

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



**FIRST ANNUAL REPORT  
1993 - 1994**

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AND  
ADMINISTRATIVE  
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**THE HONOURABLE JUSTICE D.F. ANNAN  
SPEAKER OF THE PARLIAMENT OF THE  
FOURTH REPUBLIC OF GHANA  
OFFICE OF PARLIAMENT  
ACCRA**

Dear 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 submit to you and to Parliament the first Annual Report of the Commission for the period 1st October 1993 to 31st December, 1994.

Sincerely,

**EMILE FRANCIS SHORT  
COMMISSIONER**

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## PREFACE

This report is the Commission's maiden effort since its inauguration in October 1993. In view of the date of inauguration it was not possible to prepare and submit an annual report for 1993. The present report therefore covers the period from 1st October 1993 to 31st December, 1994.

It has been a great pleasure for me to be associated with the establishment of this Commission. The period under review has not been an easy one. The teething problems associated with establishing a new institution have been quite challenging. It gives me great satisfaction to see that we have been able to establish offices for the National Headquarters in Accra, 10 regional capitals and 28 district offices. All these offices are functional and operational and have succeeded in handling and resolving a good number of complaints from members of the public. More district offices could have been opened but for the manpower ceiling imposed by Management Services Division of the Office of the Head of Civil Service and our limited Budgetary allocation. The Commission has received a considerable number of petitions far beyond its expectation. A comprehensive chart indicating the number of cases received and how they have been handled by the Commission can be found in the main body of this Report under the heading Statistical Report on Cases. The period under review has been a very busy one for the Commission. The Commission received a total of 1,036 complaints at its National Headquarters in Accra and a total of 2,161 from its Regional and District offices, making a grand total of 3,197 cases. Labour-related disputes represented about 62% of the complaints received by the Commission. The high number of complaints submitted to the Commission can be attributed to various factors. Firstly, the Commission has been granted extensive functions under the Constitution and the enabling Act of Parliament which established it. The Commission has been set up as a national Human Rights Commission to investigate and remedy alleged violations of all the human rights and freedoms enshrined in the Constitution. Secondly, quite apart from its role as a human rights commission it has also taken over the role of the Ombudsman which addressed mainly issues of public maladministration. In effect the Commission functions both as a human rights institution and an Ombudsman institution. If the Commission is to discharge efficiently its constitutional obligations and if it is to carry out its perceived role of providing an expeditious and informal method of handling complaints, it would require a very large staff far in excess of the manpower ceiling presently granted it by the Management Services Division and financial allocation by Ministry of Finance and Economic Planning.

The Commission recognises the importance of decentralising its operations having regard to the fact that about 70% of the Ghanaian population live in the rural areas. The need to open offices in all the 110 district capitals of the nation and further below cannot be over-emphasised especially in the light of the present Government policy of decentralisation. With the establishment of the District Assemblies in addition to other decentralised structures already in place in the districts and sub-districts the chances for human rights violations and acts of public maladministration have been multiplied. In view of the limited funding made available to the Commission only 28 district offices have so far been established, 2 district

offices at least in each Region and in some Regions 3 or 4 district offices. It is my hope that the necessary funding will be made available to establish the remaining district offices. Some District Chief Executives and Members of Parliament have complained about the absence of the Commissioner's Offices in their Districts and constituencies respectively. Until sufficient funding is provided to open offices in the remaining Districts my cherished hope of bringing the type of justice dispensed by the Commission to the doorsteps of most Ghanaians will remain a dream.

The Commission enjoys functional independence in as much as it is not subject to the control direct or indirect of any person or authority. Its only obligation in this regard is to report annually to Parliament. Even though the Commission has enjoyed total functional independence in the sense that it has not experienced any interference from the Legislature, the Executive or the Judiciary, it lacks financial autonomy. During the period under review the Commission did receive some measure of financial support from the Ministry of Finance and Economic Planning for budgetary allocation through lengthy and cumbersome budget hearings. These hearings and budgetary cuts undermine the independence of the Commission as provided for in Article 222 of the Constitution. If the independence of the Commission is to be fully meaningful it is my view that the Commission should be permitted to submit its annual budget directly to Parliament for vetting and approval.

The Commission unlike the erstwhile Ombudsman Office, has been empowered to go to the court to enforce its recommendations. Section 18 (2) of the Commission on Human and Administrative Justice Act, Act 456 provides that if within 3 months after the Commission's report and recommendations are served on the respondents no action is taken which seems to the Commission to be adequate and appropriate the Commissioner may bring an action in court and seek such remedy as may be appropriate for the enforcement of its recommendations. If the import of this provision is that the Court will re-open the case and go into the merits all over again then the prospect of going to court to enforce the Commission's recommendations is not really an attractive proposition having regard to the delays and frustration inherent in the traditional court system. If the Commission's role as a forum where complaints can be resolved expeditiously and efficiently is to be fully realised then it is my view that Act 456 should be amended to provide that the decisions of the 3-member Commission should be **binding** on the parties. Such an amendment it is suggested should provide that the successful petitioner should be entitled to register the decision of the Commission in the High court which, on registration, would constitute a judgement of that court and enforceable by all the **modes** of execution available to that court. It is also envisaged that such an amendment would **grant** the respondents in such cases a right of appeal against such a registered decision to the Court of Appeal on specific grounds of facts and/or law. It seems to me that such a provision would be appropriate and desirable having regard to the constitutional requirements that the Commissioner and Deputy Commissioners should qualify for appointment as a Justice of a Court of Appeal and High Court respectively. Such a provision would strengthen the hand of the Commission and would ensure finality in the work of the Commission.

The Commission would also propose to Parliament that the Commission should be empowered to investigate any act or practice that **may** violate a **human** right even where a

alleged or suspected corruption and the misappropriation of public monies by officials. Such an amendment is imperative because many people, especially in the rural community are ignorant of their rights and even where they are aware of a violation, they may not know how to seek a remedy.

The Commission undertook a vigorous human rights education programme. It organised seminars and workshops for specific target groups such as the Police, District Chief Executives and Presiding Members of the District Assembly as well as Chief Directors and Heads of Departments in Public Institutions and Corporations. Arrangements are in progress to conduct similar seminars for Prison Officers, Chiefs, Heads of Second Cycle Institutions, Personnel of the Print and Electronic Media as well as the members of the Judiciary. The Commission also held an Open Forum for members of the Public in Accra. I also had the privilege of inaugurating a Youth Civics and Human Rights Association at the University of Science and Technology, Kumasi. The Deputy Commissioners and Directors also responded to invitations from various organisations to speak on human rights issues.

I wish to express my appreciation to the other members of the Commission, the Directors and staff of the Commission for their valuable assistance and support to achieve our objectives and goals. I would also like to thank the British High Commission, the British Council, the U.S. Embassy and the United States Information Service, the Hanns Seidel Foundation, the Konrad Adenauer Foundation and the Frederick Ebert Foundation for the diverse ways, financial and otherwise, in which they have supported the Commission.



# INTRODUCTION

This is our first report since the establishment of the Commission by Act 456 on the 6th July 1993 pursuant to Article 216 of the Fourth Republican Constitution of Ghana.

The Commission, by Act 456 is made up of the Commissioner and two Deputy Commissioners. As at the time of writing this report, the Commissioner was in the person of Mr. Emile Francis Short and the two Deputy Commissioners are Mr. Benjamin Kwesi Oppong and Mrs. Angelina Mornah Domakyaareh. For administrative convenience one of the Deputy Commissioners is in charge of the Legal and Operational aspects of the Commission's work while the other is in charge of Finance and Administration.

The Commission took over the functions as well as the cases pending before the erstwhile office of the Ombudsman, which dealt basically with issues of Administrative Justice. The Ombudsman Institution has been abolished since the Commission on Human Rights and Administrative Justice was established. In addition it also deals with the wider issues of violations of fundamental human rights, and freedoms by public officials as well as private institutions and individuals, abuse of public office, corruption, embezzlement of public funds by public officers in the exercise of their official duties. The education of the public on human rights and freedoms by way of seminars, symposia and publications is also one of the primary functions of the Commission.

As was anticipated, shortly after the inauguration of the Commission it became inundated with several fresh petitions in addition to petitions that were pending before the office of the erstwhile Ombudsman, which Act 456 mandated the Commission to take over and determine.

A great deal of time was therefore spent by the Commission in attending to these petitions together with establishing the Commission on a solid footing and laying the foundations for an effective administration which would continuously improve its performance in delivering a service of consistent quality both in respect of its investigative functions and that of public education.

In furtherance of the above, the Commission, in consultation with the Public Services Commission as mandated by Act 456, recruited high calibre personnel from the Directors level to the clerical, finance and administrative staff for the National, Regional and some District offices.

The personnel include lawyers, Accountants, Administrators and Investigators who, in the most are university graduates.

All the 110 districts could not be provided with offices as required by Act 456 due to constraints of manpower ceilings set for the Commission in the year under review by the Manpower Services Division of the Head of Civil Service.

The Commission also with funding from a number of non-governmental organisations organised a number of seminars and workshops for targeted groups round the country as part of its statutory function of educating the public on Human Rights.

The Commission effects its daily programmes through four main departments. The departments are the Legal, Operations, Administration and Finance Departments. Except the Finance department which is headed by a **Chief Accountant**, all other departments are



all other departments are headed by Directors.

In addition to the above departments, the Commission has put in place a number of Units in charge of Public Education, Public Relations, Research and Statistics.

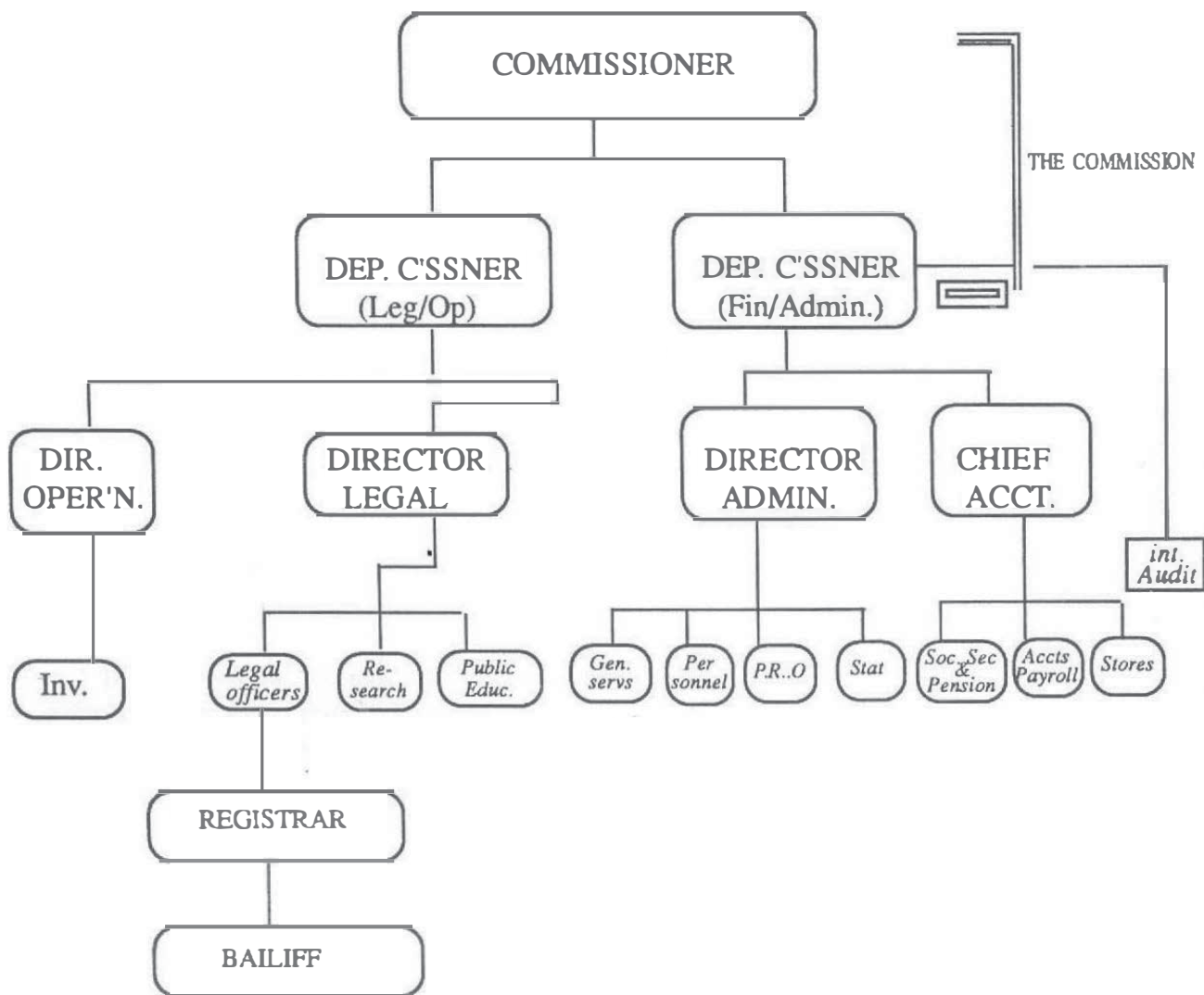
All the above issues are described in more detail in this report

# ORGANISATIONAL FRAMEWORK OF THE COMMISSION

The following is the organisational framework of the Commission from the National Headquarters to the District Offices.

