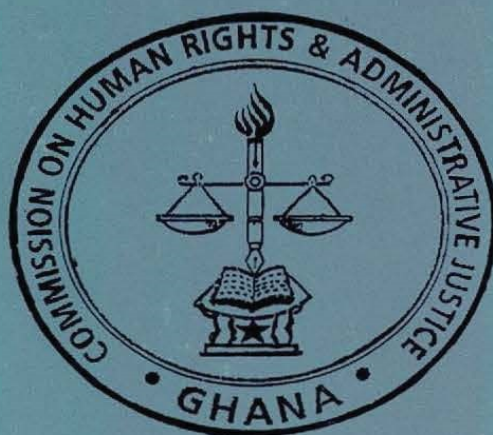


Commission on
Human Rights and
Administrative Justice - Ghana



SECOND ANNUAL REPORT

1995

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Human Rights and
Administrative Justice- Ghana

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Preface

This is the Commission's second report since its inauguration in October, 1993. Unlike the maiden report which covered the period October, 1993 - December 1994, the present report embraces the period 1st January to 31st December, 1995.

In the first year of its inauguration the setting up of regional and district offices significantly engaged the attention of the Commission. Offices were opened in all the 10 regions and in 28 out of the 110 districts in the country. It was hoped that the manpower ceiling and budgetary constraints which restricted the setting up of more district offices would be overcome in the year under review. Unfortunately the problems remained and as a result no additional offices were opened in 1995. However, funds have been made available for 10 more district offices to be opened in 1996.

The Commission received and disposed of more petitions than the previous year. Figures, charts and graphs which provide comprehensive information on the numbers and nature of cases received and how they were disposed of can be **found at pages eleven to seventy-four of the Report under the heading "Statistical Report on Cases."** The Commission received a total of 855 petitions at its Headquarters in Accra and a total of 3,157 cases at its Regional and District Offices, making a grand total of 4,012 cases. This represents an increase of 815 cases over the previous year. Whereas labour-related disputes accounted for 62% of the complaints received during the previous year, in the current year the percentage decreased to 42.6%. The total number of cases closed nationwide during the year was 3,762.

Considering the fact that about 70% of the Ghanaian population live in the rural areas, the need for the Commission to decentralise its operations and reach out to the rural communities cannot be over-emphasized. With the establishment of District Assemblies and in the light of Government policy of decentralisation, contacts between public officials and the population has become more frequent. Complaints by individuals against public officers naturally become widespread. With more decentralisation it is reasonable to expect more labour-related complaints to come up across the length and breadth of the country. It is hoped therefore that funds would be made available for the Commission to open offices in all the 110 districts in the country.

Even though the Commission enjoys independence as it operates without interference from the Executive, Legislature and the Judiciary it is constrained in its work by its lack of financial autonomy. The practice whereby the Ministry of Finance and Economic Planning can cut the Commission's Budget after a

lengthy and cumbersome vetting process undermines the Commission's independence as provided for in Article 222 of the Constitution. I wish to express my view once again that the independence of the Commission can be fully realised only if its budget is submitted direct to Parliament for vetting and approval.

To a large extent respondent bodies have complied with the Commission's recommendations. A few others have been recalcitrant and uncooperative. In the year under review actions were taken in the High Court against two respondent bodies for an order compelling them to implement the Commission's rulings. An action was also instituted in the Supreme Court for interpretation as to the ambit of the Commission's jurisdiction to investigate complaints for restoration of confiscated properties.

During the year under review the Commission commenced investigations into allegations of corruption and illegal acquisition of assets made against some Ministers and high ranking government officials. The allegations were made by some of the independent newspapers, and because of their seriousness and the public concern expressed on the matter, the Commission invoked section 7 (1) (f) of Act 456 to investigate the allegations. The Commission hopes to complete its investigations in the shortest possible time for the benefit of the public, the Government and the affected officers.

The Commission also investigated allegations of corruption made in a petition by a member of the public against the Headmaster of a Secondary School in the Brong Ahafo Region.

The Commission continued with its human rights education programme throughout the year under review.

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 Royal Netherlands Embassy, 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.

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Organisational Framework of the Commission

The following is the Organisational Framework of the Commission from the National Headquarters to the District Offices.

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, Computer Unit, Library, Estates, Transport, General, Clerical and Secretarial staff.

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

As illustrated in diagram B, each Regional Office of the Commission in all the ten regions of the country is headed by a 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, 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 have 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.



Members of the Commission:

(from left to right) Mr. Benjamin K. Oppong, Deputy Commissioner/Legal and Operations, Mr. Emile F. Short, the Commissioner and Mrs. Angelina Mornah Domakyaareh, Deputy Commissioner/Finance & Administrative

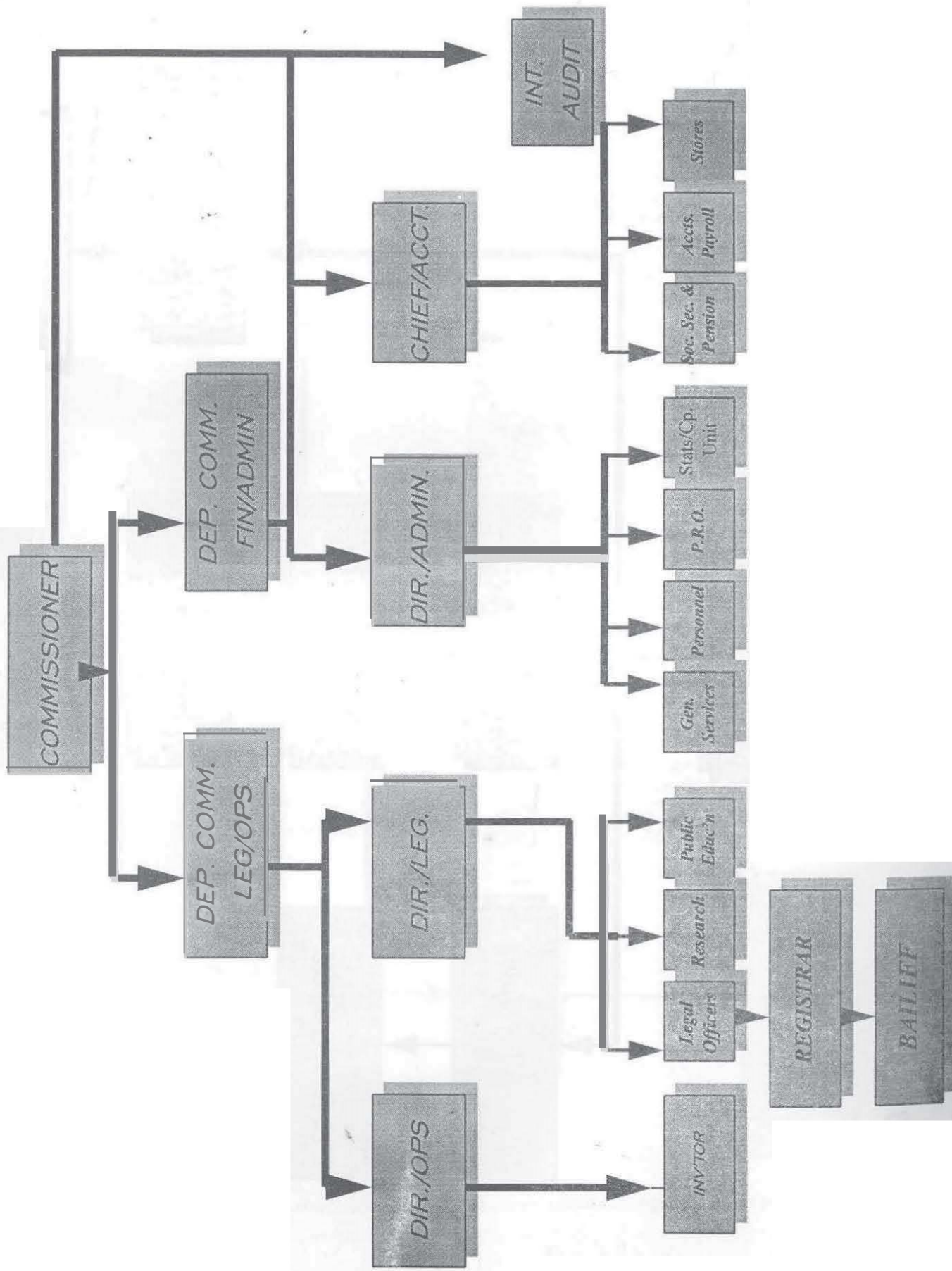


Members of the Commission and Divisional Directors:

Sitting from left to right, Mr. Benjamin K. Oppong, Deputy Commissioner/Legal and Operations, Mr. Emile F. Short, the Commissioner and Mrs. Angelina Mornah Domakyaareh, Deputy Commissioner/Finance & Administration
standing from left to right: Mr. Kwesi Gyan Ainuson, Director/Administration, Mrs. Chris Dadzie, Director/Legal, Mr. Benjamin Kunbour, Director/Operations and Mr. W.K.P. Brown, Deputy Chief Accountant

Diagram "A"

HEAD OFFICE



REGIONAL OFFICE

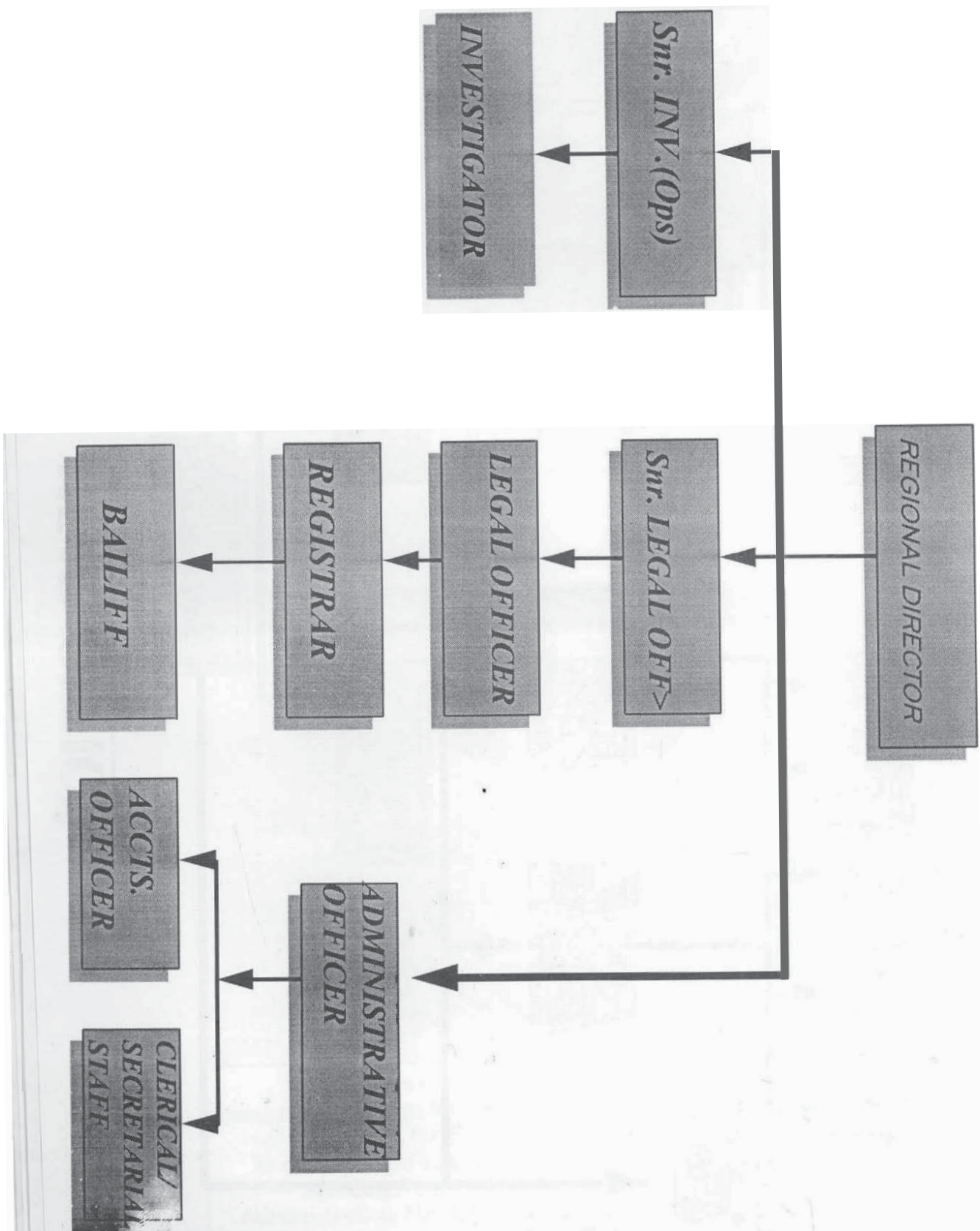
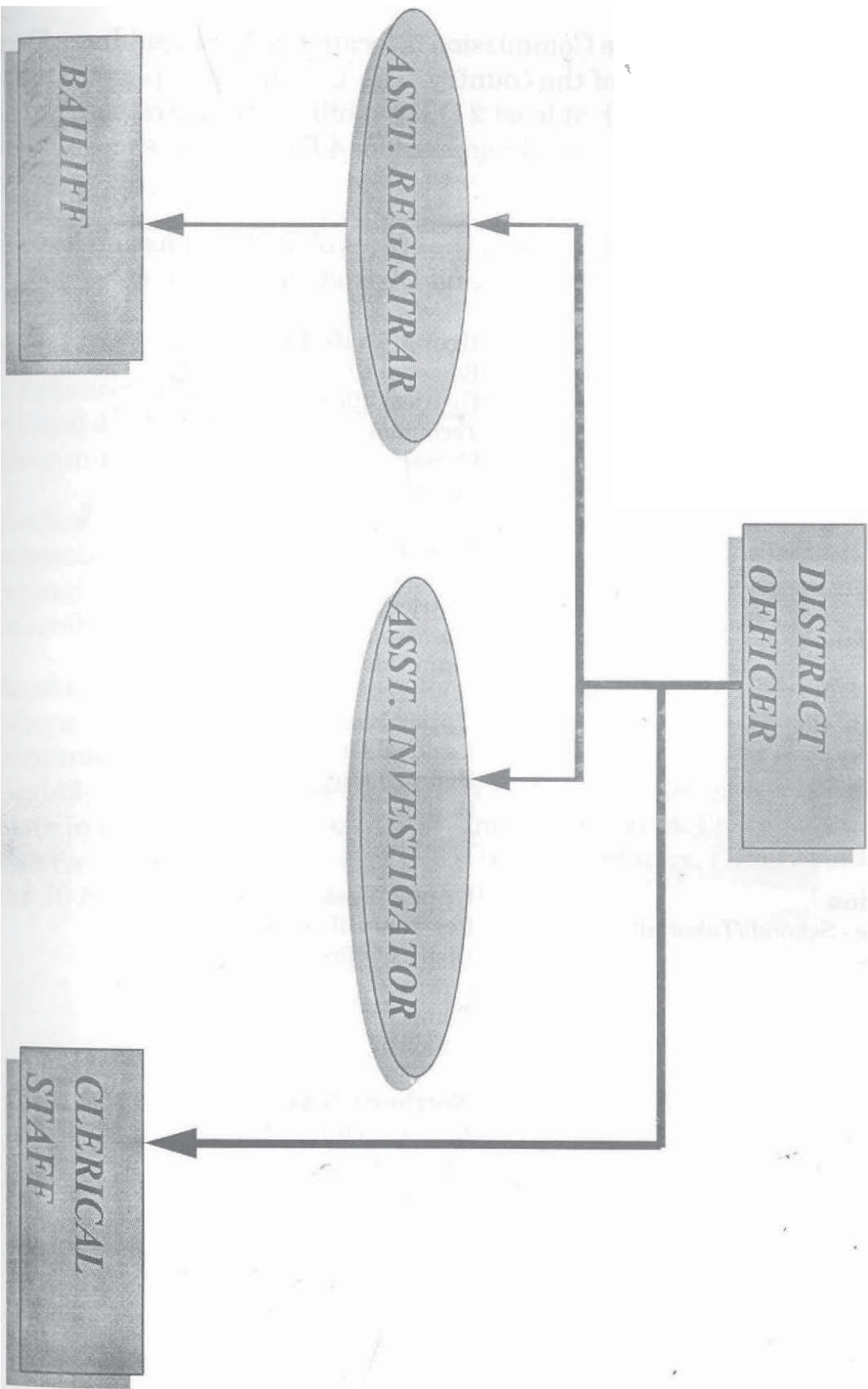


DIAGRAM "C"

DISTRICT OFFICE



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 opened a total number of 28 District offices 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 of the Commission have so far been opened in the Regional Capitals and Districts are as follows:

Greater Accra

Regional Office - Accra
Municipal Office - Tema

Central Region

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

Asanti Region

Regional Office - Kumasi
District Offices
Mampong
Konongo
Obuasi

Brong Ahafo Region

Regional Office - Sunyani
District Offices
Techiman
Goaso
Atehubu

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

Programme Reports

A. PETITION

i) NATIONWIDE

The Commission received a total of 4,012 petitions during the period under review. 855 of these petitions were received at the National Headquarters and the remaining 3,157 was the cumulative total number of cases received in the Regional and District Offices of the Commission.

