



**COMMISSION ON  
HUMAN RIGHTS  
AND  
ADMINISTRATIVE  
JUSTICE**

**ANNUAL REPORT  
2000**

## **Foreword**

### **Commission On Human Rights And Administrative Justice**

The Honorable Peter Ala Adjetey  
Speaker of Parliament  
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 honor to present the seventh Annual Report of the Commission for the period January 1, 2000 to December 31, 2000.

Yours sincerely,

Emile Francis Short  
Commissioner



# Table Of Contents

	Pages
Mission Statement .....	3
Commissioner's Remarks .....	4
Organizational Framework of the Commission .....	6
Program Reports .....	8
• Human Resource Development	
• Protecting The Fundamental Human Rights of Prisoners	
• Public Relations	
• Relations With Human Rights NGO's	
• Public Education	
• Foreign Visitors To The Commission	
Overview: Statistical Review .....	18
Sample of Decided Cases .....	21
Chapter 18 - 1992 Constitution Of Ghana .....	33
CHRAJ ACT (Act 456) .....	36
Constitutional Instrument No.7.....	44
Appendix A .....	47
State Of Human Rights In Ghana	
Appendix B .....	52
Detailed Statistical Review	
Snapshot	

## MISSION STATEMENT

*The Commission on Human Rights and Administrative Justice ("the Commission") exists to enhance the scale of good governance, democracy, integrity, peace and social development by promoting, protecting and enforcing fundamental human rights and freedoms and administrative justice for all persons 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**

Around the world, the year 2000 was regarded by governments, local and international organizations as a landmark year for the achievement of many targets. For the Commission, it was a year of stocktaking and sober reflection on its contribution to the building of a democratic society rooted in a culture of human rights, good governance, accountability, fair play and the rule of just law.

Due to financial constraints, the Commission did not open any new District Offices during the year 2000. Thus, the Commission's offices throughout the country remained 100, including the Headquarters, 10 Regional Offices and a total of 89 District Offices. However, with a majority of the 110 Administrative Districts in the country served with offices, the Commission's reach remains fairly broad, allowing it to better serve the nation. The release of funds by Government for the opening of new offices in the remaining 21 Districts will enhance the Commission's capacity to ensure justice and fair play, prevent corruption and promote human rights in a free, informal and relatively expeditious manner, in accordance with its Constitutional and statutory mandate.

### **Investigation of Complaints**

During the watershed year of 2000, the Commission received 9,265 complaints nationwide. It investigated a total of 17,190 complaints, out of which 7,925 were pending from the previous year. Although staff of the Commission remained financially poorly motivated relative to their colleagues in some similarly situated institutions, their hard work, zest and application of best practices enabled the Commission to dispose of 8,378 cases during the year. As at the end of the millennium, and seven years into its existence, the Commission had received a total of 41,901 cases and closed 33,089 of them nation-wide.

These statistics are indicative of the public's awareness of the Commission's functions. They are also a measure of growing public confidence in the Commission as an alternative dispute resolution forum. The high level of performance recorded by the Commission is a measure of its competence, dedication and potential to reach even higher heights in its complaints processing, and to reduce the length of time spent on each complaint, from inception to disposition.

### **Anti -Corruption Activities**

The Commission, during the reporting year, maintained a vigorous program of public campaigns against corruption, coupled with an even-handed investigation of complaints and allegations of corruption. It continued to hold public officials to the highest standards of probity and accountability. We completed investigations into a number of allegations of corruption leveled against some public officials especially with respect to conflict of interest and the misuse of the District Assemblies Common Fund. A sample of such cases is included in this report.

In addition, the Commission embarked on a restructuring exercise to facilitate, among other things, the creation of an anti-corruption unit within the Commission to sharpen its capacity to prosecute its anti-corruption mandate.

The Commission also played a leading role in the activities of the Ghana Anti-Corruption Coalition, a cross-sectoral grouping of public and non-state actors united against corruption. Important achievements of the Coalition include the development of an Action Plan to combat corruption within the context of progress in consolidating democratic governance and to inform a broad stakeholder discussion and validation of the Coalition's anti-corruption strategy. The Coalition also supervised the conduct of a nation-wide survey to determine, among other things, the level of corruption in the country.

### **Public Education**

As a key governance institution, the Commission has since its inception in October 1993 steadily realized its mission of being the leading catalyst in the building of a culture of respect for human dignity and fair

play for all persons in Ghana, based on the cardinal principles of human rights and administrative justice. Bringing human rights and administrative justice values and practices to the doorstep of every Ghanaian, into every household, and into every heart has been one of the challenging obligations of the Commission.

During the year 2000, the number of public speaking engagements, radio and television programs, and community-based educational activities actively initiated or supported by the Commission increased significantly. Today, the Commission is a household name. During the year 2000, the US-based Human Rights Watch ranked the Commission as one of the best three statutory national human rights institutions on the African continent (together with Uganda and South Africa) - as a protector (not a pretender) of human rights! Awareness of human rights and administrative justice issues has more than tripled since 1993, taking an upward swing in the last four years or so. This is largely the result of the Commission's increased attention to the promotional aspects of its mandate, and its appointment of a Director responsible for public education.

### **Collaboration with NGO's**

Closely allied to our public education effort is our promotion of networking among and with human rights NGO's. The Commission recognizes that it cannot discharge its functions effectively without the active support of human rights and development NGO's.

During the reporting year, the Commission continued with its monthly meetings with the community of human rights NGO's in the country, with the aim of fostering cooperation and collaboration in the promotion and protection of human rights.

The Commission also provided technical support to the Legal Resources Center, a community-based organization in Maamobi, Accra, in training a number of chiefs, religious leaders and community representatives in human rights, principles and styles of leadership, and conflict resolution in a changing world. Follow-up reports indicate that the training has proved highly beneficial to the communities.

### **Competitive Salary and Conditions of Service**

In previous reports, I have expressed serious concern about the rather uncompetitive salaries and service conditions of staff of the Commission. The situation remains unresolved, and has led to a high turnover of personnel, particularly lawyers. In fact, the situation has rather worsened. Our lawyers, whom we recruit and train with considerable care, continue to leave us, weakening the morale of the remaining staff.

This depressing situation constitutes a great threat to the Commission's capacity to discharge its functions effectively, given the very heavy workload with which the ever-dwindling staff is compelled to cope. Staff of the Commission deserves to be better and adequately remunerated and motivated. This is a grave matter warranting the urgent attention of Parliament and the Executive alike.

### **Donor Support**

Funding from such bilateral donors as the Danish Embassy, the British High Commission and the US Embassy served to sustain and strengthen the Commission's capacity to discharge its constitutional mandate. On behalf of the Commission, I wish to extend my heart-felt gratitude to our benefactors, especially the Royal Danish Embassy, which has been the Commission's largest benefactor to date. I also commend our local and international friends for their support and encouragement during the year.

### **Conclusion**

Finally, I wish to acknowledge and thank my Deputy Commissioners for their exemplary dedication to the Commission and for their high performance. I would also like to commend all the Departmental, Regional and District Directors and the entire staff of the Commission for their commitment and loyalty without which we could not have accomplished so much.

## ORGANIZATIONAL FRAMEWORK OF THE COMMISSION

The Commission comprises a Commissioner and two Deputy Commissioners. As an internal administrative arrangement, one of the Deputy Commissioners is responsible for legal and operational matters while the other takes charge of matters relating to finance and administration. In practice, the Commission works as a team.

As part of its Strategic Plan, the Commission hopes to restructure the organizational structure next year by making one Deputy Commissioner responsible for promotion of all the core functions of the Commission while the other takes charge of the protective mandate. The Commission has also proposed that the structure of the Commission should be expanded by the appointment of two additional Deputy Commissioners or Assistant Commissioners.

- Administration
- Legal
- Investigations/Operations
- Accounts

The three-member Commission and the four Directors constitute the Management of the Commission

There are ten Regional Offices headed by Directors who perform the functions of the Commission at the regional level. There are 89 district offices headed by District Directors who report to the Regional Directors.

The Commission is yet to open 21 more district offices to meet the constitutional requirement of opening offices in all the 110 Districts in Ghana.

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## 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

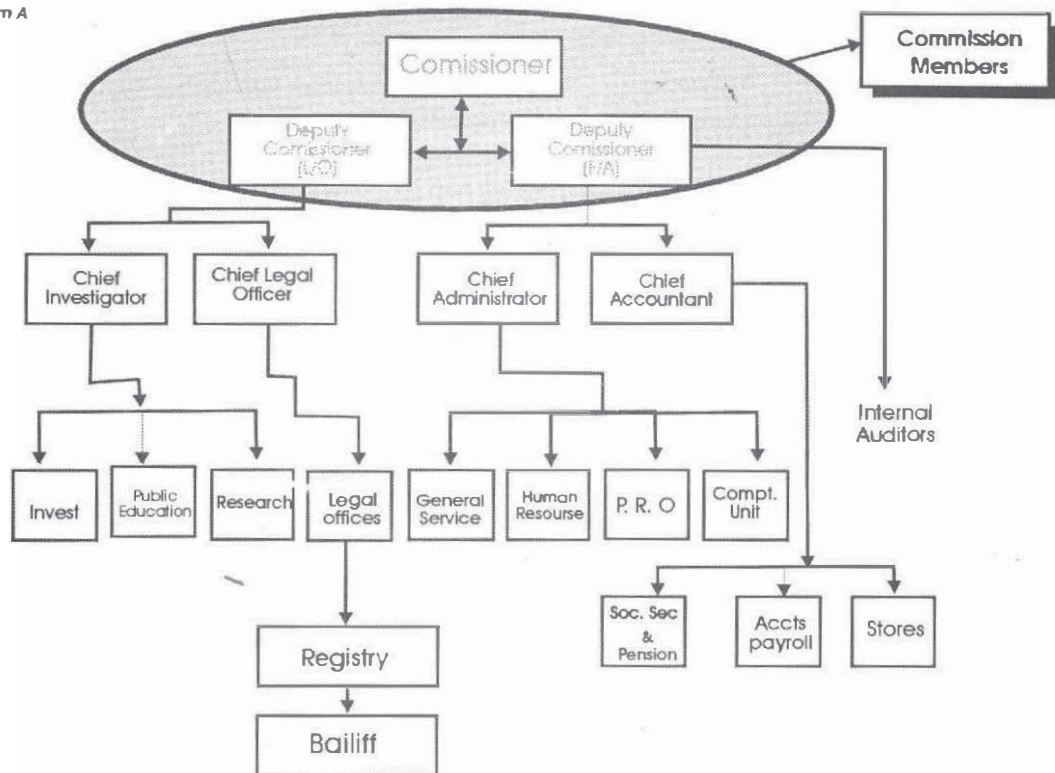


Diagram B

### REGIONAL OFFICE

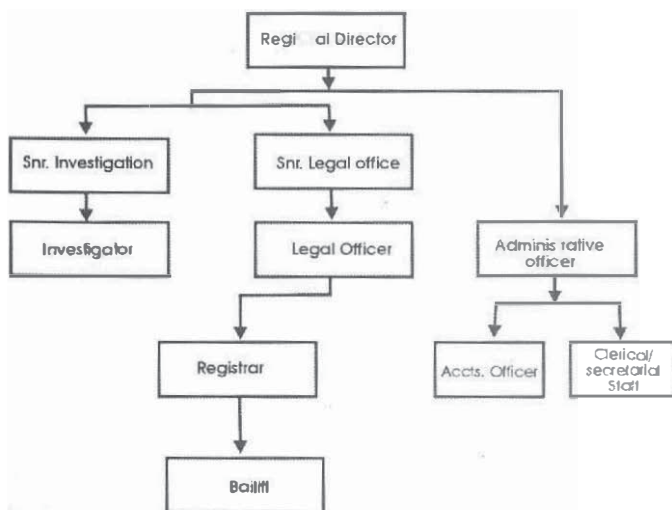
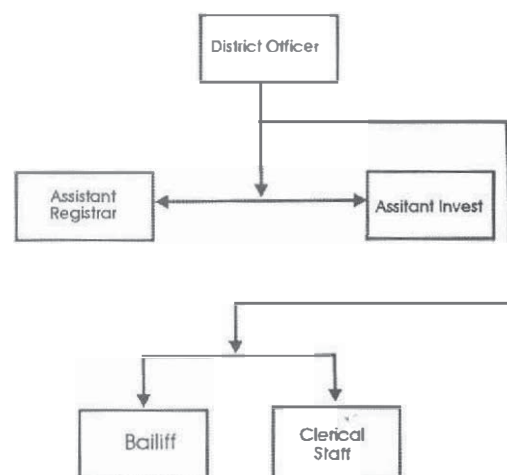


Diagram C

### DISTRICT OFFICE





# **PROGRAMME REPORTS**

## **1. HUMAN RESOURCE DEVELOPMENT**

Each year, the Commission undertakes training activities to build and enhance the capacity of the staff to effectively meet its mandate. This trend was continued during the reporting year. Below is a sample of such training activities:

1. Orientation Course (for newly-recruited District Directors)
2. Performance Enhancement Workshop (for Regional and District Directors)
3. Professional Customer Care and Customer Service Delivery (for Secretaries, Receptionists, Telephone operators and other front-desk personnel)
4. Introduction to Basic Law for Human Rights and Administrative Justice Workers (for Regional and District Directors)
5. Principles and Techniques of Mediation (for Investigators, District and Regional Directors)
6. Principles, Methods and Challenges in Conducting Human Rights Education for Diverse Audiences (for Investigators, District and Regional Directors)
7. Adjudication and Decision Writing Skills (for Regional Directors, Legal Officers and Investigators)

Evaluation reports (in the nature of anonymous questionnaires) submitted by participants indicated these courses were highly successful and extremely useful. Some of the courses were organized as necessary follow-up activities in response to recommendations from participants.

