



CHRAJ

COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE



2005

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



REPUBLIC OF GHANA



**COMMISSION ON
HUMAN RIGHTS AND
ADMINISTRATIVE JUSTICE
GHANA**

2005

ANNUAL REPORT



2005 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, 2005 to December 31, 2005.

Yours sincerely,

Anna Bossman
Acting Commissioner

COMMISSION MEMBERS



From Left: **Anna Bossman**, Deputy Commissioner, Legal & Investigation (Ag. Commissioner), **Emile Francis Short**, Commissioner, Chair, **Richard Ackom Quayson**, Deputy Commissioner Public Education & Anticorruption



COMMISSIONERS' MESSAGE

The 2005 Annual Report of the Commission on Human Rights and Administrative Justice recapitulates our major activities in the year under review and also serves as a self-appraisal of our mandate and operations since we were established 12 years ago.

The annual reports are designed to inform the public in general and Parliament in particular of our operations and activities. It also serves to point out the major challenges, obstacles and impediments we have in the effective discharge of our mandate.

Through some case narrations, we also hope to inform the reader of the types of cases and complaints we receive and the way we resolve those complaints.

This year proved particularly significant for our anti-corruption mandate which has seen a strengthening of the department by an increase in training for the core staff, provision of material and equipment as well as literature and seminars. Most of the funding came from DANIDA under an MOU which was signed between our Commission and the Royal Danish Embassy in 2004. Other agreed outputs under this MOU included the development and publication of human rights training material for Social Science teachers and the exchange of experiences with other human rights institutions. As a result of the latter, CHRAJ hosted the Commission on Human Rights and Good Governance of Tanzania, as well as co-hosting a Conference on Human Rights and Anti-Corruption with the Danish Parliamentary Ombudsman in November 2005.

In July 2005, Mr. Benjamin Oppong, Deputy Commissioner, Public, Education and Anti-Corruption, retired from the Commission, having reached the mandatory retiring age. Mr. Oppong had been with the Commission since its inception in 1993. At a going-away party organized in his honour in December, he was presented with a crystal plaque and gifts for himself and his wife. On behalf of the staff and on my own behalf, we say, "Ayeeko", to Mr. Oppong and thank him for his loyal service to the Commission". We wish him the very best in his retirement.

In August 2005, Mr. Richard Ackom Quayson was sworn in by the President of the Republic as the new Deputy Commissioner, taking over from Mr. Oppong. Mr. Quayson had been, until his appointment, the Regional Director for the Western Region and has



been with the Commission from its inception. Mr. Quayson had worked with the erstwhile Ombudsman and had commenced his career at the Commission as a legal officer. Under his leadership, the Western Regional Office was adjudged, on more than one occasion, the best run regional office and it received recognition and awards to that effect. Mr. Quayson is married and has two children. We say "AYEEKO", Congratulations on his nomination and we wish him the very best in this new position".

The Commission was also tremendously proud to learn that Commissioner Emile Francis Short, the Chair of the Commission, had been awarded an honorary doctorate degree by the prestigious Northwestern University, Evanston, USA, in recognition of his work in promoting human rights, governmental transparency and respect for the rule of law in Ghana.

CHALLENGES

Within the period, the Commission faced a number of challenges which seriously undermined the effective and efficient discharge of its mandate. Key among them were resource constraints [financial and human].

Financial Autonomy and Resource Constraints

The Commission is funded from the Consolidated Fund based on a budget which must be approved by Parliament. In spite of constitutional guarantees of autonomy, the Commission has, since its establishment, had to contend with the effects of budget ceilings which are usually set by the Ministry of Finance without reference to the activities that the Commission has planned for a given period. This practice, although intended to ensure that there is equitable distribution of the national budget, has the potential to tacitly undermine the functional independence of the Commission.

Regrettably, the Commission has to repeat the perennial cry of inadequate resourcing from GOG, especially in respect of its service activities. While it is true that the budgetary allocation has increased over the years, its offices [District Offices] and staff have also increased over the years. There has also been an increase in the complaints submitted to the Commission. About 75% of budgetary allocation goes into staff remuneration, with only about 5% going to support service/operational activities, with the remaining 20% going into administrative expenses.



Poor Conditions of Service/High Attrition of Essential Staff

Poor conditions of service for our staff lead to the exodus of qualified core staff, especially the legal officers, every year. As of the end of 2005, the Commission, which started with over 80 lawyers, had only 20 serving the Commission. Some of the regions [Volta, Upper West and Greater Accra] had no lawyers at the end of the year under review.

In 2004, 10 lawyers left the Commission. This year, five left. Between 1994 and 2005, about 60 lawyers left the Commission. Most of these lawyers went to institutions and organizations in Ghana with better remuneration packages for their lawyers.

The high attrition of essential staff had a heavy toll on the operations of the Commission in the reviewing period and, indeed, threatens to undermine the effectiveness of the Commission if conditions of service do not improve soon.

Strengthening the Commission to achieve its constitutional mandate makes great sense. Ghana continues to attract rave reviews from the international community because of its good human rights and governance record and we must “put our money where our mouth is” if we are to sustain that good record.

Achievements And Perspectives For 2006

In spite of the challenges that we face, the Commission still enjoys legitimacy and confidence. This can be attributed to the work and support of our staff members, many of whom are prepared to go beyond their call of duty in order to assist in the promotion and protection of human rights. The public image of the Commission was greatly enhanced as it strove to take on politically sensitive cases without fear or favour. The high profile cases of “Hotel Kufuor” and “Dr. Anane” attest to our commitment to uphold the rule of law without fear or favour. The brief facts of both cases are set out in this annual report.

Most important, this year we also managed to monitor health facilities, including visiting the largest teaching hospital in Ghana, the Korle-Bu Teaching Hospital, and the 37 Military Hospital. Next year we intend to focus more on economic, social and cultural rights.

I take this opportunity to thank our various donors who continue to support and assist us through the funding of our activities and programmes. I also thank our CSO partners



who give us not only their time but their experience and advice.

And, of course, thanks to my fellow commissioners, the directors and staff of the Commission who continually make sacrifices to ensure that the Commission discharges its mandate efficiently. Thanks go to the government and people of Ghana who have reposed their trust and confidence in us and whom we are trying to serve in the best way we can.

I hope that through our annual reports, you may all gain a deeper understanding of and respect for the promotion and protection of human rights in Ghana

Anna Bossman
Ag. Commissioner



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LIST OF ACRONYMS

ACHARD	Action for Community Development
ATA	Asunafo Traditional Authority
AU	African Union
BA	Brong Ahafo
BEWDA	Bawku East Women Development Association
CAC	Convention Against Corruption
CAMFED	Campaign for Female Education Development
CAT	Convention Against Torture
CDD	Centre for Democratic Development
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEO	Chief Executive Officer
CERD	Convention on the Elimination of Racial Discrimination
CHRAGG	Commission on Human Rights and Good Governance
CHRAJ	Commission on Human Rights and Administrative Justice
CHRI	Commonwealth Human Rights Initiative
CMS	Case Management System
CODI	Community Development Initiative
CR	Central Region
CRC	Convention on the Rights of the Child
CSO	Civil Society Organisation
DANIDA	Danish International Development Agency
DSW	Department of Social Welfare
DVVSU	Domestic Violence and Victims Support Unit
e-CMS	Extended Case Management System
ER	Eastern Region
FGM	Female Genital Mutilation
FIDA	International Federation of Women Lawyers
FM	Frequency Modulation
GACC	Ghana Anti-corruption Coalition
GAIT	Government Accountability Improve Trust
GBA	Ghana Bar Association
GES	Ghana Education Service
GII	Ghana Integrity Initiative
GIMPA	Ghana Institute of Management and Public Administration
GNA	Ghana News Agency
GOG	Government of Ghana
GPRTU	Ghana Private Road Transport Union
GTV	Ghana Television
HIV/AIDS	Human Immuno-deficiency Virus/Acquired Immune Deficiency Syndrome
HOPSA	Holy Child Past Students Association



ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
MDAs	Ministries, Departments and Agencies
MPs	Members of Parliament
NCCE	National Commission for Civic Education
NCWD	National Council on Women and Development
NGOs	Non-Governmental Organisations
NR	Northern Region
OAU	Organisation of African Unity
OPCAT	Optional Protocol to the Convention Against Torture
PCA	Parasite Control Association
PNDC	Provisional National Defence Council
PPAG	Planned Parenthood Association
PTA	Parent Teacher Association
SFO	Serious Fraud Office
SG-SSB	Societe' Generale- Social Security Bank
SRH	Sexual and Reproductive Health
SSNIT	Social Security and National Insurance Trust
THUDEG	
/DED	The Human Help and Development Group/German Development Services
TV	Television
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNIDO	United Nations Industrial Organisation
USA	United States of America
VOLPHIG	Volta Physically Disabled Independent Group
WADREC	West African Dispute Resolution Centre
WAJU	Women and Juvenile Unit
WILDAF	Women in Law and Development for Africa



EXECUTIVE SUMMARY

The Commission marked its twelfth year as Ghana's national human rights institution, ombudsman and anti-corruption agency this year. As required by the 1992 Constitution and the CHRAJ Act, [Act 456], this report documents our progress as an institution in the protection and promotion of human rights for the year 2005.

The year witnessed the retirement of Mr. B.K. Opong, Deputy Commissioner, Public Education and Anti-Corruption, and the appointment of Mr. Richard Ackom Quayson, formerly Western Regional Director, as the new Deputy Commissioner.

The year also witnessed the award of an honorary doctorate degree to Mr. Emile Francis Short, the Commissioner and Chair of the Commission, by the prestigious Northwestern University, Evanston, USA, in recognition of his work in promoting human rights, governmental transparency and respect for the rule of law in Ghana.

PROGRAMME OVERVIEW

Highlights of activities reported by the four departments include:

Legal and Investigations

The Commission received 15,749 complaints nationwide, representing an increase of 5.3% over the previous year, 2004. Of these, 12,422, representing 79% of the total number of complaints received in the year, were disposed of. The complaints were categorized into human rights, administrative justice, corruption and other complaints.

Public Education

- The Commission put in place a system to develop and publish its own policy documents on specific human rights issues. The Commission's focus was economic, social and cultural rights, with emphasis on health, education and protection of children's rights.
- The Commission instituted the Annual Human Rights Week to enhance the visibility of the Commission and its work and to deepen mechanisms for accounting to the public.
- Research and monitoring activities for the year included strengthening efforts towards the establishment of an integrated human rights monitoring system, the



development of situational monitoring, prisons and police cell monitoring and a visit to the Gambaga Witches Camp.

- The Commission's work in schools continued with training workshops for selected junior secondary school teachers from all the regions. Further efforts were directed at strengthening existing human rights clubs in schools and establishing new ones.
- The Commission also organized a National Human Rights Quiz Competition for students of second-cycle schools.
- The Commission strengthened its relationships with civil society organizations through quarterly meetings with human rights NGOs. In June, the department collaborated with the Chrismek Foundation and others to commemorate the International Day for the Victims of Torture. Other collaborations produced an annual lecture on strengthening mechanisms for enforcing ESCRs in Ghana, and a workshop on non-custodial sentencing in the criminal justice system.
- During the year, the Commission deepened its relationship with the press, receiving a good amount of media reportage, including a press conference on the high-profile "Hotel Kufuor" case. In December, the Commission collaborated with the Ghana Journalists Association to hold a dialogue with journalists on "Advancing Human Rights, Prospects and Challenges".

Anticorruption

- The Commission upgraded its Anti-corruption Unit to a full department.
- The department took on two high-profile cases, one involving His Excellency J.A. Kufuor, the President of the Republic of Ghana, and the other Dr. Richard Anane, Minister for Road Transport.
- As part of its corruption prevention initiatives, the department continued with consultations on the Guidelines on Conflict of Interest.
- In collaboration with the Ghana Integrity Initiative (GII), the Commission organized a roundtable discussion to provide a platform for stakeholders to analyze, criticise and collate views on the Whistleblowers Bill. CHRAJ submitted a memorandum on the bill to Parliament for consideration.
- In November, the department hosted a three-day international conference on the theme, "The Role of National Human Rights Institutions and the Ombudsman in the Fight against Corruption".
- In collaboration with the Ghana Anti-corruption Coalition, the Commission launched Anti-Corruption Day on 5th December.



State of Human Rights

On 10th December, each year, the Commission issues a report on the state of human rights to commemorate the UN Human Rights Day. The key findings and recommendations in this year's report include:

Dehumanising Cultural Practices

- The Commission was extremely concerned about the continued practice of Female Genital Mutilation (FGM), forced marriages, cruel widowhood rites, Trokosi, trial by ordeal of women suspected of witchcraft and other cruel practices carried out in the name of culture and tradition.

Rights of Women and Children

- The Commission was concerned about the high incidence of violence against women and the increasing neglect of the rights of children in the home.
- The Commission was pleased with the efforts of the Domestic Violence Coalition advocating for the passage of the Domestic Violence Bill and urged the government to pass the bill as a matter of urgency.

Social and Economic Rights

Education

- The Commission believes special attention must be paid to girls in rural communities, child labourers and street children to truly achieve universal access to basic education. It called for transparency and participation by all stakeholders in the disbursement of the capitation grant and for proper monitoring and supervision mechanisms.

Health

- As part of activities marking its 12th anniversary, CHRAJ visited selected healthcare facilities and was concerned about persons, including children, detained for their inability to settle their bills. The Commission called for the National Health Insurance Scheme to be given the needed support to function and for effective monitoring and supervisory mechanisms that would ensure that the poor and the vulnerable are full beneficiaries of the scheme.

Civil and Political Rights

- This year's prisons inspection exercise revealed many areas where Ghanaian institutions fell short of the guidelines prescribed by the UN Minimum Standard



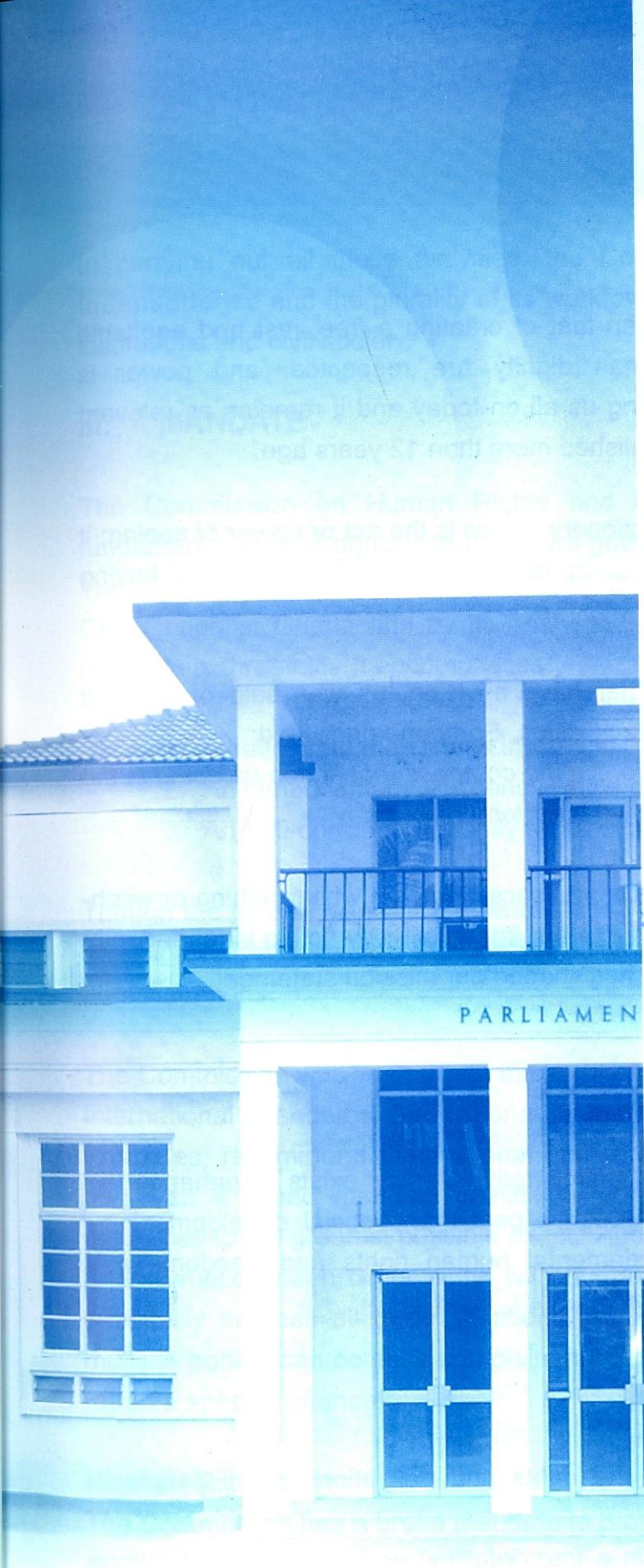
Rules for the Treatment of Prisoners.

- The Commission called for periodic visits to police cells and prisons by members of the Executive, the Legislature and the Judiciary to appreciate the magnitude of the problem.

Corruption

Corruption, whether perceived or real, impacts on human rights. To that extent, the Commission takes corruption prevention very seriously.

- The 2005 Corruption Perception Index released by Transparency International put Ghana 63rd in the world.
- The Commission commended the government for presenting the Whistleblower's Bill before Parliament and for its public education programmes on the new financial management laws. The Commission, however, called on the Government to present the Right to Information Bill before Parliament and explicitly elaborate on its policy of "Zero Tolerance for corruption".
- The Commission also called on the government to resource accountability institutions well and elaborate on its policy of "Zero tolerance for corruption".



PART 1

PART 1: INTRODUCTION TO CHRAJ

1. Vision
2. Mission Statement
3. Mandate
4. Structure
5. Organizational 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 is accountable. This vision is what is spurring us all on today and it 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.

And so we say of leaders that they either have a vision, as was said of our first President, Kwame Nkrumah, or that they lack vision. Someone once said:

"Vision gives purpose somewhere to go. It's the compass that keeps us going in the right direction, the blueprint with which we build tomorrow today."

Our Commission strives to seek redress for grievances, without whitewashing or witch-hunting, 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 to 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
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, it also investigates petitions into the confiscation of properties by the two previous military administrations.

The Commission was vested with this broad and inclusive mandate for several reasons. International standards for national human rights institutions, including the Paris Principles, recommend that national human rights institutions 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. It 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. It 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 programmes. The Commission has the discretion to use a wide variety of methods to achieve this goal, including the use of the mass media, publications, lectures and symposia.

In order to prevent human rights abuses, the Commission monitors the human rights situation across the country. It organizes 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 for 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 Article 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 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” - Article 218(b).

Anti-Corruption:

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 sensitize public officials and the general public to corruption.

Limitations on the Commission’s Mandate:

While no institution, body, or person is excluded from the Commission’s mandate, 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 President's 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 two Deputy Commissioners. Together, the three commissioners constitute the governing body of the Commission.

