

UNIVERSITY OF CAPE COAST

THE ROLE OF THE COMMISSION OF HUMAN RIGHTS AND
ADMINISTRATIVE JUSTICE IN THE PROMOTION OF GOOD
GOVERNANCE IN GHANA

BY

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Dissertation submitted to the Institute for Development Studies of the Faculty of
Social Sciences, College of Humanities & Legal Studies, University of Cape
Coast, in partial fulfilment of the requirements for the award of Master of Arts
Degree in Democracy, Governance, Law and Development

DECEMBER 2016

DECLARATION

Candidate's Declaration

I hereby declare that this dissertation is the result of my original work and that no part of it has been presented for another degree in the university or elsewhere.

Signature:.....

Date.....

Candidate's Name: Chris Dadzie

Supervisor's Declaration

I hereby declare that the preparation and presentation of this dissertation was supervised in accordance with the guidelines on supervision of dissertation laid down by the University of Cape Coast.

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ABSTRACT

To ensure its democratic governance, Ghana has established the Commission on Human Rights and Administrative Justice (CHRAJ) in particular to promote and protect human rights and freedoms and administrative justice. There is not enough comprehensive literature from studies on the effect of a national human rights institution like the CHRAJ on the development of a culture of human rights and its impact on promotion of good governance.

Non-interventional and descriptive study design was employed. The study used both primary and secondary data. Specifically, survey was conducted for the respondents. The respondents comprise persons who had filed complaints in the offices of the CHRAJ in Accra and Cape Coast and persons who had not directly used the services of the CHRAJ. Simple random sampling method was adopted in selecting 80 respondents. The primary data was analysed using SPSS whilst content analysis was employed in analysing the secondary data.

The study found that national establishments like the CHRAJ are necessary for attaining good governance in spite of the existence of other governance institutions like the judiciary and commissions for protection of the media and the electoral process, among others.

It is recommended that the CHRAJ should be adequately resourced by the State. The CHRAJ should enhance public awareness of requirements for its proper functioning as valuable information for policy makers as well as civil society to guarantee its credibility for promoting good governance.

ACKNOWLEDGEMENTS

It is with pleasure and gratitude that I acknowledge my indebtedness to Professor P. E. Bondzi-Simpson for his direction and encouragement and to Professor J. V. Mensah for his graciousness over the study period.

I am also grateful to all authors whose work I have accessed in this study. My gratitude also goes to my daughter Christabel Dadzie, as well as Emmanuel Aggrey, Fred Mahama, Lydia Essien and all those who helped me administer the questionnaires and carry out other activities required for completing this study. I appreciate those who freely granted me interviews, particularly Dr. Baffour Agyemang-Duah and Professor Justice Modibo Ocran for their invaluable guidance to help me focus on key issues.

DEDICATION

To my grandchildren Jacy, Joshua and Master Chinualumogu Dadzie.

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CHAPTER ONE

INTRODUCTION

Background to the study

The adoption of the Universal Declaration of Human Rights in 1948 established a common standard of achievement for all peoples and nations. This feat was the international response to a critical need of mechanisms for preventing violations of the dignity of the human person and for ensuring the primacy of human rights and freedoms through their protection by the rule of law. According to the Vienna Declaration by the World Conference on Human Rights in 1993, access to human rights standards should be provided for all people irrespective of their country of origin or choice of residence. Accordingly, countries are encouraged to endorse and integrate international human rights in national legislation and strengthen relevant domestic institutions.

In recent years, there has been increasing recognition that, apart from the traditional law enforcement bodies like the judiciary for affording access to justice generally, programmes for strengthening domestic institutions should include the creation of new, permanent and separate organisations. As indicated by a United Nations Secretary General, the guarantee for ensuring the advancement and sustenance of human rights is the development of vibrant institutions that promote and protect human rights at the national level (Annan, 2002).

With the acronym “NHRIs,” national human rights institutions encompass human rights commissions and ombudsman offices. The Vienna Declaration

explains that operations of NHRIs are aimed at advancing a culture of respect for human rights at all levels of national development and thereby promoting good governance as evidenced by the assertion that democratic development and human rights are essentially interdependent and mutually reinforcing.

NHRIs are relatively new and rather peculiar establishments as they are to be independent and yet exist within the state structure. This situation calls for clarity about the role of NHRIs so that they are seen as a complement rather than a substitution or alternative to other public bodies, particularly an accessible judiciary (Kumar, 2003). To address such issues, a major international forum in Paris drafted comprehensive recommendations which were adopted by the United Nations in December 1993 by its Resolution A/RES/48/134, as the “Principles relating to the status and functioning of national institutions for protection and promotion of human rights,” popularly referred to as the Paris Principles.

By this guide, a national institution should exhibit certain characteristics including competence to protect and promote human rights, a broad mandate from a national constitution or legislation, independent appointment procedures, pluralist representation of the social forces in society, and adequate funding to ensure independence of the government. The focus of a national institution is on human rights promotion and maintenance through the investigations of violations, conduct of public education and submission of relevant recommendations to appropriate authorities on matters including reform of legislation and administrative practices, and reporting on the state of human rights in the nation.

At the regional level, the African Charter on Human and Peoples' Rights (1981) has endorsed NHRIs, and several African countries have established such institutions. Some NHRIs have broad mandates like Ghana and Tanzania while others such as South Africa have separate institutions for human rights, administrative justice and gender, among others. Some of these institutions such as the Ghanaian, South African and Ugandan bodies have been lauded for their performance. Other NHRIs have been viewed as generally ineffective and referred to as apologists for violations by their governments (Human Rights Watch, 2001; Network of African National Human Rights Institutions, 2006).

Ghana has been a member of the United Nations since 1997 and has endorsed many human rights treaties and declarations and incorporated their main provisions into national legislation. Mainly due to military interventions in governance, the nation has promulgated four different constitutional documents (1960, 1967, 1979 and 1992). Constitutions preceding 1992 depended on the general framework of statutory and common law principles operated primarily through the judicial system to deal with human rights issues. However, the 1992 Constitution provided for the creation of a peculiar mechanism, the Commission on Human Rights and Administrative Justice (CHRAJ), in addition to existing state institutions. Ghana's national human rights institution was accordingly established in 1993.

The CHRAJ states that its mission is to "enhance the scale of good governance, democracy, integrity, peace and social development by promoting, protecting and enforcing fundamental human rights and freedoms and

administrative justice for all persons in Ghana” (CHRAJ, 2005, p.18). The CHRAJ’s legal framework provides for its independence from government control, security of tenure for its Commissioners and funding from the Consolidated Fund. Its composition is restricted to the legal profession and does not have a pluralist representation of the social forces recommended by the Paris Principles. The CHRAJ’s mandate is broader than many NHRIs because of its concurrent oversight of issues of human rights as well as administrative justice and anti-corruption.

The CHRAJ has generally enjoyed an appreciable level of goodwill from the general public in Ghana as well as from outside the country (Quashigah, 2000; Human Rights Watch, 2001; African Peer Review Mechanism, APRM 2005). However, there have been consistent complaints from the CHRAJ itself about some challenges that hamper its effectiveness such as inadequate provision of resources and a consequent high attrition rate among its core staff, particularly its professional officers (CHRAJ, 2005). Sections of the public and some leaders of CHRAJ have called for an expansion of its mandate to include the power to directly implement its recommendations after formal investigations of complaints and to prosecute persons it has found culpable of corruption or embezzlement of state funds (CHRAJ, 2003). On the other hand, others propose a deletion of the anti-corruption mandate, while some others suggest that the CHRAJ has not yet done enough to fulfil its current mandate.

Statement of the problem

Formerly, apart from the classic Ombudsman offices that dealt mainly with issues of administrative justice within public establishments, violations of human rights were regarded as being within the realm of the traditional/classic legal framework as operated by the regular law courts and their supporting systems. In recent times, a great deal of attention has been drawn to issues of human rights in almost all fields of endeavour. National human rights institutions have been established to ensure compliance with universal standards for implementing human rights norms and instruments in a sustained and comprehensive manner. The use of NHRIs, as distinct, independent and separate bodies from the mainline legal system, has been encouraged worldwide and particularly by the United Nations.

However, the concurrent operations of different systems for dealing with protection of human rights have presented challenges for the effectiveness of implementing institutions: questions of duplication and requirement of national resources, and whether they have import as influencers of good governance or they are only pliant tools to give government credibility. There are other challenges including the willingness of governments to support NHRIs through provision of adequate financial and other resources. It is with this line of questioning that the researcher seeks to examine the role and value, the mode of operation and other factors that influence the viability of the NHRI in Ghana and its role in promoting good governance.

Objectives of the study

The general objective of the study was to examine the role of the Commission on Human Rights and Administrative Justice (CHRAJ) in the promotion of good governance in Ghana.