Two senior lawyers at the Headquarters attended a three-day advanced course in Decision Writing, the Hearing Process, and Tribunal Governance, in Canada. Other staff of the Commission attended various capacity building seminars and workshops abroad.

## **2. PROTECTING THE FUNDAMENTAL HUMAN RIGHTS OF PRISONERS**

During the year, the Commission pursued a comprehensive programme to raise public awareness about the rights of prisoners. The programme also sought to educate Prison Officers about their obligation to protect the rights of persons in custody.

To achieve the latter goal, the Commission organized workshops for Prison Officers throughout the country. The workshops introduced the officers to the broad concept of human rights and raised their level of awareness of their obligation to respect and protect the rights of prisoners. The workshops considered the use of a wide range of practical measures, especially those that do not cost money, for enhancing the opportunities for prisoners to enjoy their fundamental human rights in dignity and respect.

The Commission also used the occasion to explain to the Prison Officers its rationale and methods for conducting prisons inspection. The participants exchanged views with the Commission on a wide variety of topical human rights and operational challenges within the context of the prison system.

The media was invited to cover the opening ceremonies of these workshops. As a result of the exposure and interviews granted by the Commission, the media produced a good number of positive news stories and feature articles about prisoners' rights, the conditions in the nation's prisons, and the value of the courses for Prison Officers. These developments served to highlight the relevant issues and keep them in the public domain for a reasonably long time.

The training programme for Prison Officers enjoyed the support and active participation of the top brass of the Ghana Prisons Service.

### **3. PUBLIC RELATIONS**

Promoting a positive corporate image of the Commission was one of the key concerns of the Public Relations Unit during the period under review.

#### **3.1 Provision of Information**

The Public Relations Unit responded to numerous enquiries from the public, both domestic and international for information about the Commission and its work, or for copies of particular reports produced by the Commission. It furnished relevant literature to various individuals and groups as appropriate.

#### **3.2 Meet-the-Press**

On June 14, the Commission took its turn at the "Meet-the-Press" series, a forum organized by the Ministry of Communications to provide an opportunity for Government Department, Ministries and autonomous constitutional bodies to present their programme of activities to the public and answer questions on their stewardship.

The Commissioner discussed the mandate, functions, structure and broad programmes of the Commission. He expressed grave concerns about the misuse of the District Assemblies Common Fund, conflict of interest involving public officials, and the culture of impunity that pervaded the country. He also appealed for better salaries and working conditions for the overworked staff of the Commission

The Commissioner then answered questions on such issues such as:

- (i) The state of human rights in Ghana under the 4th Republican Constitution;
- (ii) The interface between violent crime (e.g. the serial killing of women) and human rights in Ghana;
- (iii) Political and operational challenges faced by the Commission in combating corruption in Ghana;
- (iv) The effectiveness of measures to control abuse of the Poverty Alleviation Fund and the District Assembly's Common Fund;
- (v) Challenges and opportunities in the promotion and protection of human rights;
- (vi) The enhancement of free speech in the constitutional era; and
- (vii) The impact of resource constraints on the Commission's ability to discharge its functions.

The Commissioner and Deputy Commissioner (Finance and Administration), Mrs. A. Domakyareh, appeared on the The Breakfast Show, A GTV programme, to discuss the work of the Commission and the enforcement of human rights.

On June 15, the Commission participated in a number of radio programmes to further discussions on issues of public interest arising from the Meet-the-Press

- Joy FM programme 'Front Page' - Commissioner
- Peace FM and Radio Gold - Chief Investigator, Dr. Ken Attafuah, and the Special Assistant to the Commissioner, Mrs. Abena Manful
- Radio GAR programme "Godwin On The Beat" - Dep. Commissioner (Legal and Operations), Mr. Benjamin K. Oppong and the Chief Investigator
- Press Soiree at the A L Adu Lodge

As in previous years, the Commission's participation in the program was well received by the media and the general public. Questions were asked and answered in a relaxed and forthright manner, and the Commission was pleased with both the process and the outcome.

### 3.3 Press Releases

During the year, the Commission issued a number of press releases to articulate its position on topical human rights issues. They included the following:

- On the occasion of the International Women's Day, March 8, 2000, the Commission issued a press statement to congratulate all women for their important contribution to development and peace in the world. It pledged support for the courageous and progressive work of the women's movement in Ghana in highlighting the numerous problems that disproportionately affect women in Ghanaian society, and exploring solutions for them. The Commission commended the Government of Ghana's adoption of a policy of Affirmative Action to enhance social justice by advancing and empowering women. The Commission pointed out that violence against women and girls remained the single most pervasive and serious violation of human rights in Ghanaian society; it described it an insidious phenomenon that cuts across economic, social, cultural and economic lines and negatively impacts the lives of many women and children in several ways. It expressed concern that in many parts of the world women still do not enjoy equal rights with men. Referring to the serial killing of over 20 women in Accra, the Commission re-echoed its view that the horrible development in the crime scene in Ghana represented a high point in the increasing rate of violence against women in the country. To help combat this dreadful situation, the Commission pledged to convene in Accra a National Conference on Crime and Crime Prevention to provide a forum for a serious search for solutions to the problems of pervasive violence against women (both sexual and physical), armed robberies, burglaries, and generalized lawlessness in the country
- The Commission issued a press release on the killing of yet another woman whose partially naked body was found on the outskirts of Kisseman, near Accra, on June 29, 2000. The Commission expressed horror at the gruesome murder, and endorsed the call by FIDA on the Police to deploy all available resources in an innovative exercise aimed at apprehending the culprits. The Commission suggested that the Police periodically brief the extremely agitated citizenry on the non-contentious aspects of its investigations, without revealing key elements of their strategies or leads<sup>1</sup>

## 4. RELATIONS WITH HUMAN RIGHTS NGO's

In line with the Commission's policy of co-operation and collaboration with Human Rights NGO's in order to foster a human rights culture in Ghana, the Commission maintained its monthly meetings with human rights NGO's.

<sup>1</sup> In a previous statement issued in October 1999, the Commission called on the police to invigorate its efforts, including the possible use of foreign expertise in tracking down the apparent serial killers. It stated among other things that, "although the police have the foremost responsibility for solving crime..., 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". It therefore encouraged the public to actively support the police in this challenging exercise.



A Human Rights NGO's forum was launched to assist the Commission in strengthening democracy and human rights education at the grassroots level, and to stem the tide of human rights violations in the country.

The Commission organized the first in the series of three workshops designed to invigorate cooperation between itself and Human Rights NGO's and to facilitate closer cooperation among Human Rights NGO's so as to strengthen democracy and build a human rights culture in Ghana. The workshop also sought to equip participating leaders of Human Rights NGO's to better defend and protect human rights.

The first Zonal Workshop for Human Rights NGO's in the middle belt comprising Eastern, Ashanti and Brong-Ahafo regions was held in Sunyani from November 27-28, 2000. Two other zonal workshops were planned for the remaining regions of the country during the first quarter of 2001.

## **5. PUBLIC EDUCATION**

The Commission has a constitutional and statutory mandate to promote human rights. It believes that human rights education is vital to advancing good governance, democracy and social development, as well as in promoting integrity and anti-corruption in Ghana.

During the reporting year, the Commission continued with its promotional activities throughout the country. Almost all the regions report an increase in public education programmes down to the village level. The opening of many FM radio stations across the country has enhanced the opportunity for the Commission to take its educational programmes to a much wider audience. The use of talk-shows and phone-ins afforded citizens the chance to participate in discussions covering a wide range of human rights and administrative justice issues.

### **5.1 Special Programmes and Speaking Engagements**

At the international level, the Commissioner, Deputy Commissioners and other senior staff of the Commission honored many invitations to conferences and workshops on human rights, administrative justice and anti-corruption during the reporting year.

On the local scene, the Commission pursued the remaining elements of its Three-Year Educational Programme designed in February 1998. The 3-year Programme targets specific civil society organizations such as women's groups, human rights NGOs, the media, persons with disability, the Ghana Employers Association, District Chief Executive and Members of Parliament. The goal is to raise their level of awareness of human rights and administrative justice issues, and to enlist their support in the promotion and protection of human rights.

During the reporting year, the Commission's educational programme at the Headquarters focused on women's groups and human rights NGOs. It combined a commitment to the pursuit of its *programmed* activities with healthy responses to *ad hoc* speaking invitations from the public, whenever time and resource permitted.

Also on the domestic front, the Commission honored several invitations to provide speakers for human rights conferences, seminars, and workshops. Representatives from the Commission made presentations to community groups, labor organizations management, schools, professional organizations, media practitioners, Police and Prison officers, religious bodies, women and youth clubs on topics such as:

- *Peaceful Coexistence in a Multi-Religious context: The Role of the Law*
- *Environmental Degradation and the Right to Feed Oneself*
- *The Wealth of the Nation is the Health of its People: A Citizen's View from a Human Rights Perspective*
- *The Problem of the Girl-Child Education in Northern Ghana: The Way Forward*
- *Penal Administration in Ghana and the Principle of Fairness With Respect to the Rights of Officers and Inmates*
- *Male Involvement in Family Health: A Human Rights Perspective*
- *The Defense of Individual Rights in a Constitutional Era*
- *Justice For All in Ghana: Problems and Prospects*
- *The Role of the Commission on Human Rights And Administrative Justice in the Fight Against HIV/AIDS*
- *Violence Against Women as a Human Rights Issue*
- *Combating Corruption in the West African Sub-region: A Coalition Approach*
- *Strategies for Introducing Human Rights Education into the School System*
- *The Influence of Customs, Cultural Values, Religious Beliefs and Traditional Practices on Human Rights in Ghana*
- *Wills and Intestate Succession*
- *Protecting the Rights of Children*

The beneficiaries included the following institutions and organizations: the University of Ghana Law Students' Association, the League of Environmental Journalists and Food First Information and Action Network (FIAN), the Ghana Medical Association, Emerging Leaders for Development (ELD), Ghana Society of Women Medical and Dental Practitioners, Prison Officers' Training School, Ghana Institute of Management and Public Administration (GIMPA), the Ghana Bar Association, African Commission on Health and Human Rights Promoters, Leaders in Educational Action and Research Networking (LEARN), Methodist Church, Full Gospel, Gender Studies and Human Rights Documentation Center and Women in Law and Development in Africa (WILDAF)

## 5.2 Other Educational Activities

Workshops, seminars, public lectures town-hall meeting, and radio talk-shows were the principal methods used for public education. The objective was to employ low-cost and high activities to cultivate a culture of respect for human rights values and norms, and to direct the general public on how to seek redress and prevent abuses.

The Commission's Women's Desk organized a workshop on "Networking" at the Novotel Hotel in Accra. It brought together service delivery organizations concerned with women's rights such as the Federation of Women Lawyers (FIDA), the Women and Juvenile Unit of the Police (WAJU) and the Department of Social Welfare.

## 5.3 National Workshop on the Promotion of Women's Rights

In further recognition of the importance of protecting and advancing women's rights, the Commission facilitated the organization of a national workshop in Accra on "Promoting the Women's Human Rights and Equality of Opportunity for Women and Men" on March 13 - 14, 2000. This event formed part of the Commission's 1998 Three-Year Educational Programme.

In preparing for the workshop, the Commission put together a Workshop Planning Committee comprising the leadership of various women's groups including FIDA, the National Council on Women and Development (NCWD) and the 31st December Women's Movement. The Committee determined the topics and format of the working sessions and resource persons. Participants were drawn from Government, diverse women's groups and NGO's, and professional and community-based groups with an enduring interest in women's issues. These organizations, as well as the Girl Guides Association of

Ghana, the Ghana Medical Association, CIVITAS Ghana and the leadership of various religious bodies, sent delegates from different parts of the country to the workshop.

The National Workshop provided an opportunity for a critical examination of the use of domestic and international legal instruments for assuring women's human rights, including freedom from all forms of violence, and the utility and implications of selected conceptual tools such as Affirmative Action and Employment Equity for enhancing women's living conditions. Participants also discussed such important topics such as combating the growing feminization of poverty in Ghanaian society, networking for the effective defense of women's human rights, and legal and counseling resources for victims of family violence and sexual harassment.