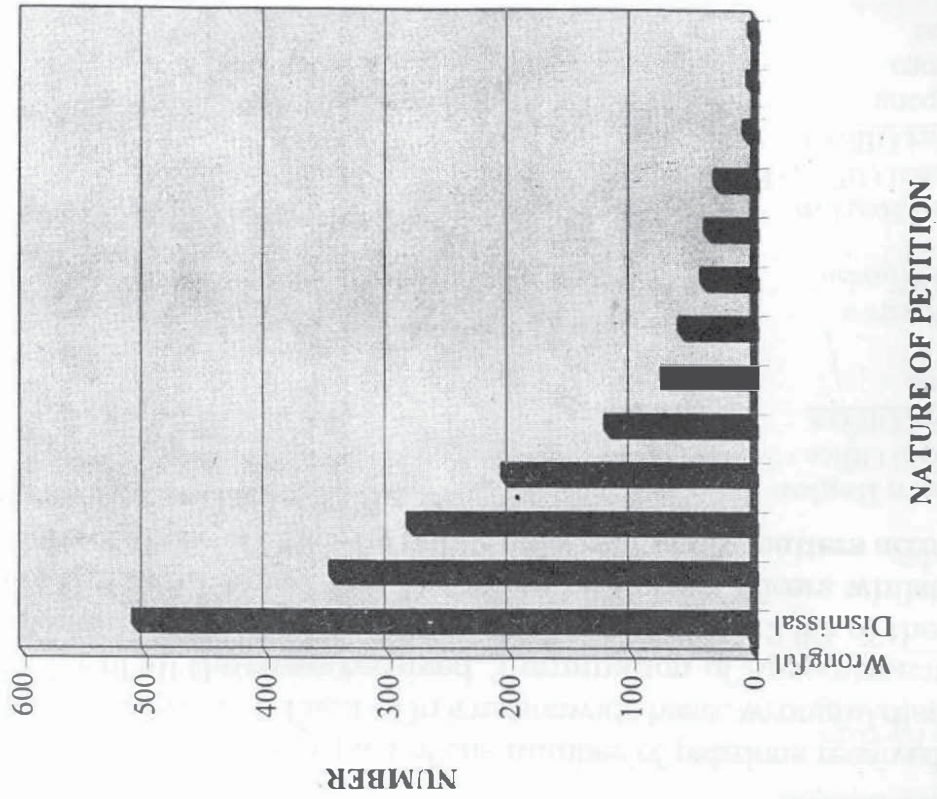
The nature of the petitions received ranged from alleged wrongful dismissal, termination of appointment, forced retirement, redeployment and retrenchment, alleged delays and miscalculation in the payment of terminal and other benefits, discrimination in promotion and transfer and acts of victimization.

Petitions were also received in respect of alleged irregular and improper confiscation of assets by previous regimes, delays in trial of cases pending before the law courts, wrongful arrest and detention by the Police and denial of the right of freedom of assembly and of worship.

As with the previous year, a greater part of the number of petitions received were labour related cases. (See Table 1, Fig. 1). On a nationwide basis, wrongful dismissal accounted for 12.7% of all the cases received. Termination of Appointment, and End-of-Service Benefits accounted for 8.6% and 7% respectively 2.6% of the cases were in respect of Unlawful Arrest and Detention by Police Officers whilst 1.6% involved allegations of Abuse of Office by public officers. Family matters accounted for 10.5% of all cases. (See Table 2, Fig. 2).

Fig. 1

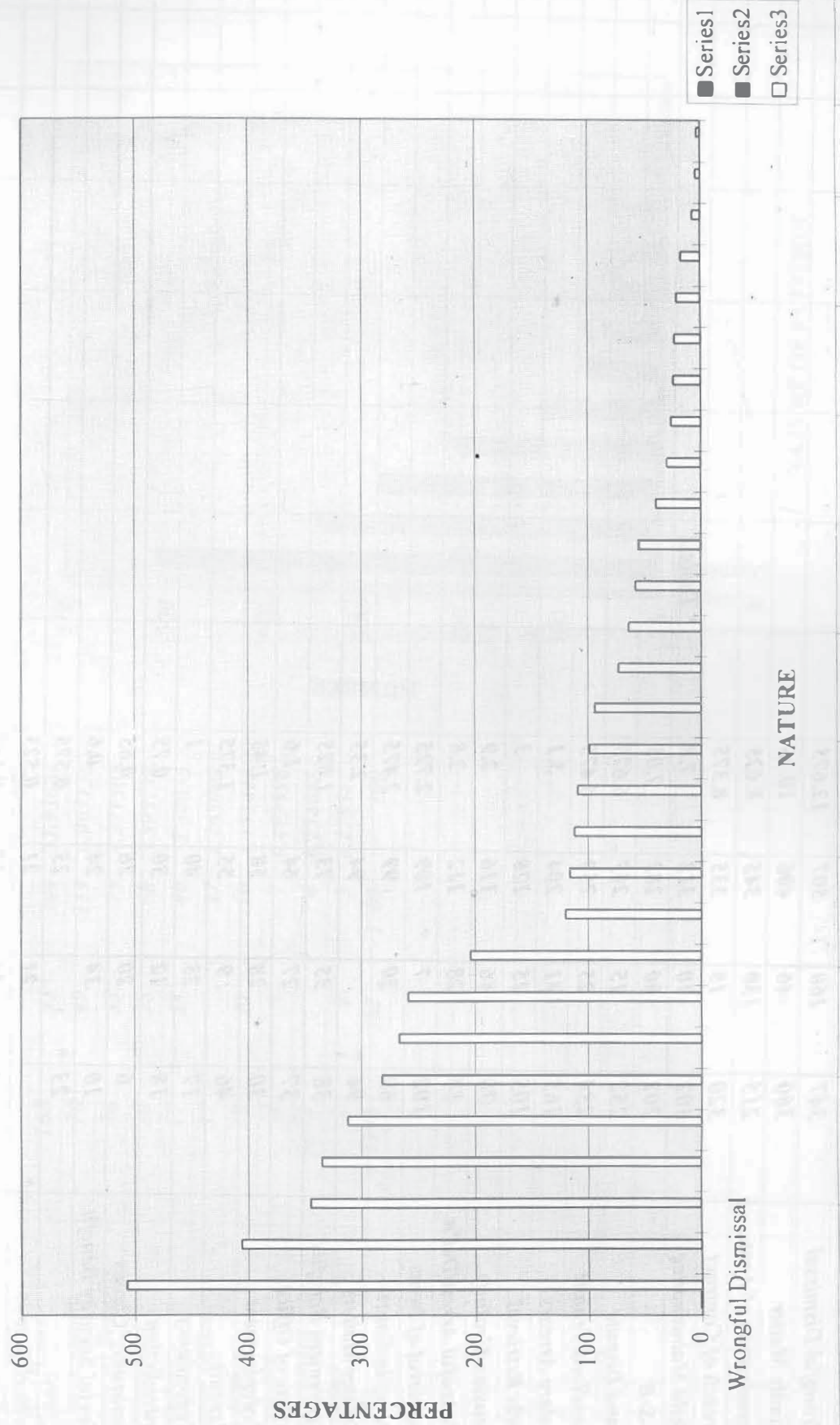
**LABOUR RELATED CASES-
NATIONWIDE**



NATURE OF PET'N	REGIONS	HQ	TOTAL	% of 4012					
Wrongful Dismissal	347	160	507	12.675					
Family Matter	360	46	406	10.15					
Termination of Appt.	215	130	345	8.625					
Breach of Contract	320	15	335	8.375					
Child Maintenance	302	10	312	7.8					
E-S-B	202	80	282	7.05					
Land Dispute	252	15	267	6.675					
Landlord/Tenant	234	25	259	6.475					
Salary Arrears	163	41	204	5.1					
Debt Retrieval	105	15	120	3					
Pension/Gratuity	70	46	116	2.9					
Unlawful Arrest/Bet'n	84	28	112	2.8					
Retrieval of Items	102	7	109	2.725					
Delay in Court	69	30	99	2.475					
Estates Matters	94	*	94	2.35					
Retirement Benefits	38	35	73	1.825					
Abuse of Office	37	27	64	1.6					
Redeployment	30	28	58	1.45					
Assault	46	9	55	1.375					
Redundancy	17	23	40	1					
Interdiction	18	12	30	0.75					
Insurance Claims	6	20	26	0.65					
Social Security Benefit	10	14	24	0.6					
Fraud	23	*	23	0.575					
Miscellaneous	*	21	21	0.525					
Confiscation	4	13	17	0.425					
Suspension	4	3	7	0.175					
Retrenchment	4	*	4	0.1					
Promotion	1	2	3	0.075					
TOTAL	3157	855	4012	100.3					

* Table 2

NATURE OF PETITION - NATIONWIDE [FIG. 2]



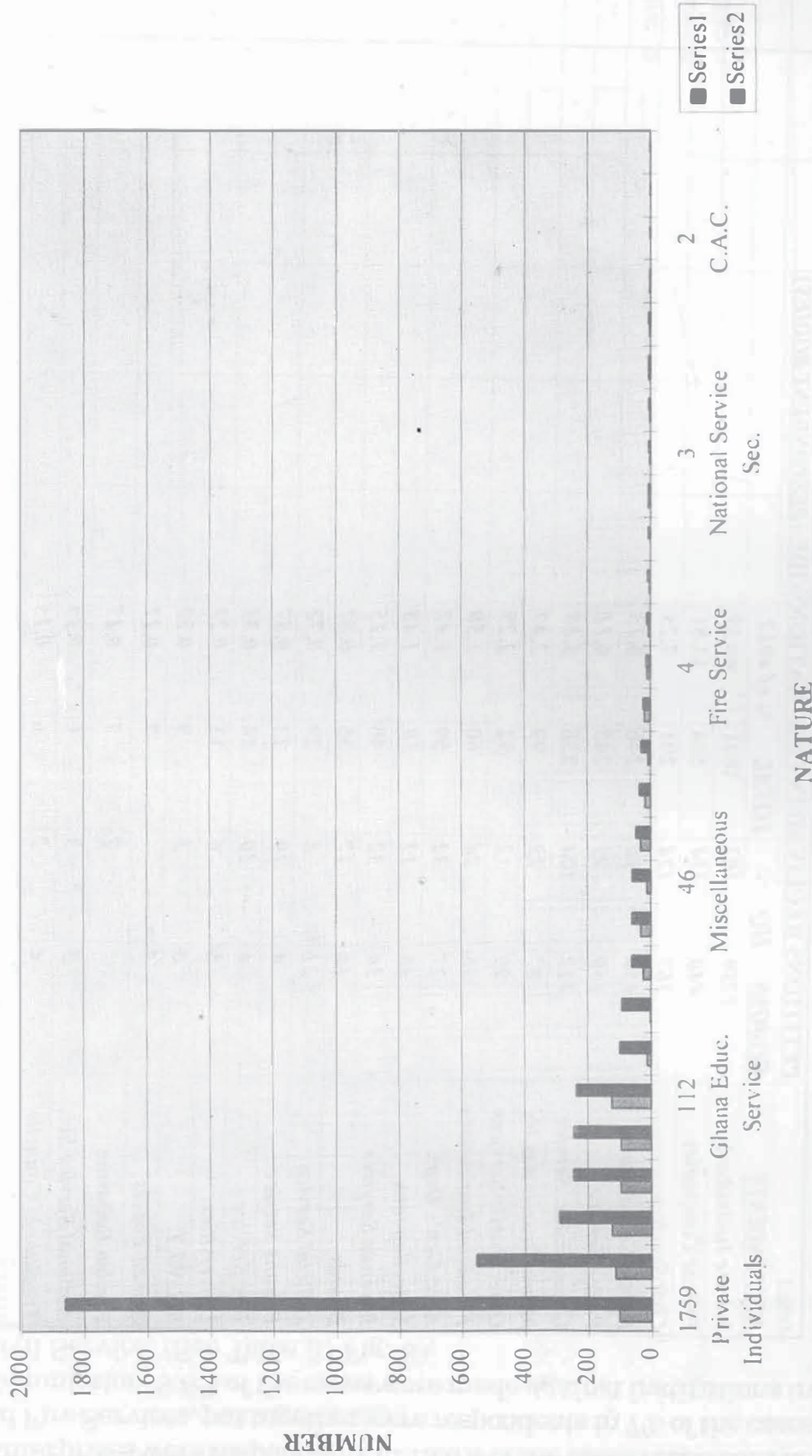
In general, most of the cases (46.5%) were made against Private Persons. Private Companies and Enterprises were respondents in 13.8% of the cases received. The Police, Prisons and Fire Services, put together were respondents in 7% of the cases lodged with the Commission. 9.6% of the cases were made against institutions in the Public and Civil Service. (See Table 3, Fig. 3)

Table 3 PETITIONS RECEIVED IN 1995 - NATIONWIDE (RESPONDENT BODIES)

RESPONDENTS	REGIONS	HQ	TOTAL	% of 4012		
Private Individuals	1759	102	1861	46.39		
Private Companies	440	114	554	13.81		
Civil Services	167	124	291	7.25		
Public Corporations	150	96	246	6.13		
Police Service	150	95	245	6.11		
Ghana Educ. Service	112	124	236	5.88		
Metro/District Ass, hly	87	12	99	2.47		
Other Public Services	90	2	92	2.29		
Financial Institutions	36	24	60	1.50		
Acc't. Gen's Dept.	27	32	59	1.47		
Miscellaneous	46	12	58	1.45		
Revenue Services	14	32	46	1.15		
Boards	18	17	35	0.87		
Judicial Service	21	8	29	0.72		
Prisons Service	4	19	23	0.57		
Fire Service	4	10	14	0.35		
Universities	5	6	11	0.27		
S.S.N.I.T.	6	3	9	0.22		
Armed Forces	7 *		7	0.17		
Foreign Embassies	*	7	7	0.17		
National Service Sec.	3	3	6	0.15		
Traditional Councils	4	2	6	0.15		
W/AEC	*	6	6	0.15		
V.R.A.	2	3	5	0.12		
T.U.C.	1	2	3	0.07		
C.A.C.	2 *		2	0.05		
Presidents Office	1 *		1	0.02		
Divestiture Impl'n Cte	1 *		1	0.02		
TOTALS	3157	855	4012	100		

Fig. 3

PETITIONS RECEIVED IN 1995 - NATIONWIDE



Apart from the 4,012 cases received in 1995, 2,526 cases were pending from 1993 and 1994. The total number of cases handled by the Commission was therefore $4,012 + 2,526 = 6,538$. Of the 6,538 cases handled during the year, 3,762 were closed representing 58% of the total. The remaining 2,776 (42%) are still pending and will be handled during the 1996 year period.