Specifically the study sought to

1. examine people's perception of good governance
2. describe the CHRAJ's capacity to influence good governance
3. explore the challenges that the CHRAJ faces in carrying out its functions
4. make recommendations for improving the functioning of the CHRAJ

Research questions

Based on the objectives, the study aimed at finding answers to the following questions:

1. What capacity do NHRIs like the CHRAJ have for contributing to good governance?
2. What challenges do NHRIs face in carrying out their functions?
3. How can the CHRAJ be supported to implement its mandate?

Rationale for the study

One of the major ways in which many countries in recent times are strengthening and maintaining human rights standards within their borders has been the creation of independent national human rights institutions (NHRIs). Similar to other countries, Ghana established an NHRI in the form of the

Commission on Human Rights and Administrative Justice (CHRAJ). NHRIs have either managed to meet international standard recommendations for their establishment and support, or have not proved useful as national institutions for promoting human rights in their countries. The questions that have been raised about these institutions include their effectiveness or otherwise depending on their legal and institutional frameworks, the degree of their independence from government control, and the provision of adequate resources for their operations. It is therefore necessary to set out clearly the actual role and responsibility of NHRIs in national development, their mode of operation and the factors that influence their viability.

Thus, there is a need to examine the circumstances that negatively affect the performance of NHRIs like the CHRAJ in Ghana and what would be the best environment for maintaining a strong human rights institution at the national level with the ability to promote good governance. It is suggested that there is a dearth of comprehensive studies especially in Ghana that could help elicit recommendations for improving the performance of such a vital national body.

Accordingly, this study is aimed at examining the Ghanaian experience through a review of the establishment and work of the CHRAJ as a national human rights and Ombudsman institution for the realisation of human rights, respect for the rule of law and sound governance. It is hoped that this study will prompt further research and public dialogue into the effective functioning of the CHRAJ and related governance institutions. Eventually the findings and conclusions of the study are expected to aid policy and implementing agencies,

including the CHRAJ itself, to device ways of obtaining the maximum benefits from the operation of Ghana's NHRI and also for helping other countries to effectively run their own institutions. It is also hoped that this study will serve as a reference for further studies into similar areas by students and professionals and add to cannon of knowledge.

Organisation of the study

The study has been divided into five chapters. Chapter One gives the background to the study, statement of the problem, objectives of the study, research questions and justification of the study. Chapter Two focuses on the review of relevant literature as well as theoretical findings relating to the study. Chapter Three presents the methodology that was used for the study. It includes the study design, population, sample size and sampling procedure, instruments and techniques of data collection as well as the sources of data, processing and analysis. Chapter Four focuses on results and discussion. Chapter Five presents the summary, conclusions and recommendations.

CHAPTER TWO

REVIEW OF LITERATURE

Introduction

This chapter reviews and documents the results of other studies that are closely related to the research work. The section relates the research to the larger, ongoing dialogue and theoretical debates in literature about a national human rights institution as an important state mechanism with the capacity to influence or contribute substantially to good governance.

Articulation of human rights

Many of the well known theories of human rights are based on classical notions of natural law or natural rights derived from religious precepts or popular perceptions of morality and justice. Contemporary articulation of human rights was particularly marked by the adoption of the Universal Declaration of Human Rights in 1948 by the United Nations to set a common standard of application of human rights. However, claims of sovereignty, non-interference in national affairs, among others, affected the mode of acceptance of the primacy of human rights throughout the world. The adoption of the international covenants on Civil and Political Rights and on Economic, Social, and Cultural Rights in 1996 initiated internationally binding legal human rights obligations (Kumar, 2003). Over the years, other documents were adopted to deal with specific areas of vulnerability such as the Convention on the Elimination of All Forms of

Discrimination against Women in 1979, and the Convention on the Rights of the Child in 1989.

However, Butegwa (1995) observes that there are still a lot of different views about the nature and content of human rights and some nations and groups tend to apply subjective and political biases to the subject. In particular, the notion of universality and indivisibility of human rights have been contested. One contention is that current concepts of human rights reflect western notions with a bias for individuals' claims and neglect group rights. Shivji (2001) asserts that for Africa's purposes, human rights amount to a philosophy of domination, and non-western values must be incorporated into definitions before human rights can be accepted as universal. Yet, the African Charter on Human and Peoples' Rights (1981) endorses the notion of universality of human rights and also the element of respect for the individual as well as groups that is inherent in all the bedrock principles of human rights (Organisation of African Unity, 1981).

The principle of universality of human rights recognises that there are values that are commonly shared in all regions of the world, that rights may not be experienced in the same manner by all people, and human rights standards are set to address resultant disparities (Irving, 2008). This stand is buttressed by the large number of states that have endorsed international human rights instruments, and have asserted boldly through the Vienna Declaration at the World Conference on Human Rights (1993) that the universal nature of human rights is beyond question and encompasses the rights of women, children and other marginalised populations.

Another point of contestation is the categorisation of human rights. This notion challenges the principle of indivisibility of human rights and accords higher value to certain rights, such as civil and political rights than to economic, social and cultural rights. However, the African Charter for instance, declared in 1981, that no such distinction should be made in the conception of human rights. Then in 1993, the Vienna Declaration established that the foundational principles of respect for human dignity, equality and non-discrimination affirm that all human rights are inalienable, indivisible, interdependent and interrelated and must be applied all over the world with the same standard and fairness.

Irrespective of how human rights are depicted, there exists a broad agreement on their importance at both national and international levels (Butegwa, 1995). A human right has been depicted as a “Universal moral right, something which all men, everywhere, at all times, ought to have, something of which no one may be deprived without a grave affront to justice, something which is owing to every human being simply because he is human” (Cranston, 1973, p. 36). This often cited definition confirms that human rights are universal and held by all persons no matter what country they are citizens of or which part of the world they choose to inhabit.

Governments and human rights

The realisation of human rights has been accepted as a prime governance and development concern by member states of the United Nations who have declared, particularly in the Vienna Declaration, that it is the primary obligation

of governments to promote and protect fundamental human rights and freedoms since they are the birthright of all persons. Human rights standards require governments to respect, protect and fulfil human rights. Governments are obliged to respect rights by refraining from interfering with the enjoyment of rights; protect rights by preventing violations of rights by third parties; and fulfil rights by providing appropriate legislative, judicial, financial, administrative, and other measures. One significant measure is the provision by states of viable human rights institutions at the national (Annan, 2002).

Good governance

Governance has been described as the exercise of authority by institutions and processes for making decisions and their implementation in an economy (UNESCAP 2008). Governance comprises both formal and informal principles and arrangements of actors and structures for ensuring compliance with systems of rules.

The UNDP (2005) gives a broader version of governance as comprising machinery and institutions for expression and mediation of citizens' interests, differences, rights and obligations. Thus, good governance connotes more than state action and encompasses the private sector and civil society. Ideally, good governance involves efficiently functioning institutions which uphold the fundamental law or constitution of a country and protects all citizens. Further, good governance is equitable, ensures efficient resource management, and respects the rule of law. This confirms earlier opinion (UNDP, 1998) that the

fundamental principles of good governance are of universal application and include political openness, transparency and accountability; administrative and bureaucratic capacity and efficiency; tolerance and participation of civil society.

The United Nations Commission on Human Rights (OHCHR, 2008) observed that the expression good governance does not have one commonly accepted definition or a delineation of its scope, yet the various descriptions indicate a common understanding of the concept.

Good governance link to human rights

The United Nations Commission on Human Rights (OHCHR) projected governance from a rights-based approach. Governance is therefore seen as the management of public concerns and wealth as well as a commitment to realisation of human rights. Good governance is the result of public administration that respects the rule of law, and eschews abuse and corruption. The real measurement for good governance is the extent to which the state's commitments are fulfilled regarding all categories of human rights - civil, political, economic, social and cultural rights (OHCHR, 2008). The United Nations Economic Commission for Africa confirms that some of the most significant indicators of good governance are human rights and the rule of law and that good governance and human rights are mutually reinforcing (UNECA, 2005).

Further, human rights provide performance standards that include clear and appropriate legal frameworks and democratic institutions for guiding and assessing the work of governments and other political and social actors. The

standards include human rights education of the general populace to provide the knowledge of principles as well as realisation systems including the functioning of human rights institutions in order to ensure appropriate participation of citizens in governance (United Nations, 2005).

Key attributes of good governance

It is the rights-based approach that adds to the list of characteristics of good governance - transparency, accountability, participation - the elements of responsibility and responsiveness to the needs and rights of the people. By its Resolution 2000/64, the OHCHR made an express link between good governance and an enabling environment for realisation of human rights and prompting growth and sustainable human development. The United Nations Committee on Economic, Social and Cultural Rights stressed the vital necessity of good governance for the realisation of human rights as well as poverty eradication and provision of adequate livelihoods.

This rights-based approach is founded on internationally recognised human rights principles and standards which are required to be integrated into the plans, policies and processes of development. The call has been made for increased accountability at both international and national levels, an enhanced focus on promotion of empowerment, participation and attention to vulnerable groups (OHCHR, 2008). This view has been endorsed, and that the promotion of human rights is indispensable to good governance and development, and places

the dignity of the human person at the centre of development (The UN Declaration on the Right to Development, 1986; World Bank, 1998).