Supporting the commissioners are departmental directors who have direct responsibility over the functions and operations of the Commission, namely:

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

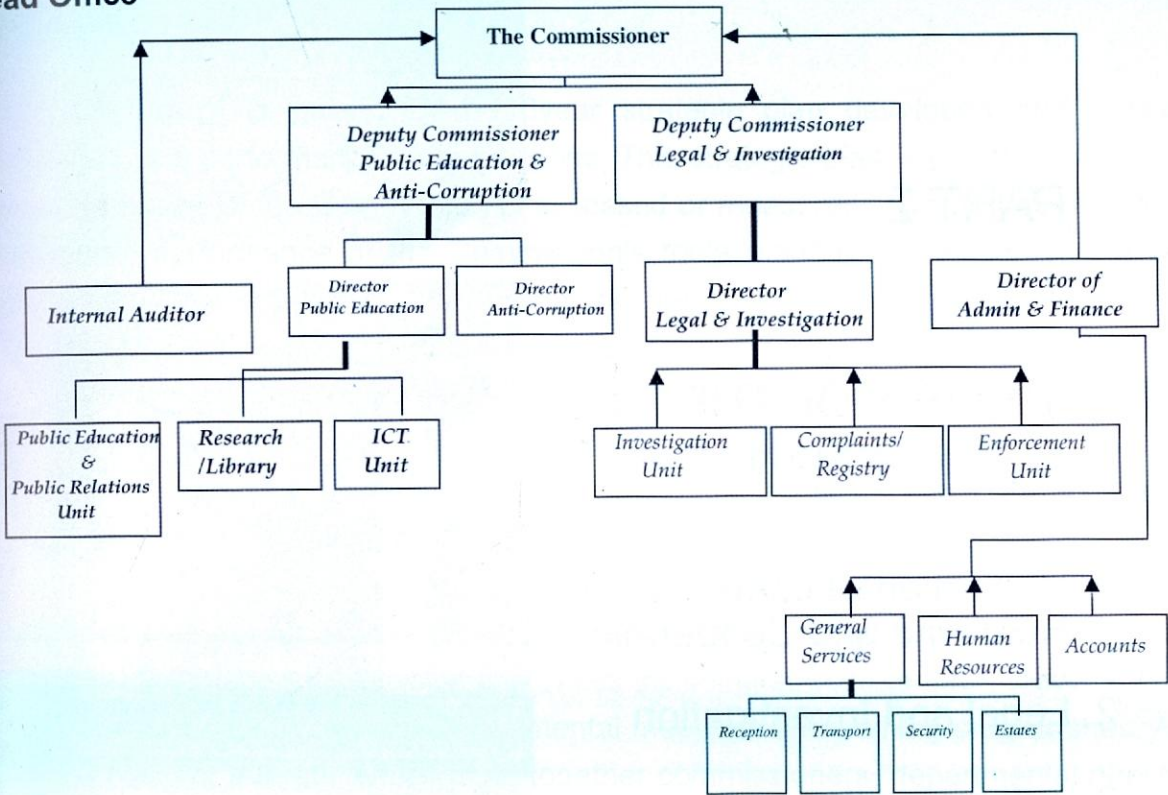
The Commission has branches in the 10 regional capitals. These regional offices coordinate the Commission's work in the administrative regions and supervise the 99 district offices under their respective jurisdictions. In addition, Tema is designated a sub-regional office. This wide coverage is designed to ensure that human rights are brought to the doorstep of people, even in the remotest areas of the country.

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

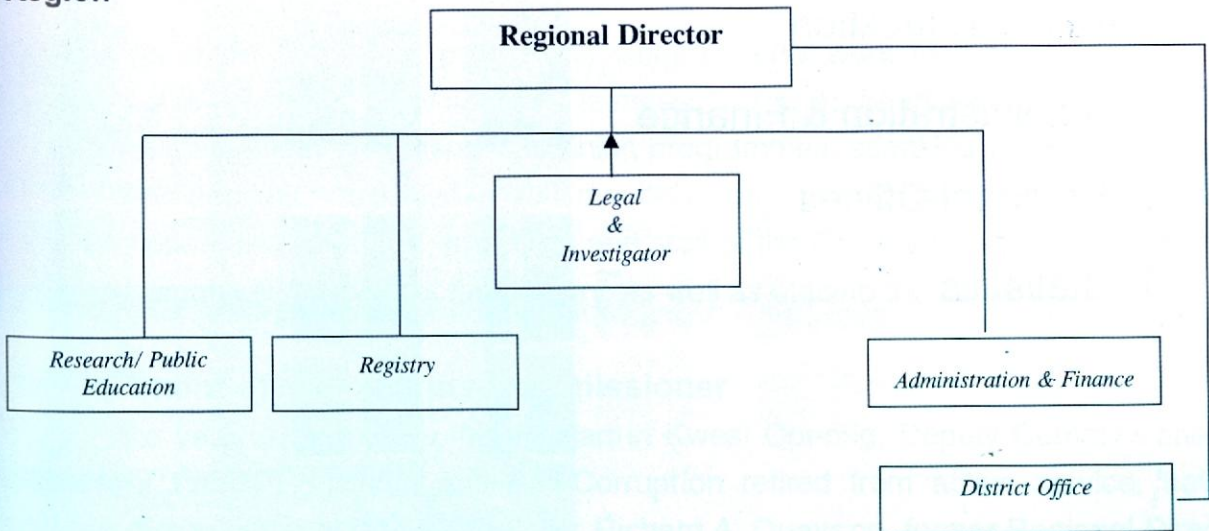


ORGANIZATIONAL CHART

Head Office



Region



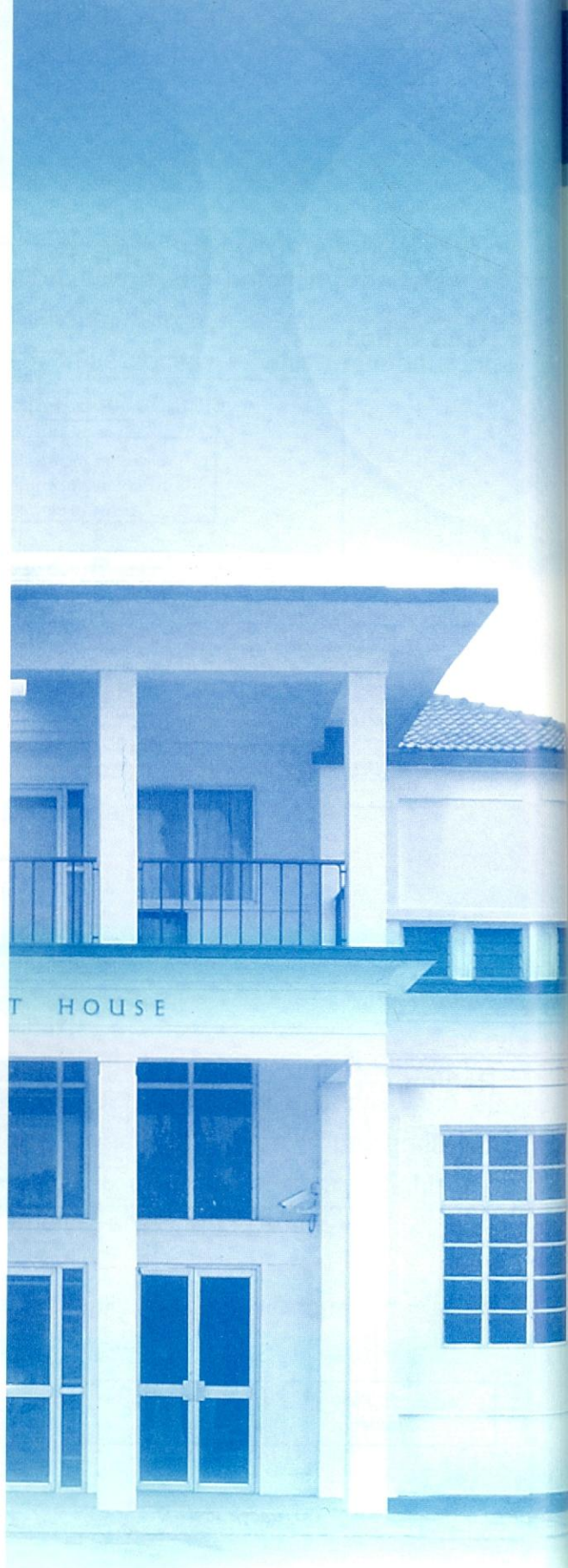
Summary



PART 2

PART 2: REVIEW OF THE 2005 PERFORMANCE

1. Promotion of International Relations and Cooperation
2. Legal and Investigation
3. Anti-corruption
4. Public Education
5. Administration & Finance
6. Regional Offices
7. Statistics





REVIEW OF 2005

INTRODUCTION

The Commission is guided by a 10year strategic plan developed and reviewed annually, in the performance of its functions. This strategic plan is the means by which the performance of the Commission is assessed or measured. This part deals with the programme performance of the Commission's triple mandate in relation to the 2005 programme of work, derived from the strategic plan.

The programmes are organised in accordance with the triple mandate of the Commission, namely, Human Rights, Administrative Justice and Anti-corruption. Four departments run the programmes. These are Legal and Investigations, Anti-corruption, Public Education and Administration and Finance.

To achieve continuous improvement in its performance, the Commission has instituted a number of management tools and activities including structured interactions, monthly management meetings, regular departmental meetings and training programmes. Annual management retreats, which bring together commissioners, departmental directors, regional directors and unit heads, have also been instituted.

It must be emphasised that part of the Commission's work to promote and protect human rights, enhance administrative fairness and promote public service ethics, is done through seminars, workshops, training programmes, speaking engagements, and other public education activities. It also monitors human rights, administrative injustices and corruption. In this regard, members and staff of the Commission acted as resource for many organisations across the country, as well as outside the country.

Appointment of New Deputy Commissioner

During the year under review, Mr. Benjamin Kwesi Oppong, Deputy Commissioner in charge of Public Education and Anti-Corruption retired from active service, having attained the mandatory retiring age. Mr. Richard A. Quays on, former Regional Director in charge of the Western and Central regions, was appointed Deputy Commissioner by the President of the Republic of Ghana on August 3, 2005 to replace Mr. Oppong. This appointment of a staff to this high position, the first ever, served as great morale booster to staff of the Commission.



The Commission wished Mr. Opong a well earned retirement, while welcoming Mr. Quayson to opportunities for accomplishing great things.



PROMOTION OF INTERNATIONAL RELATIONS AND COOPERATION

Chair of CHRAJ Receives An Honorary Doctorate Degree

The Commissioner, Mr. Emile Francis Short, received an honorary doctorate degree from the prestigious Northwestern University, Evanston, USA, in recognition of his work in promoting human rights, governmental transparency and respect for the rule of law in Ghana. In a citation, the university observed that:

“Despite chronic under-funding and the loss of personnel to organizations offering higher levels of compensation, the CHRAJ has admirably discharged its broad mandate of serving as a Human Rights Commission, an anti-corruption unit and an Ombudsman to mediate disputes between Ghanaians and their Government. Since its inception, (CHRAJ) had promoted freedom of expression and combated appalling prison conditions (and) increased government transparency in Ghana; boldly challenging corruption at all levels of government, investigating and ruling on claims against members of parliament, ministers and even the president.”

The Commission is very proud of Mr. Short’s achievement, which is a testimony of the good work the Commission is doing in promoting and protecting fundamental human rights, and promoting good governance in the country.

Visit by Danish Minister

The Danish Minister for Development Cooperation and his entourage paid a working visit to the Commission’s office in Wa in the Upper West Region on 14th April, 2005. The visit formed part of the existing cooperation between the Commission and its development partners.

Conferences/Workshops

1. Regional Workshop on Enhancing the Public Profile of Ombudsman

The Deputy Commissioner [PE/AC], Mr. B.K. Opong, represented the Commission at a Regional Workshop on Enhancing the Public Profile of Ombudsman’s Office in Abuja, Nigeria, from 30th January – 3rd February, 2005.

2. Danish Parliamentary Ombudsman Conference

The Acting Commissioner Ms. Anna Bossman, was invited to Copenhagen by the Danish Parliamentary Ombudsman to participate in the 50th anniversary celebration of the institution of the Danish Parliamentary Ombudsman from 30th March – 2nd April 2005. At a session presided over by the Crown Prince, Ms Bossman delivered a paper on CHRAJ, its history, mandate and achievements. The visit also provided a platform for benchmarking, exchange of experiences, and strengthening of cooperation between the two institutions.

3. International Conference on Corruption

A three-day International Conference on Corruption on the theme, ***“The Role of National Human Rights Institutions and the Ombudsman in the Fight against Corruption”***, was held in Accra, Ghana, from 14th -16th November 2005 at the Alisa Hotel, North Ridge. It was co-organized by the Danish Parliamentary Ombudsman, with support from DANIDA. The Minister for Foreign Affairs and NEPAD, Hon Nana Addo Dankwa Akufo-Addo, opened the conference on behalf of the President of the Republic of Ghana.



Acting Commissioner, Anna Bossman, addressing the conference



Approximately 80 participants attended the conference. The list included participants from the Danish Parliamentary Ombudsman, the Auditor-General of Denmark, the Danish Prosecutor's Office, the South African Public Protector's Office, the Commission on Human Rights and Good Governance of Tanzania (CHRAGG). From Ghana, CHRAJ, the Ministry of Justice and Attorney-General's Department, the Serious Fraud Office (SFO), the Office of Accountability at the President's Office, the Public Services Commission and representatives of anti-corruption agencies in Ghana and civil society organizations and the media.

The objectives of the conference included:

- Deepening understanding of the role of national human rights institutions and the offices of the Ombudsman in the promotion and protection of human rights, administrative justice and combating of corruption;
- Developing practical strategies for the promotion and protection of human rights, administrative justice and good governance, drawing from the experiences of institutions in Denmark, Tanzania, South Africa and Ghana;
- Stimulating the exchange of ideas and experiences and fostering closer collaboration between the host institution and its international partners.



Participants at the official opening of the conference



The participants at the conference called on Ghana's Parliament to ratify two important anti-corruption conventions: the UN Convention Against Corruption and the African Union Convention on Preventing and Combating Corruption and Related Offences. Indeed, in December 2005, Ghana's Parliament ratified both conventions. They also urged Parliament to enact the Whistleblower's Bill that was laid before it into law, taking into consideration views expressed on it by the relevant stakeholders and the Ghanaian public.

They endorsed efforts to create a supportive and safe environment for citizens, civil servants and employees who report corrupt practices.

Participants again urged the Government of Ghana to put before Parliament the Right to Information Bill which has been on the drawing board for some time now for enactment into law. They also called on the government to undertake to:

- elaborate on and publicise the policy of Zero Tolerance for Corruption to enable stakeholders to make an input into the policy;
- ratify the UN and AU Conventions Against Corruption;
- review anti-corruption laws with the aim of closing all the loopholes in those laws and bringing them into conformity with current strategies for fighting corruption;
- strengthen anti-corruption institutions in Ghana, making available adequate resources for investigation and prosecution of corruption offences, as well as for international cooperation in corruption cases; and
- provide attractive salaries and generally make conditions of service of personnel attractive to enable them to make a decent living from their regular work, as an important precondition for successfully combating corrupt practices among anti-corruption agencies.

Participants were convinced that rendering assistance to one another through the exchange of their experiences and best practices would improve the effectiveness of anti-corruption strategies, both national and international. They were deeply conscious of the need to improve cooperation relating to the repatriation of funds derived from acts of corruption.

They commended DANIDA for supporting the conference and they pledged to continue to collaborate with the Commission in its efforts to combat corruption in Ghana.



International participants included the following:

S/No	Name	Organisation/Country	Position
1	Hon Adv. Lawrence Mushwana	Office of the Public Protector, Republic of South Africa	Public Protector
2	Mr. Flemming Denker	Office of The Public Prosecutor for Serious Economic Crime, Copenhagen, Denmark	Director
3	Professor Hans Gammeltoft-Hansen,	Danish Parliamentary Ombudsman Office	Ombudsman
3	Professor Hans Gammeltoft-Hansen,	Danish Parliamentary Ombudsman Office	Ombudsman
4	Jens Olsen	Danish Parliamentary Ombudsman office	International Relations Director and Chief Legal Adviser
5	Lisbeth Adserballe,	Danish Parliamentary Ombudsman office	Legal Adviser
6	Christian Møller,	Danish Parliamentary Ombudsman office	IT Manager
	Mr. Erik Dorph Sorensen	National Audit Office, Denmark	Director of Financial Audit
7	Hon. Justice Robert Habesh Kisanga	CHRAGG, Tanzania	Chair
8	Gad John K. Mjemmas	CHRAGG, Tanzania	Executive Secretary,
9	Ms. Mary Massay	CHRAGG, Tanzania	Director for Legal Services

4. Roundtable Conference on National Human Rights Institutions

The Deputy Commissioner [PE/AC], Mr. Richard Quayson, represented the Commission at a Roundtable Conference on **National Human Rights Institutions and Economics, Social and Cultural Rights [ESCRs]** in New Delhi, India, from 29th-1st December, 2005. The conference brought together chairpersons and commissioners of national human rights institutions to provide and exchange views and experiences on the enforcement of ESCRs.



Hans-Gammeltoft-Hanson & Wife
Danish Parliament
Ombudsman



Karina Johansen
1st Secretary,
Royal Danish Embassy,
Accra



Gad John Miemmas
Executive Secretary
Commission on Human
Rights & Good Governance,
Tanzania (CHRAGG)

LEGAL AND INVESTIGATIONS DEPARTMENT

INTRODUCTION

The department investigates and resolves complaints of human rights violations and administrative injustice lodged with the Commission. It uses various investigative tools and mechanisms such as mediation, negotiation, and the panel hearing process to resolve complaints.



Ms Abena Bonsu
Director

Apart from handling litigation on behalf of the Commission and enforcing the commission's decisions in court, the department also offers legal assistance to the Commission and undertakes legal research for it. It is the department's task to compile and update records relating to all cases investigated by the Commission at the headquarters, regional, sub-regional and district offices. Additionally, the department helps to select topics for Commission-selected investigations and assists the Commission in implementing policy changes.

COMPLAINTS

The Commission received 15,749 complaints nationwide, representing an increase of 5.3% over the previous year. For the same period, the Commission disposed of 12,422 cases, representing 79% of the total number of cases received during the year. The head office received 867 complaints and disposed of 194 of them.

The Commission declined investigation in a number of complaints which were not made in good faith or which were vexatious, trivial and frivolous, or revealed that the complainants did not have sufficient personal interest in the matter. Table 1 below shows the summary of cases for the year under review.



Table 1

Status	Cases Received	Closed Complaints
<i>Headquarters</i>	867	194
<i>Ashanti Region</i>	1,803	1,730
<i>Western Region</i>	1,477	1,498
<i>Eastern Region</i>	2,300	855
<i>Central Region</i>	1,485	1,400
<i>Volta Region</i>	1,621	1,189
<i>Brong-Ahafo Region</i>	4,143	3,992
<i>Greater Accra</i>	500	557
<i>Northern Region</i>	763	503
<i>Upper East Region</i>	339	305
<i>Upper West Region</i>	122	109
<i>Tema</i>	329	90
Total	15,749	12,422

COMPLAINT HANDLING

The Commission is empowered under Section 7 (1) (a) – (c) of its enabling statute, Act 456, to investigate complaints of violation of fundamental rights and freedoms, administrative injustice, and corruption. In addition, the Commission has the mandate to investigate complaints relative to Chapter 24 of the 1992 Constitution. The Commission's mandate to investigate is invoked mainly through complaints that are lodged with it or allegations or reports brought to the attention of the Commission.

Complaints lodged with the Commission take two main forms, namely, verbal/oral and written [including electronic mail – e-mail – and fax]. Complaints may be lodged with the Commission's head office, regional or district offices.



Complaints lodged with the Commission are dealt with in accordance with procedures enunciated in the Complaints Procedure Rules, C.I. 7. In addition, the Commission is guided by standard procedures developed by national human rights Institutions, as well as Ombudspersons (administrative tribunals) aimed at enhancing best practices.

Verbal/Oral Complaints

All verbal/oral complaints received by the Commission at the Head Office are dealt with by the Complaints Unit. An Intake Officer receives the complaint by reducing such complaint into writing. The Intake Officer records the particulars of the complainant, in particular his/her name, address, age, gender, educational background, etc., the nature of the complaint, remedy sought, as well as particulars of the respondent.

The information is fed into a computerized case management system (ECMS) by the Intake Officer. The ECMS generates and assigns a case/file in respect of the complaint. The Intake Officer thereafter refers the complaint to the Head of the Complaints Unit for vetting to determine, among others, whether the complaint received: (a) falls within the Commission's mandate; and (b) merits investigation, summary dismissal or referral to other institutions outside the Commission.