The British Council sponsored the highly successful event, with Mrs. Victoria Addy, Member of the Council of State, delivering the Keynote Address. Follow-up activities on the salient recommendations are planned for the year 2001.

## **5.4 Sample of Regional Reports on Public Education**

### ***a. Ashanti Region***

There was a high public expectation for our educational programmes on human rights and this was not fully met, though we made a lot of effort. More than 46 villages and communities benefited from our educational programmes on a variety of topics. Discussions on *The Wills Act* and *The Intestate Succession Law* were especially popular.

Some organized groups requested our Regional Office to educate their members on human rights issues:

- Students of the Nursing Training College, Kumasi, invited the Regional Director to present a paper on the functions and powers of the Commission
- The Acting Regional Director appeared on Capital Radio, a local FM Station, to participate in radio talk show on "*How Much Freedom And Justice We Enjoy As A Nation*"
- The Acting Director also participated in a Capital Radio discussion program on "*The Causes, Effects And Measures To Curtail Corruption*"
- At Tepa, the District Director presented a paper on "*The Rights And Privileges of Women And Children In Ghana*"
- At Ejura, the District Director presented a paper on the "*Functions of the Commission*" at a duhar organized by the National Institutional Renewal Programme (NIRP)

We believe that awareness by the communities on their fundamental rights and freedoms has been increased through educational programmes.

### ***b. Central Region***

The Regional Office took advantage of the opportunities offered by local community organizations, NGO's and other government organizations to engage in public education. Some of the organizations visited include the National Commission for Civic Education, Ghana Society for the Physically Disabled, FIDA, Amnesty International, the Hunger Project, Integrated Social Development Center (ISODEC), Ghana National Commission on Children, Coalition of Domestic Election Observers, and International Pen.

In addition, Atlantic and Radio Central - two Cape Coast-based FM stations - provided airtime for pub-



lic education. The District Offices also carried out some public education in their various districts.

### *c. Eastern Region*

The Commission organized a number of educational programs to raise public awareness about fundamental human rights and administrative justice. It also took advantage of several opportunities to educate people about the functions and powers the Commission, and to enlist their support in its anti-corruption efforts.

On February 17, 2000, the Regional Director delivered the Keynote Address at a forum on “Violence Against Women” organized by the Trades Union Congress in collaboration with the Gender Studies and Human Rights Documentation Center, Action Aid and other human rights NGOs. At the forum, which took place at the SSNIT Conference Hall in Koforidua, the Director also launched a publication on the findings of a research project on violence against women and children in the Greater Accra, Central, Eastern and Volta Regions of Ghana.

The Regional Director also took part in Eastern FM radio program where a weekly program was initiated to educate the public on the Commission and Human Rights generally. This was a 30 minutes program. However after about five weeks, the program could not be sustained due to the insistence of the owner of the FM station that the Commission pays commercial rates for the programs. Due to lack of funds, the program had to die a natural death.

In the course of the year, the National Commission for Civic Education (NCCE) requested for a member of this Commission to be included in a Regional “Consultative Body” to help in their Public Education drive. The Principal Legal Officer at the Regional Office was nominated to serve on the body. The two commissions subsequently held three joint public education programs in the Koforidua Municipality.

The Principal Legal Officer was also a resource person on “Fundamental Human Rights and Freedoms” during a youth camp organized by the Catholic Church. The camp lasted for two weeks, and he participated in most of the programs, which primarily centered on human rights. The Regional Director also gave a talk on “The Law Protecting Women and Children in Ghana and its Inadequacies” on November 23, 2001 at a one-day seminar organized by the Trade Union Congress at Koforidua.

The Regional Director also participated in a conference organized by Covenant Leadership International (A Christian NGO) and gave a speech on Human Rights with special emphasis on Women’s Rights.

The Commission also adopted a cost-effective strategy in its educational campaigns. Group discussions were held with selected groups such as market women, hairdressers, GNAT ladies, religious groups and some youth associations. These were well patronized and also very effective as these were mostly in small groups.

At the District level, the District Directors also organized a number of educational programs for various groups and some second cycle educational institutions. Religious groups featured very prominently in Districts like Kwaebibirem and Akuapem North.

The District Directors also acted as resource persons on various occasions and talked on diverse human rights issues like “The rights of the child” Rights of women”, “workers rights”, etc.

The Commission closed the year with the inauguration of a Human Rights Club at Kwaebibirem District. This was a collaboration between the Commission’s District Office at Kade and the Ghana Oil Palm Development Company (GOPDC) J.S.S and Senior Secondary School. The Regional Director inaugurated it.

One major constraint was lack of funds, which compelled most of the activities to be restricted to the Regional and District capitals with occasional visits to the hinterlands. It is hoped that funds will be available in the coming year to enable a more organized education campaign in the entire region.

#### ***d. Northern Region***

The Regional Office organized radio programmes and participated in various seminars to sensitize the public on their rights. The Regional Director encouraged all District Directors to exploit every opportunity that came their way to educate the members of the communities in which they operate.

The Regional Director served as a resource person in educational activities organized by the Trade Union Congress, Center For International Pen, Ghana Methodist Students' Union, and the University of Ghana, Institute of Adult Education. The topics included *"The Fight Against Poverty and Violence Suffered by Women"*, *"HIV/AIDS, Test Before Marriage - (From the Christian Perspective)"*, *"Law and Order, and Human Rights"*.

The Districts actively promoted human rights education. The District Directors were the resource persons and spoke on a wide range of topics such as the *"Functions of CHRAJ"*, *"Violence Against Women and Children"*, *"Human Rights And Outmoded Customs"*, *"Workers' Rights and Responsibilities"*, and *"Female Genital Mutilation"*. Their education campaign targeted groups such as the District Assembly Members, Chiefs, women's groups, the Police, traders, religious bodies, opinion leaders, farmers and fishermen.

Despite the usefulness of these efforts, resource constraints compelled the officers to restrict their activities to the regional and district capitals.

#### ***e. Volta Region***

The Regional Office adopted a new strategy in pursuit of its public education campaign during the year 2000. It relied heavily on programmes on FM radio stations and Community Group Discussions that were accessible to a wide section of the population and were also cost effective.

Every Tuesday, the Commission went on air for thirty minutes on Volta Premier F.M. Station, based in Ho, to educate the public on human rights issues. It chose a specific theme each week, or followed up on discussions from the previous week. The station's coverage, however, was limited to the Regional Capital, Ho.

Volta Star Radio Station was also contacted but the cost involved was beyond the budget of the Regional Office. However, the Principal Investigator produced a programme entitled, *"Afeame de?"* meaning "How is Home?"

Group discussions on various human rights issues were also held with market women, hairdressers, seamstresses, religious groups, and youth associations in and outside Ho.

The Regional Office collaborated with the National Commission for Civic Education and the National Institutional Renewal Programme (NIRP) to organize the youth of Tsito to produce a drama piece that depicted gross abuse of women and children's rights, and the negative effects of such abuse on the victims and society as a whole.

#### ***f. Western Region***

The Regional Directorate provided human rights education in 174 rural communities and institutions during the reporting period. In pursuing its public educational activities, the Directorate was guided by the following targets or objectives:

- To improve the content and methodology of our public education;
- To improve the quality of our radio programmes;
- To provide public education for about 150 communities within the region;
- To introduce training programmes for youths, community and religious leaders in order to get their assistance in the dissemination of information on human rights in their communities.

The Regional Directorate continued with its radio programmes on *Twin City FM* and *Sky Power FM* radio stations during the reporting period. It also organized seven Workshops/training programmes for religious leaders, students from second-cycle schools, and District Assemblies.

On the occasion of the Organization of African Unity (OAU) Day of the African Child, the Regional Director presented a paper on *"The UN Convention on the Rights of the Child and Ghana's Efforts to Enforce these Rights Locally"*.

## 6. FOREIGN VISITORS TO THE COMMISSION

The Commission hosted some foreign visitors during the reporting year:

- The Chairperson of the South African Human Rights Commission, Dr. N. Barney Pitso, and the Commissioner on Gender, Equity of South Africa, Ms. Elize Delpont, paid a one-day official visit to Ghana on November 6, 2000. They held discussions with the Executive Secretary of FIDA (Ghana) and the Executive Director of International Needs (Ghana) - two NGO's with close working relationship ties with the Commission in advancing human rights in Ghana. Dr. Pitso and Ms. Delpont also met with a section of the Commission's staff. Dr. Pitso and the Commissioner, Mr. Emile Short, agreed to forge a stronger relationship between their two institutions in order to share knowledge, skills and experiences.
- Dr. Momar N'Diaye, a specialist in International Labor Standards, Labor Law and Human Rights, who was visiting Ghana as a guest of the Trades Union Congress of Ghana, paid a courtesy call on the Commissioner on May 5, 2000. He discussed developments in African and Ghanaian labor laws with the Commissioner of CHRAJ.
- Ms. Camilla Dan Weibel, a graduate student from the University of Roskilde, Denmark, undertook a two-month internship at the Commission from 1 March - 2 May 2000.
- Visit by the Finish Sisterhood Group: During the year 2000, The Sisterhood Group, a collection of individual and women's organizations based in Finland, donated a computer and printer worth ₵9 million to the Akuapem North District office of the CHRAJ. This donation followed a visit of the Finish Sisterhood Group to Ghana in December 1999, during which the members paid a courtesy call on the Commission, the First Lady of Ghana, the 31st December Women's organization, the Cape Coast Branch of the Business and Professional Women Ghana, and to several women's artisan workshops and organizations in the Ashanti Region.

The fifteen-member Finish Sisterhood Group also paid a memorable visit to the Akuapem North District office of the Commission. The group was interested in learning about the way of life of rural women.

A grand forum was organized on December 23, 1999 at the District assembly hall to enable the Sisterhood group meet with women's groups within the Akuapem North District at the District capital, Akropong. Approximately 150 women from various groups attended the forum. Notable among them were the following: National Council on Women and Development (NCWD), Supportive Women's Organization, Lady's Club, 31st December Women's Movement, Mobi-Squad Youth in Agriculture, and Help Age (Ghana)



The forum was also attended by the District Chief Executive (DCE), the District Coordinating Director, heads of decentralized departments, including the District Director of the Ghana Education Service.

The forum provided an opportunity for the various groups to exchange ideas, learn from each other and forge bilateral relations for future cooperation. It also provided the Commission the rare opportunity of assembling a large number of women in the District together at a single forum. This opportunity was utilized to push forward the role and support of the Commission for the rights of women and children within the District and Ghana as a whole. The District Director called on women in the District to support the work of the Commission by reporting any abuses of the rights of women and children to the Commission promptly, in order to facilitate timely redress.

In a welcome address, the DCE called on the Sisterhood Group to take advantage of the excellent climatic condition and enabling investment environment to invest in the District. The District Representative of the NCWD also delivered a keynote address highlighting the role of the NCWD and its support for women's development initiatives.

The Help Age group from Mampong, Akuapem crowned the meeting with an excellent drama performance. The drama brought out some of the human rights issues faced by women and children within the District. It also showcased the cultural dimensions of the lives of rural Ghanaian women and children. In the words of the leader of the Sisterhood Group, "this drama epitomizes all that we have been looking out for".

The Finnish Television Corporation covered the forum. At the end of the meeting, all the groups joined hands together in an expression of solidarity, unity and support for the feminist movement in the district. They burst into songs calling for the total emancipation and empowerment of women.

To end it all, a special team within the Sisterhood Group interviewed randomly selected women for two hours. This was to enable the Sisterhood group to fill in details about their interests. While the interviewing was underway, the rest of the Sisterhood Group took the opportunity to visit some women's project sites and tourist attractions in the District.

By far, the forum was one of the major public education campaigns that served to endear the Commission to the hearts of the people in the District during the reporting year 2000.

## OVERVIEW: STATISTICS IN BRIEF

### 1.0 COMPLAINTS:

#### 1.1: Cases Received

The year under review was a busy one as usual, with 6,265 complaints received nationwide, representing an increase of 4% over the previous year, 1999.

From its inception in 1993 to the year 1997, the Commission saw an annual increase in the number of complaints received, ranging from 13% - 27%. However, the number of cases received in 1998 decreased by 7%. This was followed by a sudden record rise of 62% in 1999, representing the highest rise ever realized in a reporting year.

Table 1: i

Annual Receipt of Cases since Inception

YEAR	CASE RECEIVED
1993/94	3197
1995	4012
1996	5200
1997	5876
1998	5459
1999	8892
2000	9265

#### 1.2 Cases Closed

In year 2000, 8378 cases were closed. Except for year 1997, which registered a decrease of 267 cases, the number of cases closed has increased annually since 1993. The highest increase of cases closed over previous years occurred in 1999 and this could be attributed to the record number of cases received in that year.

