



COMMISSION ON HUMAN RIGHTS  
AND ADMINISTRATIVE JUSTICE

# 2007 ANNUAL REPORT







Commission on Human Rights  
and Administrative Justice

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 Eleventh Annual Report of the commission for the period January 1, 2007 to December 31, 2007.

Yours sincerely,

Anna Bossman  
Acting Commissioner



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## Commission Members



**Emile Francis Short**  
Commissioner  
currently serving as an Ad Litem  
Judge in the ITCR, Arusha, Tanzania



**Anna Bossman**  
Deputy Commissioner,  
Legal & Investigations  
(Ag. Commissioner)



**Richard Ackom Quayson**  
Deputy Commissioner  
Public Education & Anticorruption



## List of Acronyms

AC	Anti-Corruption
A-G	Attorney General
APRM	African Peer Review Mechanism
AWP	Annual Work Plan
CEPS	Customs, Excise and Preventive Service
CHRAJ	Commission on Human Rights and Administration Justice
COI	Conflict of Interest
CSIR	Centre for Scientific and Industrial Research
DANIDA	Danish International Development Agency
DCEC	Directorate on Corruption and Economic Crime
DIC	Divestiture Implementation Committee
DNA	Deoxyribonucleic acid
DOVVSU	Domestic Violence and Victim Support Unit
ECA	Economic Commission for Africa
ESCR	Economic Social and Cultural Rights
FGM	Female Genital Mutilation
FIDA	International Federation of Women Lawyers
GACC	Ghana Anticorruption Coalition
GBC	Ghana Broadcasting Corporation
GES	Ghana Education Service
GII	Ghana Integrity Initiative
GP	Ghana Post
GPRTU	Ghana Private Road Transport Union
GWCL	Ghana Water Company Limited
HRE	Human Rights Education
ILO/IPEC	International Labour Organisation/ International Programme for the Elimination of Child Labour
IRS	Internal Revenue Service
JHS	Junior High School
LI	Legal and Investigation
KEEA	Komenda-Edina-Eguafo-Abirem
MDAs	Ministries, Departments and Agencies
MOU	Memorandum of Understanding
MOWAC	Ministry of Women and Children's Affairs
MPs	Members of Parliament
NADMO	National Disaster Management Organisation
NGO	Non-Governmental Organisation
NSS	National Service Secretariat
NSC	National Steering Committee
PE/AC	Public Education/Anticorruption
PNDC	Provisional National Defence Council



PSI	Presidential Special Initiative
PTA	Parents Teachers Association
SFO	Serious Fraud Office
SG – SSB	Société Générale - Social Security Bank
SHS	Senior High School
SSNIT	Social Security and National Insurance Trust
SIC	State Insurance Company
SOHR	State of Human Rights Report
UDHR	Universal Declaration of Human Rights
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
UN	United Nations
VRA	Volta River Authority
WFCL	Worst Forms of Child Labour
WILDAF	Women in Law and Development in Africa



# Acting Commissioner's Message

## Greetings

It is with the greatest pleasure that we present the 2007 Annual Report of the Commission on Human Rights and Administrative Justice. This document not only symbolizes the sum of the commission's endeavours in the 2007 year but also attests to the extensive range of activities which follow from the discharge of our mandate.

It is always difficult to impart a year's worth of effort and activities in a few pages, but here we are pleased to offer you a concise overview of the major milestones and challenges of the 2007 year.

## Significant Accomplishments

The following milestones represent the dedication of many individuals, whose hard work and perseverance go largely unseen outside of the commission. Therefore, it is our hope that the meaningfulness and accomplishment which these milestones signify for us can be aptly conveyed to you as well.

## International Relations & Cooperation

This year, the commission experienced continued amity and cooperation internationally. More important, the commission received continued support from the UNDP and a new memorandum of understanding (MoU) has been signed with DANIDA under which the commission will receive programme support for the next two years.

## Legal & Investigations

This year, the commission was able to resolve or appropriately refer 11,003 cases out of 13,455 received. Major focal points were decongesting the remand prisons and collaborating with the Domestic Violence Unit of the Ghana Police Service and many other organizations.

## Anticorruption

Anticorruption constitutes a key pillar of the commission's work, and the commission has been instrumental in transforming public awareness of corruption into public action. Nationally, CHRAJ received 62 corruption-related cases, seven of which were under the commission's Whistleblower Mandate. Most prominent among the department's achievements has been the publication of the Guidelines on Conflict of Interest, which will serve as a benchmark guide on this subject for Members of Parliament, attorneys and government officials at all levels.

## Public Education

The commission's vision continues to be one where all Ghanaians adopt the philosophy of human rights as a way of life. In order to cultivate this deep appreciation, the department completed 1,917 educational programmes and formed 29 human rights clubs. Major focus areas included the eradication of child labour, with the commission serving on the National Steering Committee on Child Labour, and the nation-wide

human rights quizzes competitions held at all levels for SHS human rights clubs. The department published major educational materials, as well as the annual State of Human Rights Report, which marked the culmination of immense research, field monitoring, and data compilation.

### Public Relations

In 2007, the Public Relations Unit upheld its recurring responsibilities, including: the promotion of the commission's image within a wide range of media, monitoring of the media for reports of human rights abuses or related cases and issuance of press releases for important dates, events and cases. Throughout the year, Public Relations also received visiting international delegations and provided information on the commission for interested scholars. Press releases were issued on a variety of important issues and cases.

### Administration & Finance Departments

This year, the Administration Department continued to provide the essential infrastructure for the departments, regional offices and district offices. Major accomplishments included extensive capacity-building of staff through several major training workshops, the purchase of three (3) flats from SSNIT and the procurement of much-needed motorbikes for select regional and district offices. The commission received financial support of GH¢3,640,569.00 from the Consolidated Fund and \$495,571.00 from DANIDA. The commission's closing balance at the end of 2007 was GH¢175,646.1.

### Challenges

While we do not wish to dwell on the challenges of 2007, it is nonetheless important for us to accurately portray the realities of our work. We believe that a clear perception of our context is crucial to understanding both the limitations and capacities of the commission.

In 2007, as in previous years, CHRAJ faced considerable barriers to the effective discharge of its mandate. To merely list the challenges CHRAJ experienced in 2007 would be misleading, as these challenges have truly been ongoing - recurring year after year. To summarize, the most pressing challenges have been in the areas of funding, loss of staff and infrastructure.

- **Funding:** The single greatest barrier faced by the commission in actualizing its full potential continues to be funding limitations. The possible range of the commission's impact is much greater than its current state, but funding, specifically government funding, has been both insufficient and being released late. Therefore, the commission would like to reaffirm the need for funding which is both adequate and made available on time.
- **Loss of Staff:** High attrition rates, especially among upper-level staff and lawyers, continue to impede the commission and erode its effectiveness. It is, however, small comfort to hear exiting staff express regret at having to leave such meaningful work; it is simply that the commission cannot provide competitive salaries.



- **Infrastructure:** The commission can only fulfil its mandate by having a presence in all areas of the country and, therefore, the infrastructural requirements of the commission are significant. With 10 regional offices, 98 district offices, the Head Office in Accra and a total staff of 758, it remains clear that the infrastructural capacities of CHRAJ are over-extended. This is true in the areas of computers and IT, transportation, office supplies, and structural facilities.

### Expectations for 2008

Ghana's 50th anniversary celebrations in 2007 provided the nation with opportunities for both the recognition of successes and a reflection on areas to improve. This landmark anniversary has re-energized the commission and bolstered our high expectations for 2008 and the future. Listed below are the major focal points of the commission, according to each department or unit.

**Legal & Investigations:** The commission has noted a great need for human rights improvement in the prison system, and is responding with a major collaboration with the Attorney-General's Department, the courts and the Prison Service into the conditions of Ghana's remand prisons.

The commission also plans to complete its investigations into the state of human rights in the mining communities in 2008.

**Anticorruption:** The commission's main focus in 2008 will be on promoting awareness of the Conflict of Interest (COI) guidelines and the Whistleblower's Act. Major goals are: cultivating a deep interest in exposing corruption in both the media and the general public, sustaining nation-wide media coverage of corruption-related issues, targeting election corruption and abuse of incumbency and strengthening cooperation between CHRAJ and the anticorruption agency of Malaysia.

**Public Education:** In 2008, the commission plans to develop new strategies for public education and further empower the general public to take responsibility for respecting human rights. In accordance with the commission's goal of ensuring universal accessibility, we will develop audio versions of the Disability Act. Additionally, we aim to improve outreach programs delivered in the rural areas to ensure that information is assimilated by the community. To do this, we will work to link the program content to the specific issues faced in each local context.

### Concluding Remarks

It has been our aim to present an overview of our successes and challenges in 2007 and acknowledge the committed effort behind these milestones and those not mentioned here. Therefore, we hope you will enjoy reading the full report for further details of our 2007 year. We wish to extend our gratitude for your ongoing interest in the commission. We would be unable to succeed in the discharge of our mandate without the support of those who work with us and alongside us.



**Anna Bossman**  
Ag. Commissioner

# Executive Summary

## International Relations & Cooperation

In the 2007 reporting year, CHRAJ endeavoured to improve its international relations and was rewarded through the goodwill and cooperation it has engendered at the international level. The commission participated in a number of international workshops and conferences, enjoyed bilateral cooperation and received assistance from developing partners. In particular, the commission signed a new memorandum of understanding with DANIDA under which the commission will receive programme support for the next two years.

## Legal and Investigation

The commission received a total of 13,305 cases nationwide, out of which 10,607 were either resolved or referred to other appropriate fora for redress.

Through its Legal & Investigations Department, the commission continued to collaborate with a number of institutions, in particular the Attorney General's Department, in decongesting the remand prisons. Other institutions included the Department of Social Welfare, the Domestic Violence and Victims Support Unit (DOVVSU) of the Ghana Police Service, the United Nation's Children's Fund (UNICEF), Women in Law and Development in Africa (WiLDAF), the Commonwealth Human Rights Initiative (CHRI), LAWA/APEX Law Consult, among others.

## Anticorruption

Sixty-two corruption related cases were received across the country, seven of them under the commission's whistleblower mandate.

The commission also stepped up its anti-corruption campaign. Activities implemented included the development and dissemination of anticorruption materials and the Guidelines on Conflict of Interest, and public education to promote awareness of the Guidelines. Other activities included:

- Development of a documentary on corruption.
- Training workshop for Investigators and lawyers and state attorneys from the Attorney-General's Department.
- Public fora for public officials in five regions of the country, namely, Greater Accra,
- Northern, Upper East, Brong Ahafo and Central.
- Public education programmes in Accra and Sunyani for members of Entity Tender
- Committees from six district, municipal and metropolitan assemblies
- Workshop on the Guidelines on Conflict of Interest for Members of Parliament.

The commission, through the department, continued to collaborate in various forms with its stakeholders in the fight against corruption, namely, the Ghana Integrity



Initiative (GII), the Ghana Anticorruption Coalition (GACC), and the National Commission for Civic Education.

In order to establish strong networks and enhance collaborative efforts between the commission and other national human rights organisations, select staff of the commission visited a number of such organisations in Africa and Asia. These visits had the specific aim of building the capacity of CHRAJ officers in the sphere of combating corruption.

### **Public Education**

The department executed a significant range of activities in line with the goal of the commission, which is to develop a sustainable culture of human rights knowledge and appreciation amongst all Ghanaians. It carried out a total of 1,917 educational programmes, as well as the formation of 29 human rights clubs, during the year. Most of these educational programmes were carried out in the regions through the media of radio and television, as well as community outreach programmes.

To improve the consistency and effectiveness of the commission's public education and outreach work, the department also designed and produced a Human Rights Education Guiding Policy and Human Rights Education Material in 2007. A parallel effort to ensure school teachers were well trained in the facilitation of human rights education in schools resulted in the production of the Human Rights Education Training Manual for teachers.

With the specific aim of augmenting and sustaining students' interest in human rights values and principles, this year the commission successfully organized human rights quizzes at the municipal, regional, and national levels for human rights clubs in SHS.

To strengthen working relations between the commission and civil society organizations, the department collaborated with a number of NGOs to organise various activities to commemorate UN days like International Women's Day and International Human Rights Day.

As part of enhancing child labour interventions in the operations of CHRAJ, the department met with external and local evaluators of the ILO/IPEC project support to the Ghana time-bound programme. The commission was also nominated to serve on the National Steering Committee (NSC) on Child labour and on two other sub-committees.

The commission monitored the state of human rights in the year under review and issued the State of Human Rights Report for 2007 on International Human Rights Day.

### **Public Relations**

During the year under review, the unit coordinated CHRAJ's media relations, commemoration of anniversaries and events on the UN calendar, as well as human rights lectures.

The commission issued a number of press statements to mark important days like the International Day of the Elderly, International Women's Day, as well as National Farmers Day. Similarly, press statements were issued on a variety of pertinent issues such as

mob injustice and the High Court's ruling in the case of the Republic v. CHRAJ, Ex Parte Dr. Richard Anane.

Also, the unit provided information on the commission upon request from various sources, including the media and local and foreign scholars and researchers, and facilitated visits to the commission. Some of the key visitors were from countries such as the United States of America, Sierra Leone, Kenya and Rwanda.

In the reporting year, the commission purchased **three** flats from SSNIT and **eight** motorbikes for some regional and district offices.

The department pursued an aggressive capacity-building programme, collaborating with other departments to train CHRAJ staff across the country. These activities included:

- Training of trainees workshops on the Guidelines on Conflict of Interest developed by the commission.
- Training for assistant registrars, assistant Investigators and administrative assistants.
- Training for middle-level management personnel.
- Induction courses for newly recruited and upgraded staff and national service persons.
- ILO workshop for human rights educators and monitors as part of efforts towards enhancing child labour interventions in the operations of the commission.
- Public education training for regional directors and PE/Research to develop and strengthen their skills and knowledge base in the conduct and delivery of human rights education programmes.
- Workshop for cleaners and drivers; bailiffs, secretaries, registrars, receptionists and telephonists, and senior officers on human rights education to enhance knowledge of concepts and methods in human rights education.
- Training programme for select senior staff in sign language to bridge the communication barrier between persons with hearing impairment and CHRAJ staff, thereby improving access to services provided by the commission for such persons.

There were also external conferences/courses, among them:

- International gender conference on "Sexual and Gender-based Violence – Social Nightmare provoking Action".
- A course at Crown Agents International Training Centre on "Combating Corruption and Misuse of Public Office".

## Finance

The commission received GH¢3,640,569.00 from the Consolidated Fund for its activities for the year. It also received financial support of \$495,571.00 from DANIDA. The closing balance of the commission as of the end of the year stood at GH¢175,646.1.





# **SECTION I:**

## Introduction to CHRAJ

## I. VISION

At CHRAJ, our vision not only guides us but also fuels our commitment to strive for the ideal society.

We envision a society that is truly free, just and equitable, where human rights and human dignity are respected, where power is accountable, and governance is transparent.

## 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, freedoms and administrative justice for all persons in Ghana. These objectives will be achieved by:

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

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

## III. MANDATE

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

1. The national human rights institution
2. The Ombudsman: an agency which ensures administrative justice
3. An anticorruption agency for the public sector

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.

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



**a. 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 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 other areas of public interest. It conducts research, field investigations, and public hearings in the course of these investigations. It 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. It has the discretion to use a wide variety of methods to achieve this goal, including use of mass media, publications, lectures and symposia.

In order to prevent human rights abuses, the commission monitors the human rights situation across the country. The commission 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.

**b. Administrative Justice:**

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

The commission is also mandated to investigate complaints concerning injustice and unfair treatment of any person by a public officer and:

"... 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).

### **c. 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. It 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 promotes ethics and values in the public service, and conducts training and public education to sensitize public officials and the general public on corruption.

The Whistleblower Act 2006 (Act 720) confers additional mandate on the commission to investigate disclosures of impropriety (economic crime, waste, mismanagement, misappropriation of public resources, environmental degradation) and complaints of victimization of whistleblowers.

### **d. Limitations on the Commission's Mandate:**

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

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

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

Its 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 in Ghana. Through its various duties, the commission hopes to help create a free, just and equitable society in which human rights and human dignity are respected, governance is transparent, and power is accountable.

### **iv. Structure of the Commission**

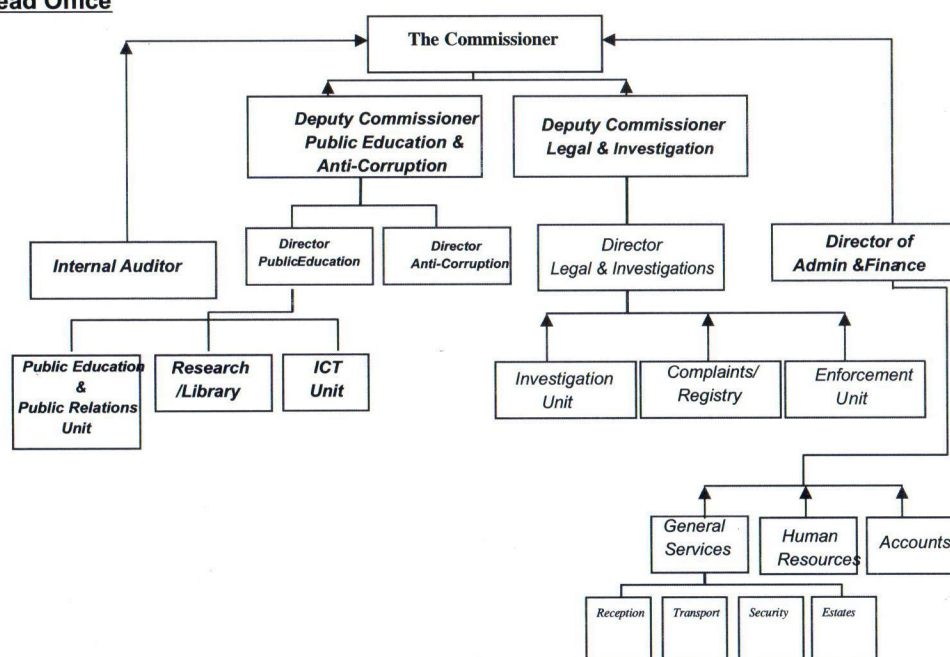
The commission is made up of a commissioner, who is the chair, and two deputies. The three commissioners constitute the governing body for the commission. They are supported by departmental directors who have direct responsibility for the departments of the commission, namely:



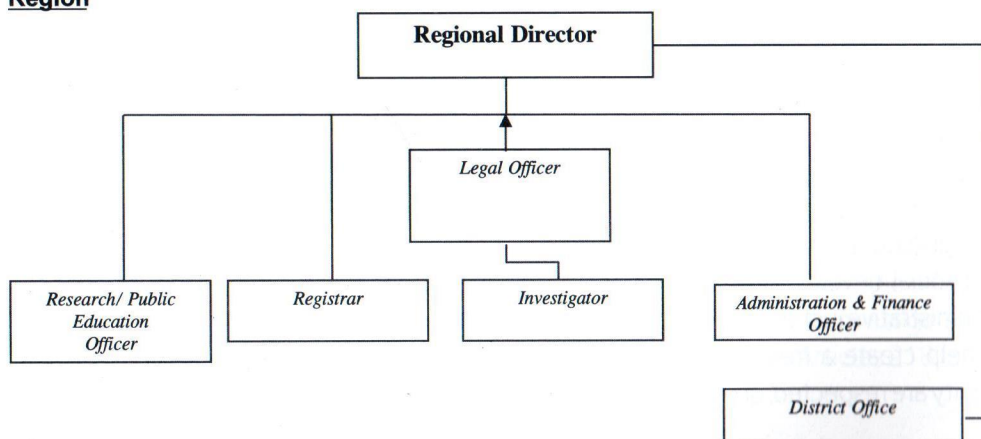
- Legal and Investigations
- Anti-Corruption
- Public Education
- Finance And Administration

The commission has 10 regional offices that co-ordinate it's work in the 10 administrative regions of Ghana. In addition, it has two Sub-Regional and 99 district offices across the country that ensures that the work of the commission is brought to the doorstep of every Ghanaian.

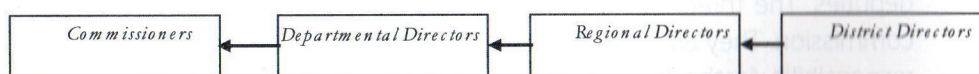
#### Head Office

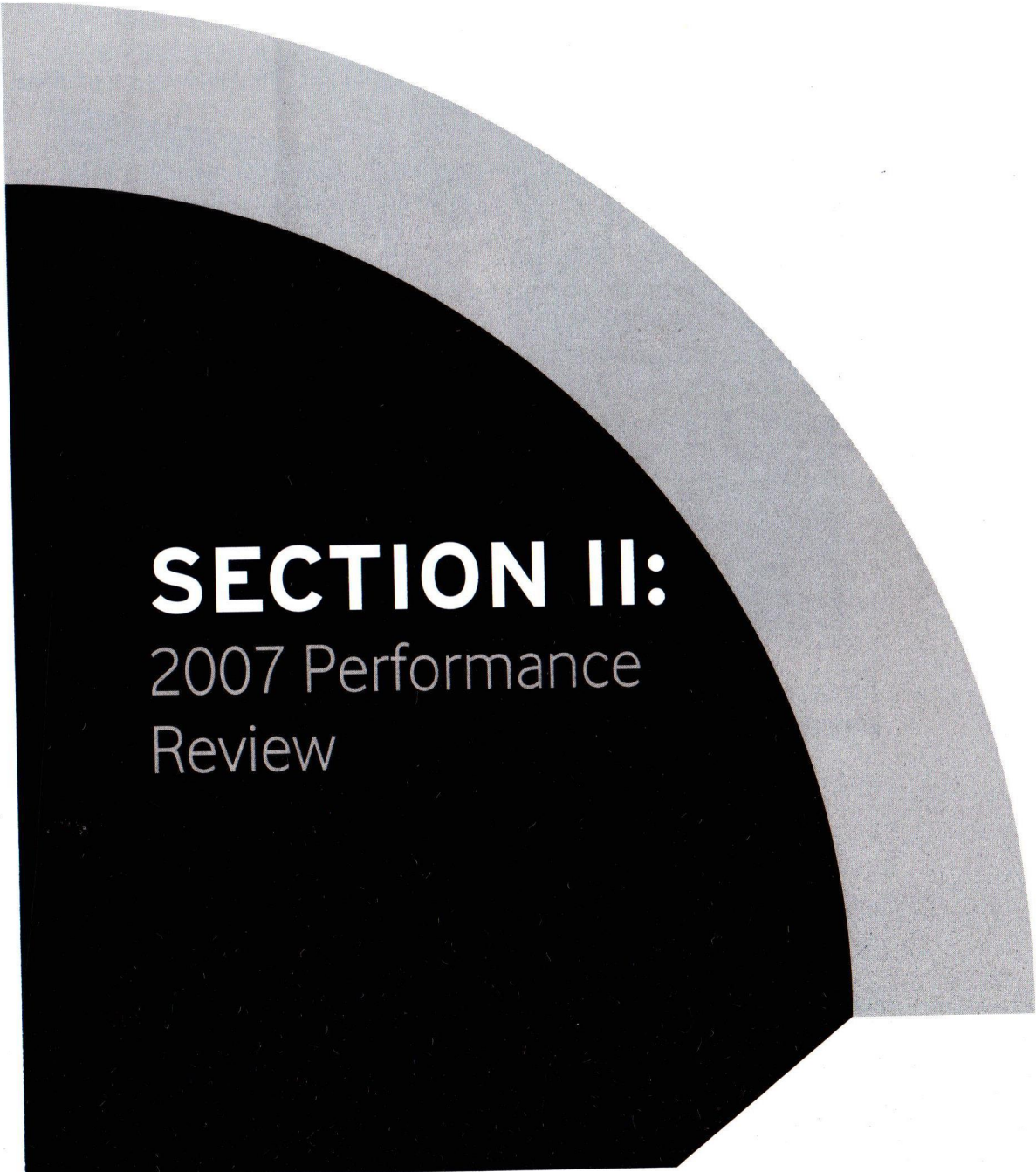


#### Region



#### Summary





# **SECTION II:**

2007 Performance  
Review



## International Relations & Cooperation

In order to promote cooperation between the commission and international organisations and also to ensure that the commission and its staff are at the cutting edge of international practices and standards, each year members of the commission and select staff participate in external workshops, conferences and training programmes.