The Head of Complaints, having made the above determination, refers the complaint to the Head of Legal Registry for registration. The complaint is subsequently referred, depending on its nature, to the Investigations Unit or Anti-Corruption Department for investigation and necessary action.

In the case of the regional and district offices of the Commission, verbal/oral complaints are received at the registries. They are reduced into writing and forwarded to the respective regional or district directors for appropriate action.

Written Complaints

Written complaints lodged with the commission may be addressed to the head office, regional or district offices of the Commission. Upon receipt, the complaints are processed in much the same way as the oral/verbal complaints for investigation.

Investigating Complaints

On receipt of complaints from the Head of the Complaints Unit, the Case Assignment



Officer assigns a case officer to carry out investigations into the allegations made. In assigning or appointing a case officer to investigate a complaint, the Case Assignment Officer takes into account the nature of the complaint and the issues raised therein, the sensitivity/complexity of the issues and the experience of the case officer. The investigations may take the form of preliminary investigations to establish whether there is substance or otherwise in the allegations made.

The Commission has, over the years, encouraged the resolution of most of complaints lodged through the mechanism of alternative dispute resolution (ADR), especially mediation and conciliation. Case officers can advise recourse to mediation to resolve complaints at any given stage of their investigations. All complaints investigated conclude with investigation reports or memoranda of agreement (specific to mediated complaints). In cases where complaints are investigated through formal proceedings or panel hearing, a decision is rendered after the hearing.

Procedure After Investigation

In accordance with sections 18 (1) and 18 (2) of Act 456, the Commission may, after investigating complaints, make appropriate recommendations in respect of complaint. Furthermore, if a party has not complied with the Commission's recommendations within three months after the Commission has issued its decision, the Commission may seek enforcement of its recommendations in court.

ENFORCEMENT OF CASES

In 2005, the department designed guidelines for the enforcement of the Commission's cases in court. This introduced greater uniformity in the procedures that informed when cases should be enforced in court.

The guidelines include:

- the complainant should write to inform the Commission of the non-compliance with the Commission's decision by the respondent;
- the Legal Officer's (or Regional Director's) opinion on the soundness of the case for enforcement should be submitted, having regard to mandate, time limitation and prospects of success of the case on its merits;
- upon receipt of the written request for enforcement, the Commission will write to



the respondent to request compliance within a specific period;

- if the respondent fails to comply within the time specified, the Legal Officer (or Regional Director) may, as appropriate, issue a subpoena for the respondent to appear before the Commission;
- where the respondent is unable to show good cause for non-compliance with the decision, the Commission may go to court to enforce its decision.

By the close of the year, the Legal and Investigations Department had commenced enforcement proceedings in the following cases in Court:

- Case No. CHRAJ 3803/03 CHRAJ V. Bank of Ghana : This was a case in which the Commission had recommended reinstatement and payment of all salaries and entitlements of a complainant who had been arbitrarily dismissed.
- Case No. CHRAJ 582/96 CHRAJ V. Ghana Commercial Bank : This was a case in which the Commission had recommended payment of all entitlements to a complainant with interest at the bank rate for unfair treatment.
- Case No. CHRAJ 210/96 CHRAJ V. G.E.S : This was a case in which the Commission reversed a retroactive decision by the respondent to dismiss the complainant and recommended that the respondent re-instate him without loss of salary or other entitlements.
- Case No. CHRAJ 478/99 CHRAJ V. SG-SSB : This was a case in which the Commission recommended payment of severance pay or the difference in salary and other conditions of service of employees who had been off-loaded by the respondent to another company with different conditions of service.

EXTENDED CASE MANAGEMENT SYSTEM (E-C.M.S.)

In 2005, the Case Management System which was in use in the department to track cases electronically was replaced by the Extended Case Management System



(e-C.M.S.). As the name implies, the e-C.M.S. is an expanded and modified version of the system already in existence. It is expected that the e-CMS will ensure a more effective and efficient management of cases and reduce the challenges associated with the previous system.



ANTI-CORRUPTION DEPARTMENT

INTRODUCTION

Corruption takes several forms and forms of corruption keep on changing, posing serious challenges to society. To this end, the 1992 Constitution mandated the Commission to investigate alleged or suspected corruption by public officials. To prepare the Commission to meet these challenges, it upgraded the Anti-corruption Unit to a departmental status during the year under review.

In 2005, the Anti-corruption Unit of the Commission was upgraded to the status of a department to further augment its capacity to execute its anti-corruption mandate. Officers of various categories were assigned to serve in the department. The Commission also designated anti-corruption officers in all the regional offices of the Commission to specifically handle anti-corruption matters in the regions.



Charles Ayamdo
Deputy Director

STRATEGIC PLAN

The strategic objectives of the department adopted for implementation within the period 2005-2007 were:

- To raise public awareness of the evils and costs of corruption and to promote the ethos of anti-corruption, integrity and transparency;
- To effectively investigate complaints and allegations of corruption;
- To increase transparency and accountability in public financial matters, including public contract awards, procurement and financial transactions of public institutions;
- To ensure compliance with the Code of Conduct for Public Officers as contained in Chapter 24 of the Constitution;
- To promote fairness and transparency in political party campaigns and other activities of political parties;
- To enhance capacity of civil society and civil society organizations [CSO/media/citizenry] to contribute to curbing corruption in Ghana.



OVERVIEW OF ACTIVITIES FOR THE YEAR

In line with the strategic objectives and plan of action for the department, the Anti-corruption Department made modest achievements within the period under review. These achievements were in the areas of capacity building, investigations, ethics, infrastructural development and media relations, among others.

Capacity Building

The department benefited from training in corruption organised by the Crown Agents, UK, on the theme, "Enhancing Critical Skills in the Fight against Corruption." The training, which attracted participants from anti-corruption agencies from all over Africa, covered the economic impact of corruption on economies, money laundering and international cooperation, political will and the UN Convention Against Corruption (UNCAC) and the Africa Union Convention on Preventing and Combating Corruption and Related Offences.

With the assistance of DANIDA, computers and other investigative gadgets were procured for the department.

Investigations

On its own initiative, the department commenced preliminary investigations into allegations of corruption and conflict of interest against the President, His Excellency J.A. Kufuor, and Dr. Richard Anane, a Minister of State. Seven other cases involving allegations of corruption were received and investigated in the year.

i) President J.A. Kufuor

The allegations concerned the acquisition of a hotel building (the hotel) being constructed close to the President's private residence. The allegations, among other things, were that the President acquired the hotel from one Mr. Anthony Saoud, a Ghanaian businessman, at a cost of \$3 million, and registered the said hotel in the name of his son, Mr. John Addo Kufuor (also known as Chief Kufuor). It was also alleged that one Miss Gizelle Yazji, an expatriate, then in Ghana, assisted the President in acquiring the hotel.

The Commission, having considered the nature and circumstances of the allegations, determined that it had the mandate to investigate the allegations of corruption and



conflict of interest made against the President. It, therefore, began investigations under Article 218(e) of the Constitution and Section 7(1) (e) and (f) of Act 456 which established, empowered and regulated the functions of the Commission.

The issues the Commission set out to investigate included:

- i. Whether the President, Mr. J.A. Kufuor, acquired the hotel being constructed on plots numbered 237 and 238 situated close to his private residence at the Airport West Residential Area in Accra from one Mr. Anthony Saoud, a Ghanaian businessman, at a cost of \$3 million and registered the said hotel in the name of his son, Mr. John Addo Kufuor (also known as Chief Kufuor);
- ii. Following from (i) above, whether Chief Kufuor served as a front for the President.
- iii. Whether the President used national security considerations/agents and arm-twisting tactics to coerce Mr. Saoud to sell the Hotel to him.
- iv. Whether Miss Gizelle Yazji assisted in the acquisition of the hotel, and if so whether she did so on behalf of the President.
- v. Whether the President abused his office or was involved in any improper conduct or improper influence in the acquisition of the hotel.
- vi. Whether there was any evidence of corruption against the President with regard to the acquisition of the hotel
- vii. Whether the President was in breach of the constitutional provisions relating to conflict of interest, in particular Chapter 24.

At the time of this report, investigations into the allegations were still ongoing.

ii) Dr. Richard Anane

The Commission completed preliminary investigations into allegations of corruption, abuse of office and conflict of interest against Dr. Richard Anane, the Minister of Roads Transport. The minister had previously served as Minister for Health.

The allegations included the following:

1. That Dr. Anane used state money to meet the personal expenses of himself and his friend, Alexandria O'Brien, when he allegedly:

- billed both the Ghana Civil Aviation Authority and the Ministry of Roads and Transport (two state institutions) for expenses incurred by Ms. O'Brien and her son while he was on an official visit to Canada;



- caused Ghana Airways to transfer money to Ms. O'Brien for the upkeep of her son in the USA.

2. That Dr. Anane had put himself in a position where his personal interest conflicted with the performance of the functions of his office:

when he entered into a personal intimate relationship with Ms. O'Brien at a time that he was representing the State to enter into an MOU with her company, World Health Monitor Programme, to undertake an HIV/AIDS project in Ghana.

It was alleged that the directors of the company took a serious view of the relationship between Ms. O'Brien and Dr. Anane and made a report to the shareholders of the company, which withdrew from the project, causing the project to collapse.

The investigation was **not** about the alleged **extra-marital affair** between the Minister and one Alexandra O'Brien but **allegations of corruption, conflict of interest and abuse of power.**

Full-scale investigations into the allegations were to commence in 2006.

iii) Appiah Ampofo V. CHRAJ

In the year under review, the Supreme Court gave a decision on the case between Mr. Appiah Ampofo and the Commission.

In 2002, the Commission had made adverse findings against Mr. Appiah Ampofo in **Case No. CHRAJ/195/2001/1319**, involving the CRUSADING GUIDE and Mr. Samuel Appiah Ampofo.

The Crusading Guide, a national newspaper, had alleged that the respondent, a former National Insurance Commissioner, had received a bribe of US\$96,500.00, as commission for playing a role in the change of insurance brokers for Ghana Airways, whose brokers were Bowring.

The investigation was conducted by a panel chaired by the commissioner, with one senior legal officer and one principal investigator of the Commission as members.



On 5th April, 2002, the Commission found against the respondent, deciding that he had received the money as a bribe, even though the respondent contended that the money he had received was a gift. The Commission directed the respondent to return the money to government chest. The Commission also recommended that he be prosecuted and disqualified from holding public office.

Before the Commission could take action to enforce its decision, the respondent instituted an action in the High Court for a determination, among others:

- (i) *whether or not the defendant (the Commission) was properly constituted when it purported to investigate the matters concerning the plaintiff;*
- (ii) *Whether or not by reason of (i) the defendant lacked jurisdiction to adjudicate the matters affecting the plaintiff.*

The High Court judge held that two of the issues raised by Mr. Ampofo (the plaintiff) called for an interpretation of Article 216 of the Constitution and the determination of the constitutionality of C.I. 7. He, therefore, referred the issues for the determination of the Supreme Court under Article 130 (2) of the Constitution.

The Supreme Court held, among others, that:

“... the Commission should be viewed as a particular kind of corporate entity comprising the Commissioner and two deputy Commissioners and the staff employed by them to assist them in carrying out the functions of the Commission. Accordingly, references to the Commission should be interpreted as references to this corporate entity, which may act through the Commissioner, the deputy commissioners or any duly authorized employee of the Commission...”¹

[The case is reported in full in Part 4 of this report]

PREVENTING CORRUPTION

In the year under review, the department continued working on the Guidelines on Conflict of Interest, which started in 2004. It organised further consultations with members of key institutions in the country as follows:

¹ APPIAH AMPOFO V. THE CHRAJ (unreported) Ref. No. J6/3/2004, dated 20th July 2005.



- i. One-day workshop at the Volta Hotel, Akosombo, for members of the Ghana Anti-corruption Coalition(GACC)
- ii. One-day workshop at the M-Plaza Hotel, Accra, for chief directors of ministries, departments and agencies (MDAs), and
- iii. One-day workshop at the British Council Hall, Accra, for 18 labour unions of Ghana.

Each of these consultations provided a platform for the various groups to critique, analyze and make input into the development of the guidelines. The consultations also served to create awareness and understanding of conflict of interest and related issues.

Participant-organisations at these consultations, having appreciated the benefits of those consultations, in turn organised workshops to educate their employees on the subject matter. The department served as resource for these workshops.

Conference on Corruption

As mentioned elsewhere, the department coordinated the organisation of a three- day international conference on corruption on the theme, "***The Role of National Human Rights Institutions and the Ombudsman in the Fight against Corruption***" in Accra from 14th -16th November 2005 at the Alisa Hotel, North Ridge.

The conference attracted approximately 80 participants, including the Danish Parliamentary Ombudsman, the Auditor-General of Denmark, the Public Protector of South Africa, the Chair of CHRAGG, Tanzania, the Commissioners of CHRAJ, Ghana, the Deputy-Attorney General of Ghana, staff of the Commission, the Office of Accountability at the President's Office, the Public Services Commission and representatives of anti-corruption agencies in Ghana and civil society organizations.

Anti-Corruption Day and Mainstreaming Anti-Corruption Activities into the Commission's Activities

The Department launched the Anti-corruption Day on 5th December, in collaboration with the Ghana Anti-corruption Coalition and other stakeholders. The day formed part of activities marking the 2005 Human Rights Week. At a press conference to mark the day, the coalition urged the government to consider state funding of political parties as a means to curb corruption in political party activities.



Unlike previous reports, the 2005 State of Human Rights Report issued by the Commission on Human Rights Day, 10th December, had a section dedicated to corruption in Ghana. A section of the Commission's Library has also been dedicated to literature on corruption and related matters for use by the Commission and the general public.

The department again participated in a photo exhibition organised by the Commission in October 2005 to mark the 12th anniversary of the establishment of the Commission.

Legislative Watch

In the year under review, the government laid before Parliament a Whistleblower's Bill which seek to provide for the manner in which individuals may, in the public interest, disclose information that relates to unlawful, corrupt or other illegal conduct in the country. The bill aims at ensuring that persons who made the disclosures are not subjected to victimization. It also provides a system for victims who make disclosures to receive monetary compensation, where applicable, from a Fund established specifically for the purpose.

The Commission found that while the bill can contribute significantly to the promotion of good governance and the growth or transparency and accountability in public and private institutions, there were a number of issues in it that needed to be addressed.

Consistent with its policy to collaborate with other anti-corruption agencies in the fight against corruption, the department, in collaboration with the Ghana Integrity Initiative (GII), organized a roundtable discussion to provide a platform for the stakeholders in the fight against corruption to thoroughly analyze, critique and collate views on the Whistleblower's Bill which was laid before Parliament.

At the first roundtable of stakeholders, a committee was established to make concrete proposals to Parliament. The committee was made up of a representative each from the Commission, the Center for Democratic Development, the Serious Fraud Office, the Ghana Integrity Initiative and the Center for Public Interest Law.

Views of stakeholders were collated and the Commission submitted a memorandum on the bill to Parliament.

The stakeholders took exception to Section 8 of the Bill. It provided that a report on



investigations shall be submitted to the Attorney-General for directives immediately the investigations are completed. On receipt of the report, the Attorney-General may accept the recommendations contained in the report and act on it, ask for further investigations by the same person or institution that conducted the investigations or by some other person or institution, or reject the report and the recommendations for stated reasons which shall be communicated to the investigator.

It was the view of the stakeholders that this provision has the potential of undermining the independence of some of the institutions, namely, CHRAJ, the Media Commission, and contradicts the Constitution. It recommended that an additional section (10)(2) be inserted to read: "Notwithstanding Section 10(1), persons who by law are not subject to the direction and control of any person or body, should not be required to report to the AG on its investigations"

On the sources of funding for the Whistleblower's Fund, it recommended that the primary source of funding for such an anti-corruption law should be monies allocated from state funds and that an independent board be established to manage the Whistleblower's Compensation Fund, which it is proposed to establish.

Media Monitoring and Relation

The department monitored media reports on corruption as part of its general activities to detect corruption prone areas and for follow up where it was warranted. It analysed over 100 of such reports, which related bribery, capital flight, fraud, misappropriation, stealing, conflict of interest and abuse of power.

The reports showed that the interest of the media in reporting corruption in the year was higher than previous years. Indeed, the investigations into allegations of corruption and conflict of interest against the President and the Minister for Road Transport were as a result of this activity.

The department, in collaboration with the Public Relations Unit of the Commission, organised press briefing and conferences to update the media on its anti-corruption mandate and to address difficult but sensitive questions of public interest that arose from time to time, especially in high profile cases, including investigations involving the President.

In the investigations involving the President, media publications attributed to various



sections of the public, including some parliamentarians, suggested that institutions like the Serious Fraud Office (SFO) and CHRAJ were not independent enough and could not be relied on to be impartial in conducting investigations involving the President. The Minority in Parliament, for instance, had alleged that the Commission was not independent and that it could not investigate the President. Others said that the Commission was not properly constituted, in the absence of Mr. Emile Francis Short, the Chair of the Commission, to investigate the matter. The media also wanted to know whether one Gizelle Yazji, alleged to have damning evidence against the President, was willing to cooperate with the Commission in the investigations.

The Commission addressed these concerns at a press conference in July. It informed the media that there was no basis for saying that the Commission was not independent. The Commission had demonstrated its independence from inception, including taking on corruption cases involving Ministers of State. Indeed, the Commission was acclaimed to be one of the best human rights institutions in Africa and many human rights institutions looked to it for guidance.

The Commission explained that its power to investigate allegations of corruption and conflict of interest extended to all public officials, including the President. It also informed the public that it had no problem if Parliament wanted to investigate the President, but that Parliament's investigation would not stop the Commission from carrying out its own investigations, in accordance with its constitutional mandate.

On the issue that CHRAJ was not properly constituted to investigate the allegations in the absence of its chairperson, the Supreme Court's decision in Appiah Ampofo vs. CHRAJ (20th July 2005) put the matter to rest when it held that the Commission did not require the TRINITY (i.e. commissioner & 2 deputies) to carry out its functions.



Charles Ayamdoo, Deputy Director, Anti-Corruption, Anna Bossman, acting Commissioner, Duke John Hammond, Director, Administration and Finance at a press conference

CONCLUSION

Despite shortage of staff, the department was able to investigate high profile cases, continue with its consultations on the Conflict of Interest Guidelines, facilitate the organization of an international conference on corruption, and undertake many other activities in pursuance of its mandate

It was noticed within the year that there was some appreciable level of awareness of the evils of corruption in Ghana. The population was becoming more intolerant and speaking out against corruption more than ever before. Additionally, the media was becoming bolder in reporting instances of or speaking against corruption and urging the Commission to investigate the allegations.



PUBLIC EDUCATION DEPARTMENT

INTRODUCTION

The Public Education Department continued with its responsibility to raise the level of knowledge of human rights, monitor and assess the observance of human rights in Ghana and project the lead role of the Commission in the promotion, protection and enforcement of fundamental human rights and freedoms in Ghana. It is the driving force behind the Commission's promotional activities.



Mrs. Chris Dadzie
Director

The Commission uses extensively the electronic and print media for the dissemination of human rights information. It also conducts workshops, seminars, lectures, conferences, debates, quizzes, and training programmes to educate the public. Finally, it adopts what has been described as “outreach programmes” to provide human rights education for schools, faith-based groups or organizations, rural communities, fishing communities, markets, etc.

In the reporting year, the department coordinated over 1,500 education-related activities through the Commission's regional and district offices throughout the country. In addition, the department coordinated a number of monitoring activities, including the compilation of the State of Human Rights Report for 2005.

