991 when the Customs Excise and Preventive Service (CEPS) discovered that he had made false declarations in his application with respect to his date of birth and dates of education. In particular, the Respondent was concerned that the Complainant had not fully disclosed all relevant examinations he had written in his educational career.

The Complainant said that the application form did not provide enough space for stating all re-sat papers. He admitted that, in his desperation for a job, he had understated his age. However, he claimed that once employed, he had performed his duties diligently and conscientiously and he believed that the termination of his appointment was therefore too harsh.

In their reaction, the Respondents claimed that the Complainant had acted dishonestly when he lied about his dates of education and birth. This made him unfit to work with a security revenue organization such as CEPS. It therefore terminated his appointment (in accordance with the Collective Bargaining Agreement).

The Commission noted that the Complainant had not denied making false declarations with respect to his date of birth and age.

In the opinion of the Commission, the Complainant had acted dishonestly. Under the Respondent's Collective Bargaining Agreement dishonesty is punishable by dismissal. The petition was thus dismissed.

CHRAJ/62/95/1571 -PROPERTY ASSIGNED TO A MINOR

The Complainant claimed that the Respondent - Tema Development Corporation (TDC) - had illegally confiscated his son's house. He explained that he rented the house from the Respondent in 1964. In 1971, he applied to purchase the house. Then in 1973, he instructed the Respondent to transfer the property to his son. However, in 1979, the house was confiscated on the grounds that he owned two government houses in contravention of the *State Housing and TDC (Ownership of Houses) Decree 1979, (AFRCD. 50)*.

The Respondent explained that, in 1973 the Complainant's son was 8 years old and that, the transfer to him was therefore, illegal, and void. Accordingly, when the Decree came

into force the Petitioner owned two government houses, with one liable to be confiscated.

The Commission concluded after its investigation that the purported assignment made by the Complainant to his son in 1973 was not valid because in law one cannot assign property to a minor. The Commission also found that the Petitioner was aware of the illegal transaction and had sought to procure fraudulent documents to cover the transaction. As a result the petition was rejected.

Two years later, the Complainant sought a review of the decision. However, he failed to present any new facts to warrant a review. Instead, he claimed that at the time of the transfer his interest in the property was freehold because he had purchased it. He therefore believed that he could dispose of it as he wished.

The Commission stated that a bona fide owner of a property can do anything with his property only within the confines of the law. The Commission referred to the common law principle that a minor cannot own landed property. At best, the property could be held in trust for the minor. When the Complainant informed the Respondent to transfer the property to his son, he failed to disclose that he was 8 years old. The Respondent did not know this until 1980 when this fact was reported to it. Thereafter, the Respondent took steps to set aside the assignment because a contract procured by fraud is voidable at the instance of the deceived party within a reasonable time after discovering the fraud. Furthermore, before setting aside the assignment, the Respondent

gave the Complainant every opportunity to assert his rights.

The Commission held that the case had been thoroughly investigated. It stood by its earlier decision that the assignment was illegal and the Respondent had been right in confiscating the property.

CASE NO CHRAJ 213/9/600 – UNLAWFUL DETENTION

The Complainant sought the release of his brother-in-law from detention. He stated that his brother-in-law was arrested by a group of boys at the Tema Station in Accra at the instance of a woman who alleged that he had stolen a bag of rice from her. He stated that his brother-in-law had been detained at the Accra Central Police Station. He had made several unsuccessful attempts to have him released on bail.

Under Article 14(3) of 1992 the Constitution of Ghana, a person may be held in police custody for up to 48 hours.

During the Commission's investigations, the complainant reported that his brother-in-law had been released on the instructions of the Police Commander of the Accra Central Police Station. The Complainant was satisfied with this outcome, and the Commission therefore treated the matter as settled.

CHRAJ/88/93/982 UNLAWFUL DISMISSAL AND CLAIM FOR ENTITLEMENTS

The Petitioner who filed a complaint with the Commission on 10th November 1993 stated that his

appointment as a Branch Manager of the Ghana Commercial Bank in Sogakope was terminated in 1984.

He intimated that he had petitioned various agencies including the Head of State and the Ministry of Labour and Social Welfare for redress, but in vain.

The Petitioner's case was that his appointment was terminated because he granted a facility to a customer amounting to c6.7million - after he had examined the customer's assets and also determined that his business proposal was viable.

The Respondent however, commented adversely on the petition. It countered that the Bank terminated the Petitioner's appointment because he contravened the regulations of the Bank by granting a facility to a customer without prior approval.