The acting Commissioner, Ms Anna Bossman, attended the following international workshops and conferences in the 2007 year:

1. Africa regional consultation meeting on the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR) held in Cairo, Egypt.
2. A panel discussion at the School of Advanced International Studies at John Hopkins University, Washington, DC, in relation to Ghana @ 50. She delivered a speech on Human Rights and Social Justice in Ghana.
3. On Protection and Optimization of Public Funds at the conference on the cooperation between National and International Authorities held in Rabat, Morocco.
4. A Commonwealth national human rights conference in Marlborough, London.
5. A 3rd World Congress for the Abolition of the Death Penalty held in Paris, France.

The Deputy Commissioner, Mr. Richard Quayson, for his part, attended the following international workshops and conferences:

1. A two-day forum on Fraud and Financial Crime organised by Marcus Evans, with the workshop entitled "Winning the Financial Crime Battle for a Successful, Vigilant and Robust Compliance Framework" held in Bahrain.
2. A training course on "Combating Corruption and the Misuse of Public Office" organised by Crown Agents and held in United Kingdom.

### **Five-Day Study Visit to Botswana Anti-Corruption Agencies**

The Deputy Commissioner, Mr. Richard Quayson, led a select staff from the Anti-Corruption and Legal & Investigations Departments on a five-day study visit to the Directorate on Corruption and Economic Crime (DCEC) of Botswana.

The objective for the visit was for the delegation to acquaint itself with the operations of DCEC, considered one of the efficient anti-corruption agencies in Africa, in the areas of corruption investigation, prevention and education. The visit also offered the delegation an opportunity to share and exchange experiences in the fight against corruption and to foster international cooperation and exchange.

The delegation met and had discussions with the Director of the DCEC, heads and staff of the various sections of the DCEC, and also with the Botswana Commander of Police. In addition, the delegation paid a working visit to the Ombudsman, Transparency International, Botswana, Botswana Confederation of Commerce, Industry and Manpower (BOCCIM), International Law Enforcement Academy (ILEA), an American Training Institution, and Ditshwanelo, a human rights NGO.



The Delegation with Officers of the Complaints Section of the DCEC

Lastly, the delegation procured anticorruption materials on investigation planning, education and public campaign.

## International support

### DANIDA Support

In a follow up to the previous memorandum of understanding (MoU) signed on 26th November, 2004 and extended to 2007, the Commission and the Royal Danish Embassy signed a MoU to enable the Embassy to provide support for CHRAJ.



## DEPARTMENTS & UNITS

### I. LEGAL AND INVESTIGATIONS DEPARTMENT

#### Introduction

The department is responsible for the investigation of complaints of violations of human rights, administrative injustices and maladministration, and dispute resolution in general.

During the year a new unit, Women and Children's Unit, was created to replace the hitherto Family Desk. The unit is to give greater specialty to child and women rights issues, notably child/spousal maintenance, domestic violence, child labour, etc. Since its creation, the Unit has been working in close cooperation and collaboration with the Department of Social Welfare, Domestic Violence and Victims Support Unit (DOVVSU) of the Ghana Police Service, the United Nation's Children Fund (UNICEF), Women in Law and Development (WILDAF), the Commonwealth Human Rights Initiative (CHRI), LAWA/APEX Law Consult, and others to coordinate human rights work targeted at promoting rights of women and children.

#### Case Handling Policy and Guidelines on Dispute Resolution

The department developed a Case Handling Manual to serve as standard guide and reference document for handling and management of cases. A first draft is ready for consultations with key officers [investigators, legal officers and other case officers] to commence next year. As a key working document, care is being taken to ensure that sufficient consultation is done before the final document is issued.

#### Complaint Management

The total number of cases received at CHRAJ offices throughout the country was 13,455. Out of that number, 11,003 were either resolved by CHRAJ or referred to other fora for redress, with 2,452 pending at the end of the year.

The nature of majority of cases received in all offices throughout the country evinced serious challenges in the area of women and children's rights, with non-maintenance of children topping the list. (See Table 1 below for details).

Table 1: Summary of Cases

Region	No. of Complaints	Closed Complaints
Headquarters	668	315
Ashanti	1,417	1,292
Western	1,284	1,053
Eastern	1,640	1,212
Central	1,135	1,040
Volta	1,544	1,303
Brong Ahafo	3,704	2,989
Greater Accra	546	491
Northern	813	594
Upper East	386	359
Upper West	235	288
Tema	83	67
<b>Total</b>	<b>13,455</b>	<b>11,003</b>

## Special Working Sessions to Discuss Court Judgments on CHRAJ Decisions

This year, the department organised a number of special working sessions to sensitize Case Officers about pertinent legal and policy issues for effective and efficient investigations as well as enforcement of decisions. Moreover, these sessions were to ensure and promote consistency and uniformity in case handling procedures. Some of the selected Court Judgments discussed were namely A-G v. CHRAJ (No.2); CHRAJ v. SSNIT; CHRAJ v. G.P.C.

## II. ANTI-CORRUPTION DEPARTMENT

### Introduction

The Anti-corruption Department is the lead department responsible for the anticorruption mandate of the commission. It investigates corruption, misappropriation and mismanagement of public money, misconduct, abuse of power and conflict of interest by public officials. In addition, it investigates disclosures of alleged acts of impropriety under the Whistleblowers Act.

### Programme Of Activities

The Department focused on raising awareness of the evils and costs of corruption, promoting awareness of the Guidelines on Conflict of Interest issued by the commission in 2006, investigating allegations of corruption and allied offences, and strengthening the capacity of the Department to carry out its mandate more effectively.

#### i. Raising Public Awareness of Corruption

The department facilitated the development and dissemination of anti-corruption materials, training of trainers' manuals and the Guidelines on Conflict of Interest, and public education to promote awareness of the Guidelines on Conflict of Interest.

#### Distribution and Reprinting of Additional Copies of the COI Guidelines

The department printed and disseminated over 8,000 copies of the Guidelines and 40,000 of an abridged version of the Guidelines to:

- All the 767 staff of the commission and National Service persons posted to the commission. In addition, copies were deposited at the Library at head office, as well as the mini libraries at the regions.
- Ministries, departments and agencies.
- Libraries of tertiary institutions
- Ghana Integrity Initiative for distribution during its regional workshops on corruption and promoting awareness of the guidelines. Consequently, about 100 public officers in five regions (Volta, Eastern, Central, Western, Brong Ahafo and Ashanti regions) received copies of the Guidelines from GII
- All regional offices of the commission for subsequent distribution to public officers in the regions and the general public.

### Anticorruption Materials

A documentary on corruption was produced and launched in December 2007. The documentary explains corruption: its forms and effects on national development. The



documentary also explains the anti-corruption mandate of the commission and what it has been doing to combat corruption. In addition, the commission began the process of developing a code of conduct for public officials.

### **Development of a Training of Trainers Manual**

The commission has developed two Training of Trainers (TOT) manuals to be used in training its officers and the public on the Guidelines on Conflict of Interest. The manuals covered the main thematic areas of the guidelines and have already been used in training the commission's staff in the head office, the regions, as well as civil society organisations. Equally, the regional directors and regional anti-corruption focal persons have been trained.

### **AC Public Education Activities**

In its continual effort to combat corruption, the department have organised series of public education programmes to raise public awareness of the Guidelines on Conflict of Interest. It has also highlighted the importance of conflict of interest in the fight against corruption, and the need to build and restore public confidence in national public institutions.

### **Entity Tender Committees of Assemblies**

Due to the worrying trend of corruption allegations associated with procurements in the district assemblies, the department organized two workshops on the Guidelines on Conflict of Interest in Accra and Sunyani for entity tender committees of six district, municipal and metropolitan assemblies. The workshops were organized on the theme, "Curbing Corruption and Promoting Transparency and Accountability in Local Government: A focus on the new Guidelines on Conflict of Interest for Public Officials".

### **Members of Parliament**

The department also organised a workshop for Members of Parliament on the theme, "Putting the Guidelines on Conflict of Interest into Practice". The goal of the workshop was to promote awareness of the Guidelines on Conflict of Interest, as well as examine the importance of Legislative Ethics and Codes of Conduct in Parliament's work. Three committees of Parliament, namely, the Committee on Members Holding Office of Profit, the Public Accounts Committee and the Committee on Legal, Constitutional and Parliamentary Affairs, participated in the workshop.

### **Ethics Advisory Committees**

As part of strategies to implement the Guidelines on Conflict of Interest, ethics officers/desks are to be instituted in MDAs to promote observance and compliance with the Guidelines and in-house ethics policies. They are also expected to provide advice to management on the application of ethics rules, enforce ethics rules in the guidelines and ensure that breaches of the guidelines are dealt with in accordance with the guidelines or policy. In furtherance to this, invitations were sent to MDAs to nominate ethics officers to the commission for training in the course of the year. However, it is hoped that these officers would be trained in the coming year.

#### **ii. Anticorruption Activities in the Regions**

The TOT workshop trainees (regional directors and regional anti-corruption focal persons) undertook a number of anti-corruption activities in their respective regions using the strategies developed and the time-frame agreed at the TOT workshops.



### **Introducing the Guidelines to Regional Staff**

The regional offices of the commission organised various educational programmes at the regional and district levels for its staff with the aim of introducing them to the Guidelines on Conflict of Interest and the Whistleblower's Act.

### **Public Forum for Public Officials in the Regions**

The department in collaboration with the Greater Accra, Northern, Upper East, Brong Ahafo and Central regional offices, organised public fora for public officials in their respective regions. The fora were held to promote awareness of the new Guidelines on Conflict of Interest and the Whistleblower's Act. In each region, an average of eighty (80) public officers attended the fora, of which some were regional and district heads of department.

### **Training on Corruption: Modules 2 & 3**

The department continued with its capacity building programmes aimed at equipping anti-corruption officers with the knowledge and skills to handle corruption cases more efficiently. A workshop organised by the Department had over 50 participants drawn from CHRAJ and the Ministry of Justice and Attorney General's Department.

The participants, who were lawyers, investigators and educators, were taken through anti-corruption training modules that focused on the Legal and Constitutional Framework for Fighting Corruption in the Public Service. The specific modules of the workshop were: Legal and Constitutional Framework for Fighting Corruption, and Organizational Aspects of Corrupt Conduct in the Public Service.

### **Discussions on Whistleblower 2006(Act 720)**

Following the passage of the Whistleblower's Act in October 2006, a number of workshops and discussions on the Act were held for the commission's staff at Head Office, the management of the commission, and public officers. These discussions were also held at the regional and district levels with the purpose of introducing staff and public officers to the Act. It also afforded the avenue for circulation of the act among staff and public officers, and for a thorough discussion on implementation challenges and strategies to avert such potential challenges.

### **Internal Capacity-Building Programmes**

As part of efforts aimed at building the capacity of the commission's professional staff, lectures were delivered to put the knowledge acquired by select staff, who participated in local and international training programmes, to the benefit of other staff that could not attend or could not benefit directly from those training programmes. The lecture topics comprised Conflict of Interest and the Whistleblower's Act; the Relevance of Human Sources (Informants) in the Fight against Corruption; Incident Scene Management; as well as the African Peer Review Mechanism and Good Governance. Discussions immediately followed the lectures thereby offering the rare opportunity for staff of the various departments and units within the commission to freely interact and exchange experiences.

## **IV. INVESTIGATIONS**

In sum, the commission received 62 corruption cases in the year. The head office received 29 cases out of the total number while thirty-three 33 came from the regions.



The Upper West, Ashanti, Eastern and Central regional offices as well as Tema and the Obuasi sub-regional offices reported that there were no complaints of corruption. All the same, the Volta Region registered 16 corruption cases, which is the highest for the year. (See statistical overview for details).

### **Whistleblower Complaints**

In the year, seven disclosures of alleged impropriety were registered. The Commission completed investigations into allegations of impropriety against Hon. Alan Kyerematen & others disclosed to the commission on 23rd April, 2007, and a report duly submitted to the Attorney-General. Two of the cases were withdrawn by the whistleblowers, while the rest were in various stages of investigation as of the close of the year.

### **Collaboration With Stakeholders**

The department deepened its collaborative efforts with stakeholders such as Ghana Integrity Initiative (GII) and the Ghana Anti-Corruption Coalition (GACC) in the fight against corruption.

### **Ghana Integrity Initiative (GII)**

The Ghana Integrity Initiative (GII) is the local chapter of Transparency International (TI). The Commission and GII are members of the Ghana Anti-Corruption Coalition (GACC) and have together advocated for the passage of the Whistleblower's Act, 2006 (Act 720).

Some of the joint activities undertaken by the Commission and GII include:

- A training of trainers (TOT) programme in Kumasi for Regional Directors and Anti-corruption focal Persons
- A workshop for Members of Parliament in Accra.
- A training of trainers programme on the Guidelines on Conflict of Interest. Workshops on corruption were held in the Volta, Eastern, Central, Western, Brong Ahafo and Ashanti regions, in collaboration with the National Commission for Civic Education (NCCE) in the respective regions.
- Workshops on assets declaration
- A closed door meeting on improving information exchange among key accountability institutions.

### **Ghana Anti-Corruption Coalition (GACC)**

The department actively participated in activities of the GACC and made a presentation on the challenges of implementing the Whistleblower's Act. The department also contributed to the organization of an anti-corruption slogan competition for the youth.

### **CHRAJ-ACA, Malaysia Cooperation**

Following a benchmarking visit to Malaysia in 2006, steps were taken in 2007 to strengthen collaboration with the Anti-Corruption Agency (ACA) of Malaysia. The objective of the collaboration include establishing and enhancing mutual efforts

between the two institutions to increase capacity and capability building of their staff in the sphere of combating corruption.

The scope of cooperation includes enhancing views, information and expertise in the areas of corrupt practices, money-laundering and recovery of ill-gotten gains and training. The training is expected to cover areas such as surveillance techniques, technical aspects of investigation and forensic computing. An MOU has already been circulated to both institutions for study and subsequent execution.

### **Meeting in Ethiopia**

At the invitation of the United Nations Economic Commission for Africa (UNECA), the deputy director of the department attended two meetings in Addis Ababa, Ethiopia, namely:

- Ad Hoc Experts Group Meeting (AHM) which reviewed a technical paper prepared by Economic Commission for Africa on "Deepening the Judiciary's Effectiveness in Combating Corruption.
- The Fourth Meeting of the Committee on Human Development and Civil Society (CHDCS) which is a technical and legislative organ of the Economic Commission for Africa. The CHDCS was created by Resolution 826 (XXXII) of 8 May 1997 within the context of reform of its Intergovernmental Machinery.

## **III. PUBLIC EDUCATION DEPARTMENT**

### **Introduction**

The Public Education Department is responsible for educating the public on their rights in order to ensure a culture of respect for the rights and obligations of all persons living in Ghana. The department also educates the public on matters of corruption and the role the commission plays in combating it. This is expected to empower members of the public in the fight against corruption.

Accordingly, the department organised a number of activities aimed at developing a sustainable culture of human rights through human rights monitoring, training, community outreach and active collaboration with human rights NGOs. In addition, it organised a total of 1,955 educational programmes and formed 69 new human rights clubs during the year.

### **Meetings And Related Activity**

#### **Regular Internal Workshops**

Educational meetings were organised in January, March, May, June, August, September and October. These meetings, which were instructive and informative, were well attended by staff. Some documents considered in these meetings are:

- The ruling on Dr. Richard Anane
- National Budgets and Corruption
- Planning and Investigations
- Project Management and Implementation



- A paper on child labour, "One Context, Many Voices"
- Adult learning principles and barriers to learning

### **NGO Forum**

The commission in collaboration with NGOs, commemorated select international human rights days by conducting symposia, round-table conferences, among others.

In commemoration of the International Human Rights Day, an NGO forum was held at the commission's head office. At the forum, NGOs exhibited photographs of their activities, publications and other related materials. This collaboration reflected commitments of both the commission and civil society organisations to promote human rights in Ghana.

### **Monitoring Progress of Human Rights NGOs**

The department organised monitoring visits to human rights NGOs in the Greater Accra and Western Regions. It is hoped that this activity will subsequently be extended to other regions and their relevance reinforced by the conduct of workshops to strengthen concerted efforts of NGOs in ensuring that they complement human rights education, monitoring and advocacy efforts of the commission.

### **International Days**

#### **International Women's Day**

On March 8, 2007, the department marked the International Women's Day with a symposium on the theme, "Women's Rights and Culture: Acts of Torture and Violence." The commission issued a press statement and congratulated all Ghanaian women on their immense contributions to the country's economic, social and political development.

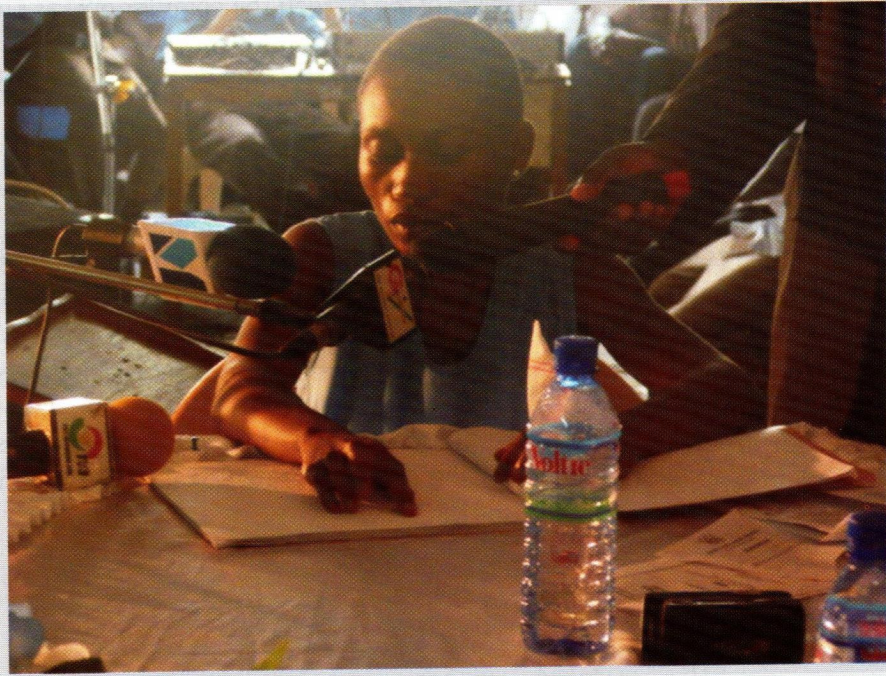
#### **International Day for Victims of Torture**

A round-table conference that sought to urge government to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention against Torture was organized to commemorate the International Day in support of Victims of Torture.

#### **Human Rights Week**

The commission commemorated a week-long programme of activities to mark the UN Human Rights day. Highlights of the activities include Photo Exhibition of human rights works in Ghana, human rights quiz competition for students of second cycle schools, launching of the Braille version of the CHRAJ Act. The activities culminated with the commemoration of the UN Human Rights day on 10 December.





A student of the Akropong School for the Blind reading the Braille version of the CHRAJ Act after the launch.



The UN Resident Director interacting with the Commissioners after the ceremony commemorated the UN Human Rights Day.

### Enhancing Child Labour Interventions in the Operations of the Commission

The department met with external and local evaluators of the ILO/IPEC project support to the Ghana time-bound programme. The exercise was to determine the relevance,



effectiveness, efficiency and sustainability of the project. The commission was one of the institutions chosen because of its collaboration with ILO/IPEC in the implementation of measures to strengthen the protection of children from Worst Forms of Child Labour.

### **National Steering Committee (NSC) on Child labour**

The NSC on Child labour, which is a multi-sectorial committee, was established as one of the requirements for ILO/ IPEC support to Ghana's time-bound programme. It is the highest body that coordinates and provides policy guidance on the National Child Labour (NCL) programme in the country. The Committee, which is convened by the Ministry of Manpower, Youth and Employment, is chaired by the deputy minister.

The commission is one of the institutions nominated to serve on the two sub-committees of the NSC. Consequently, the department participated in some major workshops organised for members of the NSC.

### **Human Rights Education In Schools**

#### **National Human Rights Quiz**

In order to augment and sustain the interest of students in human rights values and principles, the Commission, successfully organized human rights quiz competitions at municipal, regional, and national levels. Keta Senior High School (Volta Region) emerged the overall winner in the grand finale. Ghana Senior High School (Northern Region), Winneba Senior High School (Central Region) and Notre Dame Senior High School (Brong Ahafo Region) placed second, third and fourth respectively. Prizes were awarded to all the participating schools and the individual contestants.

#### **Human Rights Clubs**

Since human rights clubs are vital in sustaining the interest of students in human rights values and principles, the commission charged its offices in the regions and districts to establish new clubs and reinforce existing ones. In all, 69 new human rights clubs were established in 2007.

### **Workshops and Training Programmes**

Workshops and training programmes organised by the department include:

- A workshop to develop human rights education materials. It saw participants develop human rights educational outlines and resource guides. The participants were drawn from the Public Education Department, other departments at the head office, the Greater Accra regional and the Tema sub-regional offices.
- A validation workshop for human rights monitors drawn from the regional offices, Obuasi and Tema sub-regional offices as well as the commission's head office. The participants adopted draft reviews after comments and necessary corrections were put in place. In addition, the constituted working groups submitted research and monitoring tools to be used to update questions and formulate new ones where necessary.

- A workshop to develop human rights education policy. The aim of the workshop is to develop a guiding policy (based on draft outlines developed by the department) to facilitate the development of public education outreach delivery at all levels.

### Human Rights Monitoring

During the year under review, the commission focused its Human Rights Monitoring Activity on six (6) thematic areas-education, health, children's right, refugee rights, harmful cultural practices and slum. Among others, 46 Educational Facilities, 23 Health Facilities (including 2 main Psychiatric Institutions), 10 Slums, 4 witches camps, were inspected.



A team made up of commissioners and staff on monitoring visit to a children's hospital in Accra.

### Internship Programme

The commission received a number of local and foreign to participate in its internship programmes. The interns contributed in diverse ways to the monitoring of human rights and compilation of the 2007 State of Human Rights Report of the commission.