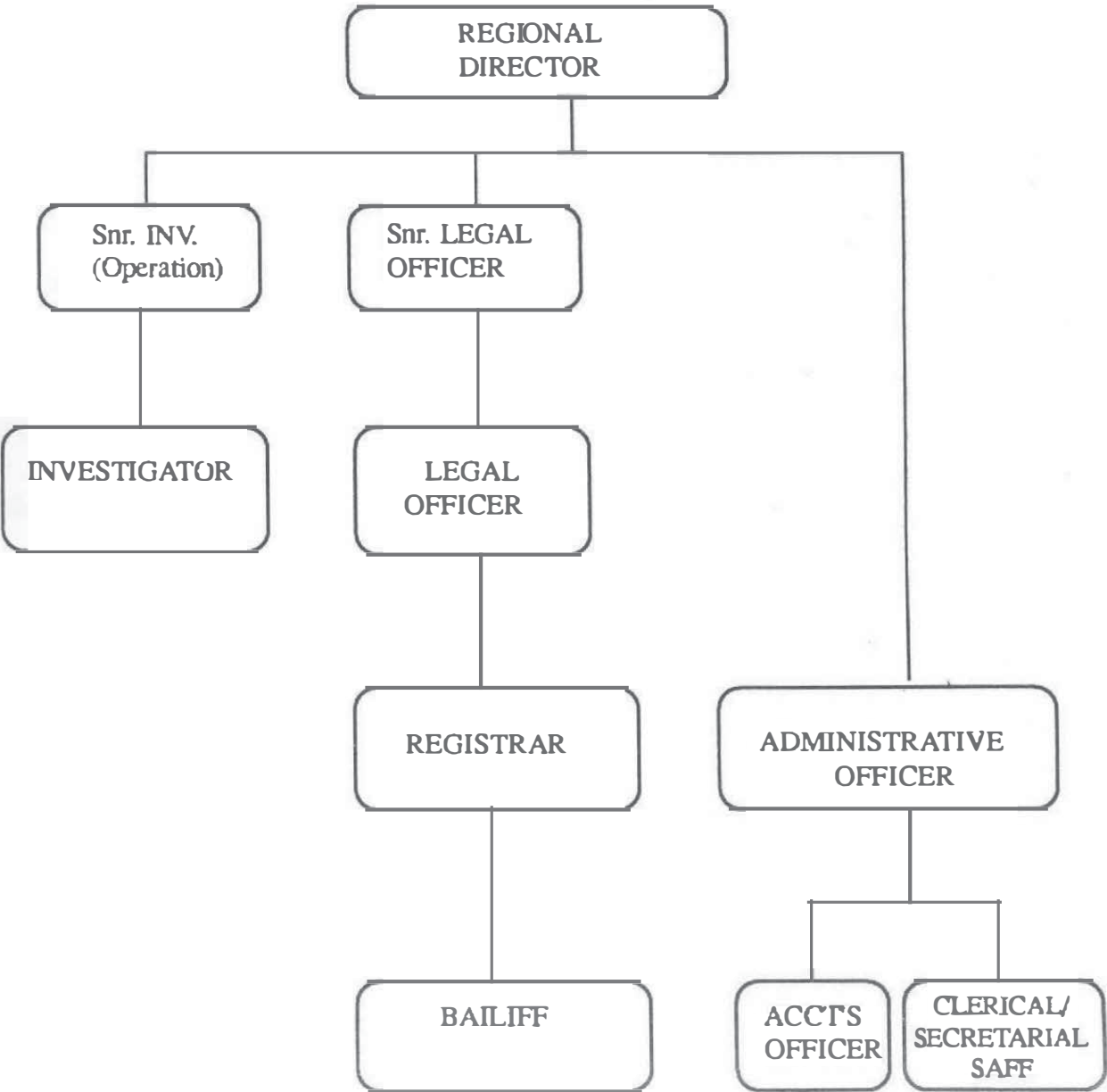
## HEAD OFFICE

DIAGRAM "A"



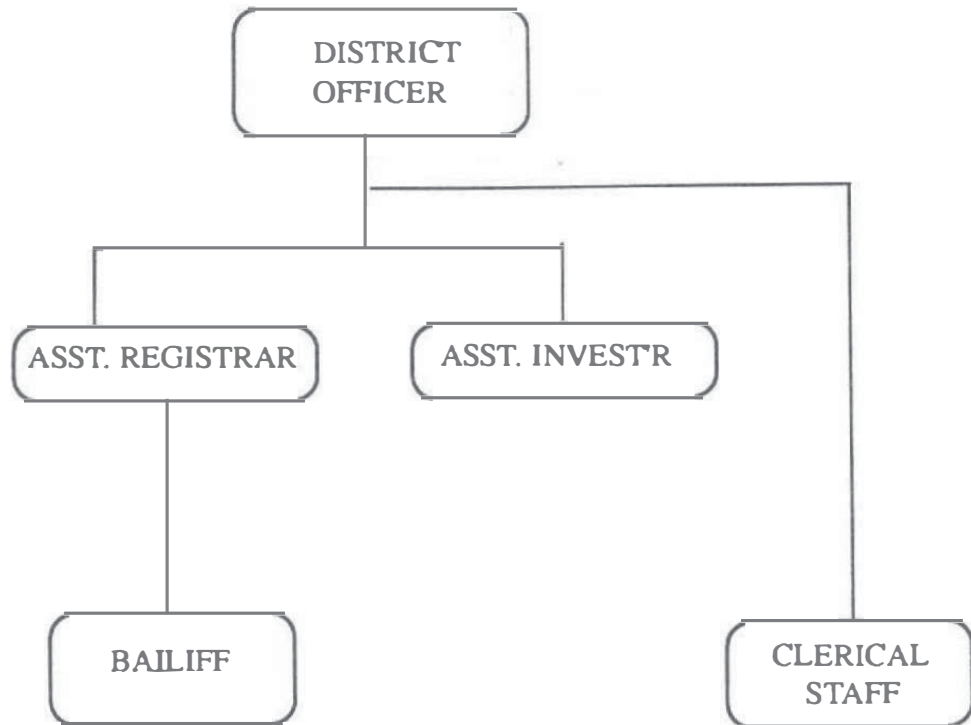
# REGIONAL OFFICE

DIAGRAM "B"



## DISTRICT OFFICE

DIAGRAM "C"



The diagrams A,B, and C illustrate respectively the National, Regional and District organisational framework for the discharge of the Commission's functions.

The National level has the Commissioner and two deputies as the overall governing body of the Commission administratively and it also constitutes the Commission in its legal sense as stipulated by the Constitution.

The Legal, Operations and Administration departments are headed by Directors, while the Finance Department is headed by a Chief Accountant.

The Legal department is made up of lawyers with a supporting staff of a Registrar and bailiffs. The Operations Department is made up mostly of investigators. The Education and Research Units form part of the Legal Department.

The Administration Department has a personnel outfit, Public Relations, Statistics and Computer Unit and general, clerical and secretarial staff.

The Finance department is made up of Accounting personnel, the Internal Audit Unit and Finance Officers. The Internal Auditor works direct to the Deputy Commissioner, Finance and Administration.

As illustrated in diagram B, each Regional Office of the Commission in all the ten regions of the country is headed by Regional Director, who must be a lawyer. He is assisted by legal officers and investigators. The most senior of the investigators is designated the Regional Officer in charge of Operations who assists the Regional Director in the operations and investigative work of the region.

As diagram C, illustrates, the District office is headed by a District officer who must be a University graduate. He is assisted by an Assistant Investigator, Assistant Registrar, Bailiff and secretarial and clerical staff.

As indicated in the introduction to this report constraints of approved manpower level by the Manpower Services Division of the Office of the Head of Civil Service has made it impossible to open District offices in all the 110 District capitals in the country as mandated by Act 456. It is hoped that this requirement would be satisfied in the coming few years.

## **LIST OF OFFICES**

The national headquarters of the Commission is located in Accra and has offices in all the ten regional capitals of the country. The Commission has opened a total number of 28 District offices during the year under review, with at least 2 District offices in each region. In the case of very large or densely populated regions, 3 or 4 District offices have been opened.

In addition to the National Headquarters, the offices the Commission has so far opened in the Regional Capitals and Districts are as follows:

Regional Office - Accra

### **DISTRICT OFFICE**

Tema

Regional Office - Cape Coast

### **DISTRICT OFFICES**

Agona Swedru

Winneba

Assin Fosu

Dunkwa-on-Offin

### **VOLTA REGION**

Regional Office - Ho

### **DISTRICT OFFICES**

Denu

Jasikan

Kpandu

### **WESTERN REGION**

Regional Office - Sekondi/Takoradi

### **DISTRICT OFFICES**

Tarkwa

Axim

Asankragwa

Sefwi Wiawso

### **ASHANTI REGION**

Regional Office - Kumasi

### **DISTRICT OFFICES**

Mampong

Konongo

Obuasi

### **BRONG AHAFO REGION**

Regional Office - Sunyani

**DISTRICT OFFICES**

Techiman

Goaso

Atebubu

**EASTERN REGION**

Regional Office - Koforidua

**DISTRICT OFFICES**

Mpraeso

Akim Oda

**UPPER EAST REGION**

Regional - Office - Bolgatanga

**DISTRICT OFFICES**

Bawku

Sandema

**UPPER WEST**

Regional Office - Wa

**DISTRICT OFFICES**

Lawra

Tumu

Nadowli

**NORTHERN REGION**

Regional Office - Tamale

**DISTRICT OFFICES**

Yendi

Damongo

Walewale

## FUNCTIONS OF THE COMMISSION

The functions of the Commission as set out in Section 7 of the Act 456 are as follows;

1. to investigate and remedy complaints arising from

(a) violations of human 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) the functioning of the Public Services Commission, administrative organs of State, offices of the Regional Co-ordinating Council and the District Assembly, the Armed Forces, the Police Service and the Prison Service if the complaint relates to a failure to achieve a balanced structuring of those services or equal access by all to recruitment of those services or fair administration in relation to those services.

(c) practices and actions by persons, private enterprises and other institutions where those complaints allege violations of fundamental rights and freedoms under the Constitution.

(d) allegations that a public officer has contravened or has not complied with a provision of Chapter 24 of the Constitution to wit Code of Conduct of Public Officers.

(e) 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 Auditor General resulting from such investigation.

