



**COMMISSION
ON
HUMAN RIGHTS
AND
ADMINISTRATIVE
JUSTICE**

**ANNUAL
REPORT
1999**

The Honourable 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 sixth Annual Report of the Commission for the period January 1, 1999 to December 31, 1999.

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.

COMMISSIONER'S REMARKS

The year 1999 has been a challenging and rewarding year for the Commission. As in previous years, we continue to face great challenges in retaining our well-trained workforce and acquiring adequate logistics to enable us discharge our functions more effectively. The Commission's legal Department, in particular, came perilously close to being weakened due to its high staff turn-over rate occasioned by uncompetitive salaries and remuneration scheme, coupled with the lack of adequate working tools.

Even so, the Commission made tremendous strides in pushing the frontiers of human rights in Ghana. In particular, the Commission raised the disturbing and pervasive issue of sexual harassment onto the forefront of our national concerns and our agenda for achieving a wider societal appreciation of human rights in the country. In this, as in all our other numerous activities during the reporting year, the Commission and its staff made tremendous sacrifices in maintaining the high standards of performance, which have become important benchmarks of the Commission.

The Commission received 8,892 complaints nationwide. In all, the Commission investigated 15,998 complaints during the reporting year. A total of 7,106 complaints were pending from the previous year. The Commission closed 8,073 cases during the year 1999.

Public Education

As with previous years, the Commission continued with its efforts to broaden societal awareness and acceptance of human rights throughout the country. Through its Regional and District Directorates, the Commission reached into the depth of Ghanaian society to dialogue with community leaders, state officials and youths (including students) on strategies for promoting the Commission's message of enhancing the scale of human dignity and social development in Ghana through the internalisation of human rights and administrative justice values, as well as a strong anti-corruption ethic in Ghanaians.

The Commission also used innovative radio and television programming, as well as community durbars, to propagate human rights values and norms, bearing in mind the socio-cultural peculiarities of particular target communities. Donor funding from diverse sources, notably DANIDA and USAID, continued to be a key life-line in this process, for which we are deeply grateful.

Anti-Corruption Activities

The Commission vigorously investigated several complaints and allegations of corruption levelled against public officials, especially in respect of the use of the District Assemblies Common Fund. Four such investigations continued into the year 2000 and will be fully reported in next year's annual report.

The Commission continued to dialogue with its anti-corruption coalition partners to create and heighten public awareness of the negative effects of corruption, especially on the social,

economic and political development of the country. The coalition also worked to empower citizens to demand responsiveness and transparency from both public and private institutions and public officials in Ghana.

The Commission, in collaboration with its partners, organized a National Integrity Workshop in Accra from October 20 - 21, 1998. The Workshop brought together a non-partisan group of Ghanaians drawn from government, the Commission, the judiciary and civil society generally (private business, religious groups, academe and social justice interest groups) to prepare towards the creation of a national movement to combat corruption. One of the recommendations from this workshop was the formation of a civil society-based anti-corruption body to support the efforts of official and semi-official agencies.

In response to this call, the Commission played a key role in the launch on December 6, 1999, of the Ghana Integrity Initiative (GII) in Accra. A non-partisan, non-profit organization, the GII is the national chapter of Transparency International (TI), the global anti-corruption watchdog body.

One of the other recommendations made at the National Integrity Workshop was the need to establish a well-funded anti-corruption unit within the Commission to pursue more vigorously its anti-corruption mandate.

The year 1999 also saw the establishment of the Ghana Anti-Corruption Coalition (GACC), which is a cross sectoral grouping of Government, official anti-corruption agencies, the private sector and civil society in a partnership to combat corruption in all spheres of Ghanaian society. The Commission is the spokesperson for the Coalition.

The Commission would also like to draw attention of the legislature to the rather ambiguous expression in its enabling statute (Act 456) that where the Commission investigates allegations or complaints of corruption or embezzlement of public monies, it should take "appropriate steps", including reports to the Attorney General and Auditor General, resulting from such investigations. The Commission calls for a more explicit statement of the kind of sanctions it may recommend where it makes adverse findings of corruption against an official. In addition, although the Commission has extensive investigative powers, it currently lacks the power to prosecute individuals it finds warrant prosecution for corruption following its investigations. Presently, the decision to prosecute rests with the office of the Attorney-General who also doubles as the Minister of Justice, which is a political appointment. As a result, some individuals may be spared prosecution for political reasons, even where prosecution is warranted.

It is vital therefore that the Constitution is amended to directly confer prosecutorial powers on the Commission to obviate this unfortunate situation. The Commission's cognate institution in Uganda, the Inspector-General of Government, has such powers, which it has used rather effectively, and we can take a cue from them.

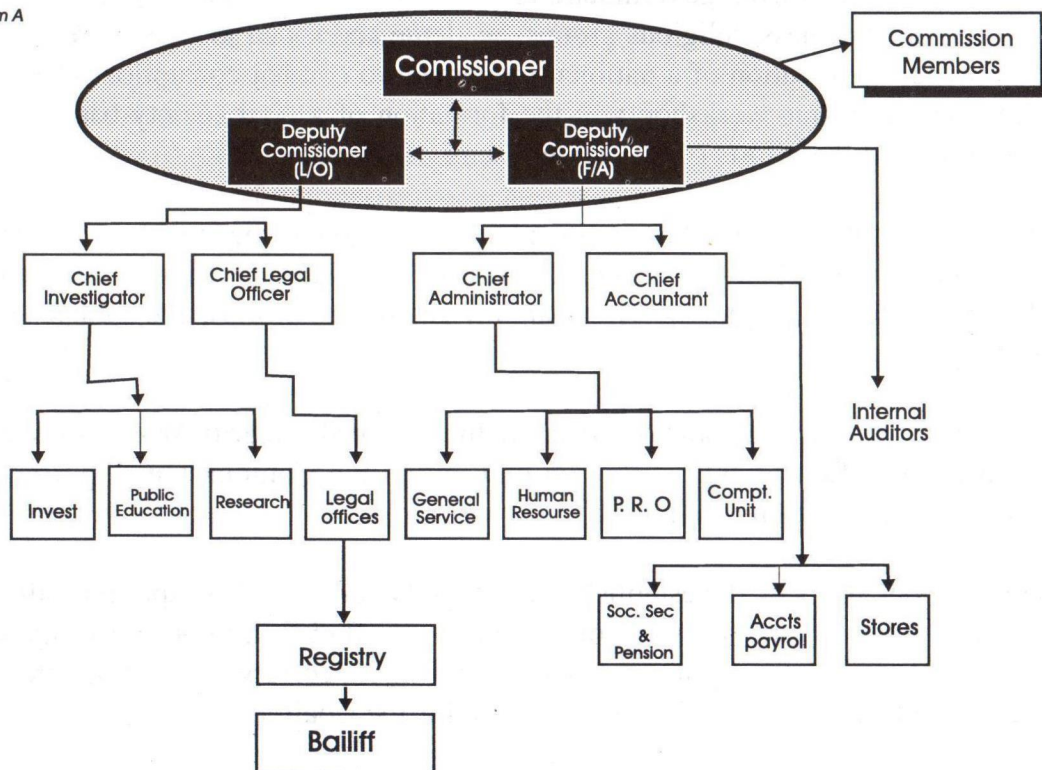
Emile Francis Short
Commissioner

ORGANISATIONAL FRAMEWORK OF THE COMMISSION

The following flow charts illustrate the organizational framework of the Commission from the national to regional and District level

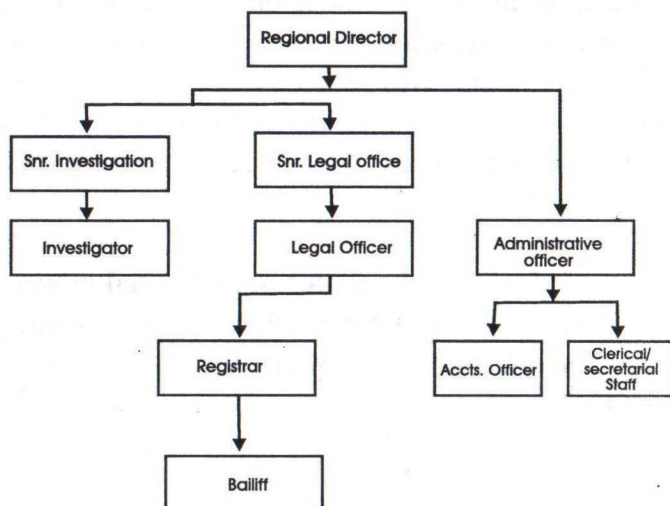
HEADQUARTERS

Diagram A



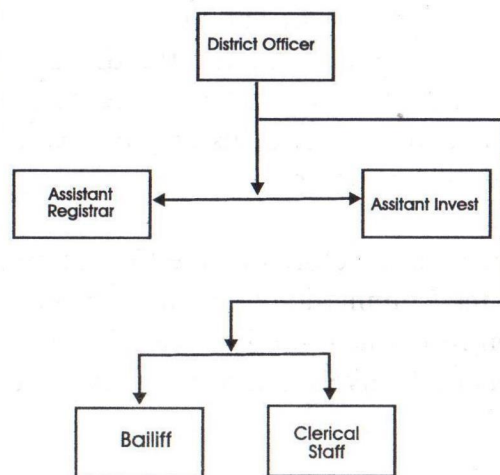
REGIONAL OFFICE

Diagram B



DISTRICT OFFICE

Diagram C



CORPORATE STRATEGIC PLAN

During the early part of the reporting year, the Commission developed a 10-year corporate strategic plan to assist the Commission with long range planning from 1999 to 2009. The Commission developed the plan with the kind assistance of the Good Governance Programme of the National Institutional Renewal Programme (NIRP).