Table 1: ii

Annual closure of Cases since Inception

YEAR	CASE CLOSED
1993/94	1004
1995	3762
1996	4009
1997	3742
1998	4121
1999	8073
2000	8378

### 1.3 Backlog of Cases

At the close of year 2000 the build-up of cases pending, since 1993, stands at 8,812. The backlog of cases has seen annual increases ranging from 11% - 59%. 1996 registered the highest rise over a previous year.

*Table 1. iii*

**Annual Backlog of Cases**

YEAR	CASE PENDING
1993/94	2193
1995	2443
1996	3634
1997	5768
1998	7106
1999	7925
2000	8812

### 1.4 Regional Comparison

In year 2000, Brong-Ahafo and Eastern Regions recorded the first and second highest numbers of complaints received and closed respectively. Brong-Ahafo, has maintained its position as the region recording the highest number of cases received since 1995.

The Upper East and Upper West Regions also recorded the 10th and 11th lowest number of complaints received and closed respectively.

*Table: iv*

REGION	No, of Cases Received
Brong-Ahafo	2051
Eastern	1184
Ashanti	1177
Volta	1066
Central	1015
Head Office	868
Western	864
Greater Accra	396
Northern	296
Upper East	228
Upper West	120
Total	9265

REGION	No, of Cases Received
Brong-Ahafo	3282
Eastern	877
Ashanti	869
Central	839
Western	737
Head Office	568
Upper East	375
Northern	241
Greater Accra	237
Volta	201
Upper West	132
Total	8378



## 1.5 Status of Complaints

In the reporting year, 2000, there were 3749 family related complaints representing the highest number of cases, followed by labor related matters with 1934 cases. This trend began in 1999. In previous years labor related cases topped the list.

A total of 474 complaints, the highest number of labor related cases in the year 2000, concerned Social Security deductions. 2529 maintenance of child/spouse related complaints accounted for the highest number of cases under family related complaints. Under property related cases, tenancy cases rated highest. Debt collection accounted for the highest number of cases under miscellaneous cases.

Table 1.v

Status of Complaints Received from 1997-2000

Type of complaint	Number of Complaints Received in 1997	Number of Complaints Received in 1998	Number of Complaints Received in 1999	Number of Complaints Received in 2000
labor	1929	1518	2074	2023
Human Rights	1224	347	1512	975
Pro ert	1343	1318	1392	1280
Family	910	984	2941	3749
Miscellaneous	470	702	973	1327

9354

## 2.0 Respondent Bodies

Private individuals and corporations constituted the highest category of respondents in year 2000. The Ministry of Interior was the ministry complained about the most, with a substantial number of complaints filed against the Police. The Ghana Education Service under the Ministry of Education also recorded a high number of complaints.

Table 2.i

Number of complaints Against Respondents

Respondents	Number of Complaints
Private Individuals and Miscellaneous Respondents	6648
Corporations/Companies	939
Ministry of the Interior	231
Ministry of Education	181
Specific Ministries	131
Ministry of Finance	124
Extra- Ministerial Organizations	86
Ministry of Local Government	66
Office of the President	64
Ministry of Justice/Attorney-General's Dept	26

## SAMPLE OF DECIDED CASES

### **CASE NO. 393/99 EQUAL OPPORTUNITY TO SIT EXAMINATION**

The Complainant, a trainee nurse, alleged unfair and discriminatory treatment against her by the Nurses and Midwives' Council for Ghana. She had failed her examinations in one paper on three occasions, and had, as a result, been told by the Respondent that, in accordance with its regulations, she had to forfeit the chance of becoming a nurse. She alleged, however, that the Respondent had given a fourth chance to another trainee, who had also failed the exam three times, to rewrite it.

The Respondent said the Complainant failed on two occasions and was given the opportunity to go to school for one year to prepare for the third attempt, in accordance with the regulations governing the exams. The Council refused to grant her request solely on the ground that she had had enough time to prepare in accordance with Section 18 of Nurses Regulations, *Legislative Instrument* (L. I.) 683 of 1971, which governs the writing of exams at the Respondent. Moreover, if she had not been given the opportunity to prepare for the third attempt as specified by the Council, she did not inform the Council before writing the paper.

In the case of the trainee cited by the Complainant, the Respondent stated that, when she was referred for the second time, her superior officers had not given her the opportunity to go to school and so she petitioned the Council before she wrote the paper for the third time and failed. On that basis, she was given the dispensation to write for the fourth time. In effect, the third attempt was deemed null and void.

The Respondent provided the Commission with a copy of L. I. 683 to support its statement.

The Commission agreed with the Respondent that it was up to the Complainant to petition the Council before taking the examination, as did the other trainee if she felt unprepared to take the examination. She did not. The Commission, therefore, found that she had not been unfairly treated, and dismissed the complaint.

### **CASE NO. 2/98 RIGHT TO PROMPT MEDICAL ATTENTION**

The Complainant's daughter, P.S., died at the Tema General Hospital through the alleged failure of the hospital staff to give her the required medical attention, promptly. The Complainant was of the view that his daughter's right to health and good quality health care delivery had been violated, resulting in her death.

The Complainant's case was that his pregnant daughter, P.S., was rushed bleeding, to the Out Patients' Department (OPD) of Tema General Hospital at about 6.30 a.m. on January 4, 1998. No doctor was available. In the circumstances, the nurse on duty was compelled to diagnose, prescribe and administer treatment to the patient, not to mention the precious time she spent chasing drivers and doctors from their homes. At 9:00 a.m., P.S. was revived and blood was made available at about the same time. A doctor arrived at about 11.00 a.m., and P.S. was taken to the theatre and operated upon. Neither P.S. nor her baby survived.

The doctor attributed the death to anemia, but the Complainant believed that his daughter's death was caused by the failure of the hospital to provide her prompt medical attention. According to the Respondent, a physician operated on P.S. and removed a dead baby, but when P.S. was being stitched up "she went into cardiac arrest" and died from hemorrhage.

The Commission invited Dr. A.●, an Obstetrician/Gynecologist in private practice, to help in the investigation as an expert witness. He was reluctant to give an opinion on the cause of death.

There was conclusive evidence that the baby died in the mother's womb prior to the surgery. The Commission therefore found that the hospital was not responsible for its death. The Commission, however, found that, had there been a doctor on duty as was required, especially from 9.00 a.m., P.S. could have received appropriate medical attention, including surgery, in a timely manner. The absence of a doctor from 6.30 am to 11.00 a.m. showed that the doctors who should have been on duty, on that occasion at least, did not take their professional duties seriously. The Respondent had made no provision for a patient needing hospitalization to be taken to the ward in the absence of a doctor. This policy or practice shows a lack of care for, or insensitivity to, the plight of patients; it was based on the assumption that a doctor would always be at the OPD, which, as in the present case, proved to be incorrect.

The Commission was not persuaded that the hospital had discharged the evidentiary burden of establishing that the death of P.S. was not related to its failure to provide prompt medical attention. Dr. A-A attributed the cause of death to hemorrhage. His conclusion was contrary to the available evidence, which established that the hospital delayed inordinately in getting a doctor to perform a caesarean section on P.S., and that she died because she was denied timely medical attention, or that, at minimum, the inordinate delay contributed materially to her death. In any event, the Commission was of the view that Complainant did not have to prove that his daughter's death was wholly attributable to the hospital's inordinate delay; it was sufficient for him to establish that the delay was a significant factor that contributed to the death.

Consequently, the Commission found the Respondent, through its servants and agents, liable for the death of P.S. The Commission also found that the conduct of the doctors constituted an act of injustice and amounted to unfair treatment of a person (P.S.) by a public officer(s) acting in the course of their official duties within the meaning of *Article 218(a) of the 1992 Constitution*.

Based on the foregoing, the Commission awarded the Complainant the total amount of fifty-one million, two hundred and fifty thousand cedis (C51,250,000.00 ) to cover loss of expectation of life, loss of dependency, and funeral expenses. Finally the Commission recommended that the Respondent take steps to ensure that, in an emergency, a doctor could always be reached by phone.

## CASE NO. 858/99 REVIEW DECISION - RIGHT TO A HEARING

The Complainant had earlier lodged a complaint with the Commission in October 1994 against the Respondent for the termination of his appointment. Comments from the Respondent indicated that the Complainant had been dismissed following a case of dishonesty against him. On purely humanitarian grounds, the Respondent had commuted the dismissal to termination, and paid him all his benefits. According to the Respondent, this did not absolve the Complainant from the charge against him, and it terminated his employment. Based on this response, the Commission dismissed the complaint.

The Complainant sought a review of this decision on the grounds that the Commission had not given him a hearing but had offered the Respondent a hearing; that the termination of his appointment was unjustified, that he had been treated differently from others who had had their benefits paid them; and he was not guilty of the charge brought against him.

The Complaints Procedure of the Commission, as set out in Section 3(a) of *Constitutional Instrument Number 7*, provides that, "where the Commission considers that a complaint lodged with the Commission is a matter within the function of the Commission it shall cause a copy of the complaint to be transmitted to the head of the body or organization or the person against whom the complaint is made with a request for comment and response."

As a result, the Commission conducted a telephone interview with the Respondent, to obtain its reaction. This did not constitute a hearing given to the Respondent alone. Furthermore, the Commission has discretion to decide whether or not as part of its investigations, it should constitute a panel to hear a



matter. It is a power reserved for the Commission itself and not for individual complainants.

The Complainant did not show any fresh evidence to justify reopening the case. He also did not show either that the decision was based on an error of fact or law, or that the Commission had been biased against him. In these circumstances, the Commission dismissed the petition for a review of its earlier decision.

### **CASE NO. 8/2000 REVIEW DECISION - NEW ISSUE RAISED**

The Complainant, a former employee of Darko Farms Ltd., Kumasi, had complained to the Ashanti Regional Directorate of the Commission that, in December 1995, the Respondent had verbally terminated his appointment without any reason(s). Prior to complaining to the Commission, he had unsuccessfully petitioned the Managing Director of the Respondent for reinstatement.

Following its investigations, the Ashanti Regional Directorate established that the Complainant had acted contrary to the rules and procedures of his employer, and that his appointment was terminated with due notice through a letter dated January 5, 1996. That letter had also asked him to contact the Respondent's accounts section for his entitlements. The Complainant had done so on February 27, 1996. Based on these facts, the Commission dismissed the complaint as unmeritorious.

The Complainant took issue with the decision on the grounds that the money paid him was his salary and not his entitlement; and that he had not been paid his gratuity, contrary to a Government announcement that workers should be paid their gratuity.

With respect to the Complainant's objections, the evidence on record showed that his appointment was terminated with effect from January 2, 1996, yet he was paid up to February 1, 1996. Impliedly, he was paid a month's salary in lieu of notice, far in excess of the two weeks' salary prescribed by the Collective Bargaining Agreement applicable to him. The Complainant did not put any other claim before the Commission and it cannot be blamed for his failure to raise the issue of gratuity before the Commission; it could not have made an order on an issue that was not before it.

The Commission took "judicial" notice of the fact that the government ordered the payment of gratuity to all workers in 1990/1991. The Complainant was, therefore, advised that if he had any genuine claims he was entitled to apply for them. The application for review was, therefore, dismissed for lack of merit.

### **CASE NO. 470/2000 DENIAL OF PATERNITY ✓**

The Complainant, Sgt. TA of the Ghana Police Service, lodged a complaint against Mr. FT, a Member of Parliament for a Constituency in the Eastern Region. He claimed that FT was the biological father of his niece, JA, whose mother was deceased. He alleged that the Respondent had impregnated his sister (JA's mother) some fifteen years ago but had denied paternity when JA was born, on the ground that JA's physical characteristics and complexion were strikingly different from his. He stated further that JA's mother died from worries and depression associated with the denial and rejection. As a result, he (the Complainant) had been saddled for the past fifteen years with caring for JA, a responsibility that, he believed, properly belonged to FT.

The Respondent denied being the biological father of JA and challenged the Complainant to the strictest scientific proof of the claim. On the basis of this fundamental denial, FT rejected all other claims by the Complainant as lacking foundation, and demanded an unqualified apology from the Complainant.

As a result of a mediation agreement brokered by the Commission, the parties agreed as follows:

- DNA testing is the most rigorous scientific test of paternity;
- Both Complainant and Respondent will accept the findings of a DNA testing as conclusive of the paternity dispute;
- In the event of the test establishing that FT was the father of the child JA, FT will assume full and immediate responsibility as a father for JA, including responsibility for her education, from the date the result would be communicated to him;
- In the event of the test establishing that FT was not the father of JA, the Complainant shall, from the date of learning of that result, forever cease and desist from referring to FT as the father of JA or asking FT to accept and/or take responsibility for JA's life;
- The Respondent and JA will submit to DNA testing to scientifically determine whether or not FT is the biological father of JA;
- FT and JA will provide blood samples to MedLab Laboratories Ltd. of Accra ("MedLab"), in the presence of the Commission, for the test;
- MedLab will take the blood samples, and send them by courier to South Africa where the actual analysis would be performed;
- The test will be conducted at the South African Institute of Medical Research (SAIMR) in Johannesburg, South Africa. (A long and thorough search by the Commission and the parties for a competent medical facility in Accra to perform the test (including a visit to the Korle Bu Teaching Hospital) had proved futile; MedLab, associates of SAIMR, was identified as the only medical facility in the country that could facilitate proper DNA testing);
- The Respondent will bear the total cost of \$500.00 to have the test done.