In Ghana, a report on a study on governance institutions endorsed the UNDP's definition and maintained that good governance is an essential requirement for sustainable national development and involves a secure political environment that ensures freedom, justice and the rule of law (CDD – Ghana, 2000). The adoption of the human rights based approach to development has also been welcomed as legitimate and as requiring study and adoption by both civil society and government in order to ensure its impact on all aspects of governance (Tsikata, 2005). As opined by Kumar (2003), principles of human rights, development, and democracy have greatly impacted the perception of good governance.

It may be concluded that governance is simply the way of managing state affairs, through proper and accountable administration by mandated authority (Reif, 2000). Additionally, the recognition of the human rights based approach in current discourse has moved good governance and development from benefiting only a part of a nation to covering the wellbeing of all persons. This consciousness of the centrality of the human person in governance and development emphasises the vital need for strengthening human rights promotion, and this is best achieved through the establishment and sustenance of strong and autonomous human rights institutions at the national level (Committee of Experts, 1991; UNECA, 2005).

Institutions that facilitate good governance

The Executive office of a nation is considered a mainline governing body, but its mandate to implement realisation of constitutional provisions usually places it in a position that requires other agencies to monitor its performance. Thus bodies that are usually classified as good governance institutions are the legislature, electoral agency and the judiciary. While the legislature mediates differing interests, establish policies, laws and resource priorities, electoral bodies and processes ensure free and transparent elections, the judiciary upholds the rule of law. These institutions should act as checks and balances to ensure that the Executive fulfils its duty to protect and the rights of all its citizens. Each body plays distinct but supporting roles. Alongside these mainline bodies, national human rights institutions are placed to help ensure that all governing institutions and citizens uphold national and internationally recognised human rights agreements and standards (UNDP 2005; Committee of Experts, 1991).

Historical development of National Human Rights Institutions

Ombudsman

Although the Ombudsman is currently classified as a type of national human rights institution, this description is a relatively recent development. Originally developed in the Nordic states, the Ombudsman was usually a respected man who would take up complaints of citizens aggrieved by the action of public officers. In later years, the concept of Ombudsman became institutionalized and the person was appointed by the king as head of State until

the concept finally developed into a constitutional entity. Currently, many countries have the Ombudsman as an integral part of institutions for the maintenance of good governance. Though an Ombudsman is appointed by a Government, the Head of State or Parliament, the terms of office are usually designed to ensure that the Ombudsman is, and remains, independent of the appointing body or any political party.

The position is no longer limited to men and the Ombudsman/woman focuses on the investigation of complaints of public maladministration, has power to recommend corrective action and issue reports to appropriate bodies. However, the Danish Parliamentary Ombudsman, for example, cannot prosecute cases of unlawful activities nor criticize Parliament; the mandate is to ensure that the Executive carries out the will of Parliament according to the correct interpretation of laws and regulations (Gameltuft-Hansen, 2005).

National Human Rights Institutions

Most national human rights institutions emerged after the Universal Declaration of Human Rights in 1948 and the establishment of the UN Commission on Human Rights. Initially, only a few institutions were established to handle the increasing numbers of human rights instruments. Later between 1990 and 2002, the NHRIs rose from eight to fifty-five in all regions of the world. This remarkable development has been assigned to certain events, particularly a democratisation process that several totalitarian states initiated at the end of the cold war and the need for new institutions with a specific mandate for monitoring

and promoting the development of a culture of human rights (Kjaerum, 2003). The UN regarded these institutions as important for realisation of human rights at the national level and encouraged their establishment and operations.

In 1991, a large gathering of representatives of national institutions, States, the United Nations, intergovernmental and non-governmental organisations met to evaluate the viability of NHRIs. The outcome was a draft of guiding principles for informing the structure and operations of national institutions. The guidelines were endorsed by the UN Commission on Human Rights and adopted by the U N General Assembly in December 1993 as “Principles relating to the status and functioning of national institutions for protection and promotion of human rights” which became popularly known as the Paris Principles.

Characteristics of National Human Rights Institutions

Unlike the Ombudsman, a human rights institution is usually called a commission, and has three or as many as fifteen members, apart from supporting staff. According to the guidelines of the Paris Principles, an NHRI is expected to be assigned the competence to handle human rights issues, a broad and clear mandate from a national constitution or legislation, independent appointments procedures, pluralist representation of the social forces in society, and adequate funding to ensure independence of the government. The institution’s responsibilities entail making recommendations to competent authorities on human rights concerns, contributing to State reports to the United Nations and

promoting ratification of international human rights instruments and their harmonisation with national legislation and practices. Other duties include research, provision of human rights education to the public and collaboration with the United Nations, regional bodies, other NHRIs and non-governmental organisations. When mandated, a national institution may deal with complaints concerning individual situations.

Conditions that influence the establishment of NHRIs

The circumstances that influence the establishment of national human rights institutions may be varied but appear to be quite similar for many countries. For example, Tiwana (2004) suggests that the Indian government established the National Human Rights Commission in response to increasing complaints from the public about lack of respect of human rights by government and security agencies, and constant reminders by the international community about the government's obligations to protect human rights. History shows that many NHRIs were established after their countries transitioned from other forms of government to democracies.

Challenges faced by NHRIs

It seems that most NHRIs face similar challenges that affect the quality of their performance and their ability to fulfil their mandates. The challenges have included time-bars that prohibit investigation of events which occurred more than twelve months before a complaint was lodged. Tiwana (2004) asserts that this

prevents NHRIs from addressing many legitimate grievances, especially in the immediate period after an institution's establishment. However, in Ghana, the law gives discretion instead of an absolute prohibition in such cases and thus the CHRAJ may use the discretion to bridge the potential gap that could be created by an unconditional time bar. For some NHRIs, there are other limitations on the scope of their mandates. For example, India's commission does not have the authority to investigate violations by the Armed Forces or call for information from the government, and this limits measures for handling all human rights violations throughout a country.

Other challenges include the government's neglect of, or delay in taking, appropriate action for implementing recommendations made by an NHRI as well as inordinate delays in appointing new commissioners to fill vacancies in leadership teams. This unfortunate behaviour of appointing authorities results in limiting an NHRI's capacity to act promptly and efficiently on complaints and other duties.

One of the main and perhaps the most prevalent of challenges faced by NHRIs is the limited or irregular provision of funds and other resources for operations. Inadequate funding adversely affects provision of needed infrastructure, staff capacity and retention and consequently the quality of the institution's service delivery. According to the Paris Principles (1993), limited budgetary resources present a challenge as financial control by government might be used as an avenue to affect an NHRI's independence. It has also been asserted that a large part of allocations to NHRIs are spent on administrative expenses,

particularly for maintenance of the commissioners, thus adversely restricting needed funding for core areas like research and human rights education (Tiwarna, 2004).

Human rights and governance framework in Ghana

Ghana joined the United Nations Organisation (UN) shortly after becoming a sovereign state in 1957 and has incorporated the main international human rights instruments into its national legislation. Ghana is also a member of other international associations including the Commonwealth and regional networks including the African Union which has endorsed international human rights standards by its original OAU Charter in 1963 and the Constitutive Act in 2000. The government has undertaken these international obligations based on the authority it receives from the people of Ghana towards recognition of the principles of universal adult suffrage, the rule of law, and protection and preservation of fundamental human rights and freedoms, unity and stability.

The 1992 Constitution of Ghana guarantees a comprehensive catalogue of human rights and by Article 33(5) recognises “others not specifically mentioned which are considered to be inherent in a democracy and intended to secure the freedom and dignity of man”. Rights are to be respected and upheld by the Executive, Legislature and Judiciary and all government agencies as well as by all natural and legal persons in Ghana. Specifically, Article 12 provides that enforcement of rights is to be by the courts through hearing of suits for redress of

breaches of human rights. Article 36(4) provides that the State has the obligation to cultivate national respect for human rights and the dignity of the human person.

There are other governance institutions established under the Constitution. These include the National Commission on Civic Education (NCCE) which is mandated to build awareness of civic responsibilities and rights of citizens as free people, the Electoral Commission is to handle public elections and educate the people on the electoral purpose, while the Media Commission should ensure the freedom and independence of the media for mass communication and information. The Commission on Human Rights and Administrative Justice (CHRAJ) is given oversight of the promotion and protection of all fundamental human rights and related administrative justice and anti-corruption programmes and thereby promote good governance and accountability in Ghana.

Background to the establishment of the CHRAJ

The Independence Constitution of 1957 provided for checks and balances among the three arms of government, the Judiciary was guaranteed power of review and sufficient insulation against executive interference. Yet, these checks were swept away by constitutional changes which eventually culminated in the 1964 Constitution being amended to give first President discretion to dismiss judges of the Supreme and High Courts for reasons which appeared to him sufficient as well as to establish a one-party state of the ruling Convention People's Party (CPP). That period witnessed serious violations of constitutional

and human rights such as executive interference in judicial process, harassment by security forces and detention without trial.