A full scale hearing conducted by the Commission, the Petitioner reiterated what he stated in his petition. He added that his colleagues had granted higher facilities ranging from c10 million to c230 million to customers before informing the Head Office. Also, the facility he granted amounted to c6.7 million and that the assets of the customer amounting to c25 million far exceeded the facility.

According to him, if the Managing Director had not intervened he would have informed the Head Office to ratify the action he took.

The Respondents on the other hand, in their evidence especially through cross-examination of the petitioner, stressed the following points:

That the Petitioner did not have the authority to grant the facility without the prior approval of the Bank, That in granting loans the Bank did not look at collateral alone, That the termination of the petitioner's appointment and withholding of his entitlements were justified.

The Commission found that it was not in doubt that the Petitioner granted an overdraft facility to a customer whose account was barely six (6) months old without prior approval of the Head Office.

According to practice prevailing at the Bank, a manager could use his discretion to grant an advance without prior approval by the Head Office, which could later ratified such a transaction.

The inexplicable arrest of the Petitioner caused by the Managing Director disrupted the process of banking transactions whereby the Head Office would have been informed of the transaction for ratification.

It is in the light of the above that the Regional Labour Officer writing to the Chairman of the Committee of Interdicted and Suspended Public Officers on 12th October 1987 on this matter, cautioned the Committee to exercise the strictest restraint. The Regional Labour Officer made a final assertion, which the Commission associated itself with, that even if disciplinary action should be meted out to the Petitioner, termination of his appointment was rather too harsh. To him a transfer or demotion would have been a fitting punishment for this "administrative error".

The second leg of the petition was in respect of withholding the Petitioner's entitlements until the loan would be recovered.

The Commission held that to freeze the entitlements of the Petitioner who had been dismissed, and to hold on to it until the recovery of the loan was, to say the least, "the unkindest cut of all".

The Respondent had sufficient means at their disposal to recover the loan. The facility was supported with collateral worth €25 million. There is no doubt the Respondent could have long taken action against the customer and satisfied the judgement debt with the sale of the customer's properties including five (5) large warehouses.

It remains a mystery why up to the present time, a whole bank with its legal outfit as well as a host of external solicitors have not been able to recover an amount of €7 million.

Indeed, it was the view of the Commission that the Respondent could not hold on to the Petitioner's entitlements *ad infinitum*. The Respondents have not acted with diligence to recover the loan from the Petitioner. It was, therefore, unjust and unfair to hold the Petitioner who was no longer in office, and was not in control of affairs at the branch responsible for recovery of the loan.

Having made the above observations and findings, the Commission deemed the termination of the Petitioner's appointment unjustified, harsh and excessive. The Petitioner had served the bank for 22 years and this was the

first time he had committed an administrative error.

Furthermore, the decision to withhold payment of his benefits was equally unjustified and without basis.

The Commission did not consider it prudent to call for the reinstatement of the Petitioner owing to the fact that he had been out of office for fourteen years.

Guided by the formula laid down by the Court of Appeal, in *Agbetor vrs. G.M.B.* and affirmed by the Supreme Court in *Baiden v. G.N.T.C.*, the Commission directed that the Petitioner be paid two years current emoluments for every five years that he had been at home as compensation for wrongful termination and loss of income. Also, the petitioner's benefits which had been withheld since 1984 should be paid to him at current rates as if he were to leave office today.

CHIRAJ/404/97/1164

CLAIM FOR TERMINAL BENEFIT

The Complainant, a teacher, joined the staff of the Respondent school following his resignation from another school, on the promise of better conditions of service. He was not given an appointment letter. The Respondent did not pay any of the allowances promised apart from his basic salary despite repeated demands and reminders.

The Complainant's appointment was eventually terminated without notice. The Complainant claimed a total of

€6,468,000 from the Respondent as follows:

Salary arrears for 3 months at €256,000 per month	€768,000
Headteacher's allowance at €50,000 for 24 months	€3,600,000
Hospital allowance at €50,000 for 24 months	€1,200,000
Afternoon classes for 5 terms at €180,000/term	€900,000

The Respondent stated that the Complainant was not entitled to any of the allowances, as his work had not been satisfactory. A successful mediation by the Commission led to a mutual agreement under which the Complainant was to be paid €5,300,000.00 in settlement of his claim. The Commission accordingly ruled the matter as settled.

