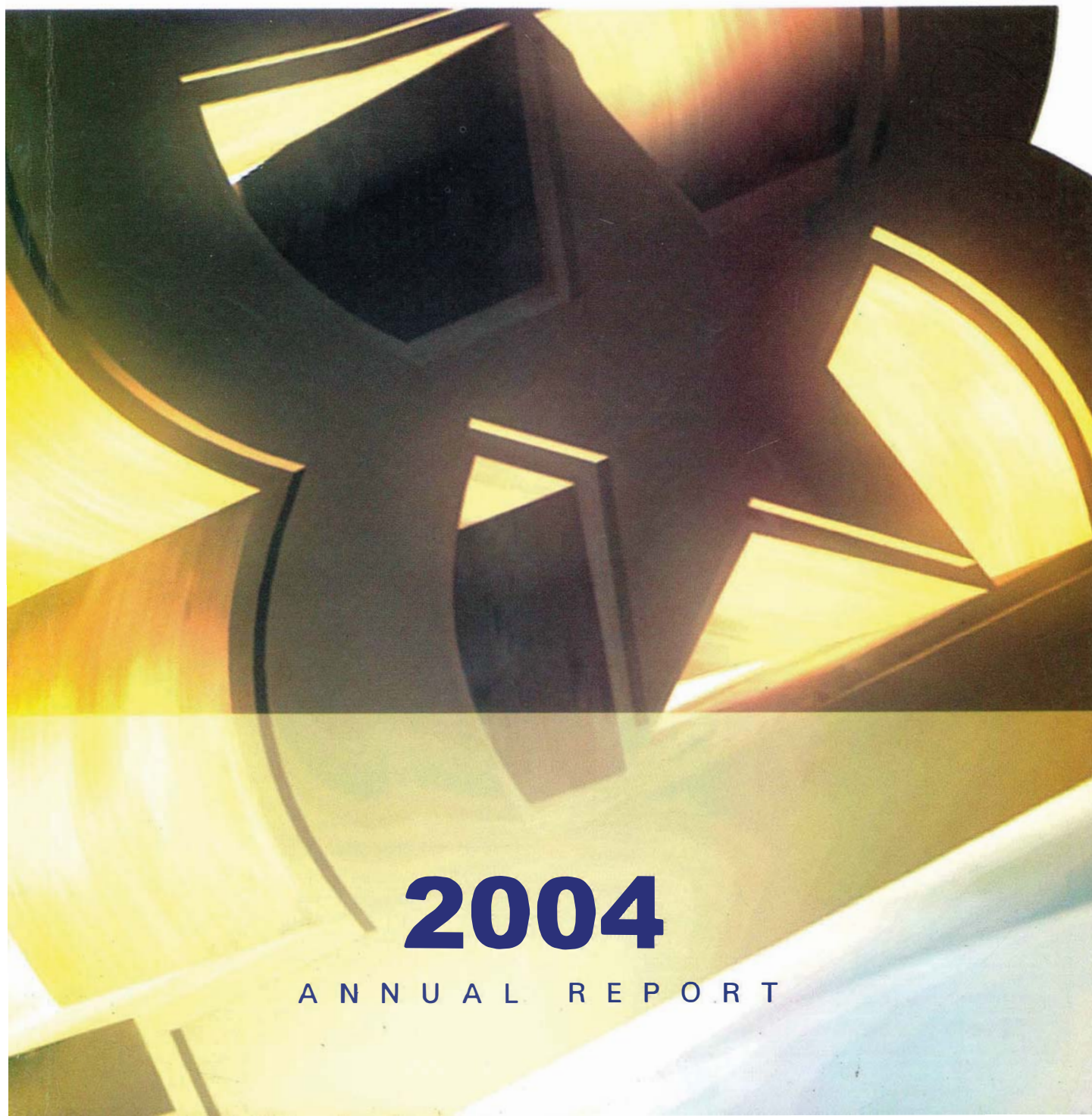




COMMISSION ON HUMAN RIGHTS
AND ADMINISTRATIVE JUSTICE



2004

A N N U A L R E P O R T



COMMISSION ON HUMAN
RIGHTS & ADMINISTRATIVE
JUSTICE

2004
ANNUAL REPORT

2004 ANNUAL REPORT

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COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE (CHRAJ)

The Speaker of Parliament
Parliament House
Accra

Mr. Speaker,

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 am pleased to present the *Ninth Annual Report* of the Commission for the period January 1, 2004 to December 31, 2004.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Anna Bossman', with a stylized flourish at the end.

Anna Bossman
Acting Commissioner

COMMISSION MEMBERS



EMILE FRANCIS SHORT
Commissioner



ANNA BOSSMAN
Deputy Commissioner,
Legal & Investigations



BENJAMIN OPPONG
Deputy Commissioner,
Public Education & Anticorruption

COMMISSIONER'S REMARKS

The 2004 Annual Report of the Commission on Human Rights and Administrative Justice reviews our major activities while underscoring our achievements and challenges within the year.

The annual report informs the public in general and Parliament in particular of our operations and activities. The report also includes a summary of selected cases to give an overview of the types of cases and complaints received, and the resolutions provided by the Commission.

In March this year, the Commissioner, Justice Emile Short was appointed Ad Litem Judge on the International Criminal Tribunal for Rwanda. This is a UN assignment and ad litem judges are expected to complement the permanent judges already sitting on the ICTR. The judges' nomination must be endorsed by their respective countries and the choice is made through a rigorous elective process mandated by the UN. Justice Short was one of the 18 selected judges. Justice Short will be based in Arusha Tanzania for the duration of this assignment.

Ms Anna Bossman, deputy commissioner in charge of Legal and Investigations is Acting Commissioner during Mr. Short's absence.

Our achievements are credited to our loyal staff members who remain committed to assisting in the promotion and protection of human rights. The Commission received a record number of fourteen thousand nine hundred and fifty three cases nationwide with eighty-eight per cent of them being human rights related. Eighty-one per cent of these cases received were settled by the Commission within the year.

To continue increasing public awareness and to further deepen the public's understanding of human rights issues, the Commission under its initiative and in collaboration with other institutions organized several national and international workshops.

The year saw a development in the demand for accountability and the Commission focused on investigating thirty-three anti-corruption cases including the high-profile cases of Prof. Asare v Clerk of Parliament and NDC Minority in Parliament v President Kufuor. Additionally, The Commission drafted a code of conduct to guide public officials in the discharge of their duty. This guidance is intended to institutionalise response to conflict of interest challenges faced by private persons and public officials in the discourse of duty.

From the Commission's uncovering of Ghana's congested prisons and police cells through previous monitoring exercises, 2004 saw an attempt to solve this problem. The Commission organized a workshop aimed at recommending decongestion reforms. Stakeholders including the prison service, the Attorney-General's department, the judiciary and CDD explored the possibility of introducing Non-Custodial Sentencing in Ghana's

criminal justice system and concluded that it would be a viable solution. The Commission also standardized its format for inspecting police cells and prisons to ensure consistent monitoring and evaluations.

Staff capacity development was a prioritized preoccupation for the Commission throughout the year. With the support of Development Partner's, the Commission was able to begin revamping its capacity to achieve its mandate. From an induction course to several international workshops and conferences, the commissioners and some staff members got the opportunity to learn from best practices. The Commission was also able to share its experiences and knowledge with other Ombudsman and anti-corruption agencies.

Next year the Commission will be marking its twelfth year as Ghana's national human rights institution, ombudsman and anti-corruption agency. We intend to focus on monitoring selected healthcare facilities to promote and protect patients' rights. We will also focus on anti-corruption by launching an Anti-Corruption Day and hosting an international conference to raise awareness.

The Commission will also institute an Annual Human Rights Week aimed at deepening our human rights education campaign and establish a system for the publication of policy documents on specific human rights issues. Finally we will continue our monitoring on Civil and Political rights through our periodic visits to police cells and prisons.

CHALLENGES

FINANCIAL CONSTRAINTS

The Commission is funded from the Consolidated Fund based on a budget, which must be approved by Parliament. However since inception, the Ministry of Finance without reference to the Commission's planned activities has been setting inappropriate budget ceilings. Thus as previously noted, 2004 saw the Commission again juggling to meet the challenges of improving efficiency with insufficient financial support from the government.

POOR CONDITIONS OF SERVICE

This year the Commission regrets its loss of ten lawyers to an uncompetitive salary and remuneration scheme which has continued to plague us. Poor conditions of service for our staff have led many of our capable and well-trained legal officers as well as support staff to leave for sister institutions with better conditions. Maintaining employee morale and retaining primary staff has been a very challenging task for the commission this year.

It is essential - if the Commission is to continue effectively meet its constitutional mandate - that its poor conditions of service be addressed immediately by the government. It is deplorable that several comparable national institutions are able to persistently lure our staff away with better remuneration packages.

APPRECIATION

In spite of all the challenges faced by the Commission, 2004 was a very productive year for the Commission. I commend all our partners for their support and encouragement.

On behalf of the Commission, I wish to extend our gratitude to our Development Partners. Funding, technical assistance, and knowledge sharing opportunities with development partners helped strengthen the Commission's ability to increase its effectiveness in executing its mandate.

I also thank Non-Governmental Organisations, who have joined us in the quest to promote human rights in Ghana, as we continue to learn from them and share with them through our collaborative efforts.

To my fellow Commissioners, I acknowledge and express my gratitude for your dedication and hard work. My appreciation also extends to the Directors and staff for their commitment and loyalty, which have enabled us to accomplish much.

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V. LIST OF ACRONYMS

Action Aid Ghana	AAG
African Development Fund	ADF
Centre for Democracy and Development	CDD
Centre for National Culture	CNC
Commission on Human Rights and Administrative Justice	CHRAJ
Office of the High Commissioner for Human Rights	OHCHR
Commonwealth Human Rights Initiative	CHRI
Customs, Excise and Preventive Service	CEPS
Danish International Development Agency	DANIDA
Department of Social Welfare	DSW
Ghana Education Service	GES
Ghana Integrity Initiative	GII
Ghana Private Road Transport Union	GPRTU
Ghana Water Company Limited	GWCL
Internal Revenue Service	IRS
International Federation of Women Lawyers	FIDA
National Commission on Civic Education	NCCE
National Council on Women and Development	NCWD
National Disaster Management Organisation	NADMO
National Democratic Congress	NDC
National Human Rights Institutions	NHRI
National Service Secretariat	NSS
Non-Governmental Organisation	NGO
Non Formal Education Division	NFED
Member of Parliament	MP
Parents Association of Children with Intellectual Disability	PACID
Social Security and National Insurance Trust	SSNIT
Serious Fraud Office	SFO
Volta River Authority	VRA
Women and Juvenile Unit	WAJU



PART 1

INTRODUCTION TO CHRAJ

1. Vision
2. Mission Statement
3. Mandate
4. Structure
5. Organisational Chart

I. VISION

The Commission's vision has always been that of creating a free, just and equitable society where human rights and human dignity are respected, and power accountable. This vision is what is spurring us all today and remains as relevant today as when the Commission was established more than 12 years ago.

According to the New Penguin English Dictionary, vision is the act or power of seeing; it is also the power of imagination, the power of perceiving mental images, having discernment and foresight.

So we say of leaders that they either have a vision, as was said of our first President, Dr Kwame Nkrumah, or that they lack vision.

Our Commission strives to seek redress for grievances, without white-washing or witch-hunt; by retaining our political neutrality and our impartiality, by acting independently and fearlessly, guided by our vision which has shaped our mission statement.

II. MISSION STATEMENT

The Commission on Human Rights and Administrative Justice 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.

iii. MANDATE

The Commission on Human Rights and Administrative Justice exists to protect fundamental human rights and ensure good governance for every person in Ghana. The Commission was given a broad mandate to achieve this mission by the 1992 Constitution of Ghana and by its enabling act, Act 456, in 1993. The Commission's mandate is threefold. It encompasses:

1. A National human rights institution (NHRI)
2. An Ombudsman, an agency which ensures administrative justice
3. An anti-corruption agency for the public sector

Though the greater part of the Commission's work is devoted to these functions, the Commission also investigates petitions into the confiscation of property made by the two previous military administrations.

The Commission was vested with this broad and inclusive mandate for several reasons. International standards for NHRIs, including the Paris Principles, recommend that NHRIs in developing countries be given a broad mandate within the constitution so they can use their limited resources to the greatest possible effect. Additionally, issues of administrative injustice and corruption often occur along with human rights abuses and one body can more effectively address all three situations. Again, for a developing country like Ghana, multiple bodies can confuse complainants who do not know which body to seek out to report a specific offence.

Human Rights:

The Commission has a broad mandate to protect universal human rights and freedoms, especially those vested in the 1992 Constitution, including civil, political, economic, social, and cultural rights. Specific mandates concerned with the protection of human rights can be found in Article 218 (a), (c), and (f) of the 1992 Constitution and Section 7(1) (a) (c) and (g) of the CHRAJ Act. The Commission's human rights functions can be divided into two categories:

1. Protection and Enforcement
2. Promotion and Prevention

In order to protect and enforce fundamental rights and freedoms, the Commission investigates individual complaints of human rights violations by persons and institutions. The Commission is mandated to resolve these complaints through various methods, including mediation, negotiation, and formal hearings. Under the CHRAJ Act, the Commission has the power to issue subpoena and to go to Court to ensure compliance with its recommendations.

The Commission also carries out special investigations into human rights abuses that are systemic, cultural or in areas of public interest. The Commission conducts research, field investigations, and public hearings in the course of these investigations. The Commission also conducts research into the human rights consequences of bills and policies and proposes laws that will strengthen the human rights situation of the country.

To promote human rights awareness, the Commission is mandated by Article 218 (f) of the Constitution to sponsor public education programs. The Commission has the discretion to use a wide variety of methods to achieve this goal, including use of mass media, publications, lectures and symposia.

In order to prevent human rights abuses, the Commission monitors the human rights situation across the country. The Commission organises monitoring visits to detention facilities, hospitals, schools, communities, etc, to ensure that human rights are being respected. These monitoring visits ensure that the Commission can detect early warning signs of human rights abuses to prevent violations from taking place.

