



Commission on  
Human Rights &  
Administrative Justice

Annual Report  
2008





**COMMISSION  
ON HUMAN RIGHTS  
AND ADMINISTRATIVE  
JUSTICE**

**ANNUAL REPORT 2008**





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, 2008 to December 31, 2008.

Yours sincerely, \_\_\_\_\_

Anna Bossman  
Acting Commissioner





**Emile Francis Short**  
Commissioner

**Anna Bossman**  
Deputy Commissioner,  
Legal & Investigation  
[Ag. Commissioner]

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

# COMMISSION MEMBERS



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# LIST OF ACRONYMS

CHRAJ	Commission on Human Rights and Administrative Justice
COI	Conflict Of Interest
DANIDA	Danish International Development Assistance
NGO	Non-Governmental Organisation
SOHR	State Of Human Rights
OPCAT	Optional Protocol against Torture
A-G	Attorney General
ESCR	Economic Social and Cultural Rights
ILO	International Labour Organisation
ILO/IPEC	International Labour Organization/International Programme on the Elimination of Child Labour
HRE	Human Rights Education
UNIFEM	United Nation's Development Fund for Women
GGHRP II	Good Governance and Human Rights Programme II
GIMPA	Ghana Institute of Management and Public Administration
NCCE	National Commission on Civic Education
ACA	Anti-Corruption Agency of Malaysia
MoU	Memorandum of Understanding
OPD	Out Patient Department
GACC	Ghana Anti-corruption Coalition
CDD	Centre for Democratic Development
L/I	Legal and Investigation
CSOs	Civil Society Organisation
SFO	Serious Fraud Office
CRC	Convention on the Rights of the Child
ICCPR	International Convention on Civil and Political Rights
CAT	Convention against Torture
DOVVSU	Domestic Violence and Victim Support Unit
UNICEF	United Nation International Children Education Fund
WILDAF	Women in Law and Development in Africa
CHRI	Commonwealth Human Rights Initiative
MOWAC	Ministry of Women and Children Affairs



# COMMISSIONER'S MESSAGE

Greetings,

On behalf of the Commission on Human Rights and Administrative Justice, I am pleased to present our Annual Report for 2008. We do acknowledge the hard work and efforts of everyone who collaborated with us this year and indeed in the past years to help this Commission fulfil its triple mandate. We hope that you will find this Report useful, and that it will help you to understand our role in the promotion and protection of human rights.

We have tried to make this report as comprehensive as possible, having included an executive summary as well as the State of Human Right Report, which I delivered on 10th December, International Human Rights Day. This year was also an election year and the Commission for the first time took active part in monitoring and observing elections in all the regions of the country. A preliminary statement of our initial findings is also included in this Report. We are in the process of compiling a full Election Report which we hope to be published within a few months.

I would like to highlight some of our significant accomplishments this year;



## International Relations & Cooperation

The Commission continued to receive vital support from DANIDA and other development partners.

In November 2008 the Commission signed a new Memorandum of Understanding (MoU) with DANIDA under which the Commission will receive enhanced programme support over the period 2009-2013 to the tune of DKK40,400,000. DANIDA has been an invaluable partner and an immense

support in funding our activities and I would like to commend the Royal Danish Embassy in Ghana for the excellent relationship that has characterized our cooperation.

The Commission also signed a Memorandum of Understanding (MoU) with the Malaysian Anti Corruption Agency (ACA) to formalize the working relationship and strengthen cooperation between our two institutions. This cooperation aims at strengthening our anti-corruption capacity. It is envisioned that some of our case officers will benefit from training in the Malaysian Anti-Corruption Academy.



### Special Project on Mining

The Commission completed its special investigation into the state of human rights in the mining communities and issued its report during the year. This was accomplished with funding support from DANIDA and DFID. The Commission also partnered the UNDP Office in Ghana to produce an audio-visual documentary on the subject to educate the general public.

### Anti-Corruption

The Conflict of Interest Guidelines which we issued in 2007 and the Whistleblower's Act were widely disseminated this year. This had the effect of ;

- Advancing the campaign to foster a deep interest in corruption related issues in both the media and general public
- Ensuring that corruption-related issues remain widely covered in both electronic and print media and
- Maintaining a close watch on political corruption and corruption of public officials

### Public Education

In the year under review, the Commission developed new materials to improve the quality of our educational programmes. Our goal has always been to entrench a culture of deep respect for human rights amongst all Ghanaians. The Commission designed and distributed audio versions of the Disability Act with the objective of enhancing universal accessibility. The Commission also implemented newly improved outreach programs in strategic rural areas to make human rights education more relevant and empowering to each community, so that the information can be better assimilated and practically applied by the communities.

### Challenges

Under resourcing continues to be a major challenge for the Commission. Insufficient funding for core work, uncompetitive salaries and unsatisfactory conditions of service, poor work environment, and arbitrary cuts in agreed budget as well as late allocation of funds by the Ministry of Finance has made it extremely difficult for the Commission to effectively plan and execute its work.

This state of affairs has also undermined our capacity to attract and retain the professional class,

leaving the Commission with high staff attrition rate. It has also placed the Commission in a position where it has virtually no infrastructural base to support the needed expansion in its work.

### Expectations for 2009

1. The Commission intends to initiate and facilitate the development of a National Human Rights Action Plan to improve the promotion of human rights in Ghana.
2. It will step up its gender promotion activities and child rights promotion and protection.
3. It will also initiate and facilitate the development of a National Anti Corruption Action Plan to promote anti-corruption ethos in Ghana.
4. The Commission will also strengthen the structures and mechanisms for carrying out its Administrative Justice [Ombudsman] Mandate.
5. Finally, the Commission will work with the Government and Parliament to find a more sustainable solution to its funding problem.

### Concluding Remarks

I think it is apparent that the Commission is evolving and becoming more efficient with each passing year, even as issues of human rights become more complex and while there is a greater awareness of human rights within the populace. As the Commission's capacity continues to grow, so too does the range of projects we plan to undertake towards the effective discharge of our mandate. We hope that the information contained in this report will let you appreciate the scope and range of our promotional and protection mandate as well as our effort to promote integrity within the public service and our active campaign against corruption.

Let me again, on behalf of this Commission and on my own behalf, commend all those who collaborate and support us in our daily operations. We are indebted to those who have paved the way before us, and those whose interest and involvement in the Commission contribute to our success. We would like to say thank you to our Staff, for their dedication and commitment in spite of sometimes difficult conditions. And of course, thanks to the people of Ghana for believing in this Commission.

Anna Bossman  
Acting Commissioner



# EXECUTIVE SUMMARY

## Legal and Investigations

The Commission received a total of 12,919 human rights and administrative justice cases nationwide, out of which 9,693 were disposed of.

The Commission completed work on its Case Handling Manual started in the previous year. The Commission also reviewed its Investigation Procedure Regulations [C.I.7] to incorporate informal complaints under Article 218(e) and sections 7(1) (f) of Act 456 in line with the Supreme Court decision in the Anane Case.

## Anti Corruption

The Commission received 136 corruption related cases, and reviewed 83 media reports on corruption and related misconduct.

The Commission continued to build the capacity of public institutions to combat with corruption, and create awareness on the Conflict of Interest guidelines and the Whistleblower Acts.

The Commission conducted a nationwide monitoring of the right to vote before, during and after the 2008 Presidential and Parliamentary Elections.

## Public Education

In 2008, the Commission stepped up its activities aimed at developing a sustainable culture of human rights in Ghana. A total of 3,428 community outreach and educational media campaigns were organised during the reporting period. These activities were primarily carried out by the Commission's 96 Districts, 2 Sub Regional Offices and 10 Regional Offices across the country.

It organized an essay writing competition for Schools on the Right to Education, produced audio versions of the CHRAJ Act, Act 456 and Persons With Disability Act 2007 [Act 715] to assist persons with visual impairment.

The Commission conducted a nationwide monitoring of human rights, and compiled and issued its annual State Of Human Rights Report during the 2008 International Human Rights Day celebration on 10 December.

The Commission also continued with its efforts at working with other stakeholders to have Ghana ratify the OPCAT.

## Finance

The Commission received GH¢ 5,580,157.05 from the Consolidated Fund for the Commission's activities for the year. It also received financial support of GH¢347,782.00 and GH¢ 13,438.40 from DANIDA and UNDP respectively. The closing balance of the Commission as at the end of the year stood at GH¢ 253,880.8.



# SECTION ONE

## Overview of CHRAJ

### i. Vision

To ensure 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 and freedoms and administrative justice for all persons in Ghana.

#### These objectives will be achieved by:

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

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

### iii. Mandate<sup>1</sup>

The Commission has a triple mandate. It is;

1. The National Human Rights Institution
2. The Ombudsman, (agency which ensures administrative justice)
3. An Anti-corruption Agency for the public sector

#### a. Human Rights:

The Commission has a broad mandate to promote and protect universal human rights and freedoms, especially those recognized under the 1992 Constitution, including civil, political, economic, social, and cultural rights, and other international human rights instruments which Ghana has ratified. 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.

#### b. Administrative Justice<sup>2</sup>:

The Commission is mandated to protect and promote Administrative Justice to ensure that the government and its officers are accountable and transparent. In particular, this function of the Commission is to ensure that public officials avoid arbitrariness and discrimination in their decisions and actions.

#### c. Anti-corruption<sup>3</sup>:

The Commission also serves as an anti-corruption agency. The Commission is mandated to investigate abuse of power and "all instances of alleged or suspected corruption and the misappropriation of public monies by officials" (Article 218 (e)). It investigates allegations of conflict of interest and

<sup>1</sup> Refer to Section on Legislation

<sup>2</sup> Articles 218(a),(b) of the 1992 Constitution and Section 7(1)(a),(b) of Act 456

<sup>3</sup> Articles 218(a) and (e); 284-288



breach of the code of conduct under Chapter 24 of the 1992 Constitution. The Commission also promotes integrity and ethics 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 Commission to investigate disclosures of impropriety (economic crime, waste, mismanagement, misappropriation of public resources, environmental degradation) and complaints of victimization of whistleblowers.

#### iv. Structure of the Commission

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

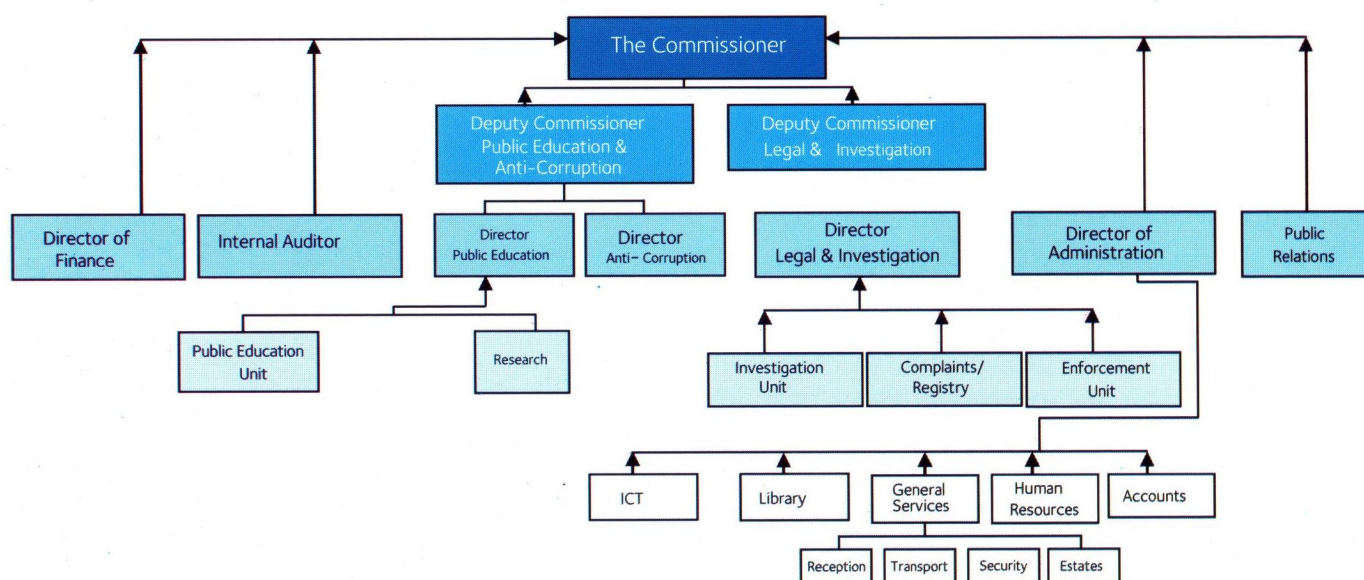
The Commissioners are supported by Departmental Directors who have direct responsibility for the departments of the Commission, namely:

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

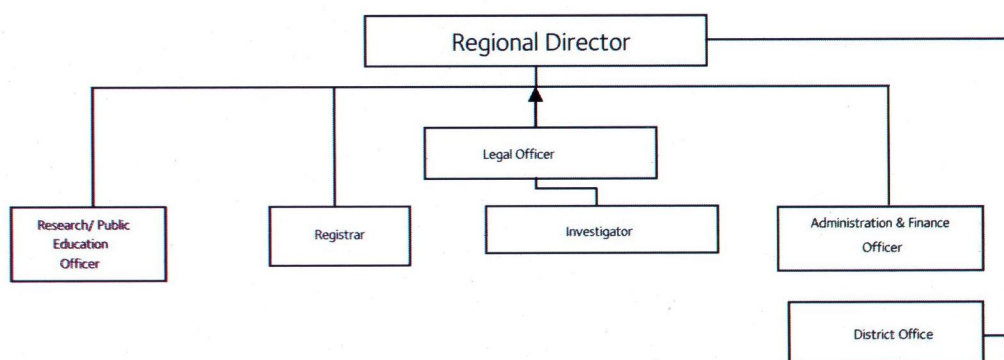
The Commission has 10 Regional offices that co-ordinate the Commission's work in the 10 administrative regions of Ghana. In addition, it has 2 Sub-Regional and ninety-nine (96) District Offices across the country, that ensure that the work of the Commission is brought to the doorstep of the ordinary person.

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

#### Head Office



#### Region



#### Summary





# SECTION TWO

## 2008 Performance Review

This section of the report reviews activities carried out by the various departments and units of the Commission.

1. Promotion of International Relations & Co-operation
2. Departments & Units:
  - I. Legal and Investigations
  - II. Anti-corruption
  - III. Public Education
  - IV. Public Relations
  - V. Administration
3. Reports from the Regions
4. Special Projects
5. Statistical Overview

### INTERNATIONAL RELATIONS AND COOPERATION

The Commission collaborated in various ways with some international organisations in its effort to promote international relations and cooperation in its work.

#### MOU with DANIDA

In November 2008, the Commission signed a new Memorandum of Understanding (MoU) with DANIDA under which the Commission will receive enhanced programme support over the period 2009-2013 to the tune of DKK40,400,000.

#### MOU with Anti-Corruption Agency of Malaysia (ACA)

During the year under review, CHRAJ and the Anti-Corruption Agency of Malaysia (ACA) signed a MoU on 21st August 2008 after a workshop held at the Malaysia Institute of Integrity. The objective of the MoU is to harness mutual efforts by both parties

to enhance capacities and capabilities of officers from the two institutions in combating corruption. Mr. Richard Quayson, Deputy Commissioner, Public Education & Anti-Corruption signed on behalf of Commission, while Deputy Director- General, Dato Abu Kassim Mohamed signed on behalf of ACA. Ms. Akua Ahenkora, of the High Commission and D-G witnessed for CHRAJ and ACA respectively. The MoU extends to 2013 (5 years) and may be renewed for another 5 year period.

#### Visit to Malaysia Human Rights Commission

While in Malaysia, the delegation paid a visit to the Human Rights Commission of Malaysia (SUHAKAM) to further explore the possibilities of future cooperation between the institutions. The delegation had a brief discussion with the Chairperson of the Commission, Datuk Dr. Chiam Heng Keng, and heads of the various sections (working groups) of the Commission.



*Messrs. Quayson and Kassim signing the MOU*





*The two exchanging the signed MOU*

human rights council resolution 5/1 of June 2007 reviewed Ghana's human rights situations and made recommendations.

### **Workshop on Universal Periodic Review of Human Rights**

The Commission participated in a workshop on Universal Periodic Review [UPR] in the United Kingdom from 17th–18th March 2008. The workshop was to assist the NHRIs and other stakeholders to prepare for the UPR of the UN Human Rights Council. The Commission was represented by Ms Anna Bossman, the Acting Commissioner.

### **Universal Periodic Review Meeting Held from 3rd–6th May, 2008 in Geneva**

The Deputy Commissioner (Public Education & Anti-Corruption), Mr. Richard Quayson was part of an 11 member team headed by the Minister of Justice and Attorney General, Mr. Joe Ghartey that met with Working Group on the Universal Periodic Review (UPR) on 5th May, 2008 in Geneva. The working group established in accordance with the

### **International Programme on Ombudsman's Work**

The Acting Commissioner, Ms. Anna Bossman, participated in training programme on the "Role of the Ombudsman in Improving Public Service" from the 12th to 23rd May, 2008 in United Kingdom. The programme was organized by Public Administration International [PAI]. The activity was part of the capacity building programme of the Commission for its administrative justice mandate.

### **Training in Anti-Corruption Work**

Mr. Richard Quayson, Deputy Commissioner, and the Director of Anti-Corruption, Mr Charles Ayamdoo, participated in a training programme on anti-corruption work in Denmark from 14th June to 5th July, 2008. The training, which was sponsored by DANIDA, formed part of the capacity building programme of the Commission for its anti corruption mandate.



### **International Conference on Systemic Work for Human Rights Implementation, Stockholm, Sweden**

The Commission participated in the International Conference on Systematic Work for Human Rights Implementation in Stockholm, Sweden in November. The Commission was represented by Richard A. Quayson, Deputy Commissioner.

The conference was hosted by the Government of Sweden as a follow up on the recommendation of the World Conference for Human Rights held in Vienna 1993 that each State should "consider the desirability of drawing up a national action plan identifying steps whereby that State would improve the promotion and protection of human rights."

The Swedish Government has adopted two national action plans, the first for 2002-2004, and the second for 2006-2009. The experience gained from working on these projects had been largely positive, and the conference offered the platform for sharing experience with other nations.

### **Visit to Danish Parliamentary Ombudsman Institution in Denmark**

The Director for Legal and Investigation Department, Joseph Whittal, and his deputy, Ms Elizabeth Kuffuor, paid a working visit to the Parliamentary Ombudsman Institution in Denmark in December. The Benchmarking visit, which formed part of capacity building programme of the Commission, was followed by an executive training programme on "Effective Investigations of Ombudsman Complaints" in London by the Governance and Management Consultancy International (GMCI).



## 14 DEPARTMENTS

### I. LEGAL AND INVESTIGATION 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. In carrying out this mandate, the department uses mediation, field investigation and panel hearing among others to resolve complaints.

During the year under review, the department received 12,783 complaints on human rights and administrative justice. It also installed a new Electronic Case Management System (ECMS) to facilitate receipt, processing, retrieval, transfer and communications on cases received, and completed work on the Case Handling Manual which was started the previous year.

#### Complaint Management

In 2008, the Commission received 12,919 cases throughout the country and disposed of 9,693 cases. Of the 12,919 cases, 11,323 came human rights, 1,460 under administrative justice mandate, and mandate 136 came under anti-corruption mandate.

Children's rights and women's rights cases dominated the cases received in the year, taking up 41% and 14% respectively of all human rights cases received in the year. In addition, beneficiaries of majority of the cases handled under property rights and ESCRs were women and children, making them the two biggest clients of the Commission.

Brong Ahafo Region received and disposed of the highest number of cases, followed by the Ashanti region.

(Table 1 below provides a statistical overview cases.)

Table 1: Summary of Cases for 2008

REGION	NUMBER OF CASES RECEIVED	CLOSED CASES
Headquarters	890	607
Ashanti	1523	1230
Western	1110	1118 <sup>4</sup>
Eastern	1189	873
Central	1261	961
Volta	1327	1046
Brong Ahafo	3618	2275
Greater Accra	534	358
Northern	725	556
Upper East	367	303
Upper West	283	283
Tema	92	83
<b>Total</b>	<b>12,919</b>	<b>9,693</b>

#### Case Handling Manual

To provide standardized templates for language and format in Investigation Reports, Decision Writing & Routine Letters, the Department continued to develop a Case Handling Manual which it began in 2007. The purpose of this handbook is to ensure uniformity in case handling procedures and to be used as a reference guide to assist Case Officers in investigations. The development of the Case Handling Manual was done in collaboration with the Danish Parliamentary Ombudsman. The Case Handling Manual will soon be published and used nationwide by staff of the Commission.

#### New Constitutional Instrument – C.I.

The Commission responded to the Supreme Court directive arising out of the case of *The Republic v Fast Track High Court, Accra. Ex parte: Commission on Human Rights and Administrative Justice. HON. DR. ANANE*, Interested Party and has come out with a draft C.I. which seeks to accommodate informal complaints under Article 218(e) or sections 7(1) (f) of Act 456 into C.I.7.



### Electronic Case Management System – ECMS

As at the end of 2008, the installation processes for operationalising the Electronic Case Management System (E-CMS) has been completed. The aim of the system is to facilitate the receipt, processing, communication on cases and the retrieval, transfer etc. of all cases being investigated by the Commission had for all practical purposes been concluded. Staff of the Commission would be trained to use the system in 2009.

### Investigation of Complaints

The Commission received 881 cases in 2008 with 185 cases as the backlog from 2007 and previous years. This is a reduction compared to 765 cases in 2007. Out of the 881 received cases for 2008, the Commission resolved 607 and referred 288 cases to such fora as the General Legal Council 1; Courts 58; DOVVSU 5; FIDA 3; National Labour Commission 110; seek assistance of lawyer 21; Legal Aid Board 53; Regional Offices of the Commission 16; Rent Control 6; Accra Psychiatric Hospital 2; Ghana Police Service 7; SSNIT 2; Accra Metropolitan Assembly 1; Environmental Protection Agency 1; Social Welfare 1; Ministry of Foreign Affairs 1; making a total of 288. At the close of the year 2008, 181 cases were outstanding. (see Case Statistics for more details)

### Enforcement Procedure

The Department initiated a meeting with the Rules of Court Committee chaired by the Chief Justice on the procedure for enforcement of the Commission's cases/recommendations in court. This has become necessary because of the lack of clear-cut procedure under the C.I. 47 (High Court Civil Procedure Rules) providing for enforcement of the Commission's recommendations.