The Commission had, until then, not prepared any corporate plan for implementation on a medium or long-term basis. Instead, its work had been primarily driven by ad hoc plans. This situation had not been very helpful to the Commission, which, as an institution of its calibre, must adopt a medium to long-term approach to the fulfilment of its objectives, programmes and plans. It is hoped that the Strategic Corporate Plan for the period 1999-2009 will take care of the deficiencies associated with the ad hoc character of our planning and operations. With this strategic plan the Commission should be able to deal effectively with the opportunities and threats in its corporate environment.

Strategic Direction Statement

The strategic direction of the Commission will determine what must necessarily be undertaken to drive the organization towards its mission achievement and its ultimate contribution to the national aspiration under vision 2020. During the strategic analysis, it became evident that the driving forces in the strategic areas are the service delivery capacity, methods of reaching customers and the use of technology. Geographic coverage, the organizational image and services offered were also identified as the next most important strategic areas, in that order. During the planning, the Commission intends to improve its services to promote and protect fundamental human rights in line with the aspirations of the people of Ghana. For this to happen, the Commission will place more emphasis on:

- the development of its service delivery capacity by improving the quality of staff; improving its internal management; improving equipment and material resource base; improving its physical infrastructure; and its financial capacity; and
- reaching customers widely spread out geographically.

Our vision during the plan period is to have a Commission capable of fulfilling its constitutional mandate at minimum cost, a Commission which enjoys public confidence and has a good public image, as well as the ability to create and maintain respect for fundamental human rights and administrative justice. Our vision is also to build a Commission capable of contributing significantly to the reduction of corruption and to enhance the scale of integrity and compliance with the Code of Conduct for Public Officers in the Ghanaian society.

PROGRAMMES REPORT

1. PUBLIC EDUCATION & TRAINING

As in previous years, the year 1999 saw the implementation of educational programmes aimed at promoting and protecting the fundamental human rights of the people, as well as enhancing administrative justice. The programs also sought to educate the public and to enlist their support in fostering integrity and in combating corruption, conflict of interest and abuse of power in Ghanaian society. Some of the programmes were also in-house, and were implemented to further develop the capacity of the Commission to discharge its constitutional and statutory obligations.

In undertaking public education programmes, the Commission staff, where appropriate, plugged into the traditional community calendars, especially in the rural districts, taking advantage of the large, ready and receptive audience generally available on market days and during local festivals of target communities.

In addition, the Commission sought to build and strengthen the foundation for a culture of human rights and administrative justice in Ghana by taking to the airwaves (on radio and television), and going into some schools, workplaces and places of worship. A senior staff member was a regular guest of a popular weekly radio legal clinic during which she fielded human rights and general legal questions from callers in the English, Akan or Ga language. Other key staff of the Commission regularly and readily made themselves available for radio phone-in shows, some of which were rebroadcast several times over.

The Commission also organized numerous educational programmes across the country. It used a variety of strategies including community durbars, collaboration with schools, human rights NGOs and civil society organizations, as well as other regular partner institutions such as the National Commission for Civic Education (the NCCE), the International Federation of Women Lawyers (FIDA), the Women and Juvenile Unit of the Ghana Police Service (WAJU) and the United Nations Information Centre (UNIC).

Selected Educational & Training Activities (Local)

a). Human Rights In the Administration of Justice Project

In line with its policy of collaborating with stakeholders in the enforcement of human rights and strengthening human rights education, the Commission organized a two-day workshop for chairpersons of community and circuit tribunals and panel members. The objective of the project was to heighten human rights awareness among adjudicators within this sector of the judiciary, in order to ensure that, as far as practicable and necessary, their decisions are informed by human rights considerations as appropriate.

Held at the Volta River Authority (VRA) Club House in Tamale from 8th to 9th June 1999, the workshop had as its theme "The Enforcement of Human Rights in the Courts and Tribunals". The Konrad Adenauer Foundation sponsored the highly successful event.

b). Workshop on the Rights of Persons Accused of Witchcraft

In further effort to draw a consensus on how to address the inhuman treatment meted out to persons suspected to be witches in Northern Ghana, the Commission organized a two-day workshop on August 24 - 25, 1999 at the VRA Club House in Tamale. The theme of the Workshop was "Protecting the Rights of Alleged Witches: A Community-Based Approach".

The workshop brought together religious and opinion leaders, representatives from the National Commission on Civic Education, Ghana National Commission on Children, the 31ST December Movement and chiefs from the affected communities to brainstorm on ways of protecting the victims of such accusation and to foster their reintegration into their communities. The project was sponsored by the USAID, which had earlier in December 1998, provided financial support for the Round Table Conference on the Treatment of Suspected Witches in Northern Ghana held at the Picorner Hotel in Tamale.

In addition, the Commission used the opportunities and platforms offered by the ever-growing private media, especially FM radio stations, to educate the public about individual rights and liberties, including the dignity rights of persons accused or suspected of witchcraft. It also highlighted the corresponding obligation of family members, charismatic religious leaders, prayer camp priests, sorcerers and so-called witch-doctors, and all those who profess powers to exorcise witchcraft to not subject any person to any cruel, inhuman or degrading treatment, or to any condition that derogates from the dignity of the individual.

(c) In-House Capacity-Building Projects

Thanks to financial support from DANIDA, the National Institutional Renewal Programme (NIRP) and the Government of Ghana, the Commission organized a number of training programmes for its staff. The training programme aimed at enhancing performance for better service delivery.

In all, seven such educational programmes were organized for the various categories of the Commission's staff, including newly-recruited District Directors, Accounts Officers, Legal Officers, Investigators, Bailiffs, Administrative Officers, Assistant Registrars and Drivers. The programmes aimed at enhancing the capacity of the staff to better perform their functions in support of the Commission's goals.

International Activities (courses, seminars and conferences)

As in previous years, members and several staff of the Commission attended various conferences and courses aimed at enhancing the capacity of the Commission to promote human rights. Overseas travel by members of the Commission aimed to strengthen international co-operation and collaboration between the Commission and its counterpart organizations abroad.

In February, the Commissioner participated in the Global Anti-Corruption Forum held in Washington, D.C., USA, as well as in Vice-President Al Gore's Special Conference on corruption.

From January 25 to February 13, the Director of Operation and Chief Investigator participated

in a three-week course in "The Protection of "Human Rights" at the Institute Internationale d'Administration Publique in Paris, France, with funding from the Government of France.

During the year, the Commissioner and the Deputy Commissioner (Finance & Administration) attended the African Commission on Human and Peoples' Meeting held in Bujumbura, Burundi.

In August, the Chief Investigator served as a Facilitator at a five-day Orientation and Skills-Building Workshop organized by the newly-formed Malawi Human Rights Commission. The workshop focused on capacity development in the areas of human rights investigation, adjudication and mediation, as well as thematic issues such as the rights of women, children and persons with disability.

From 10 - 15 October 1999, the Commissioner served as a facilitator in the 9th International Anti-Corruption Conference, held in Durban, South Africa. This pre-eminent international forum attracted politicians, national and local government officials, and representatives of the business fraternity, researchers, international development organizations, the media and non-governmental organizations. The Forum discussed issues pertaining to integrity and transparency in society and the elimination of corruption, and formulated appropriate strategies to address these issues.

From 6 - 26 September 1999 the Principal Administrative Officer in charge of General Services attended the RIPA International course in Change and Human Resource Management in the United Kingdom. A Principal Investigator of the Commission attended the Hubert H. Humphrey Fellowship programme in Minnesota, USA, from August 1999 to June 2000. Since his return, the officer has been a strong addition to the Commission's team of investigators

Two staff of the Commission participated in three-month exchange programmes in the USA, while several others attended short courses in Denmark, Switzerland, France and the United Kingdom. Chief Investigator, who represents the Commission on the Civitas Ghana Steering Committee, and the PRO, also a member of the Steering Committee, attended the Civitas International Congress in Palermo, Italy, from June 18 - 22, 1999 on behalf of the Steering Committee. The Congress sought to foster a culture of peace and lawfulness in member countries.

During the month of October, the Commission hosted a 7-member delegation from the Chinese Ministry of Supervision, which has oversight responsibilities for administrative justice in China. The delegation was in the country to familiarize itself with the operations of the Commission as an Ombudsman institution. During its visit, the Delegation had the opportunity of meeting with the Vice-President, Prof. John Evans Attah-Mills, and to exchange views on administrative justice and human rights issues.

In November, the Commission received a three-member delegation from the Togolese Human Rights Commission. The purpose of the visit was to establish cordial working relations between the two geographically closest national human rights institutions in the sub-region in order to better contribute to the promotion and protection of human rights in Togo and Ghana.