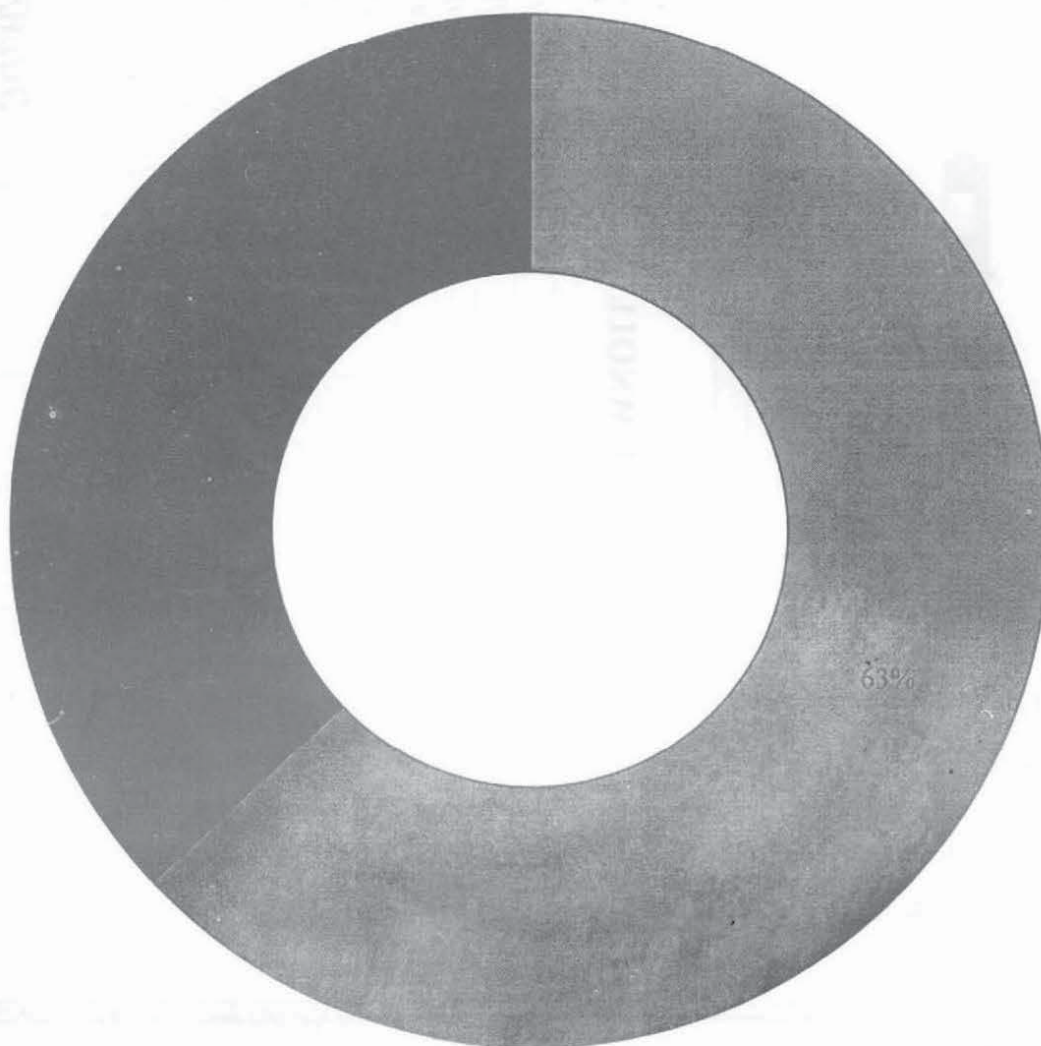
From the date of its inauguration to the end of the period under review, the Commission had received and handled a grand total of 7,542 cases and disposed of 4,766. (See Table 4, Fig. 4)

Table 4

CLOSED AND PENDING CASES AS AT END-OF-YEAR 1995 - NATIONWIDE		
STAGE	NUMBER	% of TOTAL
CLOSED	4766	63.2
PENDING	2776	36.8
TOTAL	7542	

Fig. 4

**CLOSED & PENDING CASES AS AT
END-OF-YEAR 1995 - NATIONWIDE**

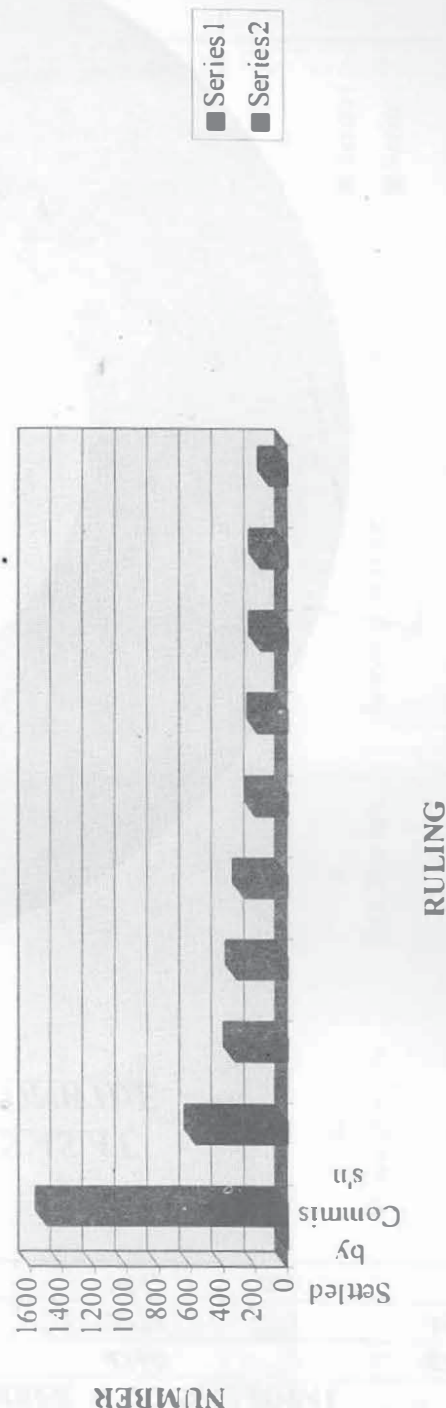


40% of the cases (i.e. 1,491 cases) were resolved by amicable settlement. In all cases and as much as possible, the Commission adopts this mode of dispute resolution because it is more expeditious and the result is acceptable and satisfactory to both parties. (See Table 5, Fig. 5)

CLOSED CASES-NATIONWIDE

RULING	REG	HQ	TOTAL	% of 3762
Settled by Commiss'n	1410	81	1491	39.63317
Dismissed for Lack of Jurisdiction	445	123	568	15.09835
Dismissed for want of Prosecution	157	166	323	8.585859
Decided on merit without hearing	212	100	312	8.293461
Withdrawn by Petitioner	241	25	266	7.070707
Rejected in Exercise of Discretion	153	40	193	5.13025
Transferred to other Branches	178 *		178	4.731526
Referred to other Jurisdictions	138	24	162	4.30622
Decided on Merit after Hearing	121	41	162	4.30622
Dismissed for delay in lodging of Pet'n	75	32	107	2.844232
TOTAL	3130	632	3762	100

Fig. 5 NATURE OF RULING -NATIONWIDE



ii) HEADQUARTERS

A total of 855 petitions were received at the Headquarters in 1995. 160 (18.7%) of these petitions were cases of alleged unlawful dismissals. Petitions alleging wrongful termination of appointment totalled 130 representing 15.2% of the total.

There were 80 cases (9.3%) in which the petitioners alleged underpayment or denial of their End-of-Service Benefits. Family matters and cases relating to Pension, Gratuity and Ex-Gratia Awards recorded 46 (5.4%) cases each whilst payment of Salary Arrears numbered 41, i.e. 4.8% of the total.

In 28 of the cases received, the petitioners alleged Unlawful Arrest and Detention by Police Officers. This number represented 3.3% of the total number of cases received. 10 cases were received where the petitioners, mostly mothers, alleged that their husbands had failed or refused to maintain their children. 9 cases of assault were also received representing 1% of the total.

In 30 (i.e. 3.5%) of the cases received, the petitioners, who were either accused persons, complainants or parties to suit, complained about delays in the trial of their cases in court. There were also 27 cases of alleged abuse of office by public officers. (See Table 6, Fig. 6)

Table 6

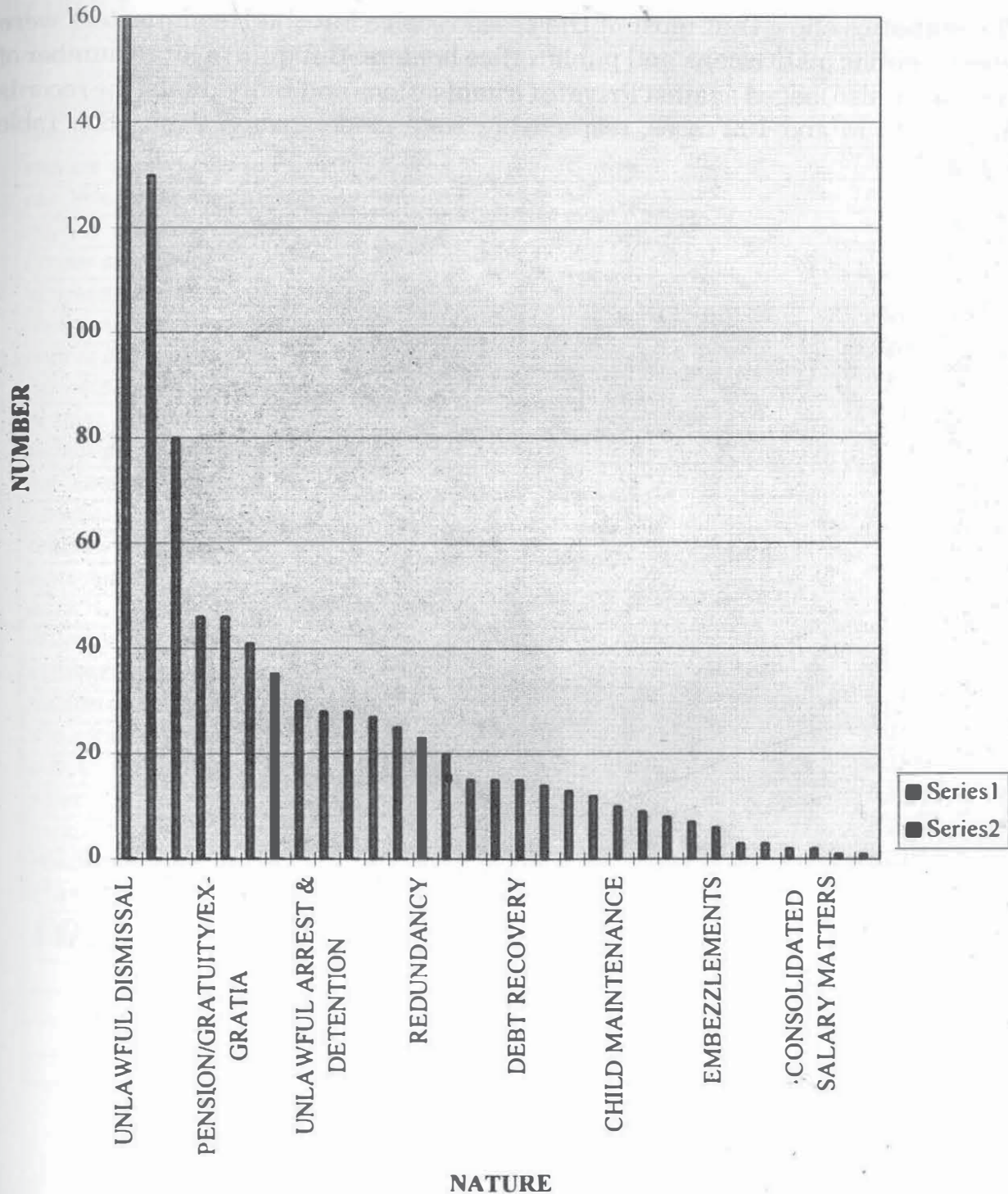
PETITIONS RECEIVED IN 1995 - HEADQUARTERS [NATURE OF PETITION]

[illegible]

Fig. 6

FIG 6

PETITIONS RECEIVED IN 1995 -[HQ]



124 (14.5%) of all the cases received were against the Ghana Education Service. Most of these petitions were in respect of the findings and recommendations of the Audit Task Force which investigated the G.E.S. in 1986.

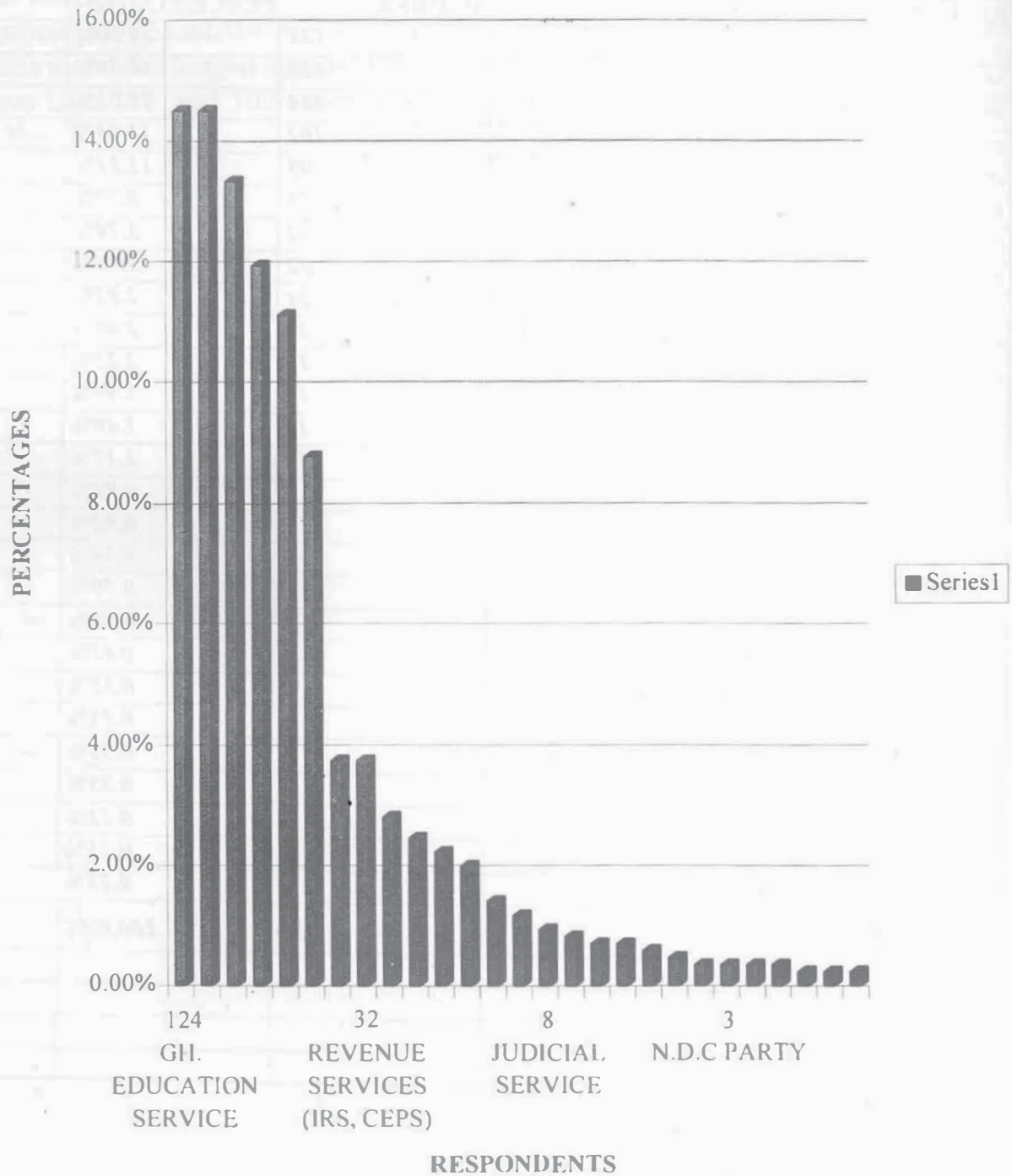
All the Ministries put together also had 124 petitions lodged against them. There were 95 petitions against the Ghana Police Service and 75 against various Public Corporations.

The statistics show that most of the cases received at the Headquarters were against public institutions and public office holders. But quite a large number of cases were also lodged against Private Organisations and Individuals; the records show that 114 and 102 cases, respectively, were made against them. (See Table 7, Fig. 7).