### Public Education Publications

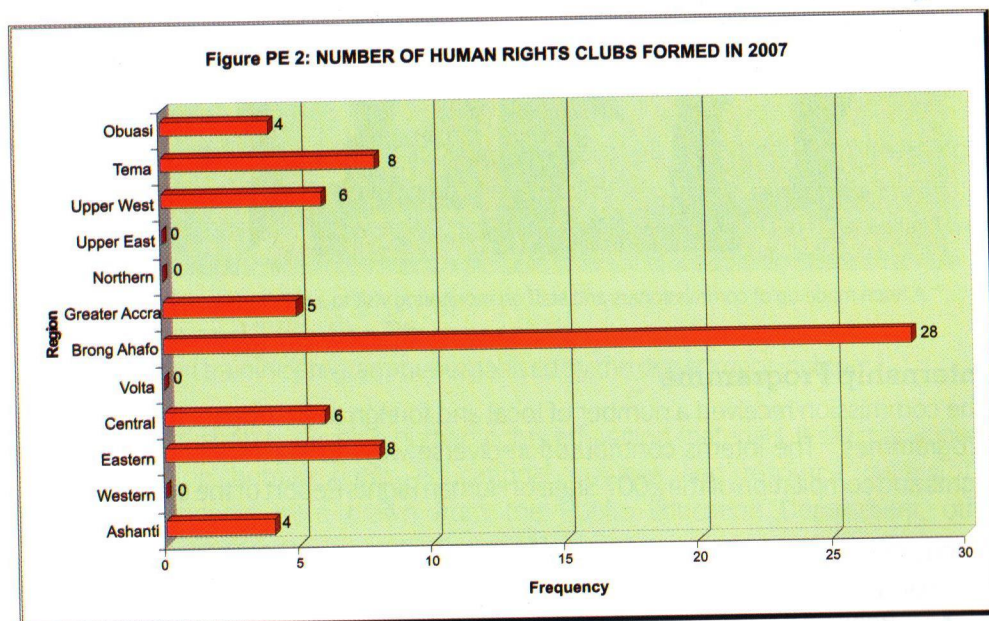
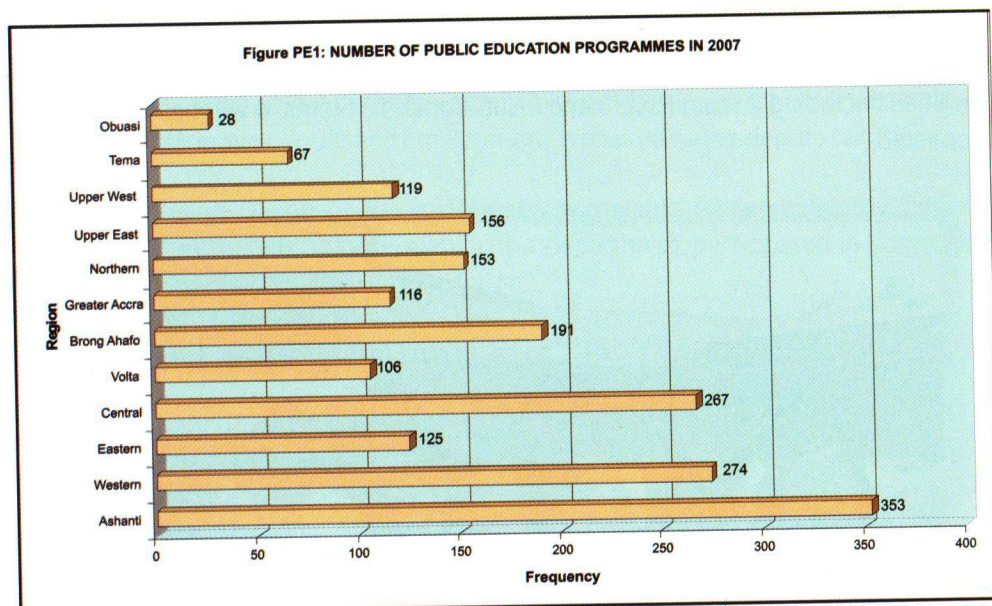
The following reports and educational materials were compiled for publication:

- Report on public education workshop/training
- Prisons Reports for 2005 & 2006
- SOHR Reports for 2005 & 2006
- Composition of Research Reports
- Report on Human Rights NGOs
- Report on Internships
- Human Rights Education Resource Guide



## Human Rights Education Manual for Teachers

To ensure effective facilitation of human rights education in schools, the commission developed and published Human Rights Education Manual for Teachers. The manuals were developed and published with funding support from DANIDA. The first batch of the manuals was handed over to the GES for distribution social science teachers for use in basic schools.



## IV. PUBLIC RELATIONS UNIT

### Introduction

In the reporting year, the Public Relations Unit facilitated the commission's media relations, including media monitoring, press releases and statements, and visits to the commission by foreign dignitaries.



## Media Monitoring & Relations

In the year, the commission experienced a positive relationship with both the print and electronic media in its effort to reach out to the public on human rights and with the commission's activities.

In addition to publicity for the commission's programmes in general, the media hosted several programmes on governance and corruption issues where the commission was given opportunity to speak on those issues. The media also gave extensive publicity to the Guidelines on Conflict of Interest issued by the commission to assist public officers to properly manage conflict of interest.

## Media Coverage for Human Rights Week

The media gave extensive coverage to the commission's week long activity to commemorate the International Human Rights Day. From the launch of the Week at the School for the Blind, Akropong where the Braille Version of the CHRAJ Act, 1993 (Act 456) was launched, to the climax of the Week on December 10 when the State of Human Rights Report was issued, the media gave full support to the commission.

Other activities in the week which received publicity were the launching of a documentary on Anti-Corruption, launching of Human Rights Education Manual for human rights education in schools; press statement to congratulate deserving Ghanaian farmers on Farmers' Day, seminar on how to make healthcare accessible to all persons living in Ghana, human rights quiz competition for Senior High Schools on December 8.

## Press Releases

The commission issued press statements on diverse pertinent issues relating to human rights and corruption including:

### Mob Lynching

The commission expressed grave concerns about the increasing spate of mob lynching of suspected criminals in several parts of the country. It further reiterated that such unlawful actions were a blot on the conscience of our nation and clearly undermines the democratic society that must be collectively created.

The commission therefore recommended that human rights reforms are needed and could be better achieved at the lowest level possible in any given society and that any abuse of human rights and fundamental freedom particularly abuse of the right to life without recourse to the criminal justice system is be totally unacceptable.

The commission also strongly advised all law abiding citizens to perform their civic duty by apprehending a suspect and handing him or her over to the police, who subsequently will investigate the offence and arraign such persons promptly before a competent court of jurisdiction.

### International Women's Day

A press statement under the theme "Enhancing Impunity for Violence against Women and Girls" was issued on International Women's Day which fell on March 8.

In the statement, the commission congratulated Ghanaian women for the impressive role they play in consolidating democracy and entrenching a culture of human rights and peace in the country.



It further noted with satisfaction the enactment of the Domestic Violence Act, hoping that its enforcement will give adequate protection to all spouses and make domestic violence socially unacceptable, and also strengthen families.

It also noted that public education by human rights defenders on the act should aim at ensuring the entire Ghanaian society accept and appreciate the importance of the act in combating domestic violence and thereby encourage its full implementation.

### **Congratulatory Message & Call for Ratification of OPCAT**

The President, John Agyekum Kufuor received congratulatory messages on his election as Chairman of the African Union (AU). The statements reiterated that his election was a great honour to the country which underscored the high regard and confidence the international community had for the country and its people.

The commission used the occasion to remind the president of the country's commitment to international obligations and renewed its call for the ratification of the Optional Protocol to the Convention against Torture (OPCAT).

### **International Day of the Elderly**

The International Day of the Elderly was commemorated on October 1. In this regard, the commission issued a press statement to express its support for the International Plan of Action on ageing. Also known as the Madrid International Plan of Action (MIPA), the International Plan of Action on ageing was adopted by the United Nations Second World Assembly on Ageing in Madrid in April 2002.

The plan does not only challenge all member countries to develop programmes and action plans to facilitate the reintegration of older people into mainstream society, but also requires that the elderly are provided the basic needs and support in order to prevent or delay the onset of chronic, often disabling diseases.

The commission therefore applauded the policies, programmes, strategies and interventions of government aimed at promoting and protecting the rights of older persons in Ghana. These interventions, it said, included the National Population Policy, the National Ageing Policy, the Ghana Poverty Reduction Strategy (GPRS 11), the National Health Insurance Scheme and the National Social Protection Strategy.

### **National Farmers' Day**

On the occasion of the National Farmers Day, the commission issued a press statement on December 7. The statement commended the nation's farmers for the crucial role they play in national development.

It also said the right to food is firmly enshrined in the Universal Declaration of Human Rights (UDHR). That the right to food is inherent in all other human rights recognized under international human right treaties and therefore to go without food is to deny or undermine all individual rights.

The statement added that, it is very disheartening that even though governments all over the world have on several occasions reaffirmed the right to food through resolutions at World Conferences, hunger and malnutrition continue to be widespread particularly in developing countries like Ghana.

The commission therefore recommended that rural food crop farmers especially women, should be targeted and given access to credit facilities and other supports that will ensure that they continue to produce the bulk of the food needs of the country. It added that critical attention should be paid to food processing and preservation to provide a strong basis for the country's food security.

### **Bilateral Relations**

The commission in collaboration with Amnesty International (AI) organised a round-table discussion to commemorate International Day in Support of Torture Victims and Abolition of the Death Penalty in the country, which received ample publicity in the print and electronic media.

### **Visits To Chraj**

In the reporting year, the commission received a number of visitors, including:

#### **MacArthur Foundation, USA**

A three-member delegation from the MacArthur Foundation, United States of America paid a courtesy call on the acting Commissioner on March 19, 2007. The visit was mainly for the foundation to familiarise itself with the work of the commission.

#### **Human Rights Commission, Kenya**

A two-member delegation from the Kenya Human Rights Commission paid a working visit to the commission in March 2007. The visit was mainly to share experiences and best practices. The delegation also paid a courtesy call on the director of prisons.

#### **Human Rights Commission, Sierra Leone**

A five-member delegation from the Sierra Leone Human Rights Commission paid a working visit to the commission from April 24-27, 2007. The visit was mainly to understudy the work of the Commission and share experiences and best practices.

The delegation also visited the Attorney-General's Department, Centre for Democratic Development (CDD) and the Ghana Anti-Corruption Coalition (GACC).

#### **European Union**

A delegation from the European Union (EU) paid a courtesy call on the commission. The visit was to assess the work, mandate, challenges and shortcomings of the Judicial System in Ghana. The delegation was accompanied by the Attorney-General and Minister for Justice, Hon. Joe Ghartey [MP].

#### **Office of the Ombudsman, Rwanda**

A two-member delegation from the Office of the Ombudsman, Republic of Rwanda paid a working visit to the commission from October 8-9, 2007. The delegation also visited the Auditor-General, the Serious Fraud Office (SFO), the Ghana Integrity Initiative (GII) and the Ghana Anti-Corruption Coalition (GACC).

#### **Swiss Ambassador to Ghana**

The Swiss Ambassador paid a courtesy call on the acting commissioner on November 23, 2007.



## Enquiries

In the year, the commission received enquiries from a number of local and foreign scholars and researchers.

## Investigation into State of Human Rights in Mining Communities

The commission commenced systemic investigations into the state of human rights in mining communities in Ghana on March 19 2007. The systemic investigations were propelled by persistent reports from mining communities of violations of fundamental human rights and freedoms in these communities.

The investigation is expected to cover 42 communities in 4 regions where major mining activities take place in the country, namely, Ashanti, Western, Brong Ahafo and Upper East Regions. As at the end of 2007, 30 out of the 42 communities had been covered, and the entire exercise expected to be completed in 2008.

The purpose of the investigations is to:

- assess the human rights situation in the mining areas in general;
- ascertain the reasons for any violations of human rights in the area, if any;
- determine the nature of the violations;
- make recommendations to curtail human rights violations in the communities;
- build cordial relations between and among competing interest groups in mining communities; and
- improve human rights in mining communities.

The techniques and methods employed in the investigation include focus group discussions, interviews, site inspections, observation and documentation. The commission hopes to complete its investigations in 2008 and issue a report on its findings and recommendations.



The investigation team, led by a Deputy Commissioner, in one of the site inspections

## V. ADMINISTRATION DEPARTMENT

### Introduction

The Administration department provides administrative support services to the commission. The department also recruits, develops training activities both on the job and off the job. It also motivates and retains the best qualified human resources for the commission. In addition, it designs and implements strategy for maintenance of logistics and facilities of the commission.

### Overview Of Activities Of 2007

In the reporting year, the Department executed the following tasks:

- **Purchase of SSNIT Flats**  
In order to provide affordable housing for staff, the commission purchased three (3) flats from SSNIT, two (2) in Koforidua and one (1) in Wa.
- **Human Resource Information System**  
The computerisation of personnel information data which started a year ago has been completed. Currently, all the regions have submitted their Staff Input forms. It is expected that the computerisation of personnel information data will ensure easy storage and retrieval of personal data of staff.
- **Procurement of Motor Bikes**  
The commission procured eight (8) motorbikes for selected regional offices and departments at the head office to improve mobility and service delivery.
- **Working Visits to Regional and Districts Offices**  
The Deputy Commissioner PE/AC, Mr. Richard Quayson, led a team to visit the Ashanti, Eastern and Western regional offices for the purposes of interacting and acquainting themselves with challenges of staff in the discharge of their duties.

### Human Resource Development & Improved Employee Performance

The commission continued vigorously with its capacity building programme for staff. Training programmes undertaken in the year include:

- Workshops on capacity building for assistant registrars, investigators and administrative assistants. The number of participants drawn from the southern sector stood at sixty-five (65) whilst that of the north was 60. The workshop equipped participants with skills to play their key roles in a customer-focused organisation as CHRAJ.
- Induction workshop for newly recruited staff of the Commission to introduce them to the work and functions of the commission to enhance their efficiency and productivity.
- A programme on the Guidelines on Conflict of Interest and Whistleblower Act for staff at the Head Office. In sum, forty (40) staff comprising Front Desk Officers, Drivers, Cleaners, Legal Officers and Investigators participated.



- ILO workshop for human rights educators and monitors to enhance child labour interventions in the operations of the commission. The workshop was organised for select staff comprising Research, Public Education, Legal and Investigation Officers drawn from the Head Office, Regional and District Offices.
- A public education training workshop for Regional Directors and PE/Research Officers drawn from the Head Office and Regional Offices. The workshop sought to develop and strengthen skills and knowledge of staff in the conduct and delivery of human rights education and human rights monitoring.
- A three-day workshop for Cleaners, Drivers, Bailiffs, Secretaries, Registrars, Receptionists, Telephonists and Senior Officers from the Head Office, Greater Accra Regional and Tema Sub-Regional Offices. The workshop sought to strengthen the knowledge base of staff in human rights education.
- Training in Sign Language for select Senior Staff. This was in line with the commission's mandate to promote, protect and enforce fundamental human rights and freedoms and administrative justice for all persons including persons with hearing impairment in Ghana.
- Training for regional and district officers in Basic Mass Communication and Public relations.

### **Workshops/ Seminars/ Conferences**

Apart from the Commission's internal training programmes, staff participated in other external training programmes in the year, among them:

- The commission's staff participated in an International Gender Conference held at Elmina on the theme "Sexual and Gender-based Violence – Social Nightmare provoking Action". The conference sought to enhance knowledge in gender-related issues with emphasis on sexual and gender-based violence.
- Also, select staff from the Legal and Investigation Department participated in international Conferences in Togo and Abuja.
- The Head of the Enforcement Unit also participated in the following programmes organised by the Centre for Conflict Resolution, University of Cape Town, South Africa:
  - Promoting Human Rights using Conflict Management Approaches in Post-Conflict Sierra Leone held in Accra, Ghana.
  - Africa's Evolving Human Rights Architecture held in Cape Town, South Africa.

Finally, the Deputy Commissioner, Mr. Richard Quayson attended a course on "Combating Corruption and Misuse of Public Office" at Crown Agents International Training Centre in UK.

## International Support

### DANIDA Support

With support from DANIDA, the commission organised a training workshop aimed at equipping Anti-corruption Officers with the knowledge and skills to deal with corruption cases more efficiently. The participants included Investigators, Lawyers and State Attorneys from the Attorney-General's Department.

### UNDP support

The UNDP support covered the monitoring team led by the Deputy Commissioner, Mr Richard Quayson to CHRAJ Offices in Ashanti, Eastern and Western regions. Also, in each region, a one-day workshop on APRM for representatives of Human Rights NGOs and CHRAJ District Directors was held.

## REPORTS FROM THE REGIONS

### GREATER ACCRA REGION

#### Complaint Management

The total number of cases received in the region was 546, whilst 491 cases were closed in the year including cases pending at the beginning of the year.

#### Public Education

The regional office conducted 116 public education programmes with the objective of increasing public awareness on the functions of the commission, and creating awareness of human rights concerns in rural communities, schools, religious bodies, and among workers and civil society organisations within the region.

The topical areas treated include: Functions of the Commission, Rights of Women and Children, UN Declaration of Human Rights, Interstate Succession Law (PNDC Law 111), and a focus on harvest for the future: "Agriculture without Child Labour". Other focal areas include projects and programmes of the International Labour Organization (ILO) and International Programme for the Elimination of Child Labour (IPEC) in Ghana.

#### Radio Programmes

The Ada District Office conducted public education on Radio Ada on Wednesdays once the host was available.

#### Other Educational Programmes

##### Dangme West District - Dodowa

The Dodowa District Office conducted 32 public education programmes including five community outreach programmes on "Child Trafficking and Good Governance" at Old Ningo and Dodowa.

##### Dangme East District - Ada Foah

The Ada District Office for the first time crossed the Volta River to an island called Pebiakopey in order to interact with the elders and the executives of all the assemblies of the Church Of Pentecost in the District. Topics discussed included Rights of Women, Children's Rights, and Domestic Violence Law.



### **School for the Deaf, Ashiaman**

For the first time, the Tema office extended its public education programmes to the school for the deaf at Adjei Kojo in Ashiaman. It targeted the PTA, working staff and the pupils in all four (4) public education programmes. Topics discussed centred on the Disability Act, the rights of the child and the role of society towards protection of children's Rights. The teachers used sign language to interpret all presentations to pupils and some staff.

### **Community Outreach**

The sub-regional office organised education programmes for Kpone, Prampram and Ningo communities to increase public awareness on fundamental rights and freedoms and responsibilities of all citizens, and to encourage the public to lodge complaints of human rights violations with the Commission.

## **CENTRAL REGION**

### **Complaint Management**

The total number of cases received in the region was 1135, whilst 1040 cases were closed in the year including cases pending at the beginning of the year.

### **Public Education**

The Regional Office organised several public education programmes including radio programmes, educational programmes for schools and community outreach programmes. In all 267 community programmes were organised within the region. The topical areas addressed include: Functions of the Commission, Fundamental Human Rights, the Police and Human Rights, Arrest, Bail and Detention, combating corruption in Ghana and the role of the individual, and conflict of interest for public officers.

### **Radio Programmes**

The Regional Office, Cape Coast, KEEA and Winneba Offices each participated in various radio programmes to educate and promote respect for human rights.

### **Human Rights Education in Schools**

#### **Human Rights Quiz Competition**

The Regional Office organised two quiz competitions in Winneba and Cape Coast. The Winneba Senior High School emerged winners out of the 10 competing Senior High Schools.

#### **Human Rights Clubs**

Six new human rights clubs were formed in 6 senior high schools, comprising 2 in KEEA, 1 in Upper Denkyira, and three (3) in Cape Coast.

## **WESTERN REGION**

### **Complaint Management**

The total number of cases received in the region was 1,284, while 1053 cases were closed in the year including cases pending at the beginning of the year.

### **Public Education**

In sum, 274 public educational programmes were organised to educate some rural communities, schools, religious bodies and civil society organizations. In addition, the Regional Office participated in 11 workshops and seminars.

Topical areas treated include: Functions of the Commission, Women's Rights, Child Labour, and the role of the Police. Other topics include: the Intestate Succession law and the Will's Act, Children's Rights and parental responsibility, and the Right to Freedom of Religion.

### **Human Rights Training for Professional Bodies**

The regional office commenced a programme on basic human rights for health professionals at the nurses training college in Sekondi, after the programme had been piloted in Cape Coast for three years.

The programme is to provide health professionals with rudimentary knowledge and skills to uphold and protect the rights of patients and persons who by reason of health care needs become vulnerable in the hands of health professionals.

### **Collaboration with other institutions**

The Regional Office collaborated with a number of NGOs and civil society organisations [CSOs] to provide human rights education and other services to the public. The organisations include WiLDAF, SEND Foundation, Centre for Democratic Development, Ghana Federation of the Disabled, the National Commission for Civic Education (NCCE), Ghana Integrity Initiative (GII) and the Ghana Journalist Association.

## **EASTERN REGION**

### **Complaint Management**

The total number of cases received in the region was 1640, whilst 1212 cases were closed in the year including cases pending at the beginning of the year.

### **Public Education**

The regional office employed radio programmes, educational programmes for schools and community outreach programmes for its public education activities. In all 125 community outreach programmes were carried out in the region.

The topical areas covered include: Interstate Succession Law (PNDC Law 111), Rights of the Child and Fundamental Human Rights, Worst Form of Child Labour and Conflict of Interest. Other topics include the role of the Police, Domestic Violence Act, Violence against Women and Children, Women's Rights, Torture, Rights and Responsibilities of the Apprentice, and Functions of the Commission.

### **Radio Programmes**

Sunrise FM and Eastern FM provided free airtime to the commission to carry out 22 educational programmes via radio. Discussions on the programmes centred mainly on Worst Forms of Child Labour, Domestic Violence, Conflict of Interest for public officers, and Interstate Succession Law.



## Human Rights Education in Schools

### Human rights clubs

All the 8 active HRCs in the region benefited from HRE. Topics covered include Rights of the Child, Interstate Succession Law, Child Labour, Fundamental Human Rights, and Police-Citizen Relationship.

The regional office also facilitated an excursion to Cape Coast Castle and the Kakum National Park for JHS human rights clubs in the New Juaben municipality.

### Religious Institutions

Furthermore, 10 faith-based institutions were visited and educated on human rights issues. The topics covered included rights of the child, violence against women, rights of women, and the Intestate Succession Law

### Artisans

The Ghana Hairdressers and Beauticians Association, the Dressmakers Association and Carpenters Association were visited on several occasions for education. The topics discussed focused largely on worst forms of child labour, rights and responsibilities of the apprentice, and rights of the child.

### District Offices

The Nsawam District Office has an agreement with the Rural Women Skills Development Foundation which permits the office to provide human rights education for its members every Thursday, between 2.00pm and 3.00pm.

The District Office also served as resource person in radio discussion programmes organised by the Forum for African Women Education. The topics discussed included the functions of the commission, the Domestic Violence Act, Women's Rights and other relevant human rights issues.

The Asamankese District Office undertook 22 educational programmes in churches, communities, and educational institutions. The topics addressed at these programmes included Violence against Women and Children, Interstate Succession Law, Child Labour and the functions of the commission.

## ASHANTI REGION

### Complaint Management

The total number of cases received in the region was 1,417, whilst 1,292 cases were closed in the year including cases pending at the beginning of the year.

### Public Education

In all, 353 public educational activities, including community outreach, seminars, talks, informal discussions and radio programmes, were carried out. These activities were aimed at creating awareness of the functions and powers of the commission, and sensitising the public on fundamental human rights and freedoms. The target groups for these educational activities were school children, women's groups, churches and faith based institutions, and communities.

Topical areas treated include: functions of the commission, fundamental human rights of citizens, sexual harassment, and the role of the police. Other topics included the rights of person with disability, rights of women, rights of children, child labour, domestic violence, harmful cultural practices, and the Intestate Succession Law (PNDC Law 111).

### **Radio Programmes**

The regional office held nine programmes on radio to educate the public. The radio stations used for this purpose are LUV FM, Kessben Radio and Kapital Radio.

## **OBUASI SUB-REGIONAL OFFICE**

### **Complaint Management**

The total number of cases received in the region was 170, while 155 cases were closed in the year, including cases pending at the beginning of the year.

### **Public Education**

In sum, the sub-regional office organized 28 public community outreach programmes, and participated in six workshops.

The topical areas addressed include legal rights of women, Intestate Succession Law (PNDC Law 111), The Domestic Violence Law, fundamental human rights and rights of the child.

Other topics included property rights of spouses, conflict of interest and highlights on the Whistleblowers Act, mining and human rights, human rights and human security, functions of the commission and understanding worst form of child labour.

The target groups for the various public education programmes comprise rural communities, schools, religious bodies and civil society organisations.

### **Radio Programmes**

The office conducted public education on issues of human rights concern particularly those that impacted the rights of women and children on Shaft FM, Obuasi.

## **Human Rights Education in Schools**

### **Human Rights Clubs**

The office facilitated the formation of human rights clubs in four schools, namely, Obuasi JHS Complex, Awurade Basa JHS, New Nsuta JHS, and Kobena Ofori JHS. The total membership of these clubs is in excess of 300 pupils, who receive regular HRE through the clubs.

### **Collaboration with other institutions**

The office collaborated with institutions such as Social Support Foundation (SSF) and Pro-Link (both Obuasi based NGOs), the Labour Department, the National Commission on Civic Education (NCCE), the Ghana Police Service, the Judicial Service and Community based organisations (CBOs) for the purposes of public education.

The office also held some training programmes for some selected CBOs to improve the capacity of human rights CBOs to identify worst forms of child labour (WFCL) and other human rights abuses in communities in and around Obuasi.



## VOLTA REGION

### Complaint Management

The total number of cases received in the region was 1,544, while 1,303 cases were closed in the year, including cases pending at the beginning of the year.

### Public Education

The regional office organised a number of public education programmes such as radio programmes, educational programmes for schools and community outreach programmes. In all 106 community educational programmes took place in region. Topical areas treated include the Domestic Violence Act, the Disability Act, right to life, rights of citizens, worst forms of child labour, child Trafficking, harmful cultural practices and responsible partnership in marriage.

### Radio Programmes

A number of educational programmes were held on Volta Star Radio to educate the public on pertinent emerging human rights concerns in the region.

### Child Labour Seminar

The regional office organised a one-day seminar on worst forms of child labour in Ho for human rights NGOs.