HUMAN RIGHTS THEMES/FOCUS AREAS

This year, the Commission established a system by which it could effectively develop and publish its own policy statements on specific human rights issues. The system was implemented to provide a more sustainable basis for monitoring the government's commitment to the implementation of constitutional obligations and human rights. The programme would thus present a clear outlook on human rights issues, set up measurable guidelines for monitoring all agencies in relation to each field and set benchmarks for the Commission's own work. The chosen thematic area for the Commission's current focus was economic, social and cultural rights, with an emphasis on health and education and child rights.



Human Rights Week

To enhance the visibility of the Commission and its work and strengthen its interaction with the public, the commission introduced the “Human Rights Week” this year to showcase the Commission, its activities and its mode of operations.

The “Human Rights Week” is a week-long event that climaxes on the UN Human Rights Day on December 10 when the Commission releases its report on the state of human rights in Ghana. On this day, the Commission presents a synopsis of the human rights situation in Ghana and advocates the ratification of relevant international and regional instruments. The “Human Rights Week” offers a platform for the general public to audit the work of the Commission. It also helps to make the Commission more accountable to the public.

Internal Training

The Commission intensified its internal training for staff on a variety of human rights issues during the year under review. The Commission carried out a number of training activities aimed at teaching staff more about human rights principles, and exposing them to the practical aspects of grass roots public education. Emphasis was placed on the acquisition of knowledge and skills in the application of human rights educational methodology and the use of the most beneficial aids.

RESEARCH AND MONITORING

Human Rights Monitoring System

Over the last couple of years, the Commission has developed a structured system for human rights monitoring. Workshops were organized to provide relevant training for senior officers from the head, regional and district offices on how to use the system. Regional and district offices are required to identify and collaborate with relevant institutions, especially NGOs focused on human rights and development programs, to acquire authentic information on the human rights situation in their areas. For ease and efficiency in the recording and transmission of information, formats and questionnaires for monitoring and reporting on the state of human rights have been provided by the Commission’s offices.

Situational Monitoring

In 2005, the department focused on some thematic areas to initiate situational monitoring by the Commission’s officers. The thematic areas that engaged the attention



of monitors were dehumanizing cultural practices, rights of vulnerable persons, economic, social and cultural rights, rights of persons in conflict areas, and environmental rights.

Prisons and Police Cells Monitoring

The Commission has, since 1995, been working to ensure that the fundamental human rights of prisoners and suspects are respected. In the year under review, the Research Unit developed standard formats for monitoring police stations and prisons to ensure uniformity in monitoring data that is collated across the country. Based on the standard format, questionnaires and other monitoring tools were administered in police cells and prisons nationwide.

Visit to Gambaga “Witches Camp”

The Department, with the support of the Northern Regional Directorate of the Commission, visited the Gambaga Witches Camp to assess the conditions under which women accused of witchcraft and forced to leave their homes lived. The findings of the visit would assist in preparing indicators for monitoring and reporting on the human rights situation in these camps and to provide direction for making recommendations that address this cultural problem.

SCHOOLS PROGRAMME

Human Rights Training for GES Teachers

Since 2003, the Commission has been engaged in a programme of activities, in partnership with the Ghana Education Service (GES), to strengthen the capacity of Social Studies teachers and tutors in training colleges to carry out human rights education in schools.

This year’s programme involved a training of trainers workshops for selected junior secondary school teachers from all 10 regions to enable them to train other teachers in human rights education. The overall objective is to develop the human resource for human rights education within the school curriculum.

Human Rights Clubs

Over the past years, the Commission has encouraged the formation of human rights clubs in second-cycle schools to aid the promotion of human rights learning in schools.



In the year under review, efforts were made to strengthen existing clubs and to encourage the establishment of new ones.

National Human Rights Quiz

This year, the Commission introduced the national human rights quiz as one of the measures for encouraging the learning of human rights in schools. The competition was organized in three stages: regional, zonal and national. St. James Seminary School emerged the overall winners, with Adisadel College, Ghana Secondary School and Pope John Secondary following in that order. Prizes were awarded to outstanding contestants at each stage. The overall winner received a desk top computer and accessories, while the runners-up received television sets.

COLLABORATION WITH OTHER ORGANISATIONS

The Human Rights NGO Forum

The Commission continued to host the NGO forum every quarter for NGOs focused on human rights and development work. The forum comprises an average of 30 organisations and includes organisations such as the Ghana Society for the Disabled, Amnesty International, Help Age Ghana, International Needs and Youth for Human Rights International. It provides a platform for networking, information sharing, collaborative work and capacity building in human rights work, especially for smaller organizations.

The forum, facilitated by CHRAJ, meets once every quarter to discuss monitoring and action plans, organize training workshops to educate members and have general discussions. Membership is open to all human rights NGOs which are interested in advocating the cause of the vulnerable and abused in society, and who are working to enhance the promotion of fundamental human rights and freedoms of all persons in the country.

International Day in Support of Torture Victims, June 26, 2005

The department collaborated with the Chrismek Foundation and other members of the NGOs forum to commemorate the International Day for the Victims of Torture. The programme focused on detention centres, mob violence and maltreatment of elderly women who are accused of being witches. Participants advocated vigorous human rights education geared towards promoting a culture of non violence and respect for the rights of all persons in the country



Participants also urged the government to ratify the Optional Protocol to the UN Convention against Torture which was adopted on December 18, 2002 by the UN General Assembly.

Annual Human Rights Lectures

In conjunction with the Ghana Bar Association (GBA) and the Commonwealth Human Rights Initiative (CHRI), the Commission instituted the Annual Human Rights Lectures to highlight issues on economic and social rights and to highlight the mechanism for effectively enforcing these rights. The first set of lectures was delivered in July on the theme *“The Situation of Human Rights in Ghana: Assessing Trends from 2000-2004.”*

Distinguished speakers included: Ms. Anna Bossman, acting Commissioner of CHRAJ, Mr. Sam Okudzeto, Chairman of the International Advisory Commission, CHRI; Dr. Ken Attafuah, Head of Governance School, GIMPA, and Mr. Nii Osah Mills, Chairman of the Human Rights and Legal Aid Committee, GBA.

The acting commissioner used the forum to call on Parliament and the Executive to expedite the passage of the “Freedom of Information Bill”.

Although participants commended the modest achievements made, they expressed serious concerns about the congestion in detention facilities and recommended the introduction of a comprehensive non-custodial sentencing policy to help address the congestion in the country’s police cells and prisons.

Workshop on Non-Custodial Sentencing in the Criminal Justice System

In October, the Commission collaborated with the Centre for Democratic Development (CDD-Ghana) to hold a two-day workshop in Accra on the theme: *“Non - Custodial Sentencing in Ghana’s Criminal Justice System – Utilizing the Opportunities of Existing Framework, Processes and Programmes.”*

The workshop examined prospects for the integration of non-custodial sentencing in Ghana’s criminal justice system. It was observed that the existing framework for non-custodial sentencing in Ghana was inadequate to meet the challenges of the criminal justice system. The workshop explored opportunities to move forward the process for implementing non-custodial sentencing in Ghana.

Participants were drawn from the security agencies, the Attorney-General's Department, human rights NGOs, the media and the Department of Social Welfare.



Some Participants at the Non-Custodial Sentencing Workshop

Internships

During the year, the department hosted foreign interns from Canada, USA and Germany, particularly through collaboration with the Canada Corps University Partnership Programme that sponsored students from McGill University and The Jeannette K. Watson Fellowship in New York City. Local interns from various tertiary institutions also undertook various attachment programmes with the Commission. The interns were engaged mainly in research activities to support various levels of staff of the Commission.

PUBLIC RELATIONS

The Commission, through the Public Relations Unit, maintained an open-door-policy for the media and the general public. A variety of tools, including press statements, interviews and press conferences, was effectively used for communication between the



Commission and the public. A website was also launched to provide the public electronic access to the Commission.

Press Conference: Investigations into The “Hotel Kufuor” Saga

On July 22, 2005, the Commission held a press conference at the International Press Centre, Accra, to address misconceptions about the mandate and power of the Commission in investigating media allegations of corruption and conflict of interest against the President of the Republic of Ghana, His Excellency John Agyekum Kufuor.

Media publications attributed to various sections of the public, including some parliamentarians, suggested that institutions like the Serious Fraud Office (SFO) and CHRAJ were not independent enough and could not be relied on to be impartial in conducting investigations involving the President.

The acting Commissioner, Ms. Anna Bossman, took the time to underscore the independence, credibility and pedigree of the Commission over the years. She drew attention to the Commission’s high reputation, both locally and internationally, including the Commission being adjudged by Amnesty International as one of the three best national human rights institutions in Africa.

Regarding the allegations of impropriety against the President, the Acting Commissioner announced that the Commission had commenced preliminary investigations into the matter, after which it would decide whether to conduct a full-scale hearing into the matter or not. She assured the general public that the Commission would continue to maintain its high integrity and professionalism and would continue to carry out its constitutional duties without fear or favour.

CHRAJ Commends Graphic

In July, the Commission publicly commended the daily graphic for its publication on June 16th, 2005 that drew attention to deplorable conditions at the Sunyani Municipal Police Station. The Commission’s investigators confirmed the media report.

Media Dialogue

In December, the Commission collaborated with the Ghana Journalists Association to organize a media dialogue with journalists in the Ashanti Region on the theme, “Advancing Human Rights: Prospects and Challenges”. The programme sought to forge a stronger partnership with the press to improve human rights reporting in the Ghanaian



media. 47 media practitioners participated in the dialogue. It was addressed by Mr. Richard Quayson, Deputy Commissioner of CHRAJ, and Mr. Bright Blewu, GJA Secretary General.

The event sought to enlist more support from media practitioners and to reinvigorate collaboration between the media and the Commission in advancing human rights in the country.

12TH ANNIVERSARY CELEBRATIONS, OCTOBER 10-15, 2005

The Commission celebrated its 12th anniversary on the theme, *“Developing a Vibrant Human Rights Culture as a Framework for National Development”*. The anniversary celebration, which was observed by all the Commission’s 110 offices, was used by the Commission to increase its visibility and awareness of its work throughout the country.

The formal launch of the celebrations took place at the Parliamentary Chamber of the Old Parliament House, chaired by Mrs. Chris Dadzie, Director of Public Education. The acting Commissioner gave account of the achievements of the Commission, in spite of the many challenges it faces in the discharge of its multiple mandates. She conveyed the Commission’s gratitude for the support and public confidence it continued to enjoy locally and globally.

Visits to Health Institutions

In line with its current focus on the right to health, the Commission embarked on a series of visits to public and private health care institutions across the nation. The purpose of the visits was to monitor health delivery in Ghana and gauge the level of compliance with the Patient’s Charter, which was jointly introduced by the Commission and the Ghana Medical and Dental Council in 2003 to educate both patients and health care providers on their rights and responsibilities. The Commission took the opportunity to interact with the health professionals and patients in all the health centres visited.

In Accra, the acting Commissioner led a team to visit the Korle Bu Teaching Hospital, the 37 Military Hospital, the Accra Psychiatric Hospital, the Kaneshie Polyclinic, the Oman Clinic and the Link Road Clinic.

It was observed that the general awareness of the charter by both patients and health



professionals was very low. The visits also brought to the fore the vexatious issue of the brain drain and the acute shortage of essential health professionals and its impact on health service delivery.

The Commission urged the government to take immediate and decisive measures to address the brain drain in the health sector and improve the conditions of service of health personnel. The Commission again urged the government to accelerate the implementation of the National Health Insurance Scheme and the National Ambulance Service.

ADMINISTRATION & FINANCE DEPARTMENT

INTRODUCTION

The Administration and Finance Department provides administrative support for the Commission. The department has eight units, namely, Finance, General Administration, Human Resource, General Services, IT, Transport, Security and Protocol.

PERSONNEL

At the close of the year, the Commission had 762 staff across the country. (See table 2 below)

Table 2: Distribution of Staff within the Commission

REGIONS	NUMBER OF STAFF
Head Office	160
Ashanti Region	88
Western Region	56
Central Region	69
Upper West Region	37
Upper East Region	36
Volta Region	63
Eastern Region	74
Brong-Ahafo Region	67
Tema	19
Greater Accra Region	37
Northern Region	58
Total	764



Mr Duke Hammond
Director

Table 3: Categorization of Personnel – Nationwide

Categories	Number
Commissioner	1
Deputy Commissioners	2
Directors	13
Deputy Directors	3
Legal officers	20



Administrators	30
Investigators	139
Accountants	23
Auditors	4
Public Education Officers	7
Research Officers	6
Verbatim Reporters	2
Registrars	148
Secretaries	141
Bailiffs	130
Drivers	27
Receptionists	3
Telephonists	2
Librarians	3
House Help	1
Garden Boy	1
Cook	1
Labourer	1
Cleaners	19
Security/Watchmen	37
Total	764*

CAPACITY DEVELOPMENT

Training

During the year under review, various training programmes were organized for staff with the support of the African Development Fund. The Commission also provided training on security and intelligence at the Police Academy, Tesano, and defensive driving at Intercity STC for its security officers and drivers respectively.

Support from African Development Fund

With the support of the African Development Fund, CB & Associates, a management consulting firm, was contracted by the National Governance Programme to provide consultancy services for the Commission in the area of functional training for essential staff. 18 courses were organised for various categories of officers. (Table 4 below shows the various programmes organized with ADF support)



Table 4

Name of Course	No. of Participants	Beneficiaries	Duration
Basic Computer Skills	24	Secretaries, Administrators	5 days
Effective Report Writing	25	Admin. Officers, Investigators, Accountants, Public Relations Officer	3 days
Staff Performance Management	25	Legal Officers, Regional Directors, Administrators, Commission Members	3 days
Organizing Effective Public Education	40	Public Education Officers	3 days
Alternative Dispute Resolution	25	Legal Officers & Investigators	3 days
Human Resource Management and Development	25	Administrators, Legal Officers (Regional Directors)	5 days
Customer Care and Justice Delivery	25	Investigators (District Directors)	3 days
Microsoft for Accountants	12	Accountants	5 days
Office Administration and Secretaryship	20	Secretaries, Admin. Assistants	3 days
Effective Sherival Duties	40	Bailiffs	3 days
Change Management	12	Departmental Directors, Administrators, Legal Officers (Regional Directors), Commission Members	3 days
Financial Management	15	Accountants	3 days
Research Techniques and Applications	15	Research Officer, Public Education, ICT	3 days
Decision Writing	40	Legal Officers, Departmental Directors, Investigators, Commission Members	3 days
Conducting Hearing	40	Legal Officers, Departmental Directors, Investigators	3 days
Developing Training Policy	25	Legal Officers (Regional Directors), Administrator, Departmental Directors; Commission Members	3 days
Identifying Human Rights Issues	50	Investigators, Legal Officers, Assistant Registrars	3 days
Good Governance and Development	50	Legal Officers (Regional Directors) & Investigators	2 days



The ADF support was particularly timely, given the high turnover rate of staff within the Commission. Staff training in itself is an indispensable tool for any growing institution, but in the peculiar case of the Commission, training has become imperative and extremely urgent.

An assessment conducted on the training programmes showed that it had been very useful. The training enhanced the capabilities of the beneficiary officers to contribute to effective and efficient service delivery.



Participants at one of the training programmes

Staff Promotion

During the year under review, 68 members of staff were promoted to various grades to reward competence and ambition.

Resignations

The effect of the unattractive conditions of service in the Commission was greatly felt this year when 22 officers, including five lawyers, left the Commission for other public service organisations.



IT Unit & Extended Case & Document Management System

An Extended Case & Document Management System (e-CMS) was developed with the assistance of DANIDA and the Danish Parliamentary Ombudsman. The new system was an improvement over the previous Case Management System developed with the support of USAID. The system was about 65% complete at the end of the review year. The final deliverable is to be a software structure developed to handle all functional areas covering the mandates of the CHRAJ.

SUPPORT FROM DEVELOPMENT PARTNERS

As stated elsewhere, insufficient funding from the Consolidated Fund has made donor support from the Commission's partners indispensable. Many activities were achievable only through the support that the Commission received from these partners.

The Commission is particularly grateful to DANIDA, which has consistently been its lead partner over the past three years.

The Commission is equally grateful to the African Development Fund [ADF], the National Governance Programme [NGP] and the USAID for the support it has received from them over the years.

[Some of the support the Commission received in the year from the partners are listed as follows, although the Commission had not fully disbursed funds as at year end]

DANIDA

DANIDA Support to CHRAJ - 2005			
Items	Quantity	Rate	January - December 2005
		\$	\$
3.1. Exchange of Experience			
2005 Programme of Exchange INCL. African Institutions			70,000
3.2 Enhancing Anti-corruption Capability			



External Consultant - Fees	One Person for three(3) months	13,900 per month	41,700
Staff Training			15,000
Vehicle & Equipment			40,000
Other Activities			30,000
3.3 Increasing Teacher's Awareness & Development			
Training of Teachers & Ghana Education Service Staff	100 People		44,000
Staff Training			20,000
District level outreach for 2nd Cycle Human Rights			30,000
3.4 Procurement of hardware & revision of internal procedures			
User Training	40 People	325	15,000
On- the-Job Training Support			15,000
Training for IT			10,000
3.5 Procurement of Hardware & revision of internal procedures			
Engagement of External Consultant	1	<i>Output-based</i>	30,000
Contract for System Development			160,000
			520,700

AFRICAN DEVELOPMENT FUND

National Governance Programme			
ADF Institutional Support to Governance and Poverty Reduction			
No.	Goods	CHRAJ	
		QTY	USD
	LOT 1		
1	<i>Workstations Type 1</i>	20	38,768,31



3			
4	Local Printers	10	5,011.25
5	Network Printers		
6	Printers (Colour)	1	1,145.00
7	UPS	10	4,068.10
8	Document Scanner - Type 1		
9	Document Scanner - Type 2	4	5,727.00
	LOT 2		
1	Photocopiers (Heavy Duty)	2	13,848.00
2	Photocopiers (Mid Range)	5	8,000.00
3	Photocopiers (Colour H.D)	1	7,800.00
4	LCD Projector		
5	Fax Machines		
6	Stabilizers Type 1	10	6,140.00
7	Stabilizers Type 2		
	LOT 5		
1	Digital Voice Recorders	100	65,224.50
3	Court Recording System	12	125,944.33
	LOT 6		
1	PABX Telephone Systems	12	106,115.00
	LOT 7		
18	Functional Training		908,762.57
	LOT 8		
	Radio Base Stations		94,576.82
	TOTAL		1,391,130.88

USAID

CHRAJ Computerization Project: Status

Rancard Solutions, in collaboration with USAID, provided the Commission with an internet connectivity solution. The project included:

- Hardware and network infrastructure
- Internet connectivity and E-mailing facilities



- An Internet Website and administrative portal

- Hardware and network inter-connectivity

The Local Area Network backbone at the Headquarters of CHRAJ was improved to accommodate the existing infrastructure and the new equipment provided by the project.

Advantages accruing from this network at CHRAJ Headquarters included remote access to other computers and the ability to share printers and other components of the network.

- Internet connectivity and mailing facilities

The Internet was made available to all users on the LAN and these services will be further propagated to the other regions.

- Software: Website and its administrative portal

A CHRAJ Internet Website and Administrative Portal was developed.



REGIONAL REPORTS

1. WESTERN REGION

Complaints Resolution

The region achieved its target of resolving cases through mediation within three months. This is evidenced by the number of cases pending at the end of the period under review; that is 11.7% lower than that of the previous year, and the lowest in the last five years.

During the period, the region received 1,477 cases, indicating a decrease of 21.8% compared to the previous year's intake. Cases pending at the beginning of the year were 186. Out of the total figure, 1,498 cases were disposed of, leaving 165.

Public Education

The region conducted public education for 165 rural communities and 25 civil society organisations during the period under review.