Following a military take-over, succeeding constitutions tried to ensure more protection of rights through detailed statements of human rights that were made justiciable, entrenched and could not be detracted or derogated from. In spite of all these and other guarantees, there were instances such as the Prime Minister's adverse reaction to the court's judgement in the case of Sallah versus the Attorney General (Supreme Court, 1970) that was perceived as an attempt by the Executive arm of government to put undue pressure on the Judiciary. Thereafter, apart from the short lived 1979 Constitution, the nation was administered by various military regimes until the last one, the Provisional National Defence Council (PNDC) metamorphosed into a constitutional government in 1992. The current Constitution is therefore replete with provisions of human rights aimed at guaranteeing the maintenance and practice of democratic governance.

Ghana's history shows the failure of several constitutional documents and political administrations to prevent violations against the constitution itself as well as against human rights of individuals during both constitutional and military regimes. In those circumstances, more assurance than constitutional provisions and the traditional governing institutions was needed to guarantee the sustenance of viable democratic governance. As the Committee of Experts (1991, p. 5) for drafting the 1992 Constitution asserted, "a catalogue of rights, however elaborate, is meaningless without an effective enforcement mechanism." Accordingly, the

Committee recommended the addition to other institutions of executive President, Judiciary and Council of State, a “Special” Commission on Human Rights and Administrative Justice (CHRAJ). The Constitution adopted the recommendation and subsumed the existing office of the Ombudsman in the new institution, so it would have a three-pronged mandate coverage of human rights, administrative justice and anti-corruption issues.

Composition of the CHRAJ

The Constitution requires the CHRAJ Commissioner and two Deputy Commissioners to be lawyers who are qualified to be appointed as Justices of the Court of Appeal and High Court respectively. The CHRAJ has chosen to appoint all its regional directors from the legal profession although the district heads need not be lawyers. It is suggested that the Ghanaian case could initially be supported by the encouragement of the Vienna Declaration by the second World Conference on Human Rights for each country to adopt a model that would be most appropriate for its peculiar circumstances. Moreover, when the constitutional proposals were drafted in 1991, guaranteed in the Constitution in 1992 and the CHRAJ established in July 1993, the Paris Principles had not yet been adopted by the UN General Assembly.

However, there may not be an excuse for delay in this matter since the CHRAJ (2003) commissioners have recommended such a change through legislation to enable its composition be expanded in number and to ensure the

pluralist representation of the social forces of society as recommended by the Paris Principles.

Appointment procedure

Article 70(1) of the Constitution requires the President to consult the Council of State in the appointment of the CHRAJ Commissioner and two Deputies in accord with Article 217 (1). This is similar to provisions for the appointments of other independent governance aiding bodies including the NCCE, Electoral Commission, Justices of the Superior Court and the Auditor General. The mere fact of the appointment of such senior state officials by the President should not necessarily turn them into people who can be easily manipulated by the government.

However, it is suggested that the selection of the CHRAJ commissioners should be based on the criteria recommended by the Paris Principles to employ an independent procedure that involves a broad representation of civil society groups, and the Indian example could be used that allows nominations by leaders from across the political spectrum. This would provide the appointing authority a larger base of information about the competence of nominees.

Independence

Article 225 of the Constitution provides that the CHRAJ and its Commissioners shall not be subject to the direction or control of any person or authority in the performance of their functions. By this provision and the

guarantee of the Commissioners' security of tenure, the CHRAJ is set up as an independent constitutional body. The CHRAJ is required to report annually to Parliament on the performance of its functions; Parliament may debate the report and pass resolutions, but it does not interfere with the decisions or institutional and functional framework of the CHRAJ.

Administrative funding is to be from the Consolidated Fund to ensure its operational independence from government. However, the Ministry of Finance has constantly made cuts in its budget or delayed the release of allocated funding. CHRAJ commissioners and other observers have suggested that this practice implicitly presents the likelihood of undermining the functional autonomy of the institution (CHRAJ, 2005). This situation has been described as a shortcoming of the constitutional provisions for ensuring the independence of the CHRAJ; and it has been suggested that there should be provision for its independence in financial administration similar to that designed for the judiciary (Quashigah, 2000; AfriMAP, Open Society Initiative for West Africa, & Institute for Democratic Governance, 2007).

On occasion, the government's adverse reaction to a decision by the CHRAJ has been viewed as an attempt by the executive government to interfere in the institution's independence. This was after the CHRAJ held hearings on complaints against certain ministers and senior public officials. The government reacted to the CHRAJ's report by issuing a White Paper disagreeing with the findings. The CHRAJ published a rejoinder explaining why the government's action was not the correct response. This firm stand by the CHRAJ was applauded

generally both locally and by the international community. After ably withstanding this test of its independence, the CHRAJ continued its anti-corruption work including investigations of more top political figures (Human Rights Watch, 2001, APRM, 2005).

Otherwise, according to some observers, the CHRAJ has operated over the years with no overt interference from the government (U.S. Department of State, 2007). It has also been observed that a number of issues have helped to shield the CHRAJ from executive interference: the guarantees provided by constitutional and statutory provisions; the liberal democratic environment in Ghana, including multiple political parties and media freedom; and the Commissioner's early assertion of a commitment to independence exhibited through action to hold senior public officials to account (International Council on Human Rights Policy, ICHRP, 2004; AfriMAP et al., 2007).

Administrative structure

The governing body for the CHRAJ is constituted by the Commissioner as chairperson and two Deputy Commissioners; they have the constitutional responsibility for fulfilling the whole mandate of the Commission. Article 220 of the Constitution provides for the CHRAJ to operate throughout the country. Accordingly, the CHRAJ has established offices in the capital city, in all ten regional capitals and over one hundred districts and works to extend its coverage as new districts are created and funding is made available for this purpose. It has been observed that an impact has been made on citizens in rural areas where the

CHRAJ may often be the only credible state mechanism for advice and access to much needed justice. This nationwide network of offices is said to be unlike most human rights commissions in Africa. However, while this has contributed to building public confidence in the CHRAJ and presents it as a responsive national body, this means a high demand for public funding and overstretching of the human resource capacity of the CHRAJ (Human Rights Watch, 2001).

Competence, scope and functions

Articles 218 and 219 of the 1992 Constitution provides the CHRAJ a broad constitutional mandate with its scope covering good governance issues such as human rights, administrative justice and corruption; and an encompassing jurisdiction over private institutions and individuals as well as all public bodies and officials.

The functions of the CHRAJ entail complaints resolution and education of the public on their human rights and freedoms. It has power to summon and enforce attendance of witnesses, requisition public records, enter into any premises to carry out investigations, and it is an offense to mislead or hinder its work. It has authority to obtain redress for complainants and to enforce its decisions on formal investigations through initiation of court proceedings.

Complaints resolution programme

Complaints of human rights violations may be lodged against individual persons and private institutions as well as public officials and public institutions.

Complaints concerning administrative justice and corruption may be lodged against public bodies and officials and include both allegations of violations of human rights and freedoms as well as injustice, corruption and misappropriation of public monies, abuse of power, unfair treatment of persons by public officers and breaches of the Code of Conduct for Public Officers. Complaints may be filed against the public offices and officials in administrative organs of the State, including the Armed Forces, Police and Prisons Services concerning lack of balanced structuring, fair administration or equal access by all to recruitment of those services. A special function that is to be performed by the Commissioner alone is the investigation of complaints about assets that had been confiscated during previous regimes.

The only restrictions on investigations by the CHRAJ relate to matters before a court or judicial tribunal, relations or dealings between the government and other governments or international organisations, and the exercise of the prerogative of mercy by the President.

The CHRAJ has the discretion to refuse or cease to investigate complaints where the complainant does not have sufficient personal interest in subject of the complaint, or if the CHRAJ considers that a complaint is trivial, frivolous, vexatious or not made in good faith, and where the complainant has known of the matter for more than twelve months before the complaint was received by the CHRAJ. Tiwana (2004) asserts that this time bar prevents a commission from addressing many legitimate grievances, especially within the immediate period before the institution's establishment. However, the CHRAJ has the discretion to

take up some matters that for good reasons could not be brought up earlier; but the CHRAJ has been cautious of using this discretion since there are usually challenges with procuring appropriate information in such cases. The CHRAJ has also discretion to refer complaints to other institutions including the courts if they are considered to be the best options in a particular complaint.

Complaints received by the CHRAJ cover diverse topics; a large number of complaints are against non-state actors such as employers, landlords, and errant fathers and husbands. The trends change over the years. For example, in 1995 about half the complaints were labour related, almost one quarter were on child maintenance and other family matters, followed by land disputes, delay in dispensing justice, unlawful arrest and detention, and a few on abuse of office by public officials. The year 2002 recorded an increase in complaints on abuse of office and corruption largely due to emphasis on combating corruption as a governance and human rights concern.