The report, dated August 8, 2000 and signed by Dr. A.B. Lane of the Department of Human Genetics, was forwarded to the Commission under seal. It stated that, "*Mr. FT is excluded from being the biological father of the child JA*". Based on that test result, the Commission concluded that FT was not the biological father of the JA.

The Commission forwarded copies of the report to the parties, and advised them that, in light of the terms of the mediation agreement, the matter was concluded. The file was therefore closed.

## **CASE NO. 257/96 WRONGFUL SEIZURE OF VEHICLE**

The Complainant alleged that Akwapim South District Council unlawfully impounded his vehicle and thereby denied him the economic benefits he could have derived from its use.

His case was that he used his end-of-service benefits to purchase a Peugeot Caravan, which he intended to use in a commercial venture. The Respondent impounded the vehicle, in spite of his protestation, arguing that the vehicle had been purchased with part of the money allegedly embezzled by the Complainant's brother. His brother was eventually cleared of the embezzlement charge but the Respondent refused to release the vehicle to the Complainant. This was in spite of the fact that the office of the erstwhile PNDC had thoroughly investigated the case and recommended that the vehicle should be released to the Complainant.

The Respondent later asked the Complainant to take the vehicle back, but he refused because it was damaged. He subsequently submitted an estimate of repairs, prepared by SCOA, to the Respondent, but it flatly refused to repair the vehicle.

The Commission caused the State Transport Company to value the vehicle. Relying on documents on the matter, the Commission established that there was no legal or other proper basis for the seizure of the vehicle; the Respondent failed to produce any evidence that even remotely linked the purchase of the vehicle with the alleged embezzlement by the Complainant's brother. In any event, the Respondent was further unable to prove the alleged involvement of the Complainant's brother in the alleged embezzlement. The Commission found that the Respondent's confiscation of the vehicle was illegal, and its failure to return it to him in an acceptable state was unlawful and improper. The confiscation amounted to abuse of office, and the Complainant was entitled to compensation from the Respondent.

As a result, the Commission awarded the Complainant a total of 40 million cedis as compensation, 20 million cedis of which were for the purchase of a home-used caravan to replace his original vehicle. The remaining 20 million cedis were intended to compensate him for loss of earnings for the period August 1989 to December 1995.

## **CASE NO. 610/94 VACATION OF POST**

The Complainant alleged that the Respondent acted unlawfully when his benefits were calculated up to May 15, 1991 instead of May 5, 1993. His case was that he had hypertension with 'Ischaemia heart disease' and it required urgent investigation and possible operation. He had a relapse and was flown to Britain on 1st February 1991. He wrote to inform the Respondent of his arrival in London on February 2, 1991. However, the Respondent wrote on April 11, 1991 requesting him to report for duty on May 15, 1991, failing which he would be regarded as having vacated his post. He replied that given his situation it was impossible for him to resume duty on May 15, 1991. He returned to Ghana later, and wrote on May 5, 1993 resigning from the service of the Respondent, but his entitlements were calculated up to May 15, 1991 instead of May 5, 1993 when he resigned. He added that his departure from Ghana without prior authorization was caused by the gravity of his ailment. Therefore, the denial of his entitlements constituted an abuse of his rights.

The Complainant stated further that the appointing authority of his position was the sector Minister, with the approval of Cabinet, on the recommendation of the State Enterprises Secretariat. The Managing Director could not, therefore, validly terminate his appointment.

The Respondent contended that a full report on the Complainant's condition in 1991, from the Korle Bu Teaching Hospital, did not suggest that his condition was so grave as to warrant his immediate departure for an emergency treatment abroad. Therefore, since the Complainant did not report for duty on May 15, 1991 as requested by its letter *NO. ADM/P/3095* dated 11th April 1991, he was deemed to have vacated his post on May 15, 1991. As a result, he was not entitled to any claims after that day. The Respondent further replied that it was the Management that appointed the Complainant as Legal Officer in 1985 and later promoted him to the rank of Chief Legal Officer. The termination of his appointment by the Managing Director was, therefore, lawful and valid.

The Commission was not persuaded by the Complainant's explanation that he suffered a "relapse" as the evidence showed that he did not go into hospital, on arrival in London on February 1, 1991, till May 2 of that year. In addition, it took him two years to return to Ghana, in April 1993. There was no evidence that he was medically advised to take such a long rest. This was fatal to his case.

Furthermore, contrary to the Complainant's assertion, the Commission found no evidence of the involvement of the sector Minister, the Cabinet or the State Enterprises Secretariat in his appointment and, therefore, concluded that the Management was the appointing authority. It found therefore that the

Management had the authority to terminate his appointment.

On the strength of the evidence, the Commission further found that the Respondent was justified in terminating the Complainant's appointment with effect from May 15, 1991, on the ground that he had vacated his post, and in calculating his entitlements up to that date. The complaint was, accordingly, dismissed for being unmeritorious; it was an abuse of process.

## **CASE NO. 244/2000 CHILD CUSTODY DISPUTE - MEDIATION**

The Complainant was separated from her ex-husband, the Respondent, and was seeking custody of their two children - aged five and three years respectively.

Her case was that the Respondent had been persistently assaulting and humiliating her, as a result of which the Respondent's mother took the Complainant to her mother's home. The Complainant was asking for custody of the children because they were too young to be left in the care of the Respondent, who lived alone, left early in the morning for work and did not return home till late at night, whereas she, the Complainant, lived in a comfortable house with her mother and had a house help. In addition, she did not wish to remain in the marriage any longer.

The Respondent admitted having assaulted the Complainant but pleaded for her forgiveness. He said the Women and Juvenile Unit (WAJU) of the Police had bonded him not to beat his wife again; besides he did not want his marriage to be dissolved.

The parties agreed to a mediation of the case by the Commission.

Following the mediation, the Respondent undertook not to use violence to settle any domestic disagreements; to control his temper when dealing with the Complainant and members of her family; and not to insist on leaving the house at the same time as the Complainant. He also agreed to allow her to manage the marital home, and to issue instructions to the house help. The Respondent would give their boy child his bath daily.

The Complainant, on her part, agreed to return home from work in good time to prepare the family dinner before leaving for her rehearsals. The Complainant would give their girl child her bath every day.

The parties agreed to try out the terms of the settlement and to keep the Commission informed of further developments.

## **CASE NO. 118/97 RIGHT TO EMPLOYMENT**

The Complainant alleged that the Ghana Broadcasting Corporation, the Respondent, treated him unfairly when it failed to give him a permanent appointment.

His case was that he was employed as a Guest Artiste Translator and Broadcaster from the beginning of January 1993 to August 23rd 1995, when he received a letter terminating his employment, although earlier he and other Guest Artistes had been interviewed for permanent positions. When he complained about his termination, he was told that there was no vacancy. However, two other colleagues were subsequently reengaged.

He was, therefore, seeking reinstatement, compensation for the Respondent's failure to offer him a permanent job, and full payment of Social Security contributions covering approximately three years' emoluments.



In its response, the Respondent stated that the Complainant was disengaged because “he was found unsuitable”.

The Commission's investigations established that, the Complainant had told the interview panel that he had gained admission to the University of Ghana, and so he would apply for study leave to enable him undertake his studies; and that his course was a part-time one so he would be working and going to school at the same time.

The Commission found the Respondent's “no vacancy” reason to be pretextual, as vacancies clearly existed; its real reason was that it was concerned about the Complainant's educational plans. The Respondent had a duty to be candid with the Complainant in not engaging him permanently.

However, the Commission found that the Complainant's requests for reinstatement and compensation were unjustified as the Respondent was entitled to employ whomsoever it wished, as long as it did not engage in unlawful discrimination in the process.

The Commission, nevertheless, found the Respondent's failure to comply with the provisions of the Social Security Law unlawful and, accordingly, ordered it to pay into the Complainant's Social Security account the aggregate of 32 months' contributions, i.e., 17 1/2% of 50,000.00 cedis per month for 32 months.

#### **CASE NO. 4/2000 SEXUAL HARASSMENT**

The Complainant, a twenty-one year old woman, sought compensation for sexual harassment she claimed to have suffered at the hands of the Respondent for whom she worked as a cook and general housekeeper from March 30th 1999 till March 2nd 2000. The Respondent, an expatriate employed by a multinational company in Ghana, dismissed the Complainant claiming that she had stolen a sum of money from his bedroom. The Complainant strongly denied the allegation. She stated that the Respondent subjected her to a regime of constant demands for sexual intercourse and other sexual activities. In spite of her firm refusal and vehement protests on each occasion, the Respondent continued to fondle her body and request her to give him ‘massages’. On one occasion, he forced her to manipulate his penis until he ejaculated. She stated that she felt disgusted, used and abused by the Respondent who was old enough to be her grandfather.

The Respondent, on his part, denied the allegations of sexual harassment and accused the Complainant of being “a gold-digger”. However, following a couple of discussions during which the Respondent was made aware of the findings of the Commission's preliminary investigations, he asked for a settlement of the matter rather than submit to a formal hearing. The Commission's preliminary investigations disclosed the following:

1. The Complainant had been subjected to harassment of an intimate physical nature;
2. The Respondent was extremely aggressive in his physical demands;
3. The harassment was of an ongoing nature, with at least 4 significant occurrences during the tenure of the Complainant's employment;
4. The Complainant was only 20 years of age at the time of the harassment;
5. The Complainant was in an extremely vulnerable position, being alone in the house with the Respondent who was physically bigger and stronger than her.
6. As the Complainant continued to rebuff him, the Respondent retaliated by dismissing her from his employment.
7. The Complainant had suffered psychological trauma because of the harassment she had suffered.
8. The Complainant had mitigated her loss by obtaining alternative employment.

The Commission found that the Complainant had suffered sexual discrimination under Article 17(2) of the 1992 Constitution, and had also suffered a violation of her human dignity contrary to Articles 15(1) and (2) of the Constitution. The Respondent was therefore liable to pay compensation to the Complainant for the injury to her feelings, dignity and self-respect.

As both parties were amenable to settlement, the Commission facilitated a settlement of the complaint through mediation. The Complainant demanded compensation from the Respondent in the sum of ₵12,000,000.00. The Respondent offered the sum of ₵10,000,000.00 in settlement of the case. The Complainant eventually accepted the Respondent's offer and the case was struck out as 'Settled'.

#### CASE NO. 131/2000 CONFLICT OF INTEREST

By an anonymous complaint, dated 2 February 2000, a 'Concerned Citizen' alleged that the Hon. AB, Member of Parliament (MP) since January 1997 for a constituency in the Upper West Region, and member of the District Assembly in his home area, had engaged in the following acts:

- (a) acted in conflict of interest by obtaining contracts from the District Assembly for Bon-Tambo (Gh) Ltd and Andopie (Gh) Ltd, companies in which he had an interest;
- (b) misused the MP's share of the Common Fund by contracting Bon-Tambo and Andopie to supply materials for projects in his constituency; and
- (c) led an ostentatious lifestyle (that could reasonably not be supported by his known legitimate income).

In his defense, the Hon. AB claimed that the allegations were untrue and politically motivated. His counsel challenged the Commission's jurisdiction to investigate the anonymous allegations. The Commission overruled the objection on the ground that Article 218 of the *Constitution (1992)* and Section 7(f) of the *Commission on Human Rights and Administrative Justice Act 1993* (Act 456) empowered the Commission "to investigate all instances of alleged or suspected corruption".

Findings from preliminary investigations and interviews conducted by the Commission in the Upper West Region did not indicate that the Hon. AB led 'an ostentatious lifestyle', but recommended further investigations into the remaining allegations against him. Based on the results of that preliminary investigation, the Commission concluded that there was a reasonable basis in the evidence to warrant further (formal) investigation. Consequently, a panel hearing was constituted to hear evidence from the Hon. AB and to give him an opportunity to respond to the findings contained in the preliminary investigations report.

The panel considered the following issues:

1. Whether the District Assembly followed the prescribed procedures in awarding contracts to Bon-Tambo and Andopie?
2. Whether the Hon. AB followed the prescribed procedures for the use of the MP's Share of the Common Fund?
3. Whether the Hon. AB acted in conflict of interest by awarding contracts to Bon-Tambo and Andopie?
4. Whether the Hon. AB made a full and truthful disclosure in his Declaration of Assets and Liabilities?

Evidence was heard from the Hon. AB and Mr. D., the then District Chief Executive (DCE) of the District.