The region also used radio stations extensively in its public education programmes and started a new series on the local television station, SkyyTV. The topics treated on these programmes included: Powers and Functions of CHRAJ, Domestic Violence, Discrimination against Women, Violence against Women, Children's Rights, You and the Police, Parental Responsibilities, Gender Sensitisation, Family and Marriage Law, Intestate Succession, PNDC Law 111, Wills, Child Labour, Employer/Employee relationship.

2. ASHANTI REGION

Complaints Resolution

The region recorded a total number of 1,893 by the close of the year, representing a 4.5% increase over last year's figure. Top among the districts was the Obuasi Office with a total of 238 cases, out of which 148 were resolved through mediation. On the whole, 1,485 cases, including some pending cases, were successfully resolved through mediation /settlement.

Public Education

The region was able to reach out with educational programmes to over 200 communities and organised groups throughout the region. Among the sections of the public that benefited from these programmes were: educational institutions, religious bodies, civil society organisations and traditional leaders. The Commission also used radio stations quite frequently to educate the public.

3. CENTRAL REGION

Complaints Resolution

The region registered 1,485 cases, with the Upper Denkyira District receiving the most cases of 212. Most of these cases were related to child and spousal neglect, inheritance and delay in the dispensation of justice by the police. 1,017 cases were disposed of through mediation.

Public Education

With the kind courtesy of **Yes FM** and **Radio VALCO**, the region provided weekly public education for the residents of Cape Coast and its environs throughout the year. In addition, a good number of rural communities and schools benefited from the Commission's educational programme.

The region also introduced a training programme on basic human rights for health professionals and final year students of the Cape Coast Nurses Training College. Nurses who successfully completed the course were awarded certificates.

4. GREATER ACCRA REGION

Complaints Resolution

The region received 504 cases, with 325 of the cases being family related. The Ga District received the highest number of cases, 249. The figure indicates the high prevalence rate of child non-maintenance in the area. The Commission, however, resolved 621 cases, including cases pending at the beginning of the year.

Public Education

The region intensified its public education programmes for organised groups like the



GPRTU, the Ghana National Association of Tailors and Dressmakers and schools.

5. BRONG AHAFO REGION

Complaints Resolution

The region recorded 4,221 cases, a reduction in the previous year's 4,244. The Atebubu District continued to lead with 985 cases, though it saw a 10.5% decrease in the number of cases recorded. Out of the total number of cases received in the region, 61.5% were family related complaints, with children/spousal maintenance dominating. The picture calls for intensive public education on children's rights, parental responsibilities and the Children's Act targeted at parents.

Public Education

The region organised 182 educational programmes in the year. The beneficiaries comprised 76 rural communities, 38 churches, 33 schools and 35 organised groups.

The region inspected a number of quarrying sites in the Wenchi District where children below 16 were used as labourers. The region, in collaboration with the chief and elders of Buoku, organised durbars to educate the people on child labour which was found to be on the increase. The region also targeted the northern part of the Kintampo District, an area well noted for forced marriages, for its educational programmes.

6. UPPER WEST REGION

Complaints Resolution

The Region received 241 cases, out of which 170 were settled. Notwithstanding the decline in the total number of cases, some districts saw an increase in the number of cases received during the year, among them the Lawra District Office, which received 46 cases, its highest ever, and resolved 38.

Public Education

More than 120 rural communities in the region benefited from the Commission's public education programmes. That was made possible with the support of ActionAid International, Ghana. The Commission sensitised the rural communities to the nature,



functions, complaints and investigation procedure of the Commission and outmoded cultural practices in the region.

7. EASTERN REGION

Complaints Resolution

The region received a total of 2,154 cases during the year, representing approximately an 8% increase over the previous year. The number of cases resolved stood at 855, with 1,299 cases pending.

Public Education

The region organized a number of educational programmes and established human rights clubs in some basic and second-cycle institutions. A number of programmes were also organized in a number of rural communities.

8. NORTHERN REGION

Complaints Resolution

In the reporting period, the region received 766 cases and resolved 503 of them through mediation.

Public Education

During the period under review, the region continued with its public education programmes to inculcate the virtues and principles of human rights in the public in order to promote the culture of human rights throughout the region. This was carried out through radio programmes in the local dialects (Dagbani & Gonja), seminars/ workshops, speaking engagements and lectures.

The region also carried out human rights education in selected second-cycle institutions in the region. The purpose of that programme was to increase awareness at the functions of the Commission, children's rights and the concept of fundamental human rights among students.



9. VOLTA REGION

Complaints Resolution

The region received 748 cases, out of which 522 cases were successfully resolved. 604 of the complaints were child maintenance cases, representing 80.7%, an indication that child maintenance is a problem in the region.

Public Education

During the year, a number of communities, schools, churches and organisations benefited from the Commission's outreach programmes.

The region held a one-day sensitisation seminar for departmental heads within the Ho municipality on the CHRAJ Act, Act 456. It also organised a day's programme for adult literacy facilitators at the Comboni School at Sogakope in the South Tongu District.

The region visited and interacted with some ex-trokosi women at Akuave-Gui, a village very close to Bayive, a village with a trokosi shrine. The aim of the exercise was to find out how the liberated trokosi women felt about the trokosi practice and whether they themselves would advocate its modernization or abolition. During the interaction, the women expressed their relief outside the shrine. However, for fear of reprisal, the women declined to comment on whether they would advocate modernization or abolition of the practice, saying they were not supposed to make any such comments.

The region, in collaboration with International Needs Ghana, an NGO, organised a forum at Kebenu, a community in the South Tongu District, where a school had been established for the children of women liberated from trokosi.

10. UPPER EAST REGION

Complaints Resolution

The region received a total of 322 cases during the period under review, indicating a 21% increase over last year's cases. Family related cases, specifically children/spousal maintenance, also rose from 97 in 2004 to 119 in the current year. However, there was a decline in the number of female complainants by 10% which showed that the Commission did not entertain only female complainants, as is perceived by sections of the Ghanaian population.



Public Education

The region carried out a number of public education campaigns, including seminars /training programmes and debates. These included:

- A day's seminar for 40 members of district tender review boards from the eight district assemblies in the region on the theme, "Ensuring Good Governance at the Local Government Level - The Role of the Municipal/District Tender Review Board". This was done with support from ActionAid Ghana.
- One-day seminar for patrons and executives of human rights clubs from all the senior secondary schools in the region.
- Seminar on the procurement process under the Procurement Act for officials from the Kassena Nankana and Talensi/Nabdam Districts
- Seminar on the Right to Information Bill on the theme, "The Impact of the Right to Information Bill on Good Governance" for media houses, NGOs and officials from the municipal/district assemblies in the region.
- Debates for selected senior secondary schools in the region on the motion "Customary Practices that Violate the Fundamental Rights of People should be Abolished".

With the support of World Vision International the Bongo District Directorate established human rights clubs in 20 junior secondary schools within the district.

NETWORKING/COLLABORATION WITH OTHER INSTITUTIONS

The Commission, recognizing the benefits of collaboration and networking with similar organizations, encouraged the forging and strengthening of networks and collaborations in the regions and districts. As a result, the regional offices established networks and collaborations with other institutions and organizations in their respective areas. Existing collaborations were also strengthened. The collaborations took various forms, including sponsorship, joint programmes and taking up speaking engagements. The institutions and organizations included:

National Commission for Civic Education (NCCE)

The Ghana Police Service

The District/Municipal/Metropolitan assemblies

The Ghana Armed Forces

The Ghana News Agency



The Department of Social Welfare (DSW)
The National Council on Women and Development (NCWD)
The Ghana Education Service (GES)
The Danish International Development Agency (DANIDA)

The regions also collaborated with civil society organizations and some interest groups in the discharge of the Commission's functions. Notable among them were Action Aid, Ghana, FIDA, World Vision, WILDAF, The Human Help and Development Group /German Development Services (THUHDEG/DED), International Needs Ghana, Community Development Initiative (CODI), West African Dispute Resolution Center (WADREC), traditional authorities, the Centre for Rural Improvement Services, Campaign for Female Education Development (CAMFED), the Anufo Traditional Authority (ATA), Action for Community Development (ACHARD), Government Accountability Improve Trust (GAIT) and the Bawku East Women Development Association (BEWDA).



STATISTICAL OVERVIEW

1.0 SUMMARY OF STATISTICAL DATA

The Commission received 15,749 complaints nationwide. This represents an increase of 5.3% over the previous year's figure of 14,953 complaints. Of the 15,749 complaints, it disposed of 12,422, representing 79% of total complaints received. (See Table 1 below)

Table 1: No. of Complaints Handled

Office/Region	Complaints Received	Complaints Closed
<i>Headquarters</i>	867	194
<i>Ashanti Region</i>	1,803	1,730
<i>Western Region</i>	1,477	1,498*
<i>Eastern Region</i>	2,300	855
<i>Central Region</i>	1,485	1,400
<i>Volta Region</i>	1,621	1,189
<i>Brong-Ahafo Region</i>	4,143	3,992
<i>Greater Accra</i>	500	557*
<i>Northern Region</i>	763	503
<i>Upper East Region</i>	339	305
<i>Upper West Region</i>	122	109
<i>Tema</i>	329	90
Total	15,749	12,422

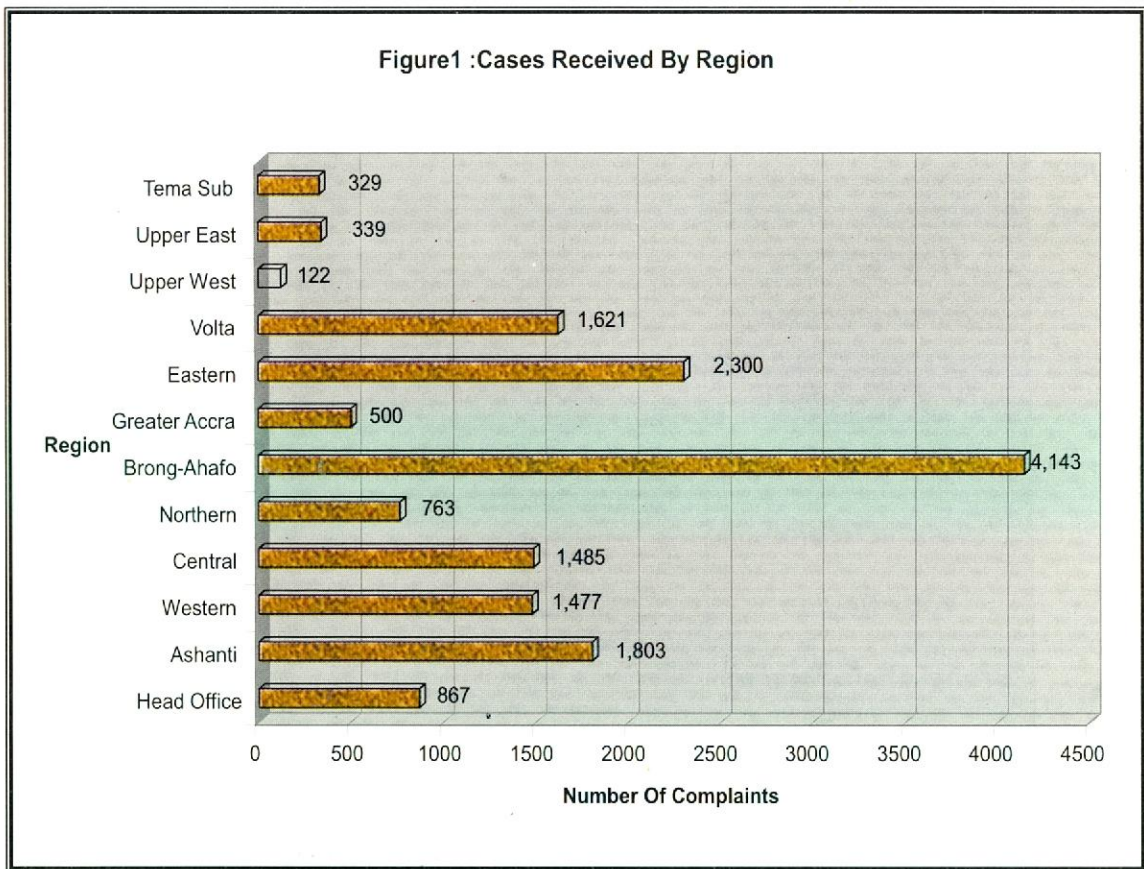
Source: Legal & Investigation Dept, CHRAJ, 2005

*Cases closed included cases pending at the beginning of the year

2.0 REGIONAL DISTRIBUTION OF CASES RECEIVED

The Brong Ahafo Region (BA) recorded the highest number of complaints. It recorded 4,143 complaints, representing 26.3% of total cases received nationwide. The Upper West Region, on the other hand, recorded the lowest number, 122, which represents 0.8% of total cases received. (See Table 1 and Figure 1)

Figure1: Graphical representation of regional distribution of Cases received



Source: Legal & Investigation Dept, CHRAJ, 2005

Nature Of Complaints

Complaints received by the Commission in the reporting year have been categorized into human rights related, administrative justice, anti-corruption and other complaints. (Refer to table 2 for classification of cases)

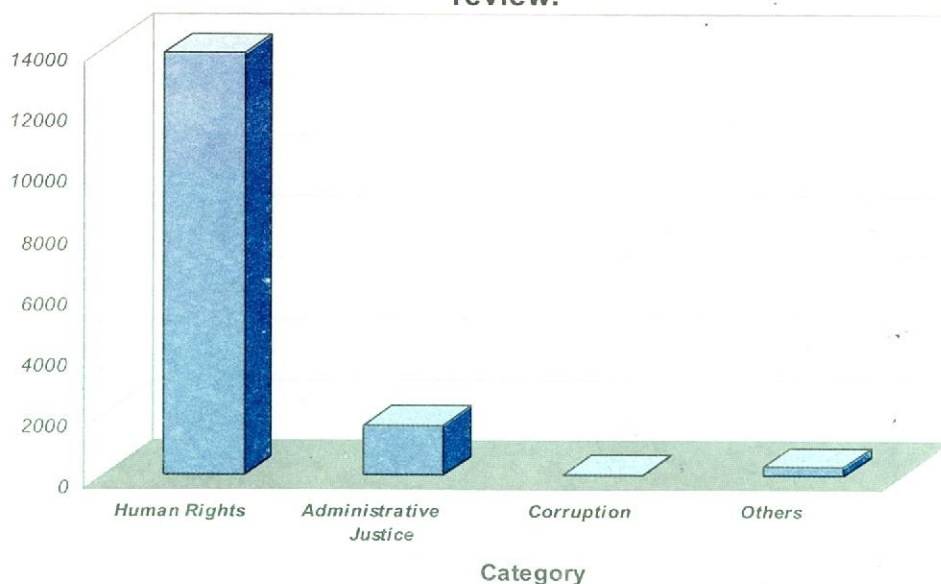


Table 5: Nature of Complaints

Nature of Complaints		Number	%
Human Rights Violations			
	<i>Children's rights</i>	8,722	55.4
	<i>Property-related rights</i>	2,695	17.1
	<i>Economic & social rights</i>	844	5.4
	<i>Civil & political rights</i>	652	4.1
	<i>Spouses right (maintenance)</i>	931	5.9
Administrative injustice		1,622	10.3
Corruption	Extortion	2	.05
	Misappropriation	1	
	Abuse of Office	1	
	Conflict of Interest	2	
	Bribery	3	
Others²		274	1.74
Total		15,749	100

Unlike the previous year, labour-related cases or complaints reduced drastically due to the apparent increased visibility of the National Labour Commission.

Figure 2: On classification of nature of Cases received during the period under review.



² Include complaints that fall in all categories and which are difficult to place in one category



Trend of Cases

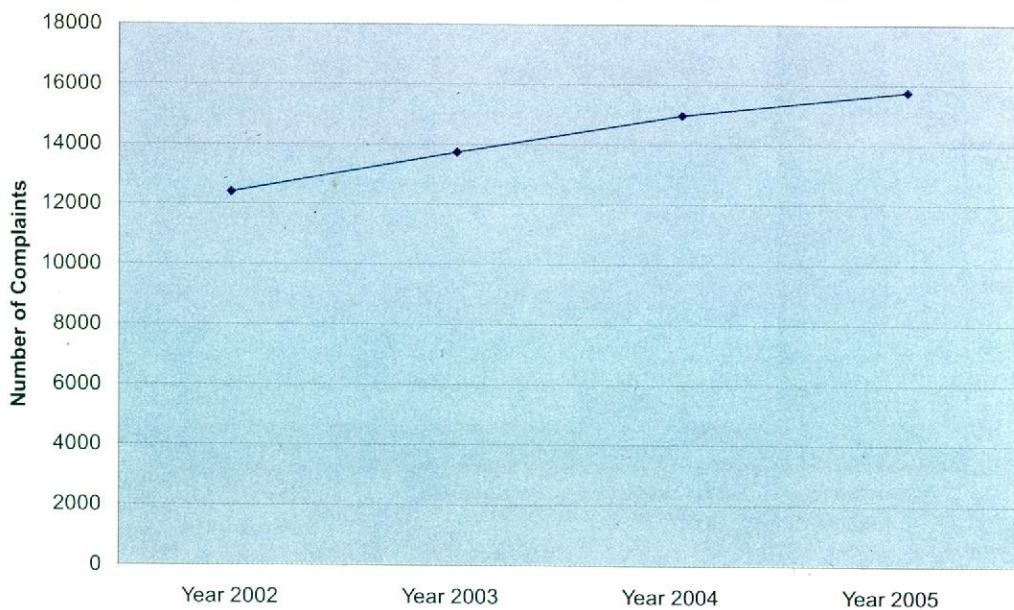
In general, there has been a significant growth in the number of complaints lodged with the Commission over the last four year period. (See table 3 and figure 3 below for growth trend)

Table 6: Trend of Cases received since 2002

Region \ Year	2002	2003	2004	2005
Headquarters	1165	910	314	867
Volta	922	1060	1740	1621
Northern	381	525	727	763
Western	1306	1724	1502	1477
Ashanti	1826	2044	1811	1803
Upper West	150	156	299	122
Eastern	1520	1750	1996	2300
Brong Ahafo	2789	3556	4244	4143
Central	1564	1100	1523	1485
Greater Accra / Tema	392	524	531	829
Upper East	366	377	266	339
Total Cases Received	12381	13726	14953	15749

Source: Legal & Investigation Dept, CHRAJ, 2005

Figure 3: Trend of Cases received since 2002



Geographical Distribution of Case Receipts

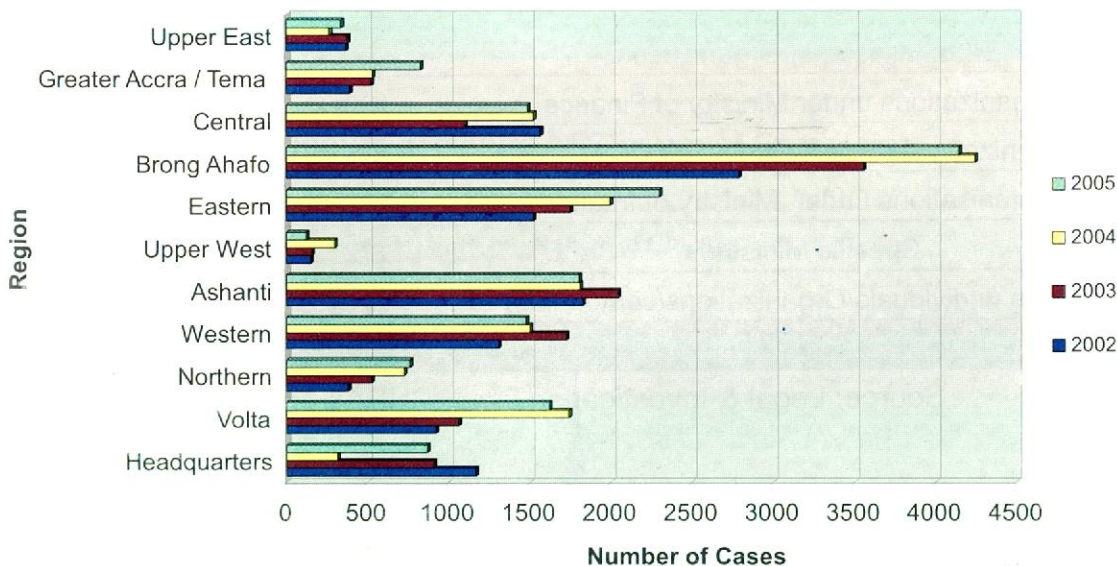
Though there was an increase in complaints lodged with the Commission in 2005, not all the regions followed that trend. While some regions registered increases, others had fewer complaints than they received in the previous year. The head office, the Northern, Eastern, Greater Accra and Upper East regions recorded increases in complaints in 2005, while the Volta, Upper West, Ashanti, Brong Ahafo, Western and Central regions received fewer cases in 2005.

