

**AN ADDRESS DELIVERED BY MR. JOSEPH WHITTAL, DEPUTY COMMISSIONER, CHRAJ, AT THE 5<sup>TH</sup> ANNUAL CHIEF JUSTICE'S MENTORING PROGRAMME, AT THE CHIEF JUSTICE'S COURT, SUPREME COURT BUILDING, ACCRA ON THE 9<sup>TH</sup> OCTOBER 2012**

**THEME: "ACCESS TO JUSTICE : A TOOL FOR PEACE AND STABILITY"**

**TOPIC : "THE ROLE OF THE COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE IN ENSURING ACCESS TO JUSTICE ESPECIALLY TO THE VULNERABLE IN SOCIETY"**

Her Ladyship, the Chief Justice of the Republic of Ghana

Justices of the Superior Courts of Judicature,

The Vice President of the Bar Association

Reps and Students of Schools in attendance

Distinguished Invited Guests

Friends from the Media

**INTRODUCTION**

I bring you the compliments of the Commissioner, Ms Laretta Lamptey, who would have wished to be in attendance personally at this 5<sup>th</sup> Annual mentoring programme initiated by Her Ladyship the Chief Justice. Unfortunately she is out of the Country attending a Workshop on "Aging in Africa" and has kindly asked me to represent her.

Ghana has made remarkable progress since we embarked on the 4<sup>th</sup> Republican Constitutional democratic dispensation. We have witnessed the steady rise in GDP figures from around 5 percentage points in the early 1990s to the unprecedented 14 percentage figure chalked last year largely assisted by the new oil income we have begun to enjoy. But I dare say that the importance of economic growth represented by GDP figures and other macro-economic indicators such as inflation, Producer Price Index (PPI) and Consumer Price Index (CPI) are not in themselves so important until they translate into an enhanced quality of life enjoyed by Ghanaians especially the vulnerable in our society: women, children, persons with disabilities (PWD) etc

One of the crucial indicators of a healthy, people-centred democracy is how it treats its vulnerable. To make a good assessment, one has to ask the question is there a conscious attempt to include them and to take care of their special needs in the development agenda? It is only when a country has set itself the agenda to mainstream the special needs of the vulnerable in its forward march that we can say that it is truly democratic.

## DEFINING ACCESS TO JUSTICE

Madam Chair

The theme for the mentorship programme is “**Access to justice: a tool for peace and stability**”. I have carved out the topic “**The role of CHRAJ in ensuring access to justice especially to the vulnerable in society**” from the theme and would like to begin by first discussing what we mean when we talk about access to justice.

Access to justice can be viewed from two angles – the broad and narrow perspectives : In broad terms it is the same as **social justice**. This involves the provision of access to state-sponsored health ;education ;welfare and legal services. In the narrower and more known perspective “Access to justice” can be defined as access to **state-sponsored or formal legal services such as:**

- Access to information about legal rights and responsibilities
- Legal Advice
- Legal Counselling
- Legal Representation
- Legal Advocacy etc

Whether perceived from the broad or narrow perspectives, a nation where citizens have access to the core services such as health; education; justice and other social amenities without distinction of any kind and not subject to the requirements of individual means such as finance; whether one stays in urban or rural areas ; whether one is rich or poor- would be to conceive of a nation that truly takes care of its citizens and one in which there is peace and stability – key ingredients for development.

Indeed that is the spirit behind Article 34(2) of the Constitution under the Directive Principles of State Policy which specifically requires the President to report annually to Parliament at least once a year all the steps taken to ensure the realisation of the policy objectives under the Directive Principles of State Policy and in “particular, the realisation of basic human rights, a healthy economy, the right to work, and the right to good health care and the right to education” in my humble opinion this is the minimum core expected in any political party manifesto and the criteria with which the President should anchor his annual report to Parliament as well as the basis for assessing the President’s report by Parliament.

Thus if faithfully followed, Article 34 (2) contains the policy thrust for ensuring access to justice in the broader sense and thereby ensuring peace and stability in Ghana.

## THE FUNCTIONS OF CHRAJ

The 1992 Constitution provides for the establishment of a number of governance institutions with specific responsibilities . The Commission on Human Rights and Administrative Justice ( CHRAJ) is one such Constitutional body.

It is one institution that combines three main functions : a National Human Rights Institution (NHRI)- charged with the promotion and protection of human rights guaranteed under the Constitution; an Ombudsman or administrative

justice institution responsible for receiving and investigating complaints from members of the public who have suffered injustice or unfair treatment from public officials in the course of their administrative functions; and an anti-corruption mandate which includes investigating with or without a complaint, allegations and suspicions of corruption and misappropriation of public funds by public officials and to take appropriate steps including reports to the Attorney-General and the Auditor-General resulting from the investigations.

Moreover, it is charged with responsibilities for enforcing the code of conduct for Public Officers under the Constitution including specifically investigating allegations of conflicts of interest; declaration of assets by Public officers and to take such actions as it considers appropriate in respect of the results of the investigations; It is also responsible for educating members of the public with respect to human rights in order to make them capable of knowing and demanding protection from duty bearers such as the state and other individuals.