The outcome of the above meeting resulted in the issuance of a Practice Direction by the Chief Justice as per letter referenced J4/VOL.6 dated May 30, 2008 directing that 'the procedure for enforcement of recommendations of CHRAJ shall be by originating summons'. It is important to state that in another letter referenced R/10/VOL.8 dated September 5, 2008 the Rules of Court Committee (the Committee) sought to review its Practice Direction in the light of Order 2 rule 2 of C.I. 47 which provides:

"Subject to any existing enactment to the contrary all civil proceedings shall be commenced by the filing of a writ of summons".

Based on the above provision of C.I. 47, the Committee advised that the Commission be guided by the meaning of 'action' per Order 82 rule 3 of C.I. 47 and take the necessary steps to amend its (CHRAJ) Regulations by originating notice of motion. In the letter under reference (September 5, 2008), the Committee intimated that it would have to approve any amendment of the Commission's Regulations before same is placed before Parliament.

The above letter received from the Committee which superseded the earlier one dated May 30, 2008 emphasizing a 'review' of the Practice Direction, creates absurdity regarding the status of the letter communicating the issuance of the Practice Direction. It is important for this development to be critically appraised.

### Enforcement of Decisions

At the close of the year, 27 cases were either pending in court or due for enforcement. The role of External Solicitors can be appreciated after a review of the cases which are pending (attached as Appendix A).

The Commission cleared almost all the backlog of cases, a few of which are now pending vetting before final decisions are taken.

### Collaboration

During the year under review, some members of staff from the LI Department of the Commission participated in various workshops, conferences and training programmes both locally and outside the country. These included a workshop on Work Place Ethics for staff and a day's workshop for Legal Officers organised by the Canadian High Commission and the Ghana Bar Association respectively.

The LI Department organised some activities to elicit co-operation from institutions the Commission works with. For instance, it had successful meetings with the Chief Justice and the Rules of Court Committee on Enforcement of the Commission's decisions. Other institutions that the Department collaborated with during the period included DOVVSU; UNICEF; WILDAF; CHRI and MOWAC.



## II. ANTI-CORRUPTION DEPARTMENT

### Introduction

During the year under review, the Commission undertook various activities in pursuance of its anti-corruption mandate. Among others, it created awareness on the Conflict of Interest guidelines, began discussions for the development of code of conduct for public officials, engaged in capacity building for some public institutions, and investigated a number of allegations on corruption, conflict of interest and abuse of office.

### Programme of Activities<sup>1</sup>

#### Public Fora for Public Officials in the Regions

Between June and August 31, 2008, the Anti-Corruption Department of the Commission, in collaboration with the Ghana Integrity Initiative (GII), successfully organised public fora on the COI Guidelines for public officials in five (5) regions of the country. The regions are Greater Accra, Northern, Upper West, Western and Volta. An average of 80 public officers attended the forum in each region.

The fora were organised under the theme: "Creating Awareness of the Guidelines on Conflict of Interest for Public Officials."

A major component of the fora was to educate participants on the provisions of the Whistleblower Act, in particular, the role of the Commission in its implementation and the challenges that it presents.

#### Enhancing Capacity to Investigate Corruption

##### DANIDA Fellowship Course

From 16 June to 5th July 2008, the Director of the Anti-Corruption Department participated in a DANIDA Fellowship Course in Anti-Corruption/ Curbing Corruption, which was attended by 18 participants from countries across Asia and Africa, including Ghana. The course took place at COWI, Lynmpy, Denmark and targeted middle level

managers. Participants were taken through various models including Action Plans to fight corruption; Corruption and Development Assistance; The legal system and its role in corruption-legislation; Police, Attorney General and the Judiciary;

The most useful models in this training were the models on corruption in Procurement, Diagnostic tools, Action planning/programming, Whistle blowing, International Rules and Regulations.

##### Whistleblower Round Table

The Commission in June 2008 organised a round-table discussion on the Whistleblowers Act, 2006 (Act 720) and the challenges of its implementation. About 45 persons from organisations such as Ghana Anti-Corruption Coalition, Internal Audit Agency Board, Public Procurement Board, National Security, Serious Fraud Office, and other investigative bodies, attended.

At the end of the programme, the challenges identified and discussed were collated for the attention of agencies mandated under the Act to investigate impropriety, and for the Attorney-General.

##### Drafting of Code of Conduct

In the reporting period, the Anti-Corruption department of the Commission commenced the drafting of a code of conduct for CHRAJ staff as well as for public officials in Ghana. Outlines of the drafts are presently the subject of consultative discussions with Regional Directors, selected District Directors, Anti-Corruption focal persons, Human Resource officers, and the Commission members.

##### Commemorating Anti-Corruption Conventions

A round table discussion was organized for stakeholders on Tuesday, 5 August 2008 to mark the second anniversary of the Convention on Preventing and Combating Corruption and Related Offences. The aim of the discussion was to map strategies to ensure that Ghana's Election 2008 environment was free from corruption. The function was chaired by the Commissioner, Mr. Emile Short.



On 9th December, 2008, the day set aside to mark UN Convention against Corruption, a documentary on corruption, developed by the Commission and launched last year, was once again screened on television as part of activities to mark the day.

#### Monitoring and Working with the Media

In the period under review, just as the previous years, the Commission's Anti corruption Department continued with its media monitoring activities. The purpose of the monitoring is to examine the reports and when warranted, initiate investigations on corruption that may have been published in the media. The Department reviewed seventeen (17) print media and sixty-six (66) reports on corruption and related misconduct (see table below).

Table 3: Media Reviewed-2008

No.	Name of Newspaper	No. of Reports
1	Daily Graphic	5
2	Ghanaian Times	4
3	Daily Searchlight	6
4	New National Democrat	6
5	Daily Guide	7
6	The Moment	3
7	Crusading Guide	4
8	The Chronicle	5
9	Free Press	3
10	The Independent	3
11	The Heritage	3
12	The Insight	3
13	Daily Searchlight	2
14	The Voice	3
15	Ghanaian Observer	2
16	The Enquirer	3
17	The Spectator	3
	<b>Total</b>	<b>66</b>

The reports in the media reviewed covered various types of corruption, including financial mismanagement, bribery, fraud, abuse of office, embezzlement and kickbacks. (see Table 4)

Table 4:  
Types of Corruption Reported  
in the media-2008

TYPE	FREQUENCY
Financial Mismanagement	8
Bribery	10
Fraud	22
Abuse of office	4
Embezzlement	13
Conflict of Interest	2
Plagiarism	2
Kickback	2
Forgery	3
<b>Total</b>	<b>66</b>

#### Investigations

One hundred and thirty-six corruption cases were received during the period: nine (9) at Head Office, 127 in the regions within the period. The cases included allegations of corruption, conflict of interest, fraud, illegal acquisition of wealth, and extortion. Volta and Ashanti Regions received the highest number of 42 complaints each. (Details of the cases are provided in the Statistical Overview below). As at the end of the reporting period, investigations of the cases had reached various stages of completion.



### III. PUBLIC EDUCATION DEPARTMENT

#### Introduction

In 2008, the Commission, in line with Article 218(f) of the 1992 Constitution, carried out various human rights education activities such as community outreach, workshops and training programmes. It also conducted human rights monitoring and research exercises, as well as collaborated with human rights NGOs and civil society in the promotion of human rights. The Commission's ultimate aim in carrying out these activities is to deepen the culture of respect for human rights among the people of Ghana.

#### Workshops/ Consultative Meetings

Workshop on validation of monitoring tools, held from 9th–13th of March 2008, at the New Capital View Hotel, Koforidua.

A 5-day workshop made up of all Regional Directors and the head office staff of the Public Education Department was held in March during the year to validate the following materials:

- 2008 SOHR Monitoring Tools
- CHRAJ Manual for Public Education Delivery
- CHRAJ Resource Guide for Public Education

Workshops to Finalize Human Rights Educational Materials and Reports, held from 19th–22nd and 26th–28th February at New Capital View Hotel, Koforidua and Kuku Hill respectively.

During the period under review, two separate workshops were held in Koforidua and Accra respectively to edit the Commission's educational materials and reports for publication. Participants comprised of both external and internal editors. Documents edited included:

- The State of Human Rights Reports
- Annual Reports
- CHRAJ Manual for Public Education Delivery
- CHRAJ Resource Guide for Public Education

Consultative Workshop on the Optional Protocol to the Convention against Torture (OPCAT) held on 15th April, 2008 at the Regency Hotel in Accra. The one day consultative workshop was held with stakeholders to discuss the ratification status of OPCAT and also to draw on additional support to lobby government to ratify the Convention. The workshop saw the formation of a standing committee, made up of representatives of key stakeholder organisations to communicate the outcome of the workshop to the Attorney General's Department for further action. The Commission has since pursued ratification and implementation efforts on the OPCAT with both the committee and with the AG's Office.

#### National Human Rights Essay Competition For Senior High Schools

As part of activities marking the 60th Anniversary of the Universal Declaration of Human Rights (UDHR) 1948–2008, the Commission organised the 1st National Human Rights Essay Writing Competition in late September on the topic "Everyone has a Right to Education" (UDHR, Article 26).

In all, 111 participants including persons with disability from 39 contesting schools took part in the essay writing competition. The Commission on the 4th of December held an award ceremony to honour the ten (10) Best Essays and their respective schools. Prizes included; Computer and Printer, Television Sets, Bursaries, Cash prizes, Citations, Certificates and Human Rights Education Materials which included a DVD on the UDHR.

#### NGOs Collaboration - NGOs Forum

The Commission, during the period, continued to collaborate with identifiable human rights NGOs aimed at promoting and protecting the fundamental human rights and freedoms of all persons in Ghana. Consequently, the Commission coordinated various human rights education programmes, discussions, and the Forum's projections for 2009. Consistent efforts were also made to continue the establishment of NGO forums at regional levels.



## Development Of Audio Versions Of The Disability And CHRAJ Acts

Audio versions of both the CHRAJ Act, Act 456 and The Disability Act, Act 715 were developed by the Commission to ensure the understanding and effective use of these documents by persons with sensory disabilities. The CDs will be launched in the early part of next year, 2009.

## Specialised Research Activities

The Commission has conducted research into the following topic:

Forced marriages

Ritual servitude

Reports are being edited for publication.

## SOHR Monitoring

A nationwide monitoring of the state of human rights was carried out during the reporting period. The monitoring focused on the ESCR which is the Commission's theme for the year.

## ILO/IPEC Time Bound Project

The Commission during the year under review, successfully completed all activities under ILO/IPECCHRAJ project aimed at enhancing child labour interventions in the Commission's work. Child labour is now an integral part of the Commission's education programmes, monitoring exercise and cases statistics format.

## Public Education Regional Activities<sup>5</sup>

A total of 3,428 community outreach and media educational campaigns were organised during the reporting period. These activities were primarily carried out by the Commission's 96 Districts, 2 Sub Regional and 10 Regional Offices across the country.

Table: Public Education Activities from January- December, 2008

S/N	Region	No. of Offices <sup>6</sup>	No. of Activities	% <sup>7</sup>
1	Ashanti	16	563	
2	Greater Accra	04	147	
3	Central	12	411	
4	Western	11	423	
5	Eastern	14	388	
6	Volta	12	293	
7	Upper West	05	195	
8	Northern	13	372	
9	Brong Ahafo	13	353	
10	Upper East	06	160	
11	Tema	01	72	
12	Obuasi	01	51	
	<b>Total</b>		<b>3,428</b>	

## Publications

During the year under review the following reports were published:

- State of Human Rights Report -2006
- State of Human Rights Report -2007
- Prisons and Police Cells Inspection report -2005&2006
- Report on Forced Marriages
- PE Manual for HRE delivery
- HRE Resource Guide

<sup>5</sup> Details found in Report from Regions Section

<sup>6</sup> The number of offices include the Regional Offices

<sup>7</sup> % is the expression of the number of activities per region as a percentage of the total number of activities nationwide



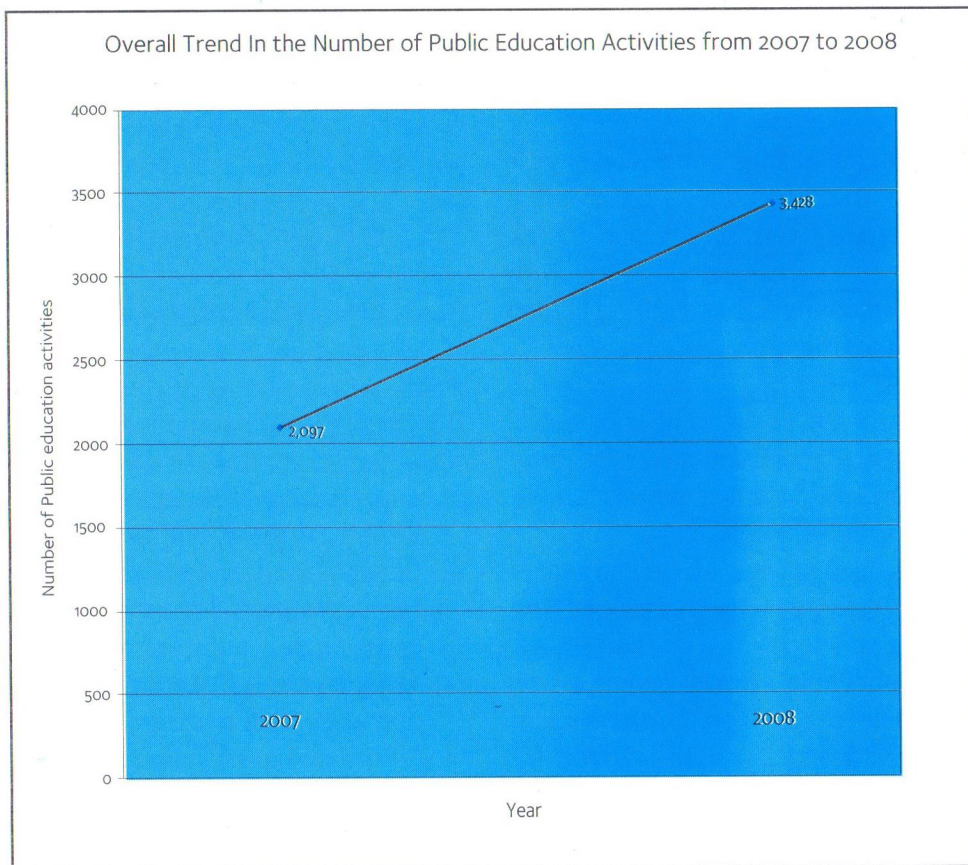
Table 4: Summary of Public Education Programmes by Various Regions

Region	Number of Offices[1]	Number of Activities 2007	Number of Activities 2008	Percentage contribution (2008)	Percentage increase from 2007 to 2008
Ashanti	16	535	563	16.4	5.2
G. Accra	4	116	147	4.3	26.7
Central	12	267	411	12	53.9
Western	11	274	423	12.3	54.4
Eastern	14	125	388	11.3	210.4
Volta	12	106	293	8.5	176.4
Upper West	5	79	195	5.7	146.8
Northern	13	153	372	10.9	143.1
Brong Ahafo	13	191	353	10.3	84.8
Upper East	6	156	160	4.7	2.6
Tema	1	67	72	2.1	7.5
Obuasi	1	28	51	1.5	82.1
<b>Total</b>		<b>2,097</b>	<b>3,428</b>	<b>100</b>	<b>63.5</b>



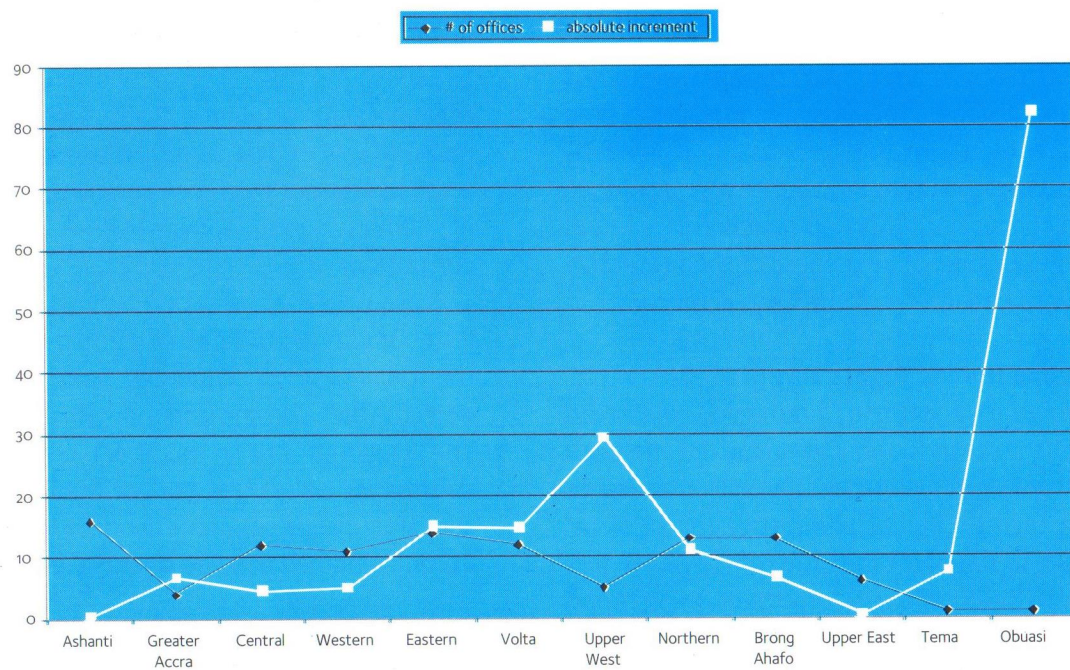
Graph 1

Below is an illustration of the percentage increment in the number of PE programmes per office from 2007 to 2008.



Graph 2

% increment per office in the regions





## IV. PUBLIC & MEDIA RELATIONS

### Introduction

The Public Relations Unit of the Commission in year 2008 maintained its traditional role of enhancing a good corporate image of the Commission to the public. It established diverse relationships with other institutions promoting and protecting human rights and its media partners.

During the year, it carried out a number of public speaking engagements, radio and television programmes, as well as sensitisation activities.

Media publications and stories of human rights issues were also monitored. These included the rights of detained persons, human trafficking, human rights violations in mining communities, monitoring of media reports on 2008 election campaigns as well as the citizen's right to vote.

### Media Sensitization

During the period, series of media sensitization programmes were organised by the Commission for journalists in Greater Accra, Eastern, and Upper West Regions. Similar programmes were also held in Ashanti, Western, and Central Regions.

The aim of the programme was to raise awareness of media practitioners towards human rights related issues and activities of the Commission. The media sensitisation programmes introduced participants to the broad concept of reporting human rights issues and raised their level of awareness of the protective and preventive mandate of the Commission.

### International Human Rights Day

On December 10, 2008, the Commission celebrated International Human Rights Day climaxed the 60th anniversary of Universal Declaration of Human Rights under the theme 'Dignity and justice for all of us' with the presentation of the State of Human Rights Report and its preliminary report on monitoring the right to vote. Some of the dignitaries present included Mrs. Afua Ansre, National Programme

Coordinator, UNIFEM, a representative of the UN High Commissioner.

### PRESS RELEASES

The Commission issued various press releases as part of commemorating the following International UN days:

1. UN Day of Families, May 15 2008
2. World Refugee Day, June 20 2008
3. UN Day of Torture, June 26 2008

### Visits

The Commission hosted the following:

1. The Deputy Head of Mission of the Royal Danish Embassy, and an Appraisal Team from Copenhagen visited the Commission. The team also visited the Ashanti Regional Office including some district Offices in the Region. The purpose of the visit was to enable the Appraisal Team to assess the nature of support for the Commission under GGHRP II.
2. Her Ladyship, Chief Justice, Mrs. Theodora Georgina Wood and members of Judicial Service Mentoring School on the March 14, 2008 visited the Commission. The purpose of the visit was to generate the students' interest in the judiciary, the administration of justice and legal profession.
3. Management students from GIMPA paid a one day visit to the Commission on 30th April 2008 to interact with the Commission on issues of human rights, administrative justice and corruption.
4. Post-Graduate students of human rights from the University of Winneba, paid a one day visit to the Commission on 11th July, 2008. The students (44 in number) got firsthand information about the work of the Commission and also discussed some landmark cases the Commission had handled over the years.
5. The Commission hosted a delegation from the African Commission on Human and People's



Rights on 1st September, 2008. This was at the request of Attorney-General's Office to enable the delegates familiarize themselves with the work of the Commission.

6. A two-member delegation from Lesotho paid a one day working visit to the Commission on the 3rd of October, 2008 to know more about the Commission's setup and functions.
7. Delegations from the Ethiopian Human Rights Commission paid a five day working visit to the Commission in October 2008. This was to enable them gain in-depth knowledge of best practices and experiences of the Commission as National Human Rights Institution.
8. A delegation from selected universities in the United States of America and Canada also visited the Commission in October 2008. The delegation interacted with members and staff of the Commission.



## V. ADMINISTRATION DEPARTMENT INTRODUCTION

The Administration Department of the Commission planned and executed its programme of activities for 2008 taking cognisance of the Commission's vision and mission.

### Human Resource Development

During the period, the Administration Department of the Commission in line with ensuring staff retention and career development for all categories of staff pursued several staff development options:

1. It contracted a Consultant to review the organisational structure of CHRAJ and prepare job descriptions as well as to recommend remuneration levels.
2. It developed a draft training policy aimed at having one comprehensive training policy for easy reference and guidance.
3. The Administration Department of the Commission organised and facilitated several training programmes aimed at equipping the staff with the necessary skills for effective service delivery.

