

## **TOPIC: THE ROLE OF CHRAJ IN PROVIDING ACCESS TO JUSTICE IN GHANA**

### **(Speaking Notes)**

I bring you warm greetings from Ghana. Particularly from our National Human Rights Institution (NHRI); that is the Commission on Human Rights and Administrative Justice (CHRAJ) of which I am a Deputy Commissioner.

An examination of the role of NHRI's in providing access to justice in countries across the globe is very timely because all over the world, particularly in developing countries, there are barriers to access justice to teeming populations of poor and vulnerable persons. It is not the case that everyone, regardless of income level, is able to use the remedies that the laws and the legal systems of our various countries provide.

Therefore, the Human Rights Centre of the University of Essex deserves commendation for focusing on the subject. This effort in my view would help the NHRIs to improve upon their performance and contribute more meaningfully to meeting the demand for social justice.

### **About CHRAJ**

The Commission has a broad mandate under Chapter 18 of the 1992 Constitution of Ghana and the CHRAJ Act, 1993 [Act 456]. This mandate is threefold, namely, human rights, administrative justice, and combating corruption.

The Commission is mandated to investigate complaints of violations of fundamental human rights and freedoms and help to foster a culture of respect for human rights in Ghana. The human rights provisions in the Constitution and the establishment of the Commission in 1993,

demonstrates Ghana's commitment to uphold democracy and human rights culture along with other key independent governance institutions, which together with the media and a vibrant civil society have been working towards the promotion of democracy, good governance and protection of the fundamental human rights and freedoms of the people.

CHRAJ is not only Ghana's – national human rights institution- it is also the country's leading anti corruption agency and an ombudsman.

Since the establishment of the Commission in 1993 it has successfully carried out its mandate in spite of budgetary constraints and other limitations.

Each year in December on the occasion of International Human Rights Day, the Commission releases the State of Human Rights Report. Essentially, the report summarizes our achievements in advancing human rights in the country. Most importantly, the State of Human Rights Report brings out the areas of major concern and persistent violations and abuses. This is done in order to alert the Government and the nation as a whole to its shortcomings and what should be done about correcting these as well as ensuring that Ghana's human rights discourse does not only remain a mere talk, but rather becomes a reality for all persons, especially the excluded and marginalized.

In the 2011 State of Human Rights Report, the Commission remarked that though solid progress had been made in the promotion and protection of human rights in Ghana, one of our greatest challenges remain the entrenchment of the culture of respect of human rights. Creating an enlightened population and having a high level of accountability in governance is a truly daunting experience. Corruption is still a major threat to our development as a nation.

Unfortunately, cultural attitudes continue to hinder social progress. Discriminatory and sometimes very dehumanizing customary practices and traditional norms seem to consign many vulnerable persons including women, children and persons with disabilities to subservient dehumanizing roles rather than allowing them to take their opportunities and compete with others on equal terms.

There is an urgent need to promote dialogue, dwell a lot more on the State's responsibility in ensuring that rights based approach to poverty alleviation, growth and resource allocation are employed in planning and implementation of policies for vulnerable persons.

Since its establishment in 1993, CHRAJ has been offering a very popular alternative dispute resolution service (ADR) at the grassroots level throughout the country. CHRAJ mediations consisted mainly of family matters, debt, landlord-tenant relations, employer--employee disputes, minor assaults and 'defamation.' CHRAJ also handled a few land and property cases but only 'unofficially' because of concern that these were outside their legal mandate.<sup>1</sup>

Ghana has made solid progress in the promotion of human rights and the observance of civil liberties. There is greater awareness about human rights in the remotest villages. Human rights defenders and vulnerable persons are openly speaking out against domestic violence, illiteracy, inequality, etc. Notwithstanding the economic expansion and creation of civil space, poverty is still widespread in the country. Corruption persists and there is still a considerable lack of access to justice.

---

<sup>1</sup> See observation by Richard C. Crook and Kojo Pumpuni Asante in Article entitled "The State, 'Hybrid Institutions' and the Provision of More Accessible Justice in Africa: the Case of Ghana's Commission on Human Rights and Administrative Justice", 2011.

Major achievements by the Commission in advancing human rights include resolving 10,964 cases of the total number of human rights cases (13,218) dealt with by the Commission during the year under review.

In the year 2012 the Commission redoubled its efforts to fulfil its mandates. Out of the total of approximately 12,000 human rights cases, the Commission closed a total of 10,964 cases. The Commission successfully carried out 4,551 public education activities in the country. CHRAJ successfully closed 1,043 of the 823 administrative justice cases received. The Commission among others investigated and closed 31 out of a total of 43 complaints it received.