### **ROLE OF CHRAJ IN ACCESS TO JUSTICE**

The Framers of the 1992 Constitution clearly had in mind the geographical accessibility of the services of the Commission to cover as many people as possible and most especially the vulnerable in society when Article 220 specifically provides that “An Act of Parliament enacted under article 216 of this Constitution shall provide for the creation of regional and district branches of the Commission”.

This Constitutional imperative has been enacted by Parliament under section 10 of the Commission on Human Rights and Administrative Justice Act, Act 456 which has gone further than the Constitutional provision in Article 220 to give the discretion to the Commission to “create such other lower structures as would facilitate its operations”

So far the Commission has been able to open offices in all the ten administrative Regions in the country with two sub-regional offices in Tema and Obuasi and one hundred and two District offices all over the country. The Commission will continue to open more offices in the country side and to staff them with competent staff depending on the availability of resources from the Consolidated Fund

In addition to physical or geographic accessibility of the Commission’s services nationwide, the services of the Commission are free . No fees are charged. The administrative and service fees of the Commission are borne by the Consolidated Fund.

Provision is in fact made for persons with any complaint to make to the Commission but who cannot read or write to walk into any of the Commission’s offices and narrate the substance of their complaint to verbal complaint officers who will take down the complaint and depending on its nature investigations may commence.

Those persons who cannot physically be present due to distance but have access to modern means of information communication technology such as email, faximile etc may also trigger the Commission’s investigative mandate by transmitting their complaint to the Commission electronically.

Notably, the Commission’s investigations are inquisitorial, i.e upon lodging the complaint, the Complainant may or not have to provide all the evidence necessary for the Commission to arrive at a decision. It is also the responsibility of the Commission to go out and gather evidence in an attempt at finding the truth in the matter under investigations

Alternative dispute resolution mechanisms especially mediation is widely used by the Commission especially in the resolution of family related complaints. The informality that attends mediation sessions and the general relaxed atmosphere devoid of intimidating procedures and language is very welcoming to the ordinary person especially the

vulnerable and has contributed immensely to quick dispute settlements in all the Commission's offices. About ninety five percent of complaints to the Commission are disposed of through mediation. On the average the Commission receives and disposes of about fourteen thousand complaints annually

### **PUBLIC EDUCATION ON HUMAN RIGHTS**

It is a truism that knowledge of human rights entitlements even by the educated in our society is very low. This must be the reason why the Constitution specifically mandates the Commission to educate the public on the fundamental human Rights guaranteed under it in order to enable all persons demand protection of their rights. Citizens must also know of their correlative responsibilities.

Under the Commission's **2011- 2015 Strategic Plan**, emphasis is placed on the **promotion and protection of Economic, Social and Cultural Rights ( ESCRs)** with emphasis on the rights of the vulnerable in particular including the rights of women, children, people with disabilities (PWDs), people living with Hiv/aids and generally the marginalised in society. Due to the principle of legal pluralism under the Constitution, customary law exists side by side with statutory or Constitutional law yet at the same time our patriarchal social system and traditions contain some of the most serious discriminatory provisions especially against women. The Commission has therefore over the years targeted some of these outmoded customary practices which are dehumanising and discriminatory especially against women and the girl –child for special advocacy nationwide. Instances of some of these include widow-hood rites; trokosi; witch –camps etc.

### **PROTECTING ECONOMIC , SOCIAL AND CULTURING RIGHTS THROUGH MONITORING**

Annually, the Commission undertakes monitoring of the state of human rights in Ghana and the major area of focus is to what extent Government meets its obligations under International Human Rights Instruments especially those that are meant to enhance the quality of life of Ghanaians in the social area. Education, Health and Places of detention and slums are some of the main areas the Commission monitors.

Government social interventions such as the capitation grant; the school feeding programme ;the free uniform policy for basic public school are some of those monitored in the education sub-sector whiles the operations of the National Health Insurance Scheme the main one monitored in the Health sector. Prison and police cells are also monitored to determine whether the state of the prisons and the care given to those in lawful custody meet minimum standards under international law.

Recommendations regarding findings are then made to various duty bearers to improve upon performance contained in the Commission's annual state of human rights report of the Commission released on the 10<sup>th</sup> of December every year.

This year instead of the monitoring being carried in the education and health sectors, the Commission has trained and will deploy about 300 of its staff nation-wide to monitor the right to vote as well as monitoring political Party campaigns and the Media before, during and after the 2012 Presidential and Parliamentary elections.

## **PEACE AND STABILTY AS OUTCOME**

It will be realised that the Commission has actually being conceived as an avenue for access to justice and that it has so far positioned itself to carry out its Constitutional mandate in that respect. Again, the outcome of the Commission's efforts in contributing to access to justice in Ghana especially towards the vulnerable, goes a long way to ensure peace and stability .

THANK YOU