A thirteen - member delegation from the Finnish-Ghanaian Sisterhood paid a working visit to Ghana from December 18th, 1999 to January 7th, 2000. The group sought to establish links with women's organizations in the rural areas in the country. The Akwapim North District office of the Commission organized a meeting between the Sisterhood group and various women's organisations in the district Assembly Hall on December 23, 1999. A strong relationship has been forged between the CHRAJ and the Finnish-Ghanaian Sisterhood, which offered to assist the Akwapim North District office with office equipment.

2. HUMAN RIGHTS DAY NATIONAL CONSULTATION

To celebrate the 1999 International Human Rights Day, the Commission and the United Nations Information Centre, together with other civil society groups, organized a National Consultation on "Building an Inclusive Society for the New Millennium". The event focused on strategies for enhancing the full and equitable participation of all persons in Ghanaian society, without any unwarranted distinction based on gender, ethnicity, political creed or affiliation, religious orientation or belief, physical or mental disability (including HIV/AIDS status) and age, among others.

The Minister of Interior, Nii Okaija Adamafo, opened the seminar. He acknowledged the long history of the struggle for human rights in Ghana and commented on the recent efforts of Ghana to combat human rights violations. He stressed that Ghana has made great strides in the area of human rights through education and political awareness, as well as in the establishment of state institutions such as the Commission, the National Commission on Children, and the National Commission on Civic Education. But he also noted that there still remains a large discrepancy between the human rights outlined in the Universal Declaration of Human Rights and the actual human rights that are enjoyed by most Ghanaians. He urged participants "to make human rights real by making it a living, everyday issue in our homes, in our work place, in our communities, and in the conduct of affairs in the wider nation."

In his welcome address, the Commissioner emphasized the need to foster a culture of respect for fundamental human rights, especially those rights concerning children, women, the elderly, and the disabled. He advocated the implementation of high-impact education programs that would eventually lead to the formation of a courageous civil society capable of promoting participatory democracy and transparency for good governance and human rights for all.

The Director of the UN Information Centre highlighted the importance of the Universal Declaration of Human Rights. She noted that the document has served as the foundation for most human rights legislation and an inspiration for constitutional democracy around the world. In spite of the existence of the Declaration, the Director noted that more than half the world's population still suffers from gross human rights deprivations. She applauded the current state of human rights in Ghana, and praised the country's democratic institutions and human rights NGOs for their involvement in the promotion and protection of human rights.

She also drew attention to Ghana's shortcomings, which include violations of the rights of women, children, the elderly, the disabled, and persons living with HIV/AIDS. She emphasized the need for a higher level of tolerance amongst ethnic, political, and religious groups in the country, and concluded by calling on participants to "come out with a strategy to improve upon the already strong human rights foundations that exist in this country."

Six papers were then presented by a mix of Government, NGO, and University officials addressing such issues as the rights of AIDS patients, the elderly, the disabled, children and women. The Commission's Chief Investigator presented a paper on "Promoting Lawfulness and Ethnic, Political and Religious Diversity in Ghana: A Human Rights Perspective".

The presentations were followed by six workshops dealing with the implementation of policies that would work to remedy the aforementioned problems. Again, education was stressed in light of the fact that the majority of Ghanaians are unaware of all of their rights.

3. COMMUNITY MEDIATION - Frankadua

The Commission employs community and inter-group mediation as a technique in managing and resolving conflicts in communities and between different competing ethnic factions. In April, the Commission succeeded in containing and resolving a virulent community tension in Frankadua, a village that straddles the Eastern and Volta Regions of Ghana, and whose inhabitants are culturally and linguistically diverse.

What started as an ill-advised comment by a small-scale grocery store operator and kerosene dealer in the town, about alleged injustices and draconian penalties meted out to "non-native" residents of the village by the Chief exploded into a full-blown protest demonstration by many women supporters of the Chief who felt deeply insulted by the merchant's comments. The latent split between the two factions, "natives" and "non-natives", quickly degenerated into a large-scale community conflict. The factions reportedly armed themselves in anticipation of physical violence by the opposing side following undignified and degrading verbal exchanges about the respective ethnic origins and parentage of the factions. The Chief had the shop forcibly closed down, and the merchant banned from the village as punishment for the alleged comments. Other rather heavy punitive and compensatory fines were also imposed on the merchant.

When the Commission got wind of this boiling conflict, it quickly dispatched a powerful team of investigators to the town. The investigation report identified an urgent need for public education and community mediation to stem the tide of the growing discontent and inter-group hostility, and to avert impending violence. Subsequently, the Commission forged a partnership with the District Chief Executive, the NCCE, the National Disaster Management Organization (NADMO), the local Police and the Fire Service to stage a four-hour community mediation and public human rights education in the village.

Paying attention to cultural sensitivities and ethnic sentiments in the village of Frankadua and its environs, the Commission and its partners managed to resolve the conflicts by mobilizing the collective goodwill and conciliatory ethic in the community through the Chief, elders, opinion leaders and the general citizenry. The people themselves were directly involved in the open community meeting in the marketplace. Over 140 individuals drawn from all the factions, including the women and the youth, took part in the conflict resolution exercise.

In the end, the factions smoked the proverbial peace-pipe and pledged themselves to work in harmony for their collective well-being and development. Several individuals seized the opportunity to air their personal grievances and to seek the Commission's help in addressing them. The Commission staff thus ran a free socio-legal clinic for the village-folk, and there-

by helped to stem the tide of growing discontent on several fronts. The Commission and the office of the District Chief Executive at Akosombo pledged their continuing support for, and readiness to, the maintenance of pacific and cordial relations between the factions. The Commission continues, through its District Director closest to the area, to monitor the situation at Frankadua. Peace and harmony continue to prevail.

This unfortunate story with a happy ending highlights the critical role of independent Commissions in conflict prevention, management and resolution in our time. It also underscores the effectiveness of strategies used by the Commission in such conflict situations. It means further that, when properly equipped with the requisite skills in community mediation and conciliation, statutory human rights organizations and social dialogue bodies can play a dynamic role in conflict prevention and resolution in Ghana and beyond.

Above all, this experience speaks volumes about the urgent need to foster the principles of inter-culturalism, mutual respect and positive inter-group relations in our multi-ethnic, multi-cultural and politically pluralistic society. This would no doubt assist in preventing such inter-group conflicts and the resultant mayhem as occurred in the township of Agona-Nyakrom in the Central Region of the country.

4. PUBLIC EDUCATION ON SEXUAL HARASSMENT

During the reporting year, the Commission issued two landmark decisions on sexual harassment. In *O. M. v. F.A. N.*, the Commission ruled on a preliminary objection to its jurisdiction to investigate a sexual harassment complaint filed by the Complainant, a flight attendant, against her employer, the owner and Chief Executive of a private commercial airline company. Counsel for the Respondent argued that:

- (a) sexual harassment is not a form of gender discrimination prohibited by the Constitution;
- (b) sexual harassment does not constitute a violation of fundamental human rights and freedoms which the Constitution empowers the Commission to investigate; and
- (c) sexual harassment is, for these reasons, not within the Commission's investigative jurisdiction.

In its ruling, the Commission, held that sexual harassment is a form of gender discrimination; that it constitutes a violation of the fundamental human right of its victim to dignity and freedom from unwarranted discrimination, and, thereby, contravenes Article 15(1) of the Ghanaian Constitution (1992), which provides that "the dignity of all persons shall be inviolable". Accordingly, the Commission determined that it has jurisdiction to investigate complaints alleging sex discrimination or violation of fundamental human rights and, therefore, sexual harassment.

The second complaint, *A. S. T. v. F. A. N.*, is the maiden sexual harassment case to be fully adjudicated in the country. In that case, the Commission affirmed its earlier ruling in *O. M. v. F.A.N.* (supra) that sexual harassment is a form of sex discrimination prohibited by the

Constitution. It held that, the Complainant, a flight attendant, had been subjected to a range of persistent, unwelcome sexual propositioning, sexual comments and physical touching, including fondling and kissing, which amounted to sexual harassment.

The Commission ordered the Respondent to pay ₵5million to the Complainant as compensation for the injury to her dignity and self-respect, and for the humiliation occasioned by the sexual harassment and the subsequent victimisation to which he subjected her for refusing to acquiesce to his sexual demands. The Commission further ordered the Respondent to pay her nine months' lost wages in the sum of ₵3,240,000.00, plus ₵56,000.00 in travel expenses she incurred in attending the several hearings into the complaint.

Partnerships for Public Education On Sexual Harassment

The A.S.T. v. F.A. N. decision attracted considerable publicity in the country and certain parts of the West African sub-region and was widely hailed as a significant legal advance on the rights of women to be free from unwarranted attacks on their dignity, and from sex discrimination generally. The Accra-based private newspaper, Public Agenda, in a special 8-page pullout in its May 24-26, 1999 issue, published the full text of the decision. The publication was jointly sponsored by a network of nine NGOs in the sub-region committed to the promotion of gender equality and social justice.

Following this landmark decision and its subsequent publicity, the Commission received 13 sexual harassment complaints, three of which were withdrawn, two settled through mediation, and eight remained under investigation by year's end.