CHAPTER EIGHTEEN OF THE 1992 CONSTITUTION

COMMISSION ON HUMAN RIGHTS & ADMINISTRATIVE JUSTICE

216. There shall be established by Act of Parliament within six months after Parliament first meets after the coming into force of this Constitution, a Commission on Human Rights and Administrative Justice which shall consist of -

- (a) *a Commissioner for Human Rights and Administrative Justice; and*
- (b) *two Deputy Commissioners for Human Rights and Administrative Justice.*

217. The President shall appoint the members of the Commission under article 70 of this Constitution.

218. The functions of the Commission shall be defined and prescribed by Act of Parliament and shall include the duty -

- (a) to investigate complaints of violations of fundamental rights and freedoms, injustice, corruption, abuse of power and unfair treatment of any person by a public officer in the exercise of his official duties;
- (b) to investigate complaints concerning the functioning of the Public Services Commission, the administrative organs of the State, the Armed Forces, the Police Service and the Prisons Service in so far as the complaints relate to the failure to achieve a balanced structuring of those services or equal access by all to the recruitment of those services or fair administration in relation to those services;
- (c) to investigate complaints concerning practices and actions by persons, private enterprises and other institutions where those complaints allege violations of fundamental rights and freedoms under this Constitution;

- (d) to take appropriate action to call for the remedying, correction and reversal of instances specified in paragraphs (a), (b) and (c) of this clause through such means as are fair, proper and effective, including
 - (i) *negotiation and compromise between the parties concerned;*
 - (ii) *causing the complaint and its finding on it to be reported to the superior of an offending person;*
 - (iii) *bringing proceedings in a competent Court for a remedy to secure the termination of the offending action or conduct, or the abandonment or alteration of the offending procedures; and*
 - (iv) *bringing proceedings to restrain the enforcement of such legislation or regulation by challenging its validity if the offending action or conduct is sought to be justified by subordinate legislation or regulation, which is unreasonable or otherwise ultra vires;*
- (e) to investigate all instances of alleged or suspected corruption and the misappropriation of public moneys by officials and to take appropriate steps, including reports to the Attorney-General and the Auditor-General, resulting from such investigations;
- (f) to educate the public as to human rights and freedoms by such means as the Commissioner may decide, including publications, lectures and symposia; and
- (g) to report annually to Parliament on the performance of its functions.

219. (1) The powers of the Commission shall be defined by Act of Parliament and shall include the power -

- (a) *to issue subpoenas requiring the attendance of any person before the Commission and the production of any document or record relevant to any investigation by the Commission;*
- (b) *to cause any person contemptuous of any such subpoena to be prosecuted before a competent Court;*
- (c) *to question any person in respect of any subject matter under investigation before the Commission;*
- (d) *to require any person to disclose truthfully and frankly any information within his knowledge relevant to any investigation by the Commissioner.*

(2) The Commissioner shall not investigate

- (a) *a matter which is pending before a court or judicial tribunal; or*
- (b) *a matter involving the relations or dealings between the Government and any other Government or an international organisation; or*
- (c) *a matter relating to the exercise of the prerogative of mercy.*

220. An Act of Parliament enacted under article 216 of this Constitution shall provide for the creation of regional and district branches of the Commission.

221. A person shall not be qualified for appointment as a Commissioner or a Deputy Commissioner for Human Rights and Administrative Justice, unless he is -

- (a) *in the case of Commissioner, qualified for appointment as a Justice of the Court of Appeal; and*
- (b) *in the case of a Deputy Commissioner, qualified for appointment as a Justice of the High Court.*

222. The Commissioner and Deputy Commissioners shall not hold any other public office.

223. (1) The Commissioner and Deputy Commissioners shall enjoy the terms and conditions of service of a Justice of the Court of Appeal and High Court respectively.

(2) The Commissioner and Deputy Commissioners shall cease to hold office upon attaining the ages of seventy and sixty-five years respectively.

224. Where the Commissioner dies, resigns or is removed from office or is for any other reason unable to perform the functions of his office, the President shall, acting in consultation with the Council of State, appoint a person qualified to be appointed Commissioner to perform those functions until the appointment of a new Commissioner.

225. Except as provided by this Constitution or by any other law not inconsistent with this Constitution, the Commission and the Commissioners shall, in the performance of their functions, not be subject to the direction or control of any person or authority.

- 226.** The appointment of officers and other employees of the Commission shall be made by the Commission acting in consultation with the Public Services Commission.
- 227.** The administrative expenses of the Commission including salaries, allowances and pensions payable to, or in respect of, persons serving with the Commission, shall be charged on the Consolidated Fund.
- 228.** The procedure for the removal of the Commissioner and Deputy Commissioners shall be the same as that provided for the removal of a Justice of the Court of Appeal and a Justice of the High Court respectively under this Constitution.
- 229.** For the purposes of performing his functions under this Constitution and any other law, the Commissioner may bring an action before any court in Ghana and may seek any remedy which may be available from that court.
- 230.** Subject to the provisions of this Constitution and to any Act of Parliament made under this Chapter, the Commission shall make, by constitutional instrument, regulations regarding the manner and procedure for bringing complaints before it and the investigation of such complaints.

