

Commission on
Human Rights and
Administrative Justice - Ghana



THIRD ANNUAL REPORT

1996

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Human Rights and
Administrative Justice - Ghana

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ACCRA

The Honourable Justice D.F. Annan
Speaker Of The Parliament Of The
Fourth Republic Of Ghana
Office Of Parliament
Accra

Dear Mr. Speaker,

In accordance with the provisions of Article 218(g) of the 1992 Constitution and Section 7(1)(h) of the **Commission on Human Rights and Administrative Justice Act, 1993 Act 456**, I am pleased to submit to you and to Parliament the Third Annual Report of the Commission for the period January 1, 1996 to December 31, 1996.

Sincerely,

Emile Francis Short
Commissioner

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COMMISSIONER'S REMARKS

This is the Commission's third report since its inauguration in October, 1993. It covers the period January 1, 1996 to December 31, 1996.

In its third year of operation, the Commission managed to overcome some of the initial strangulating effects of a new, and to a large extent, novel institution in the constitutional history of this country.

Institutional Autonomy

In the Second Annual Report, I underscored the need to give expression to the independence of the Commission by permitting it to submit its budget directly to Parliament for vetting and approval. The situation has not changed but we are undeterred; the Commission remains committed to achieving this important change to further ensure its autonomy. For we find consolation in Machiavelli's observation on the fate of new systems, which is apposite in this context:

It must be remembered that there is nothing more difficult to plan, more dangerous to manage than the creation of a new system. For the initiator has the enmity of all who would profit by the preservation of the old institution and merely lukewarm defenders in those who would gain by the new ones.

Niccolo Machiavelli The Prince

The vision of this Commission and the aspirations we strive to achieve are succinctly captured by the following words uttered in 1984 by Justice Sir Moti Tikaram, the Ombudsman of Fiji:

So long as we are mindful that in our endeavors to seek redress for grievances, we are there neither to witch-hunt nor to whitewash;

So long as we remember that we can help to make good government better but cannot make bad government good;

So long as we believe in ourselves and at the same time remember that we are also fallible human beings;

So long as we retain our political neutrality and act impartially, independently and fearlessly but without rancour;

So long as we take care to explain governmental decisions where necessary and at the same time not overlook to give reasons for our decisions and recommendations;

So long as we ourselves remain human and accessible in an age of rapid technological advance where the society itself is becoming increasingly impersonal;

and, so long as we, to use the words of Socrates, "hear cautiously, answer wisely, consider solidly and decide impartially" ... then in my humble view, this Commission's image will continue to grow and shine in the international sphere not only or now but also for the years ahead".

Corruption Probe

Last year, the Commission commenced investigations into allegations of corruption and illegal acquisition of assets made against some Ministers of State and high ranking government officials. The release of the initial probe report served to catapult the Commission into prominence. It also served to assure the public of our operational independence from government and of our impartiality. This has meant greater public confidence in the Commission as a credible agency in the struggle against corruption, as well as the struggle for greater social justice and for probity, transparency and accountability in our society. A summary of the probe report is contained in this Annual Report .

Court Decisions

In the year under consideration, the High Court in Accra delivered judgments in favour of the Commission in three cases in which the Commission sought to compel a number of respondent institutions to implement the Commission's decisions. The respondents in two of those cases have appealed against the decision of the High Court at the Court of Appeal. The cases have not been fixed for hearing.

Release of “ Forgotten” Remand Prisoners

During the period under review, the Commission had occasion to make representations in Court for the release of remand prisoners who seemed to have been 'forgotten'. The plight of such persons had been brought to our attention by our periodic prison inspection and by sympathisers including the media.

District Offices

The Commission continued to make its services more accessible to more people in rural areas. To this end, the Commission opened 10 new offices. To date, the number of District offices operated by the Commission stands at 38 as against 28 out of the 110 districts in the Country as at December 1995. All the Regional offices continue to operate with vigor and dedication.

Petitions

In 1996, the Commission received a total of 5200 petitions. A graph of the statistics appears at page 20 of this report. The statistics show an increase of 29.6% in the number of complaints received over last year. This increase probably indicates a greater societal awareness of human rights, as well as confidence in the redress process available through the Commission.

Public Education

The Commission is gratified with the pace and success of its education programmes which were initiated right from the very inception of the Commission.

And for this we continue to be grateful to our traditional benefactors, the Royal Netherlands Embassy, the British High Commission, the British Council, the U.S. Embassy, Hanns Seidel Foundation, the Konrad Adenauer Foundation and the Frederick Ebert Foundation for the diverse ways, financial and otherwise, in which they have supported and continue to support the Commission. Special mention must be made of the Danish Embassy, our largest benefactor, which has provided invaluable support for, among others, our computerisation programme, rural education programme etc.

I also wish to express my deepest appreciation to the other members of the Commission, the Directors and Staff of the Commission for their invaluable assistance and support in fulfilling our mandate within the period under review as mandated by the Constitution.

PROGRAMME REPORT

FOLLOW - UP INSPECTION OF PRISONS AND POLICE CELLS

During the year under review, the Research Unit conducted an inspection of the country's prisons and some police cells. This was a follow-up to the 1995 exercise which uncovered significant human rights abuses in the country's penal and remand custody systems.

The objective of the follow-up exercise was to find out whether recommendations contained in the Commission's report of March 1995 have been implemented, and whether the deplorable prison and cell conditions have improved. The areas of concern were: nutrition , health and medicare, accommodation, the plight of remand prisoners and convicted pregnant women, the practice of keeping mentally ill/disabled convicts in normal prisons rather than in psychiatric hospitals, as well as the presence of juvenile offenders in adult prisons.

a) PRISONS

(i) Nutrition

The food situation has improved in the prisons generally. This has been the result of the increase in the daily feeding allowance from ₵200.00 to ₵800.00 per inmate. Most of the inmates interviewed attested to the fact that there has been an improvement in the food situation. The prison authorities have complained about the policy of purchasing their foodstuffs from only one source, i.e., the Ghana Food Distribution Corporation (GFDC). The disadvantage, they said, was that the GFDC was not a reliable source of supply, and its foodstuffs were relatively more expensive than other suppliers on the market. They would welcome a liberal purchasing policy so as to ensure a constant supply of food items at reasonable prices, and to ensure variety in diet.

(ii) Accommodation

The accommodation situation has not changed, especially for inmates at the James Fort Prisons. Ventilation in some of the cells still remains inadequate. There are still empty dormitories at the James Camp which, if fitted with bedding facilities, can accommodate more short term prisoners from the congested prisons.

(iii) Health and Medicare

The health and medical situation in almost all the prisons visited remain the same as they were during the previous inspection. This is largely due to the cash-and-carry system being operated by the Ministry of Health.

(iv) Remand Prisoners

The plight of remand prisoners remains unchanged in the prisons visited. The inability of the police to send them to court on appointed days was the major cause of the presence of too many remand prisoners. Some of whom have spent over five years in remand especially at the Nsawam Prison. At the female section of the James Fort Prison, there were four remand prisoners, one of whom had been in custody for four years eight months.

(v) Juveniles

There were no juvenile prisoners in any of the prisons visited. Three juveniles out of eight discovered during the previous inspection at the James Camp Prison have been transferred to the Borstal Institute, a rehabilitation centre for delinquent youth. The rest had finished serving their sentence at the adult prison and had been released.

(vi) Mentally Disabled Prisoners

There were no prisoners with mental disabilities in any of the prisons visited. Two inmates at the Nsawam Male Prison, who, according to the officer in charge, had

shown symptoms of insanity, had been treated at the Accra Psychiatric Hospital and are now well. A number of inmates considered by the authorities at the James Fort Prison to be mentally disabled had been sent to the Accra Psychiatric Hospital for treatment.

vii) Pregnant Inmates

Two inmates at the Nsawam Prison For Women were found by the prison authorities to be pregnant shortly after their admission into prison. It is probable that their pregnancy was not noticed at the time of their conviction.

viii) Female Convict Admitted with Child

A female convict with a nine-month old baby was admitted into the Nsawam Prison For Women. She had been convicted of dishonestly receiving stolen palm fruits. According to the Officer-in-Charge at the prison, all attempts to get the child admitted to the Osu Children's Home had failed because the child had developed rashes. As a result, the infant continues to reside in the prison with its incarcerated mother.

Recommendations

The following recommendations for solving some of these problems came from the Commission's Upper West Regional Office:

1. Even though there has been a modest increase in the prisoners' daily ration, the grants should be further increased to reflect prisoners' real food needs, as well as the ever-increasing cost of living.
2. The Prison Service, and for that matter the Government, should liberalize the mode of purchase of foodstuffs for the prisoners, so that prison authorities have a free hand to purchase foodstuffs from the cheapest possible sources.
3. Specific funds should be provided to the prisons for the purchase of drugs prescribed for sick prisoners. This will forestall instances of death of prisoners due to lack of medication.

b) POLICE CELLS

The Greater Accra Regional Office of the Commission conducted a follow-up inspection of some Police Stations in the Accra Metropolis.

Their report on cell conditions at the Accra Central Police Station included the following :

In the first place, there was little improvement in the conditions of the cells. Poor ventilation, poor lighting system, poor toilet facilities and lack of tap water or shower still persisted.

The poor sanitary conditions were intolerable and the stench was overwhelming. Although the inmates had blankets, most of the blankets were dirty and in shreds. No wonder the inmates complained of bedbugs and body lice. Skin rashes were therefore visible on the bodies of most of the inmates.

Next comes the issue of feeding the suspects or inmates. The District Commander stated that the Police had been feeding the inmates on a daily ration of ₵80.00. We wondered how ₵80.00 could even buy a ball of kenkey now that one ball of kenkey sells at a minimum price of ₵100.00.

The District Commander linked frequent attendance of hospitals by inmates to inadequate feeding. Whilst this may be a factor, the poor sanitary conditions in the cells, the lack of adequate bedding facilities at night all make the inmates prone to ill-health at the least opportunity. The "cash and carry" system meant that the police had to use their own resources to purchase certain drugs for sick suspects.

There were no females, juveniles or babies in the cells here. There was no insane person. The 15 inmates were all on remand, properly covered by remand warrants even though bail could have been granted for most of the offences involved such as assault and acts tending to disturb the public peace, since these offences are misdemeanours. Yet even bail is permissible for such second degree felonies as stealing and fraud. Yet, though the inmates on these charges were denied bail, because among other reasons, the courts and the tribunals were overburdened with cases, and often times, the courts extended their remand as a matter of course.

We deplored this state of affairs and advised the Police Prosecutors to refrain from arraigning fresh suspects before the traditional Courts, instead of the Community Tribunals, although we agreed with the need for more Community Tribunals in the

Greater Accra Region, given the increase in population, the sheer economic malaise and the high level of unemployment at the moment - factors which have exacerbated the crime wave.

In all, the recommendations made by the Commissioner last year have not been implemented in any meaningful way at the Accra Central Police Station Cells.

2. TROKOSI

The joint project between the Commission and International Needs Ghana, a local NGO, to ensure the liberation of trokosis and their effective integration into the wider society, has been largely successful. The Commissioner took part in several liberation ceremonies which witnessed the liberation of about four hundred Trokosis. It is, however, sad to note that a survey conducted by International Needs reveals that there are about four thousand more Trokosis still in bondage. It is hoped that the bill before Parliament making the practice illegal would be passed soon.

ORGANISATIONAL STRUCTURE OF THE COMMISSION

Three flowcharts, illustrating the organisational structure of the Commission at the National, Regional and District levels, appear at pages 14, 15 and 16 respectively. The Commissioner and two Deputies constitute the governing body of the Commission as stipulated by the Constitution. The Legal, Operations and Administration Departments are headed by a Chief Legal Officer, Chief Investigator and Chief Administrator respectively. The Finance Department is headed by a Chief Accountant.

At the National level, the Legal Department is made up of lawyers with a supporting staff of a Registrar and bailiffs. The Research Unit forms part of the Legal Department. The Operations Department is made up of investigators and includes a Public Education unit.

The Administration Department has a Personnel outfit, Public Relations, Statistics and Computer Unit and general, clerical and secretarial staff. The Finance department is made up of Accounting personnel, the Internal Audit Unit and Finance officers. The Internal Auditor reports directly to the Deputy Commissioner in charge of Finance and Administration.

As shown in diagram B, each Regional Office of the Commission in all ten regions of the country is headed by a Regional Director, who is a lawyer. The Regional Director 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. The District Officer is assisted by an Assistant Investigator, Assistant Registrar, Bailiff and secretarial and clerical staff.