These include:

i) **Annual Retreat** from 1st – 8th March, 2008 at Akosombo in the Eastern Regional. This session brought together the Commission members, Divisional and Regional Directors to brainstorm and chart the way forward for the Commission.

ii) **Training of Trainers Workshop** for District Directors from 7th–11th April, 2008 held at Hotel Glamoray in Sunyani.

iii) **Ethics in National Human Rights Institutions** attended by Regional Directors, Investigators and Administrative Officers from 2nd –3rd June at Mensvic Hotel, Accra. This training was organised under the auspices of National Governance Programme and the African Development Fund (ADF) and in collaboration with Prime Training Development Consultants.

iv) **Basic Law for Non-Lawyers Programme** was attended by District Directors and other senior non-legal staff from 13th–20th June 2008 at Mensvic Hotel, Accra

v) **Basic Accounting** Training for Regional directors, Administrators and Accounts Officers from 15th–20th June held at Airside Hotel, Accra.

vi) **A Five Day Induction Course** for 34 newly recruited staff from 5–10th May 2008 at Airside Hotel in Accra.

vii) **Capacity Building Programme** for Assistant Registrars and Assistant Investigators from 7th–9th November 2008 in Kumasi.

viii) **Alternative Dispute Resolution Programme** was organised to update the working knowledge of Assistant Registrars and Assistant Investigators from 21st–26th June 2008.

ix) **Building Capacity to Investigate Corruption** for Regional Directors and Principal Investigators from 20th–25th October 2008 at Crystal Palm Hotel, Accra.

x) **Training of Trainers Programme** on Election Monitoring and Observation held in October, 2008 at Crystal Palm Hotel, Accra.

xi) **Workshop** on finalisation and adoption of staff training policy and discussion on staff code of conduct for Regional Directors from 13th–18th October at Mac-Dc

xii) **Training in Alternative Dispute Resolution (ADR)** for Assistant Registrars and Assistant Investigators for Southern and Northern sectors were held on 7th–10th July, 2008 and 28th–30th July, 2008 respectively.

xiii) **Training of Trainers Workshop** on Human Rights for Senior Police Personnel was held from 7th–10th October 2008.

xvi) **Training on Quality Service Delivery** was from 19th–20th February 2008 for middle level management in the Northern sector of the country.



xvii) **Training of Trainers Workshop** was organized for twenty-eight (28) District Directors of the Commission from Northern, Upper East and West, Brong Ahafo and part of Ashanti Regions. The workshop was to enable participants map out strategies for conducting public education on the COI Guidelines and related areas.

xviii) **COI Educational Programme** was held at the Head Quarters of the Commission for selected Staff in Accra. The aim of the programme was to enhance the capacity of critical staff of the Commission to identify and deal with conflict of interest situations that they may encounter during the course of their work.

xix) **A Four Day Training Workshop** to equip Investigators and Lawyers with the knowledge and skills to deal with corruption cases more efficiently was held in July, 2008 at SunLodge Hotel, Tesano, Accra.

xx) **Workshop** on Investigative Skills, Report Writing, Adjudication and Decision Writing was held at Sun Lodge Hotel, Tesano, for Investigators and Lawyers in the Southern zone.

xxi) **Two training workshops** on Sexual Harassment and Gender Mainstreaming for 70 officers of the Commission to build capacity of staff to identify, prevent and respond to sexual harassment and gender issues.

### INTERNSHIP

Within the year, a number of local and foreign students were given the opportunity to undergo practical internship with the Commission. The interns were able to assist the Commission in the discharge of its mandate by participating in a number of the Commission's regular activities, including research, investigations, field monitoring, public relations and public education.

CHRAJ's internship program allows for foreign interns to gain essential international experience and cross-cultural immersion, whilst also promoting good relationships with foreign institutions such as universities and other organizations. The experience of cultural exchange and learning is thus shared by both the interns and the staff at CHRAJ.

## 3. REPORTS FROM THE Regions

### GREATER ACCRA Region

#### Complaint Management

The total number of cases received in the Region was 534, whilst 358 cases were closed in the year including cases pending at the beginning of the year.

#### Public Education

In the Greater Accra Region, the Commission organised 147 educational activities during the period. In all, 14 communities and 32 schools benefited from the Commission's educational activities. Other beneficiaries were the Beauticians and Dressmakers Associations in the Accra Metropolis. Activities comprised; community outreaches, schools programmes and radio discussions.

#### Collaboration

The Commission collaborated with other related organisations such as the District Assemblies, International Needs and The Wild Life Division of the Forestry Commission, Ada in various ways. For instance, the Commission in Dagme West District collaborated with the Dangme West District Assembly to organise essay writing competition for nine (9) Junior High Schools in the district on the topic "Agriculture is Possible without Child Abuse"

### TEMA SUB-Regional OFFICE

#### Complaint Management

The total number of cases received in the sub-Regional Office was 92, whilst 83 cases were closed in the year including cases pending at the beginning of the year.

#### Public Education

The Tema Office intensified its public education drive and successfully executed 72 programmes. Target groups included the Police, students, teachers, artisans, NGOs, with churches members being the largest group. In all, more than 3000 people benefited directly from its educational activities.

Notable among the topics covered were child labour, fundamental human rights, the functions of CHRAJ, sexual offences and the Whistleblowers Act.



**ASHANTI Region****Complaint Management**

The total number of cases received in the Region was 1523, whilst 1230 cases were closed in the year including cases pending at the beginning of the year.

**Public Education**

The Commission in the Ashanti Region organised 563 educational programmes during the period under review. Out of the figure, 95% of these programmes were organised by the 15 districts, with Mampong district recording the highest number of 71 programmes representing 12% of the total number.

Among the topics treated were the Intestate Succession Law, Fundamental Human Rights, The Labour Act, 651, the Rights of Women and Children, Domestic Violence and Conflict of Interest.

Taking into consideration the needs of the various groups in the communities, the Region employed lectures and public discussions as the methodology to disseminate the information. Beneficiaries include: members of communities, churches and schools.

**OBUASI SUB-Regional OFFICE****Complaint Management**

The total number of cases received in the Region was 175, whilst 79 cases were closed in the year including cases pending at the beginning of the year.

**Public Education**

In Obuasi, the Commission organised 51 public education programmes during the period. The number consists of 37 community outreaches and 14 programmes for organised groups such as; churches, schools and traditional leaders.

The educational activities focused on the Rights of Women and Children, with specific emphasis on Intestate Succession Law, Domestic Violence (child abuse) and Child Labour. Other areas include; Fundamental Human Rights and Freedoms, the Labour Act, 651 and The Whistleblower Act.

Among the groups that benefited were traditional leaders, churches, and Muslim Youth Associations. Facilitators applied interactive presentations and lectures to convey the message.

**EASTERN Region****Complaint Management**

The total number of cases received in the Region was 1189, whilst 873 cases were closed in the year including cases pending at the beginning of the year.

**Public Education**

A total of 388 programmes were duly carried out by Commission in the Eastern Region during the period. Notable topics discussed include domestic violence, sexual harassment, rights of the child, fundamental human rights etc.

Strategically, lectures and discussions were employed to educate target groups in schools, churches, public places (club houses) etc. The media, (Obuoba FM) was also used by the Commission as a means of reaching out to a wider group of people in the Region.

**CENTRAL Region****Complaint Management**

The total number of cases received in the Region was 1261, whilst 961 cases were closed in the year including cases pending at the beginning of the year.

**Public Education**

For the period under review, the Commission in the Central Region recorded a total of 411 public education programmes.

The Commission's educational activities in the Region benefited schools, identifiable groups like keep fit clubs, churches and the community at large.

Topics treated included Functions of CHRAJ, Fundamental Human Rights and Freedoms, Domestic Violence, Instant Justice, Inheritance/Intestate Succession Law, Children's Rights, Child Labour and its Worst Forms, and The Whistleblowers Act.

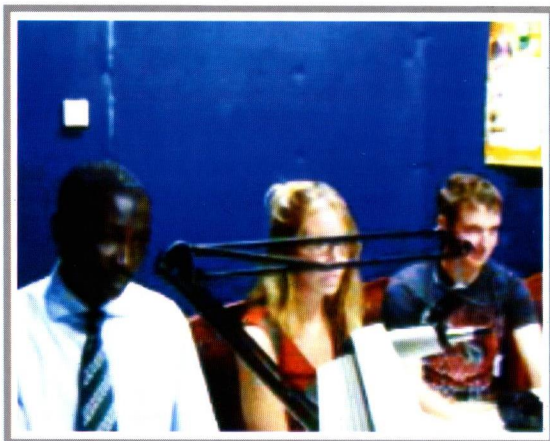


### Human rights training for professional bodies

Besides, the Commission in the Region continued its human rights training for professional bodies which engaged a number of nurses from the Cape Coast Nurses Training College and the Ankaful Psychiatric Hospital. On the whole, 207 and 163 trainees (Final year students) from the Cape Coast Nurses Training College and Ankaful Psychiatric Hospital respectively benefited from the training programmes.

### Radio and TV Programmes

The availability and use of the electronic media (TV & Radio) also boosted educational activities in the Region. The Commission apart from the radio programmes also featured on a local TV Station, Coastal TV.



PE learn from the Central Region at Eagle FM, C-Poly



PE learn addressing family heads and Chiefs from Yamoransa 1(2)

## WESTERN Region

### Complaint Management

The total number of cases received in the Region was 1110, whilst 1118 cases were closed in the year including cases pending at the beginning of the year.

### Public Education

As part of its activities for the period, the Commission organised series of public education activities in the Western Region. These activities aimed at strengthening respect for human rights, and creating and promoting tolerance, peace, and harmonious relationship among communities within the Region. In all, 423 educational activities were organised during the reporting period.

The programmes generally targeted rural communities, schools, churches and professional bodies. Programmes were also organised to commemorate selected UN Days. While the Commission during the community outreach programmes used lectures and discussions, case studies and pictorial presentations, depending on the targeted audience; it also used the radio to sensitise the general public on some common human rights issues in the Region.

To achieve the set objectives and also meet the needs of the various targeted groups, the Commission in the Region concentrated on a wide range of subjects. These include the Intestate Succession Law, Fundamental Human Rights and Freedoms, Functions of CHRAJ, Parental Responsibilities, Domestic Violence, Child Labour and its Worst Forms, and The Police & the Protection of Human Rights. The rest were; Property Rights of Spouses, the Wills Act and Children's Rights.

## BRONG AHAFO Region

### Complaint Management

The total number of cases received in the Region was 3618, whilst 2275 cases were closed in the year including cases.

### Public Education

In the Brong Ahafo Region, 353 educational programmes were carried out during the period under review by the Commission. The Wenchi District accounted for the highest number of programmes



(47). Other districts worth mentioning are Kwame Danso and Atebubu with 37 and 36 programmes respectively. Primarily, the activities were targeted at churches, schools, communities and identifiable groups.

The broad areas covered include; Domestic Violence Act, Women and Children's Rights, the Rights of Prisoners, Functions of CHRAJ, Intestate Succession Law, Forced Marriage, Fundamental Human Rights and Responsibilities, as well as Human Rights and Cultural/Customary Practices. Other areas were; The Rights of Persons With Disability, The Wills Act, Conflict of Interest and Human Rights and Good Governance.

The Commission did not relent on its efforts in using the radio (FM Stations) as an effective tool in educating the public. The Commission on several occasions used radio to educate the public on the CHRAJ Guidelines on Conflict of Interest.

#### **Collaboration**

In terms of collaboration, the Commission in the Region joined NGOs and some government organisations such as the Department of Women to carry out various activities on human rights and other related activities.

#### **VOLTA Region**

##### **Complaint Management**

The total number of cases received in the Region was 1327, whilst 1046 cases were closed in the year including cases pending at the beginning of the year.

##### **Public Education**

In the Volta Region CHRAJ conducted 293 human rights educational activities during the period under review. The number comprises 142 community outreaches, representing 48.5%, while the remaining were for specific target groups such as students, congregation and other identifiable groups in the Region. Keta District recorded the highest number of programmes of 47.

Following an assessment of the human rights needs of the communities, the Region placed emphasis on topics such as Fundamental Human Rights, Testate and Intestate Succession Law, Domestic Violence

and Trial by Ordeal. Other topics covered were Parental Responsibility towards Children, Property Rights of Spouses, Child Trafficking, Children's Rights, Women's Rights, Civilian and Police Relationship, Protection against Forced Labour, Harmful Cultural Practices, Rape, Defilement and Indecent Assault, among others.

#### **Collaboration**

The Commission collaborated with the International Needs to organise several educational programmes in the South Tongu District.

#### **Human rights clubs**

The Commission in South Tongu District collaborated with Plan International to established 10 Human Rights Clubs in 10 communities in the district.

#### **NORTHERN Region**

##### **Complaint Management**

The total number of cases received in the Region was 725, whilst 556 cases were closed in the year including cases pending at the beginning of the year.

##### **Public Education**

On the whole, the Commission carried out 372 educational activities in the Northern Region. West Gonja (Damongu) District recorded the highest number of 46 programmes, followed closely by East Mamprusi (Gambaga) District with 42.

Method employed for the education programmes included radio talk shows, education in schools, community outreaches and seminars/workshops in their educational activities. The targeted audience included: opinion leaders, organised groups/associations educational institutions, as well as religious bodies in the Region.

The educational activities covered topics such as; Women and Children's Rights, the Right to Education and Health, Functions of the CHRAJ, Forced Marriage, Witchcraft Accusations, Female Genital Mutilation, Domestic Violence and Teenage Pregnancy, among others.

#### **Collaboration**

During the period, the Commission collaborated with other organisations such as NCCE and Human



Rights NGOs in various ways in the Northern Region. Some of these human rights NGOs included Association of Christian Development Projects (ACDEP), Centre for Democratic Governance (CDD), General Agricultural Workers Union, Domestic Violence and Victims Support Unit of the Police Service (DOVVSU), International Federation of Women Lawyers (FIDA), the Ghana Education Service (GES) and the Area Development Programme of the World Vision International.

### **UPPER WEST Region**

#### **Complaint Management**

The total number of cases received in the Region was 283, whilst 283 cases were closed in the year including cases pending at the beginning of the year.

#### **Public Education**

A total of 195 human rights education activities were organised by Commission in the Upper West Region during the period. Sissala District recorded the highest number of 26 activities, representing 35% of the total number of activities in the Region. Various methods, including community durbars, lectures and workshops were employed as a means of educating the public.

Activities were targeted at organised groups (e.g. Weavers Associations, Pito Brewers Associations etc), community leaders, schools and churches, with the aim of empowering them with human rights knowledge to enable them appreciate and respect human rights in their various communities. Topics treated included Dehumanizing Cultural Practices, Political and Economic Rights, Domestic Violence Act, Inheritance, the Rights of the Child (including Worst Forms of Child Labour) Women's Rights and the Rights of Persons with Disability.

#### **Collaboration**

The Commission collaborated with the World Vision International and the Gender and Women's Rights Activist Network (GAWANET) to organise workshops for some divisional Chiefs and basic schools in the Region. In all, 6 workshops were held.

### **UPPER EAST Region**

#### **Complaint Management**

The total number of cases received in the Region was 367, whilst 303 cases were closed in the year, including cases pending at the beginning of the year.

#### **Public Education**

Although the Commission in the Upper East Region successfully completed 160 public education programmes. Most of the topics were on the rights of women and children.

#### **Collaboration**

Apart from the above mentioned programmes, the Commission in the Region collaborated with partner organisations to organise some educational activities. Some of these institutions included IBIS and World Vision.



#### 4. SPECIAL PROJECTS

##### *I. Investigation into the State of Human Rights in Mining Communities*

##### *II. Monitoring the Right to Vote*

#### **1. Investigation into the State of Human Rights in Mining Communities**

The Commission, in 2006, commenced systemic investigations into allegations of human rights violations in mining communities in Ghana, in particular the Western, Ashanti, Brong Ahafo and the Upper East Regions in line with its human rights mandate. The investigation was in response to several complaints of violations of fundamental human rights and freedoms in most mining communities which the Commission had received.

The investigation sought to critically examine the broad trends of the human rights situation in mining communities and the underlying reasons for the increasing reports of human rights violations in mining areas in the country. It was also to determine the state of rights and fundamental freedoms of people living in mining communities in Ghana. The investigation is not a fault finding one.

In particular, the investigation sought to explore various ways of protecting the fundamental human rights and freedoms of people affected by mining operations in the country: the right to livelihood; clean water; a home; safe environment and the right to development. It also aimed to facilitate the building and strengthening of good relations between and among mining communities, companies and other stakeholders.

The Commission had earlier [2001-2002] investigated a number of complaints of violations of human rights in some mining areas. It also conducted public hearings in the Wassa West District which has the greatest concentration of mining companies with a view to ensure that the basic rights of individuals, groups and communities affected by mining operations are respected and preserved. It became quite apparent that the causes of the violations were systemic in nature requiring, in part, a solution that will address the systemic causes. The investigation was in two parts; systemic and normal complaints investigations.

The systemic investigation was not a fault finding one. It was rather directed at studying the systemic causes of human rights violations. Investigation of individual complaints is being undertaken as part of the Commission's routine investigation of complaints of violations of human rights and freedoms.

The investigation sought to critically examine the broad trends of the human rights situation in mining communities and the underlying reasons for increasing reports of human rights violations in mining areas in the country.

The specific aims of the investigation were:

- To assess the human rights situation in the mining communities.
- To examine the extent of pollution of water bodies and environmental degradation.
- To promote cordial relations between mining companies and mining communities.

The investigation was launched in December, 2006 at a Stakeholder's Forum on the *State of Human Rights in Mining Communities* where community leaders, mining companies, the Chamber of Mines, the security agencies, regulatory bodies, civil society campaign groups and other stakeholders were represented.

The investigation was not a fault finding one, however, it did not overlook the obligations and responsibility of any of the stakeholders as it explored ways of advancing human rights in places where mining take place in the country. All role-players had an opportunity to address the issues with the Commission in a co-operative manner. The process was also tailored to ensure justice, build the peace, and improve human security.

The investigation methodology included focus group discussions with community leaders, local authorities, women and youth groups; consultations and interviews with local police service, health posts, environmental officers, and mining companies, and complainants. These were done in a confidential manner in order to elicit the nature and causes of alleged violations with a view to exploring solutions with the various groups and this methodology



yielded concrete data that helped the commission to ascertain the human rights violations pertaining in these mining communities. The Commission also inspected various sites.

The Commission has published its report on the investigation and submitted copies to the Government and Parliament.

## 2. Monitoring the Right to Vote

The Commission in the year under review monitored the right to vote during the 2008 elections by observing campaigns leading to the 2008 general elections; the 7th December presidential and parliamentary elections, the second round presidential run-off election on December 28, 2008 as well as the 2nd January election in the Tain Constituency.

The purpose of the monitoring exercise was, among others, to assist the nation ensure free and fair elections in Ghana. Specifically, the objectives were:

- To document and deal with electoral corruption;
- To promote and protect the right to vote;
- To promote peace and protect the integrity of the electoral process;
- To prevent and manage any occurring conflict; and
- Publish and disseminate a report on the entire process.

Activities undertaken under the monitoring include:

- i. Compiling of a list of Election Observers
- ii. Training of Election Observers
- iii. Monitoring campaigns and media
- iv. Observing the elections (December 7, 28 and January 2, 2009)

A report has been compiled and will be printed and disseminated soon.

The Commission deployed over 300 officers who participated in training on monitoring the right to vote, and were subsequently given accreditation by the Electoral Commission as Election Observers. The monitoring team was deployed in all the 230 constituencies on December 7, December 28, 2008, and the Tain Constituency on January 2, 2009, to

observe both the presidential and parliamentary elections.

In selecting the polling stations to be monitored, the Commission took into consideration factors such as notoriety of the polling station (gained in previous elections), sensitivity of the constituency in terms of numbers of voters, constituencies not easily accessible, constituencies vulnerable to violent conflicts, and border town constituencies.

The Commission observed political campaign activities all over the country between the 1st and the 30th of November 2008. In all, two hundred and ninety-seven (297) campaign activities were observed.

During the 7th December elections, the Commission observed 728 polling stations across the country, increasing the number to 1270 during the presidential run-off which took place on 28th December, 2008. The Commission also deployed observers at all polling stations in the Tain Constituency during the final run-off of the presidential election which took place in Tain Constituency in the Brong Ahafo Region on January 2, 2009.

Although a number of incidents were reported, the election on the whole was successful, largely due to the heavy presence of observers, public education that influenced the comportment of the electorates, and the professionalism of the Electoral Commission.



**4. STATISTICAL OVERVIEW**

- I. Overview of statistics on Complaints
- II. Trend of Cases over the Last five years
  - i. Received Cases
  - ii. Disposed of Cases
- III. Categories of Complaints
  - i. Administrative Justice Cases
  - ii. Human Rights Cases
  - iii. Corruption Related Cases
- IV. Respondent Bodies
- V. Nature of Closure
- VI. Referrals
- VII. Detailed Case Statistics Overview for 2008
  1. Human Rights Cases
  - ii. Women's Rights-related Cases
  - iii. Property Rights-related Cases

- iv. Economic and Social Rights-related cases
- v. Civic and Political Rights-related Cases
- vi. Other Cases

## 2. Administrative Justice Cases

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

## VIII. Figures on Respondent Bodies

**I. OVERVIEW OF STATISTICS ON COMPLAINTS**

A total of 12,919 complaints were made to the Commission nationwide in the year under review. This represents a decrease of 4.0% over the preceding year's figure of 13,455. This brings to 149,538 the total number of complaints received by the Commission since its inception. Table 1 shows the summary of cases for 2008.