1. The Hon. AB gave evidence that he and his wife are shareholders in Bon-Tambo and Andopie, and that his wife is Secretary to both companies. Further evidence before the Commission revealed that in contravention of prescribed procedures for the award of contracts, as stated in the Consultants' Evaluation Reports, contracts were awarded to Bon-Tambo and Andopie although, for example, neither company had relevant previous work experience, they benefited from a process of 'selected tenders', or should have been disqualified from the tender process for failure to submit full documentation with their bids.

Accordingly, on the balance of the evidence, the Commission concluded that the procedures adopted in the award of contracts to Bon-Tambo and Andopie lacked transparency and were inappropriate in the circumstances.

2. Under Article 252 of *The 1992 Constitution*, and *The District Assemblies Common Fund Act* 1993 (Act 455), MPs can identify specific development projects for their constituencies to be funded out of the MP's Share of the Common Fund, according to *The Guidelines for the Utilization of the District Assemblies Common Fund*, May 1999. The Hon. AB submitted evidence that he made payments for supplies for ten such projects, and that for some of these projects money was channeled through either Bon-Tambo or Andopie.

In justification, the Hon. AB claimed that:

- a) the DCE, Mr. D, had agreed to these payments;
- b) Bon-Tambo and Andopie made no profit;
- c) other suppliers would have charged inflated prices; and
- d) using his companies facilitated auditing and accounting.

The Commission rejected these justifications and found, from the weight of evidence, that the procedures adopted in the use of the MPs' Share of the Common Fund were not transparent or appropriate in the circumstances.

3. Article 284 of the 1992 Constitution, "Code of Conduct for Public Officers", states that: "A Public officer shall not put himself in a position where his personal interest conflicts or is likely to conflict with the performance of the functions of his office."

Accordingly, on the balance of the evidence, the Commission found that the award of contracts to Bon-Tambo and Andopie companies in which the Hon. AB and his wife held shares, and the use of these companies to supply materials for projects funded from the MPs' Share of the Common Fund, put the Hon. AB in a conflict of interest with "the performance of the functions of his office" as an MP for the area.

4. Article 286 of the 1992 Constitution requires public officials to declare their property or assets and liabilities, owned directly or indirectly, before taking office. The Commission found that shares in a company constitutes "property or assets" under this Article.

The Commission found, on the balance of the evidence, that the Hon. AB acted in contravention of Article 286 by failing to disclose his interest in Andopie (Gh) Ltd in his form of Declaration of Assets and Liabilities, dated 15 March 1997.

The Commission made the following recommendations:

1. The Hon. AB should be disqualified from holding any office on any committee in the District Assembly, particularly the Tender Board or Finance Committee, for at least one term;
2. Ghana should develop a 'Guide to the Code of Ethics' to assist public officials in

- meeting constitutionally required ethical standards of conduct; and
3. 'Ethics Counselors' should be provided in all public departments to educate public officers in avoiding conflicts of interest.

### **CASE NO. 718/2000 SEVERANCE PAY**

By a complaint dated 12 September 2000, the Complainant, a legal officer with the Respondent bank since May 1973, sought the assistance of the Commission in securing severance pay.

The Complainant alleged that on 27 August 1997, after he had been cleared of impropriety, the Respondent offered him an early retirement severance package including one month's basic salary for each year of service. The Complainant stated that he rejected this package as the Respondent Directors had ratified an agreement on 19 August 1997 for two month's salary for each year of service. Conversely, the Respondent alleged that the two months' salary severance pay applied only to security staff.

By a letter dated 7 March 2001, before the Commission commenced investigations through a panel hearing, the Complainant discontinued his complaint, stating that the Respondent had agreed to pay him a severance package including two month's salary for each year of service.

Consequently, the Commission considered the complaint settled and ceased further investigation.

### **CASE NO. 948/2000 DISMISSAL - MEDIATION**

The Complainant, formerly a cleaner with the Respondent, by a complaint dated December 6, 2000, alleged that the Respondent owed her ₵1,320,000, following her dismissal without notice on December 1, 2000. She alleged further that this sum represented annual leave allowances, overtime payments, salary increments, payment in lieu of notice for termination of employment, and the Respondent's SSNIT contributions.

In response, the Respondent alleged that it dismissed the Complainant for gross negligence of duty, and that it had paid her ₵290,000, the full amount due to her, representing her November salary, her annual leave allowance for 1997, and overtime payment. The Respondent further stated that no SSNIT contributions were paid on behalf of the Complainant.

The Commission decided to mediate the complaint, following which the Complainant accepted the Respondent's payment of ₵300,000 in final settlement of the complaint.

The Commission further recommended that the Respondent: (a) issue appointment letters to all its new recruits; (b) should, by law, be responsible for deducting and paying employees contributions to SSNIT; and (c) keep records of communication with employees in order to forestall likely litigation.

### **CASE NO. 777/2000 DISCRIMINATION BASED ON PREGNANCY**

On 12 October 2000, the Complainant alleged in his written complaint that the Headmistress of Labone Secondary School refused to allow his pregnant daughter to sit for her Senior Secondary School (SSS) Examinations. He sought the Commission's assistance in preventing further discrimination against his daughter, in violation of her fundamental rights under the 1992 Constitution.

As part of its preliminary investigations, the Commission spoke with the Headmistress, who maintained that, in accordance with the School's policy, the student who had become pregnant would not be allowed to sit for her SSS Examinations. The Headmistress failed to comply with the Commission's subsequent request to communicate her comments in writing.

The Commission enquired from the Regional Director of the Ghana Education Service (GES) if the GES



had any policy guidelines on the matter. In a letter dated October 24, 2000, the GES stated that the Respondent's action was contrary to existing policy, and directed that the student be allowed to sit her SSS Examinations. The Commission found the complaint justified.

### **CASE NO. 46/2000 COMPLAINT ALREADY DECIDED BY TRIBUNAL**

By a letter dated January 11, 2000, the Complainant alleged that his fundamental human rights were violated by the Accra Community Tribunal in determining an action brought against him by his former wife for the maintenance of their second child. He stated that, without hearing his defense, the Chairman ordered him to pay ₵570,000 for accrued hospital bills, ₵60,000 for maintenance, and to purchase a sewing machine for his 22 year old daughter. He was also remanded in prison custody until he had discharged the court order.

The Commission advised the Complainant that he had the option to seek redress in the courts through the appeal process. Consequently, the Commission ceased further action on the matter, under S 13(1)(a) of the *Commission on Human Rights and Administrative Justice Act 1993* (Act 456), which states that the Commission may refuse to investigate a matter further where, during any investigation of any complaint "it appears to the Commission 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."

### **CASE NO. 221/2000 PAYMENT OF ROYALTIES**

On March 9, 2000, the Complainant made a verbal complaint to the Commission for the recovery of his musical instruments from the Respondent. He stated that he was an Electronics Technician and supplemented his income by playing music for school children. According to him, the Respondent had his instruments seized by the Madina Police and conveyed to the Respondent's offices, on the grounds that he had been 'spinning' music without a license from the Respondent, for which the Respondent also fined him ₵320,000.

During the Commission's mediation of the complaint, the Respondent stated that it had branches all over Ghana, and registered all music 'spinners' in order to contribute royalties to Ghanaian musicians. The Respondent's members pay annual dues of ₵40,000 to the Respondent, which then pays royalties to the Copyright Administrator; while non-members pay ₵200,000 directly to the Copyright Administrator.

As part of settlement of the complaint, in which the Respondent agreed not to pursue its fine of ₵320,000 on the Complainant, and to return the musical instruments to the Complainant unconditionally, the Commission advised the Complainant to register with the Respondent, as he could be prosecuted for 'spinning' music without paying royalties; or to pay royalties to the Copyright Administrator. It also informed the Respondent that it had no power to compel anyone to become a member one of its members; freedom of association includes the freedom not to join an organization, or freedom from being compelled to associate with others.

### **CASE NO. 532/2000 SUSPENSION OF STUDENTS - MEDIATION**

By a complaint dated 30 June 2000, and referred to the Agona District Office of the Commission, the Complainant alleged that he and twelve other students were unfairly suspended indefinitely by the Respondent, and sought the Commission's intervention for their reinstatement.

Following discussions between the Commission and the Respondent's management, it was agreed that the suspended students would be recalled for the third school term, on 10 September 2000, and that the students would sign a bond of good behavior in the presence of their parents/guardians and the District Director of the Commission. This was done.

The Commission considered the complaint settled and, accordingly, ceased further investigations.

#### **CASE NO. 311/2000 RIGHT TO A REFERENCE**

The Complainant, a former machine operator with the Respondent for 7 years, claimed from the Respondent compensation for termination of his appointment, and a reference confirming that his work performance had not suffered following an accident at the Respondent causing the loss of two of his fingers.

In response, the Respondent submitted documentation, signed by the Complainant, indicating that it had paid him all his entitlements, including compensation for his accident. The Complainant subsequently confirmed this.

The Commission's mediation between the parties concluded with the Respondent's agreement to give the Complainant an open reference, certifying that his work had been competent despite his loss of two fingers.

Following this amicable settlement, the Commission considered further investigations unnecessary.

#### **CASE NO. 2/2000 DENIAL OF ORTHODOX MEDICAL TREATMENT**

The Complainant sought access to her father for the purpose of providing him with medical attention.

The Respondent, who is the Complainant's stepmother, refused to grant the Complainant and her siblings, access to their father. Their father, the husband of the Respondent, had suffered a 'stroke'. The Complainant feared that her father was not receiving adequate care and medical attention. The Respondent however refused to consider orthodox medical treatment for him. The Commission, upon investigation, found that it was true that the Respondent's husband had suffered a 'stroke' and was kept indoors. The Respondent had sought 'traditional' i.e. herbal treatment for her husband from the Top Herbal Clinic in Aghoba, Accra. Her husband had not at anytime prior to the lodging of the complaint received orthodox medical treatment from any medical facility or medical personnel.

The Commission found that, in his weakened state, the Complainant's father was entirely dependent on his wife and was unable to obtain medical treatment for himself without her co-operation. The Commission made a request to the Administrator of the Tema General Hospital for urgent medical attention for the Complainant's father. The patient's condition was such that the hospital authorities immediately placed him on admission upon his arrival at the Tema General Hospital.

The Commission was of the view that herbal treatment was acceptable as a supplement to orthodox medical treatment but was hazardous as the sole recourse for the treatment of 'stroke'.

Art 30 of the 1992 Constitution provides that:

"Art 30            *A person who by reason of sickness or any other cause is unable to give his consent shall not be deprived by any other person of medical treatment, education or any other social or economic benefit by reason only of religious or other beliefs.*"

The Respondent's conduct violated this provision. In addition, by refusing to consider orthodox medical treatment as an alternative to or in addition to herbal treatment, the Complainant's father was being denied *"the right to the enjoyment of the highest attainable standard of physical and mental health."*

The complaint was upheld.

## 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 fore 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 mis-appropriation 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 with in 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 organization; 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 Coordinating Council and the District Assembly, the Armed Forces, the Police Service and the Prisons Service in so far as the complaints relate to the failure to achieve a balanced structuring of those services or equal access by all to the recruitment of those services or fair administration in relation to those services;
  - (c) to investigate complaints concerning practices and actions by persons, private enterprises and other institutions where those complaints allege violations of fundamental rights and freedoms under the Constitution;
  - (d) to take appropriate action to call for the remedying, correction and reversal of instances specified in paragraphs (a), (b) and (c) of this subsection through such means as are fair, proper and effective, including -
    - (i) negotiation and compromise between the parties concerned;
    - (ii) causing the complaint and its finding on it to be reported to the superior of an offending person;
    - (iii) bringing proceedings in a competent court for a remedy to secure the termination of the offending action or conduct, or the abandonment or alteration of the offending procedures; and
    - (iv) bringing proceedings to restrain the enforcement of such legislation or regulation by challenging its validity if the offending action or conduct is sought to be justified by subordinate legislation or regulation which is unreasonable or otherwise ultra vires;
  - (e) to investigate allegations that a public officer has contravened or has not complied with a provision of Chapter Twenty-four (Code of Conduct for Public Officers) of the Constitution;
  - (f) to investigate all instances of alleged or suspected corruption and the misappropriation of public monies by officials and to take appropriate steps, including reports to the Attorney-General and the Auditor-General, resulting from such investigation;
  - (g) to educate the public as to human rights and freedoms by such means as the Commissioner may decide, including publications, lectures and symposia; and
  - (h) to report annually to Parliament on the performance of its functions.
- (2) All costs and expenses related to investigations conducted by the Commission into a complaint shall be borne by the Commission.

8. (1) The Commission shall for the purposes of performing its functions under this Act, have power -
  - (a) to issue subpoenas requiring the attendance of any person before the Commission and the production of any document or record relevant to any investigation by the Commission;
  - (b) to cause any person contemptuous of any such subpoena to be prosecuted before a competent court;
  - (c) to question any person in respect of any subject matter under investigation before the Commission;
  - (d) to require any person to disclose truthfully and frankly any information within his knowledge relevant to any investigation by the Commissioner.
- (2) The Commissioner shall not investigate -
  - (a) a matter which is pending before a court or judicial tribunal; or
  - (b) a matter involving the relations or dealings between the Government and any other Government or an international organization; 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.