ORGANISATIONAL FRAMEWORK OF THE COMMISSION

The following flow charts illustrate the organizational framework of the Commission from the National to Regional and District levels.

HEADQUARTERS

Diagram A

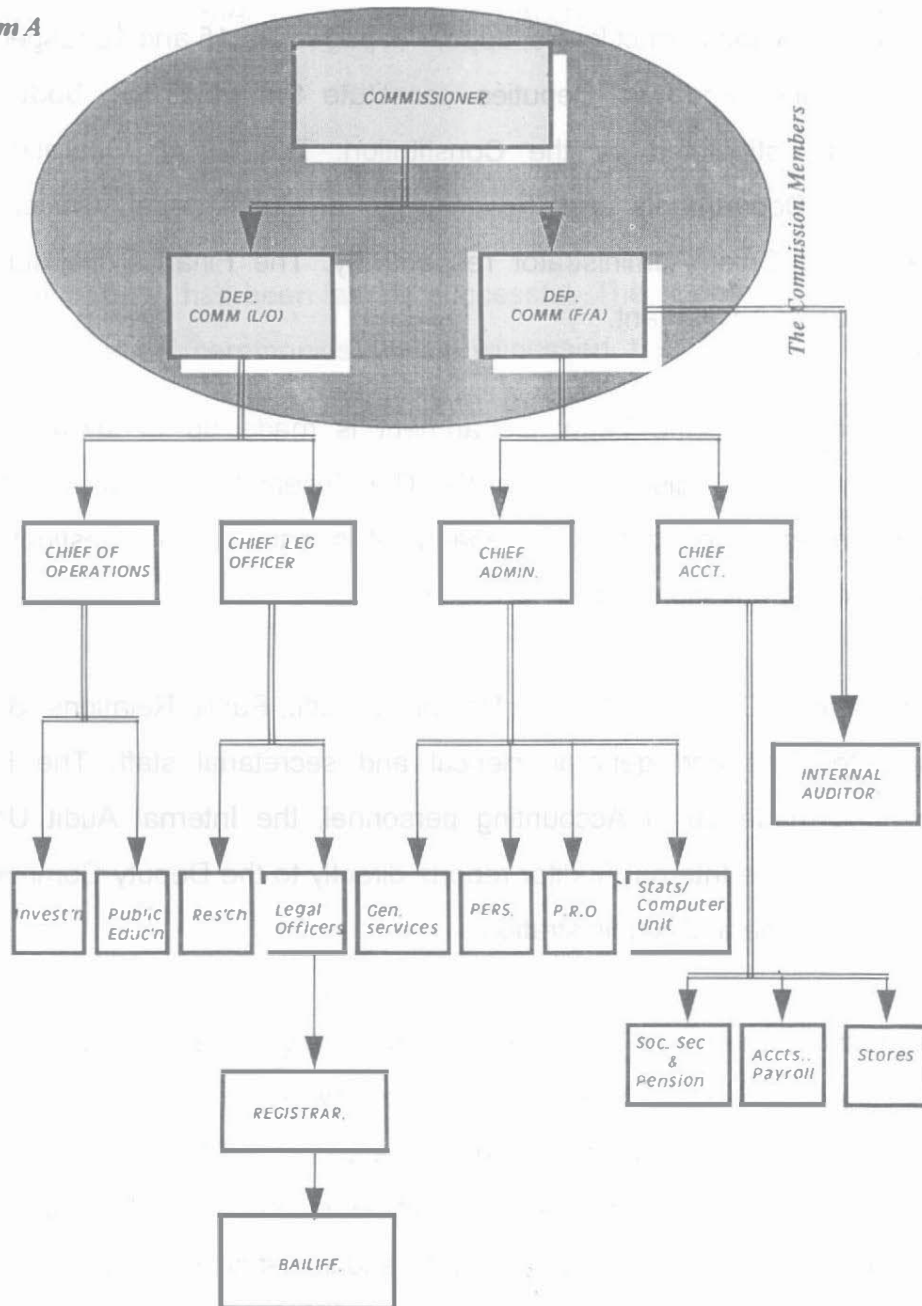


Diagram B

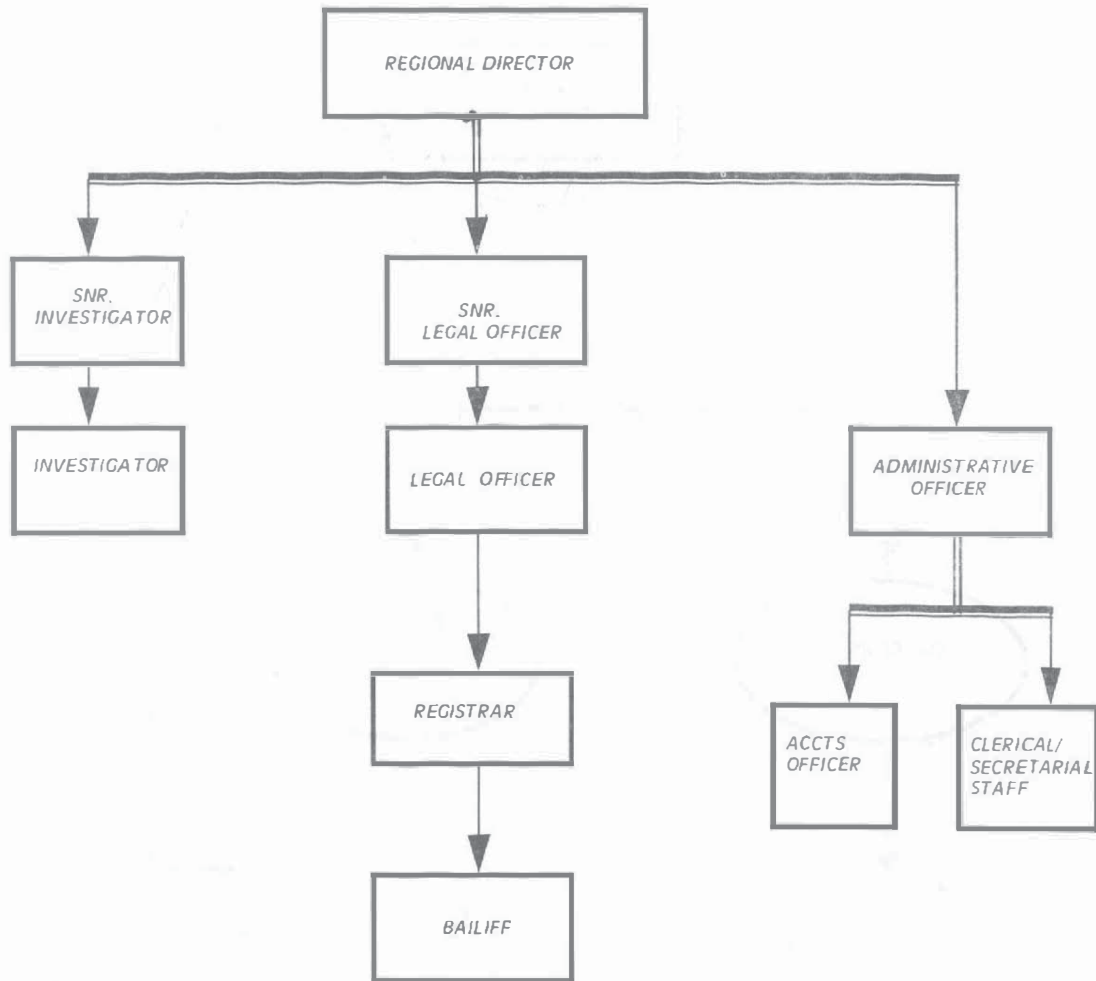
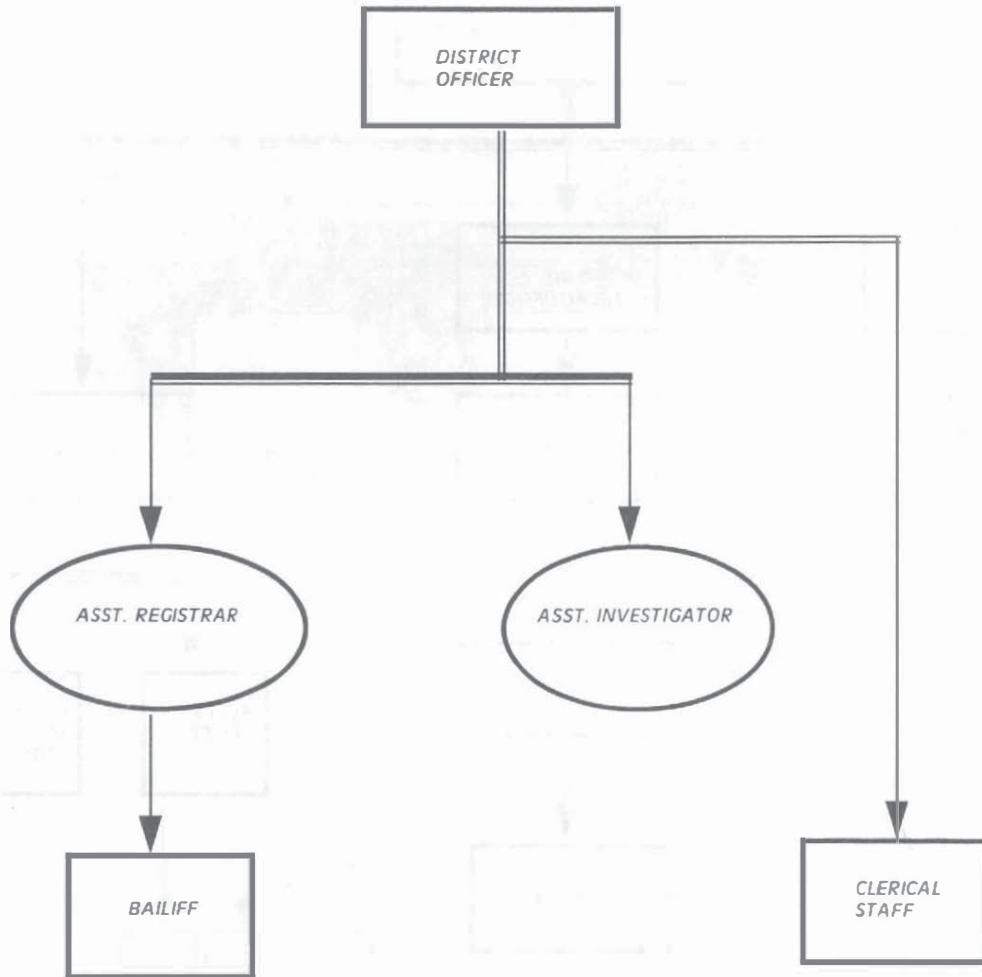
REGIONAL OFFICE

Diagram C

DISTRICT OFFICE



LIST OF OFFICES

The national headquarters of the Commission is located in Accra. The Commission has offices in all the ten regional capitals of the country. There are 38 District offices, with at least two district offices in each region. In densely populated regions, three or four district offices have been opened.

The following are the addresses and phone numbers, where available, of the Commission's offices:

GREATER ACCRA

Regional Office - Accra

P.M.B.(Ministries), Accra.

Tel:22711

SUB-REGIONAL OFFICE

Tema

Tel:022-206828

DISTRICT OFFICE

Ada Foah

CENTRAL REGION

Regional Office - Cape Coast

P.O. Box 408, Cape Coast.