Administrative Justice:

The Commission is mandated to protect and promote administrative justice to ensure that the government and its officers are accountable and transparent. The Commission ensures that the administrative organs of the state provide equal access to employment and services and that they are administered fairly. In particular, this function of the Commission is to ensure that public officials avoid arbitrariness or bias in their actions. The administrative functions of the Commission replace the office of the Ombudsman, created by the Ombudsman Act of 1970. This mandate is contained in Articles 218 (a), (b) of the 1992 Constitution and Section 7(1) (a), (b) of Act 456.

The administrative justice functions of the Commission replace the office of the Ombudsman, created by the Ombudsman Act of 1970, which investigated administrative decisions to ensure justice.

The Commission is mandated to investigate complaints concerning injustice and unfair treatment of any person by a public officer and 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 Prison Service insofar 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” - Article 218(b).

Anticorruption:

The Commission also serves as an anti-corruption agency. Its anti-corruption powers stem from Articles 218 (a) & (e); 284-288 of the 1992 Constitution and Section 7(1) (a), (e) & (f) of Act 456. The Commission both investigates and works to prevent corruption.

The Commission is mandated to investigate abuse of power and “all instances of alleged or suspected corruption and the misappropriation of public monies by officials” (Article 218 (e)). The Commission investigates allegations of conflict of interest under Chapter 24 of the 1992 Constitution.

The Commission also conducts training and public education to sensitise public officials and the general public on corruption.

The Commission reports to Parliament annually on the performance of its functions.

Limitations on the Commission’s Mandate:

While no institution, body, or person is excluded from the Commission’s mandate, the Commission has no mandate to investigate under the following conditions. The Commission cannot investigate a matter:

- that is pending before a court or judicial tribunal;
- involving relations between the government and any other government or international organization; or
- relating to the exercise of the prerogative of mercy.

The Commission is not a judicial body and cannot review decisions that have previously been decided by a competent court as the courts have their own systems of review and appeal.

The Commission’s mandate is designed to enhance the scale of good governance, democracy, peace, and social development by protecting and enforcing fundamental human rights and administrative justice for all of Ghana. Through its various duties, the Commission hopes to create a free, just and equitable society in which human rights and human dignity are respected and government is accountable.

IV. STRUCTURE OF THE COMMISSION

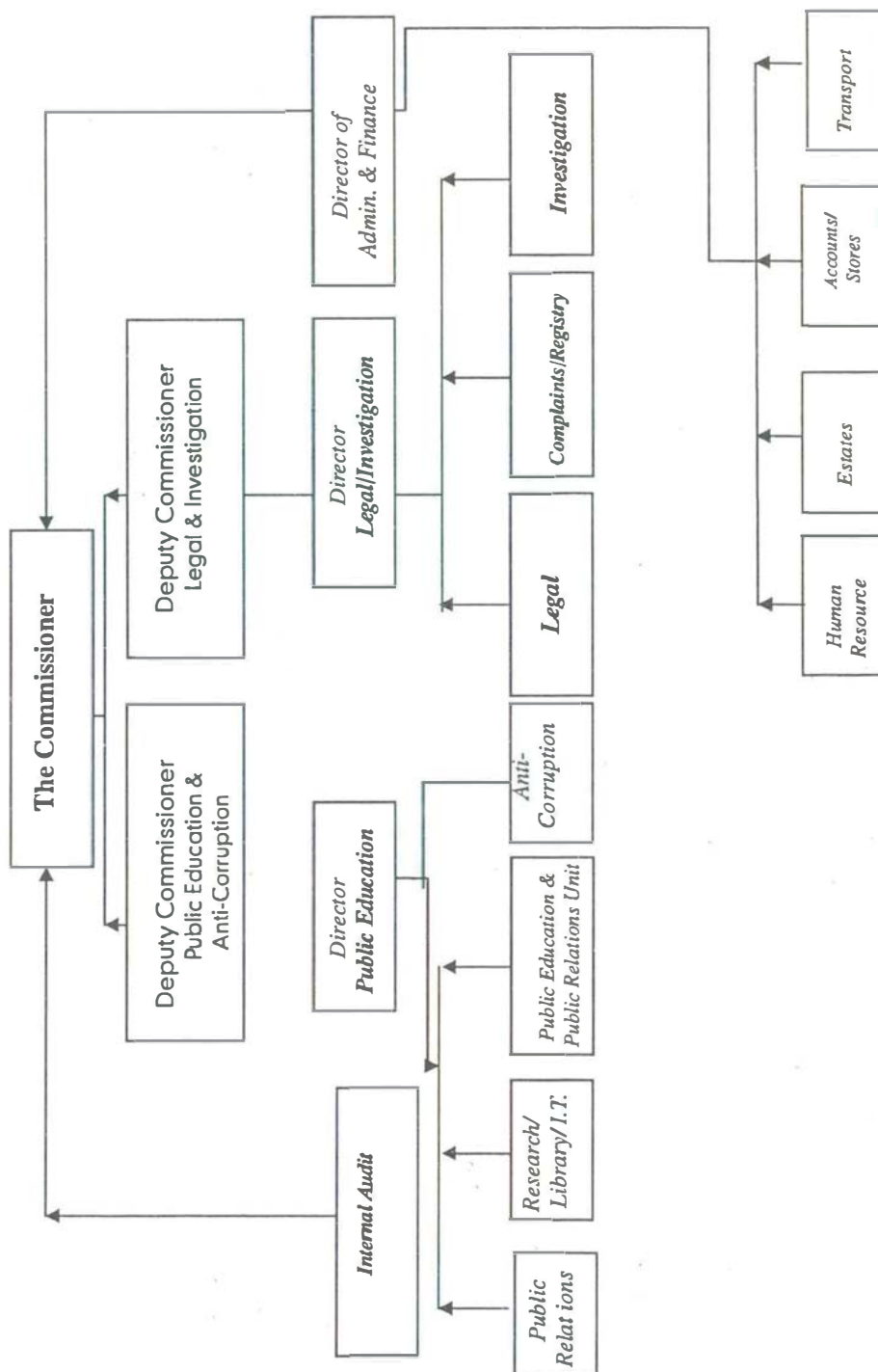
The Commission is made up of a Commissioner, who is the chair, and 2 Deputies. The 3 Commissioners constitute the governing body for the Commission.

Next to the Commissioners are Departmental Directors who have direct responsibility for the core functions of the Commission, namely:

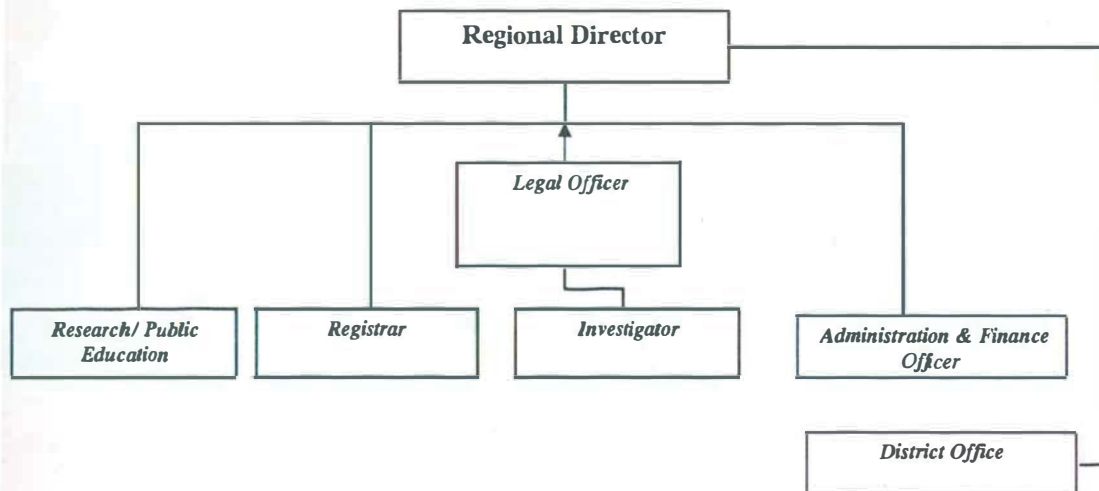
- Legal And Investigations
- Anti-Corruption
- Public Education
- Finance And Administration

The Commission has 10 Regional Directorates that co-ordinate the Commission's work in the 10 administrative regions of Ghana. In addition, it has one (1) Sub-regional and ninety-nine (99) district offices across the country, that ensure that the work of the Commission is brought to the doorstep of the ordinary person.

ORGANISATIONAL FRAMEWORK OF THE COMMISSION HEADQUARTERS



V. ORGANIZATIONAL CHART



Summary





COMMISSION ON HUMAN RIGHTS
AND ADMINISTRATIVE JUSTICE

PART 2

REVIEW OF THE 2004 PERFORMANCE

1. Legal & Investigation
2. Public Education &
Anti-Corruption
3. Administration &
Finance
4. Regional Offices
5. Statistics

REVIEW OF 2004

LEGAL AND INVESTIGATION DEPARTMENT

Introduction

The department handles complaints of all human rights and administrative justice lodged with the Commission. It employs various mechanisms and investigative tools including mediation, negotiation, panel hearing and field investigations, to resolve complaints. Enforcement of the Commission's decisions at the law courts is also carried out by this department.

Case Work: Overview

The Commission received a total of 14,953 cases nationwide in the reviewing year, out of which it disposed of 12,116. This represents 81% of the cases received.

Nature of Complaints

Complaints received by the Commission during the period under review were Categorised into human rights, administrative justice and corruption-related cases.

In all, human rights related cases accounted for 13,249, representing 88.6% of the total number of cases. Administrative justice and corruption-related cases were 1,671 and 33, representing 11.2 % and 0.2 % respectively.

The human rights complaints were categorised under Children's Rights, Economic & Social Rights, Civic & Political Rights, and other Human Rights-related complaints.

Children's rights-related cases recorded a total of 6,118, representing 41% of the overall sum of complaints received while that of women's rights-related cases accounted for 1,270 representing 8.5 %. Economic & social rights accounted for 2,526, representing 16.9%; property rights 2,926; representing 19.5%, while civil and political rights related cases were 410, representing 2.7 %.

PUBLIC EDUCATION AND ANTI-CORRUPTION DEPARTMENT

Introduction

The department is made up of five units, namely Public Education, Research, Anti-Corruption, Public Relations, and Library. Its main task is to educate the public on their fundamental human rights and freedoms with the aim of instilling a culture of human rights in the citizenry to enable them to take an active interest in social and personal human rights issues.

Public Education

Following a review of its public education strategies, the department set out to improve both the content and methodology of educational programmes and enhance the capacity of staff through training in appropriate human rights education skills.

One of the strategies was the use of the High Street Programme, which was started in the previous year, to provide practical training for Public Education officers.

The department collaborated with educational and religious organisations to provide human rights education for 14 educational institutions and 10 religious bodies. In all 4,195 participants, made up of 3,950 schoolchildren and 245 adults benefited from this educational programme.

In July, at the invitation of Initiative Development, Ghana (ID), the department organised a two-day human rights workshop for 20 young people from first and second cycle institutions in Sukura, a suburb of Accra. Initiative Development, Ghana, is based at Zambroma Line in Accra and operates micro-finance and youth development programmes in the communities with the aim of preparing and equipping the youth with employable skills.

Radio Programmes: The department continued to use the electronic media to educate the public on human rights issues, among them, the popular monthly programme “*wo haw ne sen*” on Peace F.M. This provided a ready forum for the discussion of several human rights issues with the listening public in Twi, a dialect used by majority of Ghanaians.

EDUCATIONAL WORKSHOPS AND TRAINING PROGRAMMES

CHRAJ/GHANA EDUCATION SERVICE (GES) COLLABORATION

The Commission continued with its collaborative work with the Ghana Education Service to facilitate human rights education and awareness creation in schools. Under this initiative, a number of activities were organised jointly with the GES to lay the foundation for mainstreaming human rights education in academic work:

1. Review workshop

In January, Department facilitated a review workshop at Ajumako for selected training officers of the GES and Social Studies teachers from selected senior secondary schools. The workshop evaluated the April 2003 training of trainers programme for district training officers and planned for the development of a human rights training manual for schools.

2. Workshops for Socialscience teachers from training colleges

In May, the GES programme was extended; two workshops were organised to include Social Science teachers from all 138 teacher training colleges.

This programme focused on equipping the tutors with human rights knowledge, skills and the most appropriate methodologies for teaching trainee teachers to deliver human rights lessons in the classroom.

3. Pilot training for socialscience teachers from 2nd cycle schools

Between September and November, the department organised four pilot training workshops for Social Studies teachers drawn from first cycle institutions in the Northern Region. The workshop was designed to enhance participants' knowledge and sharpen their skills in effective classroom teaching of human rights. A total of 150 teachers benefited from this workshop.

COMMONWEALTH WORKSHOP FOR NATIONAL HUMAN RIGHTS INSTITUTIONS

In June 2004, the Commission in collaboration with the British Council and the Commonwealth Human Rights Initiative (CHRI) organised an international workshop for National Human Rights Institutions (NHRI) within the Commonwealth. With the theme, "Building an Effective Media and Communication Programme", the workshop aimed at providing a forum for sharing experiences, identifying needs/priority areas, and the

adoption of strategies by NHRI across the Commonwealth for effective engagement of the media in advancing human rights in their countries.

Workshops on the Paris Principles

The Commission, with the support of the office of the United Nations High Commissioner for Human Rights, held two separate workshops in Accra and Takoradi on the theme: **“CHRAJ and the Institutionalisation of Human Rights”**. The workshops examined and evaluated the performance of CHRAJ with regard to the Paris Principles and the public perception and achievements of CHRAJ since its establishment in 1993.

Workshop on Non-Custodial Sentencing [NCS]

Overcrowding in Ghana’s prisons remains a chronic problem which scuttles all attempts at the rehabilitation of inmates. Consequently, the commission has been advocating for reforms in Ghana’s criminal justice system in general and the penal institutions in particular.