Educational Strategies

The Commission used a combination of radio phone-ins talk-shows, workshops, lectures, symposia and drama, in both English and other local languages, to raise awareness about the topical subject of sexual harassment as a human rights issue, and to educate the public to take a stand against it. The Commission encouraged the spread of awareness of sexual harassment, the development of preventive measures against it, and the timely reporting of such harassment to the Commission or other appropriate bodies as a means of addressing the problem. It also stressed the need for victims to counselling in coping with the problem as appropriate.

The Commission teamed up with the International Federation of Women Lawyers (FIDA), the Women and Juveniles Unit of the Ghana Police Service (WAJU), the United Nations Information Centre (UNIC) and other key partners in educating the public about violence against women in general, and sexual harassment in particular. The Commission also participated in radio and community programs aimed at ensuring child safety and crime prevention in the country. Some surveys suggest that sexual harassment is far more pervasive in Ghanaian society than is often admitted, and that women are the predominant victims of this canker in our workplaces, schools, places of worship, public transport and even hospitals.

5. ANTI-CORRUPTION INITIATIVES/ACTIVITIES

On May 7, 1999, the Commission and its partners launched the National Integrity Report, a document which summarized the key conclusions and action plan of the National Integrity

Workshop held in Accra in October 1998.

The Commission continued with its investigation of allegations and complaints of corruption, abuse of office, and conflict of interest. It also participated in several radio FM programs on corruption and spoke to various civil society groups about strategies for combating corruption. In particular, the Commission led a garden discussion on corruption and the challenge of national development organized by the Institute of Economic Affairs (IEA).

6. PRISONS/POLICE CELLS INSPECTION

In April, the Commission kicked off its annual prisons and police cells inspection with the Commissioner and the Director of Operations leading a team of investigators and media personnel to inspect the Osu Police Station in Accra. The team found several instances of human rights violations against 17 Nigerians, three Lebanese nationals and a Jamaican for various alleged immigration offences. Some of them had been detained at the police station for more than the constitutionally permissible 48 hours without appearing before a judge. The Commission took steps to ensure appropriate and expeditious action on these cases.

7. INTERNATIONAL ATTACHMENT

The Director of Zambia's Permanent Human Rights Commission (PHRC) paid a three-week visit to the Commission to understudy its structure and operations and to explore how best the Commission could assist the PHRC to develop its institutional capacity to promote and protect human rights in Zambia. This was in recognition of the Commission's sterling record in the development of operational structures and requisite human capacity to enhance the scale of human rights promotion and protection.

8. INTERNATIONAL STUDENTS

During the reporting year, the Commission played host to four international students from the USA and Denmark. The researchers were on attachment at the Commission to understudy its operations for scholastic or academic purposes.

THE STATE OF HUMAN RIGHTS IN GHANA (1999)

A Statement by the Commission on Human Rights and Administrative Justice (CHRAJ)

1. Introduction

One of the key inspirations for the independence struggle in Ghana, which culminated in our gaining political independence from British Colonial rule in March 1957, was our fundamental conviction of 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 civil and political 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 Closing Decade

a. Constitutional and Institutional Safeguards

In January 1993, Ghana returned to an era of constitutional democracy in which the protection of the basic rights and freedoms of the people, as enshrined in the 1992 Fourth Republican Constitution, is further ensured by the free functioning of several independent democratic institutions such as the Commission on Human Rights and Administrative Justice, the National Media Commission, the National Commission on Children, the National Council on Women and Development, the National Commission for Civic Education and the Ghana National Electoral Commission.

b. Constitutional Guarantees of Human Rights

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

There has been an appreciable rise in parliamentary democracy and liberalism in Ghana that is almost unparalleled in the rest of contemporary West Africa. We have successfully organized two peaceful national elections. Since 1996, a vibrant and articulate minority group in

Parliament has functioned fairly effectively as a check on the ruling majority.

The creation in July 1993 of the Commission on Human Rights and Administrative Justice ("the Commission") was an unqualified development in our progress toward the cultivation and entrenchment of a culture of respect for human rights. At 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(1) states that every person shall be entitled to his or her personal liberty and no person shall be deprived of his or her 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 provision in the Constitution give concrete expression to the desire to create, strengthen and maintain a human rights culture 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.

The Commission on Human Rights and Administrative Justice Act 1993, (Act 456) subsequently established the Commission to investigate complaint 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.

The protection of the basic rights and freedoms of the people, as enshrined in the 1992 Fourth Republican Constitution, is further ensured by the free functioning of several independent democratic institutions such as the Commission on Human Rights and Administrative Justice, the National Media Commission, the National Commission on Children, the National Council on Women and Development the National Commission for Civic Education and the Ghana National Electoral Commission.

c. Civil Society Organizations

A plethora of non-governmental organizations ("NGO's") have also emerged to articulate, defend and promote respect for fundamental human rights and to ensure observance of the foundational principles of justice and democracy. Many of these NGO's are also committed to advancing the process of social development and ensuring a wider appreciation of democratic values in Ghana. They cover a wide range of constituencies and interests, including women's groups, organizations for the promotion of the welfare of children, persons with disabilities, the elderly and many vulnerable and disadvantaged minorities in society.

d. Legislative Developments in Human Rights

The parliament of Ghana has operated for six years now. During this period, the parliament 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) and customary servitude. The latter prohibition is reasonably construed to include prohibition of 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.

In 1998 Parliament also enacted a law abolishing infant and child marriages. The law, which raises the marriageable age to 18, holds the potential to correct this dehumanizing, degrading and violent cultural practice.

Parliament also passed a law establishing free, compulsory, universal basic education (FCUBE) 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.

e. Gender Equality

Articles 22 and 27 deals with property rights of spouses and women's right. Ghana has ratified the Convention against the Elimination of All Forms of Discrimination.

The Commission commends the Government 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 women's labour force participation relative to men, especially at the highest levels of the employment ladder where significant management policies and government decisions are made.

Since its inception the Commission has actively promoted and protected the rights of women. In addition to processing complaints relating to women's rights, it has vigorously campaigned against all forms of violence against women, including spousal violence, FGM, rape and defilement, inhuman treatment of women suspected to be witches, and sexual harassment.

Despite these positive strides, Ghana has a long distance to cover in ensuring women's full and equitable participation in all facets of our national life. Combating deep-seated patriarchal stereotypes of appropriate gender roles for women and men in Ghana remains a critical challenge. More significantly, violence against women remains the single most compelling women's rights issue in contemporary Ghana.

During the year 1999 the Commission was profoundly horrified and dismayed by the

gruesome murders of women in the Mataheko-Dansoman-Kanesshie areas of Accra. The Commission joined the Ghana branch of the International Federation of Women Lawyers (FIDA) and other voices to condemn the spate of grizzly killings of innocent, defenceless women. In addition the Commission called for greater co-operation between the public and the police in dealing with the crime problem, particularly in solving these horrible murders.

We wish to re-echo our view that this novel and horrific development in the crime scene in Ghana represents a high point in the increasing rate of violence against women in this country. The insecurity generated by the apparently random, unpredictable murders puts in jeopardy the fundamental right of women to life, liberty and security of the person.

It is regrettable that the police have not, to date, been able to solve any of these gruesome murders. The situation has generated mass insecurity and vigilantism, and it presents an enormous challenge to the police and the wider society in ensuring the safety and security of vulnerable women.

The police alone cannot solve these heinous murders, and they require the assistance and co-operation of the general public. Indeed, around the world, communities play a vital and dynamic role in the ability of the police to solve crimes. Citizen tip-offs account for a huge majority of crimes solved by the police worldwide.

The Commission remains committed to its promise to convene soon a national conference on crime and crime prevention with a special focus on domestic violence against women, child sexual and physical abuse, and sexual assault. FIDA, 31st December Women, WILDAF, WAJU, community leaders and others will be critical partners in the staging of this important activity.

Enhancement of Free Speech

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.

The Commission remains extremely concerned about the continued existence of criminal libel and sedition laws in this country. Such laws must be quickly repealed as they represent a chill on freedom of expression.

Nevertheless, the Commission finds it necessary to advise journalists to comply with that portion of their code of conduct which requires them to verify the accuracy of their information before publishing them.

3. Summary of Assessment

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 detention, etc. are gradually becoming a thing of the past. The aim of the Commission's awareness campaign over the years has been to cultivate a human rights culture among Ghanaians.

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

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 persons.

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 peacekeeping in Lebanon, Bosnia and Cambodia.

4. The Future of Human Rights in Ghana

Building an Inclusive Society

The Commission is committed to helping forge an inclusive society in which all persons in Ghana would feel that they truly belong to a nation of caring people.

In the New Year and beyond, the Commission will specially highlight the conditions of disadvantage and marginality experienced by various groups. It will seek to provide a voice for the vulnerable in society, among them the elderly, women and persons with disability, children, persons living with HIV/AIDS, and those who experience marginality because of their religious or political orientation. Ghana of the next millennium must be an inclusive and caring Ghana; it must be a Ghana that protects the rights of all its citizens and visitors.

Increased Public Awareness of Human Rights

The Commission believes that education is key to advancing human rights. Therefore, since its inception, the Commission has, with donor support, organized a series of activities aimed at sensitizing certain identifiable groups and the general public on human rights issue. Human rights awareness is yet to take firm roots in Ghanaian society due to pervasive ignorance, poverty and superstition which account for, and compound, a great deal of human rights abuses. Raising awareness is crucial to fighting these conditions, as well as indifference and acquiescence to rights violation.