Tel:33280

DISTRICT OFFICES

Agona Swedru

Winneba

Assin Fosu

Dunkwa-on-Offin

Breman Asikuma

VOLTA REGION

Regional Office - Ho

P.O. Box 484, Ho

Tel: 757

DISTRICT OFFICES

Denu

Jasikan

Kpandu

Krachi

Tel: 0962-382

WESTERN REGION

Regional Office - Sekondi/Takoradi

*P.O. Box 616, Takoradi**Tel: 23730***DISTRICT OFFICES**

Tarkwa

Axim

Asankragwa

Sefwi Wiawso

*Tel: 0342-257***ASHANTI REGION**

Regional Office - Kumasi

*Tel: 051 27445***DISTRICT OFFICES**

Mampong

Konongo

Obuasi

Bekwai

Offinso

*Tel: 0582-214**Tel: 0372-465***BRONG AHAFO REGION**

Regional Office - Sunyani

*P.O. Box 1349, Koforidua**Tel: 573***DISTRICT OFFICES**

Techiman

Goaso

Atebubu

Kintampo

*Tel: 0563-2063**Tel: 05120074-5***EASTERN REGION**

Regional Office - Koforidua

*P.O. Box 1210, koforidua**Tel: 22321***DISTRICT OFFICES**

Mpraeso

Akim Oda

UPPER EAST REGION

Regional Office - Bolgatanga

*P.O. Box 50, Bolgatanga.**Tel: 2312***DISTRICT OFFICES**

Bawku

Sandema

UPPER WEST

Regional Office - Wa

*P.O. Box 157, Wa.**Tel: 22393***DISTRICT OFFICES**

Lawra

Tumu

Nadowli

NORTHERN REGION

Regional Office - Tamale

*P.O. Box 637, Tamale**Tel: 22035***DISTRICT OFFICES**

Yendi

Damongo

Walewale

OVERVIEW OF CASES AND COMMENTARY

Table X

Year	Cases Received	Total Received + Pending Previous	Total Closed in the year	Total Pending at the end of 1996
1993/94	3197	3197	1004	2193
1995	4012	6538	3762	2776
1996	5200	7976	4009	3967

In 1996, CHRAJ received 5200 complaints for investigations. This figure was higher by 2003 and 1188 than those for 1993/94 and 1995 respectively. A review of complaints filed over the past three years shows an incremental pattern. For example as shown in Table X, 3197 cases were handled in 1993/94, 6538 cases in 1995 as against 7976 in 1996. Following a gradual increase in 1993/94 and 1995, the Commission witnessed a sizeable increase in cases received in 1996, indicating a respective rise of 62.6% and 29.6% over '93/94 and '95 annual totals.

Respondents

Of the 5200 petitions in 1996, 2439 (46.9%) were against Private individuals, and 291(5.6%) were against the Police Service. The Ghana Education Service was a Respondent in 188 (3.6%) complaints. A total of 473 (9.1%) complaints were filed against other public service providers, while private corporations were named as respondents in 289(5.5%) cases. In addition, 389 (7.5%) complaints were filed against private companies across the country, while the Office of the President was named in 26 (0.5%) complaints. The Confiscated Assets Committee had 11(0.2%) complaints lodged against it, while District/Metropolitan Assemblies were respondents in 105(2%).

Complaints Handled

Each year, the Commission receives complaints on a variety of issues and concerns. The Commission dealt with 7976 cases during 1996 as against 6538 in 1995. In 1996, the Commission disposed of 4009 complaints nationwide, compared with 3130 in 1995. Also in 1996, a total of 2050 petitions were settled amicably through negotiation and mediation. This represented an increase of 640 or 45% over the number of cases settled in 1995.

Non-jurisdictional and/or Trivial Complaints

During the year under review, the Commission declined to proceed with 302 cases because they fell outside the Commission's jurisdiction. This constitutes 7.7% of all complaints received. A further 274(6.8%) were rejected on such grounds as the following: the petitioners had slept over their rights for too long; the complaints were trivial, frivolous, vexatious, or not made in good faith; or the petitioners did not have sufficient personal interest in the matter.

There was a 28% increase in cases closed in 1996 over those in 1995. Three hundred and twenty-five (325) closed cases, constituting 8.3% of the total, were withdrawn by petitioners; 364 cases were dismissed for lack of prosecution, while 288 were referred to other fora because the Commission considered those fora to be more appropriate for resolving those complaints. For further details refer to Table 4 Fig.1. Since its inception, however, the Commission has handled 12,409 cases out of which it has disposed of 8775 constituting 71%. A total of 3634 are still pending.

Labour-Related Complaints

As with previous years, a large number of labour-related complaints were filed with the Commission during the year under review. The subject matter of the complaints was wide-ranging. They included such issues as dismissals, termination of appointments, retirements, non-payment of pensions/gratuities, social security deductions, end-of-service benefits, salary arrears, discrimination, suspensions, interdictions, transfers, promotions and demotions.

In 1995, 1709 of the cases received were labour-related forming 42.59% of that year's total. In 1996, the number increased by 500 to 2209 representing 42.48% of the total number of cases received. In percentage terms, however, there was a drop in labour-related cases received compared to 1995.

While labour-related cases constituted 42.59% of the total received in 1995 such cases formed 42.48% of the total number of cases received in 1996, representing a drop of 0.11%.

Length of Time in Resolving Complaints

Table Y

*Year of Closure	Range	Average
<i>1996 cases closed in 1996</i>	<i>2 months to 10 months</i>	<i>5 months 5 days</i>
<i>1995 cases closed in 1996</i>	<i>6 months to 1yr 4 months</i>	<i>12 months</i>
<i>1993/94 cases closed in 1996</i>	<i>1yr 8 months to 3 yrs</i>	<i>28 months 6 days</i>

A frequently asked question is: " How long does it take to complete an investigation? ". The time period for 1995 cases closed in 1996 ranged from 6 months to one year four months. The period taken to dispose of 1996 cases in the year 1996 ranged from two to 10 months. Averagely, therefore, five months five days were used to close a 1996 case in 1996. The total number of cases closed in 1996, as shown in Table Y, included some pending cases carried over from previous years.

From the foregoing, it can be concluded that, on average, the time frame to conclude an investigation ranged from ¹one day to 454 days.

The significant increase in the number of complaints received in 1995 and 1996 affected the Commission's capacity to process complaints referred for investigation. This resulted in delays and a backlog. Given the Commission's

¹ Closure includes a period after a decision for administrative handling of docket. Closure may also extend beyond the date of the Commission's decision.

limited financial and human resources, its capacity to process complaints quickly and efficiently, and to thoroughly investigate those requiring investigation, has not kept pace with the rapid growth in the volume of complaints.

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STATISTICS ON CASES RECEIVED, CASES CLOSED AND CASES PENDING**Table 1**

	W/R	C/R	G/A+Tm	E/R	U/W	N/R	V/R	ASH/R	B/A	U/E	HQ	TOTAL
1995 Cases Pending Before 1996	271	298	240	86	43	38	196	505	297	60	742	2776
1995 Cases Closed in 1996	241	240	183	44	31	35	134	264	253	34	224	1683
1995 Cases Pending	30	58	59	42	12	3	62	241	44	26	518	1095
Cases received in 1996	727	656	500	263	121	149	207	670	973	103	831	5200
'96 Cases Closed in 1996	478	297	121	112	70	95	102	213	767	38	33	2326
1996 Cases pending	249	359	379	151	51	54	105	457	208	65	798	2876
	W/R	C/R	G/A	E/R	U/W	N/R	V/R	ASH/R	B/A	U/E	HQ	TOTAL
Total Closed Cases in 1996	719	537	304	156	101	130	236	477	1020	72	257	4009
Total Pending Cases in 1996	279	417	436	193	63	57	167	698	252	90	1316	3968
Nature of Closure	W/R	C/R	G/A	E/R	U/W	N/R	V/R	ASH/R	B/A	U/E	HQ	TOTAL
Withdrawn by Petitioner	53	45	9	18	12	19	25	51	70	3	20	325
Dismissed for lack of Prosecution	67	25	61	18	8	6	26	24	103	2	24	364
Settled by Commission	325	276	140	67	34	57	55	252	763	34	47	2050
Decided on merit with't Hearing	4	16	29	5	23	8	24	4	15	7	21	156
Decided on merit after Hearing	5	1	6	2	5	12	52	14	13	10	41	161
Rejected in exercise of Discretion	42	39	4	4		3	16	68	4	4	32	216
Rejected for lack of Jurisdiction	61	53	30	33	7	2	16	34	29	3	34	302
Transferred to other Registries	19	3	15	8		9	4	9	15	7		89
Referred to other Fora	133	70	4	1	5	11	10	16	8	2	28	288

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RESPONDENT BODIES

Table 2

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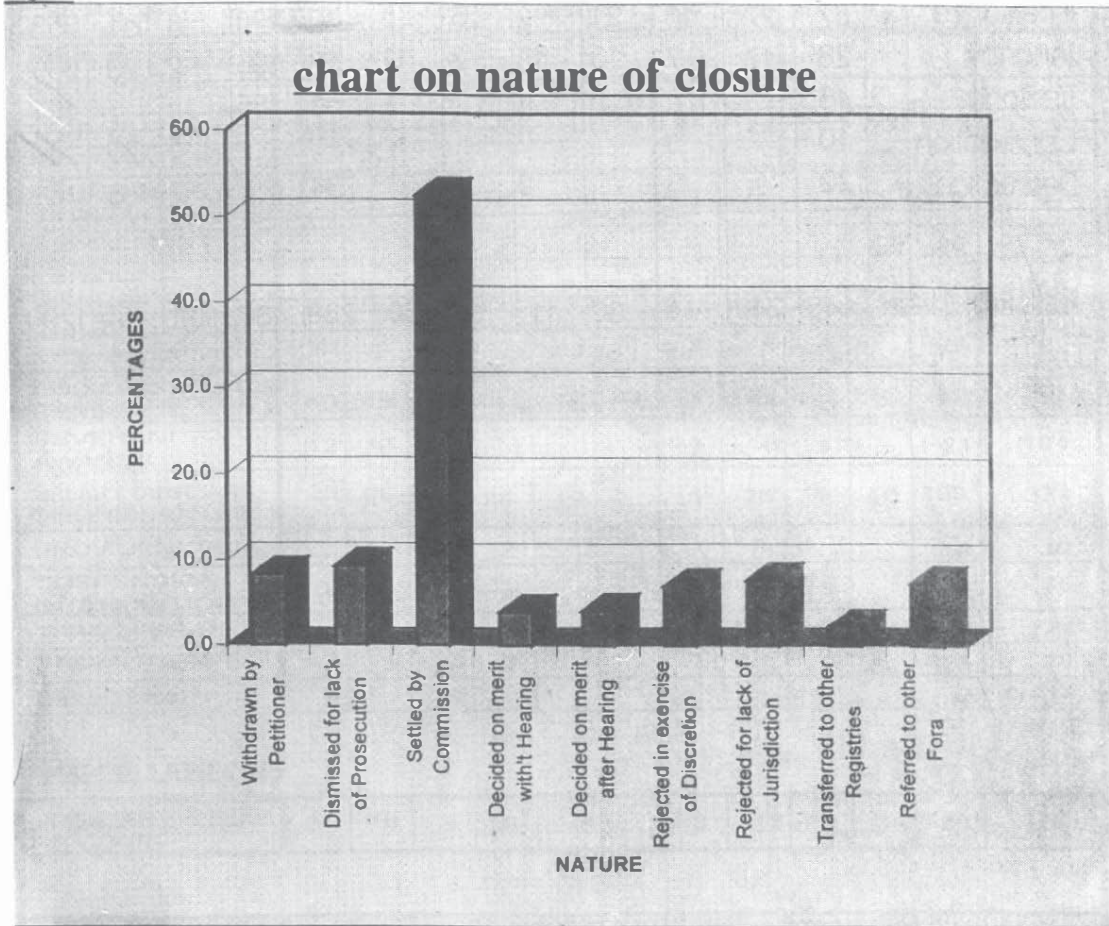
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PROPERTY												
Title	12	17		7	2	10	7	59	30	4	12	160
Inheritance	87	27	16	21	2	25	8	30	120	6	11	353
Tenancy	28	17	7	13	13	3	11	56	196	2	20	366
Tresspass	46				1		1	51	85		7	191
Confiscation	10										20	30
Destruction	22				9			34			6	71
Family Related Issues	145	240	15	30	11	53	50	238	436	37	35	1290