Table 1: Summary of Cases for 2008

Region	Pending cases at the beginning of 2008	Number of Cases Received	Closed Cases
Headquarters	192	890	607
Ashanti	395	1523	1230
Western	307	1110	1118
Eastern	380	1189	873
Central	196	1261	961
Volta	281	1327	1046
Brong Ahafo	707	3618	2275
Greater Accra	174	534	358
Northern	219	725	556
Upper East	64	367	303
Upper West	50	283	283
Tema	60	92	83
<b>Total</b>	<b>3,025</b>	<b>12,919</b>	<b>9,693</b>



Figure 1: Regional Distribution of Cases Received

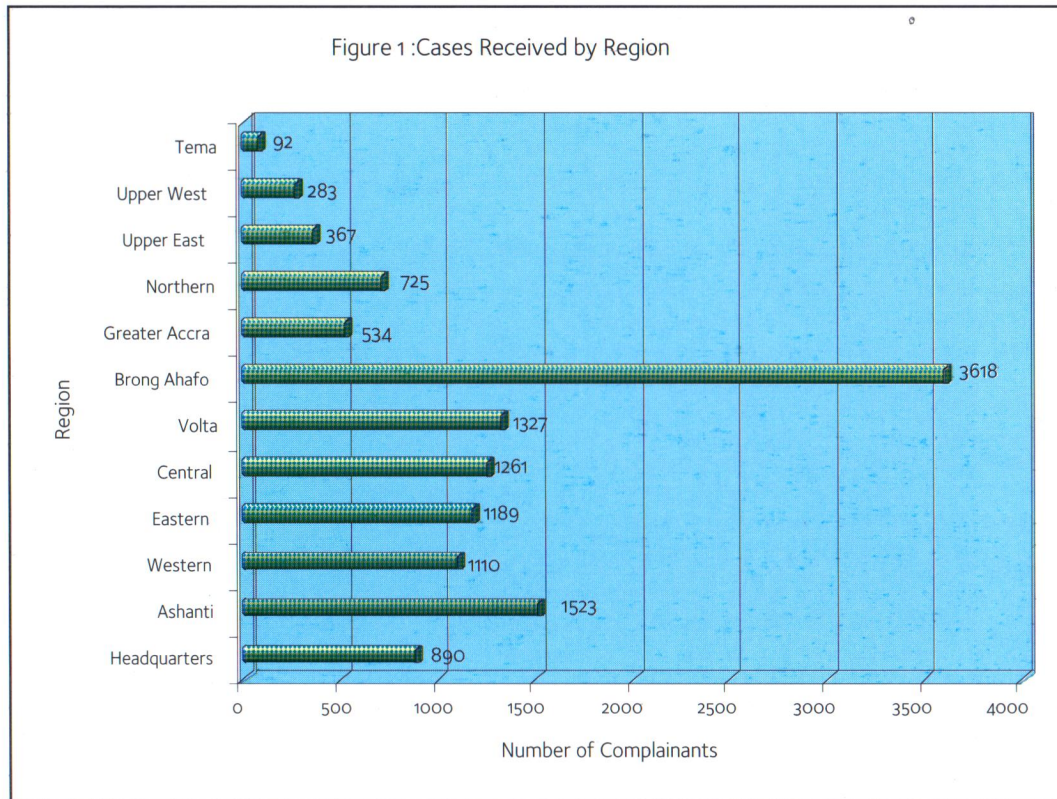


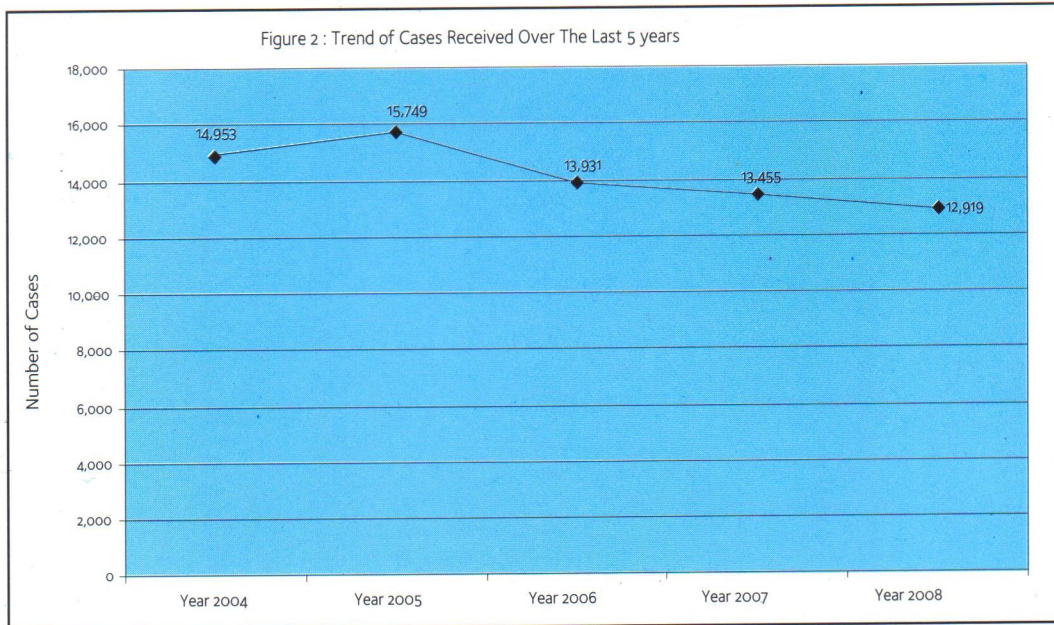
Figure 1 illustrates cases received within the year 2008. Brong Ahafo Region continued to receive the largest proportion of cases totalling 3,618 or 28.0% of all cases received nationwide; followed by Ashanti Region with 1523 (11.8%) complaints. The Tema Sub Regional Office had 92 (0.7%) cases which represents the least number of cases.

Brong Ahafo Region continues to record high rate of complaints of children, women, property and socio-economic rights cases. The Ashanti and Eastern Regions had high rate of complaints in corruption cases. The Head Office of the Commission dominated in administrative justice cases.

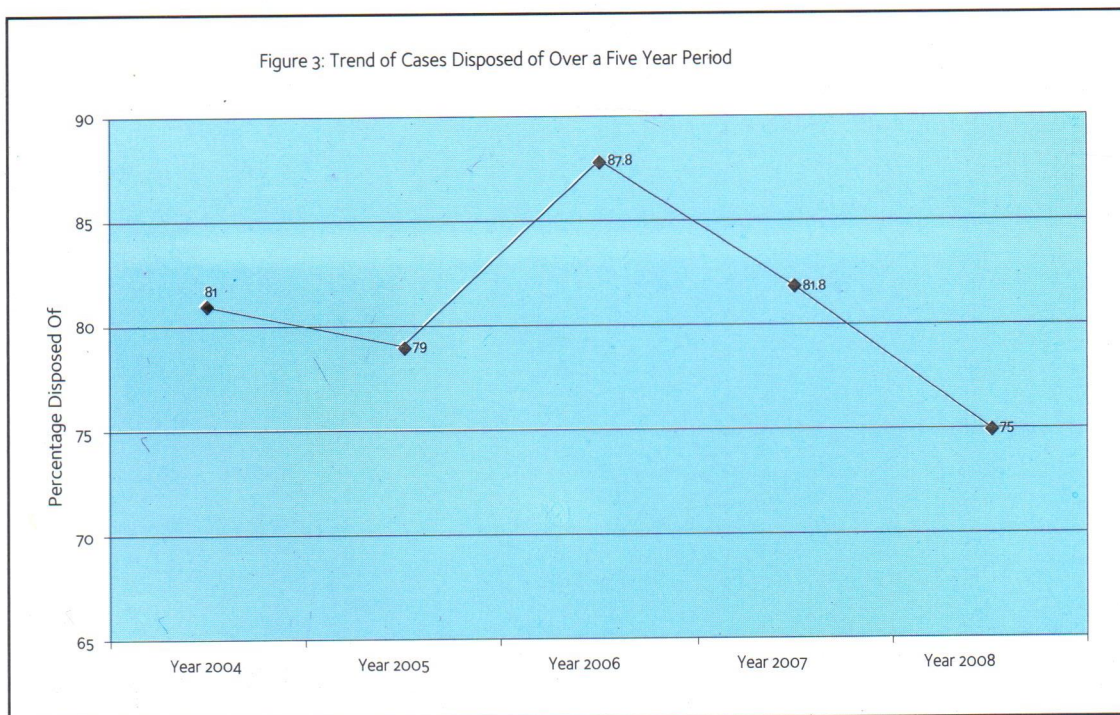


## i. Received Cases

## II. TREND OF CASES OVER THE LAST 5 YEARS



There was an initial increase in complaints received between 2004 and 2005 from 14,953 to 15,749. However, there has been a gradual reduction in the number of cases since 2006

ii. Disposed Cases <sup>8</sup>

The Commission on the average resolved 80.9 % of cases it received over the five year period. In 2004, the percentage of cases disposed of was 81, this reduced in 2005 to 79%. The highest percentage of 87.8 resolved cases occurred in 2006; there has however been a gradual reduction in the percentage of resolved cases since 2007.

<sup>8</sup> Percentages excluded pending cases



### III. CATEGORIES OF COMPLAINTS

Table 2: Status of Case Distribution

Category	2004	2005	2006	2007	2008
Administrative Justice	1,671	1,622	1,546	1,303	1,460
Human Rights	13,249	13,844	11,999	12,045	11,323
Corruption	33	283	386	107	136
Total	14,953	15,749	13,931	13,455	12,919

#### i. Administrative Justice Cases

Administrative Justice cases include complaints of dismissal, abuse of office, termination of appointment, undue delay and pension/gratuity among others. Since 2004, the number of cases received in respect of administrative justice declined until 2008 when it increased again. (see table 2).

The Commission's Head Office continues to record the highest number of cases, 558 out of 1,460 cases representing 38.2% followed by Ashanti Region with 121 cases representing 8.3%. Upper West Region recorded the lowest number of cases, 41 in all representing 2.8 %.

#### 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 2008 recorded 11,323 complaints, a reduction of 722 cases from those received in 2007.

##### Rights of the Child

A total of 4,665 cases of children related issues were received representing 41.2% of all human rights related cases received. Of this, there were 3,309 child maintenance complaints constituting the highest of children related cases.

##### Women's Rights

One thousand six hundred and eighty four (1,684) cases were received representing 14.9% of all human rights related cases. Maintenance constituted the highest number of women right's cases, the Commission recorded 1047 cases representing 62.2%. Discrimination based on sex recorded only 8

or 0.5% of all women's rights complaints.

##### Property Rights

Two thousand one hundred and ninety nine (2199) cases were recorded in 2008, representing 19.4% of all cases received. Majority of the cases were tenancy related; 944 or 42.9%. Complaints on state confiscation added up to only 40 or 18.2% of all property rights cases.

##### Economic and Social Rights

Two thousand one hundred and eleven (2,111) complaints were made to the Commission. This represents 18.6% of all human rights cases lodged with the Commission. As much as 913 cases of breach of contract cases were recorded.

##### Civic and Political Rights

Civic and political rights added up to 366 representing 3.2% of all human rights cases received.

##### Other Complaints

Two hundred and ninety eight (298) complaints on intestate succession were received in the year under review.

#### iii. Corruption Related Cases

Corruption related cases include fraud, money extortion, breach of code of conduct and misappropriation among others. In 2008, one hundred and thirty six (136) corruption cases were received representing 1.1% of all cases received. Complaints of fraud formed the majority of cases received; forty-two (42) representing 30.9% of all corruption cases.



## IV. RESPONDENT BODIES

Table 3: Summary on Respondent Bodies

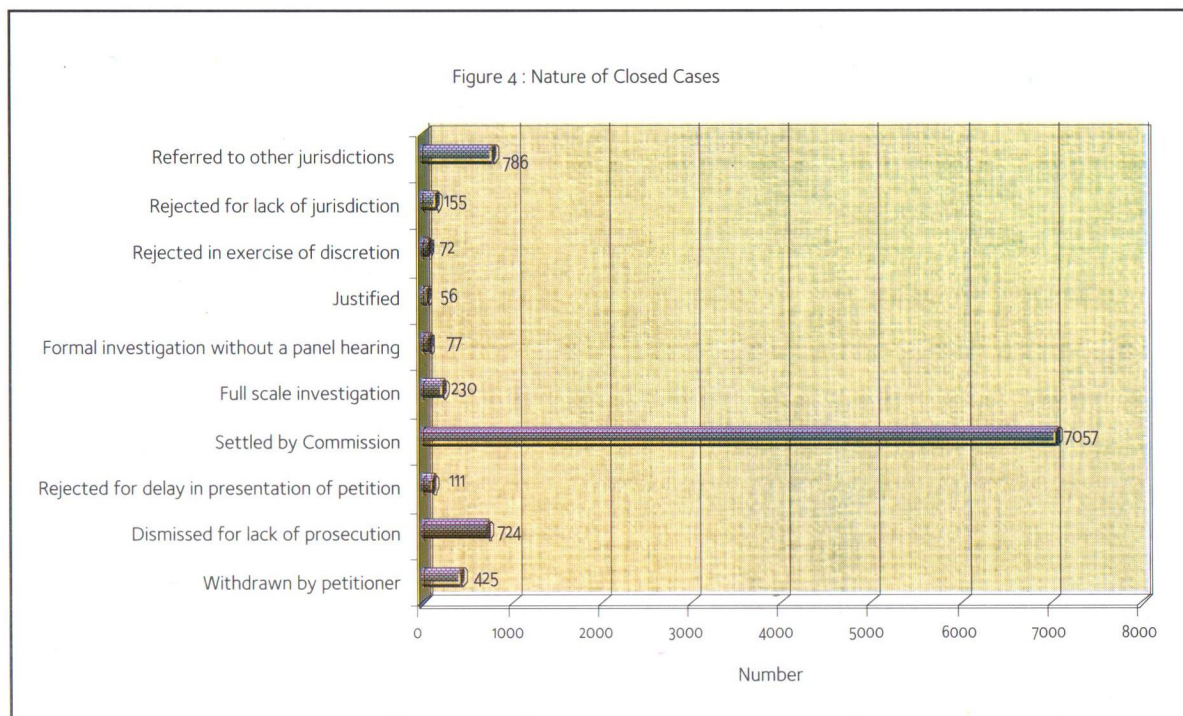
Respondent Bodies	Number	%
Office of the President	4	0.03
Organisations under Ministry of Justice	17	0.15
Organisations under Ministry of Education	163	1.39
Organisations under Ministry of Roads/Highways	11	0.09
Organisations under Ministry of Finance	115	0.98
Organisations under Ministry of Local Government	30	0.26
Organisations under Ministry of Interior	142	1.21
Other Ministries	34	0.29
Extra-Ministerial Organisations	77	0.66
Private (individuals/Organisations)	11114	94.94
Total	11,707	100

Respondents invited by the Commission within the period under review came from state and private organisations as well as individuals. (see table 3)

In 2008, majority of respondents came from the private sector, representing 94.94% (11,114) of all respondent bodies. The rest came from state and other organisations.



## V. NATURE OF CLOSURE



The Commission closed 9693 cases. Majority (7057 or 72.8%) of complaints were settled by the Commission through Alternative Dispute Resolution Mechanism (mediation, negotiation, reconciliation methodologies). Of the total, only 230 or 2.4% were resolved through full-scale investigation or panel hearing, whilst 77 representing 0.8% of closed cases were resolved through formal investigation without a panel hearing. Seven hundred and eighty six cases were referred to other fora such as the Courts, DOVVSU, Police Service and the Labour Commission

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. REFERRED CASES

Table 4: Number of Referred Cases by Region

Region	Referred cases
Headquarters	288
Ashanti	88
Western	101
Eastern	19
Central	61

Volta	43
Brong Ahafo	27
Greater Accra	41
Northern	38
Upper East	49
Upper West	25
Tema	6
Total	786



A total of Seven hundred and eighty six cases (786) were referred; 352 to the law courts representing 44.8% and 114 representing 14.5% to the National Labour Commission. Also eighty six (86) or 10.9% were referred to the Ghana Police Service whereas 79 representing 10.1% to the Domestic and Violence Support Unit (DOVVSU) of the Ghana Police Service. Fifty three (53) or 6.8% were referred the Legal Aid Board and thirty nine (39) or 5% to the Department of Social Welfare. Other referrals went to other CHRAJ offices, Rent Control Board, SSNIT etc

## VII. DETAILED CASE STATISTICS FOR 2008

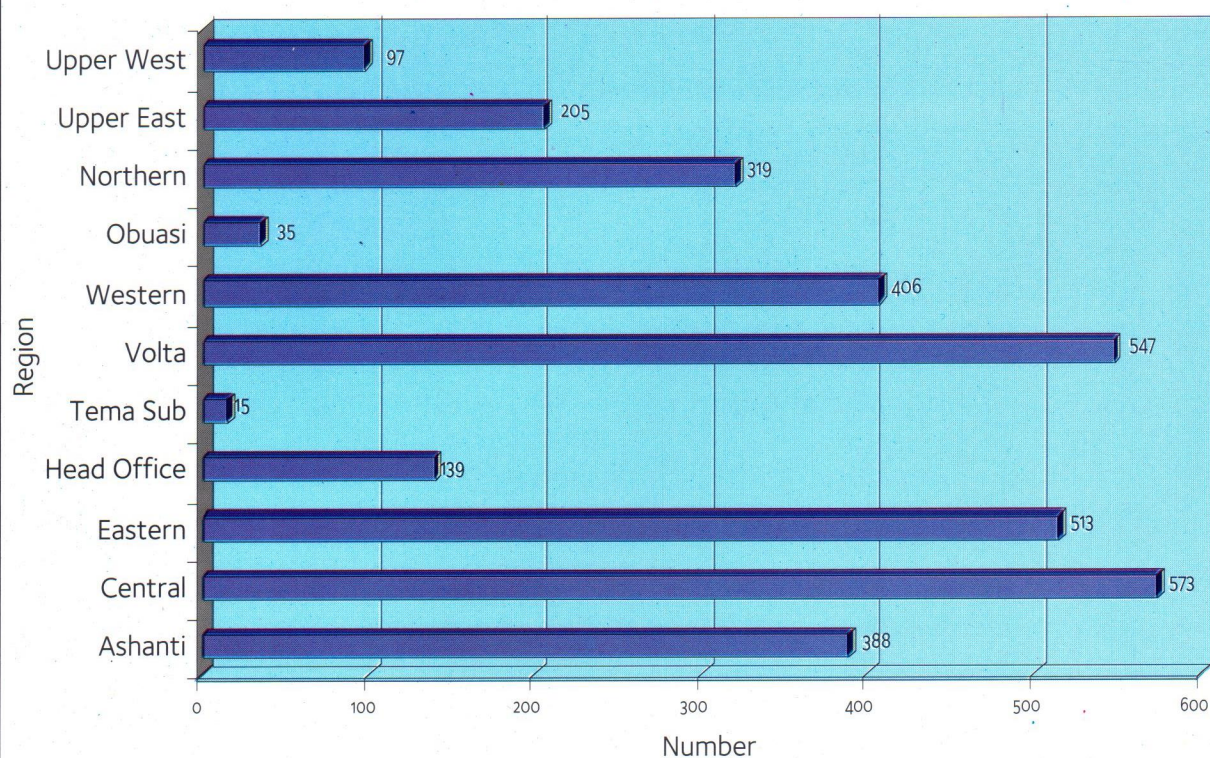
### 1. HUMAN RIGHTS-RELATED ISSUES

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

Nature of Cases	Number
Maintenance	3309
Custody	530
Paternity	265
Forced Marriage	141

Defilement	41
Medical Care	48
Education	149
Care	59
Maltreatment	95
Naming	6
Incest	4
Abduction	18
Total	4665

Figure 5 :Number of Children's Rights-related Cases by Region

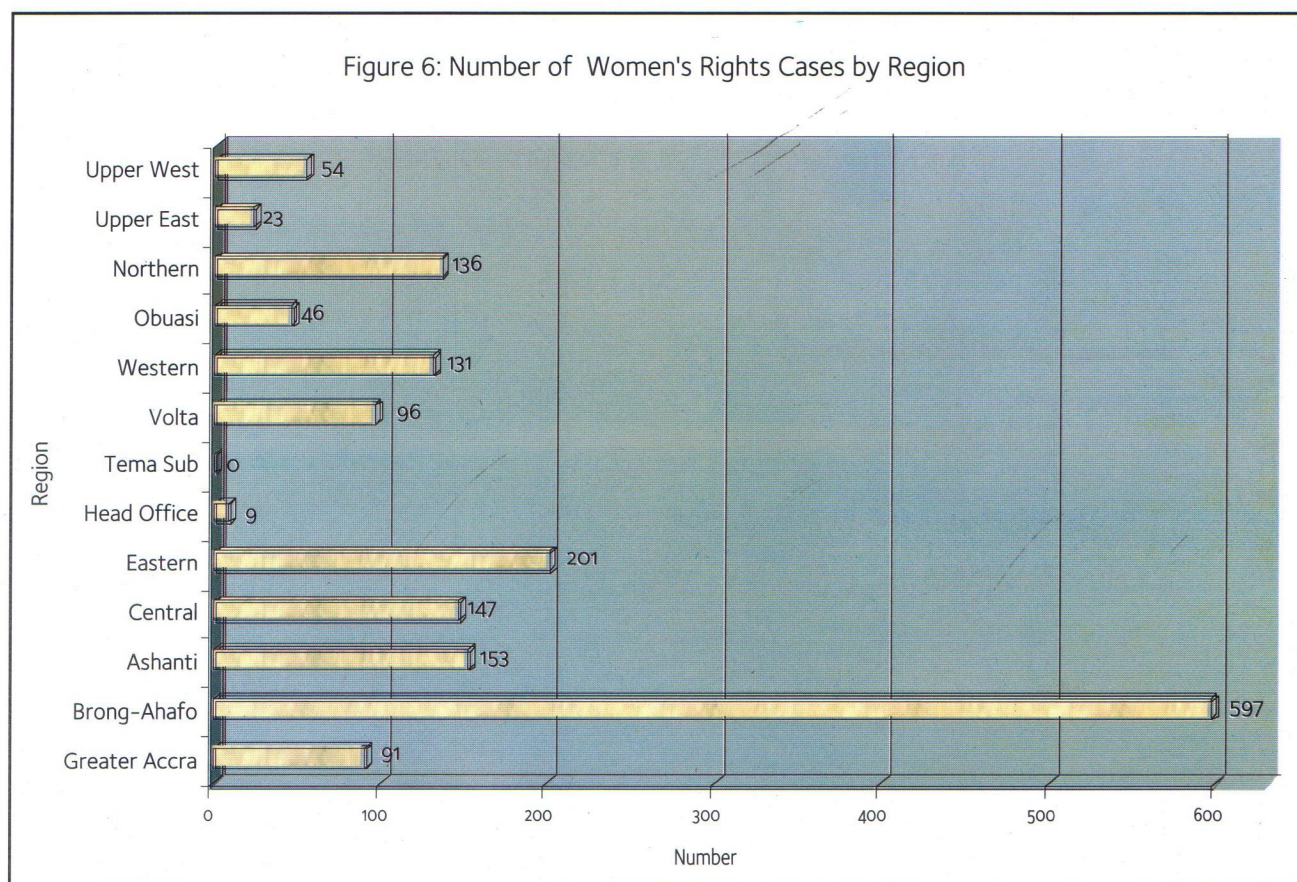




## ii. Women's Rights-related Cases

Nature of cases	number
Maintenance	1047
Discrimination based on sex	8
Sexual harassment	49
Spousal battery	145
Refusing responsibility	339
Others	96
Total	1684