THE COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE ACT, 1993 ACT 456

AN ACT to establish a Commission on Human Rights and Administrative Justice to investigate complaints of violations of fundamental human rights and freedoms, injustice and corruption; abuse of power and unfair treatment of persons by public officers in the exercise of their duties, with power to seek remedy in respect of such acts or omissions and to provide for other related purposes.

DATE OF ASSENT: 6th July, 1993

BE IT ENACTED by Parliament as follows-

PART I - ESTABLISHMENT OF COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE

- 1.** There is established by this Act a body to be known as the Commission on Human Rights and Administrative Justice in this Act referred to as "the Commission"
- 2.** (1) The Commission shall consist of -
 - (a) *a Commissioner for Human Rights and Administrative Justice in this Act referred to as "the Commissioner"; and*
 - (b) *two Deputy Commissioners for Human Rights and Administrative Justice, in this Act referred to as "the Deputy Commissioners"*

- (2) The President shall, acting in consultation with the Council of State appoint the Commissioner and the Deputy Commissioners.
3. (1) A person shall not be qualified for appointment as Commissioner or a Deputy Commissioner for Human Rights and Administrative Justice, unless he is -
- (a) *in the case of the Commissioner, qualified for appointment as a Justice of the Court of Appeal; and*
- (b) *in the case of a Deputy Commissioner, qualified for appointment as a Justice of the High Court.*
- (2) The Commissioner and Deputy Commissioners shall not while holding office as Commissioners hold any other public office.
4. (1) The Commissioner and Deputy Commissioners shall enjoy the terms and conditions of service of a Justice of the Court of Appeal and High Court respectively.
- (2) The Commissioner and Deputy Commissioners shall cease to hold office upon attaining the ages of seventy and sixty-five years respectively.
- (3) Where the Commissioner or a Deputy Commissioner dies, resigns or is removed from office, the President shall, acting in consultation with the Council of State, appoint a person qualified to be appointed Commissioner or Deputy Commissioner to perform those functions until the appointment of a new Commissioner or Deputy Commissioner.
5. The procedure for the removal of the Commissioner and Deputy Commissioner shall be the same as that provided for the removal of a Justice of the Court of Appeal and a Justice of the High Court respectively under article 146 of the Constitution.

6. Except as provided by the Constitution or by any other law not inconsistent with the Constitution, the Commission and the Commissioners shall, in the performance of their functions not be subject to the direction or control of any person or authority.

PART II - FUNCTIONS OF THE COMMISSION

7. (1) The functions of the Commission are -

- (a) *to investigate complaints of violations of fundamental rights and freedoms, injustice, corruption, abuse of power and unfair treatment of any person by a public officer in the exercise of his official duties;*
- (b) *to investigate complaints concerning the functioning of the Public Services Commission, the administrative organs of the State, the offices of the Regional Co-ordinating Council and the District Assembly, the Armed Forces, the Police Service and the Prisons Service in so far as the complaints relate to the failure to achieve a balanced structuring of those services or equal access by all to the recruitment of those services or fair administration in relation to those services;*
- (c) *to investigate complaints concerning practices and actions by persons, private enterprises and other institutions where those complaints allege violations of fundamental rights and freedoms under the Constitution;*
- (d) *to take appropriate action to call for the remedying, correction and reversal of instances specified in paragraphs (a), (b) and (c) of this subsection through such means as are fair, proper and effective, including -*

- (i) negotiation and compromise between the parties concerned;
 - (ii) causing the complaint and its finding on it to be reported to the superior of an offending person;
 - (iii) bringing proceedings in a competent court for a remedy to secure the termination of the offending action or conduct, or the abandonment or alteration of the offending procedures; and
 - (iv) bringing proceedings to restrain the enforcement of such legislation or regulation by challenging its validity if the offending action or conduct is sought to be justified by subordinate legislation or regulation which is unreasonable or otherwise ultra vires;
- (e) *to investigate allegations that a public officer has contravened or has not complied with a provision of Chapter Twenty-four (Code of Conduct for Public Officers) of the Constitution;*
- (f) *to investigate all instances of alleged or suspected corruption and the misappropriation of public monies by officials and to take appropriate steps, including reports to the Attorney-General and the Auditor-General, resulting from such investigation;*
- (g) *to educate the public as to human rights and freedoms by such means as the Commissioner may decide, including publications, lectures and symposia; and*
- (h) *to report annually to Parliament on the performance of its functions.*
- (2) All costs and expenses related to investigations conducted by the Commission into a complaint shall be borne by the Commission.