PETITIONS RECEIVED IN 1995 - HEADQUARTERS [RESPONDENT BODIES]		
TABLE 7		
RESPONDENT BODIES	NUMBER	PERCENTAGES
GH. EDUCATION SERVICE	124	14.50%
MINISTRIES	124	14.50%
PRIVATE ORGANISATION	114	13.33%
PRIVATE INDIVIDUALS	102	11.93%
GH. POLICE SERVICE	95	11.11%
PUBLIC CORPORATIONS	75	8.77%
CTTLER & ACCT. GEN.'S DEPT.	32	3.74%
REVENUE SERVICES (IRS, CEPS)	32	3.74%
FINANCIAL INSTITUTIONS (BANKS)	24	2.81%
PUBLIC COMPANIES	21	2.46%
GH. PRISONS SERVICE	19	2.22%
PUBLIC BOARDS	17	1.99%
METROPOLITAN/DISTRICT ASSEMBLIES	12	1.40%
GH. FIRE SERVICE	10	1.17%
JUDICIAL SERVICE	8	0.94%
FOREIGN EMBASSIES	7	0.82%
UNIVERSITIES	6	0.70%
WAEC	6	0.70%
GHANA GOVERNMENT	5	0.58%
ATTORNEY GENERAL'S OFFICE	4	0.47%
NATIONAL SERVICE SECRETARIAT	3	0.35%
N. D. C PARTY	3	0.35%
V. R. A.	3	0.35%
SSNIT	3	0.35%
T. U. C.	2	0.23%
TRADITIONAL COUNCILS	2	0.23%
STATISTICAL SERVICE	2	0.23%
TOTAL	855	100.00%

FIG.7

PETITIONS RECEIVED IN 1995 - HQ RESPONDENT BODIES

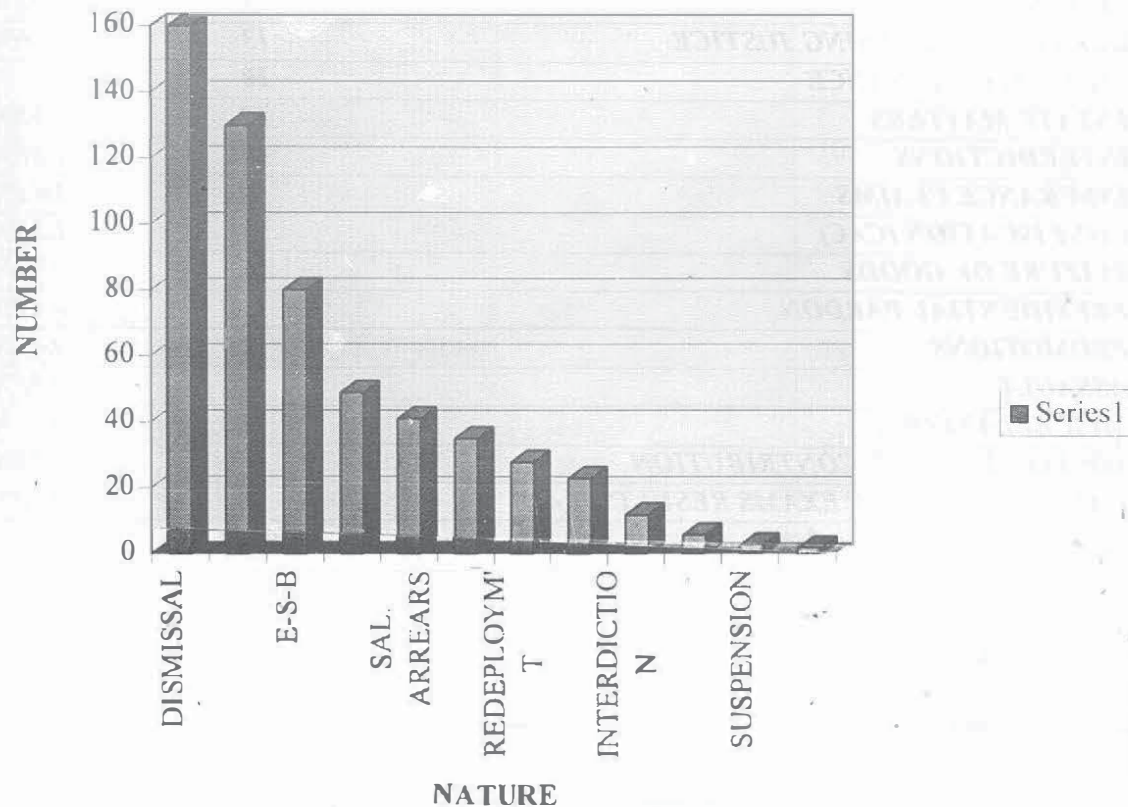


A great majority of the cases received were labour related. In all, there were 569 labour related cases representing 66.2% of the total of 855. (See Table 8, Fig. 8)

HQ-LABOUR RELATED CASES RECEIVED IN 1995					
Table 8					
	NATURE	NUMBER	% of 855		
1	DISMISSAL	160	18.70%		
2	TERMINAT'N	130	15.20%		
3	E-S-B	80	9.30%		
4	PENSION/GRAT.	49	5.70%		
5	SAL. ARREARS	41	4.70%		
6	RETIREMENT	35	4.00%		
7	REDEPLOYM'T	28	3.30%		
8	REDUNDANCY	23	2.70%		
9	INTERDICTION	12	1.40%		
10	EMBEZZLEM'T	6	0.70%		
11	SUSPENSION	3	0.30%		
12	PROMOTION	2	0.20%		
	TOTAL	569	66.20%		

**FIG. 8 . LABOUR RELATED CASES
1995 - [HQ]**

RECEIVED IN



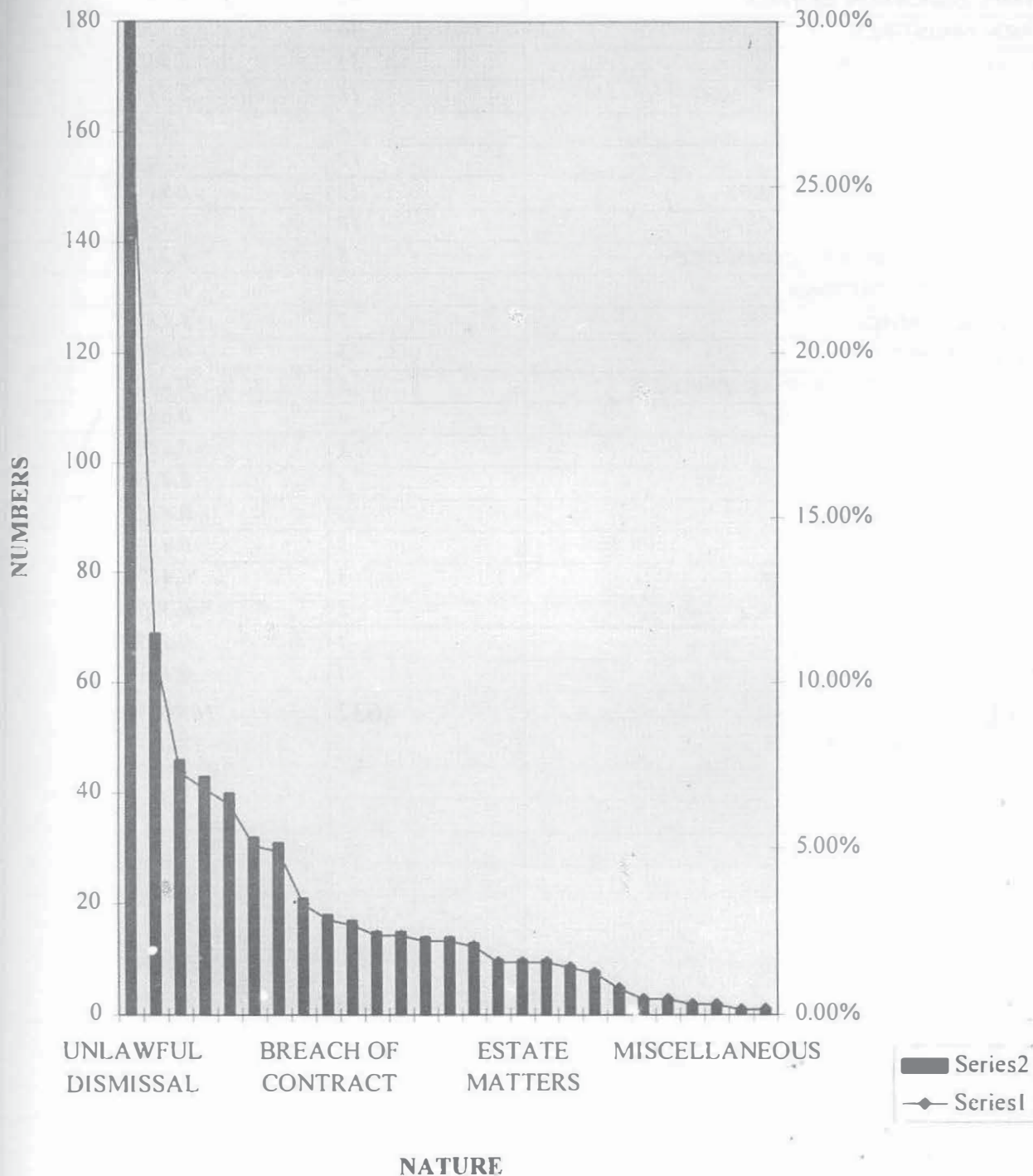
Of the 1,885 cases handled, 632 were closed representing 33.5% of the total. That

TABLE 9			
CASES CLOSED AT HEADQUARTERS IN 1995, BY TYPE OF PETITION			
	1995	1994	1993
1. Habeas corpus	1,000	1,000	1,000
2. Writ of amparo	1,000	1,000	1,000
3. Habeas data	1,000	1,000	1,000
4. Habeas corpus	1,000	1,000	1,000
5. Habeas corpus	1,000	1,000	1,000
6. Habeas corpus	1,000	1,000	1,000
7. Habeas corpus	1,000	1,000	1,000
8. Habeas corpus	1,000	1,000	1,000
9. Habeas corpus	1,000	1,000	1,000
10. Habeas corpus	1,000	1,000	1,000
11. Habeas corpus	1,000	1,000	1,000
12. Habeas corpus	1,000	1,000	1,000
13. Habeas corpus	1,000	1,000	1,000
14. Habeas corpus	1,000	1,000	1,000
15. Habeas corpus	1,000	1,000	1,000
16. Habeas corpus	1,000	1,000	1,000
17. Habeas corpus	1,000	1,000	1,000
18. Habeas corpus	1,000	1,000	1,000
19. Habeas corpus	1,000	1,000	1,000
20. Habeas corpus	1,000	1,000	1,000
21. Habeas corpus	1,000	1,000	1,000
22. Habeas corpus	1,000	1,000	1,000
23. Habeas corpus	1,000	1,000	1,000
24. Habeas corpus	1,000	1,000	1,000
25. Habeas corpus	1,000	1,000	1,000
26. Habeas corpus	1,000	1,000	1,000
27. Habeas corpus	1,000	1,000	1,000
28. Habeas corpus	1,000	1,000	1,000
29. Habeas corpus	1,000	1,000	1,000
30. Habeas corpus	1,000	1,000	1,000
31. Habeas corpus	1,000	1,000	1,000
32. Habeas corpus	1,000	1,000	1,000
33. Habeas corpus	1,000	1,000	1,000
34. Habeas corpus	1,000	1,000	1,000
35. Habeas corpus	1,000	1,000	1,000
36. Habeas corpus	1,000	1,000	1,000
37. Habeas corpus	1,000	1,000	1,000
38. Habeas corpus	1,000	1,000	1,000
39. Habeas corpus	1,000	1,000	1,000
40. Habeas corpus	1,000	1,000	1,000
41. Habeas corpus	1,000	1,000	1,000
42. Habeas corpus	1,000	1,000	1,000
43. Habeas corpus	1,000	1,000	1,000
44. Habeas corpus	1,000	1,000	1,000
45. Habeas corpus	1,000	1,000	1,000
46. Habeas corpus	1,000	1,000	1,000
47. Habeas corpus	1,000	1,000	1,000
48. Habeas corpus	1,000	1,000	1,000
49. Habeas corpus	1,000	1,000	1,000
50. Habeas corpus	1,000	1,000	1,000
51. Habeas corpus	1,000	1,000	1,000
52. Habeas corpus	1,000	1,000	1,000
53. Habeas corpus	1,000	1,000	1,000
54. Habeas corpus	1,000	1,000	1,000
55. Habeas corpus	1,000	1,000	1,000
56. Habeas corpus	1,000	1,000	1,000
57. Habeas corpus	1,000	1,000	1,000
58. Habeas corpus	1,000	1,000	1,000
59. Habeas corpus	1,000	1,000	1,000
60. Habeas corpus	1,000	1,000	1,000
61. Habeas corpus	1,000	1,000	1,000
62. Habeas corpus	1,000	1,000	1,000
63. Habeas corpus	1,000	1,000	1,000
64. Habeas corpus	1,000	1,000	1,000
65. Habeas corpus	1,000	1,000	1,000
66. Habeas corpus	1,000	1,000	1,000
67. Habeas corpus	1,000	1,000	1,000
68. Habeas corpus	1,000	1,000	1,000
69. Habeas corpus	1,000	1,000	1,000
70. Habeas corpus	1,000	1,000	1,000
71. Habeas corpus	1,000	1,000	1,000
72. Habeas corpus	1,000	1,000	1,000
73. Habeas corpus	1,000	1,000	1,000
74. Habeas corpus	1,000	1,000	1,000
75. Habeas corpus	1,000	1,000	1,000
76. Habeas corpus	1,000	1,000	1,000
77. Habeas corpus	1,000	1,000	

[illegible]

FIGURE 9

NATURE OF PETITION OF CLOSED CASES FOR 1995 - HQ



CASES CLOSED AT HEADQUARTERS IN 1995

TABLE 10

[illegible]

FIGURE 10

CASES CLOSED AT HEADQUARTERS IN 1995

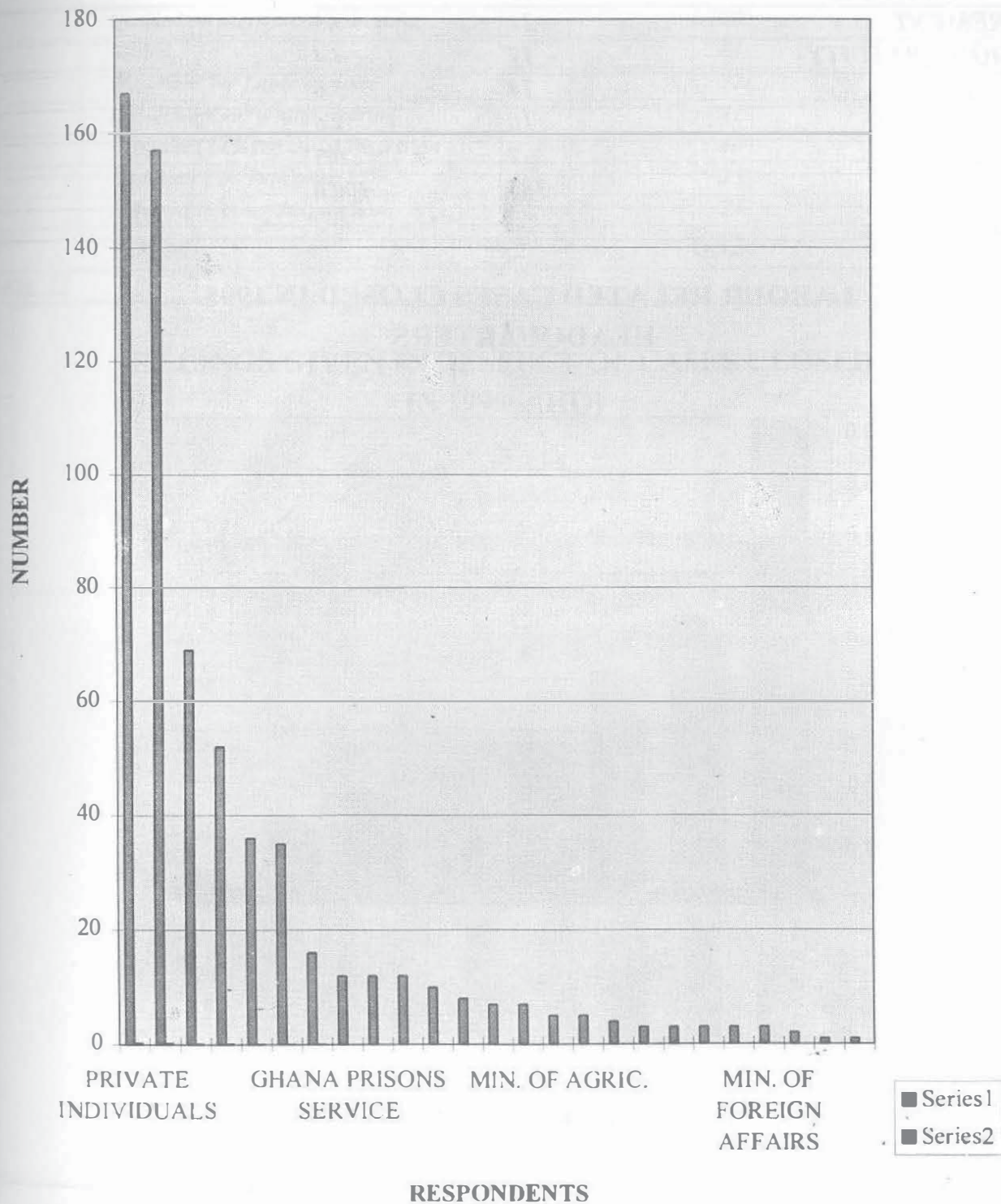
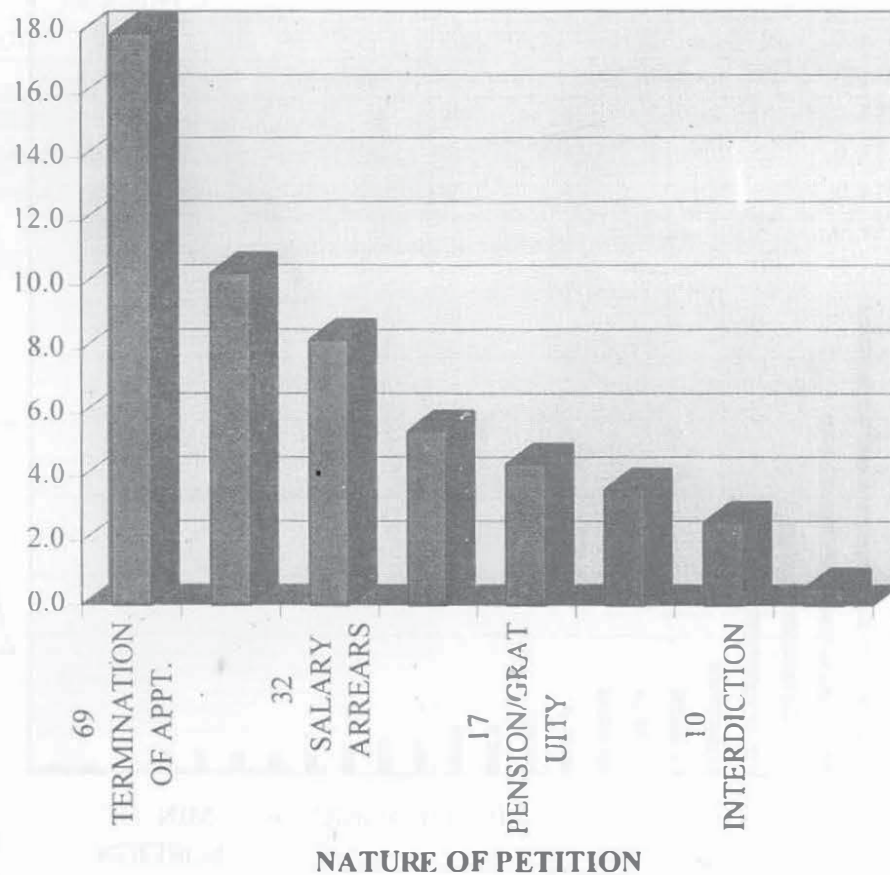