2. To educate the public on human rights and freedoms by such means as the Commissioner may decide, including publications, lectures and symposia.

By virtue of Article 35(2) of the Transitional Provisions of the 1992 Constitution, the Commissioner is also empowered to restore to any person any property confiscated by or under the authority of the Armed Forces Revolutionary Council and the Provisional National Defence Council under certain specified conditions stated in the said Article.

In broad terms the functions of the Commission can be catergorised under two main headings, namely, receiving and investigating complaints of human rights violations and other acts of injustice and public education on human rights issues.

To enable the Commission perform the above functions effectively, Section 8 of Act 456 has given the following special powers to the Commission;

(a) the power of subpoena to compel the attendance of witnesses and the production of documents

(b) to cite a person before a court of competent jurisdiction for contempt for failure to obey a subpoena and

(c) the right to request for any information relevant to a matter before the commission.



## **COMPLAINT PROCEDURE**

The Complaint Procedure of the Commission has been briefly set out in Sections 12, 14 and 15 of Act 456 and exhaustively in the Commission on Human Rights and Administrative Justice (Complaint Procedure Regulations, 1994 C.I.7). These statutory provisions have enabled the Commission to devise a simple, effective and a remedial procedure for its daily handling of petitions that come before it.

## **FILING OF COMPLAINTS**

Any person wishing to lodge a complaint with the Commission can do so either orally or in writing to any of the Commission offices nearest to his/her locality. The written complaint must state the following.

- (a) Names and Addresses of both the petitioner and the respondent
- (b) Addresses of possible witnesses
- (c) Nature of Complaint together with copies of all relevant documents
- (d) The relief being sought by the complainant

An oral complaint is made to a Verbal Complaints Officer at the Commission's offices. The Complaints Officer writes down the complaints, reads it over to the petitioner and if the petitioner is satisfied, he makes his mark or append his signature to the written complaint subject to his right to make any corrections he/she might wish to make. In the case of verbal complaints, made by illiterates, the person who reduces into writing the oral complaint shall declare on the document that the complainant has fully understood or appeared to understand and appreciate the contents of the complaint.

## **REVIEW BY THE COMMISSION**

After the lodging of the complaint, the Commission reviews the complaint to determine its admissibility. Under Section 13 of Act 456, the Commission may refuse to investigate or cease to investigate any complaint under the following circumstances:

- (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, or
- (c) that the complaint relates to a decision, recommendation, act or omission of which that complainant has had knowledge of for more than 12 months before the complaint is received by the Commission, or
- (d) that the subject matter of the complaint is frivolous, vexatious or not made in good faith and, or
- (e) the complainant does not have sufficient personal interest in the subject matter of the complaint.

The Commission under Section 8(2) of Act 456 is mandatorily precluded from investigating:

- (a) a matter which is pending before a court or judicial tribunal
- (b) a matter involving the relations or dealings between the Government and a foreign government or an International organisation
- (c) a matter relating to the exercise of the prerogative of mercy.

When the Commission accepts a complaint for investigation, a copy of the complaint is sent to the respondent with a request for his comments on the issues raised in the petition.

Depending on the nature of the case and the circumstances surrounding it, the investigator either goes to the field to gather the requisite information or invites the parties and their witnesses to a round-table fact finding conference.

After the key issues have been identified the Commission will assist the parties to explore possible options in the complaint resolution process, or will initiate a process of mediation as a means of getting the parties to settle their differences amicably.

## **NEGOTIATIONS, MEDIATION AND SETTLEMENT**

The Commission adopts fair, proper and any effective means in resolving disputes. Within the brief period of over a year, the Commission has adopted procedures which provide for swift and speedy resolution of petitions.

Key among them are negotiations, mediation and settlement.

Most often, the Commission acts as a mediator between the parties thereby encouraging them to arrive at a mutually acceptable solution. This procedure involves personal interaction with the parties. The Commission finds this procedure very effective since it is non-confrontational and relatively inexpensive. It therefore concludes a good number of its cases with some amount of finality and the parties are not left with the bitterness and acrimony that normally characterise judgements in the adversary form of adjudication.

The process of mediation may be adopted even during the hearing of a case which could not, in the first instance, be resolved by amicable settlement.

## **PANEL HEARING**

Where the dispute between the parties cannot be resolved through negotiations and mediation, the Commission constitutes a panel to sit and hear the case. The panel normally consists of 3 persons, who are either members or other staff of the Commission. The presiding member of the panel is usually a lawyer. The Commission may in appropriate cases co-opt an outsider with specialised knowledge in a particular field.

## **DECISION AND RECOMMENDATION**

After the hearing, the Commission writes down its decision on the matter. The decision either upholds or dismisses the complaint.

The decision of the Commission states its reason for arriving at its findings, and in addition, it makes some recommendations based on its decision.

The decision and recommendations are then sent to the respondent or offending party with a copy to the complainant. After 3 months of sending the decision and recommendations to the respondent if no action is taken by the respondent, which appears satisfactory to the

Commission the Commissioner may after further consideration of the matter institute legal action in a court of competent jurisdiction to seek such remedy as may be appropriate for the enforcement of its recommendation.

It is therefore obvious that the Commission's decisions are only binding in honour until a formal order from a court of law is available to give effect to them.

## PROGRAMME REPORTS

### Petitions

The Commission has received a total number of 3, 197 petitions during the period under review. This include those from its Regional and District branch offices. Out of these petitions, the Commission has disposed of 1,004

The nature of the cases the Commission has received so far range from cases involving wrongful dismissal of employees, termination of appointments, redeployment and retrenchment, allegations of delay in payment of terminal and other benefits, unfairness in promotions and transfers and acts of victimisation.

Others include alleged irregular and improper confiscation of assets during previous regimes, delay in the trial of cases in law courts, wrongful arrests and detentions.

It is distressing to note that the majority of complaints received by the Commission are labour related issues. The Commission's statistics show that such cases account for about 70% of the total number of complaints received at the National Headquarters.

The Commission therefore has no other option than to bring this sad trend in the state of labour relations in the country to the attention of Honourable Mr. Speaker and Honourable Members of this House.

The right to work and security of employment is fundamental and necessary to the material well being of the citizen and for a harmonious development of his personality.

It is therefore being recommended to Government and all those in the employment industry to embark on an educational campaign to increase the knowledge, understanding and appreciation of our labour laws and practices in order to arrest this high incidence of labour related complaints.

On the Commission's part, a series of seminars and workshops for top management staff both in the public and private sectors, the TUC and workers is underway to improve the perception and appreciation of the country's labour laws and practices.

### PUBLIC EDUCATION

The Commission's Public Education Programmes are aimed at creating in the public the culture of respect for human rights and freedoms. This objective we believe can be achieved by constantly informing and educating a broad spectrum of our population about human rights and also to encourage actions for the breach of same.

To facilitate the above, the Commission has categorised the population into target groups. The first category consists of people who possess the ability to affect human rights practice in this country. They include Police officers, the Armed Forces, Prison Service officials, Judges, Lawyers, Parliamentarians, District Assemblymen and women, the media and people who are concerned with policy making in the country.

The second group consists of people termed facilitators. Members of this group would in the first place benefit from acquiring knowledge on human rights issues and also act as agents for disseminating human rights information to people within their sphere of influence. As a matter of fact they occupy leadership positions in their various departments/offices and

communities. They are also able to communicate effectively with people they interact with. This group includes, Religious Leaders, Teachers, Traditional Rulers, Students and various Non-governmental organisations.

The third category is referred to as direct beneficiaries. They are targeted more because they are to benefit directly from the awareness that human rights and freedoms education would create in them. They include students, voluntary Associations, Churches and illiterate people living in predominantly rural settings.

The Commission since its inception, has been organizing a series of workshops and seminars for its target groups. Two workshops have been organised by the Commission to familiarise its staff and the public at large on the structure and functions of the Commission and the mechanism put in place for the effective discharge of its duties. The Commission has also embarked on a series of workshops for Police Personnel in the country. So far such workshops have been held at Tema, Cape Coast and Kumasi and we hope to conduct similar workshops in various other parts of the country.

The theme of these workshops was "Fundamental Human Rights and the enforcement of the Rule of Law in the Fourth Republic." The objective of these seminars and workshops was to promote awareness amongst the Police of the rights and freedoms entrenched in the 1992 Constitution and to discuss the implications of these rights on the Police powers of arrest, search, detention, prosecution.

Workshops have also been organised at Wa and Koforidua for District Chief Executives, Presiding Members and other opinion leaders in the Northern and Upper Regions, Eastern and Volta Regions.

Decentralisation and the Promotion of Human Rights and Administrative Justice was the theme for these seminars and workshops and the objective was to explain to members of the District Assemblies the various ways in which they could assist to promote and protect human rights in their Districts. Topics such as the Concept of Human Rights, Fundamental Rights and Freedoms under the Fourth Republic and dismissals, retrenchment, redeployment etc. were dealt with.

The Commission in its educational programmes has also initiated discussions with the Ministry of Education towards the inclusion of Human Rights courses in the curriculum of Junior Secondary and Senior Secondary Schools, as well as special courses for the tertiary institutions in the country. A favourable response has already been received from the Ministry.

We are working towards the publication of pamphlets and booklets based on the basic tenets of human rights and freedoms of the individual. These pamphlets and booklets would be interpreted into all the major Ghanaian languages and circulated throughout the country through our regional and district offices.

The Commission has also taken a broader look at the functions of other institutions and has found common ground in certain areas with the Commission's work. It has therefore joined in a networking in Public Education with the National Commission on Civic Education and the National Media Commission.

The three Commissions have so far jointly organised four seminars and workshops in Kumasi, Bolgatanga, Ho for identifiable groups from a cross-section of those communities



and one in Accra for Service Commanders and top Senior personnel of the Ghana Armed Forces.

The Commission would like to acknowledge a number of organisation and institutions which have contributed both financial and material support to make its Public Education Programmes a success. These include:

- (a) HANNS SEIDEL FOUNDATION
- (b) KONRAD ADENAUER FOUNDATION
- (c) US EMBASSY
- (d) BRITISH HIGH COMMISSION

## **FINANCE**

The Commission in the year under review has enjoyed a minimum of financial autonomy. For instance, it does not have to go through the Central treasury for its daily financial transactions. It however looks forward to a quick future allocations of its approved budget requirements to tackle expeditiously its financial outlays.

The Commission in the year under review submitted its financial estimates to the Ministry of Finance and Economic Planning, and subsequently defended same before the Finance Committee of this House. We must indicate that the Commission was impressed by the sympathetic hearing given it by the Finance Committee of this House, and would look forward to the same co-operation in the coming year.

We would however want to appeal to the House that, a continuous reliance on the Ministry of Finance and Economic Planning for Budgetary allocations and the incidence of budgetary cuts, make it frustrating at times for a new institution like ours to meet very pressing needs such as logistic support.

In the year under review, it was noted that substantial cuts were made in the approved capital budget of the Commission by the Finance Ministry. This made it impossible to provide vital equipment and logistic support to some of our offices in rural areas.

To this end, it would be much appreciated if the Commission's Budget were submitted directly to Parliament for vetting and approval. It would be further appreciated if this House could impress on the Ministry of Finance the need to release funds timeously to the Commission for vital purchases to avoid situations in which the falling value of the cedi often undermines price projections made.

## **APPRAISAL OF THE YEAR AND PROJECTIONS FOR THE NEXT YEAR**

### **APPRAISAL OF THE YEAR**

As has been indicated earlier in this report, the Commission has not been able to open offices in all the 110 Districts of the country due to manpower ceilings and budgetary constraints.

However, reports and returns received from the Regional and District Offices opened so far indicate a steady rise in the complaints received: a picture not too different from that of the national office. The use of mediation as a dispute resolution mechanism has proved

successful and expeditious. In the year under review most of the cases have been disposed of in this manner, making it at times unnecessary to travel the whole length of the process to formal hearing stage.