8. (1) The Commission shall for the purposes of performing its functions under this Act, have power -

- (a) *to issue subpoenas requiring the attendance of any person before the Commission and the production of any document or record relevant to any investigation by the Commission;*
- (b) *to cause any person contemptuous of any such subpoena to be prosecuted before a competent court;*
- (c) *to question any person in respect of any subject matter under investigation before the Commission;*
- (d) *to require any person to disclose truthfully and frankly any information within his knowledge relevant to any investigation by the Commissioner.*

(2) The Commissioner shall not investigate -

- (a) *a matter which is pending before a court or judicial tribunal; or*
- (b) *a matter involving the relations or dealings between the Government and any other Government or an international organisation; or*
- (c) *a matter relating to the exercise of the prerogative of mercy.*

9. For the purposes of performing his functions under the Constitution, this Act and any other law, the Commissioner may bring an action before any court in Ghana and may seek any remedy which may be available from that court.

10. (1) There shall be established in each Region and District of Ghana Regional and District branches respectively of the Commission.

(2) There shall be appointed by the Commission an officer who shall be the head of a Regional or District branch of the Commission.

- (3) The Commission may create such other lower structures as would facilitate its operations.

11. (1) A representative of the Commission in a Regional or District office of the Commission shall -

- (a) *receive complaints from the public in the Region or District;*
- (b) *make such on-the-spot investigation as may be necessary; and*
- (c) *discharge any other duties relating to the functions of the Commission that may be assigned to him by the Commissioner.*

PART III - PROVISIONS RELATING TO COMPLAINTS AND INVESTIGATIONS

12. (1) A complaint to the Commission shall be made in writing or orally to the national offices of the Commission or to a representative of the Commission in the Regional or District branch.

(2) Where a complaint is made in writing it shall be signed by the complainant or his agent.

(3) Where a complaint is made orally, the person to whom the complaint is made shall reduce the complaint into writing and shall append his signature and the signature or thumbprint of the complainant.

(4) Notwithstanding any law to the contrary, where a letter written by -

- (a) *a person in custody; or*
- (b) *a patient in a hospital;*

is addressed to the Commission, it shall be immediately forwarded unopened and unaltered to the Commission by the person for the time being in charge of the place or institution where the writer of the letter is detained or of which he is a patient.

- (5) A complaint under this Act may be made by any individual or a body of persons whether corporate or unincorporated.
- (6) Where a person by whom a complaint might have been made under this Act has died or is for any sufficient reason unable to act for himself, the complaint may be made by his personal representative or by a member of his family or other individual suitable to represent him.

13. (1) Where in the course of the investigation of any complaint it appears to the Commission -

- (a) *that under the law or existing administrative practice there is adequate remedy for the complaint, whether or not the complainant has availed himself of it; or*
- (b) *that having regard to all the circumstances of the case, any further investigation is unnecessary.*

it may refuse to investigate the matter further.

(2) The Commission may refuse to investigate or cease to investigate any complaint -

- (a) *if the complaint relates to a decision, recommendation, act or omission of which the complainant has had knowledge for more than twelve months before the complaint is received by the Commission; or*
- (b) *if the Commission considers that -*
- (i) the subject matter of the complaint is trivial;
 - (ii) the complaint is frivolous or vexatious or is not made in good faith; or
 - (iii) the complainant does not have sufficient personal interest in the subject matter of the complaint.

(3) Notwithstanding subsection (2) of this section, if within six months after the Commission's refusal or ceasing to investigate any complaint under this section, fresh evidence in favour of the complainant becomes available, the Commissioner shall, at the request of the complainant, re-open the case.

- (4) Where the Commission decides not to investigate or to cease to investigate a complaint, it shall within 30 days of the decision inform the complainant of its decision and the reasons for so refusing.

14(1) Where the Commission decides to conduct an investigation under this Act, it shall give the authority or person concerned and to any other person who is alleged in the complaint to have taken or authorised the act or omission complained of, an opportunity to comment on any allegations contained in the complaint and the representative of the authority or person concerned shall submit his comments within such time as the Commission may specify.

(2) The public may be excluded from investigations conducted by the Commission.

(3) Without prejudice to the generality of the provisions of this section, the Commission may obtain information from such persons and in such manner, and make such inquiries, as it considers necessary.