Our work in educating the public on human rights issues, in pursuit of our constitutional and statutory obligation, is an important activity which must continue. We, therefore, call on Government and the donor community to support our educational efforts in order to enhance awareness of human rights values, norms and principles. Investment in human rights education is one of the surest ways of ensuring greater social justice, freedom equality, justice and dignity for all.

Ratification of International Human Rights Instruments

The Commission has, over the years, urged Parliament to quickly ratify the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights. Parliament also needs to consider ratification of the more recent convention on the establishment of the International Criminal Court.

The Commission will continue to advocate for the ratification of these instruments, and it is our fervent hope that Parliament will soon respond to this call.

Consolidation of the Human Rights Regime and Democratic Order

Despite the limitations outlined above, most keen observers would agree that the Fourth Republic has achieved significant gains in the human rights field. It is of the utmost importance that we conduct our individual and public affairs in a manner that would contribute to the prevention and enhancement of these achievements.

The expansion of these gains depends on the survival of our democratic Constitution and the Fourth Republic itself. Above all, it depends on our willingness and determination as a people to fight for the growth and consolidation of the democratic order. This requires that we demonstrate statesmanship in our political discourse, avoid political extremism, show greater political, ethnic and religious tolerance and also learn to appreciate the strengths and virtues of those who differ from us. It will also require that Ghanaian find a way of healing the wounds of the past even as we chart a new course of harmony in the next millennium. The Commission requires this of all Ghanaians in order that we can ensure a peaceful political transition in the first year of the next millennium.

In closing, I wish to say that we are capable of achieving more than we ordinarily think possible. We at the Commission believe that in the New Year and beyond, Ghanaians will make immense progress in the protection and advancement of human rights in all spheres of life.

I wish us all a Merry Christmas and a prosperous new millennium.

Emile Francis Short
Commissioner

December 10, 1999

STATISTICAL OVERVIEW

Every year, the commission receives oral and written complaints and enquires on a variety of human right issues and concerns. In 1999, the Commission receives 8892 complaints nationwide. By the close of 1998, the number of complaints pending amounted to 7106. Therefore the actual number of complaints investigated by the Commission in 1999 totalled 15,998. This number of complaints was dealt with during the year under review out of which 8073 of them were resolved.

A sizeable number of 4010 complaints representing 45.1% constituted cases in which women were complainants

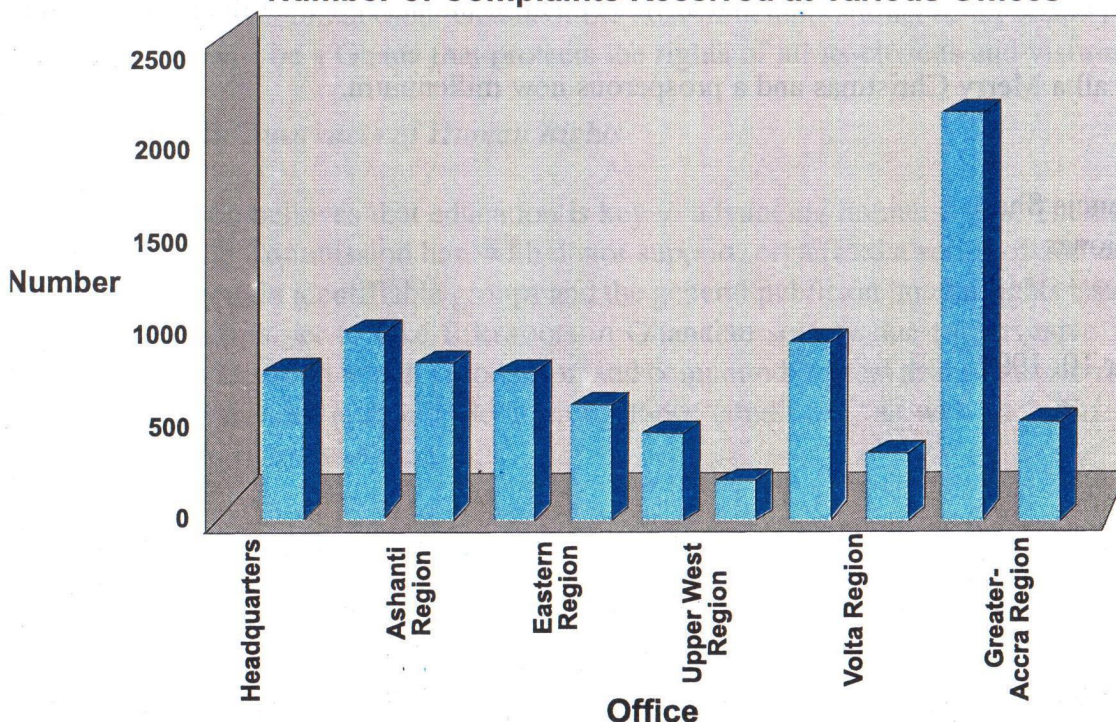
Tab 1

Case Receipt

Office	Number Receive	%
Headquarters	823	9.3
Central Region	1002	11.3
Ashanti Region	863	9.7
Western Region	812	9.1
Eastern Region	630	7.1
Northern Region	471	5.3
Upper West Region	220	2.5
Upper East Region	962	10.8
Volta Region	368	4.1
Brong-Ahafo Region	2197	24.7
Greater-Accra Region	544	6.1
Total	8892	100

Fig 1

Number of Complaints Received at Various Offices



Tab 2

RESPONDENT

Respondents	Hq	C/R	A/R	W/R	E/R	N/R	U/W	U/E	V/R	BA/R	G/A
Depts. Under Min. of Rds & Transport	3	2	0	0	2	2	0	4	8	0	0
Extra-Ministerial Depts.	16	23	35	18	41	26	0	7	15	24	37
Office of the President	6	0	0	0	0	2	0	19	0	0	0
Corps/Companies	190	101	247	139	189	56	21	266	36	62	283
Depts. Under Ministry of Interior	75	19	46	8	0	19	0	44	3	10	15
Depts. Under Ministry of Finance	46	12	25	0	13	4	0	13	8	4	0
Depts. Under Min. of Justice & Office of Attorney General	19	5	6	0	2	0	0	4	4	0	1
Depts. Under Ministry of Defence	7	0	12	0	0	3	0	2	3	0	3
Depts. Under Ministry of Education	59	31	21	8	52	20	0	87	10	13	10
Depts. Under Ministry of Local Government	11	11	6	0	0	6	0	28	4	15	5
Ministry of Food and Agriculture	3	3	0	0	8	0	0	15	3	3	0
Ministry of Health	6	4	5	0	2	0	0	21	2	2	0
Ministry of Lands and Forestry	3	3	0	0	0	0	0	6	3	0	0
Ministry of Wks and Housing	0	2	0	0	0	0	0	0	2	0	0
Ministry Employment and Social Welfare	4	0	0	0	0	0	0	6	4	0	2
Ministry of Mines and Energy	1	0	0	0	0	0	0	0	0	3	0
Ministry of Foreign Affairs	3	0	0	0	0	0	0	0	0	0	0
Ministry of Interior	1	0	0	0	0	0	0	0	0	0	0
Ministry of Defence	4	0	0	0	0	0	0	0	0	0	0
Ministry of Education	5	5	5	0	4	0	0	0	6	2	3
Private Individuals	335	736	414	626	263	309	167	386	238	2037	152
Other Respondents	26	45	41	13	54	24	32	54	19	22	33
Total	823	1002	863	812	630	471	220	962	368	2197	544

Tab 3

NATURE OF COMPLAINT

Nature of Complaint	Hq	CR	AR	WR	ER	NR	UW	UE	VR	BA/R	G/A
Labour-Related Complaints	368	91	215	133	163	232	47	327	120	88	290
Property-Related Complaints	157	161	213	150	135	53	39	113	43	318	10
Human Rights Complaint(Gen)	109	154	92	86	120	24	56	68	55	518	230
Family-Related Complaints	107	440	255	310	168	42	69	261	102	1187	
Miscellaneous Complaints	82	156	88	133	44	120	9	193	48	86	14

Tab 3a

Labour-Related	Number	%
Dismissal	594	28.6
Termination of Appt.	363	17.5
Redundancy/Red.	123	5.9
Retirement	36	1.7
Resignation	11	0.5
Suspension/Interd'n	50	2.4
Transfer	12	0.6
Promotion	13	0.6
Demotion	13	0.6
Pension/Gratuity	88	4.2
Soc. Sec. Deduction	73	3.5
End-of-Service	225	10.8
Severance Award	56	2.7
Salary Arrears	307	14.8
Insurance Claim	20	1.0
Compensation(Adm.)	72	3.5
Other Entitlements	18	0.9
Total	2074	100

Tab 3b

Property	Number	%
Land Title	150	10.8
Inheritance	394	28.3
Tenancy	356	25.6
Tresspass	96	6.9
Confiscation	184	13.2
Destruction	212	15.2
Total	1392	100

Tab 3c

Family	Number	%
Maintainance of Child/Spouse	2028	69.0
Paternity	217	7.4
Child Custody	266	9.0
Deprivation of Education	58	2.0
Marriage Causes	162	5.5
Medicare	45	1.5
Intestate Succession	69	2.3
Other Family Matters	96	3.3
Total	2941	100

GENERAL HUMAN RIGHTS

Complaints on general human rights issues registered 1512 (17%) of the total received in 1999. This involved concerns on unlawful arrests and detention as well as various forms of harassment and other miscellaneous human rights violations.