TABLE 11

LABOUR RELATED CASES IN 1995 AT HEADQUARTERS		
NATURE OF PETITION	NUMBER	% of 385
UNLAWFUL DISMISSAL	180	46.8
TERMINATION OF APPT.	69	17.9
END-OF-SERVICE BENEFIT	40	10.4
SALARY ARREARS	32	8.3
RETIREMENT	21	5.5
PENSION/GRATUITY	17	4.4
REDUNDANCY	14	3.6
INTERDICTION	10	2.6
PROMOTIONS	2	0.5
TOTALS	385	100.0

FIG. 11

LABOUR RELATED CASES CLOSED IN 1995- HEADQUARTERS

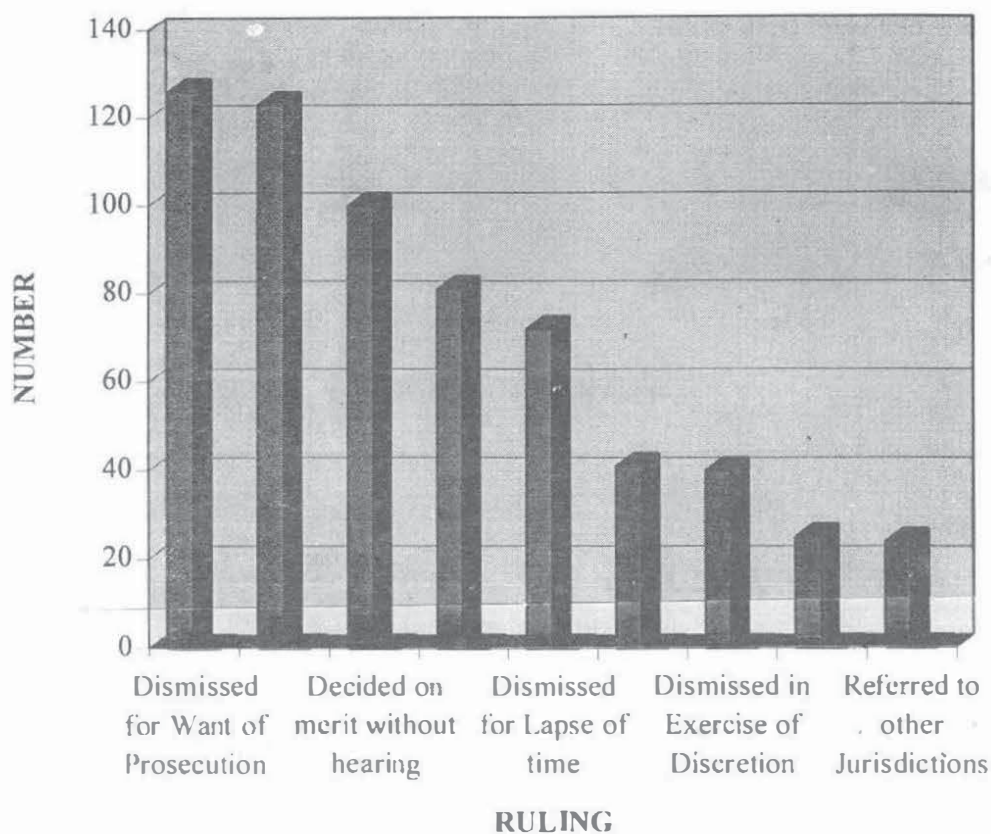


Of the 632 closed cases, 123 were dismissed because the Commission lacked jurisdiction to investigate the matters involved. 166 cases were dismissed for want of prosecution. 81 cases were amicably settled by the Commission whilst a total of 141 were decided on merit. (See Table 12, Fig. 12)

TABLE 12	HEADQUARTERS	
	NUMBER	PERCENTAGES
<i>Dismissed for Want of Prosecution</i>	126	20%
<i>Dismissed for Lack of Jurisdiction</i>	123	19%
<i>Decided on merit without hearing</i>	100	16%
<i>Settled</i>	81	13%
<i>Dismissed for Lapse of time ¹</i>	72	11%
<i>Decided on merit after hearing</i>	41	6%
<i>Dismissed in Exercise of Discretion</i>	40	6%
<i>Withdrawn by Petitioner</i>	25	4%
<i>Referred to other Jurisdictions</i>	24	4%
TOTAL	632	100%

Fig. 12

RULINGS GIVEN IN RESPECT OF CASES CLOSED IN 1995 - [HQ]



174 of the Cases closed (i.e. 27.5%) were 1993 cases, 345 (54.6%) were 1994 cases, and 113 (17.9%) were 1995 cases. (See Table 13, Fig. 13)

Tab. 13

<u>93/'94/'95 CASES CLOSED IN 1995</u>	<u>NUMBER</u>	<u>PERCENTAGES</u>
1993	174	27.53%
1994	345	54.59%
1995	113	17.88%
TOTAL	632	100.00%

FIG. 13

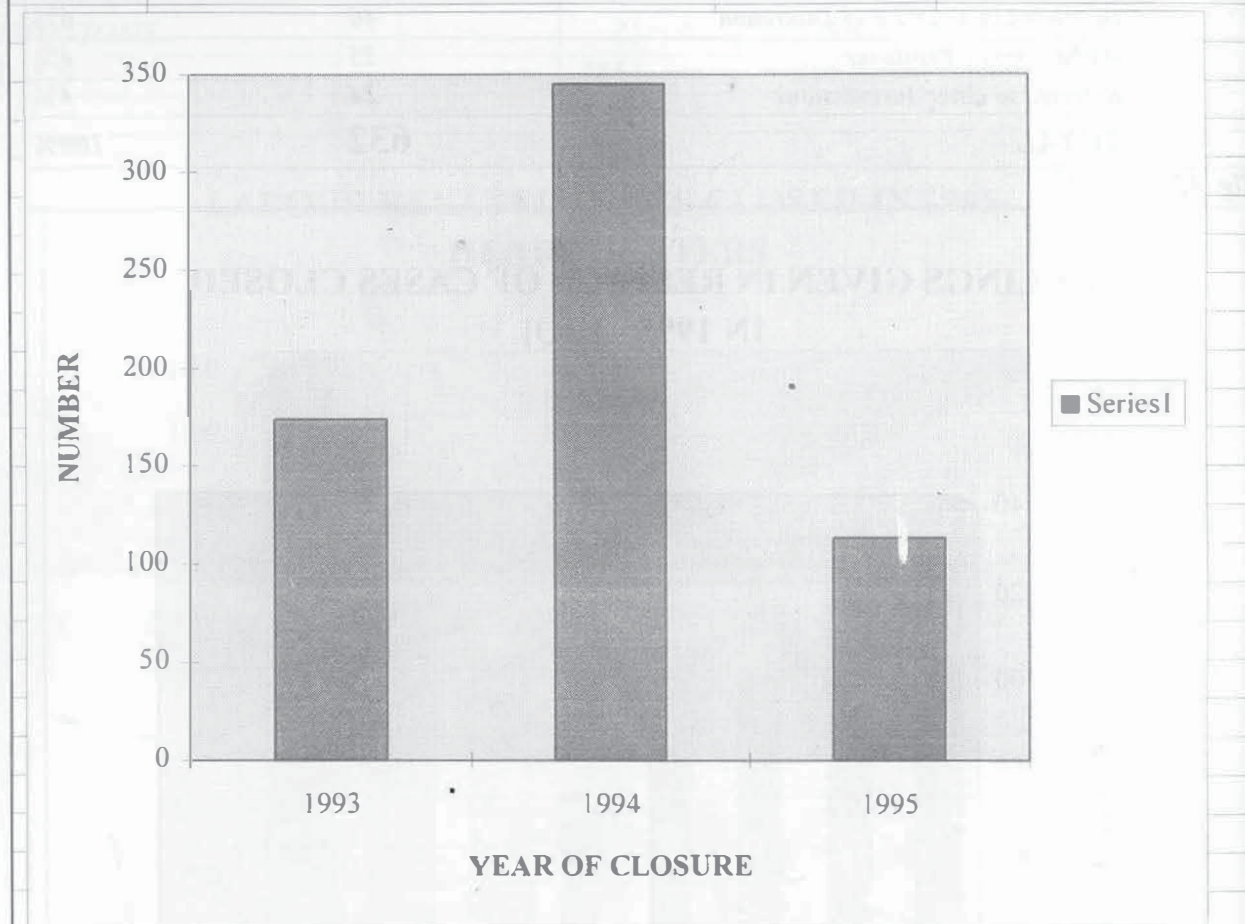
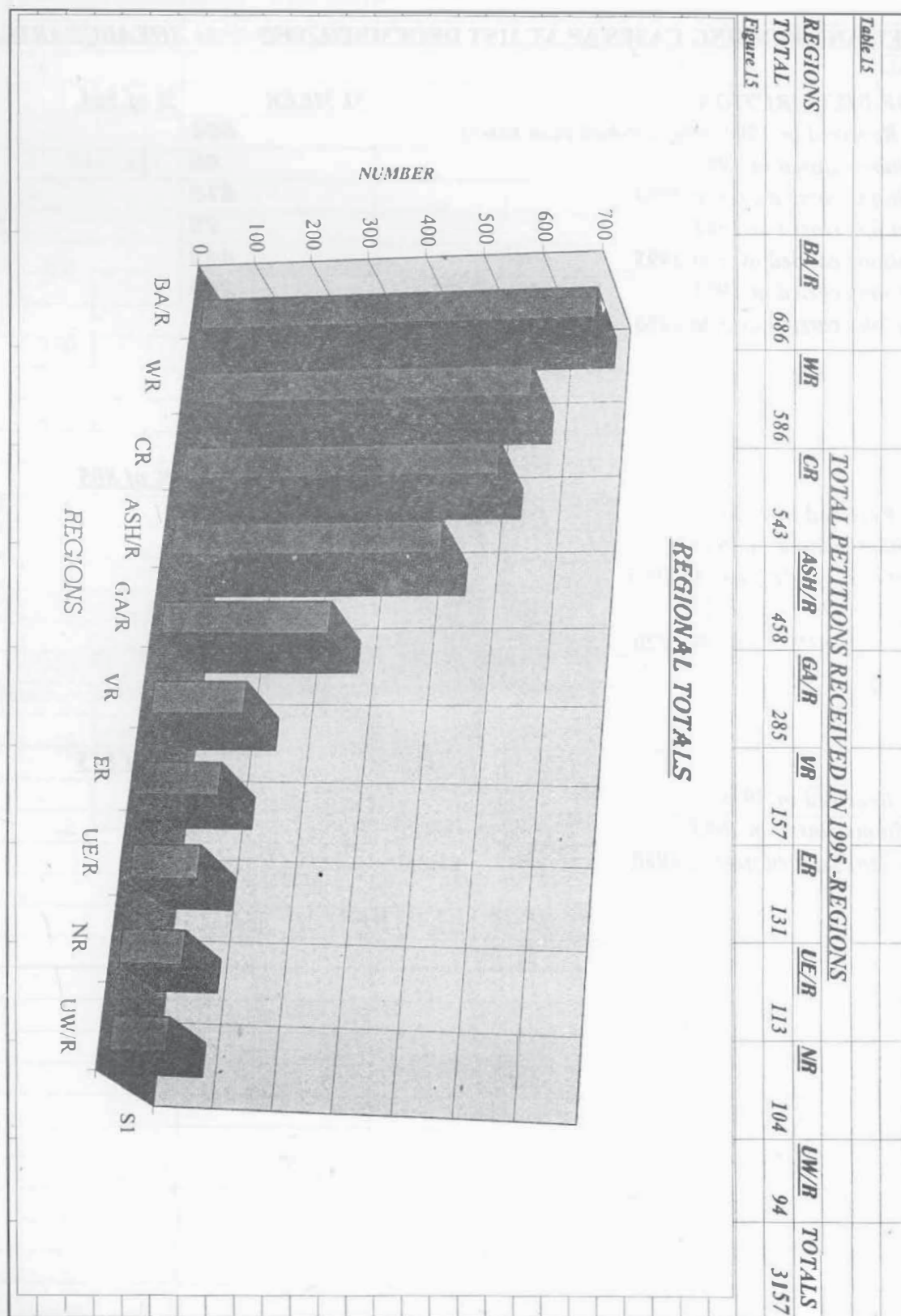


Table 15 gives a breakdown of the number of cases disposed of over the years at the Headquarters. Since 1993 the Headquarters has received and handled a total of 2,224 petitions 971 of which have since been disposed of. As at the end of 1995, 1,253 cases were pending for determination. (See Fig. 14)

[illegible]

iii) REGIONS

The Brong Ahafo Region recorded the highest number of cases (686) accounting for 22% of the total number of cases received in all the Regions in 1995. It was followed by Western Region - 458 (14.5%). (See Table 15, Fig. 15)



NATURE OF PETITIONS

The subject matter of the petitions received throughout the Regions were no different from those received at the Headquarters. Petitions alleging wrongful dismissal numbered 347 accounting for 11% of the Regional totals of 3,157 cases. Petitions relating to Family Matters totalled 360 (11.4%) whilst Breach of Contract and Child Maintenance accounted for 320 (10.1%) and 302 (9.6%) respectively. (See Table 16)

Table 16 NAT/PET'N		PETITIONS RECEIVED IN 1995- REGIONS						NATURE OF PETITION				
WR	VR	CR	GR/TMA	ER	ASH/R	BA/R	NR	UE/R	UW/R	TOTAL		
Family Matter	103	15	60	11	5	40	90	9	17	10	360	
Wrongful Dismissal	55	16	42	74	20	82	40	9	8	1	347	
Breach of Contract	48	10	66	10	9	73	69	12	16	7	320	
Child Maintenance	56	15	69	7	10	42	64	14	20	5	302	
Land Dispute	51	8	42	9	5	41	88	0	5	3	252	
Landlord/Tenant	35	5	58	12	4	22	83	0	9	6	234	
Termination of Appt.	44	11	26	37	12	31	34	4	5	11	215	
E-S-B	61	17	16	27	15	27	18	6	2	13	202	
Salary Arrears	26	7	34	15	6	19	26	5	14	11	163	
Debt Retrieval	15	12	31	6	5	15	10	7	0	4	105	
Retrieval of Items	20	0	31	4	8	16	10	9	0	4	102	
Estates Matters	10	11	8	0	3	10	49	1	2	0	94	
Unlawful Arrest/Def'n	12	9	6	6	8	4	22	11	0	6	84	
Pension/Gratuity	11	0	16	14	3	14	7	1	0	4	70	
Delay in Court	4	7	16	7	4	0	24	3	3	1	69	
Assault	2	4	10	7	5	0	10	6	2	0	46	
Retirement Benefits	11	1	2	4	0	9	6	0	1	4	38	
Abuse of Office	5	0	2	10	0	3	17	0	0	0	37	
Redeployment	0	0	0	12	2	3	6	3	1	3	30	
Fraud	1	5	3	3	1	0	7	3	0	0	23	
Interdiction	3	0	1	2	3	0	6	0	3	0	18	
Redundancy	6	0	0	4	0	5	0	0	2	0	17	
Social Security Benefit	4	1	0	0	2	0	0	1	2	0	10	
Insurance Claims	0	0	4	1	0	1	0	0	0	0	6	
Confiscation	0	1	0	1	0	1	0	0	1	0	4	
Retrenchment	3	0	0	0	0	0	0	0	0	1	4	
Suspension	0	2	0	2	0	0	0	0	0	0	4	
Promotion	0	0	0	0	1	0	0	0	0	0	1	
TOTAL	586	157	543	285	131	458	686	104	113	94	3157	