(4) The Commission may pay to a person by whom a complaint is made and to any other person who attends and furnishes information for the purposes of an investigation under this Act -

(a) *sums in respect of expenses properly incurred by them; and*

(b) *allowances by way of compensation for the loss of their time,*

in accordance with such scales and subject to such conditions as may be determined by the Commission having regard to the rates for the time being applicable to the courts.

15. (1) Subject to this section the Commission may require any person who, in its opinion, is able to give any information relating to a matter being investigated by the Commission -

(a) *to furnish the information to it;*

(b) *to produce any document, paper or thing that in its opinion relates to the matter being investigated and which may be in the possession or control of that person.*

(2) The Commission may summon before it and examine on oath or affirmation -

- (a) *a person required to give information or produce anything under subsection (1) of this section;*
- (b) *a complainant;*
- (c) *any other person who the Commission considers will be able to give information required under subsection (1) of this Section.*

(3) Subject to subsection (4) of this section, a person who is bound by law to maintain secrecy in relation to, or not to disclose, any matter may not -

- (a) *supply information to or answer a question put by the Commission in relation to that matter; or*
- (b) *produce to the Commission a document, paper or thing relating to it,*

if compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure.

(4) A person to whom subsection (3) of this section applies may be required by the Commission to supply information or answer a question or produce a document, paper or thing that relates to a matter under investigation; and subject to section 16 of this Act, it shall be the duty of that person to comply with the requirement.

(5) A witness before the Commission shall be entitled to the same privileges to which he would have been entitled if he were a witness before the High Court.

(6) No person shall be liable to prosecution for an offence under any enactment by reason of his compliance with a requirement of the Commission under this section.

16. Article 135 of the Constitution which relates to production of official documents in court shall apply to proceedings before the Commission as it applies to proceedings before a court.
17. (1) The Commissioner or a Deputy Commissioner and every person holding an office or appointment under the Commission shall maintain secrecy in respect of all matters that come to their knowledge in the exercise of their functions.
- (2) Every person holding office or appointment under the Commission who is likely to have access to confidential information of the Commission shall before proceeding to carry out his functions under this Act, take and subscribe to the Oath of Secrecy set out in the Second Schedule to the Constitution.
- (3) The Commission shall determine the category of persons to whom subsection (2) of this section shall apply.

PART IV - PROCEDURE AFTER INVESTIGATION BY THE COMMISSION

18. (1) Where after making an investigation under this Act, the Commission is of the view that the decision, recommendation, act or omission that was the subject matter of the investigation -
- (a) *amounts to a breach of any of the fundamental rights and freedoms provided in the Constitution; or*
 - (b) *appears to have been contrary to law; or*
 - (c) *was unreasonable, unjust, oppressive, discriminatory or was in accordance with a rule of law or a provision of any Act or a practice that is unreasonable, unjust, oppressive, or discriminatory; or*
 - (d) *was based wholly or partly on a mistake of law or fact; or*
 - (e) *was based on irrelevant grounds or made for an improper purpose; or*

(f) *was made in the exercise of a discretionary power and reasons should have been given for the decision;*

the Commission shall report its decision and the reasons for it to the appropriate person, Minister, department or authority concerned and shall make such recommendations as it thinks fit and the Commission shall submit a copy of its report and recommendations to the complainant.

- (2) If within three months after the report is made no action is taken which seems to the Commission to be adequate and appropriate, the Commissioner, may after considering the comments, if any, made by or on behalf of the department, authority or persons against whom the complaint was made, bring an action before any court and seek such remedy as may be appropriate for the enforcement of the recommendations of the Commission.

19. (1) The Commissioner shall, annually submit a report to Parliament which shall include a summary of the matters investigated, and the action on them by the Commission during the preceding year.

(2) Parliament may debate the report of the Commission and may pass such resolution as it considers fit.

(3) A resolution of Parliament shall not alter a decision made by a court on a matter instituted before the court by the Commissioner.