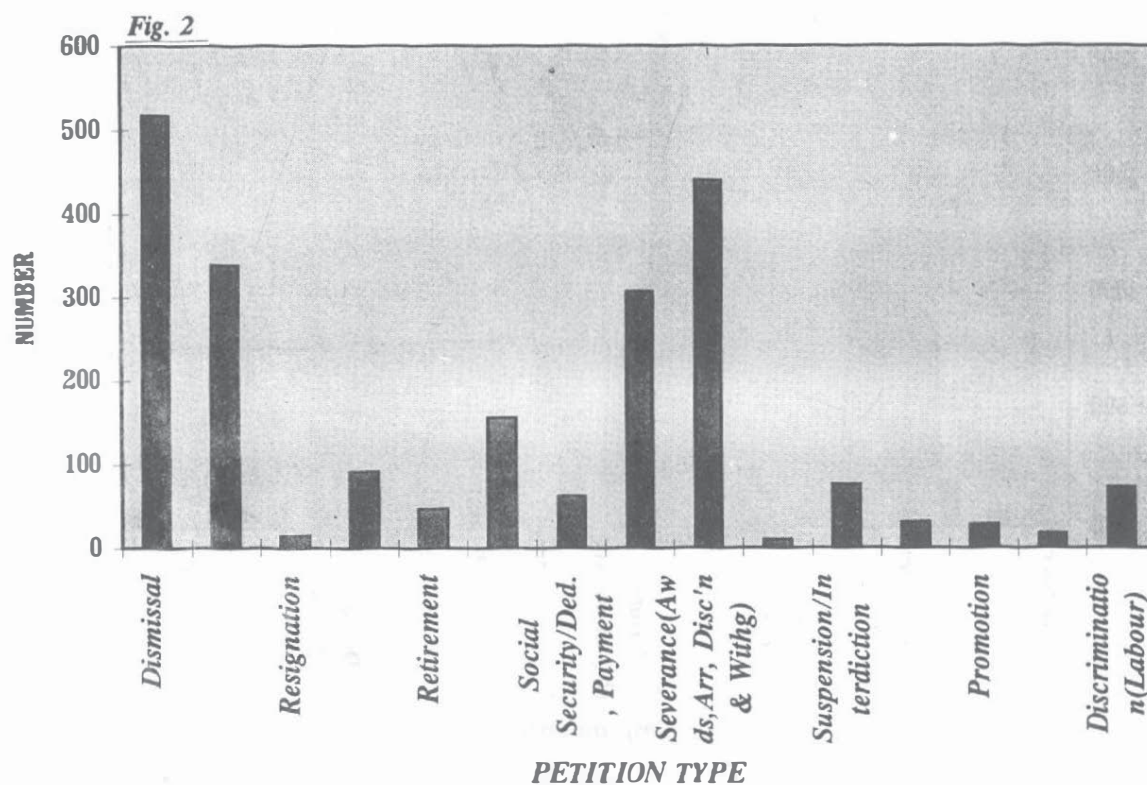
NATIONAL STATISTICS

Fig. 1

**Table 4**

Nature of Closure	No.	%
<i>Withdrawn by Petitioner</i>	325	8.3
<i>Dismissed for lack of Prosecution</i>	364	9.3
<i>Settled by Commission</i>	2050	52.5
<i>Decided on merit with't Hearing</i>	156	4.0
<i>Decided on merit after Hearing</i>	161	4.1
<i>Rejected in exercise of Discretion</i>	274	7.0
<i>Rejected for lack of Jurisdiction</i>	302	7.7
<i>Transferred to other Registries</i>	89	2.3
<i>Referred to other Fora</i>	288	7.4
TOTAL	4009	100.0

LABOUR RELATED CASES



DETAILS OF LABOUR-RELATED CASES - NATIONWIDE

Table 5

Employment	Number	Percentage
Dismissal	517	23.4
Termination	339	15.3
Resignation	15	0.7
Redundancy/Redeployment	92	4.2
Retirement	47	2.1
Pension/Gratuity	156	7.1
Social Security/Ded., Payment	62	2.8
End-Of-Service Benefit	307	13.9
Severance(Awds, Arr, Disc'n & Withg)	440	19.9
Provident Fund	10	0.5
Suspension/Interdiction	76	3.4
Transfer	31	1.4
Promotion	28	1.3
Demotion	17	0.8
Discrimination(Labour)	72	3.3
Total	2209	100

Respondents National

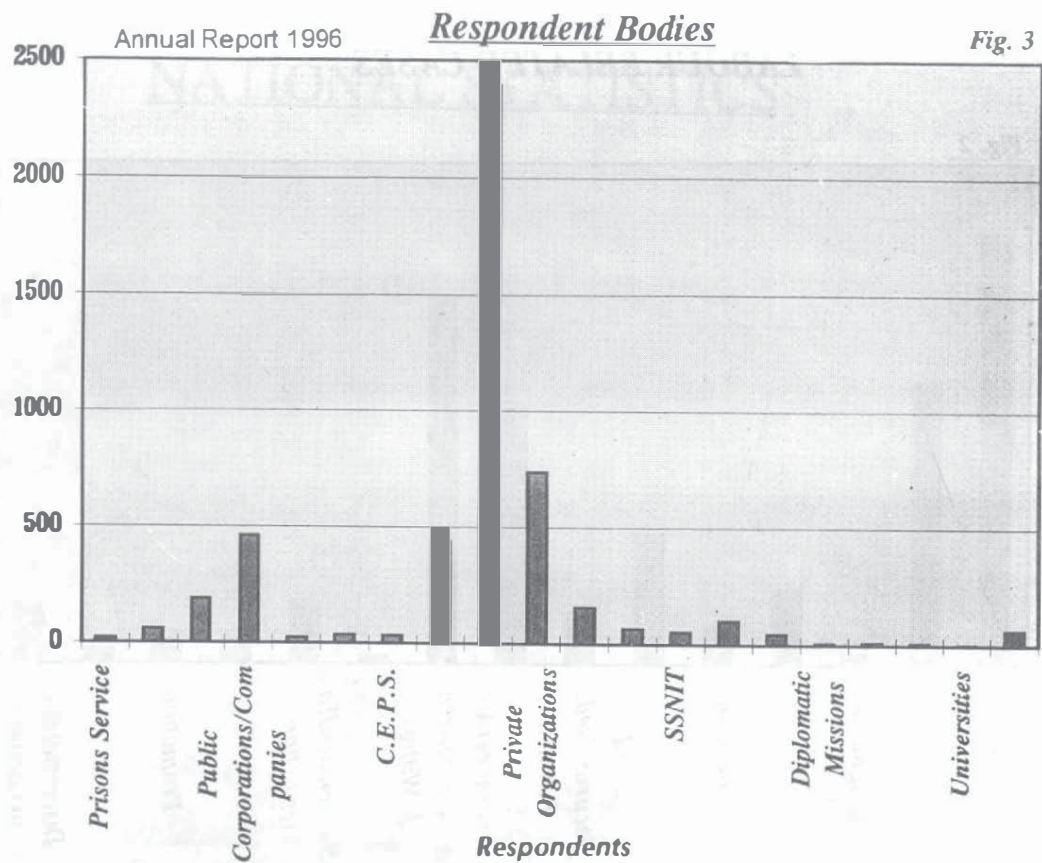


Table 6

Respondents	Number	Percentage
Police Service	296	5.7
Prisons Service	20	0.4
Ghana Armed Forces	59	1.1
Ghana Education Service	188	3.6
Public Corporations/Companies	460	8.8
Ghana National Fire Service	22	0.4
Internal Revenue Service	36	0.7
C.E.P.S.	33	0.6
Other Public Services	438	8.4
Private Individuals	2394	46.0
Private Organizations	738	14.2
Civil Service	157	3.0
Accountant-General Dept.	66	1.3
SSNIT	53	1.0
District Assembly	101	1.9
Banking Institutions	46	0.9
Diplomatic Missions	8	0.2
Confiscated Assets Committee	11	0.2
National Service Secretariat	8	0.2
Universities	3	0.1
Judicial Service	63	1.2
TOTAL	5200	100.0

NATURE OF PETITION

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Fig. 4

Nature of Petition

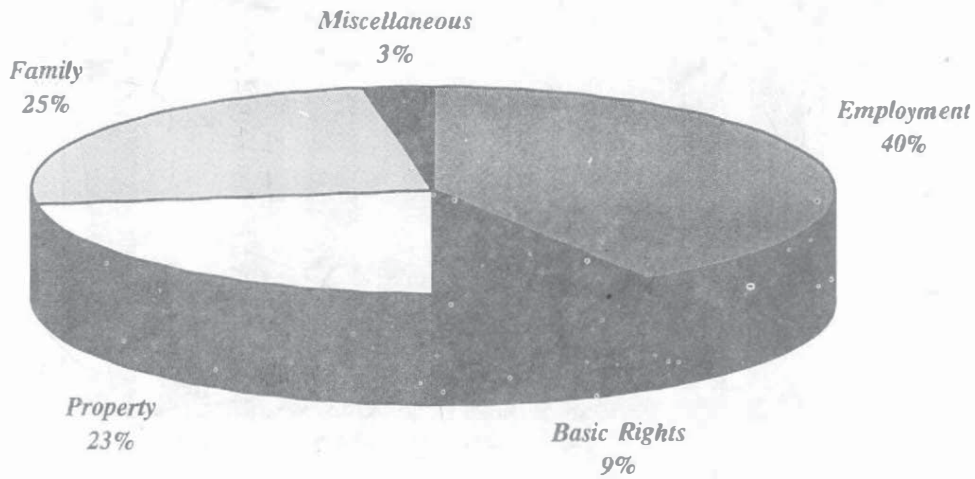
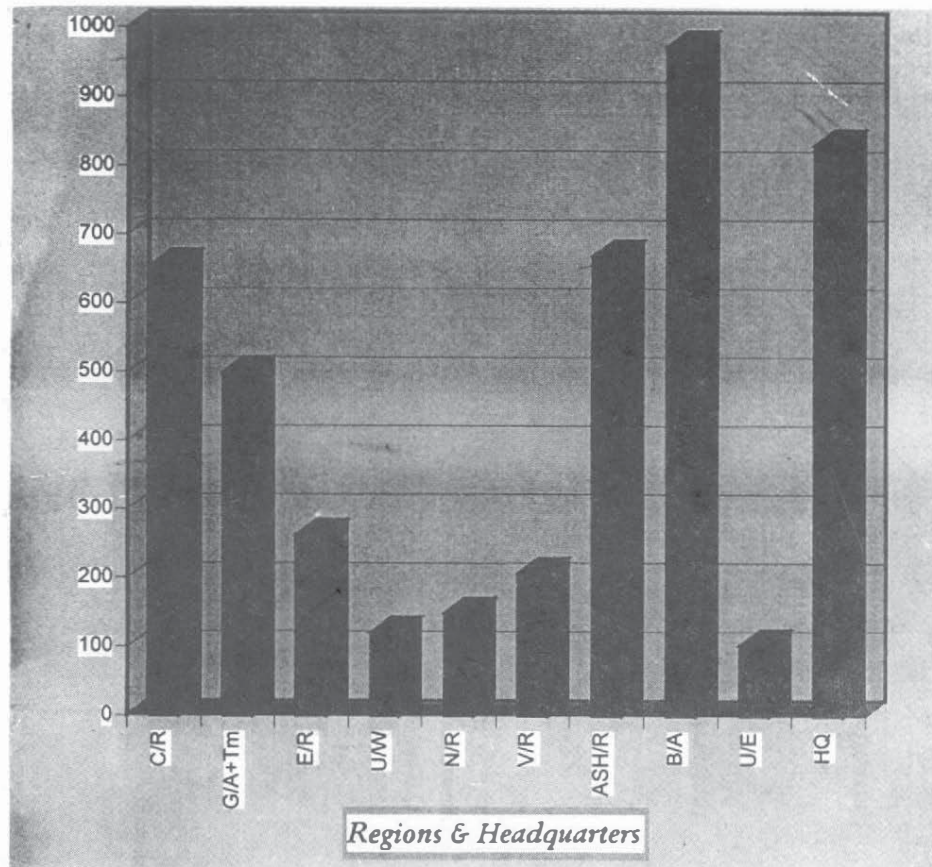
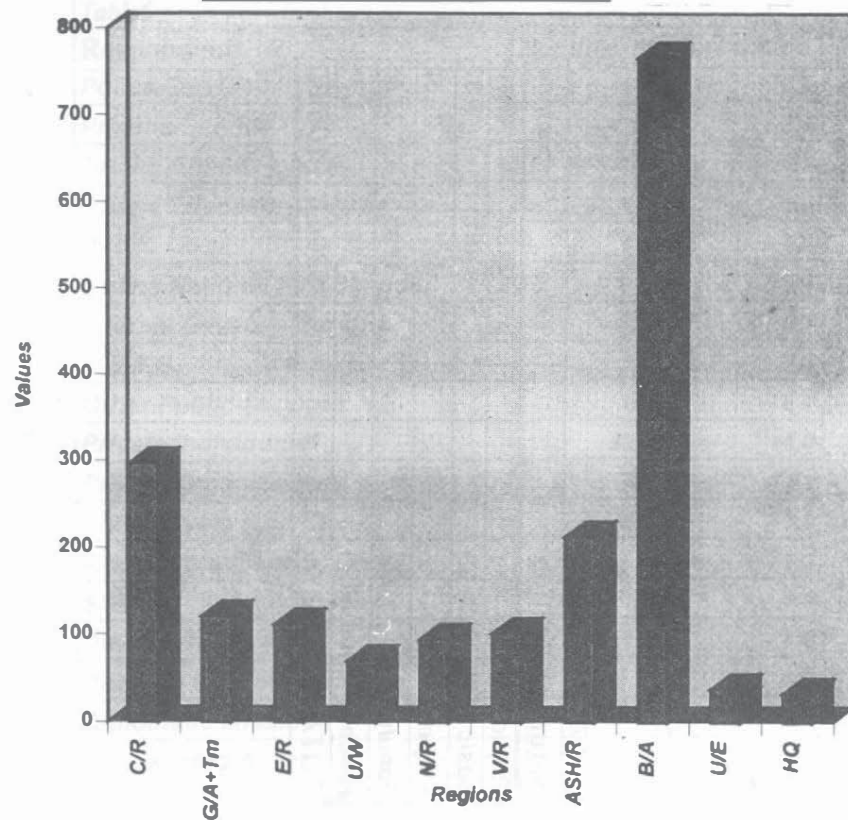