DETAILS ON NATURE OF COMPLAINTS

Labour-Related, Property, Family, Human Rights(general) and miscellaneous complaints formed the core of substance of complaint. 2074 complaints representing 23.3% were labour-related whilst complaints relating to property and family issues together 49% of the total received in the review year. Refer to tables 3...3(a..e) for details.

LABOUR - RELATED COMPLAINTS

Labour-related complaints borders on issues on Cessation of Appointment, Entitlement and Discipline. In 1999, 2074 complaints received constituted labour-related cases. This represented an increase of 36% in such complaints recorded in 1998. Complaints on Cessation of Appointment which comprised dismissal, termination of appointment among others accounted for 54.3% of total labour-related complaints in the

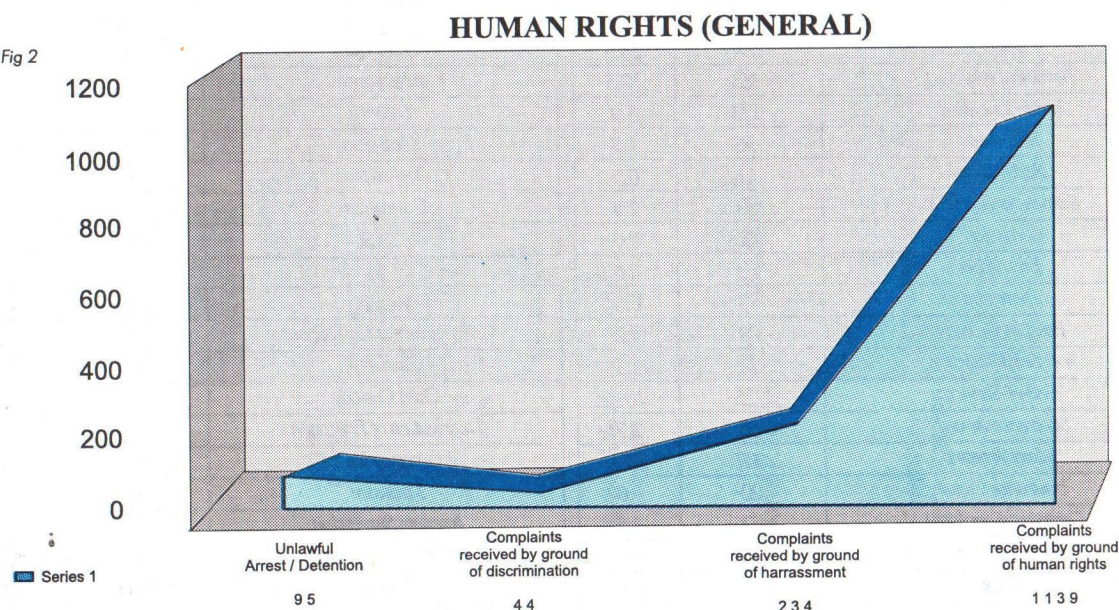
Tab 3(d)

Miscellaneous	Number	%
<i>Judiciary(Delay in Court)</i>	84	7.9
<i>Debt Collection</i>	373	35.2
<i>Exams Matters</i>	18	1.7
<i>Abuse of office</i>	49	4.6
<i>Denial of Trial</i>	5	0.5
<i>Threatening</i>	7	0.7
<i>Embezzlements</i>	15	1.4
<i>Breach of Contract</i>	178	16.8
<i>Assault</i>	51	4.8
<i>Environmental Hazard</i>	5	0.5
<i>Delay in Dispensing Justice</i>	97	9.1
<i>Victimization/Discrimination/Favouritism</i>	91	8.6
Total	973	92

Tab 3(e)

Human Rights (General)	Number	%
<i>Unlawful Arrest/Detention</i>	95	6.3
<i>Complaints received by ground of discrimination</i>	44	2.9
<i>Complaints received by ground of harrassment</i>	234	15.5
<i>Complaints received by ground of human rights violations other than the above</i>	1139	75.3
Total	1512	100

Fig 2

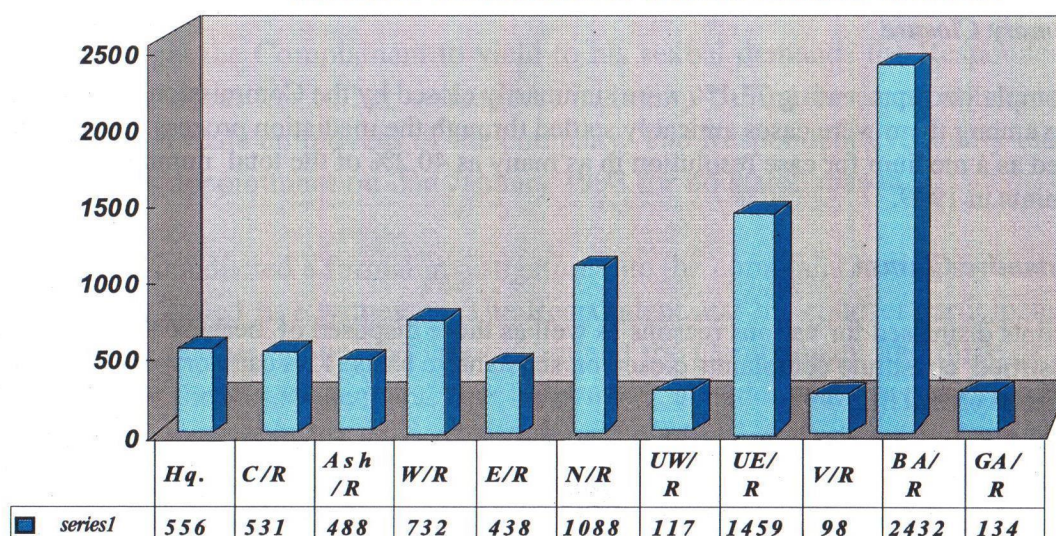


Tab 4

Closed Complaints

Office	Number Closed	%
Headquarters	556	6.9
Central Region	531	6.6
Ashanti Region	488	6.0
Western Region	732	9.1
Eastern Region	438	5.4
Northern Region	1088	13.5
Upper West Region	117	1.4
Upper East Region	1459	18.1
Volta Region	98	1.2
Brong-Ahafo Region	2432	30.1
Greater-Accra Region	134	1.7
Total	8073	100

Fig. 3

CLOSED COMPLAINT FROM CHRAJ OFFICE

Tab 4(a)

Summary of Closure	Hq	C/R	Ash/R	W/R	E/R	N/R	U/W	U/E	V/R	BA/R	G/A
Transferred	15	40	5		21	17		83	10		4
Referred	9	6	14	82	27	36	1	17	2	36	1
No Standing	21		5	43	39	2	2	22	2	15	
out of Time	15	18		6	10	9	5	13	2	13	16
Discontinued	351	112	68	210	137	187	30	90	32	489	50
Lack of Jurisdiction	16	13	20	21	35	22	11	39	15	6	13
Mediated	41	327	329	370	102	271	57	466	35	1236	14
Substantive Closure											
Dismissed	43		14		25	145	8	498		81	36
Justified	45	15	33		42	399	3	231		556	

Tab 4(b)

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
1999	8892	15,998	8073	7925
Total Received (1993-1999)	32,636	Total Closed (1993-1999)	24,711	Actual Pending since inception = 7925

Nature of Closed Complaints

The trend of complaint closure did not change with the Brong-Ahafo region registering 30.1%. The Northern and Upper East regions together accounted for a total of 2547 which formed 31.6% of the total closed within the year under review.

a) *Summary Closure*

5899 complaints representing 73.1% were summarily closed by the Commission in 1999. Notable among them were cases amicably settled through the mediation process. Mediation was used as a medium for case resolution in as many as 40.2% of the total number of closed complaints in 1999.

b) *Substantive Closure*

Complaints dismissed for various reasons as well as those disposed of because they were found to be justified constitute complaints closed on substantive basis. This category accounted for 27% of total closed in 1999.

Tab 4(c)

Summary of Closure	Number	%
<i>Transferred</i>	195	2.4
<i>Referred</i>	231	2.9
<i>No Standing</i>	151	1.9
<i>Out of Time</i>	107	1.3
<i>Discontinued</i>	1756	21.8
<i>Lack of Jurisdiction</i>	211	2.6
<i>Mediated</i>	3248	40.2
Substantive Closure		
<i>Dismissed</i>	850	10.5
<i>Justified</i>	1324	16.4
Total	8073	100

SAMPLE OF DECIDED CASES

Suit No. Misc. 1576/99

In January 1998, the complainant filed a complaint of sexual harassment against the Respondent, managing director of Fan Airways.

The Complainant was employed in March 1997 and was the first flight attendant of Fan Airways. About a month after her employment the Respondent started making persistent demands on her for dates and sexual favours.