The geographical distribution of case receipts within the 2002-2005 period shows the Brong-Ahafo Region recording the highest number of complaints, while the least performing region in the given period was Upper West.

The Northern, Greater Accra and Eastern regions recorded steady growth between 2002 and 2005. The head office recorded decreases between 2002 and 2004, although the trend reversed in 2005.

Figure 4: Graphical representation of number of cases received by the various offices since 2002.

Figure.: Trend of Total Cases Received by Regions since 2002



3.0 RESPONDENT BODIES

Respondents to complaints received by the Commission comprised state/public organizations, private organizations and private individuals.



Private individuals and organizations constituted **14,754**, representing 93.7% of respondents. Public sector organizations made up the remaining 995 respondents. Organizations under the Ministry of Education, such as the Ghana Education Service, the West African Exams Council, schools/colleges, universities and polytechnics, constituted 398, representing 2.5% of respondents.

Other ministries, such as the Ministries of Communication, Food and Agriculture, the Head of Civil Service, Health, Lands & Forestry, Office of the President, Works and Housing, Defence, Employment and Social Welfare, Finance, Mines and Energy constituted 85, representing 0.5% of respondents, while organizations under the Ministry of Roads and Highways were only two representing 0.01% of respondents. (See Table 4 for list of respondent bodies)

Table 7: Summary of respondent bodies

Ministries	Number	Percentage
Office of the President	10	0.06
Organisations under Ministry of Justice	17	0.11
Organisations under Ministry of Education	398	2.53
Organisations under Ministry of Roads/Highways	2	0.01
Extra-Ministerial Organizations	52	0.33
Organizations under Ministry of Finance	162	1.03
Organizations under Ministry of Local Gov't	113	0.72
Organisations under Ministry of Interior	156	0.99
Specific Ministries	85	0.54
Private (individuals/Organizations/companies)	14,754	93.68
Total	15,749	100

Source: Legal & Investigation Dept, CHRAJ, 2005

4.0 NATURE OF CLOSURE

In 2005, the Commission resolved 9,166 cases through Alternative Dispute Resolution Mechanism [mediation, negotiation, reconciliation, etc] representing 73.8% of a total number of 12,422 cases disposed of. Only 1.6%, representing 208 of complaints received, went through formal hearing. The number of cases referred to other fora like the courts, the Department of Social Welfare, etc amounted to 684 cases, representing 5.5%.

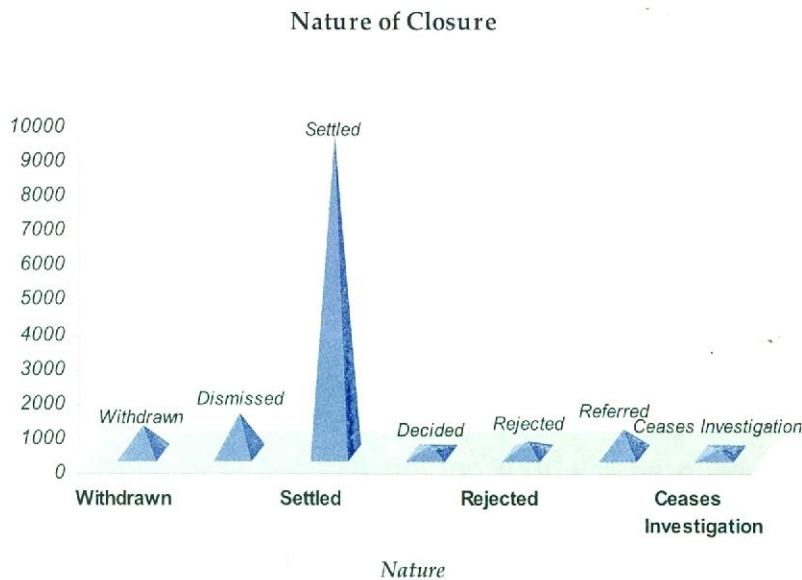


Others were closed for lack of interest, for not lodging complaint within reasonable time, for lack of jurisdiction, rejected in the exercise of discretion, discontinuation of investigation for stated reason, or withdrawn by the Complainants. (Refer to table 5 and figure 5 below)

Table 8: Nature of Closure of Complaints

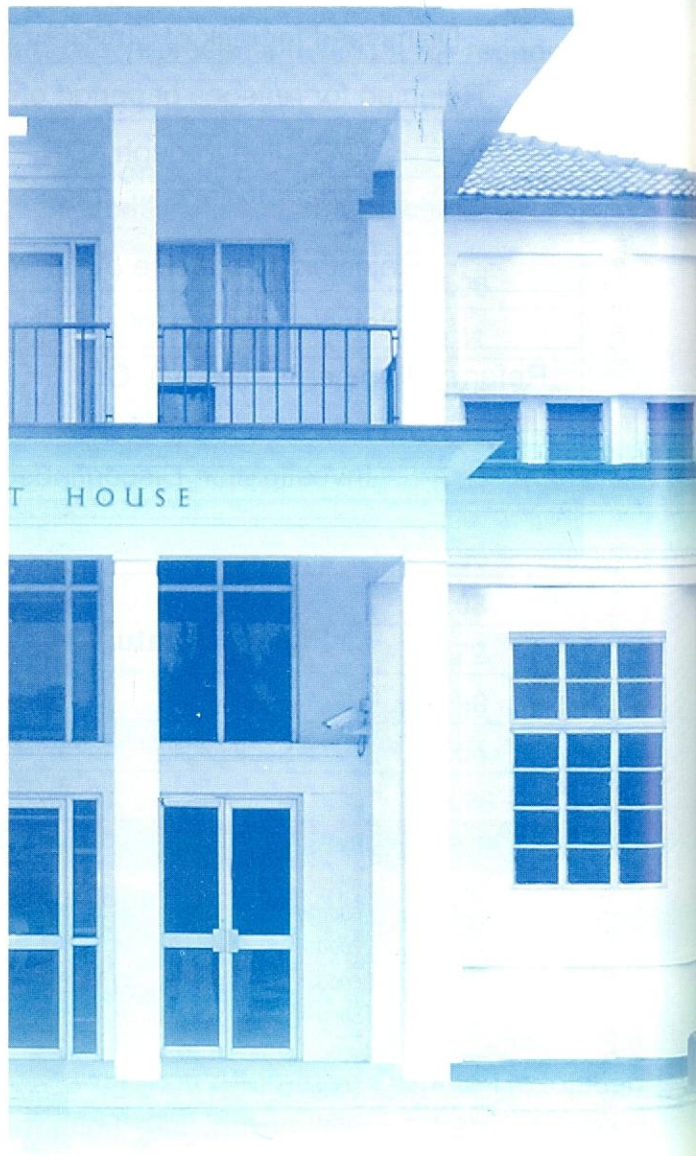
Nature of Closure	Number	Percentage
Withdrawn by Complainant	773	6.2
Dismissed for lack of Sufficient Interest	1,114	9.0
Rejected for reasons of period of limitation	22	0.2
Settled through ADR	9,166	73.8
Decided on merit (With/Without formal hearing)	208	1.6
Rejected in exercise of discretion	94	0.8
Rejected for lack of jurisdiction	216	1.7
Referred to other bodies e.g. Court, DSW, DVVSU, etc.	684	5.5
Investigation Discontinued	145	1.2
Total	12,422	100

Figure 5: Nature of Closure of Complaints



PART 3

STATE OF HUMAN
RIGHTS REPORT





SYNOPSIS OF 2005

STATE OF HUMAN RIGHTS REPORT

On the 10th of December each year, the Commission issues a report on the state of human rights to commemorate the UN Human Rights Day. This report is compiled and issued under the Commission's mandate as the national human rights institution.

As a result of its extensive network and close collaboration with other governance institutions and human rights NGOs, especially community based NGOs, the Commission is able to monitor, educate and deal with complaints of human rights violations, administrative injustices and corruption, down to the remotest community in Ghana.

In the discharge of its human rights mandate, the Commission is guided by both international and national human rights jurisprudence and by provisions of core international human rights treaties which flow from the 1948 Universal Declaration of Human Rights (UDHR). These include:

- The International Covenant on Civil and Political Rights (ICCPR) and its two Optional Protocols;
- The International Covenant on Economic, Social and Cultural rights (ICESCR);
- The Convention on the Elimination of All Forms of Discrimination Against Women (Women's Convention-CEDAW) and its Optional Protocol;
- The Convention Against Torture (CAT);
- The Convention on the Rights of the Child (CRC);
- The Convention on the Elimination of Racial Discrimination (CERD);
- Regional conventions such as the African Charter on Human and People's rights;
- The Ghanaian Constitution and other domestic legislations.

The full report on the State of Human Rights for 2005 will be published in a separate publication and it is hoped that the publication will serve as a useful tool for policy makers, human rights workers and students of research. This report, therefore, is only an abridged version of the full report.



FOCUS FOR 2005

In September this year, the Commission marked its 12th anniversary on the theme, “Developing Human Rights Culture as a Framework for National Development”. The Commission used the occasion to highlight the economic, social and cultural rights of the citizenry and the obligation of State parties under the Limburg Principles to the Covenant on Economic, Social and Cultural Rights:

“to guarantee respect for the minimum rights of survival for all, independent of available resources. Thus in cases where significant numbers of people live in poverty and hunger, it is for the State to show that its failure to provide for the persons concerned is beyond its control.”

The Commission believes that the Limburg Principles are reflected in our 1992 Constitution, specifically Chapter 6, which deals with the Directive Principles of State Policy.

Accordingly, this year’s report focuses on the economic, social, and cultural rights of the people, underscoring the Commission’s belief that “the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights”.

The Commission intends to refocus the nation’s priorities on health, education, employment, housing, food, water, environment and social security to under-gird the dignity of the poor, vulnerable and the excluded. The report also reiterates the link between human rights, corruption and good governance.

Corruption

The fight for human rights and the campaign against corruption have a great deal in common. Corruption is a serious threat to the enjoyment fundamental rights, in particular, economic social and cultural rights in a country.

During the period under review, several reports and concerns were raised about the prevalence and consequences of corruption in the country. The reports alleged various types of corruption by public officials namely bribery, fraud, nepotism and various acts of patronage, inflation of project costs, among others.

In the 2005 Corruption Perception Index released by Transparency International, Ghana was perceived to be the 63rd most corrupt country in the world.



The government, however continued with its anti-corruption programme, including presenting the Whistleblower's Bill before Parliament and organizing public education on the new financial management laws. As of the time of this report, however, the government was yet to present the Right to Information Bill to Parliament.

The Commission had occasion to state on various platforms that we believe that the Government's stated "Policy of Zero Tolerance" for corruption was incomplete because it had not followed through to elaborate on the policy. Similarly, the Commission had on a number of occasions expressed concern about under-funding of anti-corruption agencies, including the Commission.

Family Related Cases

Between 1999 and 2005, the Commission noticed a substantial increase in family related cases filed with its offices. Majority of these cases related to child and spousal maintenance. The phenomenal rise in reported cases of non-maintenance of children and spouses recorded at almost all the offices of the Commission portends serious danger for family life in Ghana, if parents, particularly men, fail in their responsibility towards their children and spouses and deny them the basic necessities of life.

The Commission thus reminded parents of their responsibility, not only to provide the necessities of life for their children but also parental care, love and affection. It is to be noted that under the Children's Act of 1998 [Act 560], it is an offence for parents who have the primary responsibility to care for and support their children to shirk that responsibility.

Dehumanising Cultural Practices

The Commission, in accordance with the 1992 Constitution, supports good and healthy cultural practices that exist to celebrate life, promote community cohesion and transmit cherished values from one generation to another. However, cultural practices that are harmful or violate the worth and dignity of the human being are prohibited by the 1992 Constitution and cannot be practised under any circumstance whatsoever. This is a reality that we must all abide by to truly emancipate our people from cultural bondage and oppression.

The inhuman treatment of women and girls through the practice of trokosi (ritual servitude), female genital mutilation (FGM), forced marriages, (which takes the form of childhood betrothal; exchange of sisters; early marriage of young girls and marriage by



inheritance), cruel widowhood rites and trial by ordeal of women suspected of witchcraft and other dehumanizing practices in the name of culture and tradition are all vestiges of inhumanity and constitute a scourge on the conscience of the nation.

In spite of legislation and public education to eradicate these inhuman practices, our regional and district offices continue to report that they take place quite frequently, and that their efforts are often met with suspicion or hostility from those communities practising them. Unfortunately, the victims are also very reluctant, often out of fear or ignorance, to report such cases. Below is an extract of an interview with a partner NGO, International Needs, Ghana, conducted this year by a research officer of the Commission typifying the phenomenon:

After 1998, International Needs stopped offering compensation for the liberation of trokosis and began to educate stakeholders out of the practice through sensitisation about the criminal nature of the practice and the consequences of failing to heed the new law (In 1998, Parliament passed a law criminalising all forms of ritual servitude and forced labour). This has been the only strategy that has proved effective. International Needs has tried to apply the law by inviting police to arrest recalcitrant shrine-owners and priests but have been unsuccessful since police have refused to enter the shrines to carry out their duty. An attempt has also been made to launch a civil case in the matter of a trokosi slave, but because of community pressure on the petitioner, the case was abandoned. Community attention brought to the issue continues to prove sensitive. Even in a case where a mother whose daughter was pledged as a trokosi had explicitly asked International Needs for assistance, the commencement of investigation by WAJU led to such local agitation that the petitioner was compelled to plead for the abandonment of the case. Nonetheless, with the legislation in place International Needs estimates that... about 1500 remain in conditions of servitude.

The 1992 Constitution, as well as international human rights instruments, including the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), prohibits all forms of degrading cultural practices which impact negatively on women and children. The Commission calls on victims of all forms of dehumanising cultural practices to courageously report cases alleging violations of their rights to the offices of



the Commission. The Commission also appeals to the National Commission on Culture, the National House of Chiefs, the security agencies and well-meaning Ghanaians to step up their efforts to help eliminate cultural practices that undermine the dignity of the human person.

Rights of Vulnerable Persons

Newspaper reports and field reports from the offices of the Commission indicate that various categories of persons, including women, children, persons with disability, persons living with HIV/AIDS and elderly persons, continue to experience societal discrimination and are subjected to various forms of abuses.

Rights of Women

The Commission remains particularly concerned about the incidence of gender related violence. Violence against women has inhibited women as a group from enjoying the full benefits of human rights. Similarly, denying women economic power and economic independence prolong their vulnerability and dependence. It is for this reason that the Commission commends the efforts of the Domestic Violence Coalition for mounting and sustaining a vigorous campaign for the enactment of the Domestic Violence Law, in spite of heavy criticism from certain circles. The following statement exemplifies their frustration:

The Coalition is faced with many challenges. Standing out of these challenges is the negative campaign against the bill that it is intended to break homes. Unfortunately, this was the position of the Ministry Of Women and Children's affairs until the new minister took office. Though the ministry's position has changed and it is doing its best to change this negative perception, the harm done still persists in some quarters, impeding progress. Also, the Coalition is not happy with government's reluctance to criminalize rape within the context of marriage by declining to repeal section 42 (g) of the Criminal Code 1960 Act 29, which prevents a wife from prosecuting her husband for rape in marriage according to the memorandum accompanying the Bill.

(2005 State of the Domestic Violence Bill-unpublished)

The Commission believes that the Domestic Violence Bill will be a veritable tool for curbing gender related violence and all other domestic violence and urges the government to expedite work on the bill.



Refugees

The UN Refugee Convention and the Organization of African Unity (OAU) Refugee Convention, to which Ghana is a party, impose certain obligations on host states to protect the rights of refugees and asylum seekers and uphold certain social and economic rights for refugees. Article 2 of the OAU Refugee Convention recognizes the granting of asylum as a mechanism to protect refugees; in particular, it notes that states shall “use their best endeavours consistent with their respective legislations to receive refugees and to secure the settlement of those refugees, who for well-founded reasons, are unable or unwilling to return to their country of origin of nationality”.

Ghana hosts over 60,000 refugees and asylum seekers. The Country Office of the United Nations High Commissioner for Refugees (UNHCR) and the Ghana Refugee Board confirm that as of December 2005, there were 60,136 refugees and asylum seekers of various nationalities in the country. This number is an increase from the figure of 48,068 at the beginning of the year. Increases occurred in May 2005 when election-related violence in Togo compelled some 13,595 Togolese refugees to flee to Ghana. At the same time, Ghana like other countries in the region, saw the effects of the Darfur conflict in Sudan with 269 Sudanese asylum seekers fleeing to Ghana in the course of 2005.

Out of this figure (60,136) 40,439, representing 67.2%, are from Liberia, with the remaining 19,697, representing 32.8% distributed among other countries within the sub-region. These countries include Togo, Sierra Leone, Cote d'Ivoire, Rwanda, Sudan, DRC and Chad.

Children constitute 42.7%, with women constituting 27.7%. Currently these are located mainly in the Central Region, which has the largest number of 40,419 in the Buduburam Refugee Settlement, the Volta Region which hosts over 13,000 Togolese, and smaller numbers are living in the Greater Accra, Western, and Brong Ahafo regions.

The Commission deplores the recent riot and the consequent destruction of property that occurred at the Krisan Refugee Camp in the Western Region, including the following:

- A training centre built by the United Nations Industrial Organization (UNIDO) by the riotous refugees



- One palm stripper, one corn mill machine, two coconut grinding machines, two palm oil grinders, two palm oil cooking vessels, one large deep freezer, one air conditioner, 15 typewriters, one power generator, four wheelbarrows, two carbine harvesters, one grinding machine motor and 25 sewing machines.
- A pick-up vehicle belonging to the Catholic Relief Service was also burnt down.
- Vandalization of the police post at the camp
- Official documents and furniture at the Red Cross Office at the camp were vandalized and burnt.

The Commission wishes to express its willingness to cooperate effectively with the government, the Ghana refugee Board and the UNHCR to raise general awareness of provisions of international human rights instruments in respect of the rights, as well as responsibilities, of refugees and asylum seekers.

SOCIAL AND ECONOMIC RIGHTS

The 2005 Global Human Development Reports issued by the UNDP reveal that **in the midst of an increasingly prosperous global economy, 10.7 million children every year do not live to see their fifth birthday and more than one billion people survive in abject poverty on less than \$1 a day. One-fifth of humanity lives in countries where many people think nothing of spending \$2 a day on a Cappuccino. Another one-fifth of humanity survive on less than \$1 a day and live in countries where children die for want of a simple anti-mosquito bed net.**

The report findings are encouraging for Ghana: Out of the population of 21,946 million, 72% in both urban and rural communities use adequate sanitation facilities and 73% also use improved drinking water sources. The infant mortality rate in Ghana is 52 deaths out of every 1,000 live births. The Commission commends the government for its efforts and urges it to pay greater attention to the economic and social rights of the people, especially as Ghana works earnestly at consolidating its democracy.