Figure 6: Number of Women's Rights Cases by Region

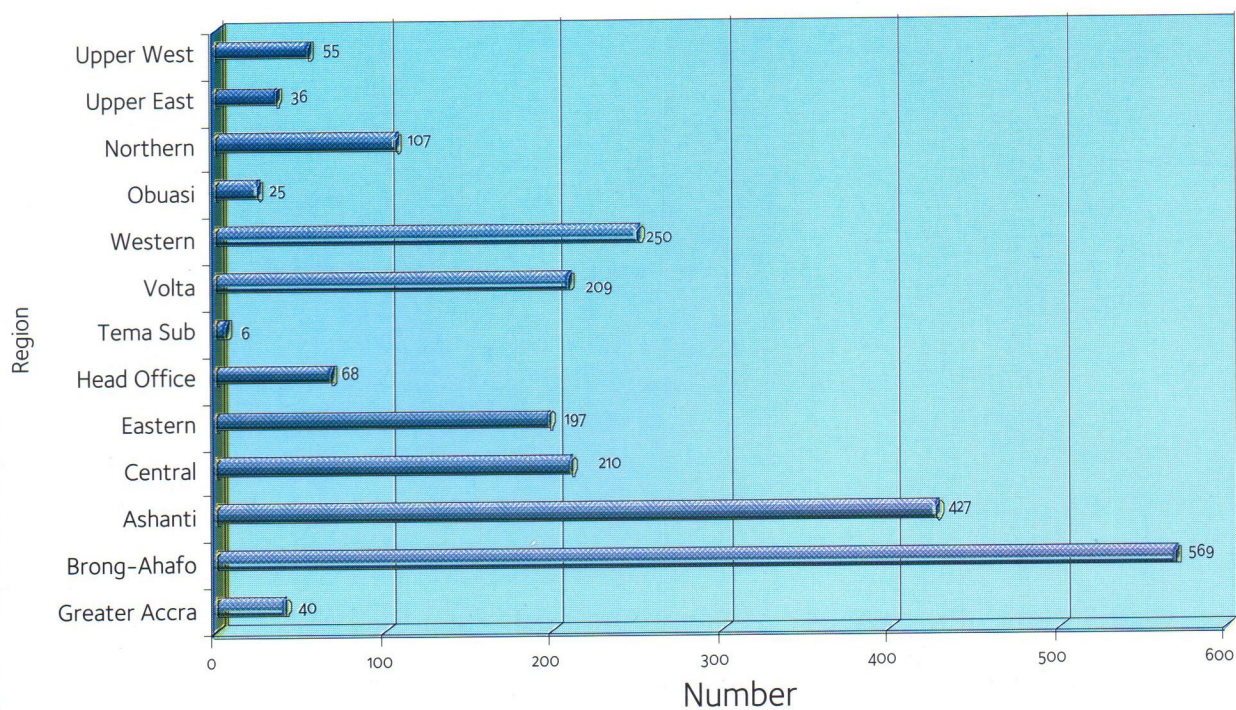




## iii. Property Rights-related Cases

NATURE OF CASES	NUMBER
Right to property including inheritance	289
Compensation for property (compulsory acquisition)	70
Retrieval of property	311
Inheritance	323
Tenancy	944
State confiscation of property	40
Destruction of property	106
Trespass	54
Total	2137

Figure 7 :Number of Property Rights-related Cases by Region

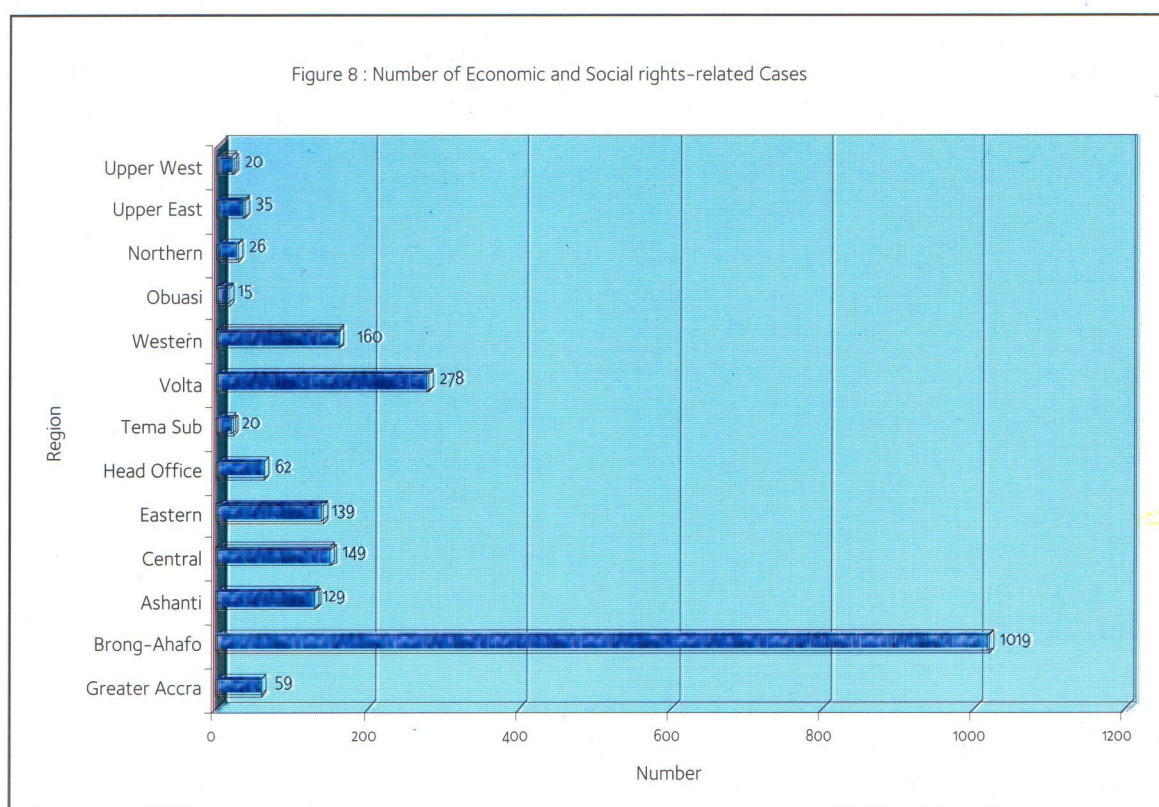




## iv. Economic and Social Rights-related cases

Nature of Cases	Number
Right to equal pay for equal work	35
Right to food	52
Right to shelter	17
Right to clothing	2
Right to work	30
Right to education	24
Right to health	21
Right to clean and safe environment	20
Discrimination based on economic & social status	11
Breach of contract	913
Other ESCR-related cases	986
Total	2111

Figure 8 : Number of Economic and Social rights-related Cases



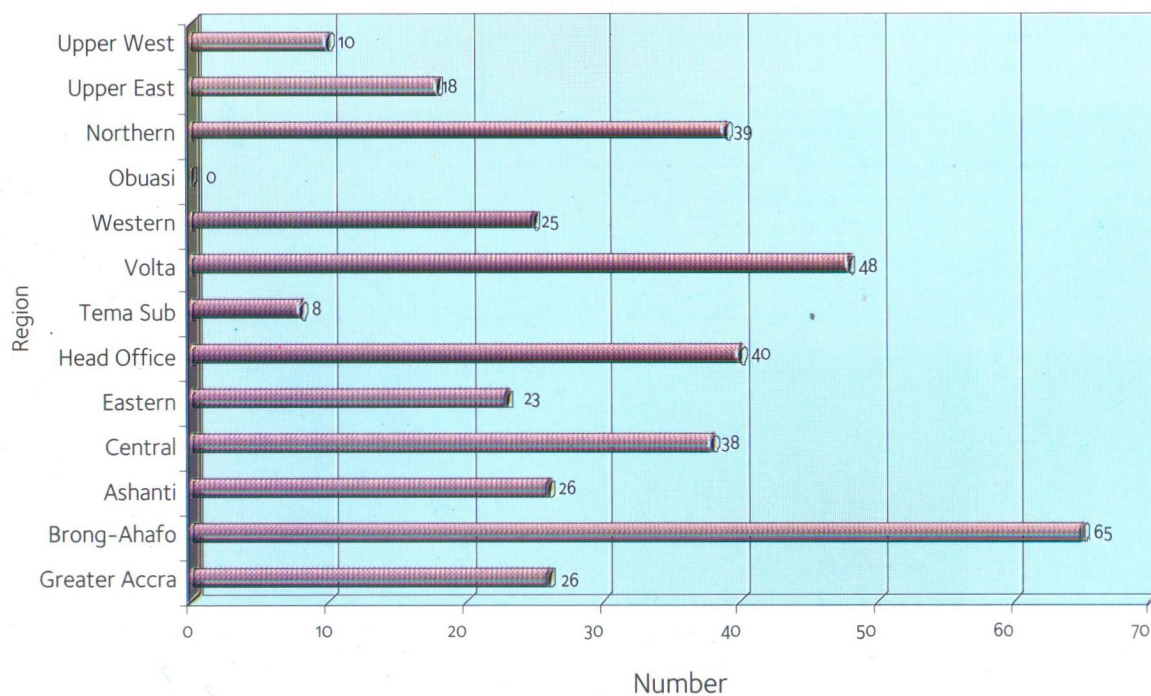


## v. Civic and Political Rights-related Cases

42

NATURE OF CASES	NUMBER
Right to life	28
Right to fair and speedy hearing	30
Right to personal liberty	88
Right to respect & dignity	79
Freedom of worship	4
Freedom of association	16
Freedom of speech	2
Others	119
Total	366

Figure 9 : Number of Civic and Political Rights-related Cases by Region



## vi. Other Rights

Nature of Cases	Number
Intestate Succession	298



## 2. ADMINISTRATIVE JUSTICE

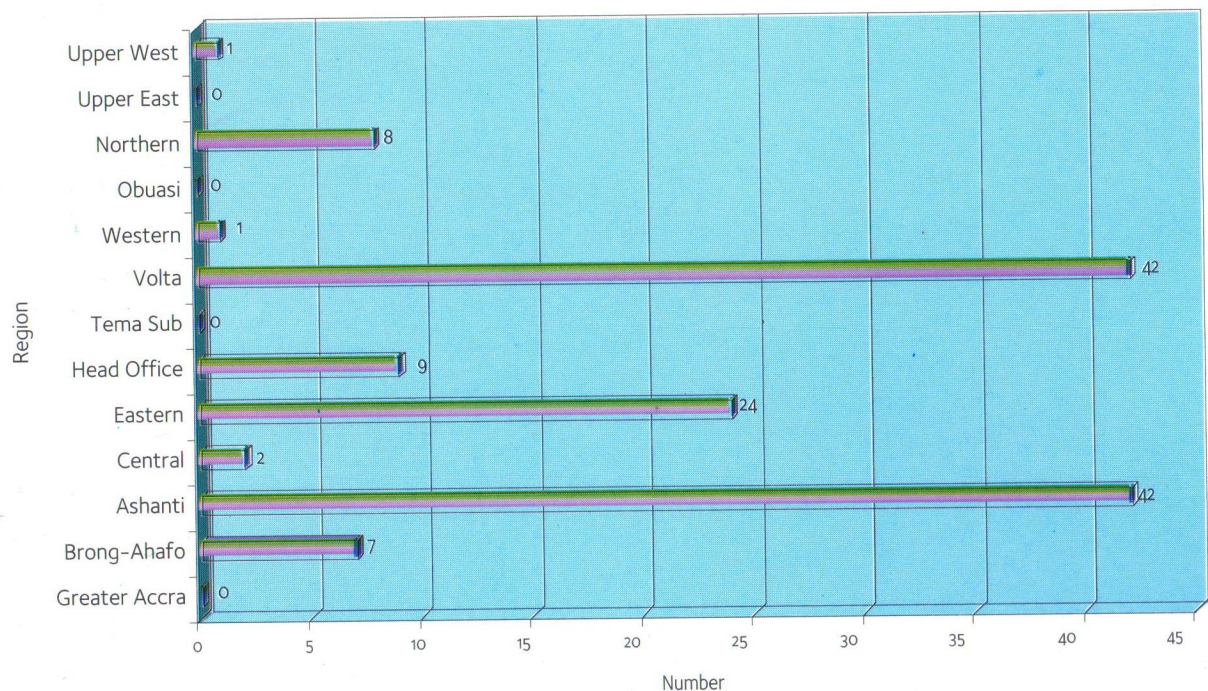
Nature of Cases	Number
Abuse of Office (exploitation)	8
Abuse of Office (intimidation)	3
Abuse of Office (unbecoming conduct)	8
Abuse of Office (Oppression)	7
Abuse of Office (exercise of discretion)	6
Undue Delay	23
Delay in dispensing Justice (Police)	33
Negligence	1
Over billing of school fees	5
Dismissal	238
Termination of Appointment	198
Resignation	14
Redundancy/ Redeployment	6
Pension/ Gratuity	36
SS Deduction / Payment	62
End of Service Benefit	73
Severance Award	18
Salary Arrears/Withholding	210
Insurance Claims	13
Suspension/Interdiction	13
Transfer	13
Promotion	6
Retirement Benefits	13
Study Leave	2
Surcharging of lost items	1
Workmanship compensation	90
Salary deduction	29
Reinstatement	37
Others	294
Total	1460

3. CORRUPTION CASES /  
BREACH OF CODE OF CONDUCT

Corruption Cases	Number
Fraud	42
Making false declaration	1
Money extortion	11
Embezzlement	7
Abuse of office	14
Bribery	2
Misappropriation	7
Conflict of interest	0
Illegal acquisition of wealth	18
Others	34
Total	136



Figure 10 : Number of Corruption Cases by Region



## VIII. FIGURES ON RESPONDENT BODIES

## Office of the President

Organizations	Number
Divestiture Implementation Commission	1
Regional Coordination Councils	1
Miscellaneous offices under Off. Of President	2
Total	4

## Ministry of Justice

Services/Departments	Number
Judicial Service	11
Attorney-General's Dept.	6
Total	17

## Ministry of Education

Services/Institutions	Number
Ghana Education Service	63
West African Exams Council	20
Schools/Colleges	63
Universities	14
Polytechnics	2
Youth and sports	1
Total	163



## VIII. FIGURES ON RESPONDENT BODIES

## Ministry of Roads &amp; Highways

Authority/Dept.	Number
Department of Feeder Roads	4
Ghana Highway Authority	7
Driver and Vehicle Licensing Authority	
Total	11

## Ministry of Finance and other Organization within its domain

Services/Departments	Number
Finance	-
Controller & Accountant General	38
Banking Institutions	26
CEPS	15
IRS	2
SSNIT	29
SIC	4
COCOBOD	1
Total	115

## Ministry of Local Government

Assemblies	Number
District/Municipal/Metropolitan Assemblies	30
Total	30

## Ministry of Interior

Security Services	Number
Prisons Service	9
Immigration Service	
Police Service	121
Bureau of National Investigation	
Ghana National Fire Service	4
Ghana Armed Forces	8
DOVVSU	
Total	142

## Other Ministries

Ministries	Number
Communication	1
Food and Agriculture	5
Health	16
Lands and Forestry	4
Works and Housing	
Defence	2
Foreign Affairs	
Mines and Energy	2
Trade	1
Education	2
Employment and social welfare	1
Total	34



## Extra-Ministerial Organisations

Organisations	Number
Public Services Commission	7
Chieftaincy Secretariat	3
Lands Commission	4
Electoral Commission	2
CHRAJ	8
NCCE	
Lands Valuation Board	6
NADMO	2
Department of Death/Birth	3
Rent office	15
NSS	7
GWCL	2
VRA	2
Labour Commission	5
Ghana Medical Association	2
CSIR	
SFO	1
Ghana Post	6
Social Welfare	1
Tema Development Corporation	1
Total	77

## Private Individuals and Organisations

Private Individual / Organisation	Number
Private Individuals	10423
GPRTU	5
NGOs	10
Companies	605
Electronic Media	4
Churches	5
Ghana Telecom	1
Hospitals	17
Others	44
Total	11,114



# SECTION THREE

## State of Human Rights Report

### Executive Summary - 2008 State of Human Rights Report

*Delivered by the Acting Commissioner, Ms. Anna Bossman on International Human Rights Day, December 10 2008*

#### Introduction

2008 has been an eventful year, and for both CHRAJ and the larger human rights community, today, the 10th December 2008, marks the end of a year long campaign of activities in commemoration of the 60th Anniversary of the Universal Declaration of Human Rights. This year long celebration was under the theme: "Dignity and Justice for All of Us," which importantly reinforces the fact that human rights are inalienable and inherent in all human beings, and that every one of us is born equal and free. Therefore every human being must be allowed to live in dignity and is deserving of equity and justice.

The Commission worked diligently to create awareness throughout the year, particularly of the continued relevance of the Declaration in our lives and of its instrumentality in promoting the dignity of all human beings. Furthermore the Commission ensured that the theme "Dignity and Justice for All of Us" was reflected in its work and in particular in its human rights education. To begin with, thousands of leaflets and posters of a simplified version of the Universal Declaration of Human Rights were distributed nationwide. Our campaign culminated on the 4th of December 2008 in the presentation of awards to 10 senior high schools who were the proud winners of an Essay Competition organized by the Commission. The ten essays were published

in a booklet entitled "Everyone has a Right to Education".

Of course the main focus of Ghanaians this year was on the elections as the nation and political parties prepared for the keenly contested Presidential and Parliamentary elections to be held on December 7, 2008, just after the country's Golden Jubilee celebrations last year.

Ghana returned to constitutional rule in 1992 after several years of military rule. Since then it has held four elections under the country's Fourth Republican Constitution. The fifth election held a few days ago gives the nation strong encouragement that Ghana is indeed the beacon of hope for Africa.

In recognition of this historic event, one of our main focuses this year was monitoring the right to vote. The Commission thus received training and obtained accreditation from the Electoral Commission to observe the 2008 elections. In all, 318 of the Commission's staff were deployed as observers before and during December 7, 2008. Details of this activity as well as our observations, findings and recommendations will be more fully presented in the second part of this programme.

Following our usual tradition, the Commission, once again, joins the International Community to celebrate International Human Rights Day by issuing a statement on the State of Human rights in Ghana, 2008. The Statement which covers January to date is culled from a detailed report to be published in the 1st Quarter of 2009.



The Report is compiled and relies on the Commission's monitoring activities and accomplishments including investigations, research, observations and some decisions it made during the year. The Report is based on the Commission's own findings through its investigations and monitoring activities, research, decisions and recommendations and is complemented by reports and information received from NGOs, CSOs, academia, partner organizations, other monitoring bodies, the media and the public at large.

The Statement on the State of Human Rights in Ghana 2008 presents briefly, some highlights of the State of Human Rights Report include the following;

1. Civil and Political Rights
2. Law and Order
3. Children's Rights
4. Cultural Practices
5. Right to Shelter / Housing,
6. Right to Health
7. Right to Education
8. Detention Facilities
9. Protection of the Rights of Mining Communities in Ghana
10. Corruption and Human Rights & The Universal Periodic Review (UPR)
11. Media Monitoring and Press Statements issued by CHRAJ
12. Conclusion

### 1. Civil and Political Rights

Although Ghana has made solid progress in consolidating democracy in the country we still have a long way to go in advancing human rights, combating lawlessness, and fostering civility among the general population.

The International Covenant on Civil and Political Rights requires that as a nation we defend the fundamental right to life of everyone. That no one can be tortured, enslaved, arbitrarily imprisoned, made to do forced labour or be restricted from such basic freedoms as movement, expression and association.

As a nation we need to redouble our effort at entrenching a culture of human rights in the general

population in order to ensure that everyone in the country enjoys life in dignity and respect.

### 2. Law and Order

#### Communal Violence

The Commission remains concerned about the outbreak of violence following an ethnic dispute in Bawku between the Kusasi and Mamprusi since December 31, 2007. This led to the needless deaths of 10 persons and the injury of 16 persons; 127 houses were burnt down and vehicles were set ablaze. This situation led to the imposition of curfew in the affected communities which remained in force during the entire reporting period of 2008. The Commission expresses concern about the continuing insecurity in the Bawku municipality and the huge cost to the nation in protecting life and property. The Commission calls upon the residents of Bawku and all concerned citizens and institutions to work earnestly towards peace in the Bawku community to ensure development and progress in that part of the country.

#### Reports of Police Brutality and Mob Justice

Regrettably, this year like last year, there have been numerous confirmed and unconfirmed reports of police brutality, sometimes leading to loss of life. We note the Ashaiman shooting incident which led to the death of two persons; 9 the alleged opening of fire into a peaceful demonstration at Akyem-Ayirebi in the Eastern region<sup>10</sup> and the shooting of a young man suspected to be a galamsey operator a week after the Attorney-General announced the government's discontinuation of military protection for mining companies<sup>11</sup>.

Furthermore, the Commission is gravely concerned that the spate of mob "justice" which was prevalent last year still persists. The barbaric, inhuman and cruel acts such as stoning, lynching, beating and burning of suspected criminals, which are a flagrant abuse of fundamental freedoms, in particular, the right to life, without recourse to the criminal justice system must not be justified by any means.

All citizens must hand over suspects to the police to let the legal process take its course. The Commission further calls on the Inspector General of Police as a matter of urgency, to investigate



all reports on suspected police brutality and mob action and expedite necessary action against the perpetrators.

The Commission is also concerned about situations where such actions are extended to public officers in line of duty. According to The Ghanaian Times of January 22, 2008, p7,12 mob attacked and dented a fire tender and destroyed its windscreen when officers responded to distress call at Old Tulaku, Ashiaman. The crew retreated and reported the issue to the Ashiaman police. The mob followed up to the police station, reinforcement of policemen was called in to protect the firemen. According to the report, the Assistant Divisional Officer, Prince Billy Anaglate noted that, the Ashiaman fire station had experienced 11 of such attacks since the office was opened about 11 years ago.

With the support of the UNDP, the Commission resumed joint training programmes with the Police Administration to improve human rights awareness and understanding of police personnel generally. We trust that this will go a long way to improve how the police handle issues that impinge on the rights of people.

### 37 Military Hospital Incident

The CHRAJ investigated a media report, alleging dehumanizing treatment and punishment meted out to some commercial drivers and their mates by military personnel at the 37 Military Hospital on 27th June, 2008. The commercial drivers were taken to the military hospital mortuary and made to wash and handle corpses while the mortuary attendant ridiculed them. The CHRAJ commended the military authorities for immediately investigating and subsequently offering compensation to the aggrieved commercial drivers. The Commission further recommended to the authorities that:

- The outcome of investigations being carried out by the 37 Military Hospital and the military police should be made public to promote public trust and human rights.

- Passengers waiting for vehicles at the 37 Hospital should be made to wait at the designated bus stop instead of standing close to the entrance of the hospital.
- In times of breakdown of traffic lights at the interchange, police personnel at the 37 Hospital should be stationed to direct traffic.
- Victims should be adequately counselled and compensated.
- Perpetrators of the heinous act should be identified and made to face the full rigors of the law for human rights abuses to serve as deterrent to others.

There however still remains the issue of level of compensation offered which the commercial drivers deem to low.