Section 7(1)(d)) of Act 456 states that the main methods of resolution are to be “fair, proper and effective” such as mediation and negotiation. When a complaint involves complex issues or cannot be readily resolved, a formal panel chaired by a lawyer is set up to hear the matter and issue a recommendation, a procedure that may suffer delays because of the perennial shortage of lawyers.

Ultimately, the investigative function of the CHRAJ should culminate in appropriate redress: whether through alternative dispute settlements, submitting reports to the superior of an offending person, or initiating court proceedings for

remedies including challenging the validity of enforcement of legislation or regulation which is unreasonable or ultra vires.

The CHRAJ's role of resolving several complaints of human rights abuses and administrative injustice by private and public persons and institutions has been accepted and welcomed by Ghanaians (Human Rights Watch, 2001; Quashigah, 2000). The Children's Act of 1998 has conferred a duty on the CHRAJ to institute court cases against negligent parents or legal guardians who fail to maintain their children.

Human rights education programme

The CHRAJ provides human rights education for the general public through seminars and workshops, provision of relevant manuals and the establishment of human rights clubs in schools, among other means. There are also programmes for public institutions such as the Police, nursing training schools, and tutors in all public teacher training colleges. Human rights education includes examination and advocacy against social and customary practices which are considered dehumanizing and violations of human rights.

In spite of its efforts, the International Council on Human Rights Policy, (ICHRP, 2004) has observed that there has been limited creation of public awareness about the CHRAJ and its mandate, and of constitutional rights and this accounted for a low level of complaints in its district offices. As recommended by the Paris Principles and the World Programme for Human Rights Education, NHRIs' educational activities should help publicise and mainstream human rights

into both public and private establishments, empower citizens with individual and corporate sense of rights and responsibilities at all levels of interaction, and equip them with the knowledge of mechanisms for realisation of their rights (United Nations, 2005).

Research and monitoring programme

Research activities are carried out by the CHRAJ to enable it target the rights educational needs of the people and to make recommendations to the appropriate quarters on human rights issues. The CHRAJ regularly conducts nation-wide inspection of Prisons and Police cells in a bid to ensure that the human dignity of prisoners and suspects are respected. These programmes exposed the various shortcomings in the administration of justice such as children kept with adult prisoners, committal of pregnant women who deliver whilst still in prison, among others. The exercises result in releases of persons found imprisoned for years in remand without trial.

Major investigations have been conducted into systemic abuses of human rights by mining companies and the general state of the extractive industry in Ghana. Reports from such programmes have been submitted to public authorities as well as used to support civil society advocacy for interventions in similar situations. Again the community and rights based approach in the conduct of such exercises have engendered local attempts at improving relationships, reducing and preventing conflict and environmental degradation (CHRAJ, 2008).

Anti-corruption programme

Kumar (2004) described corruption as an impediment to democratic governance and should be seen as a human rights issue. Ghana's quest for good governance has always included a focus on combating corruption in all administrations. The continued existence and pervasiveness of corruption is believed to have informed the establishment of an independent and specialised body like the CHRAJ and with an anti-corruption mandate, though there is recognition for the existence of other bodies to ensure holistic approaches to curbing corruption (Centre for Democracy and Development, CDD-Ghana, 2000).

The anti-corruption programme of the CHRAJ has drawn up guidelines on conflict of interest and gifts involving public officials and has been at the forefront of establishing and sustaining strong anti-corruption networks in the country. The CHRAJ has also conducted credible investigations into corruption allegations at all levels of public service.

Because of its engagement in investigations of public officials and bodies, the anti-corruption function attracts the likelihood of political interference in the independent functioning of NHRIs. The CHRAJ has faced an instance when the government reacted adversely to recommendations against high ranking government officials, and this was seen as an attempt by government to influence CHRAJ operations. However, the CHRAJ withstood government's action and thereafter has been able to initiate investigations into allegations of corruption and impropriety involving a sitting President and conducted full investigations into complaints against ministers of state.

Collaboration with other institutions

The CHRAJ collaborates with other public institutions and civil society groups. Acknowledging the need for an empowered and vibrant civil society and realising that capacity for work on human rights was quite limited among non-governmental organisations (NGOs), the CHRAJ's interventions have included the establishment of Human Rights Forum for NGOs to help them with skills in conducting human rights education and regular meetings to encourage increased advocacy and much needed networking.

The CHRAJ has also collaborated with both public and private bodies to enhance its ability to make an impact on the state of human rights in the country especially in dealing with human rights abuses within the traditional and customary sphere, particularly those involving spirituality and religious beliefs, An example is the collaboration between the CHRAJ, another constitutional body like the the National Commission on Civic Education (NCCE) and the traditional leaders from local communities which resulted in the liberation of large numbers of young women and girls from a traditional practice of "Trokosi" involving bondage in shrines as atonement to gods for offences alleged to have been committed by their families.

Short (2004) explained the tactic of mobilising the support of respected community leaders as resource persons in local gatherings to expound the human rights implications of such practices. This was followed by negotiations with the shrine priests and elders to persuade them to voluntarily end the "Trokosi" practice. Similar approaches have been used in individual cases, to persuade a

father to allow his dying son to undergo a life saving surgical procedure that he had refused on religious grounds, or to get a family to cancel a child marriage agreement and thereby involve the whole community to eradicate the practice.

Challenges faced by CHRAJ

There have been a number of challenges that the CHRAJ has been said to have encountered in the performance of its work. One challenge involves the enforcement of formal decisions and recommendations on complaints where persons or institutions concerned are unwilling to co-operate. In such instances, when attempts at negotiating with the respondent body fails, the option is to request the courts to enforce the decision. There have been suggestions that this requirement to resort to the courts diminishes the effectiveness of the investigative mandate of an NHRI and gradually undermines its credibility and relevance (Tiwarna, 2004). On occasion, members of the public as well as the CHRAJ (1994) recommended an amendment of the enabling Act 456 so that the CHRAJ's decisions can simply be registered as judgments of the courts. However, it has been recognised that since an NHRI like the CHRAJ functions as an investigative body, it should not investigate and also sit in judgement, since that would be contrary to justice and the rule of law (ICHRP, 2005).

The CHRAJ has indicated that another challenge is its inability to initiate investigations into allegations or suspicions of corruption without someone submitting a specific complaint. In its first Annual Report 1993-1994, the CHRAJ requested Parliament to amend its enabling legislation to allow it to initiate such

investigations and also be granted the power to prosecute persons it has found culpable of corruption or embezzlement of state funds. The CHRAJ believed that such an initiative was necessary because many citizens are not yet aware of their rights or empowered enough to seek redress of violations by themselves. However in the same report, the CHRAJ has suggested that its three-layered mandate is unwieldy and needs to be trimmed, further that the CHRAJ is hampered by having its capacity overstretched especially with depleting numbers of professional staff (Human Rights Watch, 2001).

Funding of CHRAJ

A major challenge to the effective operation of the CHRAJ stems from the limited and late release of funding from government. Article 227 of the 1992 Constitution provides that the administrative expenses of the CHRAJ be financed from the Consolidated Fund and not linked to any government department. The reality however, has been that the Ministry of Finance still subjects the CHRAJ to budget ceilings and unilateral cut of allocations each year. This practice has been seen as a subtraction from the functional independence of the CHRAJ. Additionally, this situation affects the CHRAJ's ability to conduct comprehensive and effective human rights education and also to recruit, train and retain dedicated and highly qualified staff especially lawyers who tend to leave for other public and private sector institutions with better conditions of service. In 1998, the CHRAJ submitted a petition on this matter to the Government and has reiterated its appeal over the years. Recommendations have also been made for CHRAJ to

directly present its budget to Parliament (CHRAJ 2005). A similar view has been expressed with the suggestion that this situation could be addressed by provisions like that of the judiciary in article 127(1) of the Constitution which would prevent budget proposals from being subject to cuts by the Executive before presentation to Parliament (Quashigah, 2000; AfriMAP et al., 2007).

Meanwhile, the CHRAJ has endeavoured to resolve some of its financial challenges by seeking funding from development donors especially for some of its educational programmes and operational equipment.

General Assessment of CHRAJ and access to justice

The CHRAJ has major operational advantages for providing access to justice. Between its establishment in 1993 and its tenth year, the CHRAJ received as many as 64,804,000 complaints, averaging 5000 complaints annually. About seventy percent of these complaints have been resolved by mediation which has the advantage of being informal, flexible and relatively simple, informal and non-adversarial as compared with the courts' adjudicatory system. Such methods result in quite expeditious resolution of disputes and have been found useful since they are more akin to the customary means of conflict resolution and for also handling violations of the rights of children and women particularly in the families which frown on court suits against family members. Human Rights Watch (2001) records that these services have been found acceptable and welcome by Ghanaians and the accommodating approach has contributed to building public confidence in the CHRAJ as a responsive institution.

Ghana Poverty Reduction Strategy 2003-2005 (2003) maintained that good governance was a major priority of the Government and recognised access to justice as among the foundational pillars of good governance. Thus included in good governance practice is the protection of rights under the rule of law by enhancing provision of access to expeditious and affordable justice. Many Ghanaians still find legal representation for assessing the formal justice system beyond their means. Against this background, the CHRAJ presents a verifiable complement to the courts through its ability to enable many marginalised persons and low or non-income earners obtain access to justice nationwide.