### Human Rights Quiz

As part of activities to commemorate this year's International Human Rights Day, a quiz was held at the assembly hall of the OLA Senior High School in Ho. The competing schools were Hohoe Senior High School, Abutia Senior High School, Dzolo Senior High School, Adidome Senior High School and Keta Senior High School. Keta Senior High School emerged winners.

## BRONG AHAFO REGION

### Complaint Management

The total number of cases received in the region was 3,704, while 2,989 cases were closed in the year, including cases pending at the beginning of the year.

### Public Education

In all, 191 community educational programmes took place in the region. The topical areas covered included women's rights, children's rights, the Domestic Violence Act, the Intestate Succession Law and Wills Act, fundamental human rights and freedoms, and the Disability Act.

### Radio Programmes

The commission used extensively the FM Stations in the region to carry out its awareness campaign. Almost every district of the commission had access to free air time to educate the public on issues of human rights concern.

### Collaboration with other Institutions

The commission collaborated with a number of CSOs to promote human rights, gender advocacy, capacity building for the youth, public education on HIV/AIDs and other

health related matters, provision of educational infrastructure, and advocacy on the rights of Persons Living with Disability (PLWD).

The regional office also actively participated in a sixteen-day activism against gender violence on the theme, "Demanding effective implementation and accountability of the Domestic Violence Act 2007".

## **Human Rights Education in Schools**

### **Human Rights Clubs [HRCs]**

An average of two human rights clubs were formed in each of the districts where the Commission has offices, making a total of 28 HRCs in the region. In addition, schools which participated in human rights quizzes competitions were encouraged to form human rights clubs with the assistance of their tutors who led them for the competition.

### **Education for Professional Bodies**

The regional office held regular discussions with students of the Sunyani Nurses Training School on the Patients' Charter. Plans are afoot to extend the programme to other schools for health professionals in the Brong Ahafo Region, such as the Tanoso Community Health Training School, the Kintampo Health Assistants School, the Berekum Nurses Training School, among others.

## **UPPER EAST REGION**

### **Complaint Management**

The total number of cases received in the region was 386, while 359 cases were closed in the year, including cases pending at the beginning of the year.

### **Public Education Programmes**

About 156 educational programmes were undertaken in the Upper East Region. These took the form of a public fora, a quiz workshops, community outreach, lectures and radio discussions. The objectives of these activities were to promote human rights and administrative justice.

The topical areas addressed include worst forms of child labour, violence against women, children's rights, functions of CHRAJ, Human Rights provisions in the 1992 Constitution, corruption and conflict of interest in public office.

### **Radio Programmes**

In collaboration with the Bawku West Community Rehabilitation for the Blind, radio programmes were organized to raise awareness of women and children's rights, particularly violence against women and children.

### **Human Rights Quizzes**

Two competitions were organized, one intra-regional, and one inter. The first involved students from Senior High Schools in the Upper East Region, while the second involved winning schools from the Upper East and Upper West Regions. The quiz questions were based on the human rights provisions in the 1992 Constitution and international human rights instruments.



## Public Forum

A forum on the Guidelines on Conflict of Interest was organised for 75 officials in the Bolgatanga municipality. The objective was to sensitize public officers in the region to the Guidelines as part of efforts to promote transparency and accountability in the public service, and restore confidence in public institutions. The regional director, deputy director anti-corruption and officer in charge of anti-corruption in the Upper East Region were the facilitators for the forum.

## Workshop

In collaboration with Action Aid, a workshop was held in the Talensi/Nabdam District to sensitize participating communities to the evils of child labour and its worst forms. Participants included parents and guardians, children, teachers, PTAs and school management committees.

## Community Outreach Programme

A number of community outreach programmes was organized to sensitise small-scale miners and participating communities on the effects of surface mining on children, and environmental rights, especially the dangers of worst forms of child labour [WFCL] where children are used as source of labour by the small-scale miners.

## Human Rights Education [HRE] in Schools

A number of HRE programmes was held in June and July for basic schools in the region. The purpose was to raise awareness among students of their rights and how to protect them. This was done in collaboration with Bongo Human Rights City, the Ghana Education Services and World Vision International.

## New District Offices

Two new district offices were opened in the Talensi-Nabdam and Garu-Tampani districts.

## UPPER WEST REGION

### Complaint Management

The total number of cases received in the region was 235, while 288 cases were closed in the year including cases pending at the beginning of the year.

### Public Education

In all, 79 community outreach educational programmes were undertaken in 22 rural communities. In addition, 29 Schools benefited from our public education programmes.

The regional office held public education programmes in six rural communities and three senior high schools in Wa. The Sisala District Office also conducted public education in 11 junior and senior high schools and 27 rural communities. In addition, the Nadowli District Office organised human rights education for nine educational institutions and 16 rural communities. For its part, the Lawra District Office reactivated six Human Rights Clubs and conducted 18 public education programmes, while the Jirapa District Office conducted 23 public education programmes.

Extracts from previous years indicate that as at the time of reporting, the commission has since its inception received 136,619 complaints and disposed of 111,803, representing 81.8%. Table 1 shows the summary of cases for 2007.

Table 1: Summary of Cases for 2007

Region	No. of Complaints	Closed Complaints
Headquarters	668	315
Ashanti	1,417	1,292
Western	1,284	1,053
Eastern	1,640	1,212
Central	1,135	1,040
Volta	1,544	1,303
Brong Ahafo	3,704	2,989
Greater Accra	546	491
Northern	813	594
Upper East	386	359
Upper West	235	288
Tema	83	67
<b>Total</b>	<b>13,455</b>	<b>11,003</b>

Figure 1: Regional Distribution of Cases Received

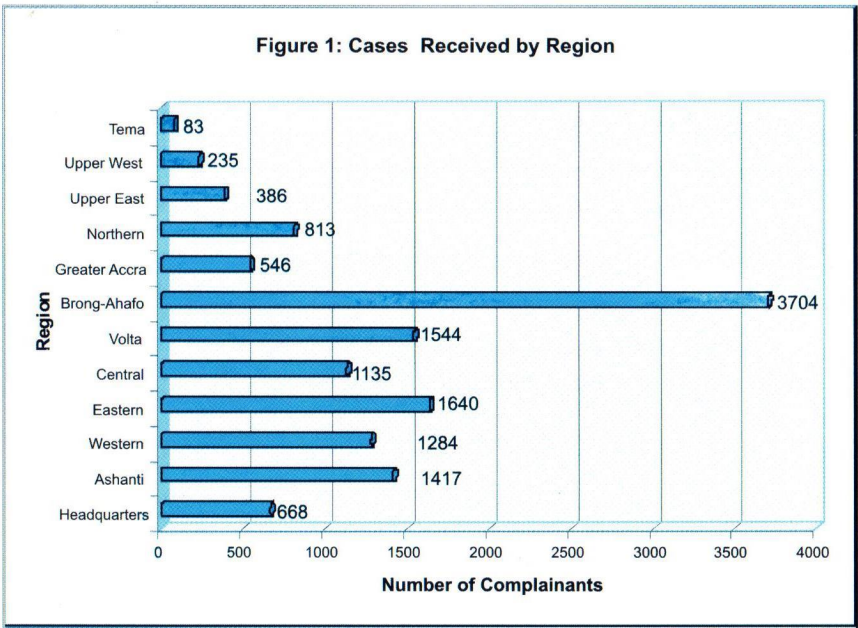


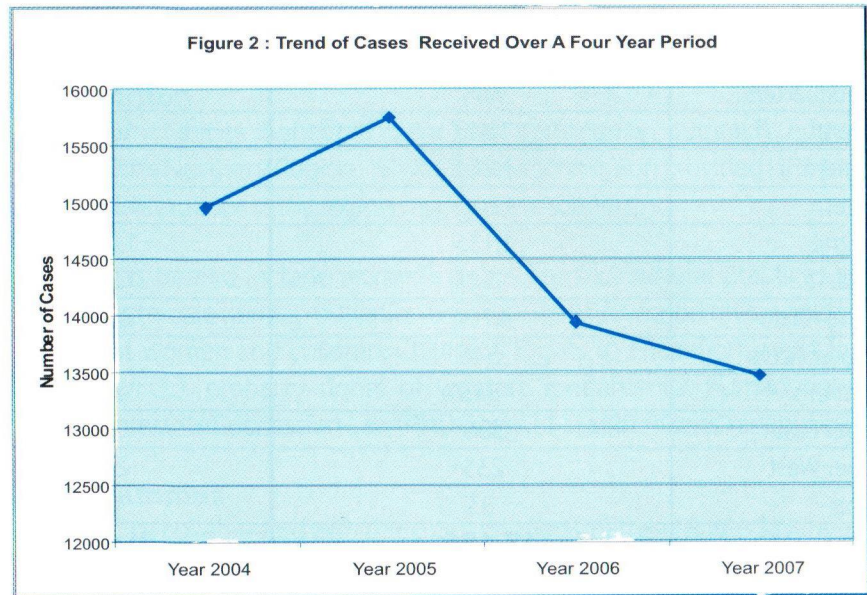
Figure 1 illustrates cases received within the year 2007. Brong Ahafo continued to receive the largest proportion of cases totalling 3,704, representing 27.5% of all cases received nationwide, followed by the Eastern Region with 1,640 (12.2%) complaints. Upper West had the least number of cases.

The high nature of cases received in the Brong Ahafo Region could be attributed to the high rate of children, women and property rights cases. The Eastern Region dominated in socio-economic and corruption related cases.



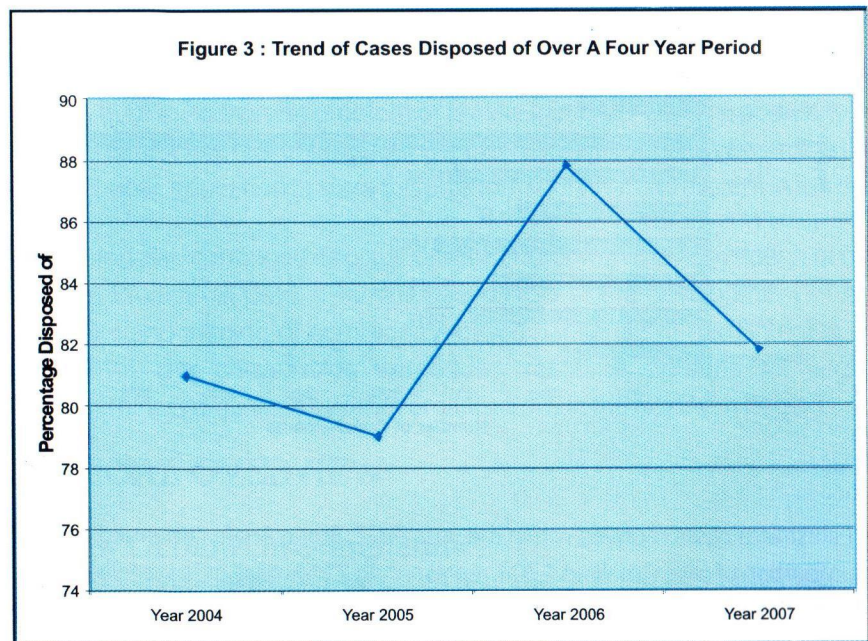
## ii. Trend Of Cases Over The Last Four (4) Years

### i. Received Cases



There was an initial increase in complaints received between 2004 and 2005 from 14,953 to 15,749. However, this tapered down to 13,931 in 2006 and 13,455 in 2007.

### ii. Disposed of Cases



On the average, the commission resolved 82.4 % cases over the four year period. In 2004, 81 % (12,116) of cases were disposed of, reducing to 79% (12,422) in 2005. The highest percentage of resolved cases occurred in 2006, which stood at 87.8%, falling, however, to 81.8% in 2007.

### iii. Categories Of Complaints

Table 2: Status of Case Distribution

Category	2004	2005	2006	2007
Administrative Justice	1,671	1,622	1,546	1,303
Human Rights Issues	13,249	13,844	11,999	12,045
Corruption Related	33	283	386	107
<b>Total</b>	<b>14,953</b>	<b>15,749</b>	<b>13,931</b>	<b>13,455</b>

#### i. Administrative Justice Cases

Administrative Justice cases include complaints on abuse of office, dismissal, termination of appointment, undue delay and pension/gratuity. Since 2004, case receipt in respect of administrative justice has been following a reducing trend.

Out of 1,303 Administrative Justice cases received in 2007, the head office received a maximum of 317, representing 24.3%, followed by Ashanti with 192 cases representing 14.7%. Upper West recorded the lowest number of cases, two in all, representing 0.2%.

#### ii. Human Rights Cases

Human Rights cases include complaints on children, women, and property rights. Others are related to economic, social, civil and political rights. The year 2007 recorded 12,045 complaints which is an increase compared to 11,999 complaints recorded in 2006.

##### Rights of the Child

A total of 4,982 cases of children related issues were received, representing 41.4% of all human rights related cases received. Of this, there were 3,317 child maintenance complaints constituting the highest of children related cases.

##### Women's Rights

A total of 1,656 cases were received, representing 13.7% of all human rights related cases. Maintenance cases were the highest, totalling 1,518 (91.7%) of all women's rights related cases. Domestic violence cases recorded the lowest with a total of 66, representing 4.0% of all women's rights complaints.

##### Property Rights

The total number of property rights-related cases received was 2,503, which represented 20.8% of all human rights related cases. State confiscation of property received the lowest with a total of 19, whereas 745 complaints were on interstate succession.

##### Economic and Social Rights

Economic and social rights-related cases received added up to 1,601, representing 13.3% of all human rights related cases.

##### Civic and Political Rights

A total of 268, representing 2.2%, human rights related cases were on civil and political rights.



### Other Complaints

A total of 1,035 complaints were on a variety of human rights issues and classified as other complaints.

### iii. Corruption Related Cases

Corruption related cases include fraud, money extortion, breach of code of conduct and other forms of corruption. In 2007, a total of 107 corruption related cases were received representing 0.8% of all cases received.

### iv. Respondent Bodies

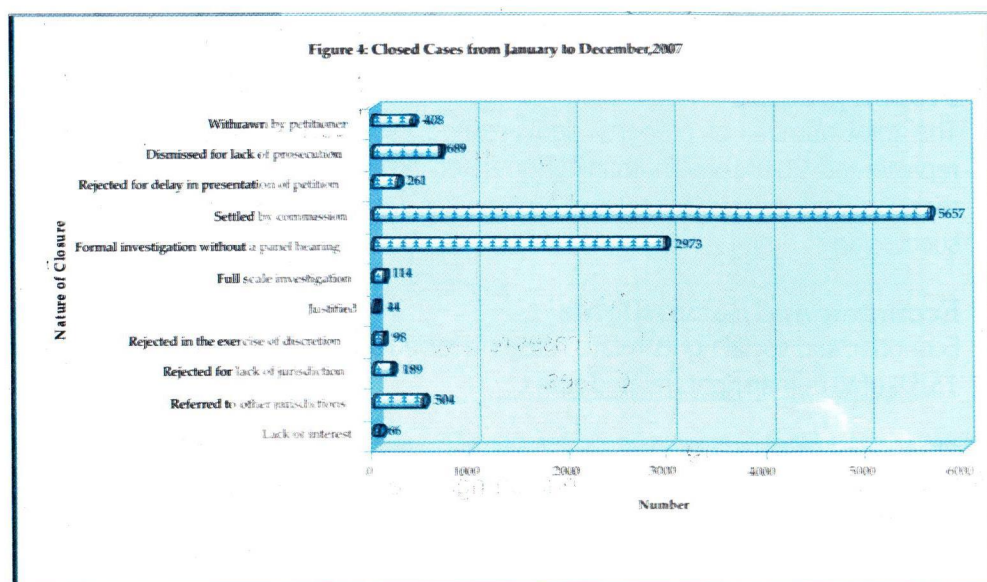
Table 3: Summary on Respondent Bodies

Respondent Bodies	Number	%
Office of the President	4	0.03
Organisations under Ministry of Justice	28	0.21
Organisations under Ministry of Education	170	1.26
Organisations under Ministry of Roads/Highways	13	0.10
Organisations under Ministry of Finance	94	0.70
Organisations under Ministry of Local Government	56	0.42
Organisations under Ministry of the Interior	156	1.16
Other Ministries	43	0.32
Extra-Ministerial Organisations	45	0.33
Private (individuals/Organisations)	12,846	95.47
<b>Total</b>	<b>13,455</b>	<b>100</b>

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

In the year, a majority of respondents came from the private sector, representing 95.47% (12,846) of all respondent bodies, while 4.53% (609) of respondent bodies came from the public sector.

### v. Nature of Closure



In 2007, the commission closed 11,003 cases. Alternative Dispute Resolution Mechanism (ADRM) (mediation, negotiation, reconciliation methodologies) was employed to resolve 5,657 complaints, representing 51.4% of the total of 11,003 cases closed. Of the total, only 1.0% was resolved through full-scale investigation or panel hearing, while 27.0% were resolved through formal investigation without a panel hearing. About 4.6% of the cases were referred to other fora such as the courts, DOWVSU, the Police Service, the Labour Commission and the ministries.

Other cases were also dismissed for lack of prosecution, rejected or discontinued in exercise of discretion, settled by the parties, or withdrawn by the petitioner.

## vi. Referral Of Cases

A total of 344 referrals were made; 222 to the law courts, representing 64.5%, 42 cases, representing 12.2%, to DOWVSU and the Family tribunals, and 36, representing 10.5%, to the regular Police Service, Others are, 20 (5.8%) to the Department of Social Welfare, and 8(2.3%) to traditional authorities, and 16 cases (4.7%) were referred to the Labour Commission, the Ministry of Water Resources/Housing, the Ministry of Women and Children's Affairs, the Ministry of Foreign Affairs, the Lands Commission and the Rent Control Office.

## vii. Detailed case statistics for 2007

### 1. Human Rights-related Issues

#### i. Children's Rights-related cases

Nature of Cases	Number
Maintenance	3,317
Custody	541
Paternity	559
Forced Marriage	224
Defilement	19
Medical Care	51
Education	168
Care	23
Maltreatment	48
Naming	12
Incest	0
Abduction	20
<b>Total</b>	<b>4,982</b>

#### ii. Women's Rights-related Cases

Nature of cases	Number
Maintenance	1,518
Discrimination based on sex	72
Domestic violence	66
<b>Total</b>	<b>1,656</b>



Figure 5 : Children's Rights-related Cases

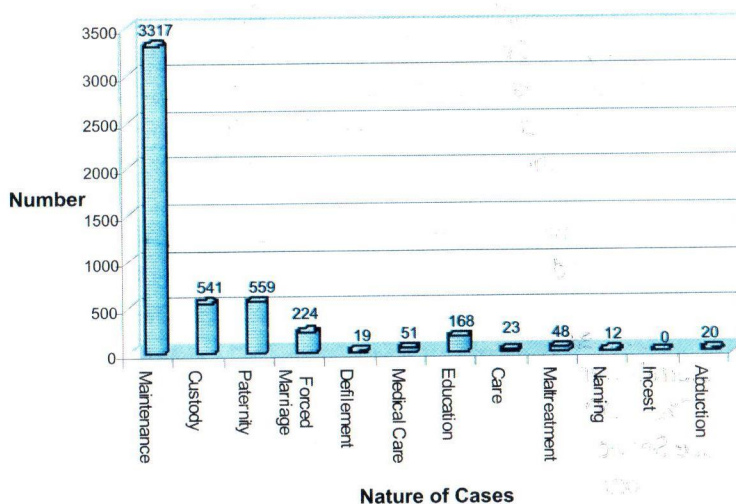
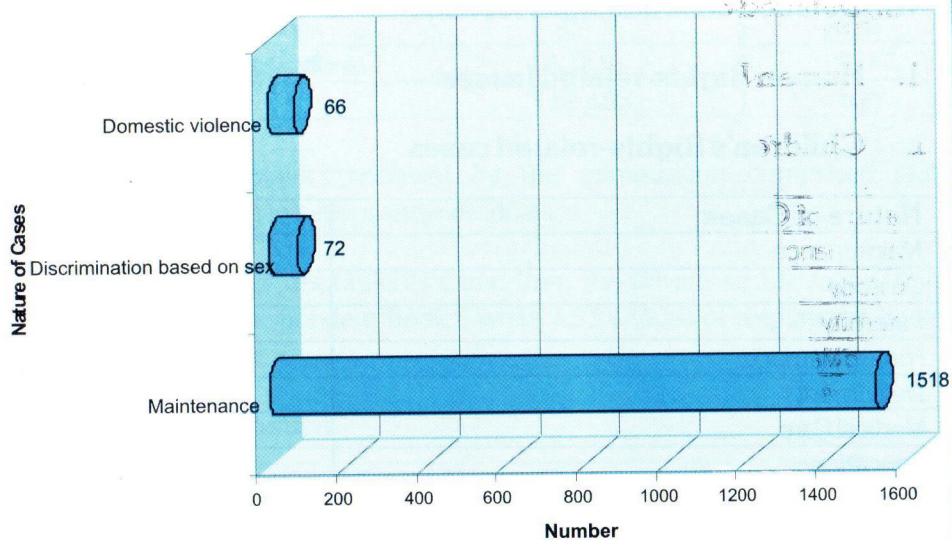


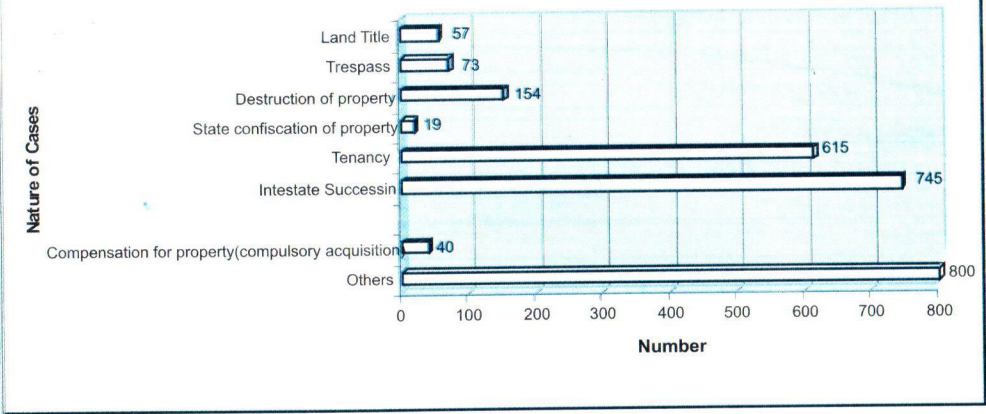
Figure 6 : Women's Rights



### iii. Property Rights-related Cases

Nature of Cases	Number
Compensation for property(compulsory acquisition)	40
Intestate Succession	745
Tenancy	615
State confiscation of property	19
Destruction of property	154
Trespass	73
Land Title	57
Others	800
<b>Total</b>	<b>2,503</b>

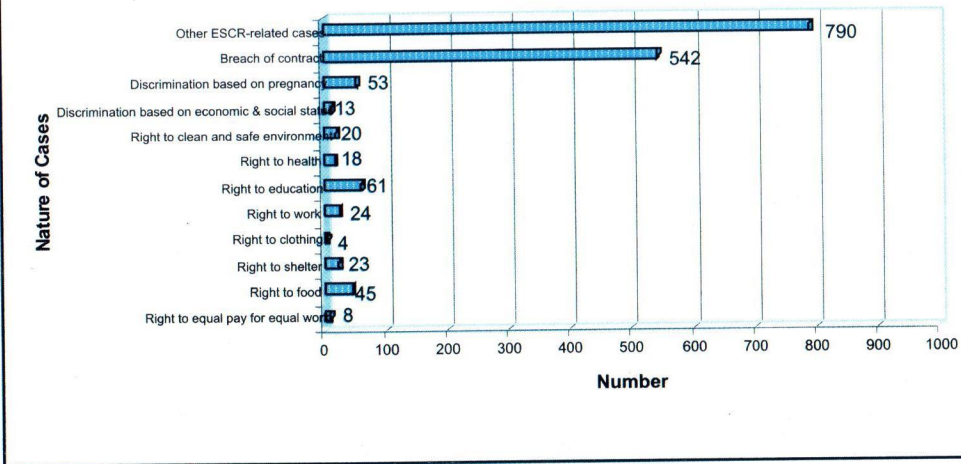
Figure 7 : Property Rights-related Cases



iv. Economic and Social Rights-related cases

Nature of Cases	Number
Right to equal pay for equal work	8
Right to food	45
Right to shelter	23
Right to clothing	4
Right to work	24
Right to education	61
Right to health	18
Right to clean and safe environment	20
Discrimination based on economic & social status	13
Discrimination based on pregnancy	53
Other ESCR-related cases	1,332
<b>Total</b>	<b>1,601</b>