## 3. Children's Rights

### Child Sexual Exploitation

CHRAJ is alarmed about the growing incidence of children some as young as 11 years being exploited for commercial sex. The Consolidated Criminal Code of Ghana states that whoever has custody, care or charge of a child under 16 years, and encourages that child to become a prostitute or to commit an indecent act has committed a crime under the laws of Ghana. Among other things, the Commission is reiterating its call on the police, prosecutors and public services working directly with children for immediate action. Anecdotal evidence seems to suggest that the police are too lenient with perpetrators or does not take the reports made in this regard seriously.

### Child Labour

Incidences of child labour were monitored in 30 communities across the country. Fifteen of these communities are located in nine (9) ILO/IPEC Time Bound Districts<sup>13</sup>.

The Commission interviewed a total of 457(four hundred and fifty-seven) working children between the ages of 6 and 17 in about 30 communities

<sup>9</sup> See Daily Graphic, June 5, 2008

<sup>10</sup> See Daily Graphic, February 18, 2008, p 16

<sup>11</sup> See Public Agenda, May 19, 2008

<sup>12</sup> Also see Daily Guide, January 22 2008, p17

<sup>13</sup> The Time-Bound Programme approach is designed primarily to assist member States with an integrated approach for implementing ILO Convention No. 182 on the Worst Forms of Child Labour. Convention 182 has brought focus and a sense of urgency to the complex endeavor of progressively eliminating all forms of child labour, driven by the ILO Minimum Age Convention (No. 138). Elimination of child labour remains the long-term goal. Elimination of its worst forms, however, is the priority target, and these forms must be dealt with in an integrated and time-bound fashion. Districts participating in the ILO/IPEC Time-Bound Programme



monitored. The children were engaged in fishing, mining, quarrying, agriculture, portage and petty trading. Most work under very difficult conditions. Children in 22 (twenty-two) of the communities monitored noted that they worked long hours especially during the peak seasons. Those who worked in the quarry, carpentry shops and mining sectors did so without any form of protective gadgets exposing them to dust and other pollutants in contravention to the Children's Act, 1998 (No. 560), Section 12, No person shall subject a child to exploitative labour as provided under section 87 of this Act.

There are varied views on the causes of child labour. At Amutinu in Ketu District of the Volta Region respondents regarded work done by children as part of an apprenticeship programme. Even though the Ghana Millennium Development Goals 2006 report indicated that the country has halved the proportion of people living in extreme poverty from about 36.5% in 1991/92 to about 18.2% in 2005/06, poverty still remain the underlying cause for child labour.

#### 4. Cultural Practices & Dehumanizing Treatment

##### Prayer Camps

The Commission investigated a report by TV3 of alleged cruel, inhuman, and degrading treatment meted to some physically and mentally ill people in prayer camps in Accra. Commission's investigation revealed that some of the persons who had been taken to these camps were chained or lying on the bare ground. The Commission has observed that most of the human rights violations are perpetuated out of ignorance. As part of its human rights education the Commission has decided to commission a wider enquiry into such incidences and identify prayer centres across the country with the help of our Regional and District offices. The owners and pastors of such Camps and Centres would be given basic training in human rights and basic law.

##### Witch Camps

The Commission also monitored witch camps, and the plight of persons suspected of witchcraft in the three northern regions.

It is important to note that the practice of condemning persons to mob-attack and lynching or ostracising them for alleged or suspected acts especially for the practice of witchcraft which cannot be proved by any court of law or any scientific methods, violates the fundamental human rights guaranteed by the 1992 Constitution of Ghana, some of which are rights derived from the Universal Declaration of Human Rights (UDHR).

Housing facilities in the camps generally are poor. Majority of houses or huts in the camps are built with mud. The only sand crete buildings are found in the Kpatinga camp where corrugated iron sheets were also used in the roofing.

Pipe borne water is available to one of the camps even though it is not regular. One camp depends on a bore hole and the rest rely on streams, lake, rivulets, ponds etc for water. Borehole water appears to be more regular than the rest.

Suspected witches and wizards are still banished to the camps. The number of persons banished has increased slightly in two of the camps. At the Kukuo camp the number has decreased significantly. In 2008 about 28 suspected witches were admitted to three camps while 16 were released back to their societies.

#### 5. Right to Shelter / Housing

##### Slum Areas

Seven very deprived communities (slum areas) were selected for monitoring across the country. We focused on the number of occupants of household, sex, age, occupation, average income of a household, house ownership, type of buildings and roofing, availability and adequacy of water, toilet facility, sanitation, bath facility, refuse disposal; educational and health facilities, as well as means of transport.

The United Nations Settlements Programme (UN Habitat) defines slums as featuring lack of durable housing, insufficient living area, lack of access to clean water, inadequate sanitation and insecure tenure. This was the characteristic of the slums visited; inadequate housing and low standard of accommodation, lack of potable water, and



educational facilities, non-existent toilet facilities and slum dwellers often have to do their "business" in open gutters and/or plastic bags which they dispose off in the gutters or on open rubbish heaps. This contributes to precarious sanitary conditions and a threat to health. For instance, some of the homes visited in Kaadem a suburb of Bolgatanga in the Upper-East Region, Ekon in the Central Region, and Abonkor in the Tema Municipality did not have any toilet facilities.

Slum dwellers are vulnerable to the vagaries of the weather such as rainstorms, excessive heat and leakages. Households are infested with pests such as mosquitoes, cockroaches and in some cases rodents such as rats and mice. The commonest diseases in these communities were malaria, diarrhoea, cholera and typhoid fever. Majority of the slum dwellers were not covered under the NHIS.

Crime rate in the slum communities is comparatively high with Ahanta West in the Western Region and Nima in the Greater Accra Region reportedly have very high crime rates.

## 6. Right to Health

The Commission monitored a total of 26 health institutions including two psychiatric hospitals across the country. Among other areas of focus included quality of healthcare facilities; service and personnel; availability of immunizations and drugs; right to physical and mental health for persons with disabilities; HIV/AIDS; national health insurance scheme; patients' charter and right to complain.

### Quality of Facility, Services and Personnel

The monitoring exercise revealed that approximately half of hospitals monitored did not have adequate facilities including consultation rooms, it was noted that observation rooms, laboratories, and beds were inadequate. (E.g. Ningo Health Centre, Tema)

About 76 percent of hospitals monitored had no ambulance. These hospitals either had to rely on commercial vehicles or call the nearest Regional hospital in the event of an emergency.

The doctor patient ratio did not improve over last year's. Medical teams had to work under pressure because of shortage of health personnel. For instance, this year the highest doctor-patient ratio recorded was 1: 109,069, as compared last years of 1:79,000. Both records were obtained from two different hospitals from the Upper West and East Regions respectively.

Similar patterns were recorded with respect to the nurse patient ratio as well as the laboratory technician patient ratio. The worst nurse-patient and laboratory technician - patient ratio for last and this year of 1: 9,616 and 1:164,458 respectively were recorded at the Fomena Health Centre and Kaneshie Polyclinic in the Central and Greater Accra regions respectively.

The situation at the Pantang and Ankaful psychiatric hospitals were no different, doctor patient ratio was 1:2960 and 1:4802, respectively. The Pantang hospital had only 3 doctors at post for the numerous psychiatric cases reported daily, whilst Ankaful, as at the time of monitoring, had two specialist (expatriate) doctors. Nurse to patient ratio was 1:30 in Pantang and 1: 181 in Ankaful. Laboratory technician-patient ratio at Pantang was 1:4770, whereas that for Ankaful was 1: 3201.

### Availability of Immunizations and Drugs

A significant percentage of health institutions monitored did not have adequate resources to undertake immunization against the seven major childhood killer diseases.<sup>14</sup> The Kaneshie Polyclinic in the Greater Accra Region, for instance, does not provide vaccination against polio, typhoid and Hepatitis A as at the time of visit, the Ayomso Rural Clinic in the Brong Ahafo Region had no multi-vitamins, syrups, Mag. Trancilicate mixtures and cough mixtures. We therefore like to use this opportunity to appeal to the government to ensure the provision of basic immunization and essential drugs to make them easy accessible.

### Physical and Mental Health for Persons with Disabilities

It was observed that some health institutions were not easily accessible to Persons with Disabilities.

<sup>14</sup> Yellow fever, TB, Polio, Typhoid, Hepatitis A, Hepatitis B and Measles



Patients had to be lifted out of his wheelchair up a flight of stairs to reach the OPD. This was the situation at Our Lady of Grace Hospital in the Central Region, Ashiaman Health Centre in Tema and Ayomso Rural Clinic in the Brong Ahafo region.

#### HIV/AIDS

According to the 2007 Sentinel Surveillance report, the prevalence rate of HIV/AIDS is 1.9%.<sup>15</sup> Currently there are 95 treatment sites where anti-retroviral drugs can be accessed throughout the country. These treatment sites include all the teaching hospitals, the 37 Military Hospital, Police hospital and three private hospitals.<sup>16</sup>

### 7. Right to Education

30 schools were selected from across the country for the monitoring exercise. Out of this number, 12 are special schools for the deaf and blind whiles 24 were government schools, comprising six senior high schools and 18 primary and junior high schools.

The quality of school structures vary from well constructed concrete block to dilapidated wooden structures. Only a few school buildings covered by this exercise were in good condition for effective teaching and learning. Schools in the Northern and Volta regions had the worst form of accommodation. Most of the schools covered did not have water, toilet and other sanitary facilities.

#### Availability of Learning Materials

Some of the school authorities complained about the quality of teaching materials. Congestion in schools is still a challenge. Seventeen of the schools covered were found to be congested, six of them being special schools. In all cases the student population far exceeded the expected capacity. In some schools, pupils sit in threes and fours on chairs meant for two. A typical situation was observed at Moree Methodist Pre-School (Kindergarten) where the only available space was where the teacher could stand. Long benches were being used extensively.

#### Persons With Disabilities

Although 12 of the non-special schools each had students with physical disabilities, none of these schools had facilities and structures to meet their needs. In specially created schools for persons with disability some steps have been taken to make facilities readily accessible to them. At Okuapemang Special School for the blind for instance, sign boards had been erected to warn drivers to be careful, creation of special walkways, friends of the blind program and a brail library. At Wa School for the Deaf, students with intellectual, sensory or mental disabilities had special instructions such as an audiometer for the hearing impaired and sign language for the dumb. The school also had a Bsc Physiotherapist but there are no equipment to work with. Clearly, all the schools complained of inadequate facilities.

#### Capitation Grant

On capitation grant, heads of 30 schools lamented the inadequacy of the grant, considering the number of pupils admitted each year, and the cost of repair of furniture, among others. They also bemoaned the snail pace at which the fund is disbursed.<sup>17</sup>

#### School Levies

In spite of the capitation grant, some public schools still levy parents and guardians for things like sports, house dues, health dues, and computer. The collection of these levies, according to heads of schools, has been necessitated by the inadequacy of the quantum of the capitation grant and slow pace the amount is disbursed.

### 8. Detention Facilities

This year, the Commission inspected a total of 22 Prisons, 1 Borstal Institute and 26 Police cells across the country. There were 5218 inmates in the Prisons, 113 in the Bortsal Institute and 245 in the Police Cells. In both the prison and police cells inspections, however, the focus was on accommodation, nutrition, healthcare of inmates, as well as sanitation. Other areas of focus are the issues of women (in pre-and post-natal care) and children/babies as

<sup>15</sup> Interview with Prof. S.A. Amoa, DG GAC (17-11-2008)

<sup>16</sup> Source: Daily Graphic, September 29, 2008, Page 28.

<sup>17</sup> See also The Insight: 7th -9th November, 2008, front page



well as the general conditions under which inmates and prison officers/ police officers personnel live and work.

## Prisons

### Category of Inmates

The inspections revealed a probable adherence to the law by prison officers not to keep babies and or pregnant women in the cells, since all the stations visited had neither a baby nor a pregnant woman. This was an improvement on previous year's visits where babies and pregnant women were found in the cells. This obviously is a great improvement in our penal system and deserves commendation.

It was noted that there were some persons with either physical or mental disability in the some of the prisons visited. This was the case of prisons in Amanfrom and Kpando in the Ashanti and Volta Regions respectively.

### Accommodation

The general problem of congestion among remand prisoners and suspects has not improved. Factors that account for this situation include, as usual, failure of police officers to send suspects to courts, inability of remand prisoners to meet bail conditions, frequent adjournments of cases, and abrupt transfers or postings of investigators handling cases.

It must be noted, however, that there are credible efforts on-going to decongest the remand prisons, including the "Justice for all" programme introduced by the Ministry of Justice.

## Police Cells

### Category of Inmates

The inspection revealed a high percentage of inmates to be within the 19-29 and 30-39 age brackets. Out of the 45 inmates in Aflao Police Station, 38 were aged between 19-29; whilst 20 out of 43 inmates in Ashiaman, were between ages 30-39. There were a few foreigners, however; 4 in Aflao Police Station, 3 in Kumasi Central Police Station, and one each in Madina and Ashaiman Police Stations.

### Accommodation

Police cell detainees were confronted daily with unhealthy and unsanitary conditions, including that of their own cells. These cells were overcrowded, poorly ventilated and poorly illuminated. In addition, some of cells had no planks for beds, no beds, mattresses and no extra blankets for suspects to use as bedding. Suspects are also not allowed to provide their own beddings. Such was the situation in Obawale and Koforidua Police Stations in the Eastern Region

### Nutrition

Feeding of inmates or suspects in detention centres is the responsibility of government. In majority of police stations visited, however, inmates said they were fed by either relatives or friends. A few, however, said that station officers sometimes fed them with their own money. At the Ashaiman Police Station, for instance, officers disclosed that suspects were normally fed once a day by relatives, friends and philanthropists. Suspects present at the time of visits complained of the inadequacy of meals. At the Old Ningo Police Station officers on duty said suspects were normally fed three times a day by relatives and friends. This situation poses great challenge to suspects who have no relations in or around their detention place.

### Remand Information

Information From the investigations, it seemed as though the 48 hour rule is being adhered to. Several cells visited had inmates who had spent less than 48 hours; however, very few like in Koforidua and Wenchi Police Stations where 1 inmate (each) had spent over 3 months and 7 days respectively.

## 9. Protection of the Rights of People Living in Mining Communities

Based on the Commission's concern for the protection of basic human rights of all persons and in line with its mandate, the Commission this year completed a systemic investigation it began in 2001 into the state of rights and fundamental freedoms of people living in mining communities in Ghana.

The investigation sought to critically examine the broad trends of the human rights situation in mining communities and the underlying reasons for the



increasing reports of human rights violations in mining areas in the country.

The results showed evidence of widespread violations of human rights of individual members of communities and communities' collective rights in some mining areas in the country; pollution of communities' water sources; deprivation and loss of livelihoods and excesses by the security agencies. In addition to that, inadequate compensation for destroyed properties; absence of effective channels of communications/ consultation between companies and communities; health problems attributed to mining and unfulfilled promises were also a contributing factor to the rising tension between the communities and the mining companies.

*The Report covering this trail-blazing work by Ghana's National Human Rights Institution (NHRI) was released on the 4th of September, 2008. Copies of the reports containing recommendations were made available to all stakeholders. We hope a holistic approach would be adopted to ensure that the needs of communities affected by mining are addressed.<sup>18</sup>*

We believe strongly that the results of this investigation and our recommendations have significance for the entire extractive industries and would certainly provide insights into good management of our oil resources. The lessons from our mining enquiry could assist in the making of good policies with respect of our oil resources thereby we will avoid being an economy blessed with most natural resources with a substantial part of our population living in poverty. The fruits of the expected bounty from the oil find will accrue to the entire nation but not the minority of the country's elite.

## 10. Corruption and Human Rights –2008

### Allegations and Reports

The most serious threat to the enjoyment of fundamental human rights and freedoms is corruption. During the period under review, several allegations,

reports of and concerns about corruption have been raised about the prevalence and consequences of corruption in the country. The reports allege various types of corruption, perpetrated by public officials namely, bribery, fraud, nepotism, abuse of office and incumbency, conflict of interest, embezzlement, misappropriation of public moneys by public officials, conflict of interest and insider dealings in public procurement, among others. Election corruption, abuse of incumbency and treating of the electorate were also reported in the year<sup>19</sup>. The Public meetings of the Public Accounts Committee of Parliament, begun in October 2007 to consider the Report of the Auditor-General on Public Accounts of Ghana for the Year ended 2004/2005, as well as the current Report of the Auditor-General on Public Accounts of Ghana for the Year ended 2007, reveal financial mismanagement, fraud and dishonesty in the management of public funds.

More disturbing is the issue of judicial corruption. Allegations of "... corruption and connivance in perverting the cause and ends of justice have been rife, and have generally tended to erode a measure of confidence..." in the work of the judiciary.<sup>20</sup>

In the year, Ghana scored 3.9 on the Transparency International Corruption Perception Index (CPI) and was ranked 67th of the 180 countries surveyed. This score was what Ghana obtained in 2002. Though, a slight improvement over the other previous years, the score of 3.9, is far below the average clean score of 5.0. Combined with the fact that Ghana has continuously scored between 3.3. and 3.9 since 1999, this year's score should be a source of worry for Ghanaians requiring special attention than has been.

Thus, in the year 2008, there has not been any significant change in the perception of Ghanaians about the prevalence of corruption in the country, which indicates that more efforts and resources must be directed to the fight against corruption.

### Efforts to combat Corruption

Corruption Within the period under review, the fight against corruption in the country, just as the

<sup>18</sup> See The State Of Human Rights In Mining Communities In Ghana, March 2008 for full details

<sup>19</sup> See for instance the CODEO Reports on the Pre-Election Environment for 2008

<sup>20</sup> Corruption is worrying us all, Theodora wrings her hands in frustration, The Chronicle, 13th November 2008, p.1



previous year, remained an important activity. The Commission notes the efforts of members of the GACC, especially, the CDD and the Ghana Integrity Initiative (GII) in this direction.

#### Assets Disclosure

The Commission and its stakeholders have time and again stated that the current assets disclosure regime in Ghana does not represent an adequate tool for combating corruption in the country. In the period under review a number of public awareness programmes, including discussion in the media, on the assets declaration laws, were organised. The GII facilitated a number of initiatives on this subject and as a result, proposals on the review of the Assets Declaration Act 1998, as well as a draft LI were presented to the Auditor-General and the Attorney-General for consideration. Proposed constitutional amendments were also presented for the consideration of government.

The media continued its watchdog role in highlighting issues of corruption in the country. The Commission monitored over 17 media facilities and reviewed over 66 reports in the media on corruption and related misconduct. Highlights of these reports include allegations of extortion, collection unauthorised levies by heads of institutions, embezzlement of capitation grants and misappropriation of funds.

#### Government

We note that some modest efforts were made by Government to combat corruption, including legislative. The Financial Administration (Amendment) Act 2008, Act 760 was passed. However, the following Bills laid earlier in the year, are pending: Electronic Transactions Bill; Mutual Legal Assistance Bill.

#### The Commission

On its part, the Commission continued to receive and investigate allegations of corruption, create awareness of the evils of corruption and to build capacity of its investigators to handle corruption cases.

Within the period, the Commission collaborated with the GII in conducting public forums in four regions to create awareness of the Conflict of Interest Guidelines issued by the Commission in 2006. The

regions are Greater Accra, Northern, Upper West, Western Region and Volta. An average of 80 public officers attended the forums in each region.

In the year, the Commission organized a 4-day Training Workshop for Investigators and Lawyers. Over forty participants attended the workshop which was organized around three thematic areas, namely, Investigating Corruption, Role of Ethics in Investigations, and Anticorruption Research and Education.

The Commission produced draft code of conduct for public officials, which would be subjected to public discussion in 2009.

Steps were taken in 2008 to strengthen collaboration with the Anticorruption Agencies outside Ghana. A memorandum of understanding between the Anti-Corruption agency of Malaysia (ACA) and the Commission was signed in August. The MoU provided the framework for establishing and enhancing mutual efforts between the two organisations to increase capacity and capability building of their officers in the sphere of combating corruption, which is corruption investigation, intelligence, training, community education and prevention.

Efforts were made to educate the populace on the effect of the decision of the Supreme Court in the case of *The Republic v CHRAJ: Ex Parte, Dr. Richard Anane*, on the anti-corruption mandate of the Commission. For the sake of those who may not have read the decision. 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)(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);



- CI 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.

The decision, though, did not bar the Commission from investigating allegations of corruption made in the media, was understood by the ordinary person to affect corruption cases and nonetheless affected the in take of complaints on conflict of interest and on corruption.

The Commission received about 24 cases between January and November, including whistleblower disclosures. It could not, however, investigate issues of conflict of interest raised in the media and other fora in view of the Supreme Court decision.

Despite all these measures in the year under review, the challenges of fighting corruption remain unaddressed in a significant measure. These challenges include the following:

- The fusing of the position of the A-G and public prosecutor in one person. The decoupling of the position of the Attorney-General and Minister of Justice. We are advocating for an independent non partisan public prosecutor;
- The delay in the passage of the Freedom of Information Law to enable individuals, CSOs, and particularly, the media to access information from public officials more easily;
- The frequent interference in the operations of the SFO and creating uncertainty and fear in the leadership of the organisation.
- Inadequate resource allocation to anticorruption agencies and frequent budget cuts to these organisations, and
- Weak political will to fight corruption

In that regard the Commission has noted the various campaign pledges and promises of the presidential candidates and will hold them to that, increasing our lobbying in 2009 so that more attention would be given to the challenges mentioned with a view to intensifying the fight against corruption, which has become the most significant obstacle to the enjoyment of human rights and freedoms in the country.

### The Universal Periodic Review (UPR)

The Working Group (WG) on the Universal Periodic Review (UPR) established in accordance with UN Human Rights Council (HRC) resolution 5/1 of 18 June 2007, reviewed Ghana's human rights performance during its second meeting on 5 May 2008.

The Review based on:

- National Report submitted by Government
- Stakeholder's submissions including CHRAJ's report, CHRI, & other NGOs and Civil Society Organizations. (Note that a number of the issues that we have addressed in our SOHR were submitted to the HRC)
- Compilation of Treaty Body reports by OHCHR

In the three hour review session, Ghana's delegation led by the Hon. Minister of Justice and Hon. Minister of State for Education had to answer a number of questions posed by about 44 member states. At the end of the review 30 recommendations were made to Ghana by the WG of the HRC, 22 of which were accepted delegation and 6 rejected. Review Report of Ghana including recommendations were formally adopted on 11th June 2008.