(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) 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 favor 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 authorized 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 authorized 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, willfully obstructs, hinders or resists a member of the Commission or an officer authorized by the Commission in the exercise of any powers under this Act; or
  - (b) without lawful justification or excuse, refuses or willfully fails to comply with any lawful request of the Commissioner or a Deputy Commissioner or any other person under this Act; or
  - (c) willfully 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 with such modifications as may be necessary for giving effect to the 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.
- applied provisions

# 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, organization 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 organization 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 organization or the person against whom the

complaint is made with a request for comment and response.

- (2) The head of the body or organization 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.

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.
- (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, organization 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 authorize 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  
COMMISSIONER  
COMMISSION ON HUMAN RIGHTS  
AND ADMINISTRATIVE JUSTICE



## THE STATE OF HUMAN RIGHTS IN GHANA (2000)

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

#### **(i) Introduction**

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

Although solid progress has been made towards the promotion and protection of human rights in Ghana, the cultivation and entrenchment of a culture of respect for human rights remains one of the greatest challenges of our time. After years of military and undemocratic rule characterized by impunity and gross human violations, the task of promoting the values of respect for the dignity of all persons, anti-discrimination, good governance and accountability is truly daunting. Even so, the Commission in conjunction with other civil society organizations has made an appreciable progress in the promotion of human rights. The Commission believes that fostering a human rights culture is the key to promoting good governance and democracy which is the best way of ensuring greater social justice, freedom and dignity for all.

As the nation consolidates its juvenile democracy, our collective vision continues to be good governance, justice, rule of law, accountability and transparency and above all, respect for the dignity of every human being and fairness for all.

#### **(ii) Human Rights in Retrospect**

##### **(a) Constitutional guarantees of human rights**

Ghana has enjoyed civilian constitutional rule since January 1993, and has witnessed several progressive developments in the human rights front.

The creation in July 1993 of the Commission on Human Rights and Administrative Justice was an unqualified development in our progress toward the 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 each other.

Chapter 5 of the 1992 Constitution spells out the fundamental human rights of all people in Ghana. Article 14(b) states that

*"Every person shall be entitled to his personal liberty and no person shall be deprived of his personal liberty, except in certain circumstances."*

Article 14(3) states that a suspect cannot be detained for more than 48 hours without being put before court. Article 14(5) provides that a person who is unlawfully arrested, restricted or detained by another person shall be entitled to compensation from that person. Article 15(1) of the constitution provides that the dignity of all persons shall be inviolable.

These and other human rights provisions in the Constitution give concrete expression to the desire to create and promote a human rights culture in Ghana.

##### **(c) Civil and Political Rights**

Since the inception of civilian constitutional rule in January 1993, the nation has made remarkable strides in the human rights front. The country has, a few days ago, organized its third national elections. The recent enthusiasm and determination exhibited by political parties and the entire citizenry as a

whole indicate a national commitment to political pluralism and democracy, which is a guarantee for the protection of economic freedoms and human rights.

However, the Commission was extremely disappointed by the flare-up of ethnic conflict between the Kusasis and the Mamprusis at Bawku in the Upper East Region over alleged delays in the release of 2000 parliamentary election results. Particularly disheartening were the reports of police inaction or inertia, whatever the reasons, during the conflict in which over seven lives were lost and thirty homes burnt down.

Significant work remains to be done to improve the state of inter-group relations in the country. Ethnic strife remains a sore concern in parts of Northern Ghana as well as in communities with native settler populations: such as among the Agonas and Kotokolis of Nyaakrom, in the Eastern Region and the Akwamus and Ewes of Frankadua. The Commission also recalls with dismay, attacks by the military on civilians in July at Asylum down, a suburb of Accra where many residents were assaulted in a reported retaliatory civilian encounter in that community. Police use of deadly force remains a matter of serious concern for the Commission, which continues to ask for greater circumspection in the use of arms by the police.

The Commission highly commends the Government for ratifying the International Covenant on Economic, Social and Cultural Rights and also the International Covenant on Civil and Political Rights. The Commission will continue, as in previous years, to advocate for the ratification of other major International Human Rights Instruments such as the Covenant on the International Court of Justice and to continue to support efforts towards the creation of the African Court of Justice.

#### **(d) Women's Rights**

The unacceptability of all forms of violence against women was asserted at the 1993 World Conference on Human Rights in Vienna, and by the General Assembly's Declaration on the Elimination of Violence Against Women (Dec 1993). The appointment of a Special Rapporteur on Violence Against Women by the Human Rights Commission in 1994 also signaled the world community's revulsion for violence against women.

Discrimination against women in Ghana still continues in many forms, and sexual harassment remains a pervasive concern.

The Commission commends the Government for pursuing a vigorous policy of ensuring greater gender equality in Ghanaian society. Specifically, the Commission was pleased with the swift implementation of the Affirmative Action Policy and the consensus, which was built around the issue.

During the year however, the Commission was profoundly horrified and dismayed by the gruesome murders of women in the 'Mataheko', 'Dansoman', 'Kaneshie' and other areas of Accra. The insecurity generated by the apparently random and unpredictable murders, puts in jeopardy the fundamental rights of women to life, liberty and security of the person. Once again, police response and action, towards such gross violations of the fundamental rights of women, and have been disappointing.

Even so, women have been victims of rape, ritual murders, domestic violence and other human rights abuses. Many of these abuses go unreported and are seldom brought before court. Women continue to experience societal discrimination and rural women especially, remain subject to burdensome labor conditions and traditional male dominance. A myriad of traditions, practices and social norms also deny women their statutory and constitutional entitlements.

The Commission has recorded an increase in sexual harassment complaints. The head office alone recorded about 13 of such complaints this year. This figure, cast against the background of our patriarchal social system that impedes women's freedoms and inhibits their capacity to report sexual harassment, is rather significant and probably represents only a tip of the iceberg.

The Commission maintained its vigorous opposition to aspects of the 'Trokosi' system by which vestal virgins, mostly girls, are sent to shrines in atonement for the alleged sins of their relatives. In addition to educating against this practice, which violates the fundamental rights of those children consigned to a life of servitude, the Commission also participated in the liberation ceremonies for liberated 'Trokosis' organized by International Needs, Ghana. The Commission further calls for application of the criminal law in appropriate circumstances.

#### **(e) Children's Rights**

A significant development in the recognition of the rights of the child was in 1979 when the year was declared the International Year of the Child. Ten years later, the Convention on the Rights of the Child modified the rights of the child into a legally binding treaty. It is worth noting that Africa is the only continent with a regional treaty (African Charter) on the Rights and Welfare of the Child, which was adopted by the Organization of African Unity in July 1990.

The fundamental principle upon which the rights of the child is based is that, society has an obligation to satisfy the fundamental needs of children and to offer support for the development of the child's personality, talents and abilities.

Within the limits of its resources, the Government of Ghana has been committed to protecting the rights and welfare of children. Significant developments have occurred to discourage practices such as female genital mutilation (FGM), customary servitude, forced childhood marriage, sexual exploitation of children and child trafficking. Campaigns that are geared towards the promotion of girls' education continue to be on the increase.

#### **(f) HIV/AIDS and Human Rights**

Although HIV/AIDS affects human health and lives, the interplay with human right is less readily appreciated and considering both absolute numbers and the rate of infection, Africa faces what can best be described as a holocaust.

In Ghana, efforts to raise awareness about HIV/AIDS through campaigns, programs and workshops have been on the increase. Collaboration between UNAIDS, and NGOs working in the area of HIV/AIDS contributed significantly to raising awareness about this pandemic, and in the design of appropriate preventive strategies.

#### **(g) Environmental Rights**

The Ghanaian constitution imposes a duty on every Ghanaian to protect and safeguard the environment. Despite efforts made by the Ministry of Environment, Science and Technology, the Department of Forestry, the Environmental Protection Council and NGOs towards the promotion of a healthy environment, the country is still confronted with enormous challenges.

Some residents in Tarkwa and its municipality staged a daylong demonstration against some of the mining companies in the area. In this demonstration, they called attention to the scale of pollution of the waters and the degradation of the farmlands as well as the inadequate resettlement opportunities afforded them. These conditions amounted to a violation of the residents right to feed themselves. It also violated the people right to development. The commission is investigating these allegations.

The over exploration of our forests, mindless mining, unchecked erosion, huge gutters and open sewers that are choked with debris are some of the major challenges that the nation is confronted with.

#### **(h) Refugee Rights**

Africa harbors the largest number of refugees in the world. The growing number of refugees in Africa and the crisis it presents led to the adoption in 1969 of the OAU convention on refugees.

Refugees like all other people are entitled to rights and freedoms that are spelled out in the International Human Rights instruments.

The Government of Ghana has co-operated with the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations to assist refugees. Ghana also has a liberal policy for accepting refugees and provides asylum to people from some African countries.

#### **(h) Human Rights and Non- Governmental Organizations**

There continued to be an appreciable increase in the number of NGO's that are interested in human rights. Some of these NGOs have defended and promoted respect for fundamental human rights, and have ensured observance of the foundational principles of justice and democracy. Many of them are also committed to advancing the process of social development and ensuring a wider appreciation of democratic values in Ghana.

The Commission has undertaken measures to invigorate collaboration between itself and human rights NGOs with a view to strengthening democracy and human rights education. Through these collaborative efforts, the Commission aims at equipping these NGOs to enable them to better protect and promote human rights.

#### **(iii) The way forward**

Ghana has witnessed marked development on the human rights front since the coming into force of the 1992 Constitutions and the creation of the Commission on Human Rights and Administrative Justice. Notwithstanding these achievements, it is worth recognizing that the challenges presented by the 21st Century are still numerous.

#### **(a) Civil and Political Rights**

The Ghanaian Constitution states that the dignity of all persons shall be inviolable and that no one shall be subjected to torture, or other cruel, inhuman, or degrading treatment or punishment, or any other condition that detracts from human dignity. These constitutional guarantees of human rights extend to all citizens including suspects and prisoners.

The conditions of prisons, prison settlement, and police cells, as revealed through annual inspections conducted by the Commission have been very dis-heartening. In spite of the positive developments that have taken place since the publication of the Commission's findings, prison cells still remain congested and over crowded. There are still many remand prisoners who are in custody, without trial, for as many as seven years.

The Commission hopes that in the coming years its recommendations to the legislature and the judiciary with respect to prisoners' rights will be acceded to in order to ensure the protection of their fundamental rights.

The Constitution recognizes the right to freedom of opinion, expression and information. The Commission maintains that promoting a culture of openness is essential for democracy and good governance and development for Ghana in the 21st century. The Commission however continues to express concern about the existence of criminal libel laws. As envisioned in the medium term development plan towards Ghana's vision 2020, information plays a vital role towards the achievements of broad national goals of improving the quality of life of all Ghanaians.

#### **(b) Cultural, Social & Economic Rights**

One of the major set backs for the International Human Rights community is the neglect of Economic and Social Rights in many parts of the world. Article 25 of the Universal Declaration of Human Rights stipulates that everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing housing, medical care and necessary social services.

The economic social and cultural rights in Ghana also find expression in the 6th chapter of the 1992 con-



stitution. These rights are still subject to ideological attack, and controversies continue to persist as to whether they are entitlements or needs. The Commission recognizes that the denial of very basic requirements of food, health, housing, of Ghanaians constitute a violation of human dignity, which is also a component of the right to life.

Although Parliament has enacted a number of laws that are supportive of human rights and social justice and equality, it is vital to note that the enjoyment of economic and social rights can not be addressed over-night. The year 2001 will require collaborative efforts on the parts of the government, civil society and the international community to work towards the eradication of poverty, which inhibits the full enjoyment of human rights, peace and stability and renders democracy and good governance fragile.

#### **(c) Public sensitization of Human Rights**

Since its inception, the Commission has, with donor support, organized a series of activities aimed at sensitizing certain identifiable groups and the general public to human rights issues. The Commission maintains that investment in human rights education is one of the surest ways of ensuring greater social justice, freedom, equality and dignity for all. Consequently, the Commission wishes to appeal to the government and the donor community to support its educational efforts in order to expand awareness campaigns.

#### **(iv) Conclusion**

Democracy is not only about the rule of law, accountability, freedom of speech and representative government. It is also about development, ensuring that the basic needs of our people - women, children, the aged, people with disabilities, people living with HIV/AIDS - and of the environment, are met.

We at the Commission believe that a rights-based approach to development contributes to good governance and democracy, and we are hopeful that in the coming years, Ghanaians will make remarkable strides in the holistic promotion and protection of human rights.

I wish all of you a Merry Christmas and a Prosperous New Year.