NHRIs like the CHRAJ are designed to provide a complement to the judiciary for purposes of increasing access to justice particularly for the indigent and voiceless in society as part of good governance requirements in national development. The African Peer Review Mechanism (APRM, 2005) recommended a focus on human rights and human security as the framework for entrenching peace, security, good governance and development. Accordingly, it is important for Ghana's government to make resources available to the CHRAJ alongside other relevant institutions to enhance their capacity to provide promote good governance.

Some reviews show that the CHRAJ has been accepted as a credible NHRI when measured by the guide of the Paris Principles. In spite of the limited composition of its governing body, the CHRAJ has commendations for delivering on its mandate and facilitating access to justice for victims of human rights violations (APRM, 2005; Human Rights Watch, 2001).

The CHRAJ has also an “A” classification connoting full compliance with the Paris Principles from the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. The CHRAJ needs to work towards actual compliance with international guidelines since an expanded membership would greatly enhance its ability to deliver efficiently on its broad mandate.

The legitimacy of NHRIs can be sustained only with continuous assessment of their role and performance and the value accorded them by the state apparatus and civil society organisations (ICHRP, 2005). Thus, the CHRAJ itself needs to regularly review its effectiveness to avoid losing its relevance and public trust as has been suggested to be the situation of an otherwise viable NHRI like the Indian Human Rights Commission which is perceived as having reached the limit of its usefulness due to structural and practical constraints (Tiwarna 2004).

CHAPTER THREE

METHODOLOGY

Introduction

This chapter presents the methodology of the study. It takes a look at research design, target population and study area, sample and sampling procedure, instrument and data collection procedure, sources and types of data, and analysis of data.

Study design

The study adopted a quantitative method approach. The reason is that a quantitative method seeks to establish pattern. Specifically, a non-interventional and descriptive study design was employed to examine the role of the CHRAJ in promotion of good governance in Ghana. According to Sarantakos (2005) a descriptive study design is used to describe what conditions exist. It involves the use of quantitative techniques to describe, record, analyse and interpret conditions that exist. It was non-interventional in that it described and analysed the role of the CHRAJ in promotion of good governance in Ghana without manipulating or introducing any variable(s) in an attempt to change the situations.

Target population

The population considered for this study was defined as members of the general public that included people who had lodged complaints at the offices of the CHRAJ. The choice of population was to enable a study of their perceptions

of human rights and governance, the performance of governance institutions and factors contributing to the effectiveness or otherwise of the CHRAJ. This would provide a broad viewing of people who had already accessed and related to the main institution in this study as well as respondents who had not engaged directly with the CHRAJ.

Sample and sampling procedure

Accra and Cape Coast were selected purposively. Accra was chosen because it records the highest number of cases relative to the other region. Besides, Cape Coast serves mostly rural communities. Simple random sampling method was adopted in selecting respondents using complaints record books at offices of the CHRAJ in Accra and Cape Coast as sample frame. Using Krejcie and Morgan proposition (as cited in Sarantakos, 2005), with a population of 300 five percent degree of accuracy and ninety five percent (95%) confidence level, a sample size of eighty would suffice for the study.

Instruments and techniques of data collection

A quantitative method was used for the data gathering. Specifically, survey was conducted for the respondents in Accra and Cape Coast respectively. The data collection instrument used for the study included questionnaire. The instrument covered a number of issues including questions on perceptions of governance, the role and capacity of institutions like the CHRAJ for contributing to good governance, challenges to carrying out its functions, and how it can be

supported to effectively implement its mandate. The questionnaire comprised open and close ended questions. This instrument is considered most suitable for the respondent based on the following reasons: it provides uniform information which assures the compatibility of data.

Sources of data

The study used both primary and secondary data as its data type and source. Secondary sources of data included references from research studies, books, journals, Internet search and other relevant documentation on international and national human rights and legal and policy provisions, administrative justice, national human rights institutions and allied bodies for the promotion of good governance. With the primary source of data, the researcher directly collected data from respondents with the aid of questionnaires within the study institution and from the general public. The primary data collected was then used in the analysis in chapter four of the dissertation.

Data processing and analysis

The data collected from respondents were edited for consistency and uniformity. The responses for the open-ended questions were grouped and coded to facilitate easy analysis of the data. The data were inputted into the computer, cleaned and analysed using statistical software package called the Statistical Package for the Social Sciences, SPSS 16.0. The result is presented in the form of

tables, percentages and frequencies, and charts. Findings from the field studies were used to complement conclusions from the literature review.

CHAPTER FOUR

RESULTS AND DISCUSSION

Introduction

This chapter presents the empirical findings from the study which are presented in accordance with the research questions and organised around the objectives of the research as presented in Chapter One. The study involved respondents who have lodged complaints with the CHRAJ as well as others from the general public. The findings and analysis are presented with the aid of descriptive statistics including frequency tables, percentages and charts. The results are organised as follows: background characteristics of respondents, perceptions of good governance, capacity of the CHRAJ to influence good governance, challenges that it faces in carrying out its functions, and supporting measures for improving its functioning.

Demographic characteristics of respondents

This section presents the socio-demographic characteristics of the respondents. These include sex, age and education and are presented in Figures 1 and 2, and Table 3 respectively.

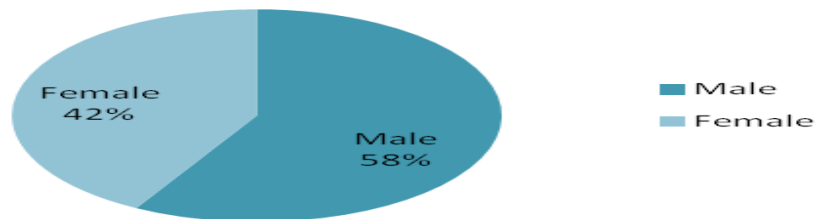


Figure 1: Sex distribution of respondents

Source: Field data, 2008

This variable indicates the number of male or female respondents who participated in the study. Figure 1 indicates that the study involved 58.8 percent respondents who were male while 42.2 percent were female.

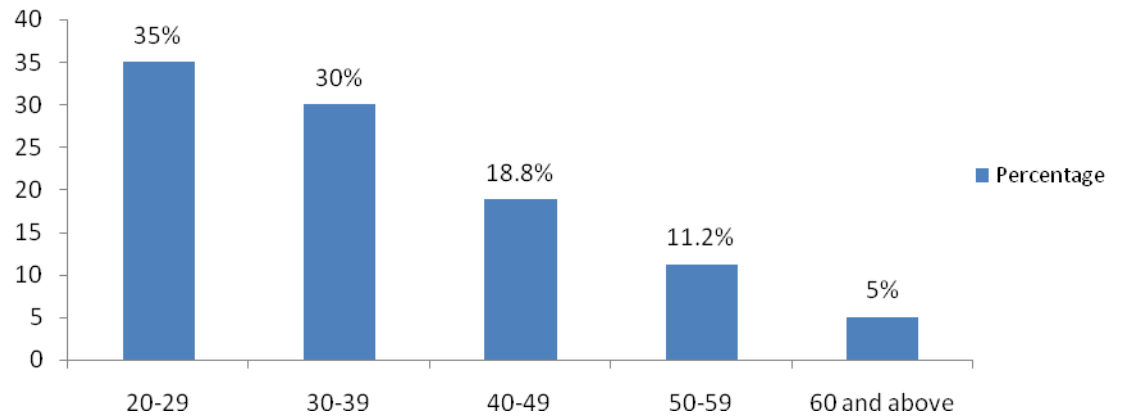


Figure 2: Age of respondents

Source: Field data, 2008

Figure 2 presents the diverse ages of the respondents participating in the study. Figure 2 indicates that 35 percent of the respondents fall between the ages of 20 to 29. While 30 percent are between the ages of 30 to 39, those aged 40 to 49 account for 18.8 percent of respondents. About 11 percent of respondents had ages from 50 to 59 years, and 5 percent of respondents were aged 60 years and above.

Table 1: Educational Background of Respondents

Educational Level	Frequency	Percentage
Tertiary	50	62.5
Middle / JHS	16	20.0
Secondary	14	17.5
Total	80	100.0

Source: Field data, 2008

Table 1 indicates the educational levels of the respondents and shows that all the respondents have attained a level of formal education. Most of the respondents had more than primary education and were fairly literate. Out of 80 respondents, 62.5 percent have attained tertiary education, 20 percent have middle and junior secondary school certificates, while 17.5 percent of respondents have secondary (O level, A level, SHS and Vocational) education.

Respondents that have accessed CHRAJ or lodged a complaint

Some of the respondents intimated that they have accessed governance institutions such as the Judiciary, the NCCE and the Electoral Commission. In relation to the CHRAJ, 43 of the respondents indicated that they have not engaged directly with the institution. Thirty-seven of the respondents stated that they have accessed the CHRAJ, with 30 of them declaring that they have done so by personally lodging complaints.