### Access to Justice

Between January 2013 and December 2013, CHRAJ received over 11,035 cases

**Table 3: Cases Received, Closed and Pending for the Last 10 Years**

Years	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
<b>Cases Received</b>	<b>13,726</b>	<b>14,953</b>	<b>15,749</b>	<b>13,931</b>	<b>13,455</b>	<b>12,919</b>	<b>12,443</b>	<b>12,900</b>	<b>12,018</b>	<b>11,049</b>
<b>Cases Closed</b>	<b>12,065</b>	<b>12,116</b>	<b>12,422</b>	<b>12,238</b>	<b>11,003</b>	<b>9,693</b>	<b>10,987</b>	<b>12,491</b>	<b>11,477</b>	<b>12,038</b>
<b>Cases Pending</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>3,263</b>	<b>3,804</b>	<b>2,815</b>

<b>Percentage</b>	<b>87.9%</b>	<b>81%</b>	<b>79%</b>	<b>81.8%</b>	<b>75%</b>	<b>*79.3</b>	<b>*75.1</b>		
<b>Closure</b>				<b>87.8%</b>		<b>88.3%</b>	<b>%</b>	<b>%</b>	<b>81%</b>

To facilitate access to justice in Ghana, a consortium of partners developed a web-based HIV-related and key population discrimination reporting system, housed at the Commission on Human Rights and Administrative Justice (CHRAJ). The web-based reporting system, which links the commission to civil society organizations through case reporting, follow-up, and aggregated reported data use, is designed to improve the capacity of CHRAJ to assist people living with HIV (PLHIV) and key populations to access justice.

Stigma and discrimination continues to play a major role in the lives of PLHIV and key populations, sex workers and men who have sex with men (MSM), in Ghana. The 2008 Demographic and Health Survey showed high levels of stigma, while other surveys and focus groups have continually showed significant discrimination in health facilities, places of worship, schools and workplaces. A PLHIV stigma index is planned for 2015. While little quantitative data on human rights violations against key populations exists, focus groups have shown that sex workers are particularly vulnerable to rape and assault, especially by police officers and clients. MSM also face random assaults and blackmail as a result of their sexual orientation.

The web-based system reflects increasing recognition that this discrimination poses serious challenges to human rights and quality of life. People living with or associated with HIV may

face job loss, substandard health care or rejection of care, violations of confidentiality, and travel restrictions. Many of these consequences can be addressed by ensuring that relevant legislation on employment discrimination, healthcare protection, and migration are respected and enforced.

With broad capacity to enforce protective legislative frameworks, CHRAJ is well placed to ensure redress for PLHIV and key populations. CHRAJ has taken great strides in the last two years to prepare for cases of discrimination. They have received training on how to work with stigmatized populations, developed a privacy and confidentiality policy, and created a health rights team to handle cases discretely.

Though CHRAJ has built strong capacity and can protect the rights of PLHIV and key populations in many different ways, demand for their services has been light. Civil society can benefit from referring cases to CHRAJ by ensuring redress for clients (even anonymously) and counting cases of discrimination in the national human rights statistics that CHRAJ reports. PLHIV and key populations can benefit from the system by obtaining redress for their complaints and contributing to understanding of the breadth of discrimination in Ghana.

### The Way Forward

Ghana has witnessed marked development on the human rights front since the coming into force of the 1992 Constitution and the creation of the CHRAJ. Notwithstanding these achievements, it is worth recognizing that the challenges are still daunting.

Among the recommendations that we would give at this time; we reiterate that the following measures ought to be implemented to ensure fairness, integrity, democracy and a culture that is more appreciative of human rights:

- The efficient administration of justice and respect for rule of law, which constitutes the foundation of democracy;
- The acceleration of the passage of the "Freedom of Information Bill;
- The need for the Ghanaian citizenry to continue to perform their civic duties in assisting the police to combat crime and violence and for communities experiencing conflict to put their faith in dialogue and avoid violence as a means of finding lasting solutions to their problems;
- More intensive public education and the enforcement of laws criminalizing dehumanizing cultural practices and laws that protect the rights of women and children;
- The strengthening of human rights and anti corruption institutions.

The years ahead will require collaborative efforts on the parts of the government, civil society, academia and the international community in monitoring the general situation of human rights in the country.

In order to cultivate a crop of dynamic citizens, who will also be watchdogs on democracy, it is important that democracy and human rights education be organized in ways that speak to the hearts and minds of all the people including the marginalized.

Every citizen, especially young people must benefit from good education and must be empowered with the necessary skills and tools to effectively participate in the important national duty of ensuring compliance with the highest standard of human rights democratic behavior.

The Commission on Human Rights and Administrative Justice, CHRAJ has three mandates in Human Rights, Administrative Justice and Anti-Corruption. Thus, the Commission promotes and protects fundamental rights and freedoms of all persons in Ghana. It investigates violations in all three mandates as well as educates the public as to human rights and freedoms through every appropriate media. Thus, the Commission envisions a society that is truly free, just and equitable, where human rights and human dignity are respected, where power is accountable, and governance is transparent.

The Commission for Human Rights and Administrative Justice (CHRAJ) was established in 1993 by Act 456 pursuant to Article 216 of the 1992 Fourth Republican Constitution of Ghana. The main functions of the Commission are set out in the CHRAJ Act, 1993 (Act 456). The Commission was further granted additional functions in subsequent legislation: the Children's Act, 1998 (Act 590), Administration of Stool Lands Act, and the Whistleblower Act, 2007 (Act 720), among others.