(4) The Commissioner may, in the public interest or in the interest of any person or department or any other authority, publish reports relating -

(a) *generally to the exercise of the functions of the Commission under this Act; or*

(b) *to any particular case investigated by the Commission whether or not the matters in the report have been the subject of a report to Parliament.*

PART V - MISCELLANEOUS PROVISIONS

20. The appointment of officers and other employees of the Commission shall be made by the Commission acting in consultation with the Public Services Commission.
21. The administrative expenses of the Commission including all salaries, allowances and pensions payable to or in respect of, persons serving with the Commission are charged on the Consolidated Fund.
22. (1) Subject to the supervisory jurisdiction of the Supreme Court, no proceedings shall lie against the Commission or against any person holding an office or appointment under the Commission for anything done, reported or said by him in the course of the exercise or intended exercise of his functions under this Act, unless it is shown that he acted in bad faith.
- (2) Anything said, any information supplied, or any document, paper or thing produced by any person in the course of an inquiry by or proceedings before the Commission under this Act is privileged in the same manner as if the inquiry or proceedings were proceedings in a court.
- (3) For the purposes of the rules of law relating to defamation any report made by the Commission under this Act shall be privileged, and a fair and accurate report on it in a newspaper or a broadcast shall also be privileged.
23. For the purposes of this Act, the Commissioner or any public officer authorised by him, may at any time enter any premises occupied by a department, authority or a person to whose act or omission this Act applies and inspect the premises and, subject to sections 16 and 17 of this Act carry out on the premises any investigation that is within the jurisdiction of the Commission.

24. Any person who -

- (a) *without lawful justification or excuse, wilfully obstructs, hinders or resists a member of the Commission or an officer authorised by the Commission in the exercise of any powers under this Act; or*
- (b) *without lawful justification or excuse, refuses or wilfully fails to comply with any lawful request of the Commissioner or a Deputy Commissioner or any other person under this Act; or*
- (c) *wilfully makes any false statement to or misleads or attempts to mislead the Commissioner or any other person in the exercise of his functions under this Act*

commits an offence and is liable on summary conviction to a fine not exceeding €500,000.00 and in default of payment to imprisonment for a term not exceeding six months or to both.

25. The provisions of this Act are in addition to the provisions of any other Act or any rule of law under which -

- (a) *a remedy or right of appeal or objection is provided for any person;*
or
- (b) *any procedure is provided for the inquiry into or investigation of any matter,*

and nothing in this Act shall be taken to limit or affect a remedy or right of appeal or objection or procedure.

26. (1) Subject to the provisions of the Constitution and to any Act of Parliament made under the Constitution, the Commission shall make, by constitutional instrument, regulations regarding the manner and procedure for bringing complaints before it and the investigation of such complaints.

(2) The exercise of the power to make regulations may be signified under the hand of the Commissioner or in his absence, a Deputy Commissioner.

27. In this Act a reference to a member of a complainant's family means -

- (a) *in the case of a person belonging to a family based on the paternal system - mother, father, wife, son, daughter, brother, sister, father's brother, father's father, father's brother's son, and brother's son;*
- (b) *in the case of a person belonging to a family based on the maternal system - mother, father, wife, son, daughter, brother, sister, mother's mother, mother's brother, mother's sister, sister's son, sister's daughter, mother's sister's son and mother's sister's daughter.*

28. (1) The Ombudsman Act 1980 (Act 400) is repealed.

(2) Notwithstanding the repeal of the Ombudsman Act, 1980 (Act 400) -

- (a) *any regulation made under it and in force on the coming into force of this Act shall until altered, amended or revoked, continue in force and shall be applied with such modifications as may be necessary for giving effect to the provisions of this Act; and*
- (b) *Any complaint pending before the Ombudsman immediately before the coming into force of this Act may be proceeded with under, and shall be subject to the provisions of, this Act.*

**COMMISSION ON HUMAN RIGHTS AND
ADMINISTRATIVE JUSTICE
(COMPLAINT PROCEDURE) REGULATIONS, 1994**

CONSTITUTIONAL INSTRUMENT NO. 7

In exercise of the powers conferred on the Commission on Human Rights and Administrative Justice under Section 26 of the Commission on Human Rights and Administrative Justice Act 1993 (Act 456) these Regulations are made this 1st day of September, 1994.

1. (1) A complaint to the Commission shall be made in writing or orally to the national office of the Commission or to a representative of the Commission at the regional or district branch of the Commission.
- (2) Where the complaint is in writing, it shall be addressed to the Commissioner or to his regional or district representative and shall be signed or thumb printed by the complainant or his agent.
- (3) Where the complaint is made orally or the complainant cannot read and write, the complaint shall be reproduced into writing by the officer at the registry of the Commission or its branch to whom the complaint is made or by any other person chosen by the complainant.
- (4) A person who reduces into writing the oral complaint of any person shall -
 - (a) *read over and explain the contents to the complainant;*

- (b) *declare on the document that the complainant has fully understood or appeared to understand and appreciate the contents of the complaint;*
- (c) *cause the complainant to append his signature or thumbprint to the written complaint.*

2. (1) A complaint lodged with the Commission shall contain -

- (a) *the full name and contact address of the complainant;*
- (b) *the body, organisation or person against whom the complaint is made;*
- (b) *particulars of the nature of the complaint together with copies of any document in support of the complaint;*
- (c) *the nature of the injustice or harm that the complainant has suffered as a result of the action, inaction or omission of the body or organisation or person against whom the complaint is made; and*
- (e) *the relief sought by the complainant.*

(2) A person who lodges a complaint with the Commission on behalf of another person shall state in writing the capacity in which he does so and the reason for so doing.