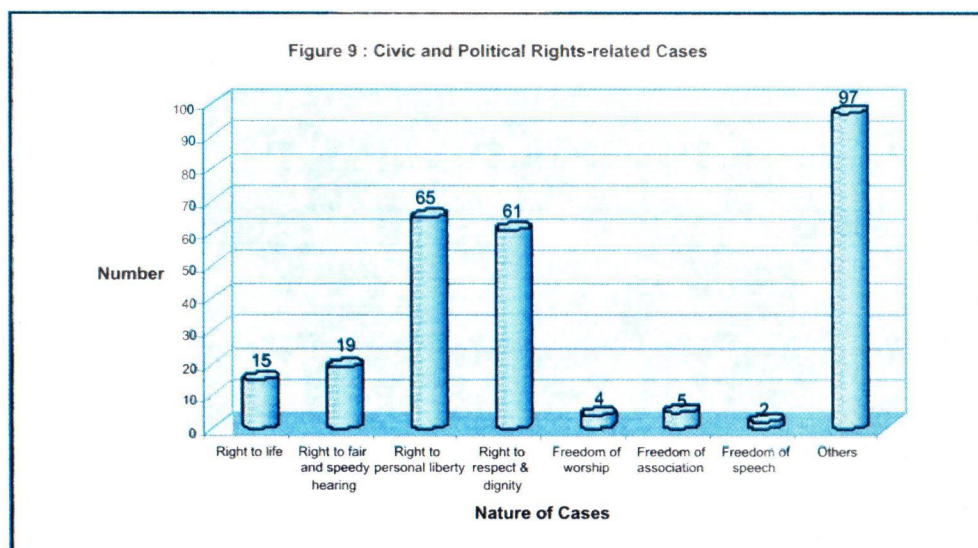
Figure 8 : Economic and Social Rights-related Cases





## v. Civic and Political Rights-related Cases

Nature of Cases	Number
Right to life	15
Right to fair and speedy hearing	19
Right to personal liberty	65
Right to respect & dignity	61
Freedom of worship	4
Freedom of association	5
Freedom of speech	2
Others	97
<b>Total</b>	<b>268</b>



## vi. Other Rights

Nature of Cases	Number
Others	1035

## 2. Administrative Justice

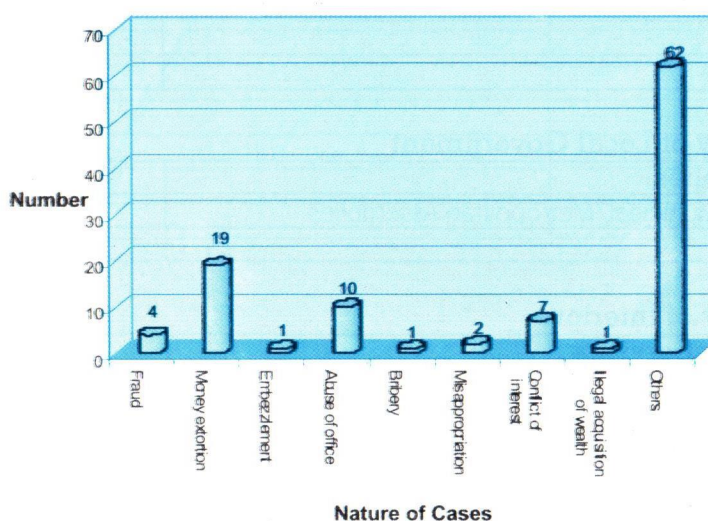
Nature of Cases	Number
Abuse of Office (Exploitation)	8
Abuse of Office (Intimidation)	21
Abuse of Office (Unbecoming Conduct)	6
Abuse of Office (Oppression)	22
Abuse of Office (Exercise of Discretion)	12
Undue Delay	39
Delay in dispensing Justice (Police)	35
Negligence	5
Over billing of school fees	0
Dismissal	143
Termination of Appointment	215
Resignation	12

Redundancy/Redeployment	4
Pension/Gratuity	29
SS Deduction/Payment	54
End of Service Benefit	92
Severance Award	8
Salary Arrears/Withholding	245
Insurance Claims	16
Suspension/Interdiction	16
Transfer	10
Promotion	7
Retirement Benefits	13
Study Leave	2
Surcharging of lost items	-
Workmanship compensation	83
Salary deduction	33
Reinstatement	19
Others	154
<b>Total</b>	<b>1,303</b>

### 3. Corruption Cases / Breach Of Code Of Conduct

Corruption Cases	Number
Fraud	4
Money extortion	19
Embezzlement	1
Abuse of office	10
Bribery	1
Misappropriation	2
Conflict of interest	7
Illegal acquisition of wealth	1
Others	62
<b>Total</b>	<b>107</b>

Figure 10 : Corruption Cases





**xi. Data On Respondent Bodies****Office of the President**

<b>Organizations</b>	<b>Number</b>
Regional Coordination Councils	1
Miscellaneous offices under Off. Of President	3
<b>Total</b>	<b>4</b>

**Ministry of Justice**

<b>Services/Departments</b>	<b>Number</b>
Judicial Service	21
Attorney-General's Dept.	7
<b>Total</b>	<b>28</b>

**Ministry of Education**

<b>Services/Institutions</b>	<b>Number</b>
Ghana Education Service	63
West African Exams Council	6
Schools/Colleges	82
Universities	19
<b>Total</b>	<b>170</b>

**Ministry of Roads & Highways**

<b>Authority/Dept.</b>	<b>Number</b>
Department of Feeder Roads	4
Ghana Highway Authority	9
<b>Total</b>	<b>13</b>

**Ministry of Finance and other Organization within its domain**

<b>Services/Departments</b>	<b>Number</b>
Finance	2
Controller & Accountant General	21
Banking Institutions	26
CEPS	4
IRS	6
SSNIT	34
SIC	1
<b>Total</b>	<b>94</b>

**Ministry of Local Government**

<b>Assemblies</b>	<b>Number</b>
District/Municipal/Metropolitan Assemblies	56
<b>Total</b>	<b>56</b>

**Ministry of Interior**

<b>Security Services</b>	<b>Number</b>
Prisons Service	7
Immigration Service	2
Police Service	132
Bureau of National Investigation	3
Ghana National Fire Service	1

Ghana Armed Forces	11
<b>Total</b>	<b>156</b>

### Other Ministries

Ministries	Number
Food and Agriculture	10
Health	16
Lands and Forestry	7
Works and Housing	3
Foreign Affairs	1
Education	6
<b>Total</b>	<b>43</b>

### Extra-Ministerial Organisations

Organisations	Number
Public Services Commission	2
Chieftaincy Secretariat	4
Lands Commission	4
Electoral Commission	1
CHRAJ	8
Lands Valuation Board	5
Rent office	4
GWCL	5
VRA	7
Labour Commission	3
SFO	1
Ghana Post	1
<b>Total</b>	<b>45</b>

### Private Individuals and Organisations

Private Individual/ Organisation	Number
Private Individuals	12,113
GPRTU	12
NGOs	21
Companies	517
Electronic Media	4
Churches	12
Ghana Telecom	3
Hospitals	15
Others	149
<b>Total</b>	<b>12,846</b>





## **SECTION III:**

### State of Human Rights Report

# Executive Summary of 2007 State of Human Rights Report

## Introduction

The commission is mandated to promote and protect the fundamental human rights of all persons in Ghana.

In addition to investigating complaints of human rights violations, the commission proactively embarks on other interventionist programmes to promote and entrench a culture of respect for human rights. One such programme is the annual compilation and publication of the State of Human Rights Report [SOHR].

The 2007 SOHR covers the findings of the nationwide monitoring of schools, refugee camps, and camps for suspected witches, orphanages, health institutions and extremely deprived communities [slums].

## 1.0 METHODOLOGY

The methodology employed in the collection of data for the report included questionnaires, focus group discussions, use of key informants, field observation and interviews.

## 2.0 FINDINGS

### 2.1 Right to Education

A total of 46 educational institutions, comprising 27 public and 19 private schools, were monitored across the country. Topics covered by the monitoring include adequacy of teaching and learning materials, persons with disability, corporal punishment bullying in schools. The rest are ventilation and lighting in classrooms and dormitories, accommodation, provision of water, health facilities, capitation grant and school levies.

In spite of the giant steps that have been taken to make basic education free and compulsory for every Ghanaian child, there still are challenges to address to realise that goal.

#### 2.1.1 Learning & Teaching Materials

A number of schools lack adequate learning and teaching materials. Out of the number of schools monitored, 32 schools indicated that teaching and learning materials were available and 24 indicated that the materials were woefully inadequate.

#### 2.1.2 Corporal Punishment

Caning as a form of punishment still exists in schools. Thirty eight out of the 46 schools visited admitted using the cane, but in accordance with the guidelines of the Ghana Education Service.



Although the National Health Insurance Scheme was operational at most of the health centres monitored, the scheme was characterised by problems such as delays in payment and poor record keeping.

2.3 Child Labour

2.3.1 Ages of children engaged in child labour:

Greater Accra Region

- 4–5 years 4 children
- 6–10 years 112 children
- 11–15 years 112 children

Brong Ahafo Region

- 5–10 years 271 children
- 11–15 years 279 children

2.3.2 Ages of children in Worst Forms of Child Labour:

Ashanti Region

- 4–5 years 63 children
- 6–10 years 120 children
- 11–15 years 210 children

Northern Region

- 5–10 years 55 children
- 11–15 years 55 children

2.3.3 Dangers inherent in the Worst Forms of Child Labour

Among others, the monitoring team found out that children involved in farming, fishing, petty trading, and fish mongering/smoking, among others, are usually exposed to prostitution and all manner of diseases. Most of the children were forced out of school. They often get beaten and cheated by their employers and colleagues.

Those who gather stones in quarries work under very dangerous/hazardous conditions, and are almost always not paid their labour's worth.

Conditions under which children that pick fish and pull nets are not any different. It is not uncommon to see them diving into the sea or lake to disentangle nets with its attendant dangers. It is common to see them in tattered clothes and barefooted. They often get beaten by their employers and colleagues, particularly when they fail to obey orders.

Those involved in truck-pushing, fetching sand into trucks, and selling of fish often have their wages given to their parents.

Among the reasons proffered for children engaging in child labour instead of attending school are:

- Loss of one or both parents resulting in the need to fend for oneself
- Non-readiness of extended family to help children who have been orphaned

- Severe financial difficulties of family resulting in the need to work and support family budget
- Inability of parents and guardians to support the child financially
- Parents who cannot cater for the children's needs

## **2.4 Extremely Deprived Communities [Slums]**

The monitoring team monitored 10 extremely deprived communities in 10 regions. They are Agbogbloshie, Tulako No. 1, Kwesimintsim, Sabon Zongo, Epoano, Ho Leprosarium, Goro, Banyan, Zongo and Dondoli.

The cross-cutting issues among these communities included poor shelter/accommodation for families, poor or lack of educational and health facilities, poor sanitary conditions, and lack of general social infrastructure.

## **2.5 Refugees**

The Commission monitored the Krisan Refugee Settlement and the Budumburam Refugee Camp in the Western and Central Regions respectively.

### **2.5.1 Identification and Background Information**

The Krisan Refugee Settlement, established in 1997 by the National Mobilisation Programme (N.M.P), had 1,588 dwellers as at the time of the visit. Inhabitants include nationals from nine countries, namely: Liberia, La Cote d'Ivoire, The Sudan, Togo, Democratic Republic of Congo, Congo Brazzaville, Sierra Leone, Rwanda and Chad.

The Budumburam Refugee Camp, which started in 1990 with nine refugees following the Liberian civil war, had 40,000 dwellers as at the time of the visit. The number included four psychiatric patients and 80 persons with disability. Some of the refugees had been in the camp for nearly 17 years.

## **2.6 Psychiatric Care**

### **2.6.1 Institutions Identification**

The exercise covered two main psychiatric institutions, namely the Ankaful Psychiatry and Pantang Psychiatry Hospitals, and psychiatric units in four other hospitals, namely Wa Regional Hospital, Tamale Central Hospital, and Bolgatanga Central Hospital and Ho Central Hospital.

The monitoring revealed that, generally, psychiatric care is not receiving adequate support from the State, making it extremely difficult for the health professionals to do their work.

#### **2.6.4 Patient/Staff Ratio**

All the Psychiatric institutions were understaffed and under-resourced, thereby putting pressure on the few existing staff. There was no psychiatric doctor at post in the Upper East Central Hospital; the place was manned by only two psychiatric nurses who had to cater for 787 patients.

#### **2.6.5 National Health Insurance Scheme (NHIS)**

Prior to the introduction of the NHIS, psychiatric care was free. With the coming



into operation of the NHIS, patients who have not registered with the Scheme have to pay for psychiatric services.

Treatment of psychiatric related cases at the Psychiatric Unit of the Volta Regional Hospital, however, remains free.

## 2.7 Witch Camps

Four Witch Camps, comprising the Gambaga, Ngani, Kukuo and Kpatinga camps, were visited.

### Gambaga Witch Camp

Of the 88 occupants in this camp, 12 were children in Junior High School (JHS) and two in primary school. The camp has well-kept rooms and surroundings with its own KVIP. For water, the occupants use boreholes in the Gambaga Town. Common ailments among occupants were malaria and joint pains. Occupants earn their livelihood through economic activities such as selling firewood, farming, fishing and soap making with support from their families. Notable non-governmental organisations (NGOs) that assist the Camp include the Go-Home Project, Action Aid and the Catholic Relief Services (CRS). According to the interviewees, six suspected women witches had been reintegrated into their communities at the time of visit.

### Ngani Witch Camp

Occupants comprise 246 adults and 115 children. Sanitation at the Camp was very poor. For water, the women use the borehole and river in the community, whilst they rely on the Community clinic for medical treatment. NGOs-activity in the Camp is quite erratic. For now, the most visible NGOs there are Action Aid and CRS.

### Kukuo Witch Camp

There are 114 adult occupants and 171 children in the Camp of which 64 were in school. There were six children with disability. The entire Camp was well-kept and the occupants access the Community Clinic for their medical needs. Occupants however, depended on petty trading as well as relatives, NGOs and other philanthropists to meet their needs. Five women were integrated into their community within the year 2007.

### Kpatinga Witch Camp

The Kpatinga Camp, which accommodates 181 occupants made up of 87 adults and 94 children, is the best kept in the region. It has a potable source of drinking water. The women depend on relatives and World Vision for food. Occupants patronise the Gushegu Hospital. Re-integration of the women into society has been very slow.

## 2.8 On the Spot Monitoring

### 2.8.1 Floods in three Northern Regions

Resolution 1 (4) of the Hyogo Declaration of the World Conference on Disaster Reduction, 18-22 January, 2005 provides that States have the primary responsibility to protect the people and property on their territory from hazards, and thus, it is vital to give high priority to disaster risk reduction in national policy, consistent with their capacities and the resources available to them. According to the Declaration, strengthening community level capacities to reduce disaster risk at the local level is especially needed, considering that appropriate disaster reduction measures at that level enable the communities and individuals to reduce significantly their vulnerability to hazard.



In September, 2007, the Black and White Volta rivers overflowed their banks, causing serious flooding in most parts of the three Northern Regions<sup>3</sup> of Ghana, leaving farms inundated with water and places of shelter destroyed. The main Communities affected by the floods included Kulungugu, Sandema, Garu-Tempane and the Tanne-Woriyanga Bridge.

### 2.8.2 Chieftaincy Disputes

The commission has always condemned situations that breach the peace. Within the month of November, three serious clashes arising from protracted chieftaincy disputes erupted in the country in which precious lives were lost. The first incident occurred on the 1st of November 2007 during the attempted installation of an Awoamefia (Overlord) of Anlo Traditional Area. In the ensuing clashes, a police officer and three civilians, including a woman, lost their lives. A fourth civilian allegedly collapsed and died in police cells.

On the 14th of November, 2007, protracted chieftaincy dispute at Aketekyi, near Princess Town in the Western Region, turned violent leading to the death of two persons, including a sub-chief. According to the Daily Graphic<sup>3</sup>, 30 houses were set on fire in the ensued confusion.

On Friday 23rd November 2007, the Daily Graphic reported another clash resulting from a chieftaincy dispute at Adoagyiri in the Eastern Region. According to the report, three people sustained serious gunshots and machete wounds on Sunday, November 18, 2007 when one of the factions involved in the dispute pitched their strength against the other with guns and machetes and other dangerous weapons.

The recent chieftaincy clashes bring into sharp focus the need for rethinking the role of the security agencies in maintaining law and order, the mediatory role of chieftaincy institutions as well as politicians in the selection and installation of chiefs. The allegation that the police took sides in the Anlo chieftaincy clashes if found out to be true, must be condemned in no uncertain terms.

### 2.9 Collaboration with NGOs

The commission maintains cordial relations with human rights NGOs, through joint research and training programmes, among others.

### 3.0 Recommendations

In the light of the above findings, the following recommendations are made for the attention of the responsible Ministries, Departments and Agencies (MDAs):

#### 3.1 Right to Health

- Increase the number of doctors, nurses, technicians and other health personnel posted to hospitals in the regions.
- Provide adequate and expand existing hospital facilities such as laboratories, mortuaries, theatre and wards to take care of the increasing number of patients.
- Provide means of transport for staff for effective functioning of the hospitals.

<sup>2</sup>Daily Graphic. Thursday, Sept. 6, 2007

<sup>3</sup>Daily Graphic. Thursday, Nov. 15, 2007



- Provide accommodation for doctors and nurses in the immediate environment of the hospitals to enable them attend to emergencies promptly.
- Ensure proper organisation, implementation and record keeping by the National Health Insurance Secretariat
- Ensure regular and early payment of bills submitted by hospitals

### **3.2 Psychiatric Care**

- Subsidise or supply free drugs for mental illnesses.
- Establish mental homes to cater for the northern part of the country.
- Regularise water and electricity supply to hospitals.

### **3.3 Education**

- Increase number of learning and teaching materials in schools.
- Supply Braille textbooks to the blind especially the Wa school for the blind.
- Make school buildings accessible to persons with disabilities.
- Provide adequate sanitary facilities in public schools.
- Increase the capitation grant given to schools
- Payment of the capitation grant should be prompt and regular and it should be based on the needs of the schools and not the population of the schools.
- Consider private schools for capitation grant.
- Ensure regular supply of textbooks to both public and private schools.

### **3.4 Slums**

- Provide basic social amenities such as toilets, potable water, and waste disposal facilities for slum dwellers.
- Provide clinic and schools for slum dwellers.
- Evacuate and resettle residents of Goro Community in the Kumasi metropolis.

### **3.5 Refugees**

- Assist refugees in cash and in kind to enable them meet their basic needs.

### **3.6 Remand**

- Improve and expand facilities in prisons.
- Reduce congestion in prisons by granting speedy trials to remand prisoners.
- Increase daily feeding grant to be commensurate with current economic trends.
- Establish non-custodial sentencing policy in order to reduce congestion in prisons
- Provide vocational training and recreational facilities for remand prisoners
- Improve service and living conditions of Prison Officers

### **3.7 Child Labour**

- Increase public education on child labour and the rights of children.
- Intensify education and monitoring of WFCL
- Enforce laws on child labour
- Increase efforts at reducing poverty
- Provide micro-credit facilities for parents.

### **3.8 Camps for Suspected Witches**

- Provide a place of convenience for inmates in the Ngaani camp.
- Provide proper houses with windows and door-locks for inmates to ensure adequate ventilation, light, and safety for inmates at Ngaani camp.
- Equip the clinic that serves the Kukuo Camp with requisite diagnostic equipment to help improve services.

### **3.9 Orphanages**

- Provide support for Orphanages
- Improve working conditions for workers in the orphanages.
- Include children in orphanages under National Health Insurance Scheme exemption policy





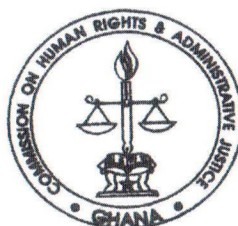
# SECTION IV:

## Case Summaries

Landmark Case: Republic v. CHRAJ, Ex Parte Dr. Richard Anane  
Summary of Selected Cases

# Landmark Case

File No.5177/2005



**IN THE MATTER OF THE COMMISSION ON HUMAN RIGHTS  
AND ADMINISTRATIVE JUSTICE ACT, 1993 (ACT 456)**

**AND**

**IN THE MATTER OF INVESTIGATIONS INTO ALLEGATIONS OF  
CORRUPTION, CONFLICT OF INTEREST AND ABUSE OF POWER  
AGAINST HON. DR. RICHARD ANANE (MP) AND MINISTER FOR  
ROAD TRANSPORT**

## DECISION

Ms. Anna Bossman	-	Ag. Commissioner (Chairperson)
Mr. Richard Quayson	-	Deputy Commissioner (Public Education / Anti- Corruption)
Ms. Abena Bonsu	-	Former Director (Legal / Investigations)
Dr. P. E. Bondzie-Simpson	-	Counsel for the Commission
Mr. Bede Tuku	-	Counsel for the Commission
Mrs. Mavis Andoh	-	Counsel for the Commission
Mr. J. Acquah-Sampson	-	Counsel for the Respondent
Mr. Peter Zwennes	-	Counsel for the Respondent
Mr. George Amisah (Jnr.)	-	Counsel for the Respondent
Mrs. Yvonne Awoonor-Williams	-	Counsel for the Respondent
Mr. Joshua Nimako	-	Counsel for the Respondent
<b>Date of Decision</b>	-	<b>September 15, 2006</b>



# Investigations Into Allegations Of Corruption, Conflict Of Interest And Abuse Of Power Involving

Honourable Dr. Richard Anane, (MP) And Minister For Road and Transport

## Decision Of The Commission On Human Rights And Administrative Justice

### 1.0. INTRODUCTION

This decision of the commission is made pursuant to Sections 7 and 18 of the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456). It relates to investigations into allegations of corruption, conflict of interest and abuse of power against the Hon Dr. Richard Anane, Minister for Road and Transport, and Member of Parliament for Nhyiaso.

In view of some misconceptions and speculation held by some sections of the public regarding the scope and nature of these investigations, we need to emphasize that this commission is not investigating matters of morality nor making a moral judgment on an extra-marital affair that the Hon. Minister had with one Alexandra O'Brien resulting in the birth of a child.

This commission is investigating allegations that relate to three issues: corruption, conflict of interest; and abuse of power, by a public officer. In this instance, the public officer is Hon. Dr. Richard Anane (MP) and Minister for Road Transport.

The investigations, including the preliminary investigations and the hearings spanned a period of about 18 months during which various documents were consulted, interviews were held with potential witnesses, and information was collected and evaluated.

The panel hearing covered a period of over six months during which the panel sat 23 times. The following witnesses appeared before the panel:

- i. Mr. Raymond Archer;
- ii. Mrs. Mercy Afriyie Anane;
- iii. Mr. Joe Osei Wusu;
- iv. Hon. Kofi Adusei Poku;
- v. Mr. Collins Duodu-Bonsu;
- vi. Mr. Obed Kissi;
- vii. Ms. Alexandra O'Brien Anane;
- viii. Hon. Dr. Richard Winfred Anane;
- ix. Mr. Joris Jordan;
- x. Mr. Ken Anku.

## 2.0. BACKGROUND

In January and February 2005 and some time there after, the media, notably the **Chronicle** and the **Daily Graphic**, made various allegations of corruption and conflict of interest against Dr. Richard Anane, then Minister designate for the post of Minister for Road Transport. The media speculated about Hon Dr. Richard Anane's relationship with one Alexandra O'Brien, [also Alexandra Anane], an American, who was believed to have entered into an agreement with the Ministry of Health to undertake an HIV/AIDS project in Ghana. The fall out of their relationship was alleged to have led to the project being aborted, thereby causing financial loss, as well as missed opportunities, to the nation.