RESPONDENT BODIES

1,759 (56%) of the cases received in the Regions were against Private Individuals. Private Institutions and Enterprises (440) Public Corporations (150) and the Ghana Police Service 15 followed in order of descending magnitude. (See Table 17)

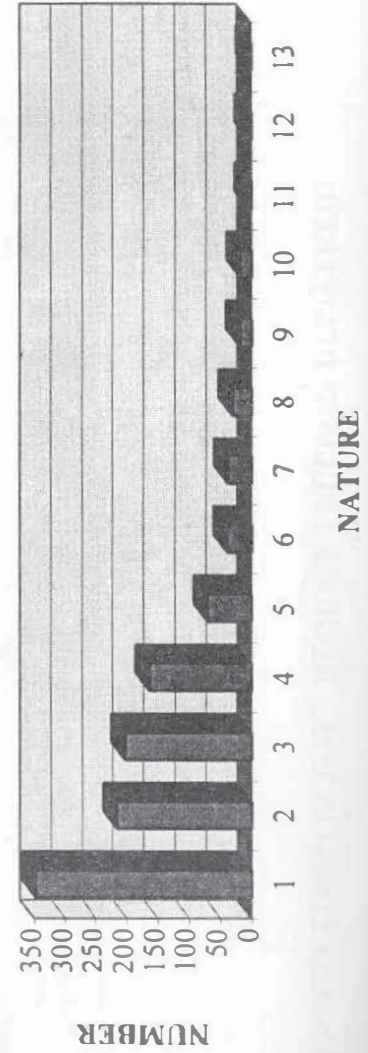
RESPONDENTS	PETITIONS RECEIVED IN 1995 - REGIONS						RESPONDENT BODIES				
	WR	VR	CR	GR/TMA	ER	ASH/R	B/A/R	NR	UE/R	UW/R	TOTAL
Private Individuals	347	66	355	60	48	210	543	46	40	44	1759
Priv. Comp/Enterp's	80	9	35	94	5	149	37	13	14	4	440
Civil Services	30	21	15	15	22	24	8	6	13	13	167
Police Service	18	14	21	12	14	19	23	11	11	7	150
Public Corporations	37	4	20	43	9	17	8	3	3	6	150
Ghana Educ. Service	31	8	17	16	5	2	8	6	11	8	112
Other Public Services	3	19	13	5	5	6	24	5	7	3	90
Metro/District Assbly	10	6	22	8	4	18	10	2	1	6	87
Miscellaneous	0	2	13	5	5	0	8	7	6	0	46
Financial Institutions	17	2	5	5	3	2	0	2	0	0	36
Acct. Gen's Dept.	2	0	8	3	1	2	9	0	2	0	27
Judicial Service	3	2	7	3	1	0	5	0	0	0	21
Bourds	1	1	7	3	4	1	0	1	0	0	18
Revenue Services	2	3	2	3	0	0	0	1	0	3	14
Armed Forces	0	0	0	3	0	0	3	1	0	0	7
S.S.N.I.T.	0	0	0	1	1	2	0	0	2	0	6
Universities	0	0	2	1	0	2	0	0	0	0	5
Fire Service	1	0	1	0	1	1	0	0	0	0	4
Traditional Councils	3	0	0	0	1	0	0	0	0	0	4
Prisons Service	0	0	0	0	0	2	0	0	2	0	4
National Service Sec.	0	0	0	2	1	0	0	0	0	0	3
C.A.C.	0	0	0	1	0	1	0	0	0	0	2
V.R.A.	0	0	0	0	1	0	0	0	1	0	2
Divestiture Impl'n Cte	1	0	0	0	0	0	0	0	0	0	1
Presidents Office	0	0	0	1	0	0	0	0	0	0	1
T.U.C.	0	0	0	1	0	0	0	0	0	0	1
TOTAL	586	157	543	285	131	458	686	104	113	94	3157

Table 18		LABOUR RELATED PETITIONS RECEIVED IN 1995-REGIONS										
NATURE OF PET'N	WR	VR	CR	GR/TMA	ER	ASH/R	BA/R	NR	UE/R	UW/R	TOTAL	
Wrongful Dismissal	55	16	42	74	20	82		40	9	8	347	
Termination of Appt.	44	11	26	37	12	31		34	4	5	215	
E-S-B	61	17	16	27	15	27		18	6	2	202	
Salary Arrears	26	7	34	15	6	19		26	5	14	163	
Pension/Gratuity	11	0	16	14	3	14		7	1	0	70	
Retirement Benefits	11	1	2	4	0	9		6	0	1	38	
Abuse of Office	5	0	2	10	0	3		17	0	0	37	
Redeployment	0	0	0	12	2	3		6	3	1	30	
Interdiction	3	0	1	2	3	0		6	0	3	18	
Redundancy	6	0	0	4	0	5		0	0	2	17	
Retrenchment	3	0	0	0	0	0		0	0	0	4	
Suspension	0	2	0	2	0	0		0	0	0	4	
Promotion	0	0	0	0	1	0		0	0	0	1	
TOTAL	225	54	139	201	62	193		160	28	36	1146	

Figure 18

Figure 18

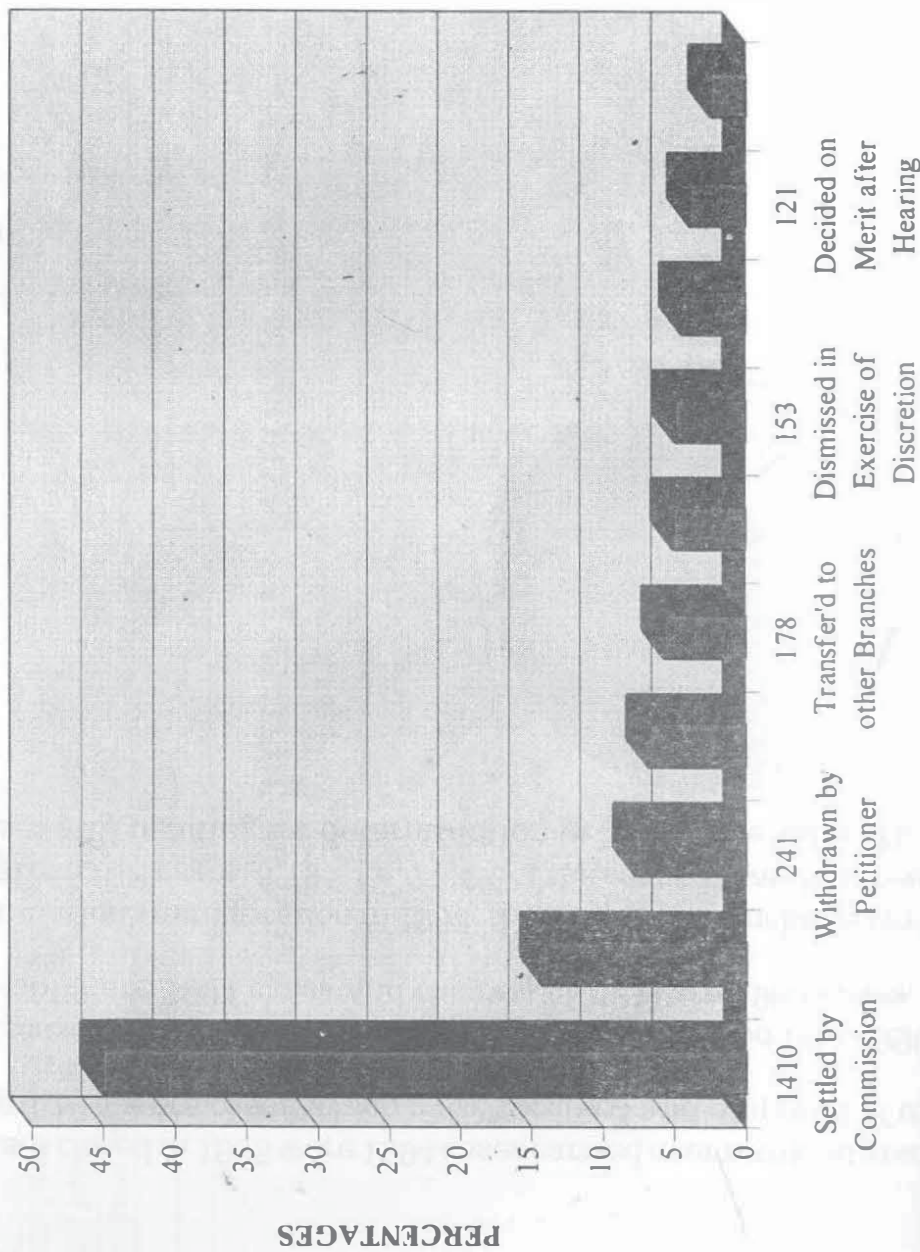
LABOUR RELATED CASES-REGIONS



CASES CLOSED IN 1995 - REGIONS (RULINGS DELIVERED)												
Table 19		WR	VR	CR	GR/TMA	ER	ASH/R	BA/R	NR	UE/R	UW/R	TOTAL
RULING	Settled by Commission	245	45	160	129	48	188	469	38	47	41	1410
	Dismissed for Lack of Jurisdict'n	79	12	113	68	28	83	39	7	6	10	445
	Withdrawn by Petitioner	47	22	21	21	7	28	57	13	5	20	241
	Decided on Merit without Hearing	53	33	8	27	10	17	6	12	34	12	212
	Transfer'd to other Branches	24	6	8	22	15	28	36	8	28	3	178
	Dismissed for Want of Prosecution	43	14	18	18	15	18	12	5	2	12	157
	Dismissed in Exercise of Discretion	24	9	44	43	1	24	2	2	4	*	153
	Referred to other Jurisdictions	38	7	29	35	10	5	1	9	4	*	138
	Decided on Merit after Hearing	32	20	5	14	11	20	10	1	1	7	121
	Dismissed for Lapse of Time	*	*	14	15	6	34	1	2	3	*	75
	TOTAL	585	168	420	392	151	445	633	97	134	105	3130
Table 20		TOTAL	% of 3130									
RULINGS	Settled by Commission	1410	45.04792									
	Dismissed for Lack of Jurisdict'n	445	14.21725									
	Withdrawn by Petitioner	241	7.699681									
	Decided on Merit without Hearing	212	6.773163									
	Transfer'd to other Branches	178	5.686901									
	Dismissed for Want of Prosecution	157	5.015974									
	Dismissed in Exercise of Discretion	153	4.888179									
	Referred to other Jurisdictions	138	4.408946									
	Decided on Merit after Hearing	121	3.865815									
	Dismissed for Lapse of Time	75	2.396166									
	TOTAL	3130	100									

Figure 20

CASES CLOSED IN 1995 - (REGIONS)



Closed and Pending Cases

As at 31st December, 1995 a total of 3,130 cases had been closed throughout all the Regions for the period 1994/95. The largest number of closed cases (633) was recorded in the Brong Ahafo Region. Western Region followed with 585 cases, whilst Ashanti, Central and Greater Accra recorded 445, 420 and 392 closed cases respectively.

1,315 of the cases closed in 1995 were 1994 cases carried over into that year, whilst the remaining 1,815 were cases which were received and disposed of in 1995.

1,830 pending cases were carried over from the 1994/95 period into 1996. Of the pending cases, 509 are 1994 cases and the rest (1,321) are 1995 cases.

Since the Commission's inauguration in 1993, the Regional Branches have together received a total of 5,318 cases. 3,795, i.e. 71.4% of the cases, have since been closed with 1,523 cases still pending for determination in 1996. (See Table 21, Fig. 21)

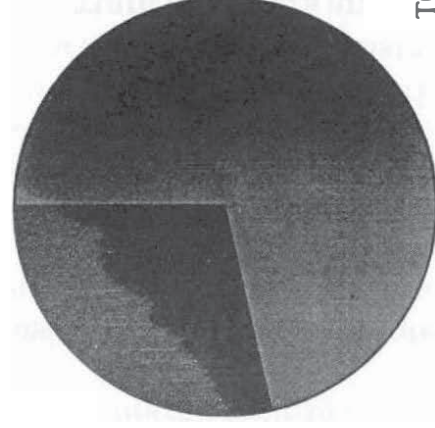
Table 21 • **CLOSED AND PENDING CASES-[Regions]**

	NO.	%
TOTAL RECEIVED [since 1993]	5318	
TOTAL CLOSED [since 1993]	3795	71.40%
TOTAL PENDING [as at end of '95]	1523	28.60%

Figure 21

CLOSED & PENDING CASES -REGIONS [since 1993]

3795
TOTAL CLOSED [since
1993]
29%



5318
TOTAL RECEIVED [since
1993]
71%

B. PUBLIC EDUCATION

The Commission continued with its human rights education programme throughout the year under review. In all, 6 major seminars and workshops were held.

The first of these Seminars and Workshops was organised by the Commission and sponsored by the Hans Seidel Foundation of Germany for the Staff of the Legal and Investigations Departments of the Commission.

In view of the fact that most of the cases received are labour related, the Commission organised a Seminar for top management staff in both the public and private sectors, including officials of the T.U.C., with the aim of improving their appreciation of the country's labour laws and practices.

Four of the Seminars and Workshops were held for District Assembly members in the Upper East, Central and Eastern Regions of the country. These Seminars and Workshops were held under the theme: "Decentralization and the Promotion of Human Rights and Administrative Justice."

The last of the Seminars and Workshops was organised and sponsored by the Commission itself for selected officers and men of the Ghana Armed Forces under the theme: "The Search for Social Justice and Fair Play in the Fourth Republic."

Seminars and Workshops were also planned for such target groups as (a) traditional rulers or chiefs, (b) National and Regional Executives of all Political Parties and Religious Leaders (c) Heads of Second Cycle Educational Institutions (d) Personnel of Print and Electronic Media. Unfortunately owing to financial constraints and other unforeseen circumstances, these very important Seminars and Workshops could not come off.

C. RESEARCH

To ensure that the human dignity of prisoners and suspects are respected as enshrined in the Constitution, the Commission undertook a nation-wide inspection of prisons and police cells.

The programme which was carried out in two phases, was formally launched by the Commissioner, Mr. Emile Francis Short, on Monday, 20th March 1995 at the Accra Regional Police Headquarters under the distinguished Chairmanship of Justice A.K.B. Ampiah, a Supreme Court Judge.

FINDINGS OF INSPECTION EXERCISE

The inspection tour of the country's Prisons and Police Cells by the CHRAJ exposed various shortcomings and inadequacies in the administration of justice in this country, involving mainly, the Police, the Courts and partly the Prisons Administration. This assertion is manifested, inter alia, in the congestion in the prisons visited, particularly the Nsawam, James Fort and the Kumasi Central Prisons. The following are some of the observations made during the inspection:-

- (a) the inability of the courts to expedite the trial of suspects who are remanded in prison custody;
- (b) the incarceration and committal into adult prisons of teenagers below the age of eighteen years who should normally be at the Borstall Institutions.
- (c) the indefinite holding of condemned prisoners under excruciating and mentally tortuous conditions in condemned cells;
- (d) the long period it takes the judiciary to consider applications for appeals from convicts;
- (e) the conviction and committal into prison of pregnant women who more often than not deliver while still in prison;
- (f) the non-consideration of time spent in remand when passing final sentences.

During the inspection exercise, the Commission expressed much concern about the long period spent in remand by accused persons and the plight of condemned convicts. An accused who had spent 16 years in remand without trial at the Kumasi Central Prison has been discharged as a result of action brought against the State by the Commission. During the inspection of the Kumasi Central Prisons, the accused, one Busanga, a Burkinabe national, charged with the murder of his step father, appealed to the Commission to come to his aid. The Commission took up the matter in court where it was disclosed that the Police Officer handling the case had died long ago and the docket was nowhere to be found. It was apparent that the Police had forgotten about the accused, and but for the Commission's intervention he may have spent the rest of his life in prison even though he was never tried.

Summary of Selected Cases

CASE NO. CHRAJ/UER/CN 69/94

The petitioner, a young lady, petitioned the Bolgatanga Office of the Commission complaining that her right to an adequate standard of living including the provision of food, shelter and clothing had been denied her.

Her story was that many years ago she was adopted by a couple from Cape Coast but unfortunately the two died in an accident leaving her without a guardian. She was therefore forced by the situation to abandon schooling and travel to La Cote D' Ivoire where she practised prostitution.