A lot of effort has been put in by the Commission in informal orientation of the workstyle of the staff. In some instances some staff have attended formal courses at GIMPA in furtherance of the policy of capacity building by the Commission. External training programmes for staff members are scanty. In the year under review only one legal officer had the opportunity for a short course in the United States.

The Commission has managed within its limited budget to purchase some basic equipment for all its offices opened so far. Our quarterly returns from the Regions and Districts so far indicate, that though pressure exists in the use of the equipment, remarkable results have been achieved with them.

Much progress has been made in the field of educating the public on Human Rights and Freedoms. We however have not sufficiently covered most of our target areas. Publication of pamphlets, and booklets on human rights issues is at the stage of take-off, and preparations are afoot for a more vigorous public relations programme.

## **PROJECTIONS FOR THE NEXT YEAR**

Within the year under review, the Commission has sufficiently exposed its existence and structure to a broader section of the country. Thus, it is anticipated that the following year would see many more complaints of varying degrees of complexity before it.

In parallel with the above anticipation, we will take the opportunity to examine the available data of our work, with a view to developing a better understanding of trends in the coming year.

We also will be looking at ways of delivering our services and will be trying to evaluate the benefits technological methods and experiences of other jurisdictions in human rights matters offer us.

Manpower approved ceilings and Budgetary allocations permitting, we intend to open many more district offices throughout the country in fulfillment of the statutory requirements of Act 456.

A lot more time would be put in next year in the capacity building process of the Commission. This would be broadened to cover both the technical and administrative requirements of the Commission.

The Commission in addition to seminars and workshops would explore new areas of effective Public Education methods on human rights issues. We certainly would move into the area of Pamphlet and Booklet publication. They would eventually be translated into the major languages spoken and written throughout the country.

Public Education in the coming year would be given a higher impetus. Beyond broadening the already existing target groups, public education would form part of the daily routine work in the Regional and District offices of the Commission throughout the country.

Proposals and logistic requirements have been received in the national office from our Regional and District offices. They have been processed for implementation next year.



## CONCLUSION

Honourable Mr. Speaker and Honourable Members of Parliament, a lot of detail on the structure and functions of the Commission has been given in this report. Being the maiden report to this House, it is the Commission's idea to give a broader picture of the Commission and its work.

The year under review as indicated before has been one of setting-up and building appropriate structures. This would continue during the next year and thereafter, but to the quality and efficiency of our work are already beginning to emerge.

It is our cherished hope that all institutions and individuals that the Commission has to deal with could continue to give it the needed co-operation for the efficient discharge of its constitutional obligations to the people of this country.

## STATISTICAL OVERVIEW OF CASES AND COMMENTARY ON APPENDICES

This commentary is not intended to explain every appendix in detail, but answer some of the commoner questions about the terminology used and the interpretation of the figures. The footnotes to the appendices contain cross-references to this commentary where particular phrases or formats require explanation.

During the year under review, the Commission received 3,197 cases. Head Office received 1,036 which account for 32.4%. Central, Western and Brong Ahafo regions had the highest number of petitions accounting for 31.8%. Thus on the average the Commission received 213 cases per month.

A total of 1,004 cases were disposed of nationwide during the year. Headquarters disposed of 339 (34%) Again, Central, Western and Brong Ahafo regions disposed of the highest number of cases i.e. 150, 133 and 100 respectively. These accounted for 38.1%. 2,193 cases were pending as at December 31st and accounted for 68.6%.

The 34% disposed of at the Headquarters has been categorized into withdrawal by petitioners, dismissed for lack of prosecution, rejected for delay in presentation of petition, settled by Commission, decided on merit without hearing, decided on merit after hearing, rejected in exercise of discretion and rejected for lack of jurisdiction. Averagely, the Headquarters was closing 67 cases every month.

At the Headquarters, labour related cases accounted for 61.5%. Petitions against private individuals and organisations amounted to 55.5% of the total petitions received throughout the country. 9.3% was against Public Corporations while 28.4% of the petitions were against Government Departments.

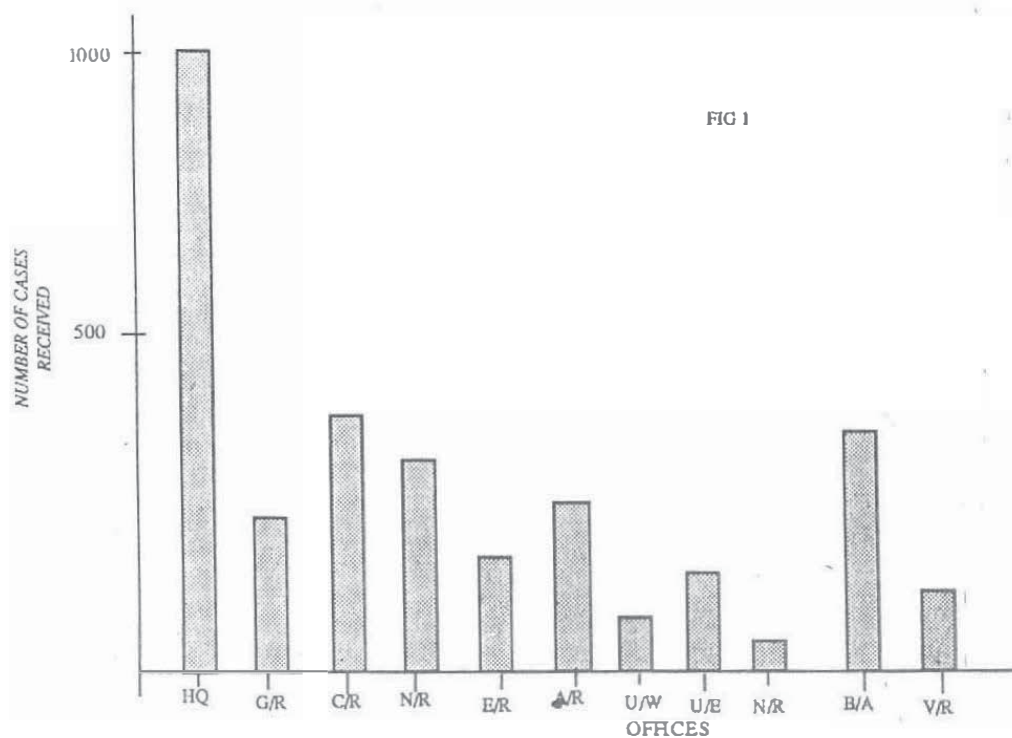
Of the 333 inherited cases from the defunct office of the Ombudsman, 21.6% were on miscalculation of pension and gratuity whereas those on dismissal, entitlements, termination of appointment, salary arrears and other labour related cases totalled 164 and accounted for 49.2%. These cases were added to the new petitions received during the year and dealt with.

# STATISTICAL REPORT ON CASES

## NUMBER OF CASES RECEIVED BY THE COMMISSION (1993-1994)

TABLE 1

OFFICES	NUMBER	PERCENTAGE
HEADQUARTERS	1036	32.4%
GREATER ACCRA	236	7.4%
CENTRAL REGION	394	12.3%
WESTERN REGION	369	11.5%
EASTERN REGION	131	4.1%
ASHANTI REGION	274	8.6%
UPPER WEST REGION	78	2.4%
UPPER EAST REGION	110	3.4%
NORTHERN REGION	66	2%
BRONG-AHAFO REGION	372	12%
VOLTA REGION	131	4.1%
TOTAL	3197	

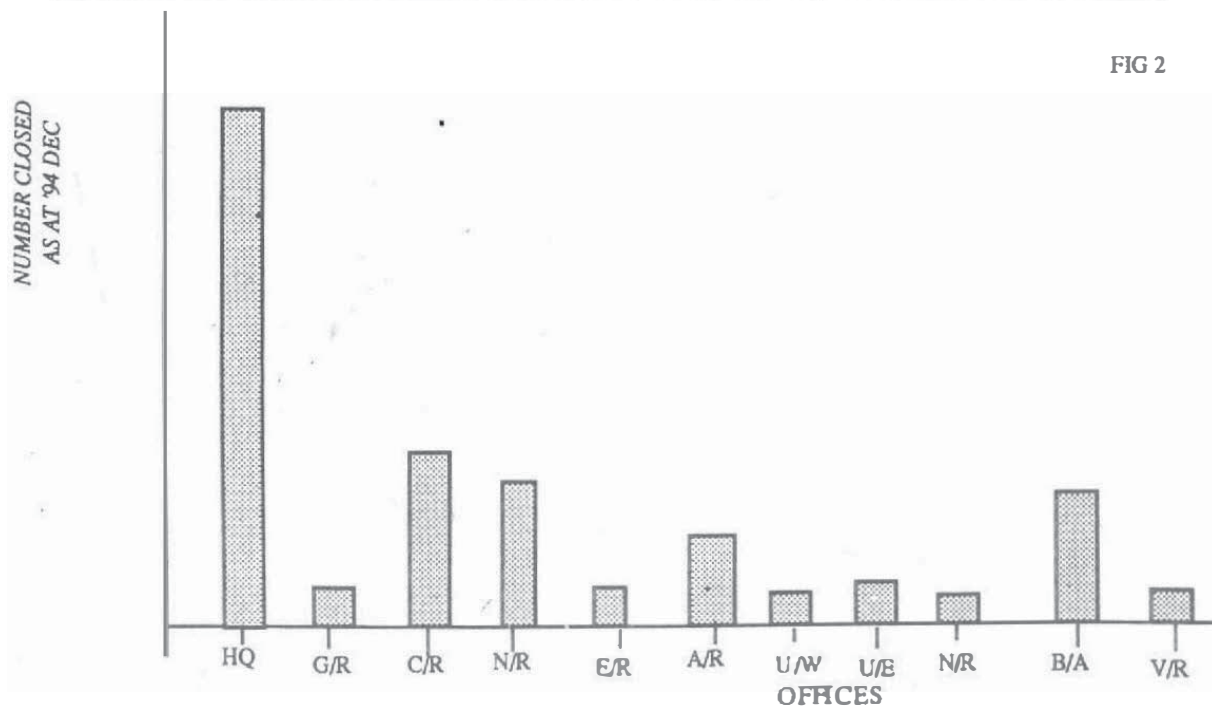


# DISPOSED OF CASES (NATIONWIDE)

TABLE 2

OFFICES	NUMBER	PERCENTAGE
HEADQUARTERS	339	34%
GREATER ACCRA	42	4.2%
CENTRAL REGION	150	15%
WESTERN REGION	133	13.25%
EASTERN REGION	28	2.8%
ASHANTI REGION	61	6.1%
UPPER WEST REGION	45	4.5%
UPPER EAST REGION	45	4.5%
NORTHERN REGION	33	3.3%
BRONG-AHAFO REGION	100	10%
VOLTA REGION	28	2.8%
<b>TOTAL DISPOSED OF</b>	<b>1004</b>	