Emile Francis Short  
**Commissioner**

December 11, 2000

## Details of Complaints Data

### NATIONAL STATISTICS

**Table 1: Cases Received**

Head Office & Regions	No. of Cases Received	%
<i>Brong-Ahafo</i>	<i>2051</i>	<i>22.1</i>
<i>Eastern Region</i>	<i>1184</i>	<i>12.8</i>
<i>Ashanti</i>	<i>1177</i>	<i>12.7</i>
<i>Volta</i>	<i>1066</i>	<i>11.5</i>
<i>Central</i>	<i>1015</i>	<i>11.0</i>
<i>Head Office</i>	<i>868</i>	<i>9.4</i>
<i>Western</i>	<i>864</i>	<i>9.3</i>
<i>Greater Accra</i>	<i>396</i>	<i>4.3</i>
<i>Northern</i>	<i>296</i>	<i>3.2</i>
<i>Upper East</i>	<i>228</i>	<i>2.5</i>
<i>Upper West</i>	<i>120</i>	<i>1.3</i>
<i>Total</i>	<i>9265</i>	<i>100</i>

**Table 2: Cases Resolved**

Head Office & Regions	No. of Cases Resolved	%
<i>Brong-Ahafo</i>	<i>3282</i>	<i>39.2</i>
<i>Eastern</i>	<i>877</i>	<i>10.5</i>
<i>Ashanti</i>	<i>869</i>	<i>10.4</i>
<i>Central</i>	<i>839</i>	<i>10.0</i>
<i>Western</i>	<i>757</i>	<i>9.0</i>
<i>Head Office</i>	<i>568</i>	<i>6.8</i>
<i>Upper East</i>	<i>375</i>	<i>4.5</i>
<i>Northern</i>	<i>241</i>	<i>2.9</i>
<i>Greater Accra</i>	<i>237</i>	<i>2.8</i>
<i>Volta</i>	<i>201</i>	<i>2.4</i>
<i>Upper West</i>	<i>132</i>	<i>1.6</i>
<i>Total</i>	<i>8378</i>	<i>100</i>

## RESPONDENT BODIES

**Table 3: Organizations Under  
Office of the President**

<b>Organizations</b>	<b>Number</b>	<b>%</b>
<i>Divestiture Implementation Commission</i>	6	11.8
<i>Regional Coordination Councils</i>	5	9.8
<i>Others</i>	40	78.4
<i>Total</i>	51	100

**Table 4: Organizations Under  
Ministry of Finance**

<b>Services /Departments</b>	<b>Number</b>	<b>%</b>
<i>Controller &amp; Accountant General</i>	44	35.5
<i>Banking Institutions</i>	35	28.2
<i>Customs Excise &amp; Preventive Service</i>	26	21.0
<i>Internal Revenue</i>	16	12.9
<i>Audit Service</i>	3	2.4
<i>Total</i>	124	100

**Table 5: Organizations Under  
Ministry of Justice**

<b>Service /Department</b>	<b>Number</b>	<b>%</b>
<i>Judicial Service</i>	36	78.3
<i>Attorney-General's Dept.</i>	10	21.7
<i>Total</i>	46	100

**Table 6: Organizations Under  
Ministry of Local Government**

<b>Assemblies</b>	<b>Number</b>	<b>%</b>
<i>District/Municipal/Metropolitan Assemblies</i>	66	100
<i>Total</i>	66	100

**Table 7: Organizations Under  
Ministry of Education**

<b>Services/Institutions</b>	<b>Number</b>	<b>%</b>
<i>Ghana Education Service</i>	93	51.4
<i>West African Examinations Council</i>	8	4.4
<i>Schools/Colleges</i>	70	38.7
<i>Universities</i>	10	5.5
<i>Total</i>	181	100

**Table 8: Organizations Under  
Ministries of Interior & Defense**

<b>Security Services</b>	<b>Number</b>	<b>%</b>
<i>Prisons Service</i>	13	5.5
<i>Immigration Service</i>	4	1.7
<i>Police Service</i>	197	82.8
<i>Bureau of National Investigation</i>	7	2.9
<i>Ghana National Fire Service</i>	2	0.8
<i>Ghana Armed Forces</i>	15	6.3
<i>Total</i>	238	100

**Table 9: Organizations Under  
Ministry of Roads & Highways**

<b>Authority/Department</b>	<b>Number</b>	<b>%</b>
<i>Dept of Feeder Roads</i>	20	58.8
<i>Ghana Highway Authority</i>	14	41.2
<i>Total</i>	34	100

**Table 10: Complaints Against  
Specific Ministries**

<b>Ministries</b>	<b>Number</b>	<b>%</b>
<i>Office of the President</i>	13	6.6
<i>Head of Civil Service</i>	49	25.1
<i>Food &amp; Agriculture</i>	19	9.7
<i>Health</i>	35	17.9
<i>Lands &amp; Forestry</i>	17	8.7
<i>Works &amp; Housing</i>	7	3.6
<i>Employment &amp; Social Welfare</i>	6	3.1
<i>Mines &amp; Energy</i>	1	0.5
<i>Interior</i>	2	1.0
<i>Defense</i>	4	2.1
<i>Education</i>	19	9.7
<i>Foreign Affairs</i>	20	10.2
<i>Finance</i>	1	0.5
<i>Communication</i>	2	1.0
<i>Total</i>	195	100



**Table 11: Extra Ministerial  
Organizations**

<b>Organization</b>	<b>Number</b>	<b>%</b>
<i>Public Services Commission</i>	<i>31</i>	<i>45.6</i>
<i>Chieftaincy Secretariat</i>	<i>5</i>	<i>7.4</i>
<i>Lands Commission</i>	<i>13</i>	<i>19.1</i>
<i>Electoral Commission</i>	<i>4</i>	<i>5.9</i>
<i>Commission On Human Rights And Administrative Justice</i>	<i>1</i>	<i>1.5</i>
<i>National Commission On Civic Education</i>	<i>1</i>	<i>1.5</i>
<i>Lands Valuation Board</i>	<i>10</i>	<i>14.7</i>
<i>Media Commission</i>	<i>3</i>	<i>4.4</i>
<i>Total</i>	<i>68</i>	<i>100</i>

**Table 12: Public Corporations  
& Companies**

<b>Corporation /Company</b>	<b>Number</b>	<b>%</b>
<i>Cocoa Marketing Board</i>	<i>15</i>	<i>8.1</i>
<i>Meat Marketing</i>	<i>4</i>	<i>2.1</i>
<i>Social Security And National Insurance Trust</i>	<i>65</i>	<i>34.3</i>
<i>Volta River Authority</i>	<i>14</i>	<i>7.5</i>
<i>City Express</i>	<i>5</i>	<i>2.6</i>
<i>Ghana Ports And Harbors Authority</i>	<i>5</i>	<i>2.6</i>
<i>Other Corporations</i>	<i>81</i>	<i>42.8</i>
<i>Total</i>	<i>189</i>	<i>100</i>

**Table 13: Private Individuals  
Companies & Organizations**

<b>Organization</b>	<b>Number</b>	<b>%</b>
<i>Companies</i>	<i>867</i>	<i>11.8</i>
<i>Ghana Private Road Transport Union</i>	<i>5</i>	<i>0.06</i>
<i>Private Organizations</i>	<i>239</i>	<i>3.26</i>
<i>Non-Governmental Organizations</i>	<i>4</i>	<i>0.05</i>
<i>Private Individuals</i>	<i>6206</i>	<i>84.8</i>
<i>Totals</i>	<i>7321</i>	<i>100</i>

## CLASSIFICATION OF COMPLAINTS

**Table 14: Human Rights  
Complaints (1)**

Nature of Complaint	Number	%
<i>Total</i>	<i>1022</i>	<i>100</i>

**Table 15: Administrative Justice  
Complaints**

Nature of Complaint	Number	%
<i>Abuse of Office</i>	<i>41</i>	<i>1.9</i>
<i>Labor</i>	<i>2023</i>	<i>91.6</i>
<i>Delay in Dispensing Justice (Police)</i>	<i>113</i>	<i>5.1</i>
<i>Delay in Dispensing Justice (Court)</i>	<i>11</i>	<i>0.5</i>
<i>Denial of Trial</i>	<i>20</i>	<i>0.9</i>
<i>Total</i>	<i>2208</i>	<i>100</i>

**Table 16 Property Related  
Complaints**

Nature of Complaint	Number	%
<i>Land Title</i>	<i>197</i>	<i>15</i>
<i>Inheritance</i>	<i>356</i>	<i>28</i>
<i>Tenancy</i>	<i>393</i>	<i>31</i>
<i>Trespass</i>	<i>121</i>	<i>9</i>
<i>Confiscation of Property</i>	<i>88</i>	<i>7</i>
<i>Destruction of Property</i>	<i>125</i>	<i>10</i>
<i>Total</i>	<i>1280</i>	<i>100</i>

**Table 17: Family Related  
Complaints**

<b>Nature of Complaints</b>	<b>Number</b>	<b>%</b>
<i>Maintenance (Spouse/Child)</i>	2529	67.5
<i>Paternity</i>	226	6.0
<i>Child Custody</i>	242	6.5
<i>Deprivation of Education</i>	23	0.6
<i>Family/Marital Status</i>	153	4.1
<i>Medicare</i>	54	1.4
<i>Intestate Succession</i>	245	6.5
<i>Other Family Matters</i>	277	7.4
<i>Total</i>	3749	100

**Table 18: Miscellaneous  
Complaints**

<b>Nature of Complaint</b>	<b>Number</b>	<b>%</b>
<i>Examination Matters</i>	16	1.6
<i>Environmental Hazard</i>	26	2.6
<i>Debt Collection</i>	569	56.6
<i>Assault</i>	56	5.5
<i>Threats</i>	23	2.3
<i>Breach of Contract</i>	316	31.4
<i>Total</i>	1006	100

**Table 19: Cumulative Figures  
(Tables 14 -18)**

<b>Nature of Complaint</b>	<b>Number</b>	<b>%</b>
<i>Human Rights</i>	1022	11.0
<i>Administrative Justice</i>	2208	23.8
<i>Property</i>	1280	13.8
<i>Family</i>	3749	40.5
<i>Miscellaneous</i>	1006	10.9
<i>Total</i>	9265	100

## CLASSIFICATION OF CLOSED CASES

**Table 20: Grounds of Closure**

Specifics of Grounds%	Legal Authority	Number	%
<i>Withdrawn by Parties</i>		739	47.4
<i>Complainants (Advised) Referred to Other Fora</i>	<i>Act 456 S. 13 (1) (a)</i>	340	21.8
<i>Lack of Personal Interest</i>	<i>Act 456 S13(2)(b)(iii)</i>	219	14.1
<i>Discontinued</i>	<i>Act 456 S.13 (1)(b)</i>	194	12.5
<i>Lapse of Time</i>	<i>Act 456 S 13 (2) (a)</i>	66	4.2
<i>Total</i>		1558	100

**Table 21: Cases transferred  
(From One Commission On Human Rights And  
Administrative Justice Office to Another)**

Type	Reason	Number	%
<i>Transferred</i>	<i>Complainant /Respondent Resident in another Jurisdiction Area of Commission</i>	72	100
<i>Total</i>		72	100

**Table 22: Mode of Disposal**

Type of Disposal	Legal Authority	Number	%
<i>Complaint Upheld</i>		1786	34.4
<i>Complaint Dismissed</i>		337	6.5
<i>Mediation</i>	<i>Act 456 S.7 (d)(i)</i>	2910	56.0
<i>Amicable Settlement by Parties</i>	<i>Act 456 S.7 (d) (i)</i>	161	3.1
<i>Total</i>		5194	100

**Table 23: Lack of Prosecution**

Specific Reason	Legal Authority	Number	%
<i>Abandoned</i>	<i>Act 456 S.13 (1) (b)</i>	1022	65.8
<i>Not Pursued</i>	<i>C. I. 7 R. 2(4)</i>	285	18.3
<i>Lack of Jurisdiction</i>	<i>Act 456 S. 8(2)</i>	247	15.9
<i>Total</i>		1554	100



**Table 24: Cases Closed  
In Year 2000**

<b>Year Complaint was Received</b>	<b>Number</b>	<b>%</b>
<i>1993</i>	<i>19</i>	<i>0.2</i>
<i>1994</i>	<i>42</i>	<i>0.5</i>
<i>1995</i>	<i>51</i>	<i>0.6</i>
<i>1996</i>	<i>83</i>	<i>1.9</i>
<i>1997</i>	<i>237</i>	<i>2.8</i>
<i>1998</i>	<i>404</i>	<i>4.8</i>
<i>1999</i>	<i>1964</i>	<i>23.4</i>
<i>2000</i>	<i>5578</i>	<i>66.6</i>
<i>Total</i>	<i>8378</i>	<i>100</i>



Emile F. Short, Commissioner



Panel of a leadership training seminar





Participants at a Women leaders Training Training Workshop focusing on Women's Rights



Breakout Session at a National Training Workshop on promoting the Rights of Women and Equality of Opportunity for Women and Men





Some members of the Commission's staff at the Human Rights Day Celebration



Members of the Commission with the Director of UNIC at the Human Rights Day celebration



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