(3) A complainant shall be given a reasonable time (depending on the circumstances of the case) within which to check on his complaint.

(4) Where a complaint lodged with the Commission is not pursued for three months from the date it is lodged, the complaint shall lapse thereafter.

3. (1) Where the Commissioner considers that a complaint lodged with the Commission is a matter within the function of the Commission, he shall

cause a copy of the complaint to be transmitted to the head of the body or organisation or the person against whom the complaint is made with a request for comment and response.

- (2) The head of the body or organisation or person against whom the complaint is made shall within ten days from the date of receipt of the complaint or such further period as the Commissioner may specify submit his comments or response to the Commissioner.
 - (3) The Commissioner or his representative may assign an investigator or officer of the Commission to make a preliminary investigation into any complaint lodged with the Commission.
 - (4) The Commission may for the purposes of performing its functions require the services of a member of the Police Force or any public institution with expert knowledge relevant for redressing any particular complaint.
4. (1) Upon receipt of the comments or response the Commissioner, where he considers that in view of the response, the complaint could be mediated upon and settled, may invite the parties concerned and attempt a settlement of the issue between the parties.
- (2) No provision of these regulations shall preclude the Commission on receipt of a complaint from inviting the parties concerned and attempting a settlement of the issue between the parties.
5. (1) Where the Commission decides to institute a full investigation into a complaint, the Commission shall in writing invite -
- (a) *the complainant*
 - (b) *a representative of the body, organisation or person against whom the complaint is made; and*
 - (c) *such other persons as are considered by the Commission to be concerned in the investigation to attend to be interviewed by the Commission at a date, time and place specified in the notice.*

- (2) The date for attendance shall not be less than seven days from the date of the notice.
- (3) A person appearing before the Commission in answer to a complaint shall -
 - (a) *be informed again of the particulars of the complaint and the relief sought;*
 - (b) *be afforded full opportunity to answer the complaint and to question any witness.*
- (4) Any person who appears before the Commission in any investigation shall be given a fair hearing.
- (5) Persons appearing before the Commission to be investigated shall appear in person and may be represented by counsel.
- (6) Records of the investigation shall be kept in writing.

6.
 - (1) For the purposes of regulation 5 the Commissioner may on the recommendation of any other member of the Commission, an investigator of the Commission or any other officer of the Commission, constitute a panel to investigate any complaint and report to the Commission.
 - (2) The panel shall be composed of a chairman who shall be a member of the Commission or any legal officer in the employment of the Commission and not less than two other officers of the Commission.
 - (3) Notwithstanding sub-regulation (2) of this regulation there may be co-opted on any such panel such person as the Commissioner may approve.
 - (4) A person appearing before a panel under these regulations may raise an objection to the membership of the panel to the Commissioner who shall determine the issue.

7.
 - (1) A panel composed under these regulations shall make a full report in any matter before it with its recommendations to the Commission.
 - (2) The Commission shall consider every report submitted under sub-regulation (1) and may accept or reject the recommendations or ask for further investigations.

8. An officer appointed as the regional or district head of the branch of the Commission shall ensure the prompt investigation by officers in the regional or district of all complaints and may refer complaints to the national office where he considers it necessary or where directed by the Commissioner.
9.
 - (1) The head of a district office of the Commission shall within five days of the end of every month submit to the head of the region branch of the Commission, a report of all complaints investigated by the district office in the preceding month and recommendation of the office on the complaints.
 - (2) The designated head of a regional branch of the office together with the recommendations to the national office.
10. The final decision in any complaint lodged with the Commission shall be taken by the Commission.
11. For the purpose of sections 9 and 18(2) of the Act, the Commissioner may by writing authorise any public officer to bring an action in any court in the name of the Commissioner.
12. In these Regulations -
"Act" means the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456).

Dated at Accra this 1st day of September, 1994. Commission shall submit a monthly report on all complaints investigated by the District offices and the Regional Offices.

EMILE FRANCIS SHORT

*COMMISSION ON HUMAN RIGHTS
AND ADMINISTRATIVE JUSTICE*