Respondents' satisfaction with CHRAJ complaints resolution

The views of 30 respondents' who had personally lodged complaints with the CHRAJ were solicited on whether the CHRAJ was adequately fulfilling one of its main functions of addressing complaints and petitions and thereby providing access to justice. Figure 3 exhibits the respondents' views on the CHRAJ complaints process.

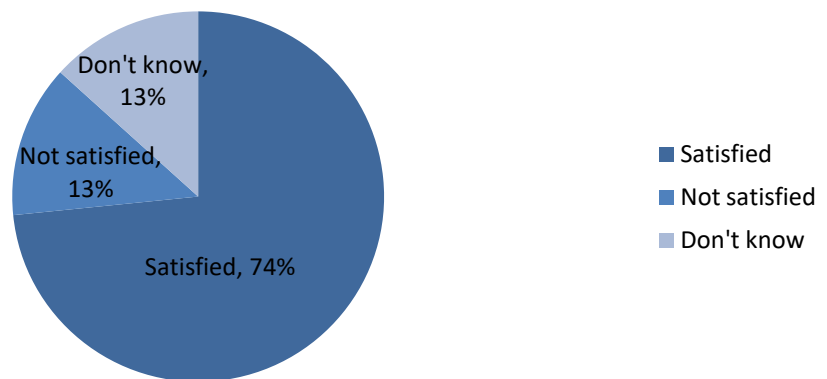


Figure 3: Respondents' satisfaction with CHRAJ complaints resolution

Source: Field data, 2008

Figure 3 shows that 74 percent of these respondents said they were satisfied. About 13 percent of respondents were not satisfied and some of their reasons were that CHRAJ did not complete investigations into their complaints. Thirteen percent of respondents did not give any answer.

Figure 3 indicates that the majority of respondents who have used the CHRAJ complaints resolution process found it useful. This finding confirms the commendation by the APRM (2005) and Quashigah, 2000 that the CHRAJ has

been facilitating and enhancing access to justice in Ghana and particularly for victims of human rights violations.

Respondents' rating of all CHRAJ operations

Following the inquiry about the complaints process, the researcher requested all the 80 respondents to rate the totality of CHRAJ operations. The respondents' responses are recorded in Figure 4.

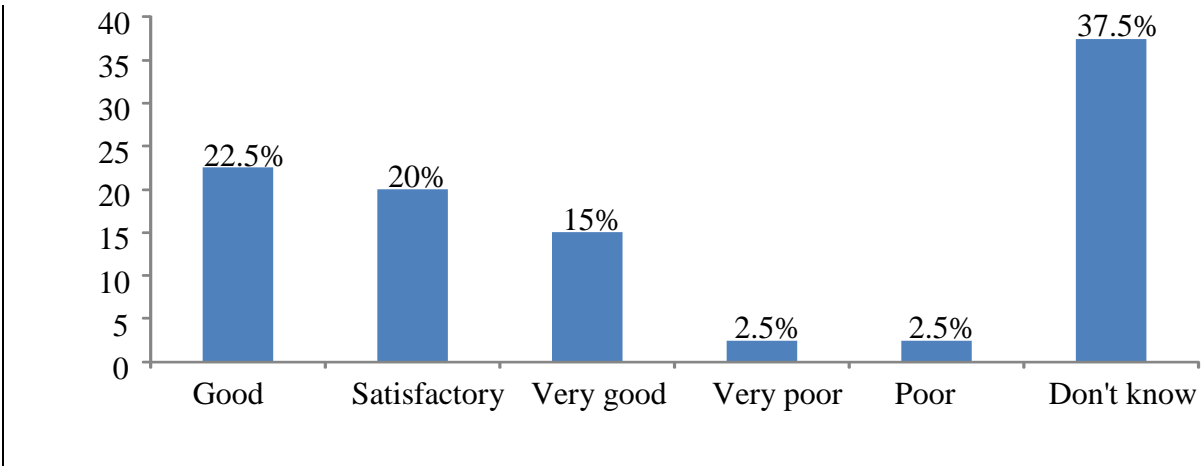


Figure 4: Respondents' rating of all CHRAJ operations

Source: Field data, 2008

Figure 4 shows that 22.5 percent of the respondents rated CHRAJ's services as good, while 20 percent rated them as satisfactory, and 15 percent thought they were very good. From these ratings by about 57 percent of respondents, it may be concluded that the CHRAJ was doing well generally and this affirms the finding of the Quashigah (2000) and the APRM (2005) that the CHRAJ has been offering valuable services in accordance with its mandate.

On the other hand, 2.5 percent of the respondents each said the services were very poor or poor. About 37.5 percent of the respondents did not know how to rate the services.

CHRAJ and appropriate safeguard of citizens' rights

The researcher further sought the opinion of the respondents on whether the CHRAJ has played an appropriate role in safeguarding the rights of citizens in the country. The responses are captured in Figure 5.

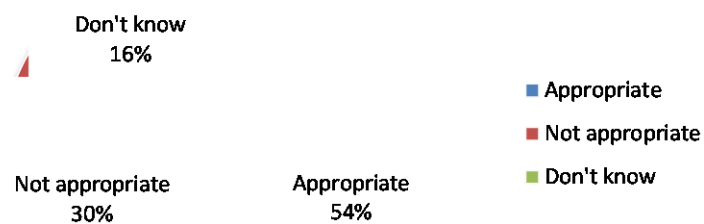


Figure 5: CHRAJ and appropriate safeguard of citizens' rights

Source: Field data 2008

Figure 5 shows that about 54 percent of the respondents answered “yes” and expressed the view that the CHRAJ has a role in safeguarding the rights of citizens and has been able to execute that role well and through a process that is friendly and not cumbersome. They identified this role as comprising not only promotion of human rights but also addressing administrative justice concerns and settling differences between parties to complaints. Respondents added that even

though the CHRAJ has been able to execute its functions to some extent, more is needed to be done to facilitate citizens' access to its services. The views of the majority of respondents confirm findings of the APRM (2005) that the CHRAJ has delivered on its mandate such as facilitating access to justice for victims of human rights violations.

However, 30 percent of the respondents thought that the CHRAJ has no role to play and has not been safeguarding the rights of citizens. The reasons given by the respondents for this view included the belief that there are still many abuses and the CHRAJ has very limited powers to initiate investigations; but the main reason was that there is a lack of education about the work and mandate of the CHRAJ and, for that matter, its work is not recognised. The view of these respondents suggests inadequate observance by the CHRAJ of the guidelines of the Paris Principles and the World Programme for Human Rights Education (United Nations, 2005) that the duty of NHRIs is to publicise principles as well as mechanisms for the protection of rights, and this necessarily includes increasing public awareness of the national institution and its essential role for the realisation of human rights.

About 16 percent of the respondents had no views on this subject.

Respondents' views on what constitutes good governance

This section examines the respondents' perception of good governance in Ghana. Table 2 records the views of respondents and indicates that respondents have various ideas on what constitutes good governance.

Table 2: Respondents' views on what constitutes good governance

Respondents' views on good governance	Frequency	Percentage
Society that ensures love, peace, respect and freedom	22	27.6
Society where human rights are not abused	20	25.0
Society where there is no corruption	13	16.2
Society which allows freedom of speech and association	12	15.0
Society which provides social services	12	15.0
Don't know	1	1.2
Total	80	100.0

Source: Field data, 2008

About 27.6 percent of respondents said that good governance relates to a society which ensures love, peace, respect and freedom; 25 percent said that it would be a society where human rights are not abused. The respondents added that all those assurances depend on the leaders and how they can effectively ensure freedoms. About 16.2 percent of the respondents held the view that in a society that has what constitutes good governance, there would be no corruption; fifteen percent each of the respondents believe that it is a society which allows freedom of speech and association, and would provide adequate social services.

It was observed that, though respondents presented various descriptions, they linked good governance to the realisation of human rights and freedoms. The findings affirm the views of the United Nations High Commissioner for Human Rights and the Economic Commission for Africa that good governance and

human rights are mutually reinforcing and should result in a state that fulfils commitments to human rights and eschews abuse and corruption (OHCHR, 2000, UNECA, 2005). The findings also confirm Kumar's (2004) assertion that corruption is an impediment to democratic governance and should be seen as a human rights issue in order to promote measures for enhanced accountability and transparency by governments.

The role of CHRAJ in the promotion of good governance

The researcher sought to ascertain the respondents' views on whether the CHRAJ has a role in promoting good governance and how it has executed that role. A majority of 90 percent of the respondents indicated that the CHRAJ indeed has such a role in Ghana. These respondents added that they believe that role to be the rationale behind the establishment of the CHRAJ even though there are other institutions with similar roles. Table 3 gives the respondent's views about the measures that the CHRAJ has used to promote good governance.