Article 25 of the Universal Declaration of Human Rights stipulates that everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing housing, medical care and necessary social services, among others.



The Commission recognizes that lack of access to the very basic necessities of life (food, clothing, shelter, medical care, etc) has made a significant number of people extremely deprived and vulnerable in the society. As the national human rights institution, the Commission has a responsibility in ensuring that conditionalities and programmes imposed on the nation by donors and international financial institutions do not result in further deprivation of the rights of the poor.

Right to Education

The Commission commends the government for the utilization of the capitation grant to empower schools to effectively carry out quality improvement and to make basic education accessible to all. It recognizes, however, that more needs to be done to ensure access to quality basic education for all, particularly girl children in rural communities and many children who are involved in worst forms of child labour and many others living on our streets. Universal basic education will only be achieved if schooling is made genuinely free and accessible not only in terms of basic user fees but also in respect of parent-teacher association (PTA) fees, extra tuition fees, exam fees, transportation to and from school and other related costs which are likely to restrict access, particularly for poorer communities. Anything that can deny access to education for poor children would undermine the FCUBE programme and everything must be done to ensure sustained and equitable access to quality basic education for all.

The Commission advises that the programme should be implemented transparently and all stakeholders encouraged to participate in the monitoring and supervision of the programme.

Health Rights

The Commission visited a number of public and private health care institutions across the nation. The purpose of these visits was to monitor health delivery in Ghana and gauge the level of compliance with the Patients Charter, introduced in 2003 by the Commission and the Ghana Medical and Dental Council to educate both patients and health care providers on their rights and responsibilities.

It was observed that the general awareness of the charter by patients and health professionals was low. The Commission urges the management of health institutions to promote awareness of the rights and responsibilities provided in the Patients Charter.



All the public health care facilities visited were plagued by understaffing owing to the mass exodus of doctors, nurses and other paramedics for greener pastures. Patients almost always had to go through long periods of waiting before being attended to. All the major public hospitals were faced with congestion in the wards and inadequate funding.

Quite a number of public health centres were alleged to detain patients for their inability to settle their hospital bills. Newspaper reports cited cases of detention of mothers and their newly-delivered babies in our hospitals, especially Korle-Bu due to non-payment of hospitals fees.

While the Commission does not encourage vacation of patients' responsibility in the health delivery system/chain, it is equally concerned with the "virtual detention" of patients, a practice which obviously undermines speedy recuperation of patients, not to mention its effect on their dignity.

A visit to the Accra Psychiatric Hospital revealed that, against the expected capacity of 500 inmates, the hospital had to accommodate not less than 1,200 patients (400 of the patients were well enough to go home but could not because of the stigma attached to patients). This has led to serious over-crowding at the hospital and affected the quality of service.

The Commission commends Enterprise Insurance Company Ltd for renovating the East Wing of the Third Floor of the Korle-Bu Children's Block. Similar commendation goes to HOPSA for adopting the Acute Ward; the Ridge Church Women's Fellowship and the Presbyterian Church for their humanitarian services to the same hospital; and the Databank for giving financial support to two volunteers taking care of persons and children with mental disability at the Children's Ward of the Accra Psychiatric Hospital.

To ensure quality but affordable health care delivery for all, the Commission urges the government to expedite the implementation of the National Health Insurance Scheme, putting in place effective monitoring and supervisory mechanisms that will ensure that the poor and the vulnerable are full beneficiaries of the scheme.

Rights of Persons in the Mining Communities

Article 21 (k) of the 1992 Constitution imposes a duty on the government and every Ghanaian to protect and safeguard the environment. The Commission was distressed



by reports of activities that deprive communities of their livelihood, pollute water bodies and the environment, and disrupt the way of life of persons in those communities. The Commission earnestly appeals to the appropriate regulatory authorities and all stakeholders to take the necessary action to address the problems posed by mining and protect the rights of the people living in those communities. The Commission will be happy to assist in finding appropriate solutions to the problem.

CONDITIONS IN GHANA'S PRISONS & POLICE CELLS

The Commission, as part of its mandate, has the responsibility of ensuring the respect for the fundamental human rights and freedoms of all persons in Ghana, including prisoners. Consequently, it undertakes yearly inspection of prisons and prison camps all over the country to ensure that the human dignity of persons in lawful custody is not undermined.

The UN Minimum Standard Rules for the Treatment of Prisoners provides, among others, the following conditions in detention facilities:

- All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.
- The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.
- At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. The medical services should be organized in close relationship to the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality.
- Where nursing infants are allowed to remain in the institution with their mothers, provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers.

Between 19-21 September, 1996, 133 delegates from 47 countries, including 40 African



countries, met in Kampala, Uganda. The President of the African Commission on Human and Peoples' Rights, ministers of state, prison commissioners, judges and international, regional and national non-governmental organizations concerned with prison conditions all worked together to find common solutions to the problems facing African prisons. The three days of intensive deliberations produced The Kampala Declaration on Prison Conditions in Africa, which was adopted by consensus at the closure of the conference. This declaration recommended the following:

- that the police, the prosecuting authorities and the judiciary should be aware of the problems caused by prison overcrowding and should join the prison administration in seeking solutions to reduce this
- that judicial investigations and proceedings should ensure that prisoners are kept in remand detention for the shortest possible period, avoiding, for Example, continual remands in custody by the court,
- that there should be a system for regular review of the time detainees spend on remand.

This year's inspection exercise conducted from April to May revealed the following:

- Unlawful detention of suspects in police cells beyond 48 hours
- The detention of suspects and remand prisoners in police cells that are dilapidated, small, dark, poorly aerated and devoid of toilet facilities
- Overpopulation in particularly in remand sections of prisons: On the issue of overcrowding, for instance, the Assistant Director of the James Fort Remand Prison informed the Commission's inspection team that the number of inmates at the time of the follow-up inspection stood at 857, as against the figure of 759 inmates at the time the Commission last inspected the prison. In other words, the already bad situation of congestion in the prison had been compounded by an additional 98 inmates (Greater Accra 2005 Prison Report- unpublished).
- Prolonged detention of remand prisoners without trial.
- The sentencing of minor offenders to long prison terms.
- Incarceration of pregnant women and nursing mothers.
- Lack of child care facilities for babies in prison.
- The presence of juveniles in prison.
- Inadequate food, poor medical care and inadequacy of resources and infra-structural facilities.



The Commission calls for periodic visits to police cells and prisons, particularly remand prisons, by cross-sections of the legislature and the judiciary as a demonstration of their commitment to uphold the fundamental human rights of all, including detainees.

The Commission calls on the government, as a matter of urgency, to ratify the following and harmonize the provisions of these instruments with domestic laws:

- 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.
- The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.
- The Optional Protocol to the Convention on the Elimination of all Forms of Discrimination Against Women.

It also urges Parliament to pass the following bills into law:

- The Domestic Violence Bill
- The Disability Bill
- The Whistleblower's Bill
- The Freedom of Information Bill

Finally, let us remember that Ghana is obliged under international treaties to respect, fulfil and protect the fundamental human rights of the citizenry in ensuring that:

- it provides requisite support for its democratic organs and institutions and structures of law;
- it prevents other individuals or groups from violating the integrity, freedom of action or other human rights of the individual;
- it takes measures necessary to ensure, for each person within its jurisdiction, opportunities to obtain satisfaction of those needs, recognised in the human rights instruments, which cannot be secured by personal efforts.



The years ahead will require collaborative efforts on the part of the government, civil society, academia and the international community in monitoring the general situation of human rights in Ghana and the reporting obligations of government in respect of international human rights treaties.

PART 4

LANDMARK CASE ON CHRAJ





**IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT, ACCRA**

CORM: ACQUAH, C.J.
MISS AKUFFO, J.S.C.
DR. TWUM, J.S.C
DR. DATE-BAH, J.S.C
PROF. OCRAN, J.S.C.

REF.NO J6/3/2004

20TH JULY, 2005

SAMUEL APPIAH AMPOFO : PLAINTIFF

VERSUS

**COMMISSION ON HUMAN RIGHTS AND
ADMINISTRATIVE JUSTICE (CHRAJ) : DEFENDANT**

JUDGMENT

DR. SETH TWUM, J.S.C

The Defendant, (hereinafter called “the Commission”) investigated a complaint of corruption lodged by Mr. Kwaku Baako, Editor of Crusading Guide, against the Plaintiff. At the conclusion of the investigation the Commission made adverse findings against the Plaintiff and made a number of recommendations including;

- (a) that Mr. Appiah Ampofo be barred forthwith from holding any public office
- (b) that he should be barred from membership of any Insurance Institution or Association.
- (c) that the Attorney-General should consider bringing criminal prosecution against Mr. Appiah Ampofo for corruption.

Even though under Article 218 of the Constitution, if the Commission desires that its



recommendations should be enforced, it must apply to the court for appropriate orders, the Plaintiff did not wait for such proceedings to be mounted by the Commission. Rather he issued a Writ of Summons in the High Court and sought a declaration, inter alios, "that the decision of the Defendant dated the 5th April 2002, which made adverse findings against the Plaintiff is absurd, perverse, illogical and unreasonable to the effect that it cannot stand in law and same should be set aside by the Honourable Court."

At the Summons for Directions the following issues amongst others were set down for trial.

- (g) "Whether or not the Defendant was properly constituted when it purported to adjudicate the matters concerning the Plaintiff".
- (h) "Whether or not by reason of (g) above the Defendant lacked the jurisdiction to adjudicate the matter affecting the Plaintiff".

The learned trial judge made the primary finding that there was no doubt that the functions of the Commission were purely investigative. Further he held that the Commission had another function of "educating the public on human rights and freedom".

The learned trial judge, after taking legal argument on the issues submitted for trial, the parties having previously elected to adopt the proceedings before the Commission, proceeded to write his judgment. He posed the following questions:-

- (i) "Is the constitution of the Panel to perform the function of the Commission consistent with the constitutional provision conferring the functions of the Commission on the Commission as defined by Article 216"?
- (ii) In the face of Article 216 can any other law permit other persons other than the Commission to perform the investigation function of the Commission?"
- (iii) Is C.I.7, which seeks to confer jurisdiction in investigating cases before the Commission on persons other than the Commissioner and his two persons in violation of the Constitution?"

The questions clearly indicated how the mind of the learned judge was working. In the end he said: "In accordance with Article 130 (2) of the 1992 Constitution I will pose the question to the Supreme Court for determination **"Whether in the face of Article 216,**



which defines the Commission, C.1.7 can confer investigation powers on any other body like the panel defined in Regulation 6 of C.1.7”

For the purpose of the reference the panel which his Lordship referred to comprised the Commissioner, Mr. Emile Short, and two others, namely Miss Jacinta Gerald (Senior Legal Officer) and Mr. Isaac Annan (Principal Investigator). It was the Plaintiff's case that the functions of the Commission could only lawfully be carried out by the Commissioner and his two Deputy Commissioners. By Article 216 of the Constitution, Parliament was to establish by an Act, the Commission. This was done by the Commission of Human Rights and Administrative Justice Act 1993, (Act 456). The Article further directed that the Commission when established shall consist of the Commissioner and two Deputy Commissioners. Article 220 provided that the Act of Parliament shall provide for the creation of regional and district branches of the Commission. All these provisions were faithfully incorporated into Act 456. Article 230 provided:

“Subject to the provisions of the 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 complaints”.

It was pursuant to this Article that “the Commission on Human Rights and Administrative Justice (Complaint Procedure Regulations, 1994 (C.I.7) were made. Regulation 6 (2) provided that “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 Commissioner”.

Regulation 7 (1) stated that a panel composed under these regulations shall make a full report in any matter before it with its recommendations to the Commission.

Regulation 7 (2). The Commission shall consider every report submitted under sub-regulation (1) and may accept or reject the recommendations or ask for further investigations.

This Plaintiff's strictures against the investigations conducted into the complaint lodged against him by Mr. Kwaku Baako may be explained as follows:-



The functions of the Commission set out in Article 218 of the Commission were to be performed by the Commissioner and his two deputies. He took the view that the panel that investigated him was set up as stated in regulation 6 (2); hence his submission that C.I.7 was made in violation of the Constitution.

It is not clear whether the Commission was established as a body corporate. In such situations it is advisable to proceed empirically. In our view, the word Commission appearing in chapter 18 of the Constitution is used in two senses. In Articles 216 and 217, it must refer to the three persons, namely the Commissioner and the two Deputy Commissioners. In particular, when Article 217 speaks of appointing the members of the Commission, it can only be a reference to these 3 persons. But where Article 220 provides for the creation of regional and district branches of the Commission, this can only refer to something which can have branches. It will lead to manifest absurdity if the word "Commission" were interpreted to mean the three persons would have branches. In this context, the word must refer to an organization, a body, an institution, an establishment or a bureaucracy. Now, obviously, the people who will man the regional and district branches cannot be the Commission in the narrow sense of the Commissioner and his two deputies. It must refer to the wider sense in which the Commission is used. This will include the narrow sense Commission and the supporting staff and employees. Indeed, the appointment of officers and other employees of the Commission mentioned in Article 226 can only be a meaningful activity if such employees and officers are going to share in the execution of the functions of the Commission. The Commission in the wider sense is a bureaucracy established all over the country to carry out the functions spelt out in Article 218.

Learned Counsel for the Plaintiff, Mr Atta Akyea, submitted that when persons other than the three mentioned in Article 216 discharge the functions of the Commission, they must have had the power to do so delegated to them by the Commission in the narrow sense. And the Commission cannot delegate what has been delegated to it. It is quite clear this argument is flawed.

The regional and district branches are expected to discharge all the functions of the Commission not some. And they will be doing so in their own right as officers and employees manning the regional and district branches. There is no provision in Act 456 allocating specific functions to the branches and leaving the rest to the Commission in the narrow sense. Section 10 of Act 456 provides:



- (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 operation.

Section 11 (1) (a) complements this position by stating that a representative of the Commission in a Regional or District office of the Commission shall receive complaints from the public in the Regional or District, and (b) make such on-the-spot investigation as may be necessary.

During the hearing when it was suggested to Learned Counsel for the Plaintiff that if his submission that the entire gamut of the functions of the Commission could only be discharged by the Commission in the narrow sense that would lead to obvious absurdity, he persisted that, that was the law. Our view of the matter is that it is not the duty of a court of law to be astute to find out ways in which the object of an Act of Parliament may be defeated. The framers of the Constitution realized only too clearly that if the work of the Commission were to have the desired impact, its activities must pervade the entire country. Hence the provision that branches may be established. It will be height of absurdity to create these branches and then insist that only three person should criss-cross the whole country making investigations and educating the public on fundamental rights and freedoms. If such absurdity were indeed enacted in the Act, we would have held that to avoid the absurdity, the word Commission was used in the wider sense so as to be able to cover the whole country. Fortunately, no such absurdity is evident in the Act.

There is one other practical reason why the plaintiff's submission cannot be upheld. At the moment, the Commissioner and his two deputies are lawyers. Now, lawyers are, of course learned people. But we are persuaded that lawyers are not necessarily endowed with special investigative skills to unravel well-conceived white collar crimes. There is expertise and skill acquired by special training in this field of investigation and there is no legal reason why the Commission cannot employ officers of specialized skills to bring their expertise to bear on investigations. There will be a need for auditors, financial analysts, forensic examiners, if the work of the Commission is to produce the desired results. A reading of chapter 18 of the Constitution, Act 456 and C.I.7 which



insists that only the Commissioner and his two deputies are the persons with legal authority to discharge the Commission's function will sound the death knell of the Commission.

The duty to educate the public on human rights and freedoms by the Commission, similarly disavows the view that the three persons must do this themselves. Educating the Ghanaian public on such matters as human rights and fundamental freedoms is an important process in the quest for freedom and justice in our land. Even with plenty of money and other logistics, three human beings cannot meaningfully be expected to cover the entire country and leave them enough time to undertake investigations, write reports on their investigations and personally institute proceedings in court to seek appropriate remedies, etc, etc. Only one result can be predicted with absolute certainty. It will reduce the Commission to sheer impotency.

From what we have stated above we have no doubt that regulations 6 and 7 of the C.1.7 are in accord with spirit and letter of the Constitution as well as Act 456. To answer the reference specifically, we hold that C.1.7 properly confers investigative powers on officers and employees of the Commission other than the Commissioner and his two deputies. For the avoidance of doubt we hold that the learned High Court judge must complete his judgment upon the ruling of this court.

G.K ACQUAH

CHIEF JUSTICE

S.A.B AKUFFO (MS)

JUSTICE OF THE SUPREME COURT

DR. S. TWUM, J.S.C

JUSTICE OF THE SUPREME COURT

PRO.M.OCRAN

JUSTICE OF THE SUPREME COURT

DR. DATE-BAH J.S.C: I agree with my learned brother Dr. Twum JSC that the investigative panel system of CHRAJ, put in place under C.1.7, is constitutional. My path to this conclusion is similar but not identical to that of my brother and so I have set down my own reasons for this conclusion.

This case is a classic illustration of the need for purposive interpretation in constitutional



matters. The Plaintiff's contention is for an interpretation of provisions in Chapter 18 of the Constitution which might have some plausibility on a literal reading of the provisions but which, when viewed purposively, undermines what must have been the purpose of the framers of the Constitution and is therefore not a credible interpretation of the relevant provisions.

Chapter 18 of the Constitution deals with the Commission on Human Rights and Administrative Justice ("CHRAJ"), whose *raison d'être* is stated as follows in the Proposals for a Draft Constitution of Ghana prepared by the Committee of Experts whose Report, i.e. the Proposals was deliberated upon by the Consultative Assembly which produced the 1992 Constitution.

"358. The constitutional experience of many countries, including ours, demonstrates that a catalogue of constitutional rights together with provisions for judicial enforcement is inadequate to ensure meaningful enforcement of fundamental rights and freedoms on the ground. The Committee accordingly proposes the establishment of the Commission on Human Rights and Administrative Justice which would sensitize people to their constitutional rights, investigate violations of such rights, and assist individuals in prosecuting them"

(See p 163 of the Report.)

This passage from the Report of the Committee of Experts provides evidence that the objective of the framers of the Constitution was to provide for the establishment of an institution which would be effective in investigating violations of the fundamental human rights of individuals in Ghana. It is against this objective that one should evaluate the interpretation put forward by the Plaintiff in this case.

The Plaintiff's case is as follows. The Plaintiff was aggrieved by a decision of 5th April 2002 reached by a CHRAJ Panel consisting of Mr. Emile Short, Commissioner of CHRAJ, Miss Jacintha Greald, a senior legal officer of CHRAJ and Mr. Isaac Annan, a principal investigator of CHRAJ. Accordingly, he issued a writ in the High Court, Accra against CHRAJ for the following reliefs:

"A declaration that the decision of the Defendant dated 5th April 2002, which made adverse findings against the Plaintiff, is absurd, perverse, illogical and unreasonable to the effect that it cannot stand in law and same should be set aside by this Honourable Court.