**Some of the specific allegations contained in the media were as follows:**

- i. The **Chronicle** edition of Friday, January 28, 2005 reported that [Dr. Richard Anane] then Minister designate, had denied the "...numerous transfers (US \$ 90,000)[he] did for the woman in the USA for her upkeep..." but "confessed giving her an amount of \$10,000..." and paying 51 million cedis for her accommodation at Esther's Hotel when the woman was in Ghana. The woman referred to here is one Alexandra, with whom [Dr. Anane] has a child. She lives in the United States of America"

Following Dr. Anane's denial of this allegation, a journalist, Mr. Raymond Archer, then of the **Chronicle** and presently with the **Enquirer**, petitioned the Chairman of the Appointments Committee of Parliament challenging Dr. Anane over the transfers of the said money to Ms. O'Brien.

- ii. The **Chronicle** edition of Monday, February 7, 2005 reported that Mr. Archer had stated that Dr. Anane billed both the Ghana Civil Aviation Authority and the Ministry for Road Transport (two state institutions) for expenses incurred by Ms. O'Brien when he traveled to Montreal, Canada, on an official assignment. According to Mr. Archer, "all expenses incurred by Alexandra and his son on that trip were converted as expenditure by Dr. Anane and Ghana Civil Aviation was billed."

Mr. Archer further stated that Dr. Anane was not truthful to the Parliamentary Committee when he said at the vetting that he had always distinguished his private affairs from his duties as a public official. According to the report, Ms Alexandra had a company, which was interested in undertaking an HIV/AIDS project in Ghana and had signed a Memorandum of Understanding to that effect with the Ministry of Health. Mr. Archer alleged that Dr. Anane's relationship with Ms O'Brien, whom he described as "the client" of the country, cost the nation not only in financial terms, but also in terms of lost opportunities to Ghana.

Mr. Archer went on to say that he had obtained certain documents from Ms. Alexandra which suggested that Dr. Anane was "feeding" off Ghana Airways funds. According to Archer, Ms. O'Brien said as follows:

"During 2002 and part of 2003, Collins Duodu- Bonsu was assisting Richard in getting money to me by many means, including picking up



\$10, 000 cash from Ghana Airways's back office in Baltimore, Maryland. I was told to meet Captain Kwakwa coming off a flight but instead was routed to the back offices to wait for Obed. (I was accompanied to the airport with another person who can testify to this as well) whereby another man, not Obed, named Eric counted and handed me cash from the safe in the office. I had assumed that since Richard was the Minister of Transportation, he had paid \$10, 000.00 of his own money into the Ghana Airways account in Accra to replace the cash given us."

- iii. On January 28, 2005, the **Daily Graphic** reported that Dr. Anane had denied transferring an amount of \$90,000 to Alexandra but admitted that "although some monies were sent to her, it did not amount to the figure mentioned by members [of Parliament] and what was published in some media".

Similar reports were carried in other newspapers and in the electronic media.

The commission decided to commence preliminary investigations into the allegations of its own volition under section 7 of Act 456 at the conclusion of which the commission instituted a panel hearing into the matter.

### 3.0. ALLEGATIONS

The specific allegations included the following:

#### 3.1. Improper and Corrupt Payment or Remittances

That, during a certain period from about 2001 to 2004, the Hon. Dr. Anane (the respondent ) under the colour and by virtue of his public office as a Minister of the Republic of Ghana improperly or corruptly paid or remitted directly as well as through several persons and some institutions and officers of State, monies in an amount totaling at least US\$126,560 to one private person by the name Miss Alexandra O'Brien.

Particulars of the allegations of improper or corrupt payments or remittances were made available to the Hon. Respondent.

#### 3.2. Misuse of State Resources on a Private Person

The second allegation was that while sometime in November, 2002 the Honourable Minister was in London, in the United Kingdom, on an official business, under the colour and by virtue of his public office as a Minister of the Republic of Ghana, he caused the State to incur various expenses relating to accommodation, travel and miscellaneous expenses, for and on behalf of a private person, namely, the said Alexandra O'Brien.

#### 3.3. Causing the State to Incur Expenses on a Private Person

The third allegation was that for a certain period, on or around April to May, 2003, the Honourable respondent under and by virtue of his public office as a Minister of the Republic of Ghana, caused the State to incur various expenses relating to travel accommodation and miscellaneous expenses for and on behalf of a private person, namely, the said Alexandra O'Brien, by arranging for her travel to Ghana and for rebated or discounted hotel accommodation at a

hotel in which the State is a shareholder and has proprietary and financial interest, to wit – the La Palm Royal Beach Hotel.

### **3.4. Arrangements for Accommodation and payment of Monies**

The fourth allegation was that during the said period, the said Honourable respondent, operating through two operatives who are officers or at the material time were officers of the State, to wit – one Collins Duodu Bonsu, a Special Assistant, and Honourable Ignatius Kofi Edusei Poku, a Member of Parliament, such said persons arranged for the accommodation at the La Palm Royal Beach Hotel and for monies to be paid to Ms. Alexandra O'Brien.

### **3.5. Reward or Payment of US\$20,000 Kickback**

The fifth allegation, in sum, was that during the said period – April 28 to May 9, 2003 when Miss O'Brien was in the country lodging at La Palm Royal Beach Hotel, the Honourable Respondent had discussions with her which disclosed that he was expecting to receive a payment of US\$20,000 as a reward or payment or kickback from an unnamed contractor which payment, reward or kickback he expected to receive covertly, corruptly or unlawfully by virtue of his office as a Minister of State.

### **3.6. The Esther's Hotel Bill**

The sixth allegation was that sometime in about October, 2003 to December, 2003, under and by virtue of his public office as a Minister of the Republic of Ghana, the Honourable respondent arranged for and covered boarding and lodging and miscellaneous expenses for the said Miss Alexandra O'Brien, a private person, at a hotel here in Accra named Esther's Hotel, an amount of at least \$51 million.

### **3.7. The Montreal Trip**

Finally, that in or about September, 2004 while the Honourable Minister of State was in Montreal, Canada, on an official trip, namely, the Thirty-fifth Triennial Assembly of the International Civil Aviation Organization, under the colour and by virtue of his public office as a Minister of the Republic of Ghana, he caused the State to incur travel, accommodation and miscellaneous expenses for and on behalf of private persons, namely, Miss Alexandra O'Brien, and Nicholas Anane, an infant, by arranging for their travel to Canada and for their accommodation at Fairmont Hotel in Montreal.

Other allegations the panel considered will be discussed in the course of this decision.

## **4.0. PRELIMINARY MATTERS [OBJECTIONS ON POINTS OF LAW, MANDATE, ETC].**

On 7 February 2006, counsel for Dr. Richard Anane raised a preliminary objection challenging this commission's "jurisdiction" to proceed with this investigation and questioning the propriety of the procedure adopted by the commission in carrying out its mandate.

The crux of counsel's objection was that this commission has no jurisdiction to proceed with this investigation without the lodging of a formal complaint.



Counsel relied on Article 218, 284 and 287 of the 1992 Constitution as well as Section 7(1) of Act 456 to support his arguments. Counsel further argued that adherence to the Commission on Human Rights and Administrative Justice (Complaint Procedure) Regulations, 1994, Constitutional Instrument No. 7(C.I. 7) is mandatory as there is no procedure established for the commission to initiate its own investigations in the absence of a formal complaint or to investigate its own complaint, for that matter.

Alternatively, in the event that it is established that Article 218(e) does not require a formal complaint or complainant, counsel then invites the commission to confine itself to the parameters of Article 218(e) without touching on other provisions.

Although the commission dismissed his objection, in his final address to the panel, counsel for the respondent again reiterated his objection.

Counsel for the respondent has again failed to persuade the commission that there is merit in his submission.

Let us state categorically that the commission is vested with "jurisdiction" to proceed with this investigation without a formal complaint having been lodged by a complainant. We, accordingly, affirm our previous ruling on the matter. Indeed, this is consistent with the decision of the Commission in case number 5232/2005; dated 20th April 2006 entitled "Report of Preliminary Investigation by the CHRAJ into allegations of corruption and conflict of Interest against his Excellency J.A Kufour President of the Republic of Ghana in Respect of the Acquisition of a "Hotel" at Airport West, Accra."

In that case, the commission ruled that:

"The procedure to be followed in conducting an investigation into a complaint is regulated by Constitutional Instrument No 7 taking into consideration the circumstances of each case. In the instant case there was no complainant before the Commission. The Commission therefore invoked its inherent investigative powers to conduct investigation under article 218 (e) of the Constitution and section 7 (1) (e) and (f) of Act 456".

## **5.0. THE POWERS AND FUNCTIONS OF THE COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE IN RELATION TO THE ALLEGATIONS**

### **5.1. The 1992 Constitution of Ghana**

The commission is established pursuant to Chapter 18 of the 1992 Constitution to investigate complaints of violations of fundamental human rights and freedoms, administrative injustice, abuse of power, all instances of alleged or suspected corruption and misappropriation of monies by public officials. On conclusion of an investigation, the commission may take appropriate steps, including reports to the Attorney-General and the Auditor-General, resulting from such investigations.

<sup>4</sup> See Chapters 18 and 24

<sup>5</sup> Article 218(a)-(f)

<sup>6</sup> Article 284-288

Where the subject matter of an investigation concerns corruption or abuse of power, the relevant provisions of Article 218, namely, clauses (a) and (e) there under, make it clear that the commission's investigative reach extends to all "public officers" (or "officials") without exception. The term "public office" is defined in Article 295(1) to include "an office the emoluments attached to which are paid directly from the Consolidated Fund or directly out of the moneys provided by Parliament."

The commission is also mandated to investigate allegations that a public officer has contravened or has not complied with the code of conduct for public officials prescribed under Chapter 24 of the 1992 Constitution. This chapter contains provisions on conflict of interest of public officials.

The commission, however, "...shall not investigate:

- i. a matter pending before a court or judicial tribunal; or
- ii. a matter involving the relations or dealings between the government and any other government or an international organization; or
- iii. a matter relating to the exercise of the [President's] prerogative of mercy."

### **5.2. The Commission on Human Rights and Administrative Justice Act 1993(Act 456)**

Section 7 of Act 456 restates the functions and powers of the commission as provided under Article 218 of the Constitution. Under the Act, the commission has power to investigate all instances of alleged or suspected corruption of public officials. The commission can, on its own initiative, investigate allegations of corruption or suspected corruption that have come to its notice through various sources including the media.

The commission is not precluded from investigating matters on its own motion and has since its inception done so. Indeed in 1995, the commission instituted corruption 'probes' against certain public officers on the basis of newspaper allegations and has since then developed practice and precedent. It would defeat the purpose and intent of the Constitution if the commission was to sit idly by, waiting for complaints whilst allegations have been made in the media and thus constitute notice to the entire world.

### **5.3. The Commission on Human Rights and Administrative Justice Complaints Procedure Regulations 1994) Constitutional Instrument No. 7**

The procedure to be followed in conducting an investigation into a complaint is regulated by Constitutional Instrument No. 7, taking into consideration the circumstances of each case. In the instant case, there was no complainant before the commission. The commission therefore, invoked its inherent investigative powers to conduct the investigations under Article 218(e) of the Constitution and Section 7(1) (e) and (f) of Act 456.

## **6.0. BROAD ISSUES FOR DETERMINATION**

The broad issues arising from the proceedings for the panel to consider include the following:

- i. Whether the Honourable Minister during the period under investigation 2001 to 2004 engaged in any act of corruption by virtue of holding public office;



- ii. Whether during the said period under investigation the Honourable Minister placed himself in a conflict of interest situation where his interest as a minister serving the Republic of Ghana was compromised or potentially compromised by virtue of the relationship which he had with a lady, Ms Alexandra O'Brien;
- iii. Whether during the same period under investigation, the Honourable Minister abused the power of his office as a Minister of State.

These issues were detailed specifically during the proceedings and clearly articulated variously in the oral and written submissions of both counsel for the commission and counsel for the respondent and we do not deem it necessary to set them all out here. These and other issues raised were all considered by the panel.

## 7.0. EXAMINATION OF EVIDENCE

The panel considered the definition of corruption, conflict of interest and abuse of power in its determination.

### 7.1. Corruption

**7.1.1. The World Bank defines Corruption** as the abuse of office for private gain. It goes further to explain that:

- i. Public office is abused for private gain when an official accepts, solicits or extorts a bribe;
- ii. It is also abused when private agents actively offer bribes to circumvent public policies and processes for competitive advantage and profit;
- iii. Public office can also be abused for personal benefit even if no bribery occurs, through patronage and nepotism, the theft of state assets, or the diversion of state revenues;
- iv. The benefit need not be financial or immediate, the public official may be appointed or elected, and the bribe may be offered or extorted;
- v. It includes the promise or giving of any undue payment or other advantages, whether directly or through intermediaries to, or for the benefit of, a public official to influence the official to act or refrain from acting in the performance of his or her official duties in order to obtain or retain business.

**7.1.2 The Africa Union Convention on Preventing and Combating Corruption and Related Offences** also provides as follows:

- i. "Corruption" means the acts and practices including related offences proscribed in this Convention.
- ii. "This convention is applicable to the following acts of corruption and related offences:
  - a) The solicitation or acceptance, directly or indirectly, by a public official or any other person, of any goods of monetary value, or other benefit, such as a gift, favour, promise or advantage for himself or herself or for another person or entity, in exchange for any act or omission in the performance of his or her public functions;

- b) The offering or granting, directly or indirectly, to a public official or any other person, of any goods of monetary value, or other benefit, such as a gift, favour, promise or advantage for himself or herself or for another person or entity, in exchange for any act or omission in the performance of his or her public functions;
- c) Any act or omission in the discharge of his or her duties by a public official or any other person for the purpose of illicitly obtaining benefits for himself or herself or for a third party;
- d) The diversion by a public official or any other person, for purposes unrelated to those for which they were intended, for his or her own benefit or that of a third party, of any property belonging to the State or its agencies, to an independent agency, or to an individual, that such official has received by virtue of his or her position;
- e) The offering or giving, promising, solicitation or acceptance, directly or indirectly, of any undue advantage to or by any person who directs or works for, in any capacity, a private sector entity, for himself or herself or for anyone else, for him or her to act, or refrain from acting, in breach of his or her duties;
- f) The offering, giving, solicitation or acceptance directly or indirectly, or promising of any undue advantage to or by any person who asserts or confirms that he or she is able to exert any improper influence over the decision making of any person performing functions in the public or private sector in consideration thereof, whether the undue advantage is for himself or herself or for anyone else, as well as the request, receipt or the acceptance of the offer or the promise of such an advantage, in consideration of that influence, whether or not the influence is exerted or whether or not the supposed influence leads to the intended result;
- g) Illicit enrichment;
- h) The use or concealment of proceeds derived from any of the acts referred to in this article; and participation as a principal, co-principal, agent, instigator, accomplice or accessory after the fact, or on any other manner in the commission or attempted commission of, in any collaboration or conspiracy to commit, any of the acts referred to in this article.

### 7.1.3 Criminal Code 1960(Act 29)

#### **Section 239—Corruption, etc. of and by Public officer, or Juror.**

- (1) Every public officer or juror who commits corruption, or willful oppression, or extortion, in respect of the duties of his office, shall be guilty of a misdemeanour.



- (2) Whoever corrupts any person in respect of any duties as a public officer or juror shall be guilty of a misdemeanour.

**Section 240—Explanation as to Corruption by Public Officer, etc.**

A public officer, juror, or voter is guilty of corruption in respect of the duties of his office or vote, if he directly or indirectly agrees or offers to permit his conduct as such officer, juror, or voter to be influenced by the gift, promise, or prospect of any valuable consideration to be received by him, or by any other person, from any person whomsoever.

**Section 241—Explanation as to Corruption of Public Officer, etc.**

A person is guilty of corrupting a public officer, juror, or voter in respect of the duties of his office or in respect of his vote, if he endeavours directly or indirectly to influence the conduct of such public officer, juror, or voter in respect of the duties of his office or in respect of his vote, by the gift, promise, or prospect of any valuable consideration to be received by such public officer, juror, or voter, or by other person, from any person whomsoever.

**Section 242—Special Explanation as to Corruption of and by Public Officer, etc.**

It is immaterial, for the purposes of section 240 or 241, that the person respecting whose conduct the endeavour, agreement, or offer therein mentioned is made is not yet at the time of the making of such endeavour, agreement, or offer, such a public officer, juror, or voter, if the endeavour, agreement, or offer is made in the expectation that he will or may become or act as such officer, juror or voter.

**Section 243—Corrupt Agreement for Lawful Consideration, etc.**

It is immaterial, for the purposes of section 240, 241 or 242, whether the act to be done by a person in consideration or in pursuance of any such gift, promise, prospect, agreement or offer as therein mentioned be in any manner criminal or wrongful otherwise than by reason of the provisions of the said sections.

**Section 244—Acceptance of Bribe by Public Officer, etc., After Doing Act.**

If, after a person has done any act as a public officer, juror, or voter, he secretly accepts, or agrees or offers secretly to accept for himself or for any other person, any valuable consideration on account of such act, he shall be presumed, until the contrary is shown, to have been guilty of corruption, within the meaning of this chapter, in respect of that act before the doing thereof.

**Section 245—Promise of bribe to Public Officer, etc. After act Done.**

If, after a public officer, juror or voter has done any act as such officer, juror, or voter, any other person secretly agrees or offers to give to or procure for him or any other person any valuable consideration on account of such act, the person so agreeing or offering shall be presumed, until the contrary is shown, to have been guilty of having, before the doing of such act, corrupted such public officer, juror, or voter, in respect of such act.

**7.1.4 Does the evidence support the Allegation of Corruption?**

On the allegation that Hon. Dr. Anane improperly or corruptly paid or remitted directly as well as through several persons and some institutions and officers of State, monies in an amount totaling at least US\$126,560 to one private person by the name Miss



Alexandra O'Brien, the testimony of Ms Alexandra O'Brien, Collins Duodu-Bonsu and Dr. Anane offer the most direct evidence on the matter. Mr. Archer's testimony was predicated substantially on the information Ms O'Brien gave to him.

The question arises: Did the Hon. Respondent remit or arrange to remit, or was he involved in the transfer directly or indirectly of funds in the region of US \$126,560 to Ms. Alexandra O'Brien Anane and, if so, did these funds come by virtue of his public office and were these public funds?

In her testimony on oath before the Commission Alexandra O'Brien testified that she received "about a hundred thousand dollars by the time we finished, from 2001 until Richard last arranged payment through Collins or through himself in December of 2004, I believe, which is US\$6,000, [from] Kofi Boateng.... I assumed that that was from Richard. That was the last time I received any money from anyone".

She stated that about \$23,600 and E5,000 was paid to her directly by Dr. Anane, whilst the rest came through intermediaries orchestrated by Collins Duodu-Bonsu.

Dr. Anane denies remitting Ms O'Brien to the tune of US\$126,560 or \$100,000. In response to interrogatories served on him by the commission Dr. Anane admitted that total remittances he sent to Ms O'Brien were approximately \$30,000 including EU5000. In earlier proceedings before Parliament under oath the Hon. Minister had declared that total remittances he sent to Ms O'Brien did not exceed \$10,000. He further maintained that friends and relatives had assisted Ms O'Brien, but he did not know the extent of the assistance alleging that it was mostly done without his knowledge.

Collins Duodu Bonsu, on the other hand, testified that he had supported Ms O'Brien to the tune of \$72,300, and that it was drawn mainly on his credit cards. He supported his claim with documentary evidence, although it appeared strange how the same person would for the same period support his own biological child to a little over \$5000. He further testified that Dr. Anane was not aware that he was supporting Ms O'Brien. Essentially, his reason for providing this money without the knowledge of Dr. Anane was because he was acting as a friend and as he believed friends ought to.

In contrast, Ms O'Brien testified that Dr. Anane would usually call her and inform her that help was on the way, and also call to find out whether she had received the help.

The amount Dr. Anane admits to the commission that he personally gave to Ms O'Brien was in the region of US\$30,000. If this amount is added to the sum admitted by Mr. Duodu Bonsu, US\$72,300, it comes to approximately US\$100,000, which agrees substantially with the amount claimed by Ms O'Brien as having been received by her.

The commission, accordingly, finds that the allegation on the quantum of remittances made to Ms O'Brien either by or on behalf of the Hon. Minister proven is in the neighbourhood of US\$100,000.

Did these funds come by virtue of his public office and were they public funds?

The evidence available shows that US\$72,300 of the approximately US\$100,000 came out of Mr. Duodu Bonsu's credit cards, whilst the remainder came from Dr. Anane's sources, including US\$16,000 allegedly coming from Mrs. Mercy Anane. In the absence



of any direct evidence to the contrary the Commission finds that the evidence available does not support the allegation that the funds variously remitted to Ms O'Brien were from State coffers.

Did the Hon. Minister arrange for and cover traveling, boarding and lodging and miscellaneous expenses for the said Miss Alexandra O'Brien, from State resources?

Although the evidence clearly showed that Ms O'Brien on a number of occasions did join or visited the Hon. Minister and stayed with him or alone in hotels at the expense of the Minister there was no evidence to show that either of them occasioned additional expense to the State, or that the expense was charged directly to the State. Dr. Anane stated that he settled expenses through the per diem granted to him.

The Commission consequently finds that the allegations that the Hon. Minister had arranged for and covered traveling, boarding and lodging and miscellaneous expenses for the said Miss Alexandra O'Brien, from State resources were not proven.

On the construction of the provisions of the Criminal Code and the international instrument stated above, the evidence available does not support the offence of corruption. The Commission accordingly finds that the allegations are not proven. The panel, however, makes certain observations in that regard in its conclusions.

There was also no evidence to substantiate the allegation of kickback.

## 7.2. Conflict Of Interest

Under Article 284 of the Constitution, "Conflict of Interest", refers to a situation where a public official's personal interest conflicts with or is likely to conflict with the performance of the functions of his/her office.

In the commission's view therefore, a conflict of interest includes:

- i. Any interest or benefit, financial or otherwise, direct or indirect;
- ii. Participation in any business transaction, or professional activity;
- iii. An incurring of any obligation of any nature; or
- iv. An act or omission;

which is or appears or has the potential to be in conflict with the proper discharge of a public official's duties in the public interest.

It is also the view of the commission that a conflict of interest occurs when a public official attempts to promote a private or personal interest for himself/herself or for some other person, the promotion of the private interest then results or is intended to result or appears to be or has the potential to result in the following:

- i. An interference with the objective exercise of the person's duties; and
- ii. An improper benefit or an advantage by virtue of his/her position.

The commission has held that "A public official breaches this provision not only where there is actual conflict of interest but also where there is a likelihood of conflict of interest. Where there is already in existence a personal relationship between a public

<sup>7</sup> MULTI MEDIA LTD (doing business as JOY 99.7 FM) vrs. SSNIT and CHARLES KWAME ASARE pg. 31

officer and another person or between their respective institutions or companies, there is an onerous responsibility on the public officer to ensure that all future transactions between the two persons or institutions are conducted with utmost transparency and in such a manner as to avoid suspicion of any improper motive or conduct”<sup>7</sup>

Did the respondent’s conduct in respect of Ms. Alexandra Anane amount to conflict of interest?

Having reviewed the evidence adduced before the commission, it will now make its findings on the specific allegations and other matters of conflict of interest which came to light during these proceedings.

### **7.2.1. The Letter of Intent issued to World Health Monitor**

#### **Programme (WHMP) by the Minister of Health**

By a Letter of Intent dated 28th April 2001 [CD 3 Exh. A], the respondent indicated his (and Ghana’s) commitment to the project as evidenced by the attached memorandum of understanding with the WHMP, represented by Alexandra Anane, the President and CEO of the WHMP. The respondent stated that the said letter served as notification ‘to all who read it that Ghana is committed to deploying the WHMP in Ghana. He also stated his intention to join Alexandra O’Brien for the signing ceremony.

It is our understanding that the State employs a formal procedure for issuing a Letter of Intent or entering into an MOU with a third party. This would normally require authorization by Cabinet, and eventually an endorsement (if necessary) by Parliament. It cannot be done on the whim of a minister and certainly not without regard to certain ministries including the Attorney –General’s Dept. Therefore, the procedure whereby the Respondent issued Alexandra O’Brien with a Letter of Intent and an MOU in Abuja Nigeria in April 2001 without following procedure was therefore very irregular.

(The issue of the MoU will be discussed further under the Panel’s finding on ‘Abuse of Power’).