As part of efforts to build consensus on the recommended reforms among stakeholders, the commission organised a workshop on the theme: **“Non-Custodial Sentencing in Ghana’s Criminal Justice System”** to explore ways of introducing non-custodial sentencing as a mechanism for decongesting the country’s prisons. The workshop brought together participants from the Prisons Service, NGOs, the Ghana Bar Association, WAJU, the Attorney-General’s Department, the Law Reform Commission and the Centre for Democracy and Development (CDD).

It examined the advantages and disadvantages of NCS and concluded that the country stood to gain from its introduction. The workshop recommended a number of follow-up activities in the coming year.

Research and Documentation

Work continued on the Commission’s constitutional and statutory mandate of monitoring and reporting on the general situation of human rights in Ghana. This duty was effected through the design, execution and analysis of research projects as well as preparation of reports on the general situation of human rights in the country.

In this regard, the Commission reviewed its procedures for inspecting and reporting on prisons and police cells. Structured questionnaires and a standardised format were introduced. As part of the review process, over 100 officers comprising regional and

district directors and investigators were trained in monitoring detention facilities and in the administration of questionnaires and other research tools in a pilot study. Among the detention facilities visited as part of the training were the Nsawam Medium Security Prison, James Fort Male & Female Prisons and Police Stations at Osu, Airport, Adabraka, Nima and Kotobabi.

Anti-Corruption

The Anti-Corruption Unit was set up in March 2001 as a specialised unit to focus on corruption. The Danish Government initially provided support to build the capacity of the unit and procurement of equipment. However, the unit was affected by staff attrition due to poor conditions of service, and by the end of 2004 it was staffed by only one principal Investigator. This state of affairs seriously undermined the effective functioning of the unit.

That notwithstanding, the unit investigated 33 cases including 2 high-profile cases, namely Prof. Kwaku Asare v Clerk of Parliament (in the MPs Car case) and NDC Minority in Parliament v President J.A. Kufuor.

1992 Prof. Kwaku Asare v Clerk of Parliament

1993 The Minority Leader v s President J.A. Kufuor

Guidelines on Conflict of Interest

The Commission has the responsibility of investigating cases of non-compliance with or contravention of Chapter 24 of the 1992 Constitution of Ghana. However, the lack of a unified code of conduct for public officers and the lack of detailed definition of the situations which constitute conflict of interest posed a great challenge to the investigation of such cases.

In 2003, the Anti-Corruption Unit was, therefore, charged with the responsibility of facilitating the development of guidelines on conflict of interest, mainly to improve the efficiency, effectiveness, professionalism and fairness in implementing the mandate of the Commission, and to provide a guide to aid private persons who deal with public officials. By the end of this reporting year, the unit had completed the initial task of Draft guidelines on conflict of interest.

The Commission will initiate a process of finalizing through consultation with the relevant stakeholders with the aim of achieving national ownership of the guidelines. It is envisaged that the guidelines will be ready for publication and public use by the beginning of 2007.

PUBLIC RELATIONS

The Public Relations Unit continued to play its role of facilitating collaboration between the Commission and the general public, particularly media practitioners and human rights researchers. To this end, the unit facilitated the following:

1. Radio Interviews

The Commission granted a number of interviews on key topical issues to educate and inform the public.

On one of such interviews on rights of prisoners, the Chair of the Commission, Mr Emile Francis Short, underlined the duty of the state to recognise and give effect to those rights of prisoners which were not curtailed by virtue of imprisonment, including certain conjugal rights and the right to register and vote.

He explained that the laws of Ghana do not prohibit prisoners from registering and voting, adding that the only requirement, as stated in Article 42 of the 1992 Constitution, was that any person who was 18 years and above and of sound mind qualified to register and vote.

On the issue of recognition of certain conjugal rights, the commissioner advocated that such recognition, including encouraging families to visit their relatives in prison, share meals and other family ties, would help protect families and better prepare prisoners for re-integration into families and society when they completed their term.

Unfortunately, the commissioner was misunderstood, and many interpreted the conjugal rights to mean sexual relations between husband and wife and accused the commission of advocating sex for prisoners who were married.

2. Visiting researchers/students

The commission has, over the years, become a good source of information/reference for researchers and students. Topping the list of visiting researchers were undergraduate and graduate students from the Department of Sociology, University of Ghana.

Among overseas researchers was Dr Adinkrah, a Visiting Professor of Sociology of the J. William Fullbright Programme in the United States of America. His visit to CHRAJ was to gather information on issues such as homicide against women,

widowhood rites, spousal killings, female genital mutilation, witchcraft accusation and prisoners' rights.

Another research visitor was Mr Alfred Akaniagri Ayerab, a Ghanaian graduate student at the Roskilde University in Denmark who was working on a project titled, "Aspects of Corruption in Relation to Environmental Aid in Ghana".

Other researchers included Ms Alexandra Crampton, a PhD student from the University of Michigan School of Social Work, and Dr Kobla Agbota, Assistant Professor, Department of Social Education, Akershus University College, Norway.

COLLABORATION WITH OTHER INSTITUTIONS

In order to achieve maximum results in advancing human rights in the country, the Public Education Department collaborated with various institutions and civil society organisations, among them the Wisconsin International University College, Accra, the NCCE, CHRI and the British Council.

The commission values this type of collaboration because of its immense contribution to the promotion of human rights in general, as well as the mandate of the commission, and will continue to pursue and strengthen such cooperation.

ADMINISTRATION & FINANCE DEPARTMENT

INTRODUCTION

The department provides administrative support for the commission and sees to the day-to-day activities with regard to its finance and administration. The department has eight units, namely, General Administration, Human Resource, Finance, General Services, I.T, Transport, Security and Protocol.

MANAGEMENT RETREAT

During the period under review, the commission held a four-day management retreat at Akosombo. It was attended by members of the commission, departmental directors, regional directors and unit heads. The retreat, the first of its kind by the commission, was introduced as a management tool to take stock of work of the commission over the years, including achievements and challenges, and to plan for the future.

At the end of the retreat, management was satisfied that it had been a very useful tool and, therefore, institutionalised it.

CAPACITY BUILDING

Training and human resource development is an important hallmark of the commission for revamping its capacity to achieve its mandate. In the year under review, the department facilitated the following programmes:

1. Induction Course for Newly-Recruited Staff:

The Department, from February 24 – 28, organised a five-day induction course for 50 newly-recruited staff of the commission. The course, among other things, aimed at introducing the staff to the objectives, structure and working arrangements, culture, values and policies of the commission to enable them to perform their duties effectively and efficiently.

2. Trainer of Trainees' (TOT) Workshop:

As part of a consulting service for local training under the African Development Fund (ADF)-funded Institutional Support to Governance and Poverty Reduction project, selected staff of the commission across the country benefited from a four day trainer of trainees' workshop. The training programme, which was facilitated by CB & Associates, training consultants, sought to introduce participants to appropriate methodologies and framework for conducting training needs assessment. It was also aimed at helping the commission to come up with sustainable training programmes in line with its vision and mission.

INTERNATIONAL CONFERENCES AND WORKSHOPS

The commissioners and some members of staff attended a number of international workshops and conferences during the reporting year.

These conferences and workshops gave members and staff of the commission opportunities to share their knowledge and experiences with other NHRIs, Ombudsman and anti-corruption agencies from the various regions of the world. These meetings also enabled the commission to benefit from best practices for advancing human rights and administrative justice, public integrity and for conflict resolution.

These conferences and workshops included:

- i. Exchange/training programme with the Office of the Danish Parliamentary Ombudsman, attended by a six-member delegation from the Commission in

- Copenhagen, Denmark from December 14 – 12, 2004, with funding support from DANIDA.
- ii. The 33rd Ordinary Session of the African Union Commission on Human and Peoples' Rights held in Dakar, Senegal, from November 23 to December 7, 2004.
 - iii. Seminar on the "Role of NHRIs in Africa on Conflict Resolution and Peace Building" in Johannesburg, South Africa, from November 29 to December 3, 2004.
 - iv. 1st African Union Conference on Independent Human Rights Institutions in Addis Ababa, Ethiopia, October 18 – 20, 2004.
 - v. Role of National Human Rights Institutions in Combating Corruption, Nairobi, Kenya, October 11 – 14, 2004.
 - vi. The 7th International Conference of NHRI in Seoul, South Korea, September 14 – 17, 2004.
 - vii. Meeting of the Co-ordinating Committee of African National Institutions (CCANI), Johannesburg, South Africa, February 24 – 25, 2004.

Regional Tour

The commission undertook a tour of the Northern Region as part of the monitoring of its regional and district offices. The objective of the visit, among others, was to interact with the staff at the grass roots, observe the environment within which they worked and the challenges they faced. The offices visited included the Northern Regional and district offices at Gambaga, Walewale, Saboba, Yendi, Bimbilla and Salaga. The team was led by Ms Anna Bossman, the acting Commissioner.

REGIONAL REPORTS

1. ASHANTI REGION

Complaints Resolution

During the year under review, the Ashanti Region recorded a total number of 1,811 cases, out of which 1,602 were resolved. At the end of the year, there were 209 cases pending.

Public Education

In collaboration with institutions like the NCCE and the NCWD, a series of educational programmes were organised by the regional and district offices on fundamental human rights and freedoms and the functions of the commission. Beneficiaries of the programmes included district assembly members, public/civil servants, food processors, technicians, hairdressers, dressmakers and students in first and second-cycle institutions.

2. BRONG-AHAFO REGION

Complaints Resolution

The region recorded the highest number of cases, having received a total of 4,244 cases, and closed 3,508 of them in the year.

The Atebubu District Office witnessed a significant increase in the number of complaints lodged by the public as a result of intensive public awareness campaign carried out by the district office. From a previous average of 206, complaints received during the period under review increased to 1,100 and by the end of the year 1,068 of them had been resolved.

The Atebubu Office referred 20 cases to the Atebubu Magistrate Court for enforcement after the respondents involved had refused to implement the terms of settlement. All the recommendations of the commission were successfully implemented through the court.

Public Education

The region intensified its public education activities to reach out to many communities, schools and religious institutions. With the assistance of the district assemblies and World Vision International, an NGO, the office conducted 317 educational programmes in the region.

3. CENTRAL REGION

Complaints Resolution

A total of 1,551 cases were received in the region, out of which 1,139 were closed. The Agona Swedru District Office registered an intake of 203, the largest number of cases per district office in the region for the year.

Public Education

During the year under review, the regional office organised 276 public education programmes for selected rural communities, schools, religious bodies and civil society organisations. In addition, the regional office introduced a human rights training programme, "*Basic Human Rights Education for Health Professionals*", for final-year Students at the Nurses Training College in Cape Coast.

4. EASTERN REGION

Complaints Resolution

Strong collaboration with other institutions like FIDA and WAJU helped the Commission to heighten human rights awareness in the region. It also led to a tremendous increase in the number of complaints concerning non-maintenance of children and spouses, domestic violence and labour related disputes filed in the region. In all, 1,996 complaints were received, of which 1,324 were resolved, while recommendations in 1,021 cases were fully implemented.

Public Education

Many districts extended their educational campaigns to many first and second-cycle institutions during the year under review. For example, in partnership with the NCCE, the Akropong District Office visited 30 educational institutions. The regional office launched a Human Rights Club at the Koforidua Secondary Technical School and worked with already established clubs at the Ghana Oil Palm Development Corporation Senior Secondary School at Kwae in the Kwaebibirem District.

5. GREATER ACCRA REGION

Complaints Resolution

The Greater Accra Regional Office received 455 cases and closed approximately 555 cases [including cases pending at the beginning of 2004].

Public Education

Among other educational activities carried out by the regional office, the regional director had the opportunity to educate the Parents Association of Children with Intellectual Disability (PACID) on the topic, "The Fundamental Human Rights of Persons with Intellectual Disability".

The district offices within the Greater Accra Region conducted a series of public educational programmes in their respective jurisdictions. The Dangme West Office, for instance, conducted 13 educational programmes on various topics, including the rights of the child, outmoded customary practices and violence against women. During the run-up to the 2004 general election, the district office focused its public educational programmes on civil and political rights in a bid to sensitise the general public to their voting rights.

6. NORTHERN REGION

Complaints Resolution

The Northern Region received a total of 727 complaints and resolved 470 of them. The number represented an increase of 27.8 per cent over the cases received in 2003.

Public Education

The regional office continued with its public education drive in first and second-cycle schools. Six communities also benefited from the commission's community-based public educational programmes on the rights of women and children and the role of traditional rulers in promoting human rights in rural areas. There was a day's workshop for 40 artisans, employers and employees on the topic, "Employee and Employer Relationship-a Human Rights Perspective".

The regional office helped in the facilitation of workshops, seminars and training programmes organised by human rights NGOs in the region. Examples of such collaboration were the training of 90 paralegal facilitators for rural women and children in three districts on promoting human rights in the most marginalised communities and a workshop organised in Tamale by the Integrated Social Development Centre (ISODEC) on the right to education.

The regional office also ran weekly programmes on four FM stations, namely, Filla FM, Radio Diamond, Radio Savanna and Radio Justice, all in the Tamale metropolis.

The district offices conducted public education in first and second-cycle schools, district assemblies and unit committees and rural communities, focusing mainly on the human

rights perspectives of issues like violence-free elections, the role of CHRAJ in ensuring democracy and governance, the rights and responsibilities of road users and the relationship between Islam and human rights.

Working Visit by the Commissioner

The acting Commissioner led a team of directors on a three-day working visit to the region. The visit provided the regional and district offices the opportunity to strengthen working relations with the regional coordinating council and district assemblies, journalists and CSOs to promote the commission's work in the region.

7. UPPER EAST REGION

Complaints Resolution

The region recorded a total of 266 complaints during the period under review. Out of that number, 212 complaints were lodged by females, with 97 bordering on children and spousal maintenance.