The discussions and report pertaining to Ghana can be accessed on the HRC website. But the Commission would like to highlight some of the salient commitments that Ghana made to this august body and which the Commission would be monitoring and assisting the government to follow up and implement:

#### Recommendations accepted by Ghana

- To take the necessary measures in to reinforce the campaign against discriminatory practices and violence against women and to take further steps to address discrimination against women and vulnerable groups, including children ;
- To adopt legislative and other necessary measures including awareness-raising campaigns against harmful traditional practices and stereotypes eliminate FGM, put an end to harmful widowhood rites and implement protective measures for this group in relation to eviction and inheritance, and halt the practice of trokosi;



- To strengthen the funding for implementation and to effectively implement the 2007 Domestic Violence Act and strengthen the funding and improve the functioning of the Domestic Violence and Victim Support Units within the Police Service;
- To adopt necessary steps to ensure that victims of violence are not obliged to pay costs of their medical examination and that trials of alleged perpetrators take place in due time to avoid their release in accordance with Art. 14 (4) of the Constitution, which may amount to impunity of perpetrators;
- To strengthen its efforts to fully implement the recommendations adopted by the CRC and to prohibit all forms of violence against children ; to take further measures to implement the overarching and setting-specific recommendations of the UN Study on violence against children; to take the necessary measures to prevent child abuse and neglect and investigate cases of domestic violence, ensuring that sanctions be applied to perpetrators ; and to enhance its efforts in protecting children rights;
- To further strengthen judicial structures, adopt measures against corruption in the judiciary and introduce more education and training for police, courts and social services to ensure their effective and appropriate reaction to all cases of domestic as well as other kinds of violence against women; to complete the reform of the judicial system;
- To take steps to ensure that the initial and second reports (overdue since 2001) on the implementation of measures contained in the ICCPR, as well as in the CAT are submitted in the near future ;
- To remove impediments women may face in gaining access to justice and take special measures, in collaboration with the CHRAJ, to enhance women's awareness of their rights, and legal literacy to claim their rights ;
- To inform the general public on their rights and how to gain access to justice and to expand the legal aid services, in particular to rural areas;
- To ratify the Convention on the Protection of Persons with Disabilities;
- To ratify the Optional Protocol on the Convention Against Torture (OP-CAT) and to do so as soon as possible ;
- To take further action to combat corruption , especially in the public sector ; To share its experiences, inter alia, regarding the African Peer Review Mechanism and the National Reconciliation Commission ;
- To intensify necessary measures to combat and sanction police brutalities ;
- To allocate more resources, including through multilateral cooperation, to enhance the implementation of its respective laws, combating impunity, and to raise human rights and rule of law awareness where needed ;
- To further strengthen the capacities of the CHRAJ by increasing its funding and resources ;

Expectation of a "follow up " committee convened by the A-G to work on implementation of these recommendations were overshadowed by the Government's schedule and preparations for Presidential and Parliamentary elections in December 2008. However as has been said above, this will be one of our first priorities in 2009.

## 11. MAJOR PRESS STATEMENTS ISSUED BY THE COMMISSION (CHRAJ)

### CHILD PROSTITUTION

The Commission on February 6, 2008 issued a press statement on Child Prostitution expressing its utmost concern about the spate of Child Prostitution in Ghana. Describing the act as illegal and undignifying, the statement said it was more horrendous and extremely injurious when it involved children. It further condemned the alarming situation where Ghana's children were increasingly being exploited on commercial sex cautioning that it posed a great threat to the nation.

### INTERNATIONAL WOMEN'S DAY

The Commission on this day (March 8, 2008) commended all Ghanaian women for their great commitment and contributions to Ghana's development and progress. The statement acknowledged the critical role of women in nurturing and their endeavours towards the maintenance of families in the country and called for an end



to disgraceful cultural practices such as female genital mutilation, widowhood rites, as well as gender based violence like rape, sexual harassment, domestic violence, discrimination, etc.

#### WORLD REFUGEE DAY

The Government and people of Ghana were on this day June 20, 2008, commended for their continued support for refugees in the country. The statement noted that Ghana had over the years traditionally played host to a large number of refugees for Africa. This it said spoke volume of the country's readiness to help citizens from neighbouring countries in times of crisis and admonished Ghanaians to reject xenophobia. The statement, however, bemoaned the unfortunate disturbances which occurred at the Buduburam camp which resulted in some refugees being kept at the Kordiabe Youth Camp in the Eastern Region and appealed passionately to refugees, as a matter of necessity to always operate within the confines of the laws of their host countries, as enshrined in the International Refugee Convention.

#### UN INTERNATIONAL DAY IN SUPPORT OF VICTIMS OF TORTURE

The Commission on June 26, 2008 expressed its abhorrence of torture and other cruel, inhuman or degrading treatment or punishment. The Commission held that freedom from torture was a right that must be protected in all circumstances. The statement described torture as any act by severe pain or suffering whether physical or mental which was intentionally inflicted on a person for such purposes as obtaining from the person being tortured or a third person information or a confession.

The Commission believed that the surest way to prevent torture in Ghana, was to train and well equip the security agencies to perform their functions in a more professional manner and also, to prosecute officials and other persons who violated the law and inflict such psychological and physical pain on others. It therefore once again, called on the Government to ratify the Optional Protocol to the Convention against Torture which it had already signed.

#### INTERNATIONAL DAY FOR TOLERANCE

On November 16, 2008 the Commission joined the International Community to mark the International Day for promoting Tolerance by calling on the Government and people of Ghana to exhibit the highest sense of tolerance during the elections.

It stated in its statement, that tolerance was respect and appreciation of variety or diversity of views, ideas, cultures as well as forms of expression by individuals trying to relay whatever information they wanted to put within the public domain.

The Commission describing tolerance further as the ability to agree to disagree and to express different point of views and still be friends, encouraged the media, civil society organizations, and the general public to intensify public education in promoting tolerance in Ghana and also prepare the minds of the electorate as well as their attitudes towards peaceful elections.

The CHRAJ finally called on the Government to ensure the enforcement of Ghana's criminal justice system so that people are not tempted to take the law into their own hands and resort to violence by way of settling disputes.

#### INTERNATIONAL DAY OF PERSONS WITH DISABILITY

The Commission in a press statement on December 3, 2008 noted with pride the passing of the Persons with Disability Act 2006, but said that was only the beginning as persons with disability continued to be excluded and discriminated against in many ways.

The Commission also expressed great joy and satisfaction as regards steps taken by Government to ensure that all persons with disability voted independently in the just ended elections, despite the fact that their challenges were still enormous.

The Government was therefore called upon to put in place with utmost urgency a comprehensive national action programme to ensure that all persons with disability fully benefited from the objects of the Disability Act.



## 12. CONCLUSION / RECOMMENDATIONS

### General Status of Cases

The Commission as at September 2008 had received a total of 8,905 cases and closed 5,653. The nature of complaints ranged from family related cases, child and spouse maintenance to inheritance, administrative injustice, discrimination and other human rights violations cases.

### Health

The Commission calls on government to expedite work on the Mental Health Bill. In addition, more effort should be made to educate the society and families of mental patients to support them to help speed up recovery and re-integration into the society.

### Education

- Provision of adequate educational infrastructure [including health and toilet facilities] should be ensured in all schools to under-gird the dignity of our children.
- Teaching and learning materials [including I.C.T materials], especially those on the new educational programs, must be made available in all schools.
- To ensure the success of the FCUBE Program, the Capitation Grant must be administered in a manner that would ensure that all Ghanaian children benefit from high quality education.

### Slums

- Clear policies must be formulated to improve slum communities particularly in term of schools, toilet facilities and better shelter.

### Suspected Witches and Witch Camps

- The law enforcement agencies must be more active in providing the necessary protection for victims of this dehumanizing cultural practice, and prosecute the offenders.
- The State must take practical steps to provide basic facilities such as electricity, decent housing to improve the quality of life for the victims.

### Prisons and Police Cells

Though conditions in detention institutions in the country have improved over the years, there is

still need for improvement. In light of the above, the Commission would like to make the following recommendations:

- That the Ministries of Justice and Interior, and the Police and Prisons Councils continue with their efforts to decongest the country's prisons and police cells
- That the judiciary favour non-custodial sentencing for minor offences and first offenders as a way of decongesting our prisons.
- That sanitary and health condition in all detentions facilities must be improved by ensuring that there are sufficient toilets and baths for inmates.

On behalf of the Commission and on my own behalf, I take this opportunity to thank sincerely all our development partners for the invaluable support and technical assistance that they continue to give us. I would like to mention, DANIDA through the Royal Danish Embassy, DFID, the UNDP who variously supported our public education activities, our publications and specifically supporting our publication of the Mining Report. There are other partners including CSOs and NGOs who continue to partner us as human rights defenders and who assist us in research and collaborate with us in our initiatives.

The media has been an invaluable partner to us in raising awareness and it is clear from the very many human rights related carried by media in recent times that there is certainly a greater appreciation and awareness of the importance of adherence and promotion of human rights for development of our country. The media has also been at the forefront of exposing corruption. We also will acknowledge that the Government of Ghana through the Ministry of Finance has over the past 4 years recognized our triple mandate and has made some upward adjustments to resource allocation.

I would also thank the staff and employees and my fellow Commissioners at the Commission for their continued commitment to this fine institution through their tireless work. This year especially has been pretty hectic and I will take the opportunity to commend you all especially for your work in monitoring the right to vote. Some of you, I know, slept on couches in your offices in order to ensure that all the information that we required to present



our report would be submitted by the deadline. This you cheerfully did in spite of the fact that you already had other assignments which could not be postponed. Ayeekeo.

To the good people of Ghana, the Commission thanks you for your continued confidence and the fact that you recognize as we do that there can be no true development in our country without the presence of the rule of law, freedom and social justice. Furthermore the enjoyment of human rights and civil liberties are of crucial importance if democracy is to thrive and be consolidated.

It was Martin Luther King Jr. who said "Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly."

No government can be truly democratic or claim to be promoting good governance if that government fails to recognize the link between human rights and sustainable development, human rights and poverty alleviation and eradication, and if it fails to understand the impact of corruption on human rights and indeed if that government does not recognize that the institutions set up under the constitution to promote human rights and thereby enforce the Constitution must be empowered and fully supported to deliver on the aspirations of the people.

I shall now deliver our preliminary report on the 2008 Elections.



**PRELIMINARY STATEMENT ON THE  
COMMISSION'S OBSERVATION OF THE  
2008 PRESIDENTIAL AND PARLIAMENTARY  
ELECTIONS, DECEMBER 7 2008:  
MONITORING THE RIGHT TO VOTE**



*Delivered by Anna Bossman, Acting Commissioner*

Ladies and gentlemen,

In the year under review, the Commission intensified its human rights monitoring programme to cover the right to vote. As the Commission has stated before, corruption cannot be delinked from human rights as corruption is a serious barrier to the realisation of human rights, and the right to participate in the affairs of the country.

The country just held its fifth general elections since returning to constitutional rule in 1992. The elections were held in all 230 constituencies and over nine (9) million Ghanaians participated in the polls. The Commission observed the elections in 137 constituencies, covering over 900 polling stations. The 2008 election observation, which formed an integral part of the Commission's regular monitoring functions aims at protecting, promoting and enforcing fundamental human rights and freedoms in Ghana, in particular, the right to vote.

#### Our Approach

The Commission observed the Elections in over 900 polling stations located in 137 Constituencies spread in all the ten regions of the country. The polling stations were carefully selected from constituencies that met objective criteria developed by the Commission, including the following:

- Notoriety of the Constituency (gained in previous elections)
- Sensitivity and importance of the Constituency/station in terms of numbers of votes
- Constituencies not easily accessible
- Constituencies known to have large numbers of persons with disability, especially the visually impaired, e.g those in the Oncho Zones.
- Constituencies vulnerable to violent conflicts, and
- Border town constituencies

Three categories of observers were deployed. These are Regular Observers, Roaming Observers and Supervisors/Coordinators. The regular Observers watched the polls at one polling station from the beginning to the end. The roaming observers were those who observed the polls in more than one polling station. They watched and recorded the start-up and closing of polls processes. After recording the start-up formalities, the roaming observers moved to other stations and recorded serious incidents.

As a quality control measure, the Commission members and Directors supervised the whole exercise at the national level. Having ensured that observers were at post, they observed the polls in selected polling stations and also documented serious incidents. The Commission's Regional and District Directors supervised observers in their respective areas.

#### Highlights of Our Observations

##### 1. Before Polling

The Commission's observers discovered campaign posters of candidates within 360 meters of polling stations in 96 polling stations.

##### 2. Opening of Polls

In the main polling opened on time, and actual casting of votes begun within 30 minutes after



the initial formalities which started at 7:00 a.m. In a number of polling stations it was noted that prayers were said by all who were present including voters and party representatives prior to beginning of polls. Only a few polling stations visited started polling after 8 a.m. either due to late arrival of voting materials or polling agents.

### 3. Security

The security agencies were active at the polling stations we monitored except a few which did not have security personnel. Generally, the security personnel were not armed. However, it was observed that security personnel in 6 polling stations in the Northern Region did have some armed security around. The presence of the security personnel at the polling stations did not intimidate the voters but rather reassured them of security and safety.

### 4. Party Agents

At all the polling stations, party agents were seen keeping tallies of voters and generally keeping watch over the process. They also witnessed the counting of votes at their assigned locations at the end of the polls. The participation of the agents, enhanced transparency of the polls. However, the Commission's observers noted that some party agents took over the administration of the elections in some polling stations. They were over-assertive and therefore interfered with presiding officers from exercising full control and authority of the election administration at the stations.

### 5. During Polling

No systematic irregularities of the voting process were recorded. Except a few isolated incidents, there was no violence or threat of violence at any of the polling stations observed. The initial long queues, which characterised the polls, eased by midday in most polling stations.

There were a few incidents of some voters trying to jump the queues, but these were readily addressed by the security personnel at the polling stations.

### 6. Availability of Voting Materials

Generally, there were no reported incidents of shortage of voting materials. Some voters who wanted their prints overly indicated against their

choices complained about the "dryness" of the indelible ink.

### 7. Isolated Violence/Disorder

Polling at majority of polling stations was calm. A few polling stations, however, witnessed a few incidents of violence or disorder, generally.

"Macho men" claiming to be observers from an organisation called Free and Fair Elections (FFE), visited a number of polling stations in Accra and Cape Coast. In the Accra incident, the FFE men claimed that they received their accreditation from the Regional Director of the Electoral Commission.

However, with the timely intervention of security personnel, they prevented from causing any anxiety in the voters.

### 8. Eligible voters not permitted to vote

Some eligible voters in Seven Polling stations were unable to cast their vote for reasons that (a) some of them even though they had their ID cards with them, could not find their names in the voters register,

(b) Others who had their votes transferred could not find their name(s) on the transferred voters' list. At the CMB, Temporary Booth, Polling Station No. CO60206 in Accra, a Party Agent prevented a voter who he claimed had a deceased person's ID Card from voting. There was every evidence that this person was an eligible voter. As such, the Presiding Officer declared the ID card valid and the entries in the register found to be accurate. Despite all these, the Party Agent insisted that he would not vote. The person simply walked away in frustration.

At Salaga, persons in a bus reported to be persons who had transferred their votes to the Salaga Constituency were almost prevented from voting. This almost created confusion but after an inter party dialogue under the Presiding Officer, it was agreed that the passengers should not be allowed to vote.

In addition to the above incidence, some potential voters who alleged to have transferred their Votes could find their names in the Transfer Voter List, therefore could not exercise their franchise. In all, 61



%; 114 out of 187 polling stations had voters unable to vote due to lack of proper documentation and the absence of names on Transferred voters' list. There were also reports of restricted access to the polling stations; 32 polling stations in all.

#### 9. Stealing of Ballot Papers and Boxes

Incidence of stealing or stuffing of ballot papers were not seen in any of the polling stations observed.

#### 10. After Polling

Majority of polling stations visited (93.7%) ended polling at the appropriate time. Some had to close after 5pm to allow voters in queue to cast their vote. All the seals on the ballot boxes were intact in all polling stations visited. In addition, all polling stations counting were done in the presence of the polling agents and observers. All spoilt ballots were sealed separately in all polling stations.

#### 11. Conclusions

Voting was generally free, fair and transparent. Polling was calm and orderly. Party Agents were active and vigilant at all the polling stations observed. Security personnel demonstrated professionalism, they did not intimidate voters. In addition, police patrols ensured safety and security in the communities. In most of the polling stations observed the EC officers allowed women with babies, the elderly and the disabled to cast their votes as soon as they arrived irrespective of the length of the queue. There were tactile ballots also available for the visual impaired. Generally the EC officials at the polling stations exhibited firmness, courtesy and patience and fairness throughout the polling period. All these enhanced the credibility of the elections. The Commission is therefore satisfied that generally people were allowed to exercise their right to vote freely and fairly without restrictions.

The Commission would like to commend the polling agents, the political parties and the candidates, the EC officials and the good people of Ghana for a peaceful, free and fair election.

But it is not over yet until the final results are declared. To political parties and the general populace, this is the period in which all of us will be tested. This is the time when the mettle of each and everyone of the candidates will be tested. The

mark of a true leader is how he responds in times of stress, difficulty and adversity. This is the time to exhibit maturity, responsibility and good sense so that Ghana remains the winner in all this.

The people of Ghana have shown their desire and commitment for peace and stability in spite of their differences. The success of Ghana is the success of Africa, so do not let us let ourselves down.

You can sense the expectancy and the good wishes of the entire world that our nation should succeed. But we must also desire to succeed and maintain the peace that we so cherish so that our nation and our people will prosper.

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

Signed by:  
Anna Bossman  
Acting Commissioner



# SECTION FOUR

## Case Summaries

Selected Cases:

### 1. CASE NO. UER/LD/09 - ADMINISTRATIVE INJUSTICE (UNFAIR DISMISSAL)

Facts:

On April 30, 2008, the complainants alleged they had been in the employment of the Respondent since 2003 as night watchmen, but the respondent failed to regularize their appointment to formalize their employment although they applied for letters of appointment. Notwithstanding the above, the respondent verbally terminated their employment.

1st complainant had worked with the respondent continuously for four (4) years from 2004 to 2008 and the 2nd complainant had worked continuously for nineteen months (19) months. The Commission, therefore concluded that the complainants qualified as permanent workers by virtue of section 75 (1) of the Labour Act (Act 651), 2003 which regularizes employment in the absence of formal appointment letters.

Termination of the 1st complainant's appointment was based on the assertion by the respondent that he (1st complainant) was the spokesman of the temporary workers and "became ungovernable so management decided that he should go home and sit down..." Regarding the 2nd complainant, the Commission found that he left the employment of the respondent due to ill-treatment contrary to section 63 (3) (a) of the Labour Act which states:

"... a worker's employment is deemed to be unfairly terminated if with or without notice to the employer, the worker terminates the contract of employment because of ill-treatment of the worker by the employer having regard to the circumstances"

CHRAJ Decision

The Commission after its investigation and based on its findings, recommended that:

- The termination of the complainants' appointment was unfair and violated their right to work.
- The complainants should be reinstated without loss of any lawful salary due them.
- The 1st complainant should be paid his salary effective January 2004 whilst payment of 2nd complainant's salary should take effect from March 2004.

### 2. CASE NO. UER/LD/09 - ADMINISTRATIVE INJUSTICE

Facts:

On April 10, 2008, the complainant lodged a compliant, alleging that the respondent had wrongfully terminated his position as a teacher and consequently issued him with an eviction notice to vacate the respondent's staff accommodation.

The complainant claimed that since his posting in 2003 at the respondent institution he had neither received a verbal nor written query from the respondent. In addition, he argued that he had not been subjected to any disciplinary action until July 2007 when he was invited to meet the respondent's Board of Governors over alleged shortfall of sixteen (16) teaching periods which he (complainant) failed to attend.

The respondent denied he wrongfully terminated the complainant's appointment and stated that the complainant was adequately informed of his termination after the complainant had written to apologise for the shortfall.



The Commission observed that the shortfall of teaching periods on the part of the complainant was occasioned by the fact that as an incumbent assembly member, the complainant failed to manage his time taking into account his dual responsibility as a teacher and an assembly member.

During its investigation the Commission determined the following issues, among others:

- Whether or not the complainant misconducted himself under respondent's Code of Professional Conduct as well as the law governing the respondent institution.
- Whether or not complainant was given a fair hearing by being singled out for sanctioning out of seven teachers.

#### CHRAJ Decision

The Commission found that the complainant's release to be lawful and in conformity with the respondent's Professional Code of Conduct for teachers. Furthermore, the Commission found that the complainant was given a fair hearing by being given the chance to meet the Board of Governors of the respondent institution to state his case. Moreover, it found that there was no evidence to support the allegation of being 'singled out' by respondent out of seven teachers for sanctioning. In fact, the Commission found that the Board of Governors, at an emergency meeting on October 13, 2007, endorsed the dismissal of three (3) other teachers including the complainant.

The Commission therefore found the complainant's allegation of administrative injustice based on unfair dismissal from the respondent institution as lacking merit and dismissed it accordingly.

### 3. CASE NO. ER/112/06 – RIGHT TO PERSONAL LIBERTY

#### Facts:

The complainant in this case was among members of an association called Peace Society (the Society) who benefited from financial assistance in the form of a (loan) from the Society, but could not repay their loans as scheduled. The Society then instituted court action to recover debts owed it and the defaulters were ordered to settle their indebtedness. However,

in the course of the payment, the secretary of the Society lodged a petition with the Kukurantumihene claiming that the complainant owed her (secretary) specified amount of money which the complainant denied.

The Kukurantumihene elected to settle the matter between the parties, but before the settlement process could commence the complainant was served with an arbitration summons to appear before the Kukurantumihene for allegedly pronouncing a curse on the secretary of the Society.

The complainant denied making the alleged statement cursing the secretary and refused to pay the arbitration fee imposed by the Kukurantumihene. Subsequently, the complainant was summoned before the Okyehene at Kyebi; Refusing to submit to arbitration as well as refusing to pay the arbitration fee, the complainant, her father, husband and other members were banished from Kukurantumi town.

The 'banishment order' included the following:

- The complainant is banned from taking part in any communal function/activity (funerals, etc.).
- Complainant's funeral donation ('nsawa') should not be accepted as citizen of Kukurantumi and any part of Akyem Abuakwa.
- On her death, complainant's body as well as any member of her relatives/family should not be allowed to be buried at Kukurantumi.
- Complainant should not be allowed to farm in any part of Kukurantumi or Okyeman lands.