1. An order setting aside all the consequential orders contained in the decision of the Defendant dated 5th April 2002.
2. Costs”

After the close of pleadings in this suit and the setting down of the issues for trial in the case, the learned trial judge heard legal submissions from counsel for both parties as a result of which he decided to refer an issue of constitutional interpretation to this Court for determination. The issue referred to this Court by the learned trial judge was expressed in the following terms by His Lordship Ofoe J; the learned trial judge:

“Under Article 216 the Commission is established to be the Commissioner and his two Deputies. And the functions of the Commission are spelt out in Article 218 and Section 7 of the Commission on Human Rights and Administrative Justice Act 456. In the face of Article 216 can any other law permit other persons other than the Commission to perform the investigation function of the Commission? Counsel for the Plaintiff says no Counsel for the Defendant yes. Is C.1.7, which seeks to confer jurisdiction in investigating cases before the Commission on persons other than the Commissioner and his two person in violation of the constitution. In accordance with Article 130 (2) of the 1992 Constitution I will pose the question to the Supreme Court for determination whether in the face of Article 216, which defines the Commission, C.1.7, can confer investigation powers on any other body like the panel defined in Regulation 6 of C.1.7”

Before this Court, the Plaintiff has argued as follows (in paras 2.1.2.2, 2.3 and 2.4 of his written submission)

- “2.1 The conclusion of reason, borne out by the clarity of language, is that only the trinity, i.e. the Commissioner and the 2 deputies who Article 221 provides that they shall qualify as Court of Appeal judge and High Court judges respectively who can investigate a complaint duly lodged with them. Needless to say that “investigation” as used in this context is not the Police type of investigation, but rather “adjudication”, which entails the calling of witnesses, testimonies on oath, cross-examination, re-examination (if any) and finally a reasoned decision borne out by the evidence led.
- 2.2 Apart from the trinity getting together no other panel can investigate even for



and on behalf of the Commission. To think that some other person can do the job of the Commission as spelt out by the Constitution is a flagrant and lawless breach of the supreme law of the land. No other person can usurp or imitate the powers of the trinity under Article 216 supra.

- 2.3 It is our respectful submission that it is this strong constitutional foundation which makes regulation 6 C.1.7 null and void and as totally inconsistent with Article 216, 217 and 218 of the 1992 Constitution. Regulation 6 of C.1.7 regulates as follows:

“For the purposes of regulation 5 the Commissioner may on the recommendation of any other member of the Commission, an investigator of the Commission or any other officer of the Commission, constitute a panel to investigate any complaint and report to the Commission.

- (2) The panel shall be composed of a chairman who shall be a member of the Commission or any legal officer in the employment of the Commission and not less than two other officers of the Commission
- (3) Notwithstanding sub regulation (2) of this regulation there may be co-opted on any such panel such person as the Commissioner may approve.
- (4) Any 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”

- 2.4 It seems to us that the Commissioner, and not even the Commission, has wrongfully assumed the power to appoint a panel to investigate, and for that matter to adjudicate, a complaint. This violates the Constitution for the simple reason that the Commissioner by himself cannot act. This abuse of power also violates the Constitution.

The Plaintiff goes on to argue that regulation 6 infringes the maxim *delegatus non potest delegare*. It is the Plaintiff's belief that the maxim is applicable to the Commission since its investigative function is in the nature of an adjudication and an adjudicative function may not be delegated; the reason for this being that in adjudication there is reliance on the individual judgment and discretion of the person on whom the power of



adjudication had been conferred. The Plaintiff cites various authorities in support of this proposition.

In my view, there is no need to resort to the line of authorities cited by the Plaintiff since he is wrong to characterize the investigative function of the Commission as adjudicative. Counsel for the defendant, Dr. Bondzi-Simpson, was right when he drew this Court's attention to earlier decisions of this Court which have held that CHRAJ does not exercise an adjudication function. (See *CHRAJ v Attorney-General No 2* {1998-99} SCGLR 871 and more doubtfully, *Republic v High Court, Accra, Ex Parte CHRAJ* to be reported in [2003-2004] SCGLR).

The leading case establishing that CHRAJ's functions are investigative and educational and, by necessary implication from the language of Charles Hayfron-Benjamin, JSC, not adjudicative is *CHRAJ v Attorney-General No. 2* (1998-99) SCGLR 871. In this case, Charles Hayfron –Benjamin JSC said (at pp.882-883)

“Act 456 was, of course, made in pursuance of authority granted to Parliament under chapter 18 of the 1992 Constitution. The functions-and this is the expression used in article 218 of the Constitution-which the plaintiff Commission may exercise, are taken almost verbatim from the Constitution and restated in section 7 of Act 456. Similarly, the manner in which such functions may be exercised, is copied verbatim from article 219 and are also contained in section 8 and 9 of the Act. Taken together, it is clear that the objects or functions of the plaintiff Commission are investigative and educational. For the purposes of effective exercise of its investigative functions, the plaintiff Commission has certain powers akin to those of the regular courts and tribunals. But it must be said that, in exercising those powers, the Commission does not thereby constitute a court or tribunal properly so-called; nor does it thereby assume any jurisdiction to do anything in its investigations. However, the plaintiff Commission may institute legal action “before any Court in Ghana and may seek any remedy which may be available from that Court”.

I agree with this conception of the function of CHRAJ. I thus believe that it is incorrect to describe CHRAJ's investigative activities as constituting adjudication. The mere fact that the Commission has the power to issue *subpoenas* (see s.8 (1) (a) of Act 456) to compel the attendance of persons before the Commission and the production of relevant documents and records during its investigations does not convert its investigative



process into an adjudicative one.

In carrying out its investigative and educational functions, CHRAJ would be emasculated if it could only ever act if its “trinity” of Commissioner and two Deputy Commissioners had to act personally in each functional activity. As the submission filed by the Attorney-General puts it (in para 25).

“The argument of the plaintiff that in all cases the Commission should be composed of the three members investigating matters; followed to its logical conclusion, would mean that in the absence of one member, the whole investigative system of the Defendant comes to a stop. This could hardly be said to be the intent of the Constitution.”

Applying a purposive approach to the interpretation of the provisions of Chapter 18 of the 1992 Constitution and the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456), I am of the view that the interpretation contended for by the Plaintiff is not viable and not in keeping with the spirit and purpose (both subjective and objective) of the provisions concerned. (See *Asare v Attorney-General* {2003-2004} SCGLR 823). I am further of the view that the Commission should be viewed as a particular kind of statutory corporate entity comprising the Commissioner, the two Deputy Commissioners and the staff employed by them to assist them in carrying out the functions of the Commission. Accordingly, references to the Commission should be interpreted as references to this corporate entity, which may act through the Commissioner, the Deputy Commissioners or any duly authorized employee of the Commission. This remains my view in spite of some ambiguity in the statutory language employed to establish the Commission in Act 456. Section 1 of Act 456 provides that:

“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.”

This language leaves unclear whether the body established is incorporated or unincorporated. However, it could hardly be unincorporated, given its purpose and functions. In my view, therefore, the Commission, by necessary implication, should be regarded as a kind of corporate entity. It clearly needs an independent legal personality to carry out its constitutional functions.



In the submission filed by the Honourable Attorney-General, he rightly draws attention to article 297 (C) of the 1992 Constitution, which is in the following terms:

“In this Constitution and in any other law.....

(c) where a power is given to a person or authority to do or enforce the doing of an act or a thing, all such powers shall be deemed to be also given as are necessary to enable that person or authority to do or enforce the doing of the act or thing.....”

This provision is further authority for interpreting Chapter 18 of the Constitution and Act 456 as giving authority to the Commission to act in its investigation function through persons other than only the “trinity” acting together personally and as giving the Commission a corporate identity. Failure so to interpret the relevant provisions would be equivalent to making CHRAJ a virtually irrelevant constitutional institution since it could only investigate an infinitesimal number of cases. If the “trinity” were to personally investigate a case in Bolga, for instance, all investigations everywhere else in the country would have to be on hold for the duration of that investigation. This would be unacceptable and not envisaged in the passage from the Proposals for a Draft Constitution of Ghana prepared by the Committee of Experts referred to *supra*.

I am reinforced in my view that the Commission is a corporate entity by provisions such as section 20 of Act 456, which is in the following terms:

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

In my opinion, it is best to interpret the officers and employees referred to in this provision as employees of the corporate body which is the Commission, rather than to resort to an unincorporated concept of the Commission. The latter view seems to be advanced by the submission filed by the Honourable Attorney-General, but it does not appear to me to be a sustainable interpretation. Para 9 of his submission reads as follows:

“The Constitution provides the members as the Commissioner and two Deputy Commissioners. The import or the inference from such a composition is that the Commissioner is the head with the two Deputies assisting him. This is the spirit

behind chapter 18 of the Constitution, even though several references are made in the chapter as if the Commission is a corporate whole.

While it is conceded that the Commissioner is the head of the Commission, I am unable to accept any implied assertion in this passage that the Commission is not a corporate entity acting as such, albeit sometimes through the Commissioner. Some of the provisions in Chapter 18 refer specifically to the Commissioner, but I do not consider that that derogates from the corporate existence of the Commission.

A concept of the Commission as a corporate body comprising the Commissioner and his or her two deputies as well as the staff employed by them to assist them in carrying out their functions is compatible with the language of the relevant provisions and makes better sense. Although section 2 of Act 456, reflecting Article 216 of the Constitution, provides that the Commission shall consist of the Commissioner and the two Deputy Commissioners, this provision need not be interpreted to mean that the Commission consists exclusively of these three. The employees of an organization can hardly be sensibly conceived of as apart from the organization. Thus the employees of the Commission, for which section 20 of Act 456 makes provision, can reasonably be interpreted as forming a part of the Commission. This implies that what the Commission does through its employees it does itself. No issue of delegations arises in that situation. In any case, I do not think that there is necessarily a problem with the Commission delegating part of its investigative tasks to non-employees, so long as it retains overall control over the exercise. But this remark is made *obiter*, in view of the fact that the facts of this reference relate to a panel comprising only employees of the Commission.

It follows, therefore, that I agree with the Defendant's submission that the panel system instituted under regulation 6 of the Commission on Human Rights and Administrative Justice (Complaint Procedure) Regulations, 1994 (C.I.7) is a legitimate modality for carrying out the Defendant's investigative functions. It is not in breach of the letter or spirit of the Constitution. The submission filed by the Honourable Attorney-General correctly, in my view, states the legal position thus (in para 23):

"The fact that the panels in issue here are not provided for either in the Constitution or Act 456 does not preclude the **Commission** from providing for this mechanism in the C.I. in pursuit of its powers under article 230. There is nothing in Chapter 18 of the Constitution or Act 456 that prohibits the setting up of the



panels by C.I and since under article 230, the Commission has power to issue regulations **by Constitutional Instruments**, so long as they are not in conflict with the Constitution or its Act, we fail to see the unconstitutionality of C.1.7. Article 230 states:

“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.”

Having construed the Commission as comprised of more than the “trinity”, I am predictably of the opinion that the Commissioner, by giving, but as I have held above not delegating, investigating functions to the panel in issue in this case, was not acting unconstitutionally.

As the submissions filed by the Defendant and the Honourable Attorney-General indicate, there are other illustrations of the framers’ intent that the exercise of the functions of the Commission could be by persons other than the “trinity”. The Defendant’s submission, for instance, stated that:

“.....it is abundantly clear from the provisions of Act 456 that the words “the Commission” do not always refer to the three-member Commission. The Plaintiff submission to the contrary is based on a misconception of the law and a lack of appreciation of provisions of Act 456. Act 456 makes it clear that the Commission may act through its representatives in the regions and districts”.

The language of section 10 of Act 456, which makes provision for Regional and District branches of the Commission, makes it obvious that these are intended to be integral parts of the Commission. The fact that Act 456 contemplates that the Commission may act through regional and district representatives buttresses my view that the Commission was not acting unconstitutionally by exercising its investigative function through a panel.

In sum, my response to the question posed by His Lordship Ofoe J is that in the face of Article 216, which defines the Commission, C I.7 can confer investigation powers on a body like the panel defined in regulation 6 of C I.7.



Finally, I would like to welcome the fact that this constitutional case was argued ably on behalf of the Republic by the learned and Honourable Attorney-General himself, assisted by a large team from his office. He announced that there had been a paradigm shift to such full representation and I do hope that the new paradigm will be maintained. I must also acknowledge the able assistance given this Court by Mr. Atta Akyea, learned counsel for the Plaintiff and Dr. Bondzi-Simpson, learned counsel for Defendant.

DR. S.K. DATE-BAH
JUSTICE OF THE SUPREME COURT

COUNSEL:

Ayikoi Otoo Attorney-General with Joe Ghartey, Ivy Vanderpuye, Maame Saah Oduro Frimpong, Gifty Odoi Anim for the Attorney General.

Atta Akyea for the Plaintiff.

Dr. Boadzi Simpson for Defendant.

PART 5

FINANCIAL REPORT





FINANCIAL REPORT

The Commission's bank balances as of January 2005 were as follows:

Main Account	-	¢178,020,672.50
Client Account	-	¢105,691,651.53
Donor Account	-	¢111,258,076.30
Dollar Account	-	\$15,973.30

Budget Estimates for 2005 Fiscal Year

In 2005, the Government of Ghana approved a budget estimate of ¢27,635,808,801.00 for the Commission's activities for 2005 in the government's fiscal policy statement.

Category	2004	2005	% Decrease
Personal Emoluments	16,707,000,000	18,127,813,199	-
Administration	5,170,000,000	7,433,995,602	-
Service	2,255,000,000	859,000,000	62%
Investment	1,750,000,000	1,215,000,000	30.6%
	25,882,002,004	27,635,810,806	

A tabular representation of the figures above shows a decrease in the 2005 budget estimates in respect of service and investments activities, compared to 2004.

Budget Releases for 2005

Actual releases effected by the Ministry of Finance came up to ¢26,409,723,415, indicating a shortfall of ¢1,226,085,385.17. The releases included 2004 December Administration Vote of ¢286,995,602.09 which had fallen into arrears.

Below is a table showing the releases for 2005. Funds for service activity suffered further cuts, while that for investment activity was cut altogether.



Item	Approved Budget	Amount Released	Balance
Personal Emoluments	18,127,813,199	18,127,813,199	-
Administration	7,433,995,602	7,433,995,602	-
Service	859,000,000	847,914,614.83	11,085,385.17
Investment	1,215,000,000	-	1,215,000,000
	27,635,808,801	26,409,723,415.83	1,226,085,385.17

Support from Development Partners

In the year under review, the Commission received donor support. Donor funds disbursed by the Commission included:

Partner	Amount/Support
DANIDA	\$520,700
USAID	Technical Support ^ψ
ADF	Technical Support in the amount of \$1,391,130.88 ^φ

^ψ Hardwareet & Website facilities

^φ Disbursed through National Governance Programme [NGP]



PART 6

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 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 the Commission –
- (a) to furnish the information to it;
 - (b) to produce any document, paper or thing that in its opinion relates to the matter being investigated and which may be in the possession or control of that person.



- (2) The Commission may summon before it and examine on oath or affirmation -
 - (a) a person required to give information or produce anything under subsection (1) of this section;
 - (b) a complainant;
 - (c) any other person who the Commission considers will be able to give information required under subsection (1) of this Section.
 - (3) Subject to subsection (4) of this section, a person who is bound by law to maintain secrecy in relation to, or not to disclose, any matter may not -
 - (a) supply information to or answer a question put by the Commission in relation to that matter; or
 - (b) produce to the Commission a document, paper or thing relating to it, if compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure.
 - (4) A person to whom subsection (3) of this section applies may be required by the Commission to supply information or answer a question or produce a document, paper or thing that relates to a matter under investigation; and subject to section 16 of this Act, it shall be the duty of that person to comply with the requirement.
 - (5) A witness before the Commission shall be entitled to the same privileges to which he would have been entitled if he were a witness before the High Court.
 - (6) No person shall be liable to prosecution for an offence under any enactment by reason of his compliance with a requirement of the Commission under this section.
16. Article 135 of the Constitution, which relates to production of official documents in court, shall apply to proceedings before the Commission as it applies to proceedings before a court.
17. (1) The Commissioner or a Deputy Commissioner and every person holding an office or appointment under the Commission shall maintain secrecy in respect of all matters that come to their knowledge in the exercise of their



functions.

- 2) Every person holding office or appointment under the Commission who is likely to have access to confidential information of the Commission shall before proceeding to carry out his functions under this Act, take and subscribe to the Oath of Secrecy set out in the Second Schedule to the Constitution.
- (3) The Commission shall determine the category of persons to whom subsection (2) of this section shall apply.

Part iv - Procedure after Investigation by the Commission

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



Commission shall submit a copy of its report and recommendations to the complainant.

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

Part v - Miscellaneous Provisions

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



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

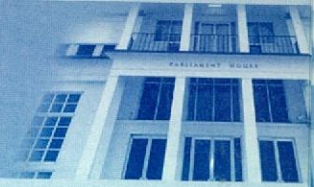
- (b) Any complaint pending before the Ombudsman immediately before the coming into force of this Act may be proceeded with under, and shall be subject to the provisions of, this Act.



(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 thumbprint to the written complaint.
2. (1) A complaint lodged with the Commission shall contain -
 - (a) the full name and contact address of the complainant;
 - (b) the body, organisation or person against whom the complaint is made;



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



expert knowledge relevant for redressing any particular complaint.

4. (1) Upon receipt of the comments or response the Commissioner, where he considers that in view of the response, the complaint could be mediated upon and settled, may invite the parties concerned and attempt a settlement of the issue between the parties.
- (2) No provision of these regulations shall preclude the Commission on receipt of a complaint from inviting the parties concerned and attempting a settlement of the issue between the parties.
5. (1) Where the Commission decides to institute a full investigation into a complaint, the Commission shall in writing invite -
 - (a) the complainant
 - (b) a representative of the body, organisation or person against whom the complaint is made; and
 - (c) such other persons as are considered by the Commission to be concerned in the investigation to attend to be interviewed by the Commission at a date, time and place specified in the notice.
- (2) The date for attendance shall not be less than seven days from the date of the notice.
- (3) A person appearing before the Commission in answer to a complaint shall -
 - (a) be informed again of the particulars of the complaint and the relief sought;
 - (b) be afforded full opportunity to answer the complaint and to question any witness.
- (4) Any person who appears before the Commission in any investigation shall be given a fair hearing.
- (5) Persons appearing before the Commission to be investigated shall appear



in person and may be represented by counsel.

- (6) Records of the investigation shall be kept in writing.
- 6.
- (1) For the purposes of regulation 5 the Commissioner may on the Recommendation of any other member of the Commission, an investigator of the Commission or any other officer of the Commission, constitute a panel to investigate any complaint and report to the Commission.
 - (2) The panel shall be composed of a chairman who shall be a member of the Commission or any legal officer in the employment of the Commission and not less than two other officers of the Commission.
 - (3) Notwithstanding sub-regulation (2) of this regulation there may be co-opted on any such panel such person as the Commissioner may approve.
 - (4) A person appearing before a panel under these regulations may raise an objection to the membership of the panel to the Commissioner who shall determine the issue.
- 7.
- (1) A panel composed under these regulations shall make a full report in any matter before it with its recommendations to the Commission.
 - (2) The Commission shall consider every report submitted under sub-regulation (1) and may accept or reject the recommendations or ask for further investigations.
8. An officer appointed as the regional or district head of the branch of the Commission shall ensure the prompt investigation by officers in the regional or district of all complaints and may refer complaints to the national office where he considers it necessary or where directed by the Commissioner.
- 9.
- (1) The head of a district office of the Commission shall within five days of the end of every month submit to the head of the region branch of the Commission, a report of all complaints investigated by the district office in the preceding month and recommendation of the office on the complaints.



- (2) The designated head of a regional branch of the office together with the recommendations to the national office.
10. The final decision in any complaint lodged with the Commission shall be taken by the Commission.
11. For the purpose of sections 9 and 18(2) of the Act, the Commissioner may by writing authorise any public officer to bring an action in any court in the name of the Commissioner.
12. In these Regulations -

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

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

EMILE FRANCIS SHORT
COMMISSION ON HUMAN RIGHTS
AND ADMINISTRATIVE JUSTICE

Appendix 1

**PRINCIPLES RELATING TO THE STATUS
OF NATIONAL INSTITUTIONS****(The Paris Principles)³****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

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



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 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.



2005 annual report

Commission on Human and Administrative Justice
P.O. Box 1000
Accra, Ghana



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