The Respondent repeatedly called the Complainant into his office at inappropriate times or odd hours and tried to fondle and kiss her. At least once a week or every two weeks the Respondent told the Complainant she was the most beautiful girl in the office and that he could do anything for her including taking her on trips abroad. He generally made unwelcome verbal remarks of a sexual nature to her and his sexual fantasies about her. He subsequently forbade her from having a sexual or romantic relationship with any other man if she would not acquiesce to his sexual demands. The Complainant rejected all the invitations and tried her best to avoid the Respondent's sexual attention.

Having failed to get the Complainant to yield to his sexual demands the Respondent made insulting remarks about her to her colleagues, including calling her a prostitute who was sleeping with other male employees of the company. The Respondent eventually terminated the Complainant's appointment on 2nd January 1998 for no stated reason.

The Commission conducted a formal investigation into the complaint lasting several sittings. The Complainant called five witnesses. The Respondent and his counsel participated in the proceedings from the beginning and cross-examined the Complainant and three of her witnesses. Thereafter, the Respondent and later his counsel, abandoned the proceedings. Counsel for the Respondent stated in his letter of withdrawal that he could not track down his client. Although the Commission notified the Respondent that the hearings would proceed as pre-arranged with or without him, the Respondent did not attend the subsequent hearings, neither did counsel appear on his behalf to ask for adjournment or to explain the Respondent's inability to attend the hearings.

There were no Ghanaian precedents on the issue as this was the first case of sexual harassment to be decided. The Commission therefore relied on precedents from the USA, Canada and the United Kingdom. In December 1998 the Commission rendered its decision in the matter. It found that:

1. Sexual harassment is a form of sex discrimination contrary to Article 17 (2) of the 1992 Constitution which provides that:

A person shall not be discriminated against on grounds of gender, race, colour,

and did not wish to be reinstated. However, as he had been prematurely retired after 19 years and two months of service he had not paid SSNIT contributions for the requisite 20 years to entitle him to a full pension. Consequently, the Commission ordered that the Respondent pay all the Complainant's contributions to SSNIT for the period from the date of his premature retirement to the date of the decision; and pay the Complainant 50% of his lost earnings for the same period. The Commission also ordered that the Respondent pay the Complainant his Long Service Award, as provided under the Respondent's Collective Bargaining Agreement.

CHRAJ/TJ/354/96/1031

The Complainants, former civil servants with the Respondent, the Ghana Education Service (GES), alleged that while they were on interdiction, facing trial at the National Public Tribunal, they were not paid 50% of their salaries, contrary to a PNDC government directive. They also complained that they had been on bail, awaiting trial, for the last four years, as the Respondent was unable to establish that they had committed any offence.

The Respondent initially refused to make the claimed 50% salary payments, alleging that the Complainants had, in fact, been dismissed. However, during the Commission's investigations, the Respondent realized that there was nothing on record to explain why the Complainants' applications for half payment of their salaries had been refused; and they promptly restored these payments to the Complainants.

The Respondent also admitted that it could not now explain why the Complainants had been interdicted in the first place. Accordingly, from the weight of the evidence, the Commission found that any further delays by the Respondent in concluding its investigations into the interdiction of the Complainants would constitute a violation of their fundamental human rights.

It was ordered that either the Complainants be reinstated immediately, with effect from the date of their interdiction, as the Respondent was unable to produce evidence at trial to support their interdiction; or, that they be retired, with payment of all their entitlements.

CHRAJ/GAR/319/96/27

The Complainant alleged that her employment with the Young Women's Christian Association, the Respondent, was unfairly terminated for failure to report for duty.

The Complainant had been employed as a sewing teacher with the Respondent for seven years when she took maternity leave, to expire in July 1995. The Respondent stated that, following her maternity leave, the Complainant was expected to take part fully in remedial classes, held during the holiday period. However, the Complainant continually failed to come to work throughout July and August, explaining that she was nursing her baby, and requesting that a replacement take the classes until the school re-opened. The Respondent refused her request and withheld her salary for July and August pending investigation into her

absenteeism. It subsequently terminated her employment.

However, through mediation by the Commission, the matter was settled amicably between the parties, with the Respondent agreeing to pay the Complainant one month's salary in lieu of notice, and five months' salary in damages. The Complainant's SSNIT contributions were also to be updated to reflect the period she had worked, and she was to be refunded her contributions to the Welfare Fund.

CHRAJ/VR/CN.07/96/43

The Complainant, a former civil servant, sought end of service benefits from the State Housing Corporation- now State Housing Co. Ltd, with whom he was seconded from the Ministry of Agriculture, between 1965 until he was made redundant in 1978. His repeated demands for payment over the years had been unsuccessful.

The Commission's investigations showed that employees of the Respondent, at post between 1991 and 1993, were paid end of service benefits; and that there was no ground justifying the denial of the same benefits to the Complainant. However, due to the length of time since the Complainant had been made redundant, the Commission offered to mediate a settlement between the parties. As a result, the Respondent agreed to pay the Complainant ₵1,476,099.57 in end of service benefits.

CHRAJ/192/98/1812

The Complainant alleged that he had been wrongfully dismissed by the Respondent, the Ghana Railways Corporation, after 35 years of employment, following his interdiction for colluding with other staff to steal 650 litres of oil from the Respondent.

Although the Complainant had denied the allegations against him, the Respondent's Board of Inquiry into the theft concluded that he was guilty of 'negligence of duty' as he could have prevented the theft if he had not negligently failed to cross check the record books. The Board then recommended that he should be recalled to duty, forfeit his salary for the period of interdiction, and be re-posted. However, the Respondent ignored the Board's recommendation and summarily dismissed the Complainant, depriving him of 35 years of end of service benefits.

From the Commission's investigations, it was clear that the grounds for summary dismissal in the Respondent's Collective Bargaining Agreement (CBA) did not include 'negligence of duty'. Accordingly, the Commission found that, on the balance of the evidence, the Respondent had contravened the CBA, and had unfairly treated the Complainant by dismissing him without notice and without justification for summary dismissal. After due deliberation, the Commission ordered that the Complainant's summary dismissal be converted to termination of appointment, and that he be paid his full entitlement to end of service benefits.

The Complainant alleged that he had been wrongfully dismissed by the Respondent, the Customs, Excise and Preventive Service, after 26 years of service, and sought reinstatement. The Respondent claimed that the Complainant had been dismissed for dereliction of duty in his investigation into the theft of two cheques, which had been issued for payment of taxes by manufacturers.

At a hearing conducted by the Commission, the Respondent stated that it had accepted the conclusions of the National Investigation Committee, which had looked into the theft of the cheques, and found that the Complainant had attempted to mislead the Respondent and protect those accused of the theft. Consequently, the Respondent had dismissed the Complainant for gross misconduct and dereliction of duty in contravention of customs laws and regulations. However, the Complainant argued that the Respondent should have conducted its own investigations into the theft and given him a chance to respond before dismissing him.

From the weight of the evidence, and established law, the Commission found that the Respondent had wrongfully dismissed the Complainant. The law governing the relationship between employer and employee states that an employer may terminate an employee's post at any time, and without reason, provided the contractual (or statutory minimum) notice period is given; or a payment of salary and benefits, representing the period of notice, is made. However, where the employee's post is terminated summarily, without notice, such action must comply with the principles of natural justice: it must be justified on a finding of serious or gross misconduct by the employee, after a fair investigation at which the employee is given the opportunity to respond to any allegations of misconduct.

The Commission found that this procedure was not employed by the Respondent before summarily dismissing the Complainant; and, accordingly, that the dismissal was wrongful and contrary to the principles of natural justice.

As an appropriate remedy for the injustice suffered by the Complainant, the Commission ordered that the Respondent pay the Complainant salary in lieu of notice, and any other benefits under the Conditions of Service, and two years' salary as compensation.

CHRAJ/202/97/1948

The Complainant alleged that he had been unfairly treated by the Respondent, his former employer, the Ghana Reinsurance Co Ltd, as he had been interdicted by the Respondent, in February 1997, following adverse findings against him during an enquiry by the Respondent's Board. As a consequence of the interdiction his employment was effectively suspended and he was denied his entitlement to 50% of his basic salary and allowances.

As the relationship between the parties was not governed by a contract of service, common law principles, as provided by case law, prevailed. Accordingly, at the hearing conducted by the Commission, the Complainant relied on cases establishing that in the absence of any express or implied term in a contract, an employer is not entitled to punish an employee for

alleged misconduct by suspending him from employment; or the employer will be liable to pay the employee all wages due for the period of the suspension. Conversely, the Respondent attempted to distinguish these cases, and argued that such suspension was not unfair where it was an interim measure, pending investigations, and was not to punish the employee.

The Commission found it impossible to accept that the Complainant's interdiction, and suspension of employment, was not a punishment; particularly where he was denied even part payment of his salary and allowances. Accordingly, as the Respondent did not have such a right of suspension, neither expressly nor impliedly, under a contract of service, the suspension of the Complainant was unfair and contrary to law. The Commission ordered the Respondent to pay all salaries and allowances due to the Complainant with immediate effect.

CHRAJ/821/96/216

The Complainant was a public servant, employed as the Assistant Chief Technical Officer by the Respondent, the Tema District Council. He claimed that his employment was terminated for 'general inefficiency' in January 1985, despite his hard work, which had earned him regular promotions. Although the Complainant did not specify the remedy he was seeking, a complaint of wrongful termination emerged from the facts raised.