Alexandra O’Brien has testified to the commission that thereafter she and the Respondent entered into an ‘intimate personal affair’ which ultimately resulted in the birth of their child, Nicholas Anane.

As the commission held, in the case of MULTI MEDIA LTD (doing business as JOY 99.7 FM) vrs. SSNIT and CHARLES KWAME ASARE, popularly known as the SSNIT CASE, that:

“where there is already in existence a relationship between a public officer and another person or between their respective institutions or companies, there is an onerous responsibility on the public officer to ensure that all future transactions between the two persons or institutions are conducted with utmost transparency and in such a manner as to avoid suspicion of any improper motive or conduct”<sup>8</sup>

The conduct of the respondent in converting a professional or business relationship, ostensibly purporting to benefit the people of Ghana into a personal and intimate one,

<sup>8</sup> SSNIT Case pg. 31



whilst continuing to carry on the business of state, placed him in a conflict of interest situation.

**The commission finds that:**

- i. Respondent was in a conflict of interest situation as he began an intimate relationship after he opened negotiations/discussions with Alexandra O'Brien who was representing WHMP in the said negotiations. WHMP was supposed to be negotiating with the Government of Ghana through the Ministry of Health's representative, the Respondent to implement a program which would help Ghana with diagnosis and data management to fight the HIV/AIDS scourge.

Various e-mails between Dr. Richard Anane and Ms Obrien reveal that he was unable to distinguish his private affair from his business relationship, consequently impairing his objectivity with regards to WHMP.

**Examples:**

Though Respondent used his personal email richard@africaonline.com.gh', to foster this personal relationship, he also used the same medium and in fact the same letter to discuss his government negotiations in respect of Alexandra O'Brien' WHMP. This shows he was unable to function objectively in respect of WHMP.

- i. Personal e-mail 'Exhibit B' of 'CD3' from Respondent to Alexandria Anane dated 13/07/01 shows:
  - a. The parties were in a intimate relationship, (Not because of words per se but words plus fact that parties have admitted to an ongoing relationship at some point in time). 'Alexie Dearie', 'You are a darling', 'Let that voice keep floating like music to my ears, "But I could not! I was just burning to read you! And you are to understand why', "My special secretary", 'Your own Richard'.
  - b. Parties were also in a business relationship
- ii. Respondent conveys to Alexandra O'Brien an update on the MoU which has delayed because the Attorney-General is inundated with legal tussles of our Supreme Court and the fast track courts
- iii. Personal e-mail exhibit C of CD3 from Alexandra O'Brien to Respondent dated 11/07/01 and from respondent to Alexandra O'Brien dated 15/07/01. The parties had entered into business negotiations by then.
- iv. Personal e-mail: 'Exhibit D' of 'CD3' – from respondent to Alexandra O'Brien. The respondent again mixes his personal relationship with work. After expressing his dependence on Alexandria Anane's 'special understanding for him' and other such sentiments on their 'very special relationship,' he then gives her his itinerary and asks her if she cannot fit her journey into any of the programs. Again he mentions that he is putting the MoU into shape and gives her a message from the Attorney General's office.

<sup>9</sup> Hearing 18 pg. 39, ln 6-46, pg 40 ln 1 -33, pg. 42 ln 1-46, pg. 43 ln 1-11, pg. 44 ln 1-16, pg. 48 pg 51 ln 19-46

<sup>10</sup> Hearing 23 pg. 15 (07/07/06)

### 7.2.2. Collins Duodu Bonsu, Special Assistant to the Respondent<sup>9</sup>

Counsel for respondent urged this submission upon the commission:

"My Lord, last but not the least as regard the testimony of Mr. Collins Duodu-Bonsu. It is our respectful contention and we invite the commission to uphold same that it is not improbable in our cultural context and for purely opportunistic intentions or motives for this gentleman to do what he did even before realizing the full import of his own actions. My Lord, in this situation where the evidence does not indicate that he was deliberately telling a falsehood, we urge the commission to accept his testimony because there is no other direct testimony that contradicts that.<sup>10</sup> . Counsel for the respondent went on further to say, 'And in addition to that, I wish to state that prior to Mr. Collins Duodu-Bonsu doing what he did, there is clear evidence before the Commission that they had already struck an acquaintance and that the two of them were known to each other and because Mr. Collins Duodu-Bonsu probably rescued him from distress some point in time, we will respectfully submit that the condition and the basis for that kind of financial relationship had already been established between the two of them'"

In making this submission, counsel underlined counsel for the commission's case that the relationship between the respondent and Collins Duodu Bonsu was potentially a conflict of interest situation.

The commission finds that a conflict of interest arises from the personal conduct of the public official. A public official's personal conduct is the exercise of individual freedom and would appear to be substantially a matter of personal choice. However, there are three key circumstances where personal conduct may create a conflict of interest situation:

- i. when a public official's conduct makes him or her vulnerable to pressure to use his or her public office improperly; and
- ii. when a public official's conduct brings significant discredit to the government, State or a particular ministry, department or agency (MDA).
- iii. When the official's conduct undermines the integrity of the public office

The commission finds that the respondent's personal conduct did all of the above and that thus put him in a vulnerable situation vis a vis Collins Duodu-Bonsu

### 7.3. Abuse of Power

Abuse of power refers to the illegitimate or improper use of power by a public official. It also refers to situations where public officials ignore procedures or allow their personal whims to subvert procedure. Abuse of power is a certifiable incubator of corruption.

In the instant case, the Hon. Minister is alleged to have abused power in a number of situations. However, the instance the commission is most concerned about relates to the issuance of the April 28 2001 letter to Ms O'Brien. It said that the Hon. Minister, whilst attending a conference on HIV/AIDS in Abuja, without due diligence and proper authority, purported to commit the nation to the WHMP project. It was also suggested that the Hon. Minister was enamored or smitten by the opportunities Ms O'Brien personally offered to issue the said letter, and that his personal/private interest conflicted with his office at the time he did so.



**The letter is reproduced below.**

"April 28, 2001

Alexandra O'Brien, President and CEO  
World Health Monitor Program, Inc.  
5201 Leesburg Pike, Suite 801  
Falls Church, Virginia 22041 (USA)

Dear Ms. O'Brien:

This letter is to inform you of my intention to implement the World Health Monitor Program for the 19 million People of Ghana, as described in the attached Memorandum of Understanding. This letter shall serve as notification to all who read it that Ghana is committed to deploying the World Health Program (WHMP) to provide mobile units to conduct HIV/AIDS and possibly other infectious disease testing and screening process and monitoring programs throughout Ghana. It shall also serve as a vehicle for Ghana and the WHMP to begin the process of obtaining the funding necessary to bring your critically needed program to Ghana and all of Africa. Ghana shall provide you all necessary assistance to complete a detailed plan and contract to bring the WHMP to Ghana at the earliest date possible. It is also my intent to join with you in a formal signing ceremony to properly acknowledge this historical moment.

Ghana is committed to the tenets of the Action Plan of the Abuja Declaration on HIV/AIDS tuberculosis, and Other Infectious Diseases signed April 27th, 2001. I see the WHMP as the major infrastructure necessary to ensure that progress towards meeting these Action Plan objectives in monitored and successful.

I look forward to a long and mutually successful relationship between Ghana and WHMP.

With Sincerest Regards,

**Dr. Richard Anane**

His Excellency, The Minister of Health for Ghana"

Although the Hon. Minister vehemently protested his bona fide, he nonetheless abused his power by acting at that time beyond his authority, worse still purporting to commit the nation in the manner he did. This conduct cannot be condoned. To do so would amount to impunity and opening the integrity of power to abuse and ridicule.

### **7.3.1. Alexandra Anane's Free Ghana Airways Ticket**

The evidence before the commission was that Alexandra Anane was issued a free ticket by Ghana Airways USA office on the basis that she was the wife of Dr. Anane. It was immaterial that Alexandra Anane never flew on that ticket. Certainly the evidence was that she attempted to 'cash in' the free ticket i.e. get a 'refund' since she didn't fly with it.

<sup>11</sup> Hearing 14 pg. 9 ln 32-40,

<sup>12</sup> Hearing 14 pg. 11 ln 31 – 46, pg. 12 ln 1 – 14 (30/03/06)

<sup>13</sup> Hearing 14 pg. 27 ln 1- 21, pg. 31 ln 9-25(30/03/06)

The witness, Obed Owusu-Kissi:

- i. did not know who Alexandra Anane was and had not heard of her before she turned up at the Ghana Airways Office when he was informed that she was the wife of the Respondent;
- ii. was in the employ of Ghana Airways before the respondent became the sector minister for the airline and was not obliged to the minister in anyway.

This witness impressed the panel as being a witness of truth.

As already stated, Obed Owusu-Kissi did not know Alexandra Anane and had no reason to doubt that Alexandra Anane was the wife of the respondent, according to the information that he received.

The panel finds that it is more probable than not that the respondent caused a free ticket to be issued to Alexandra Anane.<sup>11</sup> The ticket however was not used.<sup>12</sup> The former general manager gave evidence that free tickets could be issued to three classes of persons:<sup>13</sup> commercially important passengers; government officials and family of Ghana Airways staff. Alexandra Anane did not fall into any of the categories. The state would have lost revenue in one of two ways; by Alexandra Anane travelling free or had the staff of the US Ghana Airways Office not been diligent and vigilant, Alexandra Anane would have obtained a refund for the free ticket.<sup>14</sup>

## 8.0. FINDINGS

- i. The commission finds that the allegation on the quantum of remittances made to Ms O'Brien either by or on behalf of the Hon. Minister proven is in the neighbourhood of US\$100,000.
- ii. The commission finds that the evidence available does not support the allegation that the funds variously remitted to Ms O'Brien were from State coffers.
- iii. The commission finds that the allegations that the Hon. Minister had arranged for and covered traveling, boarding and lodging and miscellaneous expenses for the said Miss Alexandra O'Brien, from State resources were not proven.
- iv. The evidence available does not support the offence of corruption. The commission accordingly finds that the allegations are not proven.
- v. There was no evidence to substantiate the allegation of kickback.
- vi. The Hon. Minister was in a conflict of interest situation as he began an intimate relationship after he opened negotiations/discussions with Alexandra O'Brien who was representing in the said negotiations WHMP.
- vii. The commission finds the relationship between the respondent and Collins Duodu Bonsu was potentially a conflict of Interest situation that thus put him in a vulnerable situation vis- a -vis Collins Duodu-Bonsu.
- viii. The commission does find that the evidence supports abuse of power.



## 9.0. OBSERVATIONS / RECOMMENDATIONS / CONCLUSION

### 9.1. General Observations

Public office is a trust, which every officer occupying such office must serve in the interest of the general public. Increasingly, citizens expect and demand that public officials must perform their duties with integrity, in a fair and unbiased manner. Public officials are expected not to allow their private interests and affiliations to compromise official decision making and public management. When public officials breach the duties of the trust, a conflict of situation arises.

The function being undertaken by this investigation panel is investigation, not adjudication. And as an investigation activity being undertaken by this panel, this panel can on its own motion or upon motion of a third party who would be called the complainant, deal with matters that squarely fall within its jurisdiction. Moreover as an investigation activity, this panel could follow the evidence wherever it leads to.

In the course of the hearings undisputed facts came out including, the fact that Ms. Alexandra O'Brien Anane received some monies directly from the Hon. Respondent; that Ms. Alexandra O'Brien Anane received some monies a little in excess of US \$72,000.00 from the 'Special Assistant' of the Hon. Respondent, Mr. Collins Duodu Bonsu.; that she received some US \$8,000.00 arranged by an acquaintance of the Hon. Respondent, Mr. Kofi Agyenim Boateng. Again, it is not in dispute that Mr. Collins Duodu Bonsu who held himself up as 'Special Assistant' was also held out by the Hon. Respondent as his 'Special Assistant' when he had not been properly or regularly appointed by the machinery of the State to that office.

It is also not in dispute that the Hon. Respondent entered into an intimate relationship with the said Ms. Alexandra O'Brien Anane at a time that he was Minister of State holding initially the portfolio of Minister of Health when at that same time, Ms. Alexandra O'Brien Anane, then Ms. O'Brien, was the President and C.E.O. (Chief Executive Officer) of the World Health Monitor Programme Inc., a US-based organisation, which at that time sought to do business with the Republic of Ghana. Indeed, this relationship resulted in the birth of a child. These facts are undisputed. But there were also disputed matters, and in making its determination on the matter the Panel, in considering the entirety of the evidence before it, considered among other things, the demeanour of the witnesses and the plausibility of the testimony they gave in order to measure that fact up against what is reasonable, normal and regular. In making that assessment, the panel then considered certain evidence to be credible or incredible or probable or improbable or reasonable or unreasonable, as the case may be.

- i. The panel considered whether perfect strangers would have handed over their hard earned money to a man whom they had never met, had never contacted and who had never contacted them or approached them for help, to solve a personal crisis of his own making? We think not.
- ii. The commission is of the view that the fact of the respondent's affair resulting in a child was not so grievous to his political fortunes that perfect strangers would

have parted with their money for such a cause, the cause of keeping this stranger's name out of the headlines. Even more curious to the commission is the quantum given by these strangers, ranging from as much as \$1000 to the colossal and incomprehensible sum of \$8,000.00 per person and all this to a stranger who neither solicited their assistance and who to date had not seen fit to seek out and appreciate such assistance.

- iii. The panel considered whether old acquaintances with whom the respondent claimed to have lost touch with, since he left school and to whom neither owed allegiance to the other save that they shared the same alma mater, would have handed over their hard earned money to a man whom they had never met, had never contacted and who had never contacted them nor approached them for help, to solve a personal crisis of his own making? Again we think not.
- iv. The commission found that Collins Duodu Bonsu was a loyal friend to the respondent; in fact he described himself as a bosom friend of the respondent. The commission finds it highly improbable that Collins was the sole architect, originator and author of the money transfers, and that Collins orchestrated the entire system of transfer on his own without the knowledge and consent of the respondent. Collins remitted his daughter who lives in the USA \$500.00 a month. His daughter is a teenager whilst the respondent's son is an infant. The man in the street knows as a fact that expenditure for a teenage girl far exceeds that for an infant boy. The commission therefore finds it highly unlikely that he committed his own funds in this manner and also obtained the assistance of 'friends' far in excess of what he was committing to his own child, merely because Alexandra asked him to.
- v. The commission finds it extremely curious and high improbable that a businessman, in fact an entrepreneur as Collins described himself would commit his personal funds of \$73,000.00 plus to bail his friend out of an embarrassing situation:
  - a) Without the prior knowledge of his friend;
  - b) Without the consent of his friend;
  - c) Without subsequently informing his friend, assuming that indeed he acted without his friend's prior knowledge;
  - d) Without any expectation of return on his 'investment' in this 'enterprise';
  - e) Without any hope of recompense, reward or appreciation, not even in the form of a 'thank you'.

The most serious of these considerations is that Collins used credit cards which as a business man carrying on business in the USA and one who has at various times been resident in both the USA and UK and was aware that credit cards attract interest and further that that interest is at a higher rate of interest than bank loans



The commission is of the view that this is not the modus operandi of a prudent man of business and is out of character for Collins who has otherwise been business like in his endeavours. Collins was so efficient that the respondent recruited him as his special assistant. If the respondent knew nothing about the transfers the commission believes it was because the respondent told him to handle his affairs in whatever way he thought fit, whatever it took.

- vi. The panel did not find it plausible and reasonable, for the Hon. Minister to be able to distance himself from a direct claim by Ms. Alexandra O'Brien Anane that she received US \$10,000.00 from the Baltimore office of the Ghana Airways? According to her, the Hon. minister had mentioned this transfer and she went there. According to the Minister, he had nothing to do with this. And even when the press raised the matter, he did not find it necessary to enquire into the veracity or otherwise of that contention.

The Panel found Alexandra Anane to be in the main a credible witness. Though at times prone to loquaciousness, her account was the more credible and was often corroborated.

However, the commission cannot help but comment on the seeming desperation of the Hon. minister to distance himself from persons who apparently facilitated help to Ms O'Brien. Below is one such example involving the Hon. minister's acknowledgment of one Kofi Agyenim Boateng:

**Dr. Bondzi-Simpson:**

Very well. Do you know anybody by the name Kofi Agyenim Boateng?

**Dr. Anane:**

Kofi Agyenim Boateng. I don't think I can recollect who the person is.

**Dr. Bondzi-Simpson:**

Based somewhere in the U.S.

**Dr. Anane:**

I don't know whether I have met him once or so, but I don't think I do know him very well.

**Dr. Bondzi-Simpson:**

And you met him once, where?

**Dr. Anane:**

I have travelled, but don't know him very well. That is what I said. I think I have travelled to Washington and then I was trying to do a few things. So, we traveled in-land and I have a lot of Ghanaians because we were trying to sort out some few things for the health sector. That was way back 2001. And maybe that was where I met him.

**Dr. Bondzi-Simpson:**

And did you learn that he was a resident in the Washington D.C. area?

**Dr. Anane:**

Indeed, I have a lot of Ghanaian friends there and he should be either a friend or one of my friends also. Because I have a lot of friends spread all over.

**Dr. Bondzi-Simpson:**

And do you know if he sometimes goes by Kofi Boateng, as opposed to Kofi Agyenim Boateng?

**Dr. Anane:**

Because he had been relating that much, I am unable to really know which of the names that he carries or what.

**Dr. Bondzi-Simpson:**

Now, this gentleman, if it were suggested to you that he, on one occasion, transferred some monies in the order of US\$2,000 to Alexandra on your behalf, what would your comment be?

**Dr. Anane:**

My Lord, when I started reading these transcriptions, when I really got to know that so much have been happening even without my knowledge. I think – is it US\$6,000 or so – yes, that's when I got to know. Because as I said, there are so many people around; the only thing is I hardly ever called for support. And if I do, I know a lot of people will just go out and do whatever I wish they do for me. However, it is really difficult for me to be seeking for support or asking people to support.

**Dr. Bondzi-Simpson:**

Now, let me take you back to the question. Did Kofi Agyenim Boateng provide support to Alexandra in two tranches?

**Dr. Anane:**

I read this from the transcript.

**Dr. Bondzi-Simpson:**

And do you have reasons to believe his admission of that or Alexandra's statement of that?

**Dr. Anane:**

No. In the transcript, I think Alexandra's transcript – because some documents Alexandra sent ...

**Dr. Bondzi-Simpson:**

What I am asking is that you don't have any reason to doubt that Kofi Agyenim Boateng was involved in arranging for the transfer?

**Dr. Anane:**

From the transcripts made and I understand was made on oath, I expect that Alexandra would have told the commission what is expected of her. So, from the transcript, I learnt about this. I thought I have the gentleman's telephone number to even go and say thank you. But I want to believe that he may have



done that in consonance with so many other people, but I don't even know right now. However, I will want to find out later.

**Dr. Bondzi-Simpson:**

And would you be able to assist this commission in understanding why this gentleman would feel obliged or inclined to provide this assistance on your behalf to Alexandra O'Brien?

**Dr. Anane:**

He doesn't do business here in the States. And I don't think he owes any obligation to me. So, I don't think it's an obligation per se. Possibly with some of my friends or I know that my wife's relatives also transfer money through people in the states, possibly through some of these. That's how come it could have been transferred to Alexandra. But so far as the gentleman is concerned, he doesn't owe me any obligation to do anything for me.

**Dr. Bondzi-Simpson:**

And therefore, if it is suggested to you that he didn't do that, i.e. transfer the fund out of any obligation to you, but he was only transferring what he had received on your behalf to Alexandra, what would your comment be?

**Dr. Anane:**

I would also not know and that's why I would want to believe possibly that is my wife's brothers were also transferring money to Alexandra and they do know him or if any of my friends may have been trying to find a way of supporting her, it is possible this is what they might have done because I would not think that he owes me any obligation to want to do that.

The commission is not convinced that Dr. Anane was not aware of the remittances that were sent to Ms O'Brien. It sounds strange, as Dr. Anane would have the commission believe that persons who did not know Ms O'Brien would suddenly get to know that she is in distress and send help to her at an address, telephone number or bank account they could not have known on their own, unless they were specifically directed to. The Hon. minister was evasive, and often economical with the truth.

### **9.1.1. Perjury/Making of false declarations**

The panel deems it appropriate to make some observations on the Hon. minister's credibility and truthfulness.

The crucial purpose of codes of conduct and penal provisions relating to public office is not merely to preserve the integrity of government, but to preserve the appearance of integrity as well. Given the heavy trust and responsibility taken on by the holding of a public office or employ, it is appropriate that government officials are correspondingly held to codes of conduct which, for an ordinary person, may appear quite severe. Damage to the government's integrity can occur where public officials flout codes of conduct and penal provisions put in place to protect public integrity.

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<sup>15</sup> See pages 53-55 of Hearing No. 20 of 28/04/06

One such provision is sections 210 & 211 of the Criminal Code relating to perjury. Curiously, the law takes perjury more seriously than corruption, and makes the former second degree felony. One other provision is Section 248 on making false declaration for office, although the latter is only a misdemeanour.

### **Section 210- Perjury.**

(1) Whoever commits perjury shall be guilty of second degree felony.

### **Section 211-Definition of Perjury.**

A person is guilty of perjury, if in any written or verbal statement made or verified by him upon oath before any court or public officer, or before the President or any committee thereof he states anything which he knows to be false in a material particular, or which he has not reason to believe to be true.

### **Section 248- Making False Declaration, for Office**

Whoever, in order that he may obtain or be qualified to act in any public office or to vote at any public election makes, signs, publishes, or uses any declaration, statement or oath, required by law in such case, or any certificate or testimonial as to his conduct or services, or as to any other matter which is material for the obtaining by him of such office, or for his qualification to act in such office or to vote at such election, shall, if he does so, knowing that the declaration, statement, oath, certificate, or testimonial is false in any material particular, be guilty of a misdemeanour.

The offence created is a "conduct" offence, meaning that it does not require a particular result to flow from the commission of the prohibited act.

As stated earlier, the Hon. Minister, when undergoing the processes for prior approval of Parliament under Article 78(1) of the 1992 Constitution, made a verbal statement upon oath before a committee of the National Assembly to the effect that he did not remit Ms O'Brien in excess of \$10,000, which statement he knew to be false in a material particular, or which he had no reason to believe to be true. In fact, the Hon. Minister knew at the time he made that statement under oath that he had personally remitted Ms O'Brien to the tune of about US\$30,000.<sup>15</sup>

The natural question that arises is, why did the Hon. Minister mislead the parliamentary sub-committee knowing very well that his answers reflected of his personal credibility and integrity as well as that of the office for which he was vetted?

Whatever his motivation or reason is immaterial, because, as we have already stated above, the offence created is a "conduct" offence, meaning that it does not require a particular result to flow from the commission of the prohibited act. We can confidently surmise, however, that the law aims at upholding public integrity and the integrity of public office. Certainly, if a minister's word before Parliament is worthless, you could imagine how the ordinary person will take such a minister's word in the marketplace, not to mention its repercussion on the integrity of government.

The commission accordingly, finds that the Hon. Minister misconducted himself by committing perjury when he appeared before Parliament.



## 9.2. Recommendations

- 1) The commission recommends that the President of the Republic severely sanction the respondent by relieving him of his post as minister of state for abusing his power and bringing his office and government into disrepute.
- 2) The commission recommends that the Hon. Minister apologise to Parliament for misleading Parliament.
- 3) The commission recommends that the Hon. Minister apologises to the Government and to the people of Ghana for bringing the office into disrepute.
- 4) The commission recommends that ministers, deputy ministers, ministers of state with or without portfolio within two months of taking office; take a compulsory course on conflict of interest which the Commission in conjunction with other bodies would provide together with their chief directors and other key staff such as special assistants.
- 5) The commission, strongly recommends that the practice whereby ministers cultivate 'special assistants' and move with those special assistants when they change portfolios cease forth with, unless those special assistants are paid directly from the consolidated fund.

## 9.3. Further Comments

The commission is concerned with the state of law on corruption in our law books. In its present state, the law cannot provide the necessary deterrence for achieving zero tolerance for corruption. The commission recommends that the necessary processes be initiated to upgrade our laws to meet the AU minimum standards as contained in the AU Convention on Preventing and combating corruption and related offences.

The commission commends the witness, Mrs. M. Afriyie Anane for her cooperation and comportment during this investigation as the circumstances for her, were understandably very trying and difficult ones.