Public announcements (13/12/06 and 17/12/06) were made at Kukurantumi informing the public about complainant's 'banishment' from Kukurantumi and Okyeman.

After eight (8) months of being served with the complainant's complaint for their comments, as well as reminders, the respondents (the Kukurantumihene and the Adontenhene of Akyem Abuakwa) failed to react to the allegation.

#### CHRAJ Decision

This notwithstanding, the Commission proceeded with the case and concluded that although Article



26 (1) of the 1992 Constitution guarantees the right of every person to practice, profess, maintain and promote any culture, tradition or religion, under Article 14 (1) of the Constitution every person is entitled to his personal liberty. Therefore the Commission found the 'banishment' order unconstitutional and unjustified.

Regarding the complainant's refusal to submit to arbitration, the Commission is of the opinion that under the Arbitration Act, arbitration can only take place with the consent of the parties.

#### 4. CASE NO.....RIGHT TO PERSONAL LIBERTY

##### Facts:

In a complaint dated June 2005, the complainant alleged that respondent who is a chief placed the following restrictions on her and her descendants:

- Non recognition as a member of the Aduana No. 3 clan.
- Prevention from taking part in any communal labour in the community.
- Not allowed to show up at any burial and funeral, as well as payment of community funeral donations.
- With the exception of burials, the complainant cannot organize any funeral at her house.

The complainant therefore sought the intervention of the Commission for appropriate action and remedy.

According to the complainant some elders of the community harvested her farm produce and she reported the incident to the police. The complainant had been accused of casting a spell on the culprits, which she denied in the face of persistent harassment by the chief. After the report was made to the police, the culprits summoned the complainant before the chief for arbitration. The complainant subsequently instituted a court action against the chief at Oda Magistrate Court.

Whilst the matter was pending before the court, the respondent reported the complainant to the Okyehene that she had put somebody under a spell and was invited to the Okyehene's palace

for arbitration. When she received the arbitration summons the complainant instructed her lawyer to inform the Okyehene about her inability to appear before him. When the complainant failed to attend the arbitration for a second time, the respondent caused a gong-gong to be beaten imposing the above restrictions on the complainant and her descendants.

The Commission made efforts to get respondent's comments on the allegation. For instance, by a letter dated May 5, 2009, served at the Okyehene's palace, the Commission requested the Okyehene to react to the allegation within two (2) weeks to enable it deal conclusively with the matter. However, no response was received from the respondent. As a result, the Commission proceeded to address the issue: whether the respondent has the right to impose any restriction on the complainant or to banish her.

The Commission observed that banishment and other forms of restriction have over the years served as customary sanction that are imposed on citizens who indulge themselves in 'anti-social or reprehensible behaviour' in a particular society. Customary sanction is seen as means of regulating social conduct, as well as means of sanctioning people who disrespect traditional authority.

In dealing with this matter, the Commission took into account the positive role of traditional authorities particularly chiefs in promoting social harmony in their respective communities, as well as the respect and honour which should be accorded elders and chiefs by all. In the same vein, the Commission came to the conclusion that any religious or customary practice which, tend to abridge or interfere with enjoyment of the personal liberty of the individual can not be justified.

##### CHRAJ Decision

The Commission therefore found that the restrictions imposed on the complainant including banishment are unconstitutional in that they infringe her right to personal liberty. In arriving at this conclusion, the Commission recognizes that the complainant can not be coerced to take part in arbitration under the Arbitration Act.



## 5. CTR 58/2009 – DISCRIMINATION BASED ON DISABILITY

### Facts:

The complainant alleged that whilst in the employment of the respondent he suffered from an acute sight problem after a work-related incident. He further alleged that the respondent delayed in referring him for treatment which contributed to the eventual loss of his eyesight. Nevertheless, the respondent bore the complainant's medical expenses until he was declared blind. Subsequently the complainant was retired by respondent on medical grounds with payment of compensation and Long Service entitlements.

The complainant was dissatisfied with his retirement on medical grounds which he considered discriminatory and unlawful. He therefore sought the intervention of the Commission for redress.

The respondent confirmed that complainant was retired on medical grounds due to his condition, but, denied that it delayed in referring, the complainant for medical treatment. The respondent further gave account of various medical facilities and doctors that complainant received treatment at respondent's expense. According to the respondent, it referred the complainant to the Medical Board of eye specialists at the Korle-Bu Teaching Hospital for a second opinion after he was declared blind by the previous medical facilities. The Medical Board of eye specialists confirmed complainant's condition as irreversible blindness.

In the course of its investigation, the Commission was guided by the obligation imposed on an employer under the Persons With Disability Act, 2006, as well as the Labour Act, 2003.

Section 12 of the PWD Act states:

"Where a person in employment suffers a disability as a result of the employment, the employer shall counsel, retrain and re-deploy the person to another section more suited to the person with disability and this shall be in addition to any other relief which the employee is entitled under the workmen's Compensation Law (PNDCL 187)".

Section 50 of the Labour Act also states:

"The employment of a person who suffers disability after the employment shall not cease if his or her residual capacity for work is such that he or she can be found employment in the same or some other corresponding job in the same undertaking, but if no such corresponding job can be found, the employment may be terminated by notice".

The Commission found that the respondent took steps to arrange counseling facility for the complainant following his disability. Furthermore, in line with the law, the respondent made efforts to re-assign the complainant. However, the nature of complainant's disability imposed limitation on him to be re-assigned to a corresponding job.

### CHRAJ Decision

The Commission did not find complainant's retirement discriminatory and therefore endorsed the decision of the respondent retiring the complainant on medical grounds.

## 6. CASE NO..... (PRINCE G. KWAMI V. GRAPHIC COOMMUNICATIONS GROUP) – RIGHT TO FAIR HEARING

The complainant alleged that after ten (10) years of unblemished work record with the respondent, he was wrongfully accused of stealing and subsequently dismissed without a fair hearing. The complainant contended that in spite of his appearance before the Disciplinary Committee constituted by the respondent to prove his innocence, he was not allowed to ask his accusers any questions. He further alleged that items allegedly stolen by him were not tendered in evidence before the Disciplinary Committee and therefore constituted grounds for procedural unfairness.

The respondent argued that the complainant was given a fair hearing in line with its Collective Bargaining Agreement. Specifically, the respondent argued that the complainant and his accomplices were dismissed based upon the findings of the Disciplinary Committee, and was given the opportunity to cross-examine witnesses who appeared before the Disciplinary Committee.



During cross-examination at the Commission's panel hearing, it was found that the complainant admitted that he was given the opportunity to question his accusers/witnesses who appeared before the Disciplinary Committee.

#### CHRAJ Decision

The Commission found that the respondent acted fairly thus the allegation of lack of fair hearing could not be proven. The Commission accordingly dismissed the complaint as without merit.

### **7. CASE NO. 3604/2003/448 – ADMINISTRATIVE INJUSTICE (FAILURE TO FOLLOW OWN PROCEDURES)**

The complainant alleged that he was wrongfully discharged from the respondent institution and therefore sought the Commission's intervention for re-instatement.

The complainant alleged that in the course of his two weeks official leave he was recalled to duty after enjoying only two days of the leave. However, the complainant claimed he refused to resume duty because the instruction recalling him to resume duty was not preceded by any official publication. According to the complainant because of his refusal to resume duty he was threatened by 12 armed soldiers to either report for duty or face the consequences of his failure to do so. He subsequently reported for duty and after two weeks of service he was reduced in rank as well as kept in guardroom for ninety (90) days as punishment for allegedly threatening the lives of the twelve (12) soldiers who were detailed to invite him to resume duty. Thereafter, the complainant claimed he was discharged from the respondent institution and was paid his terminal benefits.

Commenting on the allegations, the respondent stated that complainant committed various service offences for which he was duly punished either in the form of detention or reduction in rank. The respondent intimated that all these punishments were intended to reform the complainant. However, the respondent observed that these corrective measures did not yield any result. The respondent further stated that it discharged the complainant

for unsatisfactory conduct after he served ninety (90) days in detention in accordance with the Armed Forces Regulations (Finance) Vol. III Appendix 1 item 2 (c).

During investigation the Commission found that even though the complainant was entitled to enjoyment of his annual leave, as applicable to all public officers, he could be recalled as and when his services were required. The Commission referred to Section 25 (1) of the Labour Act which states:

"Every worker is entitled to enjoy an unbroken period of leave but an employer, in cases of urgent necessity, may in accordance with this, require a worker to interrupt his or her leave and to work".

The Commission observed that in response to the respondent's comments the complainant admitted brandishing a cutlass in front of his colleagues. Furthermore, the Commission observed that the complainant later realized that the presence of the armed soldiers in his home was under the authority of a superior officer.

#### CHRAJ Decision

The Commission found the complainant was summarily tried after the incident by a Disciplinary Board in conformity with Section 63 (3) (b) & (50) of the Armed Forces Act, 1962 (Act 105). As a result, the Commission found that the complainant's trial was in accordance with law and was not attended with any denial of natural justice, bias or any other cause to fault the punishment meted out to the complainant. Moreover, the Commission observed that more than eight (8) years prior to his complaint, the complainant had received from the respondent a lump sum payment as gratuity.

The Commission therefore dismissed the complainant's claim of unfair treatment culminating in his dismissal as lacking merit. Consequently, his request for re-instatement was deemed unjustifiable.

### **8. CASE NO. 287/2006/449 – ADMINISTRATIVE INJUSTICE (DISCRIMINATION)**

The complainant lodged a complaint with the Commission alleging that the respondent had



discriminated against him in terms of promotion for which he became eligible during the period of his second degree course in law at the University of Ghana. Essentially, the complainant alleged that while on study leave with pay, he was unfairly and unjustifiably denied promotion by the respondent. Some of his colleagues were promoted despite finding themselves in similar circumstances (on study leave).

The complainant intimated that in accordance with Articles 13.2 and 13.3 (a) of the respondent's Conditions of Service, 1998 he was granted study leave with pay and sponsorship to pursue a post-first degree course in law. After completing his course, the complainant contended that, in accordance with Articles 13.2 (b) and 14.2 (b) of respondent's Conditions of Service (1998 and 2003) and in line with established policy, he should have been upgraded/promoted on successful completion of his course as applicable to other officers who were upgraded after their post-first degree studies in law.

The complainant alleged that despite being posted to the Legal Department in recognition of his enhanced professional qualification in law, unlike his colleagues, he was denied upgrading/promotion. The complainant argued that the situation smacked of discrimination and infringed his fundamental right as per Articles 17 (3), 23 and 191 of the Constitution of Ghana.

As a preliminary step, the Commission decided to attempt a negotiated settlement of the case by meeting the parties. Regrettably, the settlement could not be reached because the respondent insisted that the complainant's allegation was baseless and did not merit investigation by the Commission. Meanwhile, the complainant maintained that he had been discriminated against by the respondent.

In view of the disagreement between the parties, the Commission constituted a panel to hear the case. At the panel hearing on October 23, 2007 the complainant gave evidence in the presence of respondent's counsel and its representatives. Counsel for the respondent deferred cross-examination to another date. Meanwhile, in spite

of being duly notified of rescheduled meetings (at least 4 hearing notices were sent to the respondent), the respondent was given the last opportunity to attend the hearing scheduled for March 21, 2008 to exercise its right to cross-examine the complainant. However, the respondent failed, without reason, to attend the hearing and did not communicate to Commission its reason regarding the absence.

Under the circumstances, the Commission proceeded with its investigation based on the evidence given by the complainant. It also reviewed various documentation provided it by both the complainant and the respondent. In the letter under reference, the respondent insisted, among others, that "promotion was not automatic but based on certain conditions..." and also "subject to satisfying the necessary requirements...for promotion interview". This response conforms with Article 14.2 (b) of respondent's Conditions of Service, 2003.

#### CHRAJ Decision

The Commission found that the complainant was able to adduce sufficient evidence to prove the allegation of discrimination. The respondent's assertion that promotion was not automatic but based on other factors including availability of vacancy, promotions were regular and automatically effected particularly for officers like the complainant who completed post-first degree courses was not sufficient. Besides, the respondent could not provide any reason why the complainant, as a matter of policy, and in line with Article 12.3 of the Conditions of Service, 2003, was not invited to present himself for promotion interview.

The Commission found that facts as supported by the evidence revealed that the complainant suffered discrimination since his last promotion on October 1, 1998. Furthermore, by failing to upgrade/promote the complainant on completion of his course in law, a policy which was consistently applied in favour of other officers, the respondent acted unfairly and unjustly towards the complainant and in contravention of Article 17 (3) of the Constitution as affirmed in the case of **Ghana Commercial Bank**



**v. CHRAJ (2003–2004) SCGLR 91 at pp. 100–101:**

“A system by which there appears to be different laws for different employees or by which the laws... are applied differently to different employees is surely discriminatory...Where laws in an institution... are applied differently and inconsistently, it is probable that that inconsistency may lead to some employees to believe that the laws may not be always invoked or that the employee’s action may be exempted”.

Similarly, the respondent violated Article 23 of the Constitution which requires that administrative bodies and administrative officials act fairly, reasonably and must duly comply with requirements imposed on them by law in exercise of their powers.

The Commission found that the respondent’s assertion that promotion is not automatic and should be based on satisfying certain conditions/requirements, cannot be supported by the evidence in the instant case and not sustainable under Articles 17 (3) and 23 of the Constitution. Consequently, the Commission recommended that the complainant was entitled to upgrading/promotion effective the date of completion of his course in law without loss of accrued financial benefits arising out of the promotions.



# SECTION FIVE

## Financial Report

### FINANCIAL REPORT

The Commission's bank balances as at January 2008 were as follows:

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

### Budget estimate for 2008 fiscal year

In 2008, the Commission requested for GH¢5,580,157.05 but the Government of Ghana approved a budget estimate of GH¢4,494,514.00 for the Commission's activities for 2008 in the government fiscal policy statement. Below is a table of amount approved, released and balance for 2007 and 2008.

Category	2007(GH¢)			2008(GH¢)		
	Approved	Released	Balance	Approved	Released	Balance
Personal emoluments	2,243,769.40	2,243,769.40	-	3,125,448.00	3,125,448.00	-
Administration	1,068,100.00	1,068,773.20	-	1,100,117.00	1,100,117.00	-
Service	129,600.00	89,433.58	40,156.42	129,600.00	107,972.54	21,627.46
Investment	199,100.00	131,522.55	67, 577.45	139,349.00	70,000.00	69,349.00
	3,640,569.00	3,533,498.73	107,733.87	4,494,514.00	4,403,537.54	90,976.46

### Support from Development Partners

In the year under review the commission received donors support. Donor funds disbursed by the Commission included:

Partner	Amount
DANIDA	GH¢ 347,782.00
UNDP	GH¢13,438.40

The closing balances in respect of Commission's account as at December, 2008:

1. Salaries Account –GH¢142,021.49
2. Treasury Account –GH¢ 17,859.45
3. Donor Account –GH¢ 93,999.85



# SECTION SIX

## Legislative Framework

- 1.1.1. *Constitution: Chapter 18: Commission on Human Rights & Administrative Justice*
- 1.1.2. *Constitution: Chapter 24: Code of Conduct for Public Officers*
- 1.1.3. *The Commission on Human Rights and Administrative Justice Act, 1993 (Act 456)*
- 1.1.4. *Commission on Human Rights and Administrative Justice (Complaint Procedure Regulations, 1994) Constitutional Instrument No. 7*

### 1.1.1. CHAPTER EIGHTEEN OF THE 1992 CONSTITUTION

#### Commission on Human Rights and Administrative Justice

216. There shall be established by Act of Parliament within six months after Parliament first meets after the coming into force of this Constitution, a Commission on Human Rights and Administrative Justice which shall consist of
- (a) A Commissioner for Human Rights and Administrative Justice; and
  - (b) Two Deputy Commissioners for Human Rights and Administrative Justice
217. The President shall appoint the members of the Commission under article 70 of this Constitution.
218. The functions of the Commission shall be defined and prescribed by Act of Parliament and shall include the duty
- (a) to investigate complaints of violations of fundamental rights and freedoms, injustice, corruption, abuse of power and unfair treatment of any person by a public officer in the exercise of his official duties;
  - (b) to investigate complaints concerning the functioning of the Public Services Commission, the administrative organs of the State, the Armed Forces, the Police Service and the Prisons Service in so far as complaints relate to the failure to achieve a balanced structuring of those services or equal access by all to the recruitment of those services or fair administration in relation to those service;
  - (c) to investigate complaints concerning practices and actions by persons, private enterprises and other institutions where those complaints allege violations of fundamental rights and freedoms under this Constitution.
  - (d) to take appropriate action to call for the remedying, correction and reversal of instances specified in paragraphs (a), (b) and (c) of this clause through such means as are fair, proper and effective, including
    - (i) negotiation and compromise between the parties concerned;
    - (ii) causing the complaint and its finding on it to be reported to the superior of an offending person;
    - (iii) bringing proceedings in a competent Court for a remedy to secure the termination of the



offending action or conduct, or the abandonment or alteration of the offending procedures; and (iv) bringing proceedings to restrain the enforcement of such legislation or regulation by challenging its validity if the offending action or conduct is sought to be justified by subordinate legislation or regulation which is unreasonable or otherwise ultra vires;

(e) to investigate all instances of alleged or suspected corruption and the misappropriation of public moneys by officials and to take appropriate steps, including reports to the Attorney-General and the Auditor-General, resulting from such investigations;

(f) to educate the public as to human rights and freedoms by such means as the Commissioner may decide, including publications, lectures and symposia; and

(g) to report annually to Parliament on the performance of its functions.

219. (1) The powers of the Commission shall be defined by Act of Parliament and shall include the power

(a) to issue subpoenas requiring the attendance of any person before the Commission and the production of any document or record relevant to any investigation by the Commission.

(b) to cause any person contemptuous of any such subpoena to be prosecuted before a competent Court;

(c) to question any person in respect of any subject matter under investigation before the Commission;

(d) to require any person to disclose truthfully and frankly any

information within his knowledge relevant to any investigation by the Commissioner.

(2) The Commissioner shall not investigate

(a) a matter which is pending before a court or judicial tribunal; or

(b) a matter involving the relations or dealings between the Government and any other Government or an international organisation; or

(c) a matter relating to the exercise of the prerogative of mercy.

220. An Act of Parliament enacted under article 216 of this Constitution shall provide for the creation of regional and district branches of the Commission.

221. A person shall not be qualified for appointment as a Commissioner or a Deputy Commissioner for Human Rights and Administrative Justice, unless he is

(a) in the case of Commissioner, qualified for appointment as a Justice of the Court of Appeal; and

(b) in the case of a Deputy Commissioner, qualified for appointment as a Justice of the High Court.

222. The Commissioner and Deputy Commissioners shall not hold any other public office.

223. (1) The Commissioner and deputy Commissioners shall enjoy the terms and conditions of service of a Justice of the Court of Appeal and High Court respectively.

(2) The Commissioner and Deputy Commissioners shall cease to hold office upon attaining the ages of seventy and sixty-five years respectively.

224. Where the Commissioner dies, resigns or is removed from office or is for any other reason unable to perform the functions of his office, the President shall, acting in consultation with the Council



of State, appoint a person qualified to be appointed Commissioner to perform those functions until the appointment of a new Commissioner.

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

### 1.1.2. CHAPTER TWENTY-FOUR OF THE 1992 CONSTITUTION

#### 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
  - (a) before a court of competent jurisdiction; 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 of 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 otherwise 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 Human Rights and Administrative Justice in this Act referred to as "the Commissioner"; and
  - (b) two Deputy Commissioners for Human Rights and Administrative Justice, in this Act referred to as "the Deputy Commissioners".
 (2) The President shall, acting in consultation with the Council of State appoint the Commissioner and the Deputy Commissioners.
3. (1) A person shall not be qualified for appointment as Commissioner or a Deputy Commissioner for Human Rights and Administrative Justice, unless he is
  - (a) in the case of the Commissioner, qualified for appointment as a Justice of the Court of Appeal; and
  - (b) in the case of a Deputy Commissioner, qualified for appointment as a Justice of the High Court.
 (2) The Commissioner and Deputy Commissioners shall not while holding office as Commissioners hold any other public office.
4. (1) The Commissioner and Deputy Commissioners shall enjoy the terms and conditions of service of a Justice of the Court of Appeal and High Court respectively.
 (2) The Commissioner and Deputy Commissioners shall cease to hold office upon attaining the ages of seventy and sixty-five years respectively.
 (3) Where the Commissioner or a Deputy Commissioner dies, resigns or is removed from office, the President shall, acting in consultation with the Council of State, appoint a person qualified to be appointed Commissioner or Deputy Commissioner to perform those functions until the appointment of a new Commissioner or Deputy Commissioner.
5. The procedure for the removal of the Commissioner and Deputy Commissioner

shall be the same as that provided for the removal of a Justice of the Court of Appeal and a Justice of the High Court respectively under article 146 of the Constitution.

6. Except as provided by the Constitution or by any other law not inconsistent with the Constitution, the Commission and the Commissioners shall, in the performance of their functions not be subject to the direction or control of any person or authority.

## PART II – FUNCTIONS OF THE COMMISSION

7. (1) The functions of the Commission are
  - (a) to investigate complaints of violations of fundamental rights and freedoms, injustice, corruption, abuse of power and unfair treatment of any person by a public officer in the exercise of his official duties;
  - (b) to investigate complaints concerning the functioning of the Public Services Commission, the administrative organs of the State, the offices of the Regional Coordinating Council and the District Assembly, the Armed Forces, the Police Service and the Prisons Service in so far as the complaints relate to the failure to achieve a balanced structuring of those services or equal access by all to the recruitment of those services or fair administration in relation to those services;
  - (c) to investigate complaints concerning practices and actions by persons, private enterprises and other institutions where those complaints allege violations of fundamental rights and freedoms under the Constitution;
  - (d) to take appropriate action to call for the remedying, correction and reversal of instances specified in paragraphs (a), (b) and (c) of this



subsection through such means as are fair, proper and effective, including

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

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

- (a) to issue subpoenas requiring the attendance of any person before the Commission and the production of any document or record relevant to any investigation by the Commission;
- (b) to cause any person contemptuous of any such subpoena to be prosecuted before a competent court;
- (c) to question any person in respect of any subject matter under investigation before the Commission;
- (d) to require any person to disclose truthfully and frankly any information within his knowledge relevant to any investigation by the Commissioner.

(2) The Commissioner shall not investigate

- (a) a matter which is pending before a court or judicial tribunal; or
- (b) a matter involving the relations or dealings between the Government and any other Government or an international 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 objective 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





**Commission on  
Human Rights &  
Administrative Justice**