The Commission conducted a panel hearing to consider the following issues:

1. whether the Complainant was 'generally inefficient' at his job as alleged;
2. whether the employment of the Complainant was wrongfully terminated; and, if so
3. which authority should be held responsible.

On the first issue, from the balance of the evidence given, the Commission concluded that the allegation of general inefficiency against the Complainant was unfounded. Even the witness for the Respondent admitted on cross-examination that there was nothing on the Complainant's personal file to indicate that he was inefficient.

In respect to the second issue, the Respondent claimed that the Complainant had engaged in corruption and theft while in their employ. However, as these allegations were unsupported by evidence, the Commission found that there was no justification for terminating the Complainant's employment, and that the termination had been wrongful.

Evidence relating to the third issue revealed that the Office of the Chairman of the PNDC had given approval for the Complainant's termination. However, the Commission found that the Respondent could not escape liability for wrongfully terminating the Complainant's employment as it could not show that it had been mandated by the PNDC to do so. As a public officer, the Complainant enjoyed a constitutional right to continue in employment until 60, the age of compulsory retirement; and that, otherwise, his employment could not be terminated 'without just cause'. Accordingly, the Commission found that the Complainant's rights had been violated by the unjust administrative act of termination for 'general inefficiency' by the

Respondent.

The Commission decided that reinstatement of the Complainant was not an appropriate remedy due to the length of time, which had elapsed since his employment was terminated. Consequently, following established case law, the Complainant was awarded the equivalent of six years salary in compensation at the current salary levels of a Chief Technical Officer.

CHRAJ/40/99

The Complainant requested the Commission to cause her husband, the Respondent, to allow her to practice her Christian religion and to enjoy her share of the family assets including the matrimonial home. The Respondent is a non-practicing Muslim.

The Complainant stated that she and the Respondent were married under customary law in 1966. Though they were of different religions, it was not an issue in their marriage. Their children were brought up as Christians. In 1985, the Respondent married a Muslim woman and later insisted that the Complainant and her children convert to Islam. They were given an option to do so or to leave the matrimonial home.

The Respondent stated that the Complainant was aware that he was a Muslim before they got married. He had therefore expected the Complainant to change religions. He also stated that for the past 30 years he had tried to get her to convert to Islam all to no avail.

The Commission suggested a mediation to which the parties agreed. The mediation resulted in the following agreement:

1. The Complainant agreed to reduce the frequency of her church attendance during weekdays;
2. Each party and the children would continue to practice their respective religion with no forcible conversion; and
3. The Respondent would allow the complainant back into the matrimonial home.

The Complainant informed the Commission later that she had been allowed into the family home and there was peace. The Commission therefore ceased further investigations and closed the file.

CHRAJ/

The Complainant completed his teacher training education with the Respondent, a teacher training institution. When he went to the school three years later to collect his certificate, the Respondent refused to release it to him, insisting that he should first pay an Old Boys' Association levy of ₦50,000 towards the school's silver jubilee celebrations.

The Commission contacted the Respondent. Following its investigation, the Commission

concluded that compelling the Complainant to pay the levy would amount to compelling him to join a voluntary society, contrary to his fundamental human rights to freedom of association. The Commission found that the Respondent's conduct in refusing to release to him his certificate, which he had duly earned, constituted an administrative injustice in the circumstances. It accordingly ordered the Respondent to release the certificate to the Complainant and to desist from such conduct in future.

The Commission also concluded that the Old Boys Association was a voluntary organization, which the Complainant was at liberty to join or to refuse to join. Freedom of association also meant freedom not to associate; it had nothing to do with the issue of his certificate.

CHRAJ/314/99

The Respondent employed the Complainant as a cook. She subsequently filed a complaint of sexual harassment against him, alleging that he had demanded sexual favours from her and, when she refused, had made her life uncomfortable. He then laid her off.

The Respondent denied the allegation. A date was fixed for hearing at the Commission. Subsequently, the Respondent proposed a settlement of the complaint. Following negotiations, the respondent paid two million and five hundred thousand cedis (¢2.5 million cedis) to the Complainant in full settlement of her claim. The complaint was accordingly settled, and the file was closed.

CHRAJ/299/99

The Complainant petitioned the Commission to order the Respondent, her boy friend with whom she lives and has two children, to provide maintenance for her and the children. She stated that the Respondent, a worker at TAYSEC (a construction company) had been redeployed and was to receive his termination benefits, and she wanted to make sure that she and the children received a fair share of the money. The Commission mediated the matter. The Respondent agreed to pay the Complainant an amount of ¢170,000. The Respondent's employers, in the presence of some Commission officials, released this amount to the Complainant.

Further to the above, the officials of TAYSEC promised the Respondent a job. They also promised to ensure that the Respondent made remittances to the Complainant. The Commission accordingly ceased further investigations.

CHRAJ/43/97

The Complainant stated in his petition that his children had been expelled from school as a result of a controversy between him and other parents on one hand, and the Chairman and members of the School Board, on the other hand. The Complainant contended that the chil-

dren's right to education was being violated.

Whilst the Commission was carrying out its investigations, the matter was sent to court. The Commission ceased investigations as its jurisdiction had been ousted in accordance with Section 8 (2)(a) of Act 456. (Please see Appendix B of this report).

CHRAJ/421/98

The Complainant alleged that the Respondent school discriminated against him on the basis of his religion. He stated that he had paid his registration fee and was about to commence classes when his money was refunded to him. The refund, in addition to comments made to him by the Director of the school, convinced him that his right to freely practice his religion was being abused. He was also being denied his right to education.

After the Commission's intervention, the school invited the Complainant to renew his application for admission. The Complainant did so.

The Commission was satisfied that the matter had been amicably settled. Accordingly, it ceased further investigation.

CHRAJ/GAR/45/98/21

The Complainant petitioned the Commission to order the Respondent, for whom he had worked since 1991, to promote him to a rank commensurate with his qualification.

In 1993, he gained admission into the Ghana Institute of Journalism and was awarded a diploma at the end of the course. Two years later, he was promoted one step. He stated that, on petitioning the Respondent, he was told that promotions were not awarded on the strength of academic qualifications. He claimed, however, that those in similar circumstances had been promoted over and above him.

The Respondent stated that the Complainant's superior officer had not yet recommended him for promotion.

On the basis of the evidence before it, the Commission recommended that the Respondent assess the Complainant and consider him for promotion in line with others in similar circumstances who had been promoted.

CHRAJ/GAR/364/96/35

The Complainant stated that his employer, the Respondent, had discriminated against him in failing to grant him a mortgage loan facility and, thereby, violating his fundamental human rights under Articles 17(1), 17(2) and 17(3) of the 1992 Constitution of Ghana. He claimed

that the Respondent retrenched him, but had asked all retrenched staff to take advantage of a mortgage loan facility to own a house before December 1995.

The Complainant claimed to have filled in and submitted the form and to have received an offer letter from State Housing Corporation prior to March 1995. The Respondent said that the Complainant's application was out of time.

The Commission's investigations established that the Complainant had asked the Respondent to deduct the required deposit for the mortgage from his entitlements. The Respondent had failed to do so on the assumption that the Complainant had already collected his benefits.

The Commission found that the Complainant's application was not out of time, and that his fundamental right to own property had been violated. He had made the application long before the deadline of December 1995. The Commission therefore ordered the Respondent to grant his application for a house.

CHRAJ/GAR/29/99/15

The Complainant lodged a complaint against the Judicial Service and the Ghana Police Service as having conspired to incarcerate her unlawfully. She claimed that a trader made a complaint to the police about her. She stated that she was asked to pay ₵900,000.00 into court which she failed to do. She also said she was a nursing mother.

The Respondent, the Ghana Police Service, stated that the Complainant had been charged with stealing shoes to the value of ₵900,000.00 from a trader.

She was consequently arraigned before a community tribunal. She later jumped bail and was rearrested on a bench warrant. The police denied that she was a nursing mother, though some mothers nurse their babies beyond 2 years. An amicable settlement was reached under the aegis of the Commission. The Complainant produced a sewing-machine, which she promised to sell to defray her debt. The trader also promised to withdraw the matter from court.

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 ~~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;
 - (c) particulars of the nature of the complaint together with copies of any document in support of the complaint;
 - (d) 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 &
Administrative Justice

70.	Asunafo North Municipal Assembly	implemented
71.	Wa West District Assembly	MMDAS
72.	Ghana Integrity Initiative	5
73.	Suame Municipal Assembly-Suame	Implemented
Total No.		

iv.) Report on Implementation of NACAP

in all 169 IPs reported on general roles All the ??? (???) IPs reported on the general roles as well as the strategic objectives under the NACAP. ??? (???) IPs reported on strategic objective 1, ??? (???) on strategic objective 2, ??? (???) on strategic objective 3 and ??? (???) on strategic objective 4 (See Appendix 2).

Table 10: Number of IPs reporting under strategic objectives

Strategic Objectives	No. of IPs Reporting
General Roles	169
Objective 1	
Objective 2	
Objective 3	
Objective 4	

v.) Take Measures to Prevent Corruption and Abuse of Office

Strengthen internal controls

As part of measures to strengthen internal control aimed towards reducing opportunities for corruption, IPs were required to train a number of ARICs and other audit structures within their organisations as well as ensure compliance with