Table 7

Nature of Petition	Number	Percentage
Employment	2137	41.10
Basic Rights	461	8.87
Property	1171	22.52
Family	1290	24.81
Miscellaneous	141	2.71
TOTAL	5200	100.00

**1996 Cases Closed in 1996**

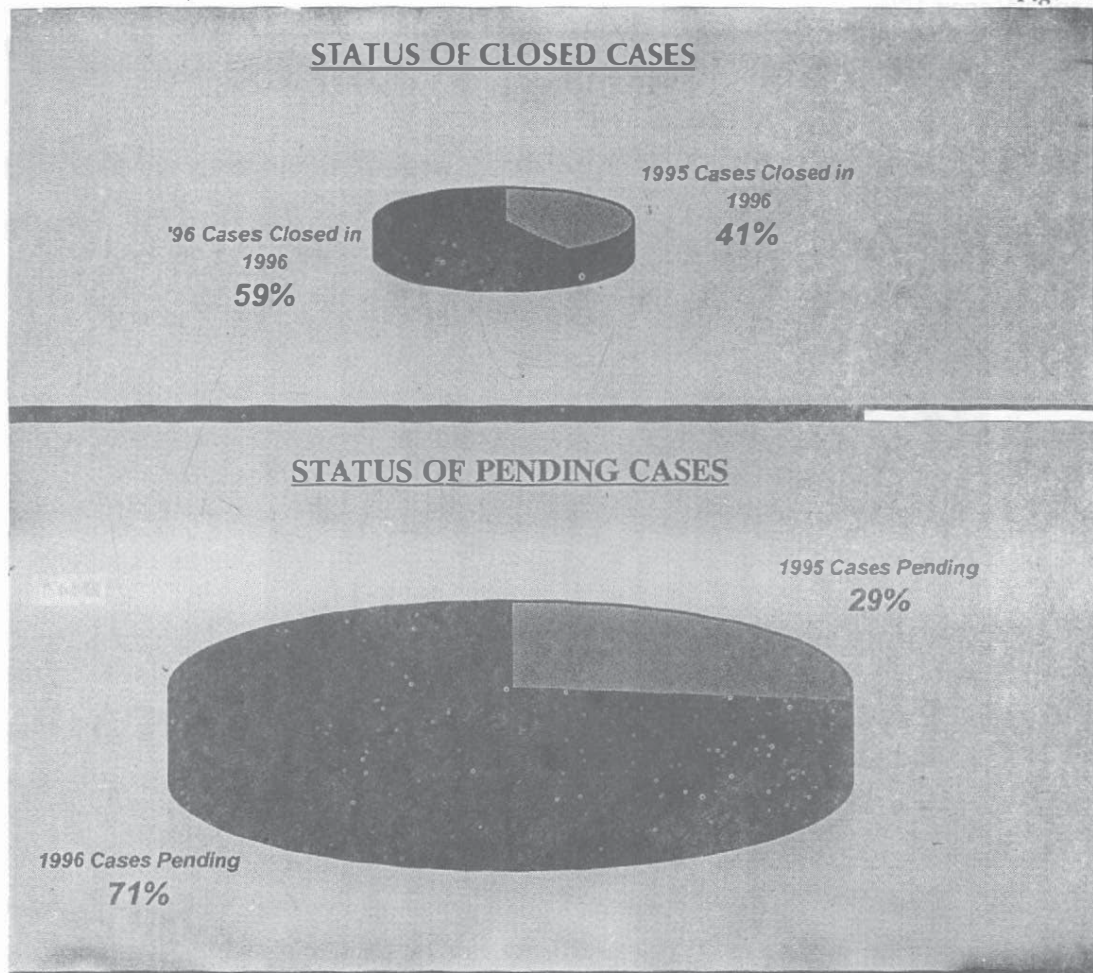


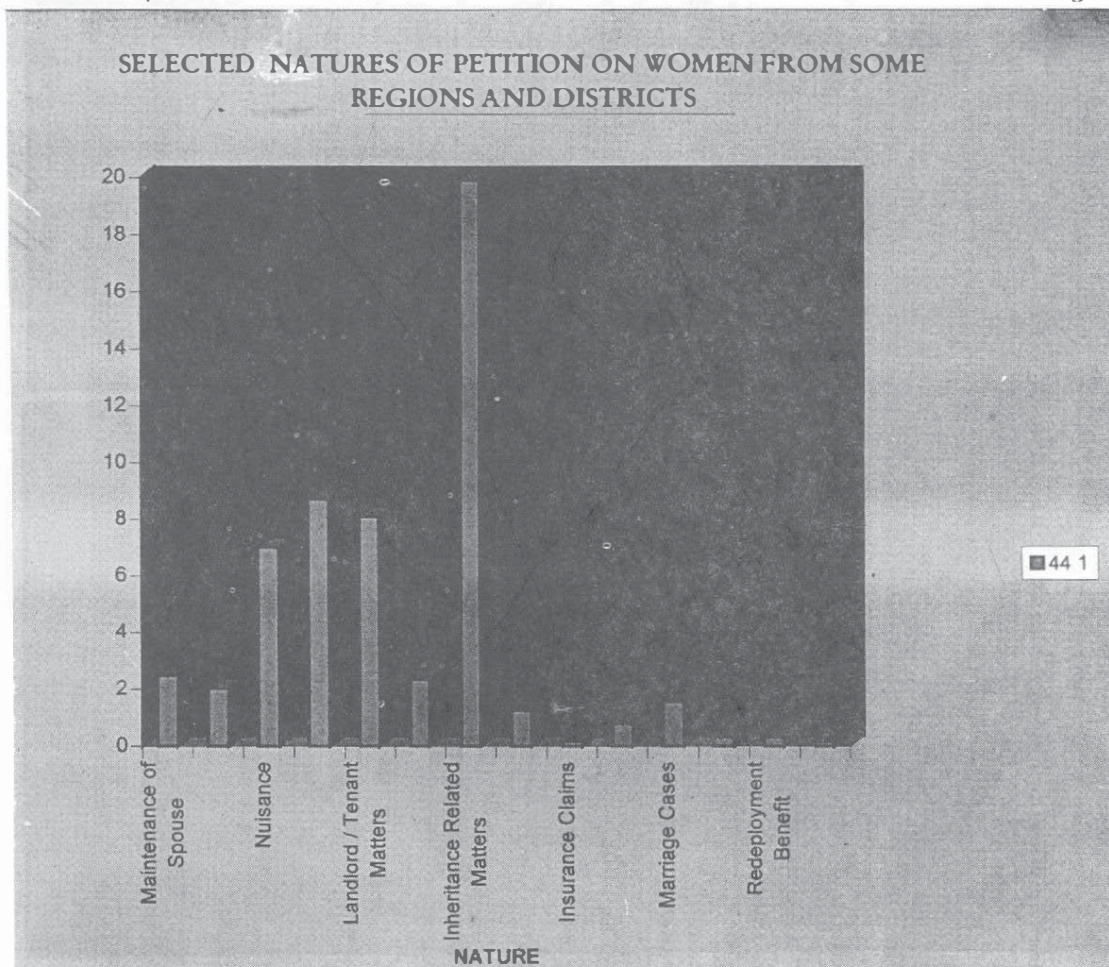
Table 8.

STATUS OF CLOSED CASES

STATUS	Number	%
1994 - '95 Cases Closed in 1996	1683	42.0
'96 Cases Closed in 1996	2326	58.0
Total	4009	100.0

STATUS OF PENDING CASES

STATUS	Number	%
1994 - 1995 Cases Pending	1095	28
1996 Cases Pending	2876	72
TOTAL	3971	100



SELECTED PETITIONS FROM SOME REGIONS AND DISTRICTS PRESENTED BY WOMEN

Table 9

NATURE OF PETITION	Number	%
<i>Child Maintenance</i>	283	44
<i>Violation of PNDC Law 111</i>	6	1
<i>Maintenance of Spouse</i>	16	2
<i>Salary Arrears</i>	13	2
<i>Nuisance</i>	45	7
<i>Breach of Contract</i>	56	9
<i>Landlord / Tenant Matters</i>	52	8
<i>End-of-Service</i>	15	2
<i>Inheritance Related Matters</i>	128	20
<i>Wrongful Dismissal</i>	8	1
<i>Insurance Claims</i>	1	0
<i>Pension / Gratuity</i>	5	1
<i>Marriage Cases</i>	10	2
<i>Rape</i>	2	0
<i>Redeployment Benefit</i>	2	0
<i>Unlawful Arrest</i>	1	0
TOTAL	643	100

Case No. TR.16/95

The Petitioner alleged that on June 1, 1994, the Respondent retrenched her from her 20-year employment as a house/midwife at its hospital, supposedly on grounds of physical infirmity. She stated that the Respondent had failed to pay her the redeployment benefits to which she was entitled, and it had also stopped paying her her monthly salary. All her efforts to have her salary restored until such time that her benefits would be paid to her had been fruitless.

The Petitioner alleged that the Respondent's action amounted to an administrative injustice, and she urged the Commission to redress it.

The Respondent admitted redeploying the Petitioner on health grounds, but stated that it did so because she had suffered a paralysis resulting from an accident in the course of her employment. For that reason, she was incapable of discharging the duties of her position.

The Commission set out to determine whether petitioners redeployment was in accord with governments directives and guidelines as contained in the document entitled "The Ghana Government Labour Redeployment Programme" issued by the Secretariat of the Programme Management Committee in 1990. The other issue was whether the Petitioner was entitled to her salary until such time that her redeployment benefits were paid. Under the said Programme Guidelines persons to be redeployed should be: stewards, labourers, cleaners, drivers, cooks, porters, sweepers, messengers, security personnel, store officers, clerical officers and secretarial personnel and analogous grades.

As a Senior Nursing Officer, petitioner did not fall within those categories of workers. The guidelines also indicated which body was to identify the workers to be redeployed. That body was to be known as the "Work Place Staff Appraisal Committee." The Committee was to be made up of certain categories of staff including: 1).The Head of the Ministry/Department; 2). a middle-Level Management Representative; 3) a Workers' Representative of the establishment; and 4). a represntative of the workplace Committee for the Defence of the

Revolution.

The Commission found no evidence that the Petitioner had been identified by such a Committee as a redeployee. Rather, the Respondent had summoned the Petitioner and other workers and simply told them that they were to consider themselves redeployed as from the following day.

The Commission found that the Petitioner's redeployment was wrongful as it contravened the guidelines laid down by government. Moreover, it is established that, if a professional is to be laid off on health grounds, then a Medical Board must be set up to determine the degree of physical or mental infirmity. It is only such a Board that can recommend her premature retirement. There was no evidence that any Medical Board had examined her.

The Commission accordingly ordered that such a Board should be constituted to determine whether the Petitioner's condition merited retirement on health grounds. In consequence, the Commission held that since the purported redeployment in June 1994 was a nullity, the Petitioner was to be paid her salary and all other benefits to which she was entitled, from the date of the purported redeployment until such a time that a Medical Board would decide her fate.

In its ruling, the Commission noted that public officers are protected in their office by Article 191 of the 1992 Constitution which provides that no public officer shall be removed from office without just cause.