Public Education

Increased financial support enabled the organisation of educational campaigns to promote the visibility of the commission throughout the region, focusing on the role of the commission in relation to the rights of the child and parental responsibility. Beneficiary communities included Bolga, Sumburungu, (Bolgatanga municipality); Boya, Widnaba, Yarigo, (Bawku West District); Fumbisi, Wiaga, Siniesi, Chuchuliga (Bulsa District); Navrongo, China, (Kassena Nankana District); Balungu and Gowrie (Bongo District).

Collaboration with other Organisations

At both the regional and district levels, there was active collaboration with several organisations, such as World Vision International (WVI), the NCCE and the Department of Social Welfare (DSW). Action Aid Ghana (AAG) has however, been the commission's main partner in its operations within the region. Some of the activities sponsored by AAG were advocacy on the Domestic Violence Bill, children's rights and the monitoring of district assemblies to ensure good governance.

8. UPPER WEST REGION

Complaints Resolution

The Upper West Region received a total of 299 cases, out of which 94 were closed, with 205 complaints pending. Spousal and child maintenance cases constituted the

majority of the cases received by the region within the year, followed by labour related cases.

Public Education

With the generous support and collaboration of AAG, the region was able to carry out public education programmes in three area councils in each district every month. In addition, the Sissala District and the regional office also carried out various educational activities in some basic schools, market squares, mosques and churches.

Collaboration with other Organisations

The Commission also collaborated with other human rights organisations, such as WVI, the Catholic Diocese, the Society for the Disabled, Gender Desk officers of the district assemblies, the NCCE and the Domestic Violence Victims Support Unit (DOVVSU) of the Ghana Police Service. Monitoring visits were also conducted to human rights and civic education clubs established in conjunction with the NCCE in all the second cycle schools in the region.

9. WESTERN REGION

Complaints Resolution

The region received 1,502 complaints in the reporting year. Although complaints received decreased by 14.8 per cent, compared to the 2003 figure, complaints resolved were 1,703, including 387 cases pending at the beginning of the year, representing a 2.8 per cent growth over the 2003 figure. Cases pending at the end of the year also reduced from 387 to 186, that is, a 108.1 per cent improvement over the 2003 figure. More than 60 per cent of the complaints dealt with related to the rights of women and children.

Public Education

The region again exceeded its performance target for the year, organising 264 programmes, representing a 12.5 per cent increase over the previous year. Over 80 per cent of the programmes were concentrated in rural communities.

The regional office also used the electronic media extensively to educate the public, carrying out 65 radio programmes. The office also had the opportunity to work with Sky TV, a local network in Takoradi, to educate the public.

The phone-in segment of the programmes provided the public the opportunity to call in and ask questions or contribute to the discussions.

Collaboration with other Organisations

The region collaborated with CSOs and other institutions to organise workshops, seminars and training for women's groups, artisans and workers.

The directorate hosted a seminar organised by the commission, in collaboration with the Office of the High Commissioner for Human Rights (OHCHR) and the Centre for Democracy and Development (CDD) on the topic, "CHRAJ and the Institutionalisation of the Human Rights Regime in Ghana: The Paris Principles Revisited".

It also partnered the NCCE and the Ghana Integrity Initiative (GII) in the organisation of a workshop on the topic, "Fighting Corruption: An Agenda for Democracy and Good Governance".

10. VOLTA REGION

Complaints Resolution

The region recorded a total number of 1,740 complaints and disposed of 1,244 of them. There were 496 cases pending at the end of the year.

Public Education

The regional office, in 2004, continued to use the two radio stations in Ho, Volta Star Radio and Ho Polytechnic FM, to educate the public on human rights until the polytechnic station broke down. The commission also had the opportunity to conduct educational programmes for members of the Tsito Church of Pentecost Women's Movement, the Holy Spirit Parish, Ho, SSNIT Flats, and the Ho Bankoe E.P. Church.

The "Midim", a local newspaper in Ewe, in consultation with the regional office, started a column on human rights issues and published its first article on the rights of children in the year under review.

COLLABORATION WITH OTHER ORGANISATIONS

For both public education and staff capacity building, the region collaborated with organisations such as International Needs Ghana, the Danish International Development Agency (DANIDA), the GES, the NCCE and the Non-Formal Education Division (NFED). Several educational activities were organised, with emphasis on customary and cultural practices, the police and the society, as well as the rights of women and children. Community Action, an NGO based in Ho, in collaboration with the Commission, organised a three-day skills building training to empower women candidates in politics and their campaign teams.

STATISTICAL OVERVIEW

1.0 SUMMARY OF STATISTICAL DATA

The commission received 14,953 complaints nationwide. Of the 14,953 complaints, it disposed of 12,116, representing 81% of total complaints received.

Table 1: Number of Complaints Handled

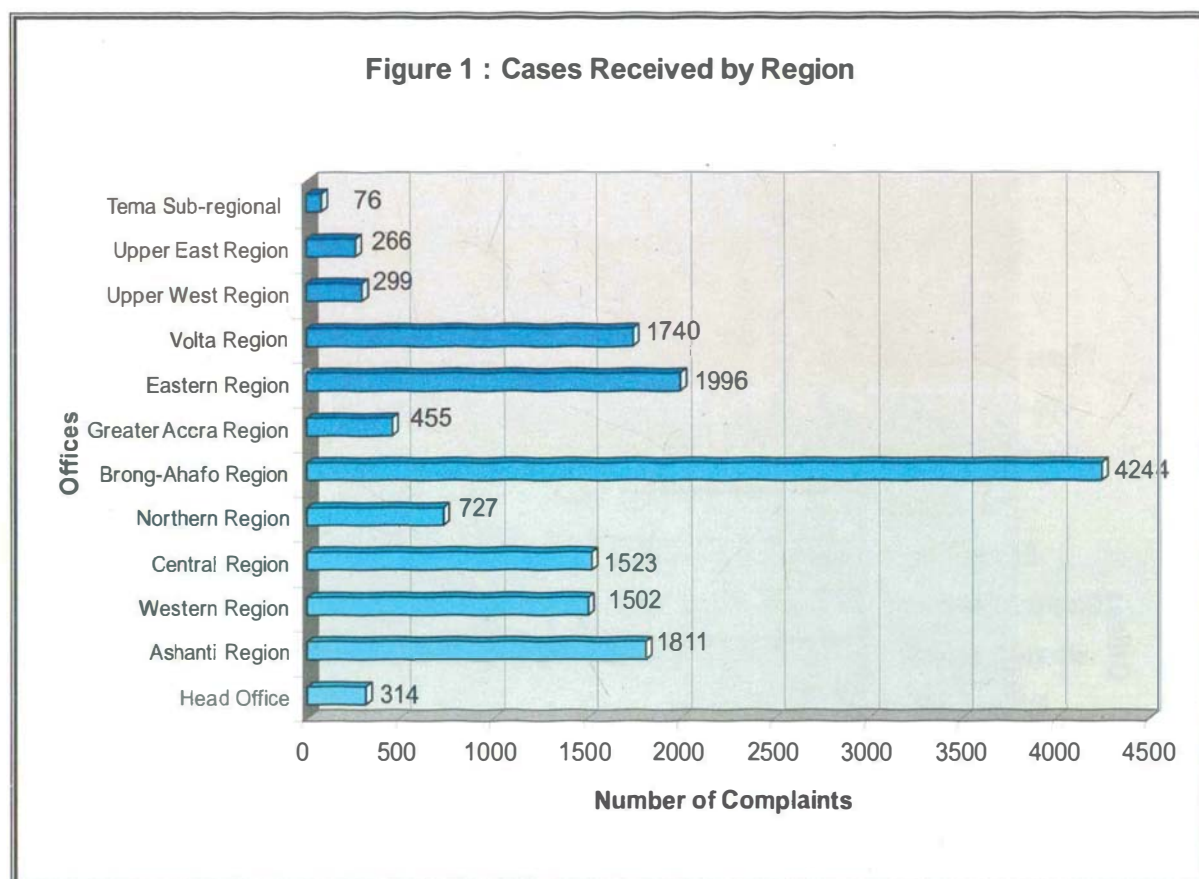
Offices	Number	%
Head Office	314	2.1
Ashanti Region	1811	12.1
Western Region	1502	10.0
Central Region	1523	10.2
Northern Region	727	4.9
Brong-Ahafo Region	4244	28.4
Greater Accra Region	455	3.0
Eastern Region	1996	13.3
Volta Region	1740	11.6
Upper West Region	299	2.0
Upper East Region	266	1.8
Tema Sub-regional	76	0.5
Total	14,953	100

Source: Legal & Investigations Dept, CHRAJ, 2004

Regional Distribution of Cases Received

During the year under review, Brong Ahafo received the highest percentage of 28.4, with a total number of 4,244 cases out of 14,953. The Tema Sub-Regional Office recorded the lowest number of 76 cases, representing 0.5 %.

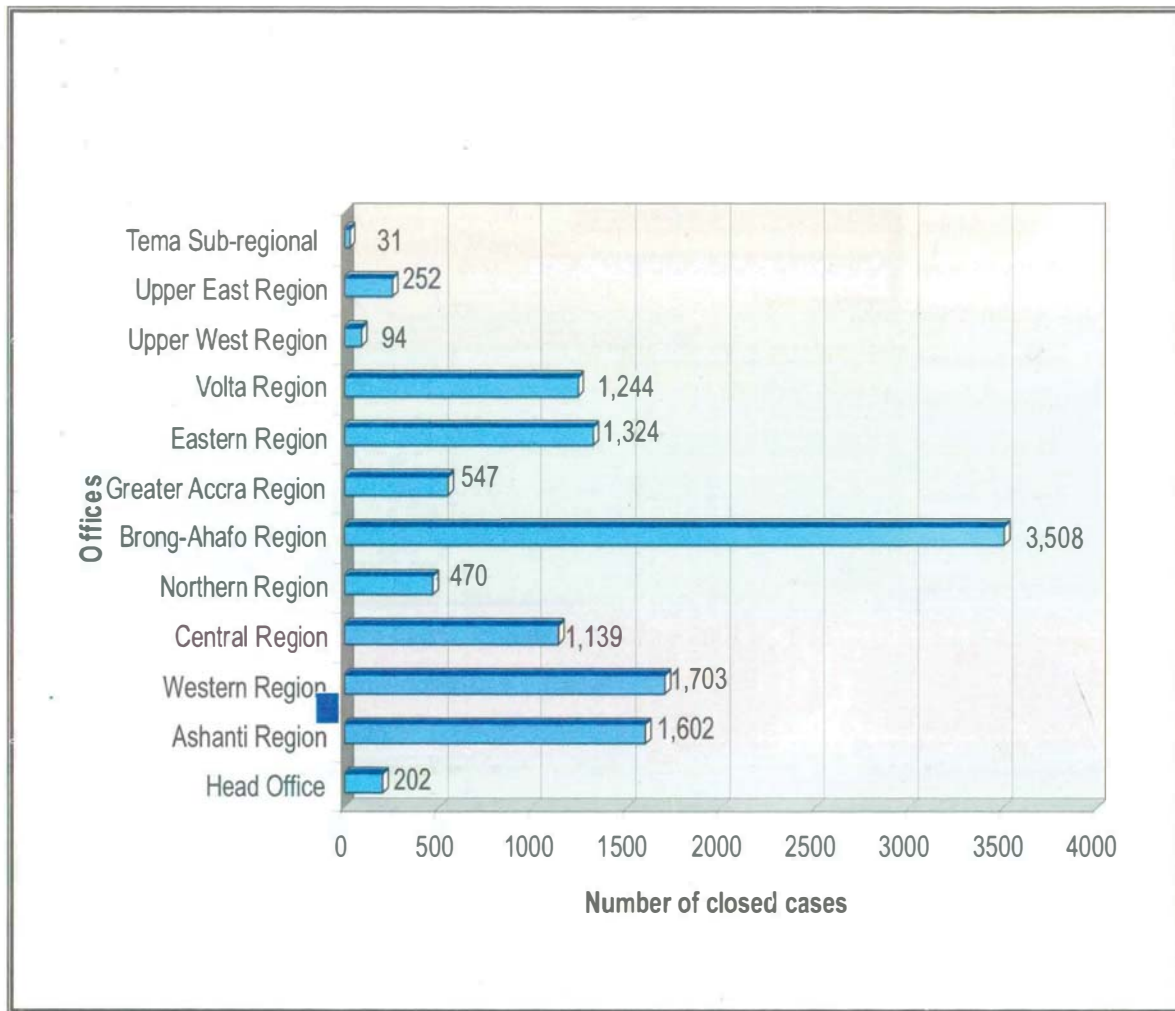
2.2 SUMMARY OF CASES RECEIVED- REGIONAL DISTRIBUTION



4.2 SUMMARY OF CLOSED CASES- REGIONAL DISTRIBUTION

Offices	Number	%
Head Office	202	1.7
Ashanti Region	1,602	13.2
Western Region	1,703	14.1
Central Region	1,139	9.4
Northern Region	470	3.9
Brong-Ahafo Region	3,508	29.0
Greater Accra Region	547	4.5
Eastern Region	1,324	10.9
Volta Region	1,244	10.3
Upper West Region	94	0.8
Upper East Region	252	2.1
Tema Sub-regional	31	0.3
Total	12,116	100

4.3 REGIONAL DISTRIBUTION OF CLOSED CASES



NATURE OF COMPLAINTS RECEIVED IN 2004.