CHRAJ has a triple mandate that comprises of: (a) a National Human Rights Institution (b) an Ombudsman and (c) an Anti-corruption Agency. Additionally, new laws which affect Human Rights and Administrative Justice (for example the Freedom of Information Bill 2002, the Domestic Violence Act 2007 and the Whistleblower Act 2006) offer CHRAJ new opportunities to further improve Ghana's standards of rights promotion and protection. The Commission has



worked to deliver on these mandates and has established itself as an institution with considerable public legitimacy, credibility, and recognition, both nationally, and internationally.

## **1. INDEPENDENCE**

It appears, since the promulgation of the of the Fourth Republican Constitution in January 7, 1993, the government has recognized the importance of CHRAJ's independence and CHRAJ has asserted this independence with a number of high profile cases. Article 225 of the 1992 Constitution provides that except by the 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.

The Commission reports annually to Parliament on the performance of its functions. It draws its budget from the Consolidated Fund.

The Commission also investigates and works to prevent corruption. The Commission's anticorruption investigation powers are derived from Article 218 of the 1992 Constitution and Section 7(1) of Act 456.

## **2. COMPOSITION, APPOINTMENT PROCESS AND TENURE**

### **3.1 Composition**

CHRAJ operates under a three-member governing body that comprises a Commissioner as Chair and two deputy Commissioners. The Commission has five (5) departments namely: Legal and Investigation; Anti-corruption; Public Education; Finance; and Administration. CHRAJ has ten regional offices in the ten regional capitals, two sub regional and ninety-six district offices

across the country ensuring that the work of the Commission is brought to the doorstep of the ordinary person.

### **3.2 Selection and Appointment**

In line with Article 70 of the 1992 Constitution, the President appoints the Commissioner and Deputy Commissioners (2) in consultation with the Council of State. The Commissioner and Deputy Commissioners enjoy the terms and conditions of service of a Justice of the Court of Appeal and High Court respectively.

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

### **3.3 Tenure**

The Commissioner and Deputy Commissioners cease to hold office upon attaining the ages of seventy and sixty-five years respectively. The procedure for the removal of the Commissioner and Deputy Commissioners is 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 the Constitution.

## **3. ORGANIZATIONAL INFRASTRUCTURE**

### **4.1 Infrastructure**

An Act of Parliament enacted under article 216 of the country's constitution provides for the creation of regional and district branches of the Commission. CHRAJ has ten regional offices in the ten regional capitals, two sub regional and ninety-six district offices across the country ensuring that the work of the Commission is brought to the doorstep of the ordinary person.

## **4.2 Staffing**

The Commission employs has 713 officers.

## **4.3 Premises**

The Commission has ten regional offices, two sub regional and ninety-six district offices. In all, the Commission has 110 offices in the country.

I am delighted to present to the nation the 2012 Annual Report of the Commission on Human Rights and Administrative Justice (CHRAJ) at the beginning of implementation of a strategic plan that provides a new framework for CHRAJ to identify and develop its strategic direction for the incoming five years, 2011-2015.

The report is particularly significant when viewed in the context of a National Human Rights Institution (NHRI) that continued to work with very limited resources and significant high turnover of qualified personnel that continue to have a negative impact on the Commission's performance. However, despite the challenges experienced, the dedicated staff of the Commission worked diligently to improve on the previous year's performance.

The 2012 Annual Report provides details of the achievements of the Commission and analysis of reports on activities aimed towards enhancing governance and promotion, protection and advancement of human rights. Some activities carried out within the year also aimed at safeguarding integrity in the country; in line with the Commission's three- pronged mandates.

Armed with a new Strategic Plan, the Commission sought to make changes to bring about emphasis in its programming work to achieve its goals and deliver its services more efficiently.

## **Human Rights**

Major achievements by the Commission in advancing human rights include resolving 10,964 cases of the total number of human rights cases (13,218) dealt with by the Commission during the year under review.

In addition, the Commission conducted 4551 public education programmes nationwide. The public education activities and community outreaches aimed towards giving knowledge and deepening the understanding of citizens of fundamental freedoms and human rights in order to entrench a culture of peace and human rights in the country.

## **Promoting Fair Administration and Better Service Delivery in Public Service**

The Commission embarked on extensive capacity building for its staff which included specialized training programmes as a means of enhancing the skills of staff for effective performance of their administrative justice roles and responsibilities. These training programmes included training in ombudsman investigation, ombudsman practice and delivering ombudsman effectiveness.

The Commission also closed 823 of the 1,043 administrative justice cases it received in discharge of its Ombudsman mandate.

## **Combating Corruption**

The National Anti-Corruption Action Plan (NACAP), 2012-2021 developed in 2011, was submitted to Parliament on February 27, 2012 for adoption as a bipartisan action plan to combat corruption in the country. However, the NACAP could not be adopted by the time the term of

office of the sixth Parliament of the 4<sup>th</sup> Republic ended on January 6, 2013. Fresh effort will be required to have NACAP adopted by Parliament in 2013.

While we applaud the achievements highlighted above and all others detailed in the report, it is with the understanding that a lot more work is still required to enable the Commission to continue playing a meaningful role in advancing human rights and entrenching a democratic culture and peace in the country.