CASE NO. CHRAJ/TR/516/95

This petition was originally lodged with one of our Regional offices. The petitioner and the respondent are both a tutor and headmaster respectively of a secondary school. The petitioner alleged that in September 1992, the headmaster appointed 10 non-teaching staff members of the School. It was after 19 months that the government gave approval for the appointment of those staff and were therefore entitled to 19 months arrears of salary. It was alleged

that although the full amount to cover the arrears was received, the headmaster paid the staff only 3 months salary and instead of returning the unpaid balance to government chest, he made use of the money. The petitioner stated that when he heard about the deal he confronted the respondent and threatened to report him. Petitioner alleged that as a result of the confrontation and the threat, the headmaster began victimizing him, first by withholding payment of his monthly salary and then eventually releasing him from the school. His petition was for the Commission to investigate the matter and order his re-instatement.

The Commission's painstaking investigations showed that in September, 1992, the headmaster appointed nine (9) persons (and not 19 as alleged) as drivers, labourers, watchmen etc. In March 1994 (ie. after a period of 20 months) their appointments were confirmed and all the 9 were given appointment letters. In May, 1994, the salary arrears of the newly appointed members of staff covering the period September, 1992 to March, 1994, were sent from Accra to the school. The Headmaster instructed the Bursar to effect payment.

The Commission discovered that during the period between the date they were engaged and the date their appointments were approved, most of the 9 staff had at various times absented themselves from work for several months . That is to say, they did not work continuously throughout the 20 month period. Nevertheless, all the workers maintained that they received full payment of salaries for the entire period. When asked to explain why he authorised the full payments, the Headmaster said that he knew he had to be guided by the Financial Regulations, but he ordered the payments because the workers were not to blame for absenting themselves from work.

The Commission's investigations showed that a total amount of ₵2,127,364.39 was paid out as excess salary to seven (7) of the workers. An eighth worker whose whereabouts were unknown at the time of the investigations was also paid an excess salary of ₵384,413.15. The Commission ordered all the workers to refund the excess salaries plus payment of 43% penalty on the amounts. The

total recoverable amount inclusive of the penalty came up to about €3,600,000.00. The amount has since been paid to the Commission by the Headmaster on behalf of all the affected workers. The Commission has since paid the amount into Government chest.

The Commission observed that the Headmaster acted wrongfully by effecting payment of the unearned salaries to the workers. There was no evidence, however, that the Headmaster acted with a dishonest intent .

On the allegation of victimisation, the Commission found no evidence to corroborate the petitioner's claim. Rather, there was abundant testimony that his performance as a teacher had been questioned quite frequently. The Commission therefore dismissed the petitioner's claim of victimization as unmeritorious.

CASE NO. CHRAJ/WR/39/95

The petitioner, an employee of the P & T Corporation (Telecoms), petitioned against his employers for withholding his promotion. The petitioner alleged that he and other Telecoms Managers were invited by the respondents to attend a promotion interview in May, 1994.

On 23rd August, 1994, the petitioner received a letter from the P&T Corporation informing him that he had been successful and so promoted to the grade of Senior Telecoms Manager with effect from 1st January, 1994.

However, in November of the same year, the Respondent wrote to the Petitioner withdrawing his promotion on grounds of lack of vacancy. Protests against the withdrawal fell on deaf ears. He therefore appealed to the Commission to ensure that his promotion was restored.

The Commission found from its investigations that out of the 32 candidates who attended the interview to fill the vacancies, the petitioner was 5th in order of merit

and had 74.33 marks. His brilliant performances notwithstanding, the respondents purported to withdraw the promotion of the petitioner and promoted others with less impressive results.

The Commission held discussions with the respondents' Legal Officer over the anomaly. The latter showed his appreciation and promised discussing the issue with the respondents. Subsequently, the petitioner intimated that the respondents had conceded their mistake and duly corrected same by writing to the petitioner to restore his promotion.

The Commission closed the docket on the matter as settled and commended the respondents for their display of understanding and cooperation in resolving the complaint.

CASE NO. CHRAJ/66/95

The petitioner stated in his petition that he was once an enumerator at the Statistical Services Department. Unfortunately, he got involved in an accident leading to a fracture of his right leg and injuries to his forehead and ribs. He also underwent surgical operation and bemoaned that as a result of the accident his dancing and football careers had come to an end. Above all, the petitioner had to go on admission at the Psychiatric Hospital as a result of the injury to his head. The thrust of the petition was that the petitioner sought financial assistance from the Commission and also wanted the Commission to secure a job for him either as an Auditor or an Accountant.

Much as the petitioner's story exudes pathos, the Commission felt constrained under the circumstances, since the Act (ie. Act 456) establishing the Commission did not give it the power to offer the services being sought for. The petitioner was advised to seek assistance from any benevolent society or religious body as the Commission was not in a position to grant his requests.

CASE NO. TR./6/96

A petition was brought on behalf of the Lilixia village by the Chairman of its Development Committee. He complained about the refusal of the respondent to partake in communal labour organised to renovate the village school and also their refusal to pay a fine of one thousand cedis (¢1,000.00) imposed on them by the village chief for their disobedience.

The petitioner appealed to the Commission "to step in and help sustain the communal spirit in the village" and contended that if the respondents were allowed to get away with this, other inhabitants might refuse to attend subsequent communal labour to the detriment of the village.

The Commission decided to invoke its mediation role and to educate the respondents on the need to develop a communal spirit. Accordingly, the Commission invited the respondents, routing the invitation through the Chief.

Whilst waiting for a response, the Chief of Lilixia sent a delegation, headed by the petitioner, to inform the Commission that upon receipt of the invitation, the respondents came round and promptly paid their fines. The delegation pleaded that the matter should be regarded as solved.

The Commission therefore discontinued investigation and closed the docket as settled.

Case No. 470/95/1686

The petitioner was a Superintendent Officer in the Ghana Police Service. He was struck by an illness of the mind and as a result he vacated his post without permission. The police administration therefore declared him a deserter.

When he regained his sanity, he petitioned the Inspector General of Police (IGP). His Psychiatric record from the Psychiatric Hospital confirmed his affliction. The declaration of desertion was revoked and in place he was retired with effect from

the date he "vacated" his post in August 1984. He was however not satisfied with the effective date of retirement. The IGP agreed to change the effective date of retirement to July 1995 which was when the decision to retire him was communicated to him. It was made clear that he would not receive any salary for the period he was away but would receive retirement awards computed up to July 1995. The Petitioner was dissatisfied and petitioned the Commission.

The issue which the Commission was called upon to determine was whether or not the petitioner should be entitled to arrears of all emoluments from the date on which he was declared a deserter to July 1995 when he was retired.

The Commission noted that under the provisions of the Police Force (Disciplinary Proceedings) Regulations, where a police officer absents himself from duty without permission or good cause and cannot be traced, disciplinary proceedings may be taken against him whether he appears to defend himself or not, and thereafter the authority may impose such penalty on him as is within its powers. In the instant case, the petitioner's employer did not comply with this provision. In view of this default and in the light of their decision to revoke the declaration of desertion to retire him as from July 1995, the Commission decided that the respondents had in effect agreed that the petitioner remained in their employment up to July 1995 when he was retired.

The Commission therefore decided that in addition to his retirement benefits the petitioner should be paid part of his arrears of salary, namely 75%, since he has performed no service for the respondents during the period. The recommendation of the Commission was however not accepted by the respondents on the advice of the Attorney-General.

CASE NO. 364/96

In April 1996, the Editor of a private newspaper, *The Statesman*, brought to the attention of the Commission the detention without trial of a man accused of having committed murder. The accused had been held in prison (on remand) for

five(5) years, i.e since May 1991.

The Commission's investigations into the complaint disclosed that the Police could not trace the whereabouts of the only prosecution witness. They had therefore, apparently, decided that the accused should remain in prison custody till the witness was found.

The Commission took the view that the long delay in putting the accused before court for trial violated Article 19(1) of the 1992 Constitution which provides that:

A person charged with a criminal offence shall be given a fair trial within a reasonable time by a court.

For that reason the Commission made an application to a Community Tribunal in Accra on 30th July, 1996, and upon hearing submissions made by a lawyer from the Commission, the Tribunal discharged the accused unconditionally.

Case No. TR 332/95/666

Two persons, a brother and a sister, petitioned against the confiscation of their assets by the PNDC Government in 1982. The grounds of their petition were that they lawfully acquired their properties and the Government was wrong in confiscating same.

The Commission's investigations disclosed that the brother who was previously a pauper, had inherited his wealthy senior brother (a contractor) who died in a tragic motor accident. The inheritance brought this petitioner into unexpected affluence and prominence. The sudden change in his lifestyle aroused suspicion and he was arraigned before the Citizens Vetting Committee (CVC) to explain the source of his fortunes. The CVC found that he had not been paying taxes on his earnings and he was accordingly ordered to pay the assessed tax and penalty thereon within 48 hours or have all his properties confiscated to the State. He was unable to pay the tax and penalty within the stipulated period. Consequently his properties were confiscated.

The Commission endorsed the findings of the CVC and in accordance with Government guidelines on confiscation orders made by the CVC, petitioner was allowed to pay the taxes. Having paid the taxes the Commission accordingly ordered the deconfiscation of his properties.

With regard to his sister the Commission found that her house was confiscated under the mistaken view that it belonged to his brother the co-petitioner. She established in her evidence that the house was built for her by her deceased brother. The Commission decided that she lawfully acquired the property as a gift *inter vivos* and accordingly ordered its deconfiscation.

CASE NO.CHRAJ/806/95

In November, 1995 a petition was lodged by a petitioner for the restoration of a confiscated printing press. The property (Unipress International Ltd) was confiscated to the State after the 31st December 1981 coup d'etat. At the time the petition was lodged the property (the name of which had been changed to Nsamankow Press) had been slated for divestiture and advertisements had been placed in newspapers inviting prospective buyers. The Commission drew the attention of the Divestiture Implementation Committee of the pendency of the petition and requested them to stay action on the sale which they did.

The Commission's investigations disclosed that between 1966 and 1969 petitioner established three newspapers, namely, *Western Tribune*, *The Herald* and *Palaver* the publication of all of which he did in rented premises. With income from these publications he acquired a house at North Kaneshie in 1977. In the same year he moved his business into the newly acquired building and mortgaged same for a loan from a bank to purchase machines for his printing press. At the time in 1982 when the property was confiscated petitioner was on schedule with the repayment terms of the loan.

There was no indication as to the reason for the confiscation except that it was by decree (PNDC Law 3). The printing press was handed over to the

Committees for the Defence of the Revolution who managed it till the decision for its divestiture was taken. The loan petitioner took was ₦2,281,471.58 but since 1982 when the property was seized no payments had been made to the bank. At the time of hearing the case the loan had accumulated interest and the outstanding debt stood at ₦118,192,747.67.

The petitioner's claim that he lawfully acquired the property was not challenged by the State Attorney and other officials who represented the State. The Commission was satisfied from the totality of the evidence that Petitioner lawfully acquired the property and in accordance with Section 35 (2) of the Transitional Provisions of the 1992 Constitution an order was made for the deconfiscation of the printing press and building and its restoration to the petitioner.

CASE NO.CHRAJ/NI/94

Petitioner complained that the Land Valuation Board had failed or refused to pay him compensation for his parcel of land which he had to abandon in view of the passage of Volta River Authority high tension lines across the land. The Board, on the other hand, said they could not pay petitioner any compensation because he could not produce any document of title.

The Commission's investigations showed that petitioner acquired the land from the Chief and elders of the village and had been on the land for an undisturbed period of twenty-four years. There was evidence also to the effect that petitioner started a process of documentation, but due to the difficulties he was encountering he abandoned the idea when he learnt that his property was to be demolished to make way for the high tension lines. Furthermore, no person had made any adverse claim to the property.

In view of the peculiar circumstances surrounding the case the Commission recommended payment of compensation (the lack of documents of title notwithstanding) since it had been established beyond doubt that he was the rightful person to whom compensation was due.

CASE NO. CHRAJ/ 1024/94

Petitioner had been in the employment of respondent bank for 14 years 10 months until 1990 when he was laid off as a result of a restructuring exercise. He was paid all his entitlements and his 10 years accumulated leave was commuted to cash and paid to him. By the terms of the Conditions of Service petitioner had only 2 months to serve to entitle him to a pension. Petitioner contended four years after he was laid off, that if he had been allowed to enjoy his 10 years accumulated leave he would have qualified for pension under the conditions of service.