1.1 HUMAN RIGHTS-RELATED ISSUES

1.1.0 Children's Rights-related cases

Nature of Cases	Number
Maintenance	4893
Custody	532
Paternity	393
Forced Marriage	24
Defilement	7
Medical Care	22
Education	101
Care	30
Maltreatment	114
Naming	1
Incest	1
Total	6118

1.1.1 Other Rights-related cases

Nature of cases	Number
Spouse's rights (maintenance)	1,270

1.1.2 Property rights-related cases

Nature of Cases	Number
Right to property, including inheritance	532
Intestate Succession	132
Compensation for property (compulsory acquisition)	92
Retrieval of property	71
Inheritance	645
Tenancy	862
State confiscation of property	138
Destruction of property	180
Trespass	137
Land Title	137
Total	2926

1.1.3 Economic and Social Rights-related cases

Nature of Cases	Number
Right to equal pay for equal work	86
Right to food	5
Right to shelter	81
Right to clothing	10
Right to work	61
Right to education	86
Right to health	71
Right to clean and safe environment	34
Discrimination based on sex	31
Discrimination based on economic & social status	163
Breach of contract	95
Other ESCR-related cases	1803
Total	2526

1.1.4 Civic and political rights-related cases

Nature of Cases	Number
Discrimination based (Sexual Harassment)	289
Right to life	16
Right to fair and speedy hearing	7
Right to personal liberty	14
Right to respect & dignity	16
Freedom of worship	3
Freedom of association	1
Freedom from harassment	4
Freedom of speech	60
Total	410

1.2 CORRUPTION CASES

Corruption Cases	Number
Fraud	25
Breach of Code of Conduct (making false declaration)	5
Money extortion	3
Total	33

1.3 ADMINISTRATIVE JUSTICE

Nature of Cases	Number
Abuse of Office (exploitation)	28
Abuse of Office (intimidation)	17
Abuse of Office (unbecoming conduct)	26
Abuse of Office (Oppression)	26
Abuse of Office (exercise of discretion)	67
Undue Delay	102
Delay in dispensing justice (Police)	5
Negligence	1
Over billing of school fees	1
Dismissal	316
Termination of appointment	265
Resignation	7
Redundancy/Redeployment	24
Pension/Gratuity	62
SS Deduction/Payment	98
End of Service Benefit	68
Severance Award	49
Salary Arrears/Withholding	278
Insurance Claims	55
Suspension/Interdiction	26
Transfer	18
Promotion	4
Retirement Benefits	9
Study Leave	1
Surcharging of lost items	1
Workmanship compensation	32
Reinstatement	24
Others	61
Total	1,671

1.3 SUMMARY ON NATURE OF COMPLAINTS

Complaints	Number
Administrative Justice-related complaints	1,671
Corruption-related complaints	33
Human Rights-related complaints	13,249
Total	14,953

3.0 RESPONDENTS

Respondents to complaints received by the commission comprised state organisations, private organisations and private individuals.

Private individuals and organisations such as the GPRTU, private companies, NGOs, among others, constituted **95%**, representing **14,223** of respondents.

On the other hand, complaints against public institutions like the Ministries of Communication, Food and Agriculture, Health, Lands & Forestry, Works and Housing, Defence, Foreign Affairs, Finance, Education, the Prisons Service, district/municipal/metropolitan assemblies, the Controller & Accountant General, SSNIT, the Ghana Highway Authority, the Ghana Education Service, the Judicial Service, regional coordinating councils, constituted **4.9%**, made up of **730** cases. Among the public institutions, the Ghana Police Service and the Ghana Education Service continued to top the list of respondents appearing before the commission.

3.1. Summary of Respondent Bodies:

3.1.0 Organisations under Office of the President

Organisations	Number
Divestiture Implementation Commission	5
Regional Coordinating Councils	13
Miscellaneous offices under Off. of President	5
Total	23

3.1.1 Organisations under Ministry of Justice

Services/Departments	Number
Judicial Service	12
Attorney-General's Dept.	6
Total	18

3.1.2 Organisations under Ministry of Education

Services/Institutions	Number
Ghana Education Service	90
West African Exams Council	18
Schools/Colleges	73
Universities	27
Total	208

3.1.3 Organisations under Ministry of Roads & Highways

Authority/Dept.	Number
Dept. of Feeder Roads	1
Ghana Highway Authority	3
Driver & Vehicle Licensing Authority	1
Total	5

3.1.4 Extra-Ministerial Organisations

Organisations	Number
Public Services Commission	2
Chieftaincy Secretariat	6
Lands Commission	1
Electoral Commission	6
CHRAJ	9
NCCE	2
Lands Valuation Board	5
NADMO	2
Dept. of Death/Birth	1
Rent office	3
NSS	2
GWCL	3
VRA	1
CNC	2
Total	45

3.1.5 Ministry of Finance and other Organisations within its domain

Services/Departments	Number
Controller & Acct. Gen.	29
Banking Institutions	23
CEPS	7
IRS	8
SSNIT	18
Total	85

3.1.6 Organisations under Ministry of Local Government

Assemblies	Number
District/Municipal/Metropolitan Assemblies	67

3.1.7 Organisations under Ministry of the Interior

Security Services	Number
Prisons Service	39
Immigration Service	11
Police Service	97
Bureau of National Investigation	1
Ghana Nat. Fire Service	6
Ghana Armed Forces	22
Total	176

3.1.8 Private (Individuals, Organisations, Companies)

Private Individuals/ Organisations	Number
Private Individuals	13,192
GPRTU	9
Pr. Organisations	484
NGOs	49
Companies	456
Electronic Media	1
Churches	8
Ghana Telecom	1
WAJU	5
Hospitals	16
Others	2
Total	14,223

3.1.9 Specific Ministries

Ministries	Number
Communications	16
Food & Agric.	7
Health	29
Lands & Forestry	2
Works & Housing	2
Defence	2
Foreign Affairs	9
Finance	3
Mines & Energy	3
Trade	1
Education	19
Total	93

3.2 SUMMARY ON RESPONDENT BODIES

Ministries	Number	%
Office of the President	23	0.2
Organisations under Ministry of Justice	18	0.1
Organisations under Ministry of Education	208	1.4
Organisations under Ministry of Roads/Highways	5	0.0
Extra-Ministerial Organisations	62	0.4
Organisations under Ministry of Finance	68	0.5
Organisations under Ministry of Local Government	67	0.4
Organisations under Ministry of the Interior	176	1.2
Specific Ministries	93	0.6
Private (individuals/Organisations/companies)	14233	95.2
Total	14,953	100

4.0 NATURE OF CLOSURE

During the year under review, the commission settled 8,818 cases, representing 72.8 per cent, out of a total number of 12,116 cases received. The number of cases referred to other institutions like the courts, FIDA, etc, amounted to 660 cases.

4.1. Table on nature of closed cases

Nature	Number	%
Withdrawn by petitioner	527	4.3
Dismissed for lack of prosecution	1,269	10.5
Rejected for delay in presentation of petition	167	1.4
Settled by commission	8,818	72.8
Decided on merit without hearing	104	0.9
Decided on merit after hearing	82	0.7
Justified	146	1.2
Rejected in exercise of discretion	147	1.2
Rejected for lack of jurisdiction	123	1.0
Transferred to other registries	144	1.2
Referred to other jurisdictions e.g. courts, FIDA, etc.	516	4.3
Self-settled	55	0.5
Pending before court for enforcement	18	0.1
Total	12,116	100



COMMISSION ON HUMAN RIGHTS
AND ADMINISTRATIVE JUSTICE

PART 3

STATE OF HUMAN
RIGHTS REPORT

YNOPSIS OF 2005 STATE OF HUMAN RIGHTS REPORT

he Commission on Human Rights and Administrative Justice is an independent institutional and statutory body with the primary aim of protecting and promoting the human rights of Ghanaians. The commission is also an anti-corruption agency and thus promotes integrity and decency in Ghanaian public life through the investigation of complaints and the education of the public to understand the consequences of corruption.

om the time of its establishment more than 10 years ago, the commission has demonstrated impartiality, courage to face injustice and the perseverance to fearlessly pursue the establishment of a high standard of respect for human rights.

ere is little doubt that since the inception of civilian constitutional rule in January 1993, the nation has made a great deal of progress on the human rights front. Bearing in mind the past history of wanton violation of fundamental human rights, the commission and civil society organisations have, together, made appreciable strides in the process of cultivating a culture of human rights in our society.

one can deny the commendable rise in parliamentary democracy. Indeed, our country has just successfully gone through its fourth peaceful national elections. This, in itself, attests to the protection of economic freedoms and human rights.

However, in spite of elaborate constitutional guarantees of human rights, there is still a need for improvement in several areas, such as:

- Inter and intra-party relations and the need for political parties to demonstrate maturity and tolerance, both in speech and in deed;
- Women and children's rights;
- The rights of persons in detention.

The commission commends the Electoral Commission, the National Commission on Civic Education, civil society organisations and the entire citizenry for their respective roles in ensuring successful and peaceful elections.

The commission, however, wishes to highlight certain occurrences which have the potential to mar the election process to improve the organisation of future elections. These include;

- The report of shortage of registration materials in certain areas in Accra during the two-week voters' registration exercise undertaken throughout the country
- Reports of incidents of malpractice, including multiple or double registration, which led to the arrest and prosecution of a number of individuals, including foreigners.¹

A pre-election environment monitoring report issued jointly by CDD-Ghana and the Coalition of Domestic Election Observers (CODEO)² for September 2004 gave out these observations:

- It was difficult to distinguish between an official visit and political party campaigns;
- Party paraphernalia were often visible at official functions and speeches sometimes had elements of partisan campaign;
- Although political rallies were generally peaceful, other aspects of inter and intra-party competition had not been peaceful;
- A number of incidents in specific constituencies monitored indicated rising tension and a corresponding increase in the potential for political violence.

But in spite of these setbacks, Ghanaians can congratulate themselves on their growing political maturity and strive to consolidate the democratic gains, evidenced by the just ended elections.

¹ The Ghanaian Times: April 07, 2004.

² A CDD Ghana - CODEO joint report.

NATIONAL RECONCILIATION COMMISSION (NRC)

The National Reconciliation Commission (NRC), set up under The National Reconciliation Act, (Act 611), was inaugurated on January 14, 2003, completed its hearings on July 13, 2004 and submitted its report to the President on the October 12, 2004.

Our nation was horrified to hear the grim accounts of abuses and violations of rights, running the gamut from torture, ill treatment, detention, disappearances, abductions and killings.

Some of the goriest accounts included:

- a 38-year-old woman who, in the wake of the 1979 revolution, was alleged to have hoarded 260 bags of flour and was brutalised by the insertion of a Mixture of gunpowder and pepper in her private part by a group of soldiers.³
- a man who had the tip of his penis slit open;
- a man who had a palm-size of his flesh cut and given to him to chew;
- a witness whose hand was used as 'target practice' by a soldier, thereby reducing the hand to only bones;
- another witness who had his genitals grilled.⁴

We cannot but recount some of the gory details in the hope that the cruelty and inhumanity exhibited by our own people can shame us and strengthen our resolve in ensuring that never again should we allow ourselves to be drawn into such barbaric acts.

The national reconciliation exercise gave victims and witnesses the opportunity to tell their stories to help free them from continuing to suffer in silence. It also provided an opportunity for the formal acknowledgement of the suffering of Ghanaians from past human rights abuses.

The commission commends the NRC for completing its onerous duties in a bid to reconcile the nation and welcomes the process of reconciliation as a means of confronting

The nation's tumultuous history and horrid past.

³ The Ghanaian Times, January 16, 2003, p3

⁴ Daily Graphic, April 9, 2003, p.19.

CORRUPTION

Corruption is still a major problem in the society. The commission reiterates that the efficient administration of justice and the respect for the rule of law in any country ought to be the foundation of any anti-corruption strategy.

Article 218 of the 1992 Constitution specifically mandates the commission to promote public ethics and investigate allegations and complaints of corruption and abuse of office among public officials. The commission is also a founding member of the Ghana Anti-Corruption Coalition, comprising civil society organisations and other institutions which have come together in a common fight against corruption. However, the commission believes that there should be more political will and commitment in our fight against corruption, since the root causes of corruption could be solved with the appropriate policies, procedures and institutions in place.

There have been persistent media allegations of corruption in the society. The alleged culprits include politicians, public officials, private individuals and organisations. The Judiciary has also not been spared these allegations.

The commission commends the attempts by the Judiciary to deal with the problem, evidenced by the Chief Justice's order for the arrest of two officials of the Judicial Service for fraudulently withdrawing huge sums of money from the deposit account of the service⁵ and the exposure and subsequent arrest of an interpreter of an Accra Fast Track High Court by the judge of the court for attempting to bribe the jury in a murder case.⁶

The commission calls on the general public to recognise the anti-corruption mandate of CHRAJ and other designated agencies and report all acts of corruption without fear of recrimination.

CHIEFTAINCY DISPUTES

Chieftaincy disputes leading to violence, loss of lives and destruction of property continued to disturb the peace of the nation in various parts of the country during the period under reference.

It has been a year since the (outgoing) Attorney-General and Minister of Justice assured the nation of the implementation of the government's White Paper on the report of the Wuaku Commission. Nonetheless, the Dagbon chieftaincy dispute still

⁵ Daily Graphic: March 5, 2004.

⁶ Daily Graphic: April 2, 2004.

“haunts” the nation. The commission calls on the newly-elected government to expedite the implementation of that report to find a lasting solution to the dispute.

FREEDOM OF SPEECH AND EXPRESSION

Following the gruesome killing of the Paramount Chief of Dagbon, Ya-Na Yakubu Andani, and 40 others, the government imposed a curfew and a state of emergency in the Tamale metropolis and the Yendi District. Outdoor political activities were also suspended. These developments led to the curtailment of certain civil and political rights of the residents. The Commission notes with satisfaction the lifting of the curfew and state of emergency⁷, as well as the suspension of outdoor political activities⁸ in these areas. The Commission wishes to encourage the feuding parties in the Dagbon Crisis to cooperate with the appropriate state institutions to resolve the crisis and restore normal life to the many children and women within their communities.

Parliament, in July 2001, repealed the Criminal Libel and Seditious laws. The CHRAJ supported the repeal of those laws, in as much as they hindered freedom of expression and *the right to information*. To further enhance the independence, and strengthen the hands, of the media, a “**Freedom of Information Bill**” is presently before Parliament. The commission calls on the Parliament to expedite the passage of the bill.

The debate as to whether to maintain radio phone-in programmes or ban them, before and during elections, rages. The commission reiterates that while it supports the individual’s freedom of expression, it expects radio programme moderators to act responsibly and honourably so as to guard the country’s democracy.

WOMEN & CHILDREN’S RIGHTS

International human rights instruments from the United Nations have prohibited discrimination on the basis of sex. The unacceptability of all forms of violence against women was asserted in Vienna at the World Conference on Human Rights by the General Assembly Declaration on the Elimination of Violence against Women (Dec 1993) and also by the appointment of a special rapporteur on violence against women by the Human Rights Commission in 1994.