While practising prostitution, she met and married a Camerounian with whom she had two children. She said the Camerounian later bolted with the two children and she had since been "... roaming eastward and westward outside Ghana and could not succeed in life."

Petitioner said she finally returned to Ghana and reported to the Department of Social Welfare for assistance. The Department accommodated her at their Rehabilitation Centre but she was made to leave after six days.

It was petitioner's contention that the Department had a duty to help her obtain accommodation and secure a job because, as she put it, "I am a Ghanaian and have got the right to survive in my country."

She called on the Commission to prevail on the Department to fulfill its obligation towards her. She said in the event however, that, the Department had no such obligation towards her, then the Commission should help her to stop begging for alms to feed herself.

The Commission's investigations revealed that the Department of Social Welfare arranged for petitioner to be adopted by the deceased couple after she had been abandoned as a baby.

Unfortunately petitioner failed to furnish the Commission with her contact address or any particulars. It was therefore not possible for the Commission to contact her or the family of the couple who adopted her.

Consequently the Commission's investigations had to be discontinued for want of prosecution. However, the Commission noted that it could not direct that the Department should provide accommodation for her since the law as it stands now did not guarantee the right to food and shelter.

CASE NO. NR. 6/95

The petitioners were Christians resident and practicing their religion in a village near Nyankpala in the Northern Region of Ghana. The respondents also lived in the same town but they practiced Islam.

In August, 1994, the respondents requested petitioners to contribute ₵1,000.00 each to a fund the purpose of which was to buy fowls and sheep to pacify the gods for the rains to come. The petitioners refused on the grounds that the practice was against the teachings of their religion. They offered, instead to pray for the rains to fall.

Respondents however insisted that the petitioners should pay the money. Still refusing to pay, petitioners put their case before the village chief who ruled that petitioners should be exempted.

Not satisfied with the chief's ruling, respondents ordered an immediate closure of all Churches in the village. The petitioners went to Tamale to seek the advice of their respective Church leaders. They were advised to pay the levies to let matters rest. They paid as advised, but respondents still refused to allow them access to their churches.

In September the same year, respondents imposed yet another levy for the same purpose which petitioners again paid. But the Churches remained closed on the orders of the respondents, and for all that period, petitioners were denied their fundamental right to practise their religion.

A mediation meeting held between the parties at the instance of the Church leaders and the chief failed to yield any fruitful results as respondents refused again to heed the chief's advice. Thereafter, respondents threatened petitioners with death. They removed the roofing from the Church property including drums. This caused many Christians to flee the village for fear of their lives.

The petitioners eventually sought the intervention of the Commission. The Commission first notified the Police of the threat of life and damage to property. The District Chief Executive, the Assemblyman, the Police, the Chief and the Commission worked together tirelessly to ensure not only that petitioners' right of worship was restored, but also that peace and harmony prevailed in the relationship between the parties.

After several months of mediatory talks and diplomatic overtures the matter was eventually resolved. Petitioners had their Church building returned to them and they resumed their worship without any interference.

The Commission visited the village and was satisfied that peace had finally returned.

In November, 1995, the Assemblyman wrote to the Commission to confirm that the parties were living in harmony with one another.

CASE NO. CHRAJ/169/95

In September, 1990, petitioner X's appointment with Ministry of Trade was terminated as a result of investigations said to have been conducted by a Committee set up to investigate the affairs of the Ministry. The medium by which her employment was terminated was through one of the national dailies.

In her petition, petitioner denied any wrongdoing or impropriety and stated that the said investigations had nothing to do with her schedule at the Ministry. She admitted having appeared before the Committee and said she was asked whether she owned a shop, operated a bakery, or ever assisted some persons to obtain allocation of specified commodities. Her answer to all questions were, she said, in the negative.

Commenting on the petition, the Ministry said petitioner's dismissal was based on the recommendations of the NIC Sub-Committee which investigated certain aspects of the then Ministry of Trade and Tourism.

The Commission procured a copy of the Report of the said Committee for study. It turned out from the study that the name of the petitioner was not even mentioned in the Report. Neither were any findings or recommendations made with regard to her office.

The Commission ordered her immediate re-instatement without loss of promotion and with payment of all emoluments due her.

CASE NO. CHRAJ/GAR/30-43/94

Petitioners were the children of J.K. Siaw, whose assets were confiscated to the State. The subject-matter of the petition was a house commonly known as "Angelina House."

Petitioners' case was that the two wings of Angelina House were bought and gifted to them by their late father as far back as 1966 and 1968 and that at the time their father's assets were confiscated in 1979 the houses did not belong to him.

The Commission's investigations revealed that by indentures dated and registered in 1966 and 1968 the two wings of Angelina House were purchased by J.K. Siaw in the name of all his children most of whom had not then been born. Investigations disclosed also that subsequent to the purchase, the children had dealt with the property as their own, insuring it in their name, renting out rooms and collecting the rents. It was obvious that the property did not belong to J.K. Siaw. The Children (petitioners) had acquired the property lawfully by way of gift inter vivos and by virtue of Section 35 (2) of the Transitional Provisions of the 1992 Constitution, they were entitled to have the property restored to them. An order

was accordingly made deconfiscating Angelina House and restoring same to the petitioners.

Petitioners' prayer for order for refund of all rents collected during the period of confiscation was however refused because that would have amounted to a declaration that the confiscation was wrongful, a declaration which the Commissioner had no power under Section 35 (2) to make.

CASE NO. CHRAJ/86/93

Petitioners were the trustees of the estate of their deceased father. They were also beneficiaries of the trusts created under the will of the deceased.

By a lease dated 1st October 1956 and registered as No. 2912/1956 their late father leased the house in issue for a term of 30 years. The lessee later assigned the unexpired term of the lease to one Mohammed Fouad Fattal. By a series of legislations all the shares, debentures, securities and proprietor interests of Mohammed Foud Fattal in a number of named companies and enterprises were transferred to the State. In none of the various pieces of legislation were the personal or private properties of Fattal transferred to the State. The Confiscated Assets Committee nevertheless took over possession and management of the house the subject-matter of the case.

Under the Confiscated Assets (Removal of Doubt) Law, 1993 (PNDCL 325) the property was listed in the schedule thereto as one of the properties of Mohammed Fouad Fattal confiscated to the State.

At the time of the Commission's investigations into the matter management of the property had been transferred to Ghamot Company Limited.

After investigations the Commission observed that apart from the house being confiscated on the erroneous assumption that it formed part of the properties of Fattal Group of Companies, it was also abundantly clear that the interest Fattal held in the house was a leasehold interest which expired on 30th September, 1986 when the reversionary interest of the petitioners came alive.

On the available evidence the Commissioner found that the leasehold interest granted to Fattal expired in 1986 and petitioners became entitled to the reversionary interest as at that date, and as appointed trustees of the Will of their late father they were entitled to have the property restored to them. Indeed Counsel for Ghamot was magnanimous enough to concede this point.

In the result the Commission ordered restoration of the property to the petitioners.

CASE NO. CHRAJ/359/93

The Management Board of a private educational institution petitioned against the Ghana Education Service which had threatened the School with closure unless they reverted to their old fees.

Petitioners' case was that they offered specialised quality education for their pupils. They had modern learning equipment and facilities for the children; pupil/teacher ratio was extra-ordinarily low enabling the children to have the optimum attention of teachers; staff salaries were also very high compared to those of other institutions. These claims were not challenged by the respondents.

It was petitioners' contention that the GES had no authority or power to close down a private school on the sole ground that its fees were high.

Respondents, on the other hand, argued that by virtue of Section 31 of the Education Act, 1961 (Act 87) the Minister of Education could make regulations in respect of matters relating to education. It turned out however that no such regulations had been made pursuant to Section 31 of Act 87. The Commission found that the respondents had not been vested with any power or authority to regulate or dictate fees chargeable in private institutions.

In its ruling on the matter the Commission declared that the power that the GES intended to exercise against the petitioner did not exist. They had no power to determine fees chargeable in private schools and petitioners were therefore not obliged to succumb to their demand.

CASE NO. CHRAJ/262/93

Petitioner was at one time a Lecturer at the University of Cape Coast. At the time of submitting his petition, he had retired from the service of the University.

His case was that before he left the University, he had applied for promotion as an Associate Professor but respondents (UCC) had unjustly denied him the promotion. Petitioner said even though he had satisfied all the conditions for promotion, respondents had refused to promote him.

The criteria for promotion to Associate Professorship were:

1. Outstanding scholarship in the candidate's field of teaching and research;
2. Contribution to the intellectual life of the University;
3. Contribution to the development of the country.

The Commission, after conducting a formal hearing into the matter, held that respondents had not unjustly denied petitioner his promotion as alleged by him.

The Commission found that petitioner did not satisfy the first condition for promotion, i.e. outstanding scholarship in the candidate's field of teaching and research. That condition was determined on the basis of assessments made by external assessors. The Commission carefully studied the assessors' reports on the petitioner and compared them with those of other lecturers whose applications had either been granted or refused. The Commission came to the firm conclusion that the decision not to promote the petitioner was fair and reasonable and not discriminatory as alleged by the petitioner.

CASE NO. NR/14/95

This petition was lodged by a lady for and on behalf of her brother who she alleged had been remanded in prison custody for over a year without trial.

She stated in the petition that her brother was arrested by the Yendi Police for allegedly stealing a bicycle. He spent one week in Police Cells after which he was remanded in prison custody by the Yendi District Court Grade II.

The Commission was initially inclined to decline jurisdiction in the matter since the Commission, by virtue of Section 8(2)(a) of the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456), is precluded from investigating cases pending in court. It was realised, however, that the Court which remanded the accused in custody had since become defunct and that must have accounted for the delayed trial.

The Commission brought the case to the notice of the Tamale District Court Grade I. The Magistrate immediately called for the docket on the accused and after studying the records, discharged the accused. At the time of his discharge the accused had spent 13 months and 3 weeks in prison custody awaiting trial.

CASE NO. CHRAJ/TM/CN/11/95

The petitioner in this case lodged a petition against his stepmother alleging that the latter had refused to hand over his father's house to him after the father's death.

Commenting on the petition the respondent said the matter was pending before the family elders and suggested therefore that the Commission should allow the elders to handle the matter. The Commission also received a letter from one Torgbui Avafia Gbor IV, one of the elders, who requested the Commission to suspend action on the petition pending the outcome of the arbitration.

In his reaction to the comments, petitioner admitted the pendency of the case before the elders. He said respondent had asked him at the arbitration to provide her with a ram and some drinks before handing over the property to him but he refused.

In view of the fact that the matter involved distribution of the estate of a deceased person as well as title to land, the Commission at this juncture decided to decline jurisdiction. A ruling was accordingly put up in that regard with petitioner being advised to seek redress in court if he was so minded.

CASE NO. CHRAJ/84/93

The petitioner in this case petitioned against the Pharmacy Board over the confiscation and subsequent sale of her imported drugs which she valued at ₦9 million.

The facts of her case were that, sometime in 1991 she imported some drugs into the country on an accompanied flight from Nigeria. At the time she arrived at the airport to clear the drugs, an executive ban had been placed on the importation of drugs from Nigeria. Her goods were consequently confiscated by the Customs, Excise and Preventive Service (CEPS). CEPS subsequently handed over the drugs to the Pharmacy Board. The Board sold the drugs and paid the proceeds into government chest.

In their comments, the Board said they only gave professional advice to CEPS but denied having had any other dealings with the drugs. They said under the Pharmacy and Drugs Act, 1961 (Act 64) drugs could not be imported into the country unless they had been registered. They listed the following categories of persons as those qualified under Act 64 to import drugs namely:

1. Medical Practitioners for their clinic use;
2. Veterinary Surgeons and Pharmacists; or
3. Registered Pharmaceutical Companies.

The persons and establishments mentioned above were required under the law to obtain a Ministry of Health permit and a licence to import drugs.

The Commission's investigations revealed that petitioner was not one of those persons qualified to import drugs. Additionally she neither had a Ministry of Health permit nor a licence for the importation of drugs.

It came to light also that the petitioner failed to exercise her right to claim the drugs under Section 84 of the Customs and Excise Decree, 1972 (NRCD 114). Under that law, the owner of seized goods was required, within one month, to

On the basis of these revelations the petition was dismissed for lack of merit.

CASE NO. CHRAJ/34/95

The petitioner in this case was an Estate Officer employed with the Public Works Department (PWD).

He stated in his petition that he was wrongfully dismissed for allegedly stealing a refrigerator property of his employers. Petitioner denied the allegation and explained that he removed the fridge from one of the Roman Ridge Flats to his house for repairs under the instructions of the Secretary of the Bungalow Allocation Committee.

The Commission's investigations disclosed however that, the petitioner removed the fridge without lawful authority. He did it with an intention to permanently deprive his employers of their ownership of the property.

His petition was accordingly dismissed on the ground that he had misconducted himself as a public officer and respondents (PWD) were justified in dismissing him under Section 20 of the Civil Service Act, 1960 (CA 5) (now repealed).

CASE NO. CHRAJ/1 16/95

As part of their restructuring exercise, the Ghana Railways Corporation retrenched a number of staff including the petitioner in this case.

Petitioner alleged that his name was included in the list of retrenched staff by an officer in the Personnel Department because of a rift between the two of them.

In their comments, respondents explained that the reason for petitioner's retrenchment was that he altered his age on his personal record, an act for which he could be retrenched. The Commission established from its investigations that in 1988, petitioner was queried by his employers to explain why he made a false declaration regarding his age. In his reply to the query petitioner stated simply that he had rapid promotions whilst he was in school. The Commission found that his answer did not explain why he altered the records.

The Commission found also that petitioner's conduct was one of the nine offences for which an employee of the respondents could be retrenched. In the light of these findings the petition was dismissed for lack of merit.

CASE NO. CHRAJ/368/94

After thirteen years of service (1980 -1993) with the respondents (Tema Municipal Assembly), the petitioner in this case was retired compulsorily. Upon his retirement he was told by respondents that he was not entitled to any end-of-service benefits. He felt cheated and therefore sought the Commission's assistance.

After investigations the Commission found that by virtue of the date of his entry into the Civil Service (1980) and the effect of the Social Security Decree, 1973 (NRCD 127), the Pensions and Social Security (Amendment) Decree, 1975 (SMCD 8), and the Social Security Pension Scheme Law, 1991 (PNDCL 247), petitioner was in fact not entitled to be paid any end of service benefits. The Commission found, however, that petitioner was rather entitled to a lump sum payment of social security benefits from the Social Security and National Insurance Trust, (SSNIT). Enquiries made at the SSNIT revealed that petitioner had already received from them a lump sum of ₵200,000.00 as his benefit. This was later confirmed by the petitioner.

In the light of the findings the petition was dismissed for lack of merit.

CASE NO. CHRAJ/348/94

Petitioner was a candidate for the Motor Vehicle Technician Part I Examination, conducted in June, 1993. He alleged in his petition that the result released by the Technical Examination Unit of the Ghana Education Service (respondent) did not truly reflect his performance in the examination. He suspected strongly that respondents had tampered with the result.

Petitioner's reason for his suspicion was that sometime after the examinations, respondents made certain allegations of examination malpractices against him. He suspected respondents to have deliberately given him low marks as punishment for his alleged involvement in examination malpractices.

Petitioner said he petitioned respondents for a re-marking of his examination papers but he could not afford the fee he was asked to pay for the exercise.

Respondents on their part, denied having tampered with petitioner's examination results. They maintained that their investigations into the alleged malpractices did not in any way influence the results which were released. They explained that petitioner had lost his right to have his papers re-marked because he failed to pay the prescribed fee.

The Commission was privileged with free access to petitioner's original scripts. The scripts were carefully studied and it was the Commission's candid opinion that the marks awarded petitioner were just what he deserved. The petition was accordingly dismissed for lack of merit.

The petitioner was a serving Police Officer until 1988 when he was seconded to the Office of the erstwhile PNDC. He was later appointed a PNDC District Secretary and served in that capacity till 1994 when he reverted to the Police Service.

In November, 1993 whilst still on secondment, the Inspector-General of Police (IGP) wrote to inform petitioner that he had been promoted to the ranks of Chief Superintendent of Police and Assistant Commissioner of Police with effect from 1st April 1988, and 1st December 1991, respectively, and extended his congratulations.

On 3rd April, 1995 respondents wrote to petitioner requesting him to hand over his duties to his immediate superior and “proceed on retirement with immediate effect.”

The basis of petitioner’s complaint to the Commission was that instead of 1995, respondents contended that he was retired from the service in 1988, the year in which he was seconded to the Office of the PNDC.

Petitioner’s other complaint was that he had not attained the compulsory retiring age of sixty because he was born in 1936 and not 1933 as maintained by the respondents.