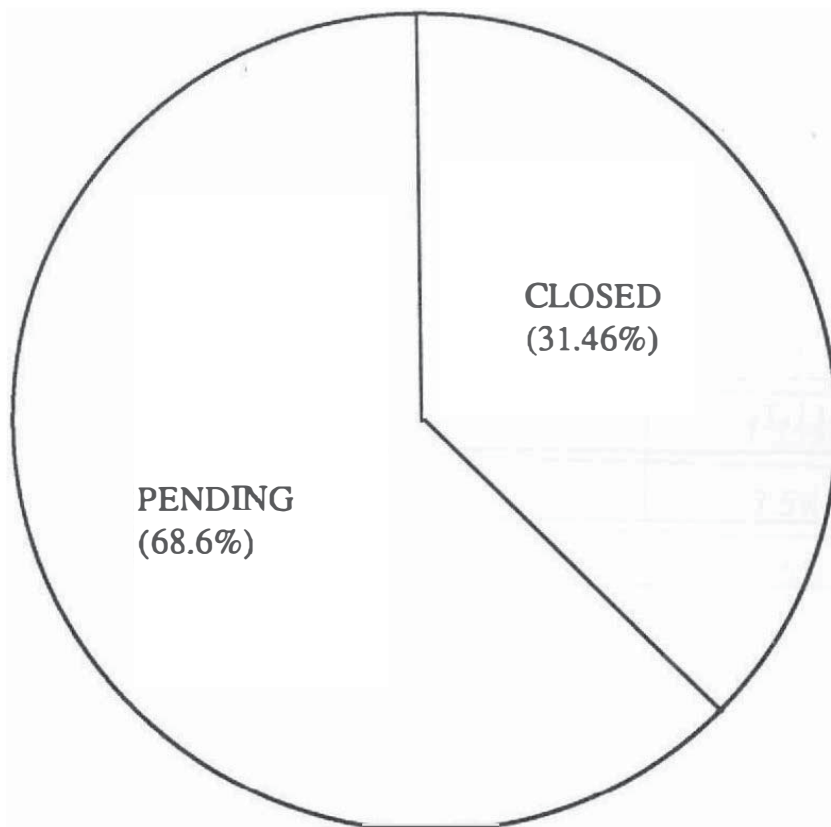
FIG 2



# **PENDING AND CLOSED CASES (NATIONWIDE)**

**TABLE 3**

STAGES	NUMBER	PERCENTAGE
CLOSED	1004	31.46%
PENDING	2193	68.60%
TOTAL	3197	



**FIG 3**

**Pie chart Representation on  
Pending & Closed Cases**

**NATURE OF CASES RECEIVED  
AT THE REGIONS & DISTRICTS**

**TABLE 4**

<b>NATURE OF PETITION</b>	<b>NUMBER</b>	<b>PERCENTAGE</b>
DISMISSAL	283	13.1%
TERMINATION OF APPOINTMENT	124	5.7%
ENTITLEMENT	401	18.6%
SALARY ARREARS	96	4.4%
VICTIMIZATION	283	13.1%
COMPENSATION	167	7.7%
DELAY IN DISPENSING JUSTICE	101	4.7%
ABUSE OF OFFICE	63	3%
UNLAWFUL ARREST	55	2.5%
BREACH OF CONTRACT	85	4%
FAMILY MATTERS	99	4.6%
SEEKING REDRESS	38	1.8%
LAND DISPUTE	128	6%
EJECTION	38	1.8%
OTHERS	200	9%
<b>TOTAL</b>	<b>2161</b>	

**RESPONDENT BODIES  
REGIONS AND DISTRICTS**

TABLE 5	NUMBER	PERCENTAGE
FINANCIAL INSTITUTIONS	45	2.1%
GHANA POLICE SERVICE	92	4.3%
GHANA PRISONS SERVICE	18	1%
GHANA FIRE SERVICE	15	0.7%
G.E.S.	88	4.1%
ACCOUNTANT GENERAL'S DEPT.	26	1.2%
GHANA ARMED FORCES	8	0.4%
PRIVATE INDIVIDUALS AND ORGANIZATIONS	1505	70%
OTHER PUBLIC SERVICES ORGANISATIONS	115	5.3%
PUBLIC CORPORATIONS	130	6%
REVENUE SERVICES	33	1.53%
MUNICIPAL/DISTRICT ASSEMBLIES	54	2.5%
MINISTRY OF HEALTH	32	1.5%
TOTAL	2161	



**RESPONDENT BODIES  
HEADQUARTERS**

TABLE 6

RESPONDENT BODIES	NUMBER	PERCENTAGE
FINANCIAL INSTITUTIONS	41	4%
GHANA FIRE SERVICE	5	0.5%
GHANA POLICE SERVICE	88	8.5%
GHANA PRISONS SERVICE	17	1.6%
BOARDS	30	3%
GHANA EDUCATION SERVICE	94	9.1%
GHANA ARMED FORCES	20	2%
PUBLIC CORPORATIONS	168	16.2%
METROPOLITAN ASSEMBLY	20	2%
GHANA CIVIL SERVICE	9	0.9%
OTHER PUBLIC SERVICES	63	6.1%
PRIVATE INDIVIDUALS AND ORGANISATIONS	270	26.1%
ACCOUNTANT GENERALS DEPT.	55	5.3%
PRESIDENT'S OFFICE	15	1.4%
C.H.R.AJ.	1	0.1%
REVENUE SERVICES	82	8%
MINISTRIES	58	5.6%
<b>TOTAL</b>	<b>1036</b>	

**NATURE OF PETITION RECEIVED  
AT THE HEAD OFFICE**

**TABLE 7**

NATURE OF PETITION	NO.	%	NATURE OF PETITION	NO.	%
DISMISSALS	256	24.7%	DELAY IN COURT	7	0.7%
ENTITLEMENTS	75	7.24%	PARDON/AMNESTY	6	0.6%
PENSION/GRATUITY	68	6.6%	DETENTION	9	0.9%
TERMINATION OF APPOINTMENT	86	8.3%	INTERDICTIONS	35	3.4%
LAND DISPUTE	23	2.2%	SUSPENSIONS	5	0.5%
RECOVERY OF DEBT	52	5%	ELECTORAL IRREGULARITIES	2	0.2%
SALARY ARREARS	39	3.8%	FAMILY MATTERS	51	5%
COMPENSATION	38	3.7%	LEAVE ALLOWANCE	3	0.3%
EJECTION	34	3.3%	VICTIMIZATION	51	5%
CONFISCATION	13	1.3%	TRANSFERS	3	0.3%
HARRASMENT BY SECURITY FORCES	16	1.5%	SOCIAL SECURTIY CONTRIBUTIONS	6	0.6%
REDEPLOYMENT	14	1.35%	ASSAULT	4	0.4%
RETIREMENT	34	3.3%	EXECUTIVE DISMISSALS	4	0.4%
SEIZURE OF PROPERTY	36	3.55	INTIMIDATION	7	0.7%
PROMOTIONS	9	0.9%	SEEKING REDRESS	30	3%
CORRUPTIONS	5	0.5%	OTHERS	15	1.4%

**TOTAL 1036**

**RESPONDENT BODIES INVOLVED  
IN CLOSED CASES AT HEAD OFFICE**

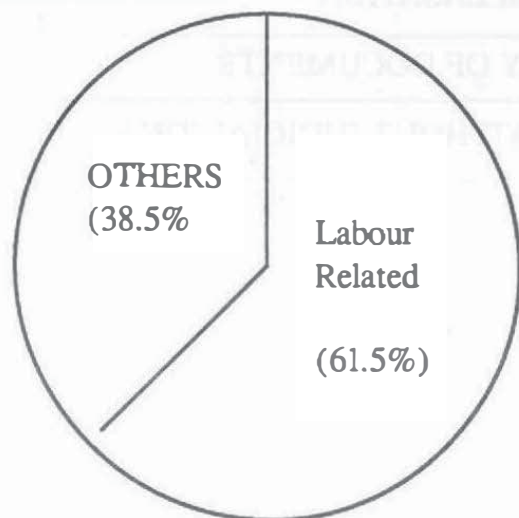
**TABLE 8**

RESPONDENT BODIES	NUMBER
PUBLIC CORPORATIONS	43
GHANA POLICE SERVICE	20
GHANA FIRE SERVICE	2
GHANA PRISONS SERVICE	6
PRIVATE INDIVIDUALS & ORGANIZATION	145
JUDICIAL SERVICE	8
GHANA EDUCATION SERVICE	29
MINISTRIES	10
FINANCIAL INSTITUTIONS	2
FOREIGN MISSIONS	2
CONTROLLER & ACCT. GEN'S.	8
(OTHER) PUBLIC SERVICES	16
MILITARY ACADEMY	1
CIVIL SERVICE	13
MUNICIPAL/DISTRICT ASSEMBLIES	5
BOARDS	1
METALOPLASTICA GH. LTD.	1
OFFICE OF PRESIDENT	1
REVENUE SERVICES	1
AUDIT SERVICE	1
OTHER	17
<b>TOTAL</b>	<b>339</b>

# **NATURE OF LABOUR RELATED CASES AT HEADQUARTERS**

**TABLE 9**

NATURE OF PETITION	NUMBER	PERCENTAGE
DISMISSALS	256	24.7%
ENTITLEMENTS	75	7.24%
PENSION/GRATUITY	68	6.6%
TERMINATION OF APPT.	86	8.3%
SALARY ARREARS	39	3.8%
REDEPLOYMENT	14	1.35%
RETIREMENT	34	3.3%
PROMOTIONS	9	0.9%
INTERDICTIONS	35	3.4%
SUSPENSIONS	5	0.5%
LEAVE ALLOWANCE	3	0.35%
SOCIAL SECURITY CONTRIBUTION	6	0.6%
TRANSFERS	3	0.3%
EXECUTIVE DISMISSALS	4	0.4%
<b>SUB-TOTAL</b>	<b>697</b>	<b>61.5%</b>
OTHERS	339	38.5%
<b>TOTAL</b>	<b>1036</b>	



*Fig. 4*

Pie chart Representation  
on Labour Related and other Cases

**NATURE OF PETITIONS  
OF CLOSED CASES (HQ)**

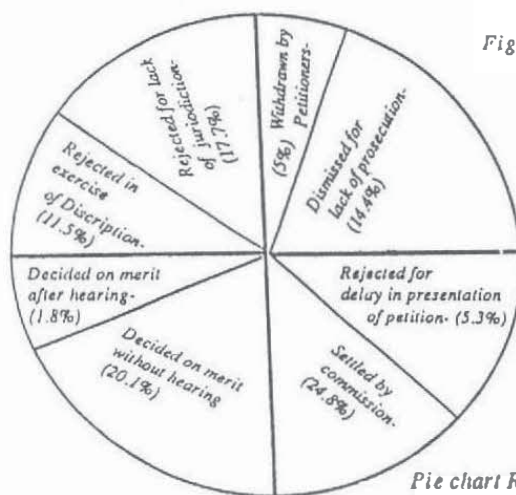
**TABLE 10**

NATURE	NUMBER	PERCENTAGE
DISMISSALS	48	14.16%
TERMINATION OF APPOINTMENT	31	9.14%
REDEPLOYMENT	3	0.9%
BREACH OF CONTRACT	21	6.2%
VICTIMIZATION	31	9.14%
ENTITLEMENT	36	10.62%
RE-INSTATEMENT	8	2.36%
SALARY ARREARS	27	8%
UNLAWFUL DETENTION	2	0.6%
FAMILY MATIERS	38	11.2%
SEEKING ASSISTANCE FOR VARIOUS	21	6.2%
VIOLATIONS OF FUNDAMENTAL HUMAN RIGHTS	10	3%
SOCIAL SECURITY CONTRIBUTION	5	1.5%
COMPENSATION	20	5%
RECOVERY OF DOCUMENTS	2	0.6%
INCARCERATED WITHOUT JUDICIAL TRIAL	2	0.6%
UNLAWFUL RETIREMENT	4	1.2%
LAND DISPUTE	9	2.65%
OTHERS	21	6.2%
<b>TOTAL</b>	<b>339</b>	

# **NATURE OF CLOSED CASES (AT HEAD OFFICE)**

**TABLE 11**

NATURE	NUMBER	PERCENTAGE
WITHDRAWN BY PETITIONERS	17	5%
DISMISSED FOR LACK OF PROSECUTION	49	14.45%
REJECTED FOR DELAY IN PRESENTATION OF PETITION	18	5.31%
SETTLED BY COMMISSION	82	24.8%
DECIDED ON MERIT WITHOUT HEARING	68	20.1%
DECIDED ON MERIT AFTER HEARING	6	1.8%
REJECTED IN EXERCISE OF DISCRETION	39	11.5%
REJECTED FOR LACK OF JURISDICTION	60	17.7%
<b>TOTAL</b>	<b>339</b>	