⁷ CHRAJ - Northern Region: Mid-Year [2004] Report

⁸ Radio Ghana: One O’clock News Bulletin on Wednesday, 16th November 2004.

Violence against women was also one of the 12 critical areas of concern at the Fourth UN World Conference on Women in Beijing in September 1995 at which states were urged to take measures to prevent and eliminate violence against women.

Ghana has already ratified the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All forms of Discrimination against Women (CEDAW) without reservation. However, discrimination against women still continues in many forms and sexual harassment remains a major concern.

Women in Ghana 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 the law. Women continue to experience societal discrimination and rural women especially remain subject to burdensome labour conditions and traditional male dominance.

The commission is dismayed that (domestic) violence against women and girls, including rape, defilement and wife battering, some, leading to spousal deaths, still remain a significant problem. The rise in reported cases of defilement and sexual abuse of children is most regrettable. Between January and September this year, the Women and Juvenile Unit [WAJU] of the Police Service recorded not less than 807 cases of sexual abuse [rape (121), defilement (576) and incest (10)] nationwide.⁹ Perpetrators of these crimes have been males of varied social backgrounds, running the gamut from chop bar attendants, painters, butchers, herbalists, farmers, students, traditional chiefs, traders to police constables. In one chilling instance, a 74-year-old man at Ejisu in the Ashanti Region allegedly defiled an infant of 20 months.

Rape and sexual assault by students and teachers alike have become common occurrences in our schools. According to the Ghana Education Service, the sanction that applies to teachers who commit these offences is dismissal, and though these are criminal offences, perpetrators are hardly ever prosecuted and often go to another school to commit the same offence. The commission echoes the call of the Chief Justice, His Lordship George Kingsley Acquah, on heads of schools to report to the police teachers who rape or defile their pupils. Victims, as well as witnesses, must also be urged to report cases of violence against women to the police.

The traditional perception of women as inferior, coupled with certain discriminatory traditional customary practices, continue to undermine the rights of women in most

⁹ Source: Women and Juvenile Unit [WAJU] - National Secretariat

parts of the country. Pathetically, inhuman customary practices which violate the rights of women, such as female genital mutilation (FGM), forced and early marriage of girls, denial of property rights and wife battery are still approved in some parts of the country.

The commission notes with dissatisfaction the increasing neglect of children by parents nationwide¹⁰, particularly in the Brong Ahafo Region. These children suffer from lack of guidance, parental care, health care, education, food and shelter – a situation which has led to the migration of children to Kumasi and Accra to engage in head portering (Kayayei) and truck pushing. Another source of concern is the exchange in marriage of young girls in the eastern corridors of the region, especially Saboba and Bunkpurugu. Most of these girls, it is said, run away to undisclosed destinations.¹¹

The commission, however, notes with satisfaction efforts being made by charitable NGOs to alleviate the plight of women and children through micro projects and the provision of funds for needy, brilliant children and bicycles for school-going girls.

The Domestic Violence Bill has been hailed as being laden with relief for women and one that will help prevent gender-based violence. However, the commission would like to register its dismay at the erroneous perception being created that certain aspects of the bill would cause the break up of marriages. This perception is fuelled by ignorance of the bill and it is the fervent hope of the commission that the next Parliament will double efforts at passing the bill into law.

HIV/AIDS

This year's World AIDS Day focused specifically on women and girls, because of their increasingly becoming the largest casualties of this pandemic. The disproportionate impact on women and girls has given rise to what UNAIDS calls a "feminisation" of the epidemic. This "feminisation" is rooted in the economic dependency of women and girls and the denial of their fundamental rights. According to UNAIDS, close to 60 per cent of the plus 37.2 million adults living with HIV are women and this number is increasing daily in every region of the world. Ninety-five per cent of all AIDS cases occur in the world's poorest countries. The same report states that in sub-Saharan Africa, three quarters of all 15-24 year-olds living with HIV are female.

¹⁰ From 1999, the Commission realised a sudden increase in family related cases. A substantial portion of these family-related cases was about child and spouse maintenance, particularly about fathers neglecting to maintain their children. The number of female complainants has been on the ascendancy with the substantial increase in spouse/child maintenance cases.

¹¹ From 1999, family related cases displaced labour related complaints and constituted the highest proportion of complaints.

Several reasons account for this alarming trend. First of all, women are more susceptible to infection during sex, especially when sexually-transmitted infections (STI) are present. Culture and attitudes and the subservient roles which women are forced to play vis-à-vis men are also root causes. In other words, gender inequalities that exist through sexual violence, coercion, discrimination, economic dependence, ignorance, poverty and lack of access to justice make "lethal" the risk of HIV/AIDS to our women.

Women in Ghana constitute 52 per cent of total population, making up the greater part of the workforce. This workforce is, however, being gradually lost to the HIV/AIDS pandemic which has a tremendous impact on households, families and the nation as a Whole.

It is reported that over 160,000 children in Ghana are in orphanages as a result of HIV/AIDS.

The Commission of Human Rights and Administrative Justice commends the Ghana AIDS Commission, in particular, and other NGOs for the tremendous work they have done in the past three years in raising the level of awareness in Ghana today and sensitising the public to the plight of people living with HIV/AIDS. But it must be said that unless our attitudes change, unless we accept that AIDS is REAL, all our activism will come to naught. For the fight against AIDS to be successful and sustainable, the root causes which put women and girls at higher risk must be addressed. The commission believes that the campaign against AIDS must contain a strong gender component which includes programmes to empower women as decision makers and agrees with the call by AIDS activists and civil societies all over the world on governments to take up and address gender inequalities in society as a matter of urgency, as the link with the spread of HIV/AIDS must be recognised.

ENVIRONMENTAL RIGHTS

The Ghanaian Constitution imposes a duty on every Ghanaian to protect and safeguard the environment. The commission commends efforts made by the Ministry of Environment, Science and Technology, the Department of Forestry, the Environmental Protection Agency and NGOs towards the promotion of a healthy environment. Nevertheless, the country is still confronted with enormous challenges of environmental degradation. In recent years, the commission has conducted a series of investigations into complaints regarding the adverse impact of mining operations on the everyday life of communities in the Wassa District of the Western Region. Complaints included difficulty in breathing due to air pollution, sleeplessness due to excessive noise resulting from blasting and contamination of their water bodies.

Preliminary investigations undertaken by the commission in 2001 produced some form of evidence to support some of the claims of the complainants. The commission commends the mining companies for their efforts at building bridges between the companies and mining communities. It is hoped that the efforts will improve relations between the companies and communities and establish alternative sustainable livelihood programmes for the communities. More needs to be done, including instituting appropriate legislation to ensure the protection of the rights of the people in these communities.

Article 36(9) of the 1992 Constitution requires the government to take appropriate measures to protect and safeguard the national environment, while Article 41(k) also enjoins every Ghanaian citizen to protect the environment. The commission insists that since human existence is possible only in a healthy natural environment, the pursuit of the right to life entails the vigorous protection of our environment. The only way to halt further degradation is for the relevant regulatory bodies to take up their responsibilities with extra commitment. Key players include the metropolitan, municipal and district assemblies, the EPA, the Minerals, Forestry and Fisheries commissions.

Although the commission recognises the need for a nation to exploit its natural resources; this must not be done at the expense of the rights of residents and communities. Other environmental concerns of the commission are the unsanitary conditions all over the country resulting from choked drains and gutters, offensive vehicular fumes and waste bins which overflow with rubbish, especially in the cities.

RIGHTS OF SUSPECTS AND PERSONS IN DETENTION

The Constitution of the Republic of Ghana, 1992, provides a framework for protecting the rights of prisoners and persons denied of their liberty.

Article 15 of the 1992 Constitution provides as follows:

1. The dignity of all persons shall be inviolable;
2. No person shall, whether or not he is arrested, restricted or detained, be subjected to:
 - a) torture or other cruel, inhuman or degrading treatment or punishment;
 - b) any other condition that detracts or is likely to detract from his dignity and worth as a human being;

3. A person who has not been convicted of a criminal offence shall not be treated as a convicted person and shall be kept separately from convicted persons;
4. A juvenile offender who is kept in lawful custody or detention shall be kept separately from an adult offender.

The foregoing provisions conform with the United Nations norms and instruments, such as the 1948 Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT), the UN Standard Rules for the Treatment of Prisoners and others. These norms and instruments ensure that prisoners and persons deprived of their liberty are treated humanely and with respect for their inherent dignity.

The Commission on Human Rights and Administrative Justice has a duty to ensure that the fundamental human rights of all persons in Ghana, including prisoners, are respected, protected and promoted. It maintains that prisoners have rights as human beings and these rights must be respected by those in whose custody they are placed. While the commission concedes that a convicted or remand prisoner has his or her right to personal liberty and association limited, all other rights, especially the right to human dignity, remain unrestricted. As part of measures to promote the rights of prisoners and suspects in detention, the commission undertakes annual inspections of the nation's prisons and police cells. The exercise involves the examination of the general living conditions of the inmates such as accommodation, feeding, health and sanitation, and agricultural/vocational and recreational activities. Special attention is paid to the situation of remand prisoners, juveniles, mentally ill persons, pregnant women and nursing mothers, children, and suspects who are detained for more than 48 hours.

Subsequent to inspections, the commission submits a report to the Executive branch of the government for action to be taken on its recommendations and copies are also sent to relevant government departments. While responses to these findings and recommendations contained in the reports have been positive, there remains yet more to be done.

Many of Ghana's prisons were built years ago. Many of these prisons are seriously overcrowded, with a good number of prisoners compelled to sleep in cells meant for far fewer numbers. The sanitary conditions in most of the prisons are disheartening. Few of

these cells serve the collateral purpose of urinals and lavatories. Coupled with these unhealthy conditions is the fact that prisoners are poorly fed and also suffer from life-threatening illnesses such as tuberculosis and HIV/AIDS. Conditions in majority of police cells in the country leave much to be desired. Cells are undersized, dark, murky, poorly ventilated and are devoid of toilet facilities. These cells serve an all-in-one function of dining rooms, bedrooms and lavatories.

The conditions under which suspects or remand prisoners, juveniles and vulnerable persons such as pregnant women and nursing mothers are held still detract from human dignity.

The commission is particularly concerned that little has been done in respect of the following findings:

- Inability of the courts to expedite trial of suspects who have been remanded in prison custody.

The plight of remand prisoners has been of one of serious concern to the commission. Some of the suspects complain of harsh bail conditions, the inability of the police to thoroughly investigate their cases; missing dockets and transfer of police to other stations. The James Fort male Prison in Accra, which houses more than 700 remand prisoners in mentally tortuous physical conditions, requires immediate and urgent attention.

- The imposition by courts of custodial sentences for minor offences;
- The conviction and committal into prison of nursing mothers and pregnant women who invariably give birth in prison;
- The incarceration and committal into adult prisons of juveniles below the age of 18;
- The incarceration and committal into prison of people with mental/learning disabilities.

In light of the following findings, the commission reiterates the following recommendations:

- Pre-trial detainees should be granted reasonable conditions of bail. Remand prisoners should be brought to court on the adjourned dates;
- Parliament should be encouraged to pass legislation empowering the courts to impose non-custodial sentences such as community

service, probation and suspended sentences. This, according to the commission, will result in immense social benefits to the society and the state as a whole.

It advocates suspended sentences or other alternatives to custodial sentences particularly for pregnant and nursing prisoners, except when convicted for very serious offences.

RATIFICATION OF INTERNATIONAL CONVENTIONS

The commission highly commends the government of Ghana for ratifying the following international conventions:

- The International Covenant on Economic, Social and Cultural Rights (CESCR);
- The International Covenant on Civil and Political Rights (CCPR);
- The Optional Protocol to the International Covenant on Civil and Political Rights (CCPR-OP1); and
- The International Convention on the Elimination of All Forms of Racial Discrimination (CERD);
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);
- The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW-OP);
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
- The Convention on the Rights of the Child (CRC);
- The Optional Protocol to the Convention on the Rights of the Child (CRC-OP-SC) on the sale of children, child prostitution and child pornography.
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC).

The commission restates its call on the government to, as a matter of urgency, to ratify the following:

- The Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) which seeks to establish a system of regular visits to places where people are deprived of their liberty;

- The Second Optional Protocol to the International Covenant on Civil and Political Rights, aimed at the abolition of the death penalty (CCPR-OP2-DP);
- The Optional Protocol to the Convention on the Rights of the Child (CRC-OP-AC) on the involvement of children in armed conflict.



COMMISSION FOR HUMAN RIGHTS
AND ADMINISTRATIVE JUSTICE

PART 4

SUMMARY OF
SELECTED CASES

1. Case No. 4142/2004/437: SUSPENSION OF ELECTIONS

The complainant brought an application asking the commission to restrain the Electoral Commission from holding the 2004 general election on grounds that the nation rather needed to focus more on ensuring that Ghana attained sound economic growth and development.

The commission, in exercise of its discretion under S. 13(1) (a) of the CHRAJ Act 1993 (Act 456), declined to handle the case on grounds that the courts were better suited to handle the matter. Section 13(1) (a) provides that:

“ Where in the course of the 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, it may refuse to investigate the matter further”.

2. Case No. 4196/2004: EXPULSION SHOULD NOT AFFECT THE RIGHT TO WRITE EXTERNAL EXAMINATION

The complainant alleged that the respondent had dismissed his ward, a final-year Science student, from school and also requested the West African Examinations Council to cancel his registration for the 2004 Senior Secondary School Certificate Examination (SSSCE) because he always left the respondent's school campus without an exeat (permission).

The respondent explained that after several counselling sessions and warnings, the complainant's ward had not reformed. The school was, therefore, left with no choice but to expel the ward from the boarding house. The respondent, however, agreed to permit the student to write the examination, including the use of the school's Science facilities during the examination.