He invited the commission to declare as null and void the commutation of the leave to cash. He relied on section 46 of LI 632 which provided that "Any agreement to relinquish the entitlement to annual leave with pay or to forego such leave shall be void". His solicitor argued that by virtue of the said S.46 of LI 632 annual leave cannot be commuted to cash. The Commission took the view that the petitioner was not entitled to his claim because he did not forgo his annual leave. He did not relinquish or abandon his leave but rather he accepted cash in replacement for his accumulated leave. The Commission observed that to forgo a thing is to lose it completely and that once petitioner had exchanged his leave for cash it did not lie in his mouth to say he has lost it.

The Commission also exercised its discretion under Section 13(2)(a) of Act 456 to dismiss the petition because petitioner had slept on his rights for too long. The said Section 13(2)(a) provides that the Commission may refuse to investigate any matter of which a petitioner has had knowledge for more than one year. The petition was therefore dismissed as belated and unmeritorious.

CASE NO. CHRAJ/492/94

The case of the complainant was that he had been in the employment of the Civil Service for 9 years without either promotion or annual salary increment. Worse still, his appointment for all that period had not been confirmed. He alleged also

that respondents had failed to refund an amount of £920 being expenses he incurred during an official trip outside the country.

The Commission's investigations disclosed that indeed petitioner's appointment was yet to be confirmed, he had also never been promoted or received salary increment for nine years. Respondents attributed the situation to petitioner's unsatisfactory performance. But the Commission found that the petitioner had not been fairly treated. It was observed that there could be no justifiable cause whatsoever why an employee would be on probation for 9 years. A recommendation was therefore made for rectification of the situation. In accordance with the recommendation respondents promptly confirmed petitioner's appointment and effected his promotion.

With regard to the refund it was found that petitioner was not entitled to it. Government policy demanded that all public officials should travel by Ghana Airways. Petitioner, despite knowledge of the policy, travelled by British Caledonian instead of Ghana Airways and as a result had incurred an extra £920 in travel expenses. The Commission decided therefore that respondents were justified in refusing to refund the money.

CASE NO. CHRAJ/688/96

The petitioner, a lawyer and director of a company, was arrested for allegedly receiving an amount of money from a foreigner who was also an official of the company for the purpose of influencing some public officers in the security agencies.

The Petitioner on the other hand, claimed that the amount in question represented legal fees for professional services rendered to the said foreigner. The Disciplinary Committee of the General Legal Council heard the matter and concluded that the amount indeed represented professional legal fees; they cleared petitioner of any crime or misconduct. Nonetheless, the petitioner was charged before the Public Tribunal for conspiracy to commit a crime, to wit,

dishonest acquisition of property contrary to section 23 of the Criminal Code and dishonest acquisition of property contrary to sections 9(1)(k) of the Public Tribunals Law, PNDCL 78. He was convicted and sentenced to a term of imprisonment. The money he received from the foreigner was also confiscated to the State. On appeal, the conviction for conspiracy was quashed but not that for dishonest acquisition of money.

The Petitioner petitioned the Commission for a remedy in respect of his arrest, trial and sentence describing the whole process as so irregular as to constitute a gross violation of his fundamental rights and freedoms, corruption of judicial process and abuse of power.

The Commission declined jurisdiction in the matter on grounds that the Commission had no appellate jurisdiction over the courts or Tribunals. The Commission explained that it had no power to go into matters that had previously been determined by the courts or tribunals. The petitioner was therefore advised that he could avail himself of Article 72 of the 1992 Constitution by petitioning the President for a pardon, if he thought his case deserved His Excellency's consideration.

CASE NO. CHRAJ/TR/304/96

Petitioner visited a friend in Kumasi but the friend was absent. He decided therefore to spend the night with a 54 years old man (the respondent) who lived in his friend's neighbourhood. Petitioner alleged that in the course of the night he was forcibly sodomised by the respondent. He reported the matter to the Police. At the Police Station respondent admitted having sexually assaulted the petitioner and pleaded for an amicable settlement. He offered ₵2 million as compensation which petitioner accepted and thereafter wrote to the Police withdrawing the complaint. Subsequently, petitioner went to see a herbalist for purification rites, for which he had to part with a substantial part of the compensation. He considered the remainder rather insignificant and, therefore, petitioned the Commission for payment by the respondent of another ₵10 million

in compensation.

The Commission found the matter to be outside its jurisdiction as there did not seem to be any human right violation involved. Moreover the complaint was considered to be frivolous, vexatious and not made in good faith. The petition was accordingly dismissed.

CASE NO. CHRAJ/793/95

This petitioner had since 1988 been suffering from impairment of his eyesight which condition had aggravated over the years to near blindness. Doctors reports said his condition was caused by a head tumour, but petitioner alleged that it was due to an injury he sustained in the head whilst boarding his employer's (respondents) bus in 1988. The Commission found no evidence supportive of the allegation. Due to his deteriorating condition petitioner was granted sick leave in 1992. In October 1994, he was put on half salary due to his prolonged illness and continued absence from active duty. In July 1995, respondents requested the Ministry of Health to institute a Medical Board on petitioner to determine his continuous stay in the corporation. Before this request could be carried through, Government directed respondents to carry out a retrenchment exercise to reduce staff.

Petitioner was among several workers identified to be made redundant. His appointment was accordingly terminated in accordance with the Conditions of Service and he was paid all his entitlements including severance award. Petitioner's grievance stemmed from his contention that it was wrongful for respondents to declare him redundant at a time when a request had been made for a medical board to determine his fate. According to him the termination had denied him his right to pension on medical grounds.

The issue here was whether or not respondents could declare petitioner redundant and proceed to terminate his appointment after they had requested a board to be set up on him. The Commission's investigations disclosed that

among the workers to be identified as redundant were those suffering from ill-health. At the time of the redundancy exercise, petitioner had been ill for 7 years and had not worked for 3 years. Even though the request had been made, the Ministry of Health had not set up a board to examine the petitioner. The Commission took the view that respondents had not acted wrongfully towards the petitioner in that the redundancy exercise was conducted at a time when no board had been set up on him. He was caught by the exercise and respondents were right in declaring him redundant. The petition was accordingly dismissed.

INVESTIGATIONS INTO ALLEGATIONS OF CORRUPTION, ILLEGAL ACQUISITION OF WEALTH & ABUSE OF OFFICE

During the year the Commission investigated and submitted reports on some Ministers of State and a Presidential Staffer against whom allegations of corruption, illegal acquisition of wealth, and abuse of office had been made by some private newspapers. The Officials were the Presidential Adviser on Governmental Affairs, the Minister of Interior, the Minister of Food and Agriculture and the Presidential Staffer on Cocoa Affairs.

The investigations were conducted pursuant to Article 218(e) of the Constitution and Section 7(1)(f) of Act 456 both of which mandate the Commission "to investigate all instances of alleged or suspected corruption and the misappropriation of public monies by officials and to take appropriate steps including reports to the Attorney-General and the Auditor-General, resulting from such investigation". Section 7(1)(e) of Act 456 also empowers the Commission 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. The investigations were therefore also conducted to determine whether the officials had complied with Article 286 of the Constitution which requires public officers to submit a declaration of all their assets within three months of the coming into force of the Constitution, at the end of every four years, and at the end of their term of office.

In respect of the Presidential Adviser the Commission's investigations did not disclose any evidence to support the allegations of corruption or impropriety. The allegation that he owned a string of plush houses in a suburb of Accra worth billions of cedis proved to be untrue. Another allegation that he owned a soft drinks factory was also found to be untrue. A careful study of his tax file as well as that of his wife showed that between them they had sufficient means to acquire all the assets they owned. The Commission therefore exonerated him completely.

With regard to the then Minister of Interior the Commission investigated him to determine whether he had the means to put up his new house, the value of which a newspaper estimated to be about €600 million. The investigations revealed the actual cost of the building to be € 104,574,016.55. It was found however that the Minister's expenditure on the building exceeded his income by €18,523,182.48. He could not explain the source of the excess income. He was therefore ordered to refund the unexplained amount to the State.

The Presidential Staffer on Cocoa Affairs was alleged to have used his office to illegally acquire a large number of houses and farms. The investigations disclosed that he had the means to lawfully acquire all his assets except that he had failed to pay taxes on some of his earnings. He also acquired a house in the name of his seven year old son but had failed to disclose the property both in his assets declaration form and in his evidence before the Commission. The Commission recommended that he be made to pay the appropriate taxes on his earnings. The Commission also found his conduct to be incompatible with his high office and recommended that his position be reconsidered.

The newspaper publications had alleged that the Minister of Food and Agriculture had granted waivers to certain fishing Companies thereby allowing them to import fish without paying the requisite taxes and customs duties. It was further alleged that the waivers had resulted in the loss of billions of cedis of revenue to the State.

The Commission's investigations confirmed the newspaper allegations. It was found that some of the companies which enjoyed the waivers had not even registered their vessels with the Registrar of Ships. The grant of the waivers was also found to have been contrary to law. Recommendations were accordingly made for rectification of the situation, and the Government has subsequently suspended the grant of the waiver.

Even though no acts of dishonesty were found against the Minister of Food and

Agriculture the Commission expressed the view that he acted negligently in granting the waivers without reference to the requirements of the law and the proper procedure. A recommendation was made for him to be reprimanded for acting so negligently.

DISTRICT ASSEMBLY AWARDS CONTRACTS TO A MEMBER

The Commission received a written complaint alleging that an Assembly member who was also the District Director of a public institution was using his office to win contracts from the District Assembly of which he was a member. The petitioner alleged that the said Assembly member's conduct contravened article 284 of the Constitution which provides that no public officer shall "put himself in a position where his personal interest conflicts or is likely to conflict with the performance of the functions of his office".

The petitioner could not be traced. However, since the allegation was one of corruption, the Commission proceeded to investigate the complaint pursuant to section 7(1)(f) of the Commission on Human Rights and Administration Justice Act 1993 (Act 456) which mandates the Commission to investigate all instances of alleged or suspected corruption. It was found that the Assembly member, who was also the Chairman of the Finance and Administration Sub-Committee of the Assembly, had formed a company which was executing several contracts awarded him by the Assembly. It is pertinent to note that in the very month that he established the company he won a contract for the construction of a public latrine in his own electoral area.

As a result of the investigations the Commission made the observation that District Assemblies are generally responsible for the provision of infrastructure and basic amenities in their areas of authority. They are responsible not only for the award of contracts, but also for supervising and monitoring the successful execution of such contracts. In performing the functions of supervision and monitoring the Assembly member for any particular electoral area is the officer directly responsible. The Commission expressed the view that where the

Assembly member is himself the contractor, his personal interest is likely to conflict with his official responsibility.

In accordance with its function (under Article 218(b) of the Constitution) of ensuring fair administration of the administrative organs of the State, the Commission noted that the practice of District Assemblies awarding contracts to its own members does not augur well for the fair and smooth administration of the District Assemblies. The practice was bound to generate suspicion and mistrust in the minds of the public and to undermine public confidence in the Assemblies. The Commission rejected the respondent's reliance on Order 55(1) of the Standing Orders for District Assemblies which requires Assembly members interested in a District Assembly contract to disclose such interest and refrain from taking part in deliberations or voting on the matter. The Commission took the view that where an Assembly member is awarded a contract by the District Assembly of which he is a member, his personal interest in the contract is likely to conflict with the performance of his functions as an Assembly member. It was observed that Standing Order 55(1) "is not sufficient to dispel suspicion of bias or influence in the award of contracts and to uphold the credibility of the Assembly".

Several months after this decision there were newspaper reports which vindicated the Commission's decision. The Upper West Regional Minister was reported by the Ghanaian Times to have lamented over reports reaching his office which indicated that the majority of Assembly members in another District Assembly within his Region had turned themselves into contractors and bidding for contracts. He was said to have admonished the Assembly members that they had a moral duty not to bid for contracts within their assemblies because "that would not augur well for the smooth administration of the assemblies".

CHAPTER EIGHTEEN OF THE 1992 CONSTITUTION

COMMISSION ON HUMAN RIGHTS & ADMINISTRATIVE JUSTICE

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

- (iii) bringing proceedings in a competent Court for a remedy to secure the termination of the offending action or conduct, or the abandonment or alteration of the offending procedures; and
- (iv) bringing proceedings to restrain the enforcement of such legislation or regulation by challenging its validity if the offending action or conduct is sought to be justified by subordinate legislation or regulation which is unreasonable or otherwise ultra vires;
- (e) to investigate all instances of alleged or suspected corruption and the misappropriation of public moneys by officials and to take appropriate steps, including reports to the Attorney-General and the Auditor-General, resulting from such investigations;
- (f) to educate the public as to human rights and freedoms by such means as the Commissioner may decide, including publications, lectures and symposia; and
- (g) to report annually to Parliament on the performance of its functions.