*Fig. 5*

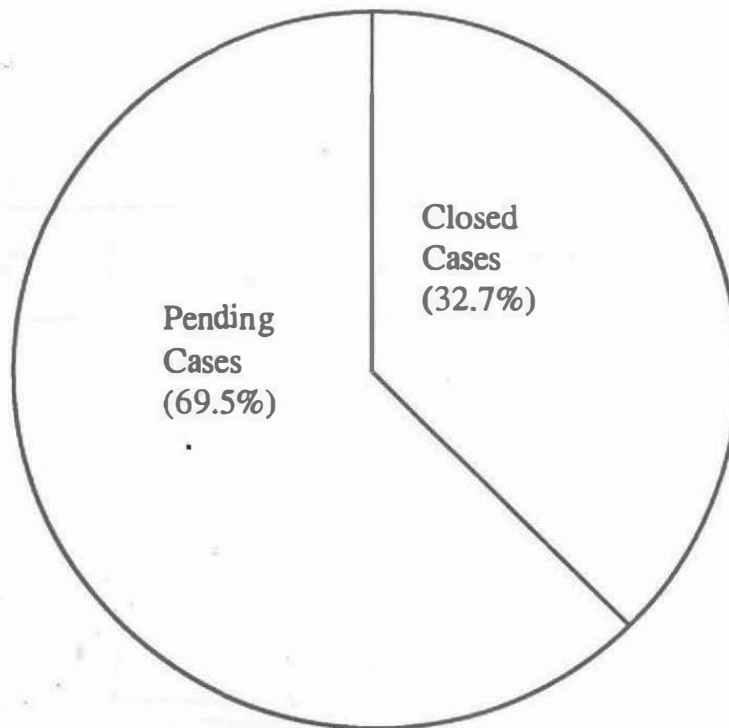
*Pie chart Representation on  
Nature of closed cases*

# **PENDING AND DISPOSED OF CASES AT THE HEADQUARTERS**

**TABLE 12**

CLOSED & PENDING CASES	NUMBER	PERCENTAGE
CLOSED CASES	339	32.7%
PENDING CASES	697	67.3%
<b>TOTAL</b>	<b>1036</b>	

**FIG 6**



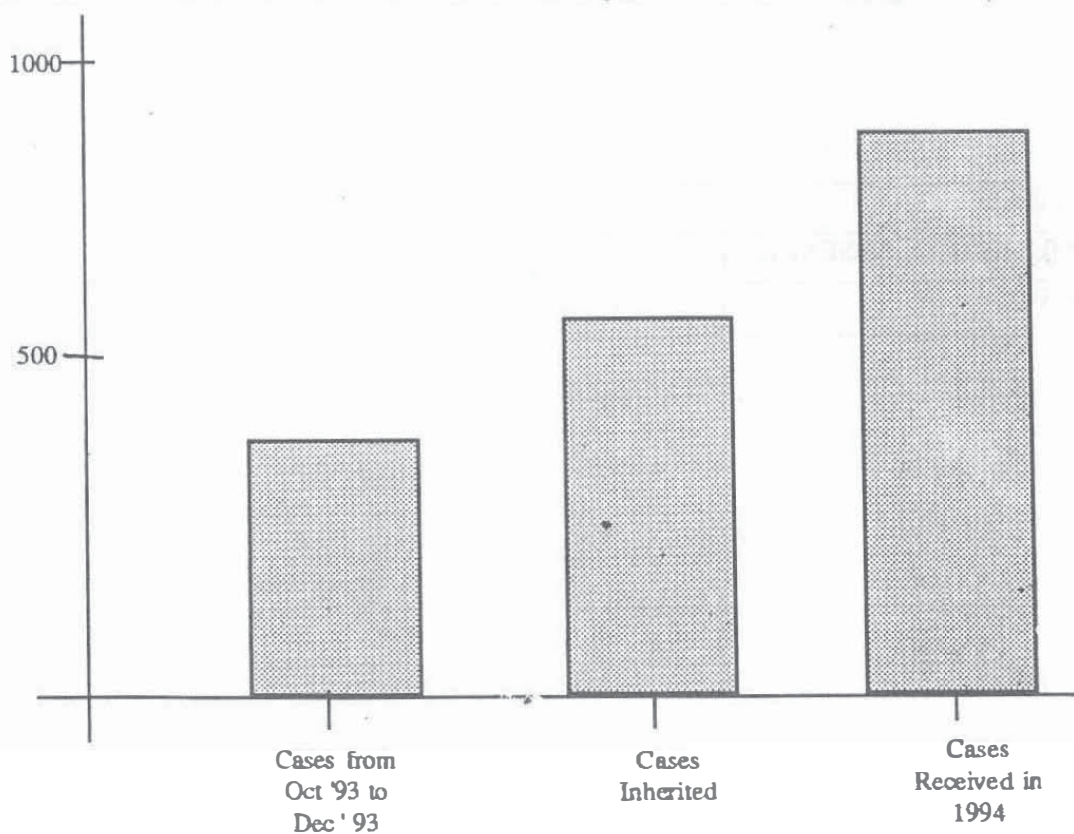
**Pie chart on Closed  
and Pending Cases  
at Headquarters**



**CASES AT THE HEAQUARTERS  
INCLUDING  
CASES INHERITED FROM OMBUDSMAN**

**TABLE 13**

MODE OF RECEIPT OF CASES	NUMBER	PERCENTAGE
CASES RECEIVED IN 1993	231	17%
CASES INHERITED FROM THE OFFICE OF THE OMBUDSMAN	333	24.3%
CASES RECEIVED FROM 1st JAN '94	805	59%
<b>TOTAL</b>		



**INHERITED CASES FROM  
OMBUDSMAN  
(RESPONDENT BODIES)**

**TABLE 14**

RESPONDENT BODIES	NUMBER	RESPONDENT BODIES	NUMBER
PRIVATE INDIV' & ORGANIZATIONS	20	GHANA AIRWAYS CORPORATION	2
GHANA POLICE SERVICE	12	SCHOLARSHIP SECRETARIAT	2
GHANA PUBLISHING CORPORATION	3	GH. FIRE SERVICE	3
E.G.C.	3	ASH. GOLDFIELDS	1
V.R.A.	2	U.S.T.	1
C.E.P.S.	16	GH. PRISONS SERV.	3
DEPT. OF SOCIAL WELFARE	3	OFFICE OF PRESIDENT	1
G.F.D.C.	2	G.I.H.O.C.	2
ACC'T GEN'S DEPT.	36	S.S.N.I.T.	2
M.O.H.	9	TEMA FOOD COMPLEX	1
COCOBOD	10	LOCAL COUNCIL	1
GRAIN DEV. BOARD	2	STATS. SERVICE	1
PUBLIC WORKS DEPT.	1	NATIONAL SERVICE	1
G.B.C.	2	MIN. OF TRANSPORT	1
MUNICIPAL ASSEMBLY	5	M.F.E.P.	1
S.F.C.	9	GAME & WILDLIFE	1
S.T.C.	4	BK.H'SING & CONST	1
G.E.S.	20	G.F.P.C.	2
OMNIBUS SERVICE AUTHORITY	4	UNIVERSITY OF GHANA	1
MIN. OF DEFENCE	3	J.T.L.	1
P & T CORP.	49	PUBLIC SERVICE	2
G.N.T.C	2	OTHERS	25
S.H.C.	2		

**TOTAL      333**

**NATURE OF CASES INHERITED  
FROM OMBUDSMAN**

**TABLE 15**

NATURE OF PETITION	NUMBER	PERCENTAGE
ENTITLEMENTS	32	9.6%
DISMISSALS	50	15%
TERMINATION OF APPOINTMENT	20	6%
SALARY ARREARS	20	6%
PENSION & GRATUITY	72	21.6%
VACATION OF POST	1	0.3%
VICTIMIZATION	25	7.5%
RETIREMENT	15	4.5%
LANDLORD/TENANT	6	1.8%
REDEPLOYMENT	4	1.2%
RE-INSTATEMENT	12	3.6%
UNLAWFUL ARRES & DETENTION	4	1.2%
SOC.SEC. C'BUTION	3	0.9%
PROMOTION	2	0.6%
COMPENSATION	6	1.8%
DEBT COLLECTION	2	0.6%
DEPORTATION	1	0.3%
SEEKING REDRESS	8	2.4%
LAND DISPUTE	7	2.1%
INTERDICTION	8	2.4%
OTHERS	35	10.5%
<b>TOTAL</b>	<b>333</b>	

## SUMMARY OF SOME CASES DETERMINED IN 1994

**CASE NO. CHRAJ/129/94**  
One year into his two-year probation period the petitioner's appointment was terminated for unsatisfactory performance in January, 1994.

He had taken an appointment in a Private Company in the business of wood processing. Within a year of his appointment he received several warnings for laziness, sleeping on duty and for performance lacking in quality.

The last straw which broke the camel's back was when after the 1993-1994 X'mas and New Year recess the petitioner reported for work five days later than expected.

His employers terminated his appointment by giving him the required one month salary in lieu of notice and fifteen days commuted annual leave on a pro rata basis.

The Commission invited him for discussions after calling for comments from his employers.

The petitioner admitted receiving the queries but denied he committed those lapses.

The employer-employee relationship was explained to him and further that his employers had acted within the terms of his employment. The petition was therefore dismissed.

Having accepted his fate the petitioner claimed compensation of ₵20 million for the inconvenience caused him.

In respect of the compensation claimed by the petitioner, the Commission decided that he was not entitled to it because the respondents had acted within the limits of the law.

The petition was therefore dismissed.

## CASE NO. CHRAJ/58/94

The petitioner was a Law Officer seconded to the Legal Aid Board as its full time Secretary. An advertisement for the Post of Executive Secretary went out and she applied.

Taking advantage of her post as Secretary to the Board she found out that at the interview one Mr. XE came first and she second. As investigations showed the second position was a tie between her and another applicant Mr. H. She also knew from her position as Secretary to the Board that the Board decided that in the event that Mr. XE declined to accept the appointment, it would be offered to her.

The petitioner then wrote to a government agency which is responsible for appointments to object to the Board's decision to offer the post to Mr. XE on the ground that Mr. XE was not legally qualified by reason of age.

The Board readvertised the post in the national papers and the petitioner lodged a petition with the Commission "for a redress of her fundamental right as a citizen of Ghana".

Although she did not state which fundamental right had been trampled upon she alluded to the fact that she was being denied the post because she was a woman.

The Commission rejected her petition on the ground that the decision to offer the position to her was based on a contingency which never materialised, i.e. the post was not ever offered to Mr. XE for him to decline it. In fact it was the petitioner's own preliminary objection to the eligibility of Mr. XE that prevented the Board from implementing its decision.



Moreover no employer can be compelled to employ another person against his will.

The Commission also found no evidence to support the petitioner's half-hearted allegation that she was denied the position because of her gender. On the contrary, it was the petitioner's own conduct in objecting to the position being offered to Mr. XE that frustrated the whole appointment process.

In the circumstances the Commission decided that the Board had not acted unreasonably in re-advertising the post. Accordingly, the petition was dismissed.

#### CASE NO. CHRAJ/200/93

The petitioners in this case were Police Officers who had been dismissed in separate cases with similar facts.

A senior Police Officer led a team of Policemen to conduct on the spot investigation into an allegation of extortion of money from drivers by Policemen on duty at different police barriers.

At the spot the Policemen were called from their positions into the rest room, the place was searched and some money found. In one case, it was ₦350.00 in a First Aid Box and another, ₦14,000.00 under a tarpaulin.

Charges were preferred against the petitioners among others before a Committee of Enquiry for failing to account for an amount of ₦350.00 and ₦14,000.00 "a conduct which tends to bring the Police Service into disrepute."