3. Case No. 123/97: WRONGFUL DISMISSAL

The complainant alleged that the Immigration Service had wrongfully dismissed him and owed him unpaid salaries. His case was that the Bureau of National Investigations (BNI) detained him on November 15, 1990 till May 21, 1992. During the period of his detention, he was paid his salaries until March 31, 1991. Upon his release on the May 21, 1992, the respondent dismissed him without stating any reason for the dismissal.

He, therefore, complained to the commission and asked for reinstatement and payment of all outstanding salaries.

The respondent claimed that the complainant had been granted leave to travel to Canada, but while in Canada, he had sought political asylum under false pretences which led to his deportation. As a result, the respondent decided to dismiss him. The complainant denied the allegation.

Investigations by the commission did not find any evidence to support the claim of deportation by the Ghana Immigration Service. Also, in contravention of the Disciplinary Code, the respondent had failed to give the complainant the opportunity to defend himself before dismissing him. The commission, therefore, found the summary dismissal unjustified and requested the respondent to reinstate the complainant and pay him compensation of two years' salary at current salary levels.

4. AKUA FEBIRI VRS REPUBLIC

Akua was convicted for stealing and unlawful entry and sentenced to a fine of ₵1 million or in default three years' imprisonment. At the time of conviction, Akua was eight months pregnant. The trial court did not take into consideration her situation to explore other forms of punishment under Section 312 of Act 633. She delivered a baby girl and spent almost a year in prison. When her case came to the attention of the commission, it intervened, and with the help of a Good Samaritan, the fine was paid to secure her release.

5. MARY SARFO VRS ANDREWS BOADI AND OTHERS

Mary Sarfo complained to the commission that though her biological children were working and earning a decent income, they had neglected and abandoned her in her old age. The respondents claimed she maltreated them when they were children, following the imprisonment and death of their father. The commission intervened and requested the respondents to provide regular maintenance for their mother. When the respondents ignored the commission's recommendation, an application was made to the Family Tribunal which affirmed the commission's recommendation and made an order for the respondents to:

- Remit the complainant an amount of ₵200,000.00 a month through the commission.
- Rent or secure decent accommodation for her.
- Provide clothing and medical needs, and
- Arrange regular visits to the complainant.

6. MAMA DERY VRS REPUBLIC

Mama Dery was convicted for stealing and sentenced to 30 days imprisonment in hard labour. While in prison, she fell ill and collapsed on two occasions. She was admitted to the Sunyani Regional Hospital but her condition did not improve. The prison authorities, therefore, invited the commission to secure bail for her to enable her to receive intensive medical care at home. Following two applications, the court granted her bail and reduced her sentence to 14 days which she had already served. With that intervention, Mama received the necessary medical attention.

7. AMERLEY SAMPA VRS REPUBLIC

Amerley Sampa was convicted and sentenced jointly with another young woman on two counts. However, evidence from the trial court showed that at the time of the trial, Amarley was nursing a two week-old baby. Her plea was not taken on one count, even though she was convicted on both counts. The commission appealed on her behalf and the conviction and sentence on that count were dismissed. The court, however, affirmed her conviction and sentence on the other count for which she had to pay a fine of ₵2 million, after which she was discharged.

Promoting rights and making governance better in Ghana



COMMISSION FOR HUMAN RIGHTS
AND ADMINISTRATIVE JUSTICE

PART 5

LEGISLATIVE FRAMEWORK

LEGISLATIVE FRAMEWORK

1992 - GHANA CONSTITUTION: CHAPTER EIGHTEEN

Commission on Human Rights and Administrative Justice

216. There shall be established by Act of Parliament within six months after Parliament first meets after the coming into force of this Constitution, a Commission on Human Rights and Administrative Justice which shall consist of -
- (a) a Commissioner for Human Rights and Administrative Justice; and
 - (b) two Deputy Commissioners for Human Rights and Administrative Justice
217. The President shall appoint the members of the Commission under article 70 of this Constitution.
218. The functions of the Commission shall be defined and prescribed by Act of Parliament and shall include the duty:
- (a) to investigate complaints of violations of fundamental rights and freedoms, injustice, corruption, abuse of power and unfair treatment of any person by a public officer in the exercise of his official duties;
 - (b) to investigate complaints concerning the functioning of the Public Services Commission, the administrative organs of the state, the Armed Forces, the Police Service and the Prisons Service in-so-far as 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 service;
 - (c) to investigate complaints concerning practices and actions by persons, private enterprises and other institutions where those complaints allege violations of fundamental rights and freedoms under this Constitution.
 - (d) to take appropriate action to call for the remedying, correction and reversal of instances specified in paragraphs (a), (b) and (c) of this clause through such means as are fair, proper and effective, including -

- (i) negotiation and compromise between the parties concerned;
 - (ii) causing the complaint and its finding on it to be reported to the superior of an offending person;
 - (iii) bringing proceedings in a competent Court for a remedy to secure the termination of the offending action or conduct, or the abandonment or alteration of the offending procedures; and
 - (iv) bringing proceedings to restrain the enforcement of such legislation or regulation by challenging its validity if the offending action or conduct is sought to be justified by subordinate legislation or regulation which is unreasonable or otherwise ultra vires;
- (e) to investigate all instances of alleged or suspected corruption and the misappropriation of public moneys by officials and to take appropriate steps, including reports to the Attorney-General and the Auditor-General, resulting from such investigations;
- (f) to educate the public as to human rights and freedoms by such means as the Commissioner may decide, including publications, lectures and symposia; and
- (g) to report annually to Parliament on the performance of its functions.
219. (1) The powers of the Commission shall be defined by Act of Parliament and shall include the power-
- (a) to issue subpoenas requiring the attendance of any person before the Commission and the production of any document or record relevant to any investigation by the Commission.
 - (b) to cause any person contemptuous of any such subpoena to be prosecuted before a competent Court;
 - (c) to question any person in respect of any subject matter under investigation before the Commission;

- (d) to require any person to disclose truthfully and frankly any information within his knowledge relevant to any investigation by the Commissioner.
- (2) The Commissioner shall not investigate-
 - (a) a matter which is pending before a court or judicial tribunal; or
 - (b) a matter involving the relations or dealings between the Government and any other Government or an international organisation; or
 - (c) a matter relating to the exercise of the prerogative of mercy.
- 220. An Act of Parliament enacted under Article 216 of this Constitution shall provide for the creation of regional and district branches of the Commission.
- 221. A person shall not be qualified for appointment as a Commissioner or a Deputy Commissioner for Human Rights and Administrative Justice, unless he is -
 - (a) in the case of Commissioner, qualified for appointment as a Justice of the Court of Appeal; and
 - (b) in the case of a Deputy Commissioner, qualified for appointment as a Justice of the High Court.
- 222. The Commissioner and Deputy Commissioners shall not hold any other public office.
- 223. (1) The Commissioner and deputy Commissioners shall enjoy the terms and conditions of service of a Justice of the Court of Appeal and High Court respectively.
- (2) The Commissioner and Deputy Commissioners shall cease to hold office upon attaining the ages of seventy and sixty-five years respectively.
- 224. Where the Commissioner dies, resigns or is removed from office or is for any other reason unable to perform the functions of his office, the President shall, acting in consultation with the Council of State, appoint a person qualified to be appointed Commissioner to perform those functions until the appointment of a new Commissioner.
- 225. Except as provided by this Constitution or by any other law not inconsistent with this Constitution the Commission and the Commissioners shall, in the performance of their functions, not be subject to the direction or control of any person or authority.

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

1992 - GHANA CONSTITUTION: CHAPTER TWENTY-FOUR

Code of Conduct for Public Officers

284. 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.
285. No person shall be appointed or act as the Chairman of the governing body of a public corporation or authority while he holds a position in the service of that corporation or authority.
286. (1) A person who holds a public office mentioned in clause (5) of this article shall submit to the Auditor-General a written declaration of all property or assets owned by, or liabilities owed by, him whether directly or indirectly.
 - (a) within three months after the coming into force of this Constitution or before taking office, as the case may be,
 - (b) at the end of every four years; and
 - (c) at the end of his term of office.

- (2) Failure to declare or knowingly making false declaration shall be a contravention of this Constitution and shall be dealt with in accordance with article 287 of this Constitution.
- (3) The declaration made under clause (1) of this article shall, on demand, be produced in evidence-
 - (a) before a court of competent jurisdiction; or
 - (b) before a commission of inquiry appointed under article 278 of this Constitution; or
 - (c) before an investigator appointed by the Commissioner for Human Rights and Administrative Justice.
- (4) Any property or assets acquired by a public officer after the initial declaration required by clause (1) of this article and which is not reasonably attributable to income, gift, loan, inheritance or any other reasonable source shall be deemed to have been acquired in contravention of this Constitution.
- (5) The public offices to which the provisions of this article apply are those of
 - (a) the President of the Republic;
 - (b) the Vice-President of the Republic;
 - (c) the Speaker, the Deputy Speaker and a Member of Parliament;
 - (d) Minister of State or Deputy Minister;
 - (e) Chief Justice, Justice of the Superior Court of Judicature, Chairman of a Regional Tribunal, the Commissioner for Human Rights and Administrative Justice and his Deputies and all judicial officers;
 - (f) Ambassador or High Commissioner;
 - (g) Secretary to the Cabinet;
 - (h) Head of a Ministry or government Department or equivalent office in the Civil Service;
 - (i) Chairman, managing director, general manager and departmental head of a public corporation or company in which the state has a controlling interest; and
 - (j) such officers in the public service and any other public institution as Parliament may prescribe

- (6) The Auditor-General shall make a written declaration of his assets and liabilities to the President in the manner and subject to the conditions provided in clauses (1) to (3) of this article.
 - (7) Before entering upon the duties of his office, a person appointed to an office to which the provisions of this article apply, shall take and subscribe the oath of allegiance, the oath of secrecy and the official oath set out in the Second Schedule to this Constitution, or any other oath appropriate to his office.
287. (1) An allegation that a public officer has contravened or has not complied with a provision of this Chapter shall be made to the Commissioner for Human Rights and Administrative Justice and, in the case of the Commissioner of Human Rights and Administrative Justice, to the Chief Justice who shall, unless the person concerned makes a written admission of the contravention or non-compliance, cause the matter to be investigated.
- (2) The Commissioner of Human Rights and Administrative Justice or the Chief Justice as the case may be, may take such action as he considers appropriate in respect of the results of the investigation or the admission.
288. In this Chapter, unless the context other wise requires, "public officer" means a person who holds a public office.

ACT 456**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".

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 -

in the case of the Commissioner, qualified for appointment as a *Justice of the Court of Appeal*; and in the case of a Deputy Commissioner, qualified for appointment as a Justice of the High Court.
- (2) The Commissioner and Deputy Commissioners shall not while holding office as Commissioners hold any other public office.

4. (1) The Commissioner and Deputy Commissioners shall enjoy the terms and conditions of service of a Justice of the Court of Appeal and High Court respectively.
- (2) The Commissioner and Deputy Commissioners shall cease to hold office upon attaining the ages of seventy and sixty-five years respectively.
- (3) Where the Commissioner or a Deputy Commissioner dies, resigns or is removed from office, the President shall, acting in consultation with the Council of State, appoint a person qualified to be appointed Commissioner or Deputy Commissioner to perform those functions until the appointment of a new Commissioner or Deputy Commissioner.
5. The procedure for the removal of the Commissioner and Deputy Commissioner shall be the same as that provided for the removal of a Justice of the Court of Appeal and a Justice of the High Court respectively under article 146 of the Constitution.
6. Except as provided by the Constitution or by any other law not inconsistent with the Constitution, the Commission and the Commissioners shall, in the performance of their functions not be subject to the direction or control of any person or authority.

Part ii - Functions of the Commission

7. (1) The functions of the Commission are -
 - (a) to investigate complaints of violations of fundamental rights and freedoms, injustice, corruption, abuse of power and unfair treatment of any person by a public officer in the exercise of his official duties;
 - (b) to investigate complaints concerning the functioning of the Public Services Commission, the administrative organs of the State, the offices of the Regional Co-ordinating Council and the District Assembly, the Armed Forces, the Police Service and the Prisons Service in-So-far as the complaints relate to the failure to achieve a balanced structuring of those services or equal access by all to the recruitment of those services or fair administration in relation to those services;
 - (c) to investigate complaints concerning practices and actions by

persons, private enterprises and other institutions where those complaints allege violations of fundamental rights and freedoms under the Constitution;

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

- (2) All costs and expenses related to investigations conducted by the Commission into a complaint shall be borne by the Commission.

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

- (a) to issue subpoenas requiring the attendance of any person before the Commission and the production of any document or record relevant to any investigation by the Commission;
 - (b) to cause any person contemptuous of any such subpoena to be prosecuted before a competent court;
 - (c) *to question any person in respect of any subject matter under investigation before the Commission;*
 - (d) to require any person to disclose truthfully and frankly any information within his knowledge relevant to any investigation by the Commissioner.
- (2) The Commissioner shall not investigate -
 - (a) a matter which is pending before a court or judicial tribunal; or
 - (b) a matter involving the relations or dealings between the Government and any other Government or an international organisation; or
 - (c) a matter relating to the exercise of the prerogative of mercy.
- 9. For the purposes of performing his functions under the Constitution, this Act and any other law, the Commissioner may bring an action before any court in Ghana and may seek any remedy which may be available from that court.
- 10.
 - (1) There shall be established in each Region and District of Ghana Regional and District branches respectively of the Commission.
 - (2) There shall be appointed by the Commission an officer who shall be the head of a Regional or District branch of the Commission.
 - (3) The Commission may create such other lower structures as would facilitate its operations.
- 11.
 - (1) A representative of the Commission in a Regional or District office of the Commission shall -
 - (a) receive complaints from the public in the Region or District;
 - (b) make such on-the-spot investigation as may be necessary; and
 - (c) discharge any other duties relating to the functions of the Commission that may be assigned to him by the Commissioner.

Part iii - Provisions Relating to Complaints and Investigations

- 12.
 - (1) A complaint to the Commission shall be made in writing or orally to the

national offices of the Commission or to a representative of the Commission in the regional or district branch.