The commission commends all witnesses, not all of whom were called before the panel, who assisted the commission with information in these investigations and in so doing fulfilled their constitutional obligation to uphold the Constitution of Ghana.

The commission also wishes to commend its investigators who conducted the preliminary investigations into this matter.

## 9.4. Conclusion

This is the decision of the commission following the formal hearing into allegations of corruption, conflict of interest and abuse of office involving Honourable Dr. Richard Anane (MP) and Minister for Road and Transport).

The commission will formally present His Excellency the President with its decision to enable the President and the Attorney-General to take the appropriate action.

The Honourable Speaker of Parliament will also be presented with a copy of this decision.

Dated at the Commission, Accra, The 15th Day of September, 2006.

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**Ms. Anna Bossman**

Acting Commissioner, Chair of the Panel

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**Mr. Richard Quayson**

Deputy Commissioner, PE/AC, Member

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**Ms. Abena Bonsu**

Director, Legal and Investigation, Member

**The Republic v. CHRAJ, Ex Parte Dr. Richard Anane**

Subsequent to the commission's decision above, the Honourable Minister applied to to the High Court to quash the decision of the commission. The Fast Track Court, presided by His Lordship Justice Baffoe-Bonnie, gave its decision on the application, ruling, inter alia, that:

- the commission, like any other inferior tribunal, was limited in its jurisdiction or investigative powers to that which was expressly given by the Constitution and the statute that created it;
- the function of CHRAJ was to investigate complaints of violations of fundamental rights and freedoms, injustice, corruption, abuse of power;
- by a combined reading of Section 12 of Act 456 and Regulations 1, 2 and 3 of C.I. 7, an identifiable complainant filing a written complaint or an oral one reduced into writing by a regional or district representative of the commission was a sine qua non to the institution of an investigation by the commission;
- even though Section 7(1)(e) of Act 456 and Article 287(1) of the Constitution tasked the commission with investigating allegations of a contravention of Chapter 24 of the Constitution, the only conceivable way by which such an allegation could be made was through writing;
- it is mandatory for the commission to receive a complaint or allegation from an identifiable complainant be he an individual or body of persons or even body corporate, before proceeding with investigations. In consequence, no matter how good intentioned the commission may be, the commission cannot, on its own, in fact, it has no inherent power to, start any investigation without a formal written complaint from an identifiable complainant
- since the commission had proceeded to conduct its investigation and panel hearing into the allegations of abuse of power and conflict of interest in the absence of a formal complaint, the commission had embarked on a course in excess of its jurisdiction circumscribed by the Constitution, Act 456 and had



consequently acted unconstitutionally. Its investigations and decisions were therefore null and void.

Consequently, the learned judge ordered that the proceedings of the commission should be removed from its registry for purposes of being quashed and quashed same accordingly.

The commission also filed an application to invoke the supervisory jurisdiction of the Supreme Court praying for an order of certiorari to quash the ruling of His Lordship Justice P. Baffoe Bonnie, sitting in the High Court (Fast Track Division), Accra in Suit No. AP. 45/07 The Republic v CHRAJ: Ex Parte, Dr. Richard Anane.

### **The Reliefs sought were:**

- A declaration that upon a true and proper construction and the combined effect of Articles 218(e) and 287(1) of the 1992 Constitution of the Republic of Ghana, sections 7(1)(a) and 7(1)(e) of Commission for Human Rights and Administrative Justice Act, Act 456 of 1993 and the CHRAJ Complaints Procedure Regulations, 1994 C.I. 7, the Commission on Human Rights and Administrative Justice is by law mandated as a pre-condition to receive a formal complaint from an identifiable complainant before it can proceed with its functions to cause or initiate any investigations into any matters arising there under.
- A further declaration that the investigations and/or panel hearing commenced by the Commission on Human Rights and Administrative Justice at its own instance into allegations of abuse of power and conflict of interest against the applicant Hon. Dr. Richard Anane in the commission's proceedings referred to as FILE NO. 5117/2005 and the decision and/or report of the commission thereon dated 15th September, 2006 without having received any formal complaint from any identifiable complainant was made without jurisdiction, in error and constitutes an illegality made in flagrant violation of the Articles 218(a) and 7(1) (e) of Act 456, as well as the commission's own complaint Procedure Regulations as set out in C.I. 7.
- A declaration that the finding of perjury made against the applicant, Hon. Dr. Richard Anane, as contained in the decision of the commission dated 15th September, 2006 was made without jurisdiction, in error and pursuant to patent procedural impropriety.
- An order of certiorari to quash and to remove from the registry/records of the commission, for purposes of being quashed, the proceedings referred to as FILE NO. 5117/2005 particularly the decision and recommendations of the said commission dated 15th September, 2006 in so far as it related to the investigations into allegation of violations of Chapter 24 of the Constitution of the Republic of Ghana 1992 (Conflict of Interest) and Article 218(a) of the said Constitution (Abuse of Power), as well as sections 7(1)(a) and 7(1)(e) of the CHRAJ Act 1993 (Act 456) on grounds of jurisdictional error on the face of the record and irrationality.

- An order of certiorari to quash and remove from the registry/records of the Commission, the findings of perjury against the Applicant in its decision dated September 15, 2006, as well as the recommendations of the commission made pursuant to the finding of the perjury.

On 30th October, 2007, the Supreme Court, Mrs. Georgina Wood, Chief Justice (Presiding), Brobbey, Dr. Date-Bah, Ansah and Aninakwah, unanimously decided to make the following orders:

- a) Certiorari is granted against the decision of the learned trial Judge to interpret "complaint" in Article 218 (a) of the 1992 Constitution, since that decision is in conflict with the exclusive jurisdiction of this court under Article 130 of the 1992 Constitution to interpret the Constitution;
- b) Certiorari is refused against the decision of the learned trial Judge to quash the applicant's finding of perjury.
- c) Certiorari is refused against the decision of the learned trial Judge decision to apply Article 287(1) of the 1992 Constitution to quash the applicant's finding on conflict of interest;
- d) The meaning of "Complaint" in Article 218 (a) of the 1992 Constitution is referred to the Supreme Court for interpretation;
- e) The Honourable Attorney-General, the applicant and the interested party are, within 14 days, to submit written legal arguments on the issue referred to the Supreme Court; and finally
- f) The case is adjourned to 21st November, 2007 for oral arguments on the reference on its order numbered (d) above.

#### **The reference was as follows:**

In relation to Article 218 (a) of the 1992 Constitution, the court is exercising the powers of the trial court to refer to the Supreme Court the following issues which has arisen from the facts of this case, for determination, pursuant to Article 130 (2):

"For a complaint within the meaning of the Article 218 (a) of the 1992 Constitution to form the basis for investigations by the Commission on Human Rights and Administrative Justice must it be made by an identifiable individual or corporate body and lodged with the commission or are complaints made through the media and other public fora regarding "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" an adequate basis for the institution of investigations by CHRAJ".

The court reserved the full reasons for its orders, which it would embody in the judgment or judgments to be delivered on the reference.



On 21st December 2007, the Supreme Court delivered its ruling on the matter stating among others that:

- The commission requires a complainant to investigate matters under Article 218(a) and (b)(violation of human rights, abuse of power and administrative injustice);
- It can, however, investigate matters under the said article but it must be for the purposes of education only;
- The commission can investigate media allegations of corruption and misappropriation of public monies by public officials under Article 218(e);
- C.I 7 does not regulate 218(e) and, therefore, the commission should make regulations pursuant to Article 230 regarding how it would investigate all instances of alleged or suspected corruption.

## Other Selected Cases:

### **Case No: 374/2007 – Unfair Treatment**

The complainant petitioned the commission alleging unfair treatment meted out to him by the parents of his late wife's family, officials of Breman Asikuma Police Station and the Regional Director of the Department of Women, Ministry of Women and Children's Affairs (MOWAC), Central Region.

According to the complainant, his late wife with whom he had their only daughter fell sick sometime in January 2007 and was admitted at the Korle-Bu Polyclinic, Accra. She, however, passed on after two days of her admission at the polyclinic. The autopsy report disclosed that the cause of death was leptomeningitis.

Meanwhile, it came out that the complainant, for the past twelve years that he had lived with his late wife, had not performed the necessary marital rites. As a result, the family of the late wife demanded that he performed the marital rites as custom demanded before the body would be interred. As part of the requirements, he was made to pay GH¢300, after which the family agreed on a date for the interment.

When the date for the funeral rites was due, the complainant together with mourners and sympathizers from Accra, conveyed the corpse to the home town of his deceased wife for the interment. Upon arrival in the town, the complainant claimed he saw no sign of mourning, but rather had information warning him to flee from the village or risk being arrested by the police. After a while, the Regional Director of MOWAC appeared, in the company of some police officers, and ordered the Complainant's arrest and detention at the Breman Asikuma Police Station charged with murder.

Subsequently, the complainant's uncle managed to secure a bail for him. On his release from police custody, he was made to carry the corpse back to Accra at his own cost. He later took the corpse to the Ridge Hospital mortuary and had to bear the cost involved.

The commission was of the view that the action of the regional director bordered on abuse of power under Article 23 of the 1992 Constitution, and a violation of the fundamental rights of the complainant. The parties, however, agreed to resolve the matter through mediation. The respondent admitted having acted prematurely by having the complainant arrested for murder when there was no evidence to so conclude. Based on the autopsy report, the case was withdrawn from the Criminal Investigations Department (CID), the corpse released from the mortuary for burial. The commission advised that the respondent to take care of the mortuary and other costs incurred by the complainant as a result of the action complained of. The commission also directed her to apologise to the complainant for the hardship and inconvenience.



**CHRAJ 137/2007 - Right to Paternity**

The complainant sought the assistance of the commission in determining the paternity of the respondent's child. The complainant explained that he was in a short sexual relationship with the respondent which resulted in the respondent becoming pregnant. However, he was not sure whether he was the father of the child since the respondent had other sexual partners. In view of that, the complainant denied responsibility and the respondent's guardian started harassing him. As a result, the complainant sought the commission's protection and assistance in conducting a paternity test.

After mediating the matter, both parties agreed to submit themselves to a DNA test. The DNA test was conducted and the result proved the complainant as 99.99% father of the child. Thereafter, the complainant accepted paternity and responsibility of the child, as well as agreeing to compensate the respondent for embarrassing her.

**CHRAJ/NR/045/07 - Right to Health/clean and Safe Environment**

The complainant complained that a poultry farm sited close to her residence by the respondent posed a threat to her comfort and health. The complainant therefore sought the intervention of the commission to have the respondent's poultry farm, which is located within a residential area, relocated elsewhere.

The commission's investigation revealed, among others, that the Respondent has been rearing poultry in commercial quantities in a residential area and also the location of the Respondent's poultry farm is close to the complainant's residence. Consequently, the stench emanating from the farm posed a health hazard to the complainant and the community as a whole.

The commission found that the respondent's economic activity interfered with the fundamental human rights of the complainant and was unreasonable in the circumstances. The commission also found that the respondent's operations contravened regulation 173 (2) (b) of the National Building Regulations, L.I. 1630, 1996, and the environmental health and sanitation standards stipulated in regulation 174 (2) of L.I. 1630, 1996, as well as the bye-laws of the metropolitan assembly. Based on the above, it concluded that the location of the respondent's poultry farm in a residential area violates the complainant's right to live in a clean and healthy environment.

The commission recommended that the metropolitan assembly should supervise the relocation of the respondent's poultry farm to a non-residential area within two weeks following receipt of its decision. In addition, the commission requested the Metropolitan Assembly to ensure strict adherence to its bye-laws to safeguard the lives of residents of the area.



# **SECTION V:**

## Financial Report



# Financial Report

The commission's bank balances as of January 2007 were as follows:

Salaries Account	-	GH¢82,888.77 <sup>16</sup>
Treasure Account	-	GH¢86,007.64 <sup>17</sup>
Dollar	-	USD 9,820.46
Donor Account	-	GH¢2,846.27

## BUDGET ESTIMATES FOR 2007 FISCAL YEAR

In 2007, the Government of Ghana approved a budget estimate of GH¢3,640,569.00 for the commission's activities for 2007 in the government fiscal policy statement.

Category	2006	2007
Personal Emoluments	1,951,100	2,243,769.40
Administration	712,300	1,068,100.00
Service	114,200	129,600.00
Investment	121,500	199,100.0
<b>Total</b>	<b>2,899,100</b>	<b>3,640,569.00</b>

Item	Approved	Amount Released	Balance
Personal Emoluments	2,243,769.40	2,243,769.40	-
Administration	1,068,100.00	1,068,100.00	-
Service	129,600.00	89,443.98	40,156.02 0,156.92
Investment	199,100.00	131,522.55	7,577.45
			67,577.42
	3,640,569.00	3,532,835.53	107,733.47 107,733.87

## BUDGET RELEASE FOR 2007

Actual releases effected by the Ministry of Finance came up to GH¢3,532,885.53 leaving a balance of GH¢107,733.87 which is made up of:

1. Service Activities	-	40,156.42
2. Investment Activities	-	67,577.45
		<b>107,733.87</b>

## SUPPORT FROM DEVELOPMENT PARTNERS

The commission also received financial support from its development partners. Donor funds received by the commission included:

Partner	Amount (\$)
DANIDA	495,571.00
UNDP	Technical Support

The closing balance in respect of the commission's account is as follow:

1. Salaries Account	GH¢ 135,052.63
2. Treasury Account	GH¢ 13,626.74
3. Donor Account	GH¢ 26,966.74





# SECTION V:

## Legislative Framework

Landmark Case: Republic v. CHRAJ, Ex Parte Dr. Richard Ananŋ  
Summary of Selected Cases

### 1.1.1. 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 the Commission on Human Rights and Administrative Justice; and
  - (b) two Deputy Commissioners for the Commission on 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 services;
  - (c) to investigate complaints concerning practices and actions by persons, private enterprises and other institutions where those complaints allege violations of fundamental rights and freedoms under this Constitution.
  - (d) to take appropriate action to call for the remedying, correction and reversal of instances specified in paragraphs (a), (b) and (c) of this clause through such means as are fair, proper and effective, including -
    - (i) negotiation and compromise between the parties concerned;
    - (ii) causing the complaint and its finding on it to be reported to the superior of an offending person;
    - (iii) bringing proceedings in a competent Court for a remedy to secure the termination of the offending action or conduct, or the abandonment or alteration of the offending procedures; and
    - (iv) bringing proceedings to restrain the enforcement of such legislation or regulation by challenging its validity if the offending action or conduct is sought to be justified by subordinate legislation or regulation which is unreasonable or otherwise ultra vires;
  - (e) to investigate all instances of alleged or suspected corruption and the misappropriation of public moneys by officials and to take appropriate steps, including reports to the Attorney-General and the Auditor-General, resulting from such investigations;



- (f) to educate the public as to human rights and freedoms by such means as the Commissioner may decide, including publications, lectures and symposia; and
  - (g) to report annually to Parliament on the performance of its functions.
219. (1) The powers of the Commission shall be defined by Act of Parliament and shall include the power-
- (a) to issue subpoenas requiring the attendance of any person before the Commission and the production of any document or record relevant to any investigation by the Commission.
  - (b) to cause any person contemptuous of any such subpoena to be prosecuted before a competent Court;
  - (c) to question any person in respect of any subject matter under investigation before the Commission;
  - (d) to require any person to disclose truthfully and frankly any information within his knowledge relevant to any investigation by the Commissioner.
- (2) The Commissioner shall not investigate-
- (a) a matter which is pending before a court or judicial tribunal; or
  - (b) a matter involving the relations or dealings between the Government and any other Government or an international organisation; or
  - (c) a matter relating to the exercise of the prerogative of mercy.
220. An Act of Parliament enacted under article 216 of this Constitution shall provide for the creation of regional and district branches of the Commission.
221. A person shall not be qualified for appointment as a Commissioner or a Deputy Commissioner for Human Rights and Administrative Justice, unless he is -
- (a) in the case of Commissioner, qualified for appointment as a Justice of the Court of Appeal; and
  - (b) in the case of a Deputy Commissioner, qualified for appointment as a Justice of the High Court.
222. The Commissioner and Deputy Commissioners shall not hold any other public office.
223. (1) The Commissioner and Deputy Commissioners shall enjoy the terms and conditions of service of a Justice of the Court of Appeal and High Court respectively.
- (2) The Commissioner and Deputy Commissioners shall cease to hold office upon attaining the ages of seventy and sixty-five years respectively.
224. Where the Commissioner dies, resigns or is removed from office or is for any other reason unable to perform the functions of his office, the President shall, acting in consultation with the Council of State, appoint a person qualified to be appointed Commissioner to perform those functions until the appointment of a new Commissioner.

225. Except as provided by this Constitution or by any other law not inconsistent with this Constitution the Commission and the Commissioners shall, in the performance of their functions, not be subject to the direction or control of any person or authority.
226. The appointment of officers and other employees of the Commission shall be made by the Commission acting in consultation with the Public Services Commission.
227. The administrative expenses of the Commission including salaries, allowances and pensions payable to, or in respect of, persons serving with the Commission, shall be charged on the Consolidated Fund.
228. The procedure for the removal of the Commissioner and Deputy Commissioners shall be the same as that provided for the removal of a Justice of the Court of Appeal and a Justice of the High Court respectively under this Constitution.
229. For the purposes of performing his functions under this Constitution and any other law, the Commissioner may bring an action before any court in Ghana and may seek any remedy which may be available from that court
230. Subject to the provisions of this Constitution and to any Act of Parliament made under this Chapter, the Commission shall make, by constitutional instrument, regulations regarding the manner and procedure for bringing complaints before it and the investigation of such complaints.

#### 1.1.2. 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.

### 1.1.3. 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 the Commission on Human Rights and Administrative Justice in this Act referred to as "the Commissioner"; and
  - (b) two Deputy Commissioners for the Commission on 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 the Commission on 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) wilfully makes any false statement to or misleads or attempts to mislead the Commissioner or any other person in the exercise of his functions under this Act;  
commits an offence and is liable on summary conviction to a fine not exceeding \$500,000.00 and in default of payment to imprisonment for a term not exceeding six months or to both.
25. The provisions of this Act are in addition to the provisions of any other Act or any rule of law under which -
  - (a) a remedy or right of appeal or objection is provided for any person; or

- (b) any procedure is provided for the inquiry into or investigation of any matter; and nothing in this Act shall be taken to limit or affect a remedy or right of appeal or objection or procedure.
- 26. (1) Subject to the provisions of the Constitution and to any Act of Parliament made under the Constitution, the Commission shall make, by constitutional instrument, regulations regarding the manner and procedure for bringing complaints before it and the investigation of such complaints.
- (2) The exercise of the power to make regulations may be signified under the hand of the Commissioner or in his absence, a Deputy Commissioner.
- 27. In this Act a reference to a member of a complainant's family means -
  - (a) in the case of a person belonging to a family based on the paternal system mother, father, wife, son, daughter, brother, sister, father's brother, father's father, father's brother's son, and brother's son;
  - (b) in the case of a person belonging to a family based on the maternal system -mother, father, wife, son, daughter, brother, sister, mother's mother, mother's brother, mother's sister, sister's son, sister's daughter, mother's sister's son and mother's sister's daughter.
- 28. (1) The Ombudsman Act 1980 (Act 400) is repealed.
- (2) Notwithstanding the repeal of the Ombudsman Act, 1980 (Act 400) -
    - (a) any regulation made under it and in force on the coming into force of this Act shall until altered, amended or revoked, continue in force and shall be applied with such modifications as may be necessary for giving effect to the provisions of this Act; and
    - (b) Any complaint pending before the Ombudsman immediately before the coming into force of this Act may be proceeded with under, and shall be subject to the provisions of, this Act.

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

### Constitutional Instrument No. 7

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

- 1. (1) A complaint to the Commission shall be made in writing or orally to the national office of the Commission or to a representative of the Commission at the regional or district branch of the Commission.



- (2) Where the complaint is in writing, it shall be addressed to the Commissioner or to his regional or district representative and shall be signed or thumb printed by the complainant or his agent.
  - (3) Where the complaint is made orally or the complainant cannot read and write, the complaint shall be reproduced into writing by the officer at the registry of the Commission or its branch to whom the complaint is made or by any other person chosen by the complainant.
  - (4) A person who reduces into writing the oral complaint of any person shall
    - (a) read over and explain the contents to the complainant;
    - (b) declare on the document that the complainant has fully understood or appeared to understand and appreciate the contents of the complaint;
    - (c) cause the complainant to append his signature or thumbprint to the written complaint.
2. (1) A complaint lodged with the Commission shall contain –
    - (a) the full name and contact address of the complainant;
    - (b) the body, organisation or person against whom the complaint is made;
    - (c) particulars of the nature of the complaint together with copies of any document in support of the complaint;
    - (d) the nature of the injustice or harm that the complainant has suffered as a result of the action, inaction or omission of the body or organisation or person against whom the complaint is made; and
    - (e) the relief sought by the complainant.
  - (2) A person who lodges a complaint with the Commission on behalf of another person shall state in writing the capacity in which he does so and the reason for so doing.
  - (3) A complainant shall be given a reasonable time (depending on the circumstances of the case) within which to check on his complaint.
  - (4) Where a complaint lodged with the Commission is not pursued for three months from the date it is lodged, the complaint shall lapse thereafter.
3. (1) Where the Commissioner considers that a complaint lodged with the Commission is a matter within the function of the Commission, he shall cause a copy of the complaint to be transmitted to the head of the body or organisation or the person against whom the complaint is made with a request for comment and response.
  - (2) The head of the body or organisation or person against whom the complaint is made shall within ten days from the date of receipt of the complaint or such further period as the Commissioner may specify submit his comments or response to the Commissioner.
  - (3) The Commissioner or his representative may assign an investigator or officer of the Commission to make a preliminary investigation into any complaint lodged with the Commission.
  - (4) The Commission may for the purposes of performing its functions require the services of a member of the Police Force or any public institution with expert knowledge relevant for redressing any particular complaint.

4. (1) Upon receipt of the comments or response the Commissioner, where he considers that in view of the response, the complaint could be mediated upon and settled, may invite the parties concerned and attempt a settlement of the issue between the parties.
- (2) No provision of these regulations shall preclude the Commission on receipt of a complaint from inviting the parties concerned and attempting a settlement of the issue between the parties.
5. (1) Where the Commission decides to institute a full investigation into a complaint, the Commission shall in writing invite -
  - (a) the complainant
  - (b) a representative of the body, organisation or person against whom the complaint is made; and
  - (c) such other persons as are considered by the Commission to be concerned in the investigation to attend to be interviewed by the Commission at a date, time and place specified in the notice.
- (2) The date for attendance shall not be less than seven days from the date of the notice.
- (3) A person appearing before the Commission in answer to a complaint shall
  - (a) be informed again of the particulars of the complaint and the relief sought;
  - (b) be afforded full opportunity to answer the complaint and to question any witness.
- (4) Any person who appears before the Commission in any investigation shall be given a fair hearing.
- (5) Persons appearing before the Commission to be investigated shall appear in person and may be represented by counsel.
- (6) Records of the investigation shall be kept in writing.
6. (1) For the purposes of regulation 5 the Commissioner may on the recommendation of any other member of the Commission, an investigator of the Commission or any other officer of the Commission, constitute a panel to investigate any complaint and report to the Commission.
- (2) The panel shall be composed of a chairman who shall be a member of the Commission or any legal officer in the employment of the Commission and not less than two other officers of the Commission.
- (3) Notwithstanding sub-regulation (2) of this regulation there may be co-opted on any such panel such person as the Commissioner may approve.
- (4) A person appearing before a panel under these regulations may raise an objection to the membership of the panel to the Commissioner who shall determine the issue.
7. (1) A panel composed under these regulations shall make a full report in any matter before it with its recommendations to the Commission.
- (2) The Commission shall consider every report submitted under sub-regulation (1) and may accept or reject the recommendations or ask for further investigations.



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

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

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



**Emile Francis Short**

Commission on Human Rights and Administrative Justice

# Appendix 1

## PRINCIPLES RELATING TO THE STATUS OF NATIONAL INSTITUTIONS

(The Paris Principles)<sup>1</sup>

### COMPETENCE AND RESPONSIBILITIES

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

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



- 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;
  - © 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.

## Notes

[illegible]





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