The Committees of Inquiry in both cases acquitted and discharged the petitioners in no uncertain terms. The Committee in one case stated: "The charges have not been sufficiently proved against defendants and therefore, recommends that the ten (10) defendants be acquitted and discharged." In the other case, a letter from the IGP's office stated that "The Adjudicating Panel could not establish any case against the Policemen and recommended that the first eight including the petitioner should be acquitted and discharged."

The Police Administration purporting to act on the above findings and recommendations of the Adjudicating panels wrote dismissing the petitioners stating as follows:

"Following a service enquiry .. and your subsequent conviction the Central Board has after reviewing the record of proceedings and considering the findings of the adjudicating Officer imposed a sentence of Dismissal in exercise of the power vested in the Board under Regulation 3 (1) (a) of the Police Service Disciplinary Proceedings Regulations 1974 ( LI 993)".

The IGP confirmed the dismissals. A significant feature of the dismissal letters was that they were cyclostyled with stereotyped words.

After investigation the Commission wrote to the IGP pointing out that although the Committee acquitted and discharged the petitioners, the dismissal letters recited a "subsequent conviction" which was never the case. The petitioners had never suffered a conviction. It was pointed out that the use of the cyclostyled and stereotyped dismissal letters must have mistakenly put the petitioners in a category they did not fit. The Commission for these reasons, drew the attention of the IGP to this travesty of justice and pointed out that in such circumstances, there cannot be a just case in law for the dismissal of the petitioners, that the assumption under which they were dismissed, namely, that they had been convicted, was false

and non-existent.

The re-instatement of the petitioners was recommended.

#### **CASE NO. CHRAJ/70/98**

The petitioners petitioned the Commission to have their seized goods which they had imported into this country released to them.

They had employed an agent at the borders to send in the goods for them.

These goods made up of 87 packages were seized at Mataheko in the very heart of Accra. The agent who the petitioners alleged had gone through all customs formalities and paid all duties vanished into thin air immediately the customs officials intercepted the goods.

The petitioners contended that they had spent several millions on the goods and it was unfair to have the goods confiscated.

The Commission sent an investigator to the border area where the goods had crossed into Country. It turned out that there was no record of any form of custom payment or recordings in any receipt book, or landing account. More importantly the petitioners names were conspicuously absent from any recorded customs transaction for the period under consideration.

A formal inquiry was instituted and it came to light that of the 87 packages seized quite a sizeable number of them contained banned drugs. Interestingly there is a clear directive since 1989 by the Pharmacy Board prohibiting the importation of drugs into Ghana through any other entry point except through the Tema Harbour and the Kotoka International Airport.

The only reasonable inference to draw is that those drugs found among the seized packages were intended to be smuggled into the country and of course that goes for all the others as well.

The Commission therefore found that the goods had been smuggled into the country and that no duty was paid on them. The petitioners had fallen foul of the laws of importation and must suffer the consequences.

The provisions of PNDCL. 330 were therefore invoked and the petition dismissed as unmeritorious.

#### **CASE NO. CHRAJ/OB/CN/68/90**

Two certified teachers from Komenda Training College were dismissed from the services of the Ghana Education Service in connection with the leakage in the Modular Promotion Examination in 1988 and the irregularities in the conduct of that Examination.

The case arose when it was alleged that some students had informed the Ghana Education Service that the petitioners had collected money from them to help them pass the examination and also that they were trading in examination questions. The Ghana Education Service alleged that the petitioners were able to carry out these activities with the help of some officers from the Head Office.

The Ghana Education Service purported to have conducted some investigations and based on the findings dismissed the two teachers from the Service.

The petitioners who denied the allegations felt aggrieved by the dismissals and petitioned the office of the Ombudsman.

The matter was transferred to this Commission following the abolition of the Ombudsman's Office.

A formal hearing was instituted and it came to light that the Ghana Education Service acted on their suspicion of the petitioners. The Ghana Education Service failed to comply with the laid down procedure for taking disciplinary measures against its employees. No charges were levelled against the petitioners as is required by the Code of Professional Conduct of Teachers.

This Commission also found that Ghana Education Service failed to confront the petitioners with their accusers in spite of the vehement denial of the petitioners.

The case for the Ghana Education Service rested on suspicion. The Commission took the view that not even a multitude of suspicions was sufficient to amount to proof in law. Consequently, the Commission recommended that the petitioners be reinstated into the Ghana Education Service.

### **CASE NO. CHRAJ/OB/CN/99/93**

The petitioner who was on duty abroad was summarily dismissed for refusing to return home when ordered to do so although he had not completed the programme for which he went abroad.

He was the Acting Financial Controller of the Black Star Line. In July, 1989 he went to a University in England to pursue a 12 months Postgraduate course. By April 1990 he had completed 9 core subjects and was preparing to write the examination in the remaining 2 subjects when a directive was sent from the Ministry directing that he should return to his post in Ghana within 10 days.

Investigations showed that his employers had given him the impression that his study programme had received the approval of government. The government had in fact rejected the application to commit government funds for the programme but in the alternative had approved an 8 day working visit to England for the petitioner.

When he received the instructions to come back home he wrote requesting to be granted his leave to enable him "round off" his affairs.

The Ministry refused to grant him the application for Leave and ordered him to report in Ghana within 2 weeks or consider himself dismissed.

The petitioner stayed on to complete the programme only to return to find he was jobless. His salary had been stopped and his name removed from the list of members of staff of his former office.

In spite of this disobedience to government directive the Commission sympathised with him by reason of the extenuating circumstances and recommended the termination of his appointment without loss of benefits, for the following reasons:

a. His employers had misrepresented a position to him that approval had been granted him on which he relied on to his detriment and should not therefore be made to suffer such harsh punishment. In fact public funds had been applied in a large measure and it would have been more expedient to have allowed him to complete the course.

b. The employer-employee relationship existed between the shipping line and the petitioner



and any punishment should have been within the terms of the Collective Agreement.

c. The petitioner had worked for 17 years and his dismissal with total loss of entitlements would cause grave hardship on his family and dependants.

#### **CASE NO. CHRAJ/TR.1/94-BA**

This case arose in the Brong Ahafo Region of Ghana. The petition which was lodged at the Head Office of the Commission in Accra was transmitted to the Brong Ahafo Regional Office of the Commission to be handled therefrom.

There were four petitioners in all who suffered the termination of their appointment with the Brong Ahafo Regional Administration "with immediate effect."

Investigation revealed that the petitioners, employed as Labourer/Cleaners by the Brong Ahafo Regional Administration, were constantly guilty of absenteeism despite warnings to them. On 12th October, 1989 they again failed to report for work at the time when they were expected to clear the frontage of the premises of their employer. No reasonable explanation was given for their absence from work.

Although the Commission found that the Brong Ahafo Administration was justified in terminating their appointment the issue arose whether it could be done summarily.

Examination of the appointment letters of the petitioners indicated that their appointment could be terminated at any time on giving them one month notice in writing or paying them a full month's salary in lieu of notice or vice versa. Furthermore their Conditions of Service was to be governed by Civil Service Act now Civil Service Law.

The Commission arrived at the decision that by the terms of the Civil Service Law, a Civil Servant whose appointment has been terminated was entitled to be paid all his just entitlement and benefits. Furthermore the Commission decided that although the termination was justified the respondents had breached the terms of their contract as embodied in the appointment letters. One month's notice or payment of one month's salary in lieu of notice was required.

The decision of the Commission was therefore that although the termination should stand the petitioners as of right were entitled to one month's salary in lieu of notice and the payment to them of all their benefits and entitlements and that termination with 'immediate effect' is unknown in the Civil Service.

#### **CASE NO. CHRAJ/227/93**

The petitioner used to be the head of the Production Management Unit of the Television Division of the Ghana Broadcasting Corporation.

During an internal restructuring exercise, the petitioner was informed of his posting to another Department i.e. the Drama Section. Aggrieved by the transfer he uttered some harsh abusive words on the verandah directed at the Director of Television.

The Committee that was set up to investigate his conduct found him liable of gross misconduct but recommended that his suspension which was imposed immediately should be lifted on the grounds that "the period 27th September, 1993 to date that Mr. X has been away on suspension without any pay should be enough punishment." The report was dated 15th November, 1993.

The petitioner had applied for a Car Loan which had been approved before the incident. Incidentally his application for the loan was linked with his position as the head of the Production Unit.

Ghana Broadcasting Corporation cancelled the approval for the loan and granted it to the new head of the Production Section.

The petitioner therefore petitioned this Commission "to help establish justice fairplay and administrative prudence."

Following investigation carried out by this Commission it came to light that the petitioner had behaved in a manner unbecoming of an officer of the Ghana Broadcasting Corporation and had to be punished.

The petitioner had been on suspension since the 27th September, 1993. But according to Article 23 III(c) of their Collective Agreement, an employee found guilty of a major offence is to suffer, inter alia, "suspension from duty without pay up to a maximum period of 10 consecutive days." Use of insulting language toward another employee was listed in the Collective Agreement as a major offence.

The reliefs claimed by the petitioner were:

- (a) Refund of his salary for the months October and November, 1993 and
- (b) Tendering to him of an amount of C2.0m being Car Loan approved but later withdrawn.

The decision of the Commission was that the petitioner could not be made to suffer more than ten (10) days suspension, to wit the corresponding loss of pay for 10 days. He was therefore entitled to a refund of all monies deducted from his salary in connection with his suspension from work for more than 10 days salary.

On the issue of the Car Loan the Commission was in entire agreement with the explanation of the management that "as a policy a car loan may be granted to an employee who qualifies in terms of seniority and the nature of his duties subject to the availability of funds."

The Commission felt reluctant to question the discretion of Ghana Broadcasting Corporation to grant the loan to the incumbent of Production Management Unit of Ghana Broadcasting Corporation whose need for a car was considered by Respondents more pressing than that of the head of the Drama Section where the petitioner had been posted.

Petitioner was advised to put in another application for the consideration of management.

On the 29th November, 1994 the Director of G.B.C. wrote to the Commission indicating the acceptance by G.B.C. of our decision.

### **CASE NO. CHRAJ/42/93**

The petitioner petitioned the Commission alleging that he had been wrongfully dismissed from the Controller and Accountant General's Department. He said his dismissal stemmed from a report written by his Regional Director to the effect that he had misconducted himself in the performance of his official duties. He therefore wanted the Commission to review his dismissal and recommend his reinstatement.

The Controller and Accountant-General in their reply to the petition stated among others "Mr X was dismissed for various offences which were listed as follows: stealing new forms

without authority and using same to collect stationery items and an office machine, collecting ₦4,000 instead of ₦2,000 to purchase inputs; cashing a colleague's cheque without his consent; making short payment of ₦28,000 in respect of excess salaries he collected from the staff; and extorting money from staff with the promise of pay increase.

Even though petitioner put up a defence against the alleged offences, his defence was found to be untenable by the respondents. The Commission agreed with respondents on that.

Petitioner was on probation at the time his appointment was terminated. It had been stated in his appointment letter that if his services were considered unsatisfactory during the probation period, he may be discharged at a month's notice, or be paid a month's salary in lieu thereof.

It was found that petitioner, on receipt of his letter of termination, applied for the payment of his one month salary in lieu of notice. The application was granted, but he refused to collect the money and instead petitioned the Commission for, inter alia, reinstatement.

Based on the evidence on record, the Commission gave a ruling to the effect that the petition was not made in good faith; that by terminating petitioner's appointment respondents acted in accordance with the terms of petitioner's appointment; and that the remedy sought by the petitioner was not available to him.

#### **CASE NO. CHRAJ/OB/CN/168-208/93**

This case is one of those inherited by the Commission from the Ombudsman. The main complaint of the petitioner was that they were being forcibly ejected from their Nungua/Okponglo Brigade Quarters by the Respondents. Their main relief was that they should be allowed to purchase the quarters (as redeployees) just as their counterparts in the Food Production Corporations had been allowed to do. They further argued the government announcement for the sale of 17,800 bungalow units to its sitting tenants throughout the country affected them too i.e. in the sense that their units form part of 17,800.