- (2) Where a complaint is made in writing it shall be signed by the complainant or his agent.
 - (3) Where a complaint is made orally, the person to whom the complaint is made shall reduce the complaint into writing and shall append his signature and the signature or thumbprint of the complainant.
 - (4) Notwithstanding any law to the contrary, where a letter written by -
 - (a) a person in custody; or
 - (b) a patient in a hospital;
 is addressed to the Commission, it shall be immediately forwarded unopened and unaltered to the Commission by the person for the time being in charge of the place or institution where the writer of the letter is detained or of which he is a patient.
 - (5) A complaint under this Act may be made by any individual or a body of persons whether corporate or unincorporated.
 - (6) Where a person by whom a complaint might have been made under this Act has died or is for any sufficient reason unable to act for himself, the complaint may be made by his personal representative or by a member of his family or other individual suitable to represent him.
13. (1) Where in the course of the investigation of any complaint it appears to the Commission -
- (a) that under the law or existing administrative practice there is adequate remedy for the complaint, whether or not the complainant has availed himself of it; or
 - (b) that having regard to all the circumstances of the case, any further investigation is unnecessary, it may refuse to investigate the matter further.
- (2) The Commission may refuse to investigate or cease to investigate any complaint -
- (a) if the complaint relates to a decision, recommendation, act or omission of which the complainant has had knowledge for more than twelve months before the complaint is received by the Commission; or

- (b) if the Commission considers that -
 - (i) the subject matter of The complaint is trivial;
 - (ii) the complaint is frivolous or vexatious or is not made in good faith; or
 - (iii) the complainant does not have sufficient personal interest in the subject matter of the complaint.
 - (3) Notwithstanding subsection (2) of this section, if within six months after the Commission's refusal or ceasing to investigate any complaint under this section, fresh evidence in favour of the complainant becomes available, the Commissioner shall, at the request of the complainant, re-open the case.
 - (4) Where the Commission decides not to investigate or to cease to investigate a complaint, it shall within 30 days of the decision inform the complainant of its decision and the reasons for so refusing.
- 14
- (1) Where the Commission decides to conduct an investigation under this Act, it shall give the authority or person concerned and to any other person who is alleged in the complaint to have taken or authorised the act or omission complained of, an opportunity to comment on any allegations contained in the complaint and the representative of the authority or person concerned shall submit his comments within such time as the Commission may specify.
 - (2) The public may be excluded from investigations conducted by the Commission.
 - (3) Without prejudice to the generality of the provisions of this section, the Commission may obtain information from such persons and in such manner, and make such inquiries, as it considers necessary.
 - (4) The Commission may pay to a person by whom a complaint is made and to any other person who attends and furnishes information for the purposes of an investigation under this Act -
 - (a) sums in respect of expenses properly incurred by them; and
 - (b) allowances by way of compensation for the loss of their time,

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

15. (1) Subject to this section the Commission may require any person who, in its opinion, is able to give any information relating to a matter being investigated by it;
 - (a) to furnish the information to it;
 - (b) to produce any document, paper or thing that in its opinion relates to the matter being investigated and which may be in the possession or control of that person.
- (2) The Commission may summon before it and examine on oath or affirmation -
 - (a) a person required to give information or produce anything under subsection (1) of this section;
 - (b) a complainant;
 - (c) any other person who the Commission considers will be able to give information required under subsection (1) of this section.
- (3) Subject to subsection (4) of this section, a person who is bound by law to maintain secrecy in relation to, or not to disclose any matter may not -
 - (a) supply information to or answer a question put by the Commission in relation to that matter; or
 - (b) produce to the Commission a document, paper or thing relating to it, if compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure.
- (4) A person to whom subsection (3) of this section applies may be required by the Commission to supply information or answer a question or produce a document, paper or thing that relates to a matter under investigation; and subject to section 16 of this Act, it shall be the duty of that person to comply with the requirement.
- (5) A witness before the Commission shall be entitled to the same privileges to which he would have been entitled if he were a witness before the High Court.
- (6) No person shall be liable to prosecution for an offence under any enactment by reason of his compliance with a requirement of the Commission under this section.

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

Part iv - Procedure after Investigation by the Commission

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

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

- (2) If within three months after the report is made no action is taken which seems to the Commission to be adequate and appropriate, the Commissioner may, after considering the comments, if any, made by or on behalf of the department, authority or persons against whom the complaint was made, bring an action before any court and seek such remedy as may be appropriate for the enforcement of the recommendations of the Commission.
19. (1) The Commissioner shall, annually, submit a report to Parliament which shall include a summary of the matters investigated, and the action on them by the Commission during the preceding year.
- (2) Parliament may debate the report of the Commission and may pass such resolution as it considers fit.
 - (3) A resolution of Parliament shall not alter a decision made by a court on a matter instituted before the court by the Commissioner.
 - (4) The Commissioner may, in the public interest or in the interest of any person or Department or any other authority, publish reports relating -
 - (a) generally to the exercise of the functions of the Commission under this Act; or
 - (b) to any particular case investigated by the Commission whether or not the matters in the report have been the subject of a report to Parliament.

Part v - Miscellaneous Provisions

20. The appointment of officers and other employees of the Commission shall be made by the Commission acting in consultation with the Public Services Commission.

21. The administrative expenses of the Commission including all salaries, allowances and pensions payable to or in respect of, persons serving with the Commission are charged on the Consolidated Fund.
22.
 - (1) Subject to the supervisory jurisdiction of the Supreme Court, no Proceedings shall lie against the Commission or against any person holding an office or appointment under the Commission for anything done, reported or said by him in the course of the exercise or intended exercise of his functions under this Act, unless it is shown that he acted in bad faith.
 - (2) Anything said, any information supplied, or any document, paper or thing produced by any person in the course of an inquiry by or proceedings before the Commission under this Act is privileged in the same manner as if the inquiry or proceedings were proceedings in a court.
 - (3) For the purposes of the rules of law relating to defamation any report made by the Commission under this Act shall be privileged, and a fair and accurate report on it in a newspaper or a broadcast shall also be privileged.
23. For the purposes of this Act, the Commissioner or any public officer authorised by him, may at any time enter any premises occupied by a department, authority or a person to whose act or omission this Act applies and inspect the premises and, subject to sections 16 and 17 of this Act carry out on the premises any investigation that is within the jurisdiction of the Commission.
24. Any person who -
 - (a) without lawful justification or excuse, wilfully obstructs, hinders or resists a member of the Commission or an officer authorised by the Commission in the exercise of any powers under this Act; or
 - (b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful request of the Commissioner or a Deputy Commissioner or any other person under this Act; or
 - (c) 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 applied with such modifications as may be necessary for giving effect to the provisions of this Act; and
 - (b) Any complaint pending before the Ombudsman immediately before the coming into force of this Act may be proceeded with under, and shall be subject to the provisions of, this Act.

(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 thumb-print to the written complaint.
2. (1) A complaint lodged with the Commission shall contain -
 - (a) the full name and contact address of the complainant;
 - (b) the body, organisation or person against whom the complaint is made;
 - (c) particulars of the nature of the complaint together with copies of any document in support of the complaint;

- (d) the nature of the injustice or harm that the complainant has suffered as a result of the action, inaction or omission of the body or organisation or person against whom the complaint is made; and
 - (e) the relief sought by the complainant.
- (2) A person who lodges a complaint with the Commission on behalf of another person shall state in writing the capacity in which he does so and the reason for doing so.
- (3) A complainant shall be given a reasonable time (depending on the circumstances of the case) within which to check on his complaint.
- (4) Where a complaint lodged with the Commission is not pursued for three months from the date it is lodged, the complaint shall lapse thereafter.
- 3.
 - (1) Where the Commissioner considers that a complaint lodged with the Commission is a matter within the function of the Commission, he shall cause a copy of the complaint to be transmitted to the head of the body or organisation or the person against whom the complaint is made with a request for comment and response.
 - (2) The head of the body or organisation or person against whom the complaint is made shall within ten days from the date of receipt of the complaint or such further period as the Commissioner may specify submit his comments or response to the Commissioner.
 - (3) The Commissioner or his representative may assign an investigator or officer of the Commission to make a preliminary investigation into any complaint lodged with the Commission.
 - (4) The Commission may for the purposes of performing its functions require the services of a member of the Police Force or any public institution with expert knowledge relevant for redressing any particular complaint.
- 4.
 - (1) Upon receipt of the comments or response the Commissioner, where he considers that in view of the response, the complaint could be mediated upon and settled, may invite the parties concerned and attempt a settlement of the issue between the parties.

- (2) No provision of these regulations shall preclude the Commission on receipt of a complaint from inviting the parties concerned and attempting a settlement of the issue between the parties.
5.
 - (1) Where the Commission decides to institute a full investigation into a complaint, the Commission shall in writing invite -
 - (a) the complainant
 - (b) a representative of the body, organisation or person against whom the complaint is made; and
 - (c) such other persons as are considered by the Commission to be concerned in the investigation to attend to be interviewed by the Commission at a date, time and place specified in the notice.
 - (2) The date for attendance shall not be less than seven days from the date of the notice.
 - (3) A person appearing before the Commission in answer to a complaint shall -
 - (a) be informed again of the particulars of the complaint and the relief sought;
 - (b) be afforded full opportunity to answer the complaint and to question any witness.
 - (4) Any person who appears before the Commission in any investigation shall be given a fair hearing.
 - (5) Persons appearing before the Commission to be investigated shall appear in person and may be represented by counsel.
 - (6) Records of the investigation shall be kept in writing.
6.
 - (1) For the purposes of regulation 5 the Commissioner may, on the Recommendation of any other member of the Commission, an investigator of the Commission or any other officer of the Commission, constitute a panel to investigate any complaint and report to the Commission.
 - (2) The panel shall be composed of a chairman who shall be a member of the Commission or any legal officer in the employment of the Commission and not less than two other officers of the Commission.

- (3) Notwithstanding sub-regulation (2) of this regulation there may be co-opted on any such panel such persons as the Commissioner may approve.
 - (4) A person appearing before a panel under these regulations may raise an objection to the membership of the panel to the Commissioner who shall determine the issue.
- 7.
 - (1) A panel composed under these regulations shall make a full report in any matter before it with its recommendations to the Commission.
 - (2) The Commission shall consider every report submitted under sub-regulation (1) and may accept or reject the recommendations or ask for further investigations.
- 8. An officer appointed as the regional or district head of the branch of the Commission shall ensure the prompt investigation by officers in the regional or district of all complaints and may refer complaints to the national office where he considers it necessary or where directed by the Commissioner.
- 9.
 - (1) The head of a district office of the Commission shall within five days of the end of every month submit to the head of the region branch of the Commission, a report of all complaints investigated by the district office in the preceding month and recommendation of the office on the complaints.
 - (2) The designated head of a regional branch of the office together with the recommendations to the national office.
- 10. The final decision in any complaint lodged with the Commission shall be taken by the Commission.
- 11. For the purpose of sections 9 and 18(2) of the Act, the Commissioner may by writing authorise any public officer to bring an action in any court in the name of the Commissioner.
- 12. In these regulations -

"Act" means the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456).

Dated at Accra, this 1st Day of September, 1994.

EMILE FRANCIS SHORT
COMMISSION ON HUMAN RIGHTS
AND ADMINISTRATIVE JUSTICE

Appendix 1

PRINCIPLES RELATING TO THE STATUS OF NATIONAL INSTITUTIONS

(The Paris Principles)¹²

COMPETENCE AND RESPONSIBILITIES

1. A national institution shall be vested with competence to promote and protect human rights.
2. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.
3. A national institution shall, inter alia, have the following responsibilities:
 - (a) To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicise them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:
 - (i) Any legislative or administrative provisions, as well as provisions relating to judicial organisation, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of

1. ¹²Commission on Human Rights resolution 1992/54 of 3 March 1992, annex; General Assembly resolution 48/134 of 20 December 1993, annex

- human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;
- (ii) Any situation of violation of human rights which it decides to take up;
 - (iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;
 - (iv) Drawing the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government;
- (b) To promote and ensure the harmonisation of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;
 - (c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;
 - (d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations, and, where necessary, to express an opinion on the subject, with due respect for their independence;
 - (e) To co-operate with the United Nations and any other organisation in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the promotion and protection of human rights;
 - (f) To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;

- (g) To publicise human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness; especially through information and education and by making use of all press organs.

COMPOSITION AND GUARANTEES OF INDEPENDENCE AND PLURALISM

1. The composition of the national institution and the appointment of its members; whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the promotion and protection of human rights, particularly by powers which will enable effective co-operation to be established with, or through the presence of, representatives of:
 - (a) Non-governmental organisations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organisations, for example, associations of lawyers, doctors, journalists and eminent scientists;
 - (b) Trends in philosophical or religious thought;
 - (c) Universities and qualified experts;
 - (d) Parliament; and
 - (e) Governmental departments (if they are included, these representatives should participate in the deliberations only in an advisory capacity).
2. The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular, adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.
3. In order to ensure a stable mandate for the members of the institution, without which there can be no real independence, their appointment shall be effected by

an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

METHODS OF OPERATION

Within the framework of its operation, the national institution shall:

- (a) Freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner;
- (b) Hear any person and obtain any information and/or any documents necessary for assessing situations falling within its competence;
- (c) Address public opinion directly or through any press organ, particularly in order to publicise its opinions and recommendations;
- (d) Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly convened;
- (e) Establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its functions;
- (f) Maintain consultation with the other bodies, whether jurisdictions or otherwise, responsible for the promotion and protection of human rights (in particular, ombudsmen, mediators and similar institutions); and
- (g) In view of the fundamental role played by non-governmental organisations in expanding the work of national institutions, develop relations with non-governmental organisations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialised areas.

ADDITIONAL PRINCIPLES CONCERNING THE STATUS OF COMMISSIONS WITH QUASI-JURISDICTIONAL COMPETENCE

A national institution may be authorised to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organisations, associations of trade unions or any other representative organisations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles:

Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;

Informing the party who filed the petition of his or her rights, in particular the remedies available to him or her, and promoting his or her access to them;

Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law; and

Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.



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