In respect of the first issue, the Commission found and accordingly held that it was wrong for respondents to consider petitioner to have left the Service in 1988, the year of his secondment to the Office of PNDC. It was held that by virtue of Section 3 of the Public Officers (Secondment by PNDC) Law 1992, PNDC Law 302, petitioner was, throughout the period of his secondment, an officer of the Ghana Police Service.

The Commission ruled that petitioner was retired in 1995 as an Assistant Commissioner of Police and that his entitlements should be computed on that basis.

Petitioner’s claim that he was born in 1936 was however rejected because he had himself indicated on his personal record file that he was born in 1933. Moreover, he did not have any documentary or other convincing evidence to support the claim that he was born in 1936.

CASE NO. CHRAJ/47/95

Sometime in November, 1994 the petitioner, a retired public officer, applied to the Social Security and National Insurance Trust (SSNIT) for Superannation Pension.

SSNIT refused his application for two reasons, namely, that:

1. he had not attained the pensionable age of 60 years or the voluntary retiring age of 55 as required under Section 34(1) (a) of the Social Security Law, 1991 PNDCL 247; and
2. he had not contributed to the Fund for the statutory 20 years period.

On his Social Security Registration Card, petitioner had 1st July 1942 as the date of his birth. He, however, had a British Certificate issued in 1982 with 1st July, 1932 indicated thereon as his date of birth. Petitioner's explanation was that when in 1982 he realised that the date given by his illiterate parents was wrong, he applied for and obtained the British Certificate to reflect the correct date. He could not however explain, satisfactorily why he failed to notify SSNIT of the change.

The Commission found after investigations also that, petitioner contributed to the Fund for 19 years, 1 year short of the 20 years required under PNDCL 247.

The petition was dismissed for lack of merit. From SSNIT official records he had not attained 55 or 60 years, and he had also not contributed to the Fund for the statutory 20 years period.

CASE NO. CHRAJ/OB/CN/61/92

Petitioner was, until his retirement, from the State Enterprises Audit Corporation, responsible for negotiating new conditions of service for the corporation. Ironically his efforts yielded fruits only after he had gone on retirement.

When he retired, his employers wrote to inform him that payment of his benefits was being stayed till the new and enhanced Conditions of Service were approved so that he would benefit from the provisions therein. Six months later, respondents realised that once petitioner had left their service, the proposed conditions could not be applied to him if and when approval was given. They therefore wrote to inform him of this and invited him to collect his benefits.

But petitioner was firm in his belief that the new Conditions were applicable to him. He refused to collect the money and waited till the proposed conditions were approved.

Due to respondents' refusal to compute his benefits on the basis of the new conditions, he petitioned the Commission.

The Commission's decision was that since petitioner retired before the new Conditions of Service were approved (which conditions did not take retrospective effect) he was not entitled to his claim. Respondents were asked to pay interest on what was due petitioner for the 6 months that they withheld his entitlements in anticipation of the approval and application of the proposed conditions of service.

With the new Conditions of Service petitioner would have taken home ₦2,195,793.00. Under the old service conditions he got ₦439,183.00.

CASE NO. CHRAJ/645/95

Seven Seamen brought this case against their former employer, Liwon Enterprises. Their case was that whilst working for the respondents, their fishing boat collided with a ship off the coast of Guinea. Most of the people on the ship drowned but they, petitioners, managed to escape death. Petitioners said by the terms of their agreement with respondents, they were entitled to compensation of Six Million Cedis (₦6,000,000.00) each, but respondents had refused to pay them the money.

The parties were invited for discussions with the aim of achieving an amicable settlement.

It came to light at the discussion that there was no agreement to pay petitioners ₦6 million in the event of an accident. The agreement was rather to the effect that where an employee died in the course of his employment, ₦6 million would be paid to his family. This obligation respondents had faithfully discharged to those who died in the accident.

Petitioners admitted that respondents had, since the accident, paid each of them over ₦600,000.00 and procured new passports and Seamen's Identity Cards for them. These were all done on humanitarian grounds; the agreement made no provision for them.

From a study of the agreement the Commission found that because petitioners did not suffer any injuries from the accident they were not entitled to any compensation. This was explained to them. They were also made to appreciate the fact that respondents had been very generous by giving them money and obtaining passports and I.D's for them.

Eventually the petitioners agreed unanimously that they were satisfied with the Commission's explanations and that they considered the matter as settled.

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 Service 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 these 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 findings 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 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 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 articles 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.

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- 229.** For the purpose 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 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, injustices and corruption; abuse of power and unfair treatment of persons by public officers in the exercise of their duties, with power to seek remedy in respect of such acts or omissions and to provide for other related purposes.

Date of Assent: 6th July, 1993

Be It Enacted by Parliament as follows-

PART I

ESTABLISHMENT OF COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE

1. There is established by this Act a body to be known as the Commission on Human Rights and Administrative Justice in this Act referred to as “the Commission.”
2. (1) The Commission shall consist of -
 - (a) a Commissioner for Human Rights and Administrative Justice in this Act referred to as “the Commissioner”; and
 - (b) two Deputy Commissioners for Human Rights and Administrative Justice, in this Act referred to as “the Deputy Commissioners.”(2) The President shall, acting in consultation with the Council of State appoint the Commissioner and the Deputy Commissioners.
3. (1) A person shall not be qualified for appointment as Commissioner or a Deputy Commissioner for Human Rights and Administrative Justice, unless he is -
 - (a) in the case of the Commissioner, qualified for appointment as a Justice of the Court of Appeal; and

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

(2) The Commissioner and Deputy Commissioners shall not while holding office as Commissioners hold any other public office.

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

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

(3) Where the Commissioner or a Deputy Commissioner dies, resigns or is removed from office, the President shall, in consultation with the Council of State, appoint a person qualified to be appointed Commissioner or Deputy Commissioner to perform those functions until the appointment of a new Commissioner or Deputy Commissioner.

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

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

PART II

FUNCTIONS OF THE COMMISSION

7. (1) The functions of the Commission are -

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

(b) to investigate complaints concerning the functioning of the Public Service 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 these services;

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- (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 findings on it to be reported to the superior of an offending person;
 - (iii) bringing proceedings in a competent Court for a remedy to secure the termination of the offending action or conduct, or the abandonment or alteration of the offending procedures; and
 - (iv) bringing proceedings to restrain the enforcement of such legislation or regulation by challenging its validity if the offending action or conduct is sought to be justified by subordinate legislation or regulation which is unreasonable or otherwise ultra vires;
 - (e) to investigate allegations that a public officer has contravened or has not complied with a provision of Chapter Twenty-four (Code of Conduct for Public Officers) of the Constitution;
 - (f) to investigate all instances of alleged 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;
 - (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 purpose 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 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 purpose of performing his functions under the Constitution, this Act and 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 investigations as may be necessary; and
- (c) discharge any other duties relating to the functions of the Commission that may be assigned to him by the Commissioner.

PART III

PROVISIONS RELATING TO COMPLAINTS AND INVESTIGATIONS

12. (1) A complaint to the Commission shall be made in writing or orally to the national offices of the Commission or to a representative of the Commission in the Regional or District branch.

(2) Where a complaint is made in writing it shall be signed by the complainant or his agent.

(3) Where a complaint is made orally, the person to whom the complaint is made shall reduce the complaint into writing and shall append his signature and the signature or thumbprint of the complainant.

(4) Notwithstanding any law to the contrary, where a letter written by-

(a) a person in custody; or

(b) a patient in a hospital;

is addressed to the Commission, it shall be immediately forwarded unopened and unaltered to the Commission by the person for the time being in charge of the place or institution where the writer of the letter is detained or of which he is a patient.

(5) A complaint under this Act may be made by any individual or a body of persons whether corporate or unincorporated.

(6) Where a person by whom a complaint might have been made under this Act has died or is for any sufficient reason unable to act for himself, the complaint may be made by his personal representative or by a member of his family or other individual suitable to represent him.

13. (1) Where in the course of the investigation of any complaint it appears to the Commission -

(a) that under the law or existing administrative practice there is adequate remedy for the complaint, whether or not the complainant has availed himself of it; or

(b) that having regard to all the circumstances of the case, any further investigation is unnecessary,

it may refuse to investigate the matter further.

(2) The Commission may refuse to investigate or cease to investigate any complaint-

- (a) if the complaint relates to a decision, recommendation, act or omission of which the complainant has had knowledge for more than twelve months before the complaint is received by the Commission; or
- (b) if the Commission considers that -
 - (i) the subject matter of the complaint is trivial;
 - (ii) the complaint is frivolous or vexatious or is not made in good faith; or
 - (iii) the complainant does not have sufficient personal interest in the subject matter of the complaint.

(3) Notwithstanding subsection (2) of this section, if within six months after the Commission's refusal or ceasing to investigate any complaint under this section, fresh evidence in favour of the complainant becomes available, the Commissioner shall, at the request of the complainant, re-open the case.

(4) Where the Commission decides not to investigate or to cease to investigate a complaint, it shall within 30 days of the decision inform the complainant of its decision and the reasons for so refusing.

14. (1) Where the Commission decides to conduct an investigation under this Act, it shall give the authority or person concerned and to any other person who is alleged in the complaint to have taken or authorised the act or omission complained of, an opportunity to comment on any allegations contained in the complaint and the representative of the authority or person concerned shall submit his comments within such time as the Commission may specify.

(2) The public may be excluded from investigations conducted by the Commission.

(3) Without prejudice to the generality of the provisions of this section, the Commission may obtain information from such persons and in such manner, and make such inquiries as it considers necessary.

(4) The Commission may pay to a person by whom a complaint is made and to any other person who attends and furnishes information for the purposes of an investigation under this Act -

- (a) sums in respect of expenses properly incurred by them; and
- (b) allowances by way of compensation for the loss of their time,

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

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

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

PART IV

PROCEDURE AFTER INVESTIGATION BY THE COMMISSION

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

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

(2) If within three months after the report is made no action is taken which seems to the Commission to be adequate and appropriate, the Commissioner, may after considering the comments, if any made by or on behalf of the department, authority or persons against whom the complaint was made, bring an action before any court and seek such remedy as may be appropriate for the enforcement of the recommendations of the Commission.

19. (1) The Commissioner shall, annually submit a report to Parliament which shall include a summary of the matters investigated, and the action on them by the Commission during the preceding year.

(2) Parliament may debate the report of the Commission and may pass such resolution as it considers fit.

(3) A resolution of Parliament shall not alter a decision made by a court on a matter instituted before the court by the Commissioner.

(4) The Commissioner may in the public interest or in the interest of any person or department or any other authority, publish reports relating -

(a) generally to the exercise of the functions of the Commission under this Act; or

(b) to any particular case investigated by the Commission whether or not the matters in the report have been the subject of a report to Parliament.

PART V

MISCELLANEOUS PROVISIONS

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

21. The administrative expenses of the Commission including all salaries, allowances and pensions payable to or in respect of, persons serving with the Commission are charged on the Consolidated Fund.

22. (1) Subject to the supervisory jurisdiction of the Supreme Court, no proceedings shall lie against the Commission or against any person holding an office or appointment under the Commission for anything done, reported of his functions under this Act, unless it is shown that he acted in bad faith.

(2) Anything said, any information supplied, or any document, paper or thing produced by any person in the course of an inquiry by or proceedings before the Commission under this Act is privileged in the same manner as if the inquiry or proceedings were proceedings in a court.

(3) For the purpose of the rules of law relating to defamation any report made by the Commission under this Act shall be privileged, and a fair and accurate report on it in a newspaper or a broadcast shall also be privileged.

23. For the purposes of this Act, the Commissioner or any public officer authorised by him, may at any time enter any premises occupied by a department, authority or a person to whose act or omission this Act applies and inspect the premises and, subject to sections 16 and 17 of this Act carry out on the premises any investigation that is within the jurisdiction of the Commission.

24. A person who -

(a) without lawful justification or excuse, willfully 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 willfully fails to comply with any lawful request of the Commissioner or a Deputy Commissioner or any other person under this Act; or

(c) willfully makes any false statement to or misleads or attempts to mislead the Commissioner or any other person in the exercise of his functions under this Act

commits an offence and is liable on summary conviction to a fine not exceeding ₦500,000.00 and in default of payment to imprisonment for a term not exceeding six months or to both.

25. The provisions of this Act are in addition to the provisions of any other Act or any rule of law under which -

(a) a remedy or right of appeal or objection is provided for any person; or

(b) any procedure is provided for the inquiry into or investigation of any matter,

and nothing in this Act shall be taken to limit or affect a remedy or right of appeal or objection or procedure.

26. (1) Subject to the provisions of the Constitution and to any Act of Parliament made under the Constitution, the Commission shall make, by constitutional instrument, regulations regarding the manner and procedure for bringing complaints before it and the investigation of such complaints.

(2) The exercise of the power to make regulations may be signified under the hand of the Commissioner or in his absence, a Deputy Commissioner.

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27. In this Act a reference to a member of a complainant's family means -
- (a) in the case of a person belonging to a family based on the paternal system - mother, father, wife, son, daughter, brother, sister, father's brother, father's father, father's brother's son, and brother's son;
 - (b) in the case of a person belonging to a family based on the maternal system - mother, father, wife, son, daughter, brother, sister, mother's mother, mother's brother, mother's sister, sister's son, sister's daughter, mother's sister's son and mother's sister's daughter.
28. (1) The Ombudsman Act 1980 (Act 400) is repealed.
- (2) Notwithstanding the repeal of the Ombudsman Act, 1980 (Act 400) -
- (a) any regulation made under it and in force on the coming into force of this Act shall until altered, amended or revoked, continue in force and shall be applied with such modifications as may be necessary for giving effect to the provisions of this Act; and
 - (b) Any complaint pending before the Ombudsman immediately before the coming into force of this Act may be proceeded with under, and shall be subject to the provisions of, this Act.

Commission on Human Rights and Administrative Justice (Complaint Procedure) Regulations, 1994

CONSTITUTIONAL INSTRUMENT NO. 7

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

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

(2) Where the complaint is in writing, it shall be addressed to the Commissioner or to his regional or district representative and shall be signed or 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 reproduced into writing by the officer at the registry of the Commission or its branch to whom the complaint is made or by any other person chosen by the complainant.

(4) A person who reduces into writing the oral complaint of any person shall:
 - (a) read over and explain the contents to the complainant;
 - (b) declare on the document that the complainant has fully understood or appeared to understand and appreciate the contents of the complaint;
 - (c) cause the complainant to append his signature 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;

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- (d) the nature of the injustice or harm that the complainant has suffered as a result of the action, inaction or omission of the body or organisation or person against whom the complaint is made; and
 - (e) the relief sought by the complainant.
- (2) A person who lodges a complaint with the Commission on behalf of another person shall state in writing the capacity in which he does so and the reason for so doing.
- (3) A complainant shall be given a reasonable time (depending on the circumstances of the case) within which to check on his complaint.
- (4) Where a complaint lodged with the Commission is not pursued for three months from the date it is lodged, the complaint shall lapse thereafter.
3. (1) Where the Commissioner considers that a complaint lodged with the Commission is a matter within the function of the Commission, he shall cause a copy of the complaint to be transmitted to the head of the body or organisation or the person against whom the complaint is made with a request for comment and response.
- (2) The head of the body or organisation or person against whom the complaint is made shall within ten days from the date of receipt of the complaint or such further period as the Commissioner may specify submit his comment or response to the Commissioner.
- (3) The Commissioner or his representative may assign an investigator or officer of the Commission to make a preliminary investigation into any complaint lodged with the Commission.
- (4) The Commission may for the purposes of performing its functions require the services of a member of the Police Force or any public institution with expert knowledge relevant for redressing any particular complaint.
4. (1) Upon receipt of the comments or response the Commissioner, where he considers that in view of the response, the complaint could be mediated upon and settled, may invite the parties concerned and attempt a settlement of the issue between the parties.
- (2) No provision of these regulations shall preclude the Commission on receipt of a complaint from inviting the parties concerned and attempting a settlement of the issue between the parties.
5. (1) Where the Commission decides to institute a full investigation into a complaint, the Commission shall in writing invite –
- (a) the complainant;

- (b) a representative of the body, organisation or person against whom the complaint is made; and
- (c) such other persons as are considered by the Commission to be concerned in the investigation

to attend to be interviewed by the Commission at a date, time and place specified in the notice.

(2) The date for attendance shall not be less than seven days from the date of 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 Commission may on the recommendation of any other member of the Commission, an investigator of the Commission or any other officer of the Commission, constitute a panel to investigate any complaint and report to the Commission.

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

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

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

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

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

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8. An officer appointed as the regional or district head of the branch of the Commission shall ensure the prompt investigation by officers in the regional or district of all complaints and may refer complaints to the national office where he considers it necessary or where directed by the Commissioner.
 9. (1) The head of a district office of the Commission shall within five days of the end of every month submit to the head of the regional 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
*Commission on Human Rights
and Administrative Justice*

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