The response of the Respondents to the main petition was that their quarters were duty-postones i.e. quarters meant for serving officers of the Department. Their conclusion was that since they were redeployees of the Department and also since they had not paid any rent since their redeployment they were not entitled to stay in the units. They also added that their quarters did not form part of the 17,800 units meant for sale.

The Commission's own investigations into the case by way of panel discussion involving officers from the Commission and the parties themselves revealed the following:-

- (a) The quarters were duty-post ones.
- (b) The quarters did not form part of 17,800 units to be sold.
- (c) The petitioners were not sitting-tenants since they had not paid any rent for their occupation of the quarters since their redeployment.
- (d) they had since their redeployment been paid their entitlements.

In the light of the above revelations (after investigations) the Commission ordered the petitioners to vacate the units within three (3) months from the 15th day of October, 1994 to give way to the Department's serving officers to whom the said quarters had been allocated.

### **CASE NO. CHARAJ/561/93**

The petitioner's case was that she received a letter from the respondents declaring her redundant.

She was seven months pregnant at the time, a fact known to the respondents and she argued that under Section 43 of Labour Decree, 1975, (NLCD. 157) she ought not to have been made redundant due to her condition.

The Commission invited the parties for discussions, after which the Commission decided there had not been a breach of the said Section 43 of Labour Decree. It was also found out that the redundancy exercise made by the respondent conformed to laid down laws and regulations. However, it was realised that the respondents breached Article 27 of the 1992 Constitution which provides that special care shall be accorded to mothers during a reasonable period before and after child-birth; and during those periods, working mothers shall be accorded paid leave.

As a result, the Commission decided that the respondents pay to the petitioner the three months salary she would have enjoyed, had she been allowed to go on leave.

Both parties readily accepted the decision of the Commission. The respondents promptly paid to the petitioner the three months salary.

### **CASE NO. CHRAJ/44/94**

Petitioner in this case, averred in his petition dated 10th March, 1994 that he was wrongfully dismissed from the employment of respondent company for allegedly soliciting for funds from respondent's customers.

The respondents, in their comments stated that the petitioner had indeed been demanding money from the company's customers in the course of his duties which was found to be true after their investigations; and that this brought their company into disrepute. After a study of the petition and the comments, it was decided that a discussion with the parties (for a possible settlement) was necessary.

The discussion resulted in respondents offering to convert the dismissal to termination and paying petitioner two (2) weeks salary in lieu of notice.

The petitioner who worked with respondents for seven (7) months only, accepted the offer.

Respondents subsequently deposited ₦33,000.00 (being 2 weeks salary in lieu of notice) with the Commission. The amount was later paid to the petitioner (by the Commission) and by letter dated 26th October, 1994 petitioner acknowledged receipt of the money as "final settlement" of his claim.

The matter having been settled amicably, the docket was closed on 19th December, 1994.

### **CASE NO. 225/93**

Petitioner alleged in his petition dated 10th December, 1993 that he was verbally engaged in October, 1991. His appointment was terminated (verbally), the reason being that someone else had been engaged for that position. Respondents however promised to re-engage him later if his services were required.

Petitioner alleged also that upon his engagement respondents promised to pay him a



monthly salary of ₦300,000.00 but he had since been receiving only ₦150,000.00. His claim therefore was for the payment of the balance of ₦150,000.00 per month for the period October, 1991 to March, 1993. He also claimed payment of ₦600,000 which he said respondents agreed to pay him if he was "dismissed in lieu of notice."

Commenting on the petition, respondents' Solicitors denied liability for any of petitioner's claims. They said petitioner's engagement was 'an act of charity' by respondents to relieve him from his "indigent circumstances". They maintained that a master/servant relationship never existed between them.

To resolve the matter, the parties were invited for discussions aimed at an amicable settlement. Petitioner was unable to honour the invitation, but respondents were present and offered to give ₦500,000.00 to petitioner less ₦150,000.00 that he owed them, without prejudice.

The offer was accordingly communicated to petitioner who accepted it unconditionally. At a meeting scheduled for the purpose both parties were present and an amount of ₦350,000.00 was tendered to the petitioner which he accepted and issued a receipt stating that "my petition lodged with this Commission has been fully and totally settled. In view of the settlement the file was closed on 16th August, 1994.

#### **CASE NO. CHRAJ/OB/CN/39-42/92**

This is a case in which the petitioners who are retired officers complained about two things:-

1. That even though they were employed into the then Auditor-General's Department in 1951, their pension was calculated on the basis of their employment from 1969 instead of 1951.

2. That in computing their pension, the Accountant-General used their ranks and pay level as at 1990 instead of 1991.

Upon the intervention of the Commission the Controller and Accountant-General eventually conceded to the claims of the petitioners.

The final decision of the Commission dated 28/11/94 was to the effect that the pensions be re-computed and the difference paid to the petitioners or administrators of their estates as the case may be since one of them was deceased.

#### **CASE NO. CHRAJ/CN/90/93**

The petitioner had one of his Tema Development Corporation (TDC) houses confiscated to the State because he had more than one of such houses.

His argument was that he procured the First house for his mother, yet the title stood in his own name.

The petitioner applied for a second house but argues the modality for procuring this house was completely different from the first which was on rental basis. This house according to him was procured under the house ownership scheme. Under this scheme the purchaser made an advance of 33 1/2 per centum of the purchase price and paid the balance by instalments. It is not in doubt that he personally supervised the construction of the house to completion. At a point he took over fully from the TDC contractor and personally financed the landscaping

roadworks, terrazzo, interior fitting and plumbing.

It was argued on behalf of SHAPIC, the confiscating body that the law did not permit any person to acquire more than one house constructed or provided by a State Institution. It was argued that the acquisition of the land was a crucial factor because the government acquired it paid compensation thereon before releasing it to TDC to provide the house in fulfillment of a government policy to house workers at subsidised rate thereby easing the perennial housing problem.

The Commissioner raised the issue as to whether he had power under Article 35 (2) of the Transitional Provision of the 1992 Constitution to order restoration of property confiscated under such circumstances,

Article 35 (2) of the Transitional Provisions states as follows:-

"Where any property or part of any property of a person was confiscated on the basis of his holding a public or political office or on any other basis, and it is established to the satisfaction of the Commissioner for Human Rights and Administrative Justice that the property or that part was acquired before he assumed the public or political office, or that it was otherwise lawfully acquired, the property or that part shall be returned to that person".

The Commissioner held that the petition did not fall under the terms of the said provision. Even if it did, the Commissioner held that the policy behind the "one-man-one-house" law was a commendable one, namely, to ensure an equitable distribution of the limited houses constructed or provided by State agencies and to alleviate the problem of housing shortage, especially for low income workers. Accordingly the petition was dismissed.

### **CASE NO. CHRAJ/80/93**

Company Z had been prevented by the Town and Country Planning Department from further development of a site for industrial purposes. The company contended that the denial amounted to administrative injustice and therefore petitioned for redress.

The Commission investigated the matter and found that the petition lacked merit. Firstly, the company did not obtain a permit before commencing construction work. Secondly, the land on which they were building had been zoned as a residential area. Thirdly, the factory was so close to a Secondary School that the Headmaster had complained that it would constitute a nuisance to staff and students.

Investigations revealed also that the company had, for no apparent reason, refused to accept alternative sites allocated to them.

Eventually, the Commission, in its ruling, informed the petitioners that they could not be allowed to build on the land they had chosen, and they were therefore advised to find a more suitable site for the factory.

# 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 the complaints relate to the failure to achieve a balanced structuring of those services or equal access by all to the recruitment of those services or fair administration in relation to those services;
- (c) to investigate complaints concerning practices and actions by persons, private enterprises and other institutions where those complaints allege violations of fundamental rights and freedoms under this Constitution;
- (d) to take appropriate action to call for the remedying, correction and reversal of instances specified in paragraphs (a), (b) and (c) of this clause through such means as are fair, proper and effective, including -
  - (i) negotiation and compromise between the parties concerned;
  - (ii) causing the complaint and its finding on it to be reported to the superior of an offending person;
  - (iii) bringing proceedings in a competent Court for a remedy to secure the termination of the offending action or conduct, or the abandonment or alteration of the offending procedures; and
  - (iv) bringing proceedings to restrain the enforcement of such legislation or regulation by challenging its validity if the offending action or conduct is sought to be justified by subordinate legislation or regulation which is unreasonable or otherwise ultra vires;
- (e) to investigate all instances of alleged or suspected corruption and the 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.

# **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 1 - 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. 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 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 function 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 11 - Functions Of The Commission**

7. (1) The functions of the Commission are

(a) to investigate complaints of violations of fundamental rights and freedoms, injustice, corruption, abuse of power and unfair treatment of any person by a public officer in the exercise of his official duties;

(b) to investigate complaints concerning the functioning of the Public Services Commission, the administrative organs of the State, the offices of the Regional Co-ordinating Council and the District Assembly, the Armed Forces, the Police Service and the Prisons Service in so far as the complaints relate to the failure to achieve a balanced structuring of those services or equal access by all to the recruitment of those services or fair administration in relation to those services;

(c) to investigate complaints concerning practices and actions by persons, private enterprises and other institutions where those complaints allege violations of fundamental rights and freedoms under the Constitution;

(d) to take appropriate action to call for the remedying, correction and reversal of instances specified in paragraphs (a), (b) and (c) of this subsection through such means as are fair, proper and effective, including-

- (i) negotiation and compromise between the parties concerned
- (ii) causing the complaint and its finding on it to be reported to the superior of an offending person;
- (iii) bringing proceedings in a competent court for a remedy to ensure 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 or 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 -Provision 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 Commission 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 investigation 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 purpose 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 the person.

(2) The Commission may summon before it and examine an 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. 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 on irrelevant grounds or made for an improper purpose; or
- (e) 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 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 any 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 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 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 Omubudsman 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 thumbprinted by the complainant or his agent.

(3) Where the complaint is made orally or the complainant cannot read and write, the complaint shall be reduced 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; and

(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 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 function require the services of a member of the Police Force or any public institution with expert knowledge relevant for redressing any particular complaint.

4. (1) Upon receipt of the comments or response the Commissioner, where he considers that in view of the response, the complaint could be mediated upon and settled, may invite the parties concerned and attempt a settlement of the issue between the parties.

(2) No provision of these regulations shall preclude the Commission on receipt of a complaint from inviting the parties concerned and attempting a settlement of the issue between the parties.

5. (1) Where the Commission decides to institute a full investigation into a complaint, the Commission shall in writing invite -

(a) the complainant

(b) a representative of the body, organisation or person against whom the complaint is made; and

(c) such other persons as are considered by the Commission to be concerned in the investigation to attend to be interviewed by the Commission at a date, time and place specified in the notice.

(2) The date for attendance shall not be less than seven days from the date of the notice.

(3) A person appearing before the Commission in answer to a complaint shall-

(a) be informed again of the particulars of the complaint and the relief sought;

(b) be afforded full opportunity to answer the complaint and to question any witness.



(4) Any person who appears before the Commission in any investigation shall be given a fair hearing.

(5) Persons appearing before the Commission to be investigated shall appear in person and may be represented by counsel.

(6) Records of the investigation shall be kept in writing

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

(2) The panel shall be composed of a chairman who shall be a member of the Commission or any legal officer in the employment of the Commission and not less than two other officers of the Commission.

(3) Notwithstanding sub-regulation (2) of this regulation there may be co-opted on any such panel such person as the Commissioner may approve.

(4) A person appearing before a panel under these regulations may raise an objection to the membership of the panel to the Commissioner who shall determine the issue.

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

(2) The Commission shall consider every report submitted under sub-regulations (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 region 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 Commission shall submit a monthly report on all complaints investigated by the district offices and the regional 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)  
COMMISSIONER FOR HUMAN RIGHTS  
AND ADMINISTRATIVE JUSTICE

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