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

- (a) to issue subpoenas requiring the attendance of any person before the Commission and the production of any document or record relevant to any investigation by the Commission;
 - (b) to cause any person contemptuous of any such subpoena to be prosecuted before a competent Court;
 - (c) to question any person in respect of any subject matter under investigation before the Commission;
 - (d) to require any person to disclose truthfully and frankly any information within his knowledge relevant to any investigation by the Commissioner.
- (2) The Commissioner shall not investigate -
- (a) a matter which is pending before a court or judicial tribunal; or
 - (b) a matter involving the relations or dealings between the Government and any other Government or an international organisation; or
 - (c) a matter relating to the exercise of the prerogative of mercy.

- 220.** An Act of Parliament enacted under article 216 of this Constitution shall provide for the creation of regional and district branches of the Commission.
- 221.** A person shall not be qualified for appointment as a Commissioner or a Deputy Commissioner for Human Rights and Administrative Justice, unless he is -
- (a) in the case of Commissioner, qualified for appointment as a Justice of the Court of Appeal; and
 - (b) in the case of a Deputy Commissioner, qualified for appointment as a Justice of the High Court.
- 222.** The Commissioner and Deputy Commissioners shall not hold any other public office.
- 223.** (1) The Commissioner and Deputy Commissioners shall enjoy the terms and conditions of service of a Justice of the Court of Appeal and High Court respectively.
- (2) The Commissioner and Deputy Commissioners shall cease to hold office upon attaining the ages of seventy and sixty-five years respectively.
- 224.** Where the Commissioner dies, resigns or is removed from office or is for any other reason unable to perform the functions of his office, the President shall, acting in consultation with the Council of State, appoint a person qualified to be appointed Commissioner to perform those functions until the appointment of a new Commissioner.
- 225.** Except as provided by this Constitution or by any other law not inconsistent with this Constitution, the Commission and the Commissioners shall, in the performance of their functions, not be subject to the direction or control of any person or authority.
- 226.** The appointment of officers and other employees of the Commission shall be made by the Commission acting in consultation with the Public Services Commission.
- 227.** The administrative expenses of the Commission including salaries, allowances and pensions payable to, or in respect of, persons serving with the Commission, shall be charged on the Consolidated Fund.
- 228.** The procedure for the removal of the Commissioner and Deputy Commissioners shall be the same as that provided for the removal of a Justice of the Court of Appeal and a Justice of the High Court respectively under this Constitution.

- 229.** For the purposes of performing his functions under this Constitution and any other law, the Commissioner may bring an action before any court in Ghana and may seek any remedy which may be available from that court.
- 230.** Subject to the provisions of this Constitution and to any Act of Parliament made under this Chapter, the Commission shall make, by constitutional instrument, regulations regarding the manner and procedure for bringing complaints before it and the investigation of such complaints.

THE COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE ACT, 1993

ACT 456

AN ACT to establish a Commission on Human Rights and Administrative Justice to investigate complaints of violations of fundamental human rights and freedoms, injustice and corruption; abuse of power and unfair treatment of persons by public officers in the exercise of their duties, with power to seek remedy in respect of such acts or omissions and to provide for other related purposes.

DATE OF ASSENT: 6th July, 1993

BE IT ENACTED by Parliament as follows-

PART I - ESTABLISHMENT OF COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE

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

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

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

4. (1) The Commissioner and Deputy Commissioners shall enjoy the terms and conditions of service of a Justice of the Court of Appeal and High Court respectively.
- (2) The Commissioner and Deputy Commissioners shall cease to hold office upon attaining the ages of seventy and sixty-five years respectively.
- (3) Where the Commissioner or a Deputy Commissioner dies, resigns or is removed from office, the President shall, acting in consultation with the Council of State, appoint a person qualified to be appointed Commissioner or Deputy Commissioner to perform those functions until the appointment of a new Commissioner or Deputy Commissioner.

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

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

PART II - FUNCTIONS OF THE COMMISSION

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

- (a) to investigate complaints of violations of fundamental rights and freedoms, injustice, corruption, abuse of power and unfair treatment of any person by a public officer in the exercise of his official duties;
- (b) to investigate complaints concerning the functioning of the Public Services Commission, the administrative organs of the State, the offices of the Regional Coordinating Council and the District Assembly, the Armed Forces, the Police Service and the Prisons Service in so far as the complaints relate to the failure to achieve a balanced structuring of those services or equal access by all to the recruitment of those services or fair administration in relation to those services;
- (c) to investigate complaints concerning practices and actions by persons, private enterprises and other institutions where those complaints allege violations of fundamental rights and freedoms under the Constitution;
- (d) to take appropriate action to call for the remedying, correction and reversal of instances specified in paragraphs (a), (b) and (c) of this subsection through such means as are fair, proper and effective, including
 - (i) negotiation and compromise between the parties concerned;
 - (ii) causing the complaint and its finding on it to be reported to the superior of an offending person;

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

(2) All costs and expenses related to investigations conducted by the Commission into a complaint shall be borne by the Commission.

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

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

(2) The Commissioner shall not investigate -

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

9. For the purposes of performing his functions under the Constitution, this Act and any other law, the Commissioner may bring an action before any court in Ghana and may seek any remedy which may be available from that court.

10. (1) There shall be established in each Region and District of Ghana Regional and District branches respectively of the Commission.

(2) There shall be appointed by the Commission an officer who shall be the head of a Regional or District branch of the Commission.

(3) The Commission may create such other lower structures as would facilitate its operations.

11. (1) A representative of the Commission in a Regional or District office of the Commission shall -

- (a) receive complaints from the public in the Region or District;

- (b) make such on-the-spot investigation as may be necessary;
and
- (c) discharge any other duties relating to the functions of the Commission that may be assigned to him by the Commissioner.

PART III - PROVISIONS RELATING TO COMPLAINTS AND INVESTIGATIONS

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

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

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

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

- (a) a person in custody; or
- (b) a patient in a hospital;

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

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

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

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

- (a) that under the law or existing administrative practice there is adequate remedy for the complaint, whether or not the complainant has availed himself of it; or
- (b) that having regard to all the circumstances of the case, any further investigation is unnecessary,

it may refuse to investigate the matter further.

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

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

(3) Notwithstanding subsection (2) of this section, if within six months after the Commission's refusal or ceasing to investigate any complaint under this

section, fresh evidence in favour of the complainant becomes available, the Commissioner shall, at the request of the complainant, re-open the case.

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

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

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

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

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

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

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

15. (1) Subject to this section the Commission may require any person who, in its opinion, is able to give any information relating to a matter being investigated by the Commission -

- (a) to furnish the information to it;

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

(2) The Commission may summon before it and examine on oath or affirmation

- (a) a person required to give information or produce anything under subsection (1) of this section;
- (b) a complainant;
- (c) any other person who the Commission considers will be able to give information required under subsection (1) of this Section.

(3) Subject to subsection (4) of this section, a person who is bound by law to maintain secrecy in relation to, or not to disclose, any matter may not -

- (a) supply information to or answer a question put by the Commission in relation to that matter; or
- (b) produce to the Commission a document, paper or thing relating to it,

if compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure.

(4) A person to whom subsection (3) of this section applies may be required by the Commission to supply information or answer a question or produce a document, paper or thing that relates to a matter under investigation; and subject to section 16 of this Act, it shall be the duty of that person to comply with the requirement.

(5) A witness before the Commission shall be entitled to the same privileges to which he would have been entitled if he were a witness before the High Court.

- (6) No person shall be liable to prosecution for an offence under any enactment by reason of his compliance with a requirement of the Commission under this section.
16. Article 135 of the Constitution which relates to production of official documents in court shall apply to proceedings before the Commission as it applies to proceedings before a court.
17. (1) The Commissioner or a Deputy Commissioner and every person holding an office or appointment under the Commission shall maintain secrecy in respect of all matters that come to their knowledge in the exercise of their functions.
- (2) Every person holding office or appointment under the Commission who is likely to have access to confidential information of the Commission shall before proceeding to carry out his functions under this Act, take and subscribe to the Oath of Secrecy set out in the Second Schedule to the Constitution.
- (3) The Commission shall determine the category of persons to whom subsection (2) of this section shall apply.

PART IV - PROCEDURE AFTER INVESTIGATION BY THE COMMISSION

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

- (e) was based on irrelevant grounds or made for an improper purpose; or
- (f) was made in the exercise of a discretionary power and reasons should have been given for the decision;

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

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

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

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

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

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

- (a) generally to the exercise of the functions of the Commission under this Act; or
- (b) to any particular case investigated by the Commission whether or not the matters in the report have been the subject of a report to Parliament.

PART V - MISCELLANEOUS PROVISIONS

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

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

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

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

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

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

24. Any person who -

- (a) without lawful justification or excuse, wilfully obstructs, hinders or resists a member of the Commission or an officer authorised by the Commission in the exercise of any powers under this Act; or

- (b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful request of the Commissioner or a Deputy Commissioner or any other person under this Act; or
- (c) wilfully makes any false statement to or misleads or attempts to mislead the Commissioner or any other person in the exercise of his functions under this Act

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

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

- (a) a remedy or right of appeal or objection is provided for any person; or
- (b) any procedure is provided for the inquiry into or investigation of any matter,

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

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

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

27. In this Act a reference to a member of a complainant's family means -

- (a) in the case of a person belonging to a family based on the paternal system - mother, father, wife, son, daughter, brother, sister, father's brother, father's father, father's brother's son, and brother's son;
- (b) in the case of a person belonging to a family based on the maternal system - mother, father, wife, son, daughter, brother, sister, mother's mother, mother's brother, mother's sister,

sister's son, sister's daughter, mother's sister's son and mother's sister's daughter.

28. (1) The Ombudsman Act 1980 (Act 400) is repealed.

(2) Notwithstanding the repeal of the Ombudsman Act, 1980 (Act 400) -

- (a) any regulation made under it and in force on the coming into force of this Act shall until altered, amended or revoked, continue in force and shall be applied with such modifications as may be necessary for giving effect to the provisions of this Act; and
- (b) Any complaint pending before the Ombudsman immediately before the coming into force of this Act may be proceeded with under, and shall be subject to the provisions of, this Act.

COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE (COMPLAINT PROCEDURE) REGULATIONS, 1994 CONSTITUTIONAL INSTRUCTIONS 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 or thumbprint to the written complaint.

2. (1) A complaint lodged with the Commission shall contain -
 - (a) the full name and contact address of the complainant;
 - (b) the body, organisation or person against whom the complaint is made;
 - (c) particulars of the nature of the complaint together with copies of any document in support of the complaint;
 - (d) the nature of the injustice or harm that the complainant has suffered as a result of the action, inaction or omission of the body or organisation or person against whom the complaint is made; and
 - (e) the relief sought by the complainant.
- (2) A person who lodges a complaint with the Commission on behalf of another person shall state in writing the capacity in which he does so and the reason for so doing.
- (3) A complainant shall be given a reasonable time (depending on the circumstances of the case) within which to check on his complaint.
- (4) Where a complaint lodged with the Commission is not pursued for three months from the date it is lodged, the complaint shall lapse thereafter.
- (a) 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.
- (b) The head of the body or organisation or person against whom the complaint is made shall within ten days from the date of receipt of the complaint or such further period as the Commissioner may specify submit his comments or response to the Commissioner.

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

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

9. (1) The head of a district office of the Commission shall within five days of the end of every month submit to the head of the region branch of the Commission, a report of all complaints investigated by the district office in the preceding month and recommendation of the office on the complaints.
 - (2) The designated head of a regional branch of the office together with the recommendations to the national office.
10. The final decision in any complaint lodged with the Commission shall be taken by the Commission.
 11. For the purpose of sections 9 and 18(2) of the Act, the Commissioner may by writing authorise any public officer to bring an action in any court in the name of the Commissioner.
 12. In these Regulations -
"Act" means the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456).

Dated at Accra this 1st day of September, 1994. Commission shall submit a monthly report on all complaints investigated by the District offices and the Regional Offices.

EMILE FRANCIS SHORT

COMMISSION ON HUMAN RIGHTS