Table 3: How CHRAJ has promoted good governance

Measures for promoting good governance	Frequency	Percentage
Addressing complaints and petitions	43	53.8
Educational programmes	19	23.7
Reports and publications	10	12.5
Recommendations on corrupt officials and neutrality	6	7.5
Don't know	2	2.5
Total	80	100.0

Source: Field data, 2008

Table 3 shows that 53.8 percent of the respondents said the CHRAJ has promoted good governance through addressing complaints and petitions; 23.7 percent thought it was through the educational programmes; 12.5 percent referred to reports and publications while 7.5 percent of the respondents mentioned recommendations on corrupt officials and CHRAJ's neutrality. About 2.5% of the respondents said they did not know the answer.

Capacity of CHRAJ to influence good governance

The respondents were requested to comment on whether CHRAJ has the capacity to fulfil the role of influencing good governance. Related questions on this subject included the appropriateness of the scope of the CHRAJ mandate, issues that it should cover, and the administrative structure.

Table 4: Capacity of CHRAJ to influence good governance

Views on CHRAJ capacity	Frequency	Percentage
Yes	64	80.0
No	6	7.5
Don't know	10	12.5
Total	80	100.0

Source: Field data, 2008

Table 4 reflects respondents' opinions and shows that 80 percent of the respondents were of the view that the CHRAJ has the capacity to influence the course of good governance because it is an independent body. However, 7.5

percent thought that the CHRAJ has no such capacity and 27 percent of the respondents indicated that they have no idea whether the CHRAJ has that capacity.

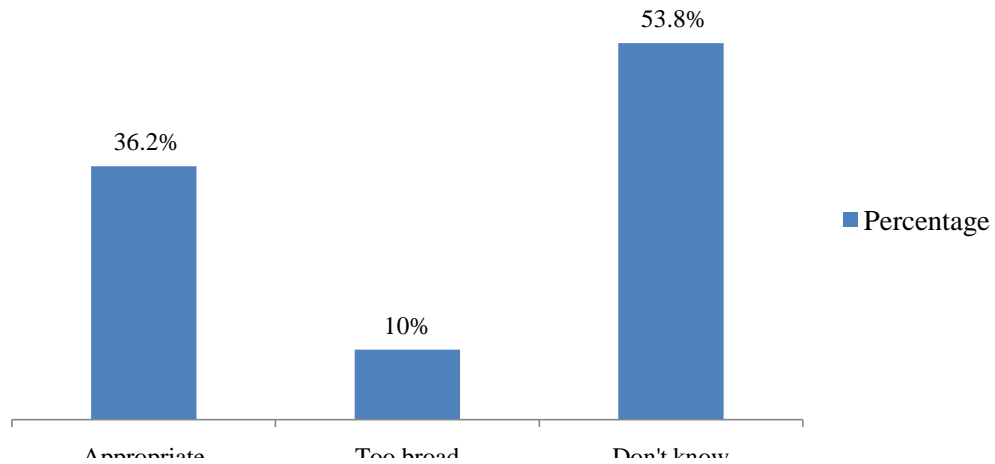


Figure 6: The scope of CHRAJ mandate

Source: Field data, 2008

Figure 6 shows the respondents' views on whether the scope of the CHRAJ mandate was appropriate or otherwise for its role of influencing good governance. It was observed that most of the respondents, about 53.8 percent, were not familiar with the scope of mandate of the CHRAJ. This finding of a general lack of knowledge about the mandate of the CHRAJ is at variance with the requirement of Article 218 of the 1992 Constitution that a major function of the CHRAJ is to educate the public as to its human rights, and this education necessarily includes making the public aware of the relevant institutional arrangements for promoting and protecting their human rights as recommended by the Paris principles for guiding NHRIs like the CHRAJ. The International

Council on Human Rights Policy also found that the low level of complaints in CHRAJ district offices was a result of limited public awareness of the institution as well as of citizens' constitutional rights (ICHRP, 2004).

About thirty-six percent of the respondents were of the view that the scope of the CHRAJ's mandate is appropriate as the different subjects of human rights, administrative justice and anti-corruption issues are inter-linked. These respondents also thought that no other mandate should be added; rather the CHRAJ needs to fully exercise its existing mandate. The view of these respondents is in line with the Paris Principles (1993) that a human rights commission should have a broad mandate from a national constitution or legislation. Further, the 1992 Constitution of Ghana states the mandate as including the competence to protect and promote human rights through public education, investigations of violations, administrative justice and corruption issues.

Table 5: Issues that should fall under CHRAJ

Issues	Frequency	Percentage
Human rights, administrative, justice, corruption	54	67.6
Human rights and administrative, justice	13	16.2
Human rights only	8	10.0
Administrative justice only	1	1.2
Anti - corruption only	1	1.2
Don't know	3	3.8
Total	80	100.0

Source: Field data, 2008

On the other hand, 10 percent of the respondents said that the mandate is too broad and should be reduced to make the CHRAJ more efficient. It may be concluded that the scope of the CHRAJ's three-pronged mandate is appropriate.

The researcher further probed to find out the view of the respondents on issues they think should be within the jurisdiction of the CHRAJ. Table 5 shows that a majority of 67.6 percent of the respondents indicated that the issues should be human rights, administrative justice and corruption; 16.2 percent thought that the issues should be human rights and administrative justice, while 10 percent of respondents believed that only human rights should be handled by the CHRAJ. About one percent each chose only administrative justice or anti-corruption, while 3.8 percent of the respondents did not have an answer.

The finding from the views of the majority of respondents is in line with the 1992 Constitution's requirement for the CHRAJ to deal with fundamental human rights and freedoms through public education and redress of violations, injustice and corruption and other related purposes. This question examines the appropriateness of the administrative structure of the CHRAJ for carrying out its mandate.

Figure 7 shows that, while 28.8 percent of the respondents indicated that the structure of the CHRAJ is appropriate and helps in the facilitation of its operations, 4 percent of respondents said the structure is inappropriate. However, the majority of 66.2 percent of the respondents said that they have no idea of the appropriateness of the CHRAJ's administrative structure.

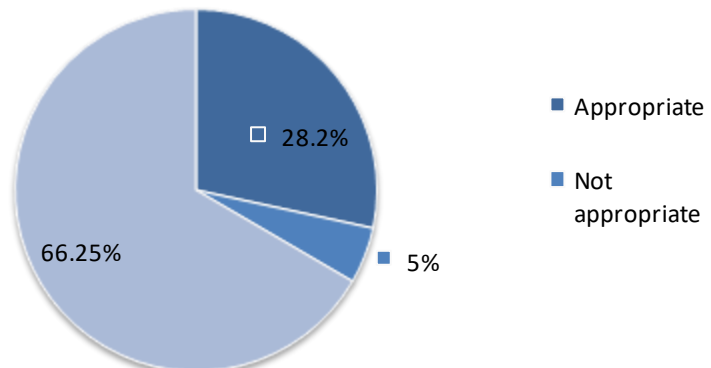


Figure 7: Appropriateness of CHRAJ administrative structure

Source: Field data, 2008

It may be surmised that the administrative structure of the CHRAJ is appropriate for its operations. This confirmed the observation by the Human Rights Watch (2001) that the administrative structure of the CHRAJ enables it cover a large segment of the country and thereby enables the CHRAJ to provide access to justice in rural areas where it may sometimes be the only relevant institution.

Challenges faced by public governance institutions in Ghana

This line of inquiry sought respondents' views on what constitutes the main challenge to the performance of public governance institutions in Ghana and the CHRAJ in particular. The respondents identified similar challenges for governance institutions as including political interference, inadequate funding, logistics and personnel, poor remuneration and conditions of service, and corrupt staff.

Table 6: The main challenges faced by CHRAJ

Challenges	Frequency	Percentage
Political interference	24	30.0
Inadequate financial resources	19	23.8
Corrupt staff	12	15.0
Poor staff remuneration and conditions of service	8	10.0
Inadequate logistics and numbers of personnel	8	10.0
Slow nature of investigations	8	10.0
Lack of power to enforce findings	1	1.2
Total	80	100.0

Source: Field data, 2008

Table 6 presents the respondents' views on the main challenges to the performance of the CHRAJ. About 30 percent of respondents indicated that major challenge facing the CHRAJ was political interference. The APRM (2005) confirms this finding that the CHRAJ is faced with a challenge of government attempts at influencing its work.

Another challenge mentioned by 23.8 percent of respondents was inadequate financial resources that adversely affect operations and the institution's independence of government.

While 15 percent of respondents believe that the presence of corrupt staff is a challenge to the effectiveness of CHRAJ, 10 percent of respondents each mentioned poor remuneration and staff conditions of service, a lack of the required logistics and personnel to carry out its mandate, and slow, nature of

investigation of complaints. These findings are in line with the observation by Quashigah, (2000); that a major challenge facing the CHRAJ is inadequate financial and logistics support resulting in poor salaries and working conditions, and consequent high staff attrition all of which impact negatively on the effectiveness of the institution.

About one percent of the respondents held the view that the CHRAJ lacks legitimacy since it cannot on its own enforce its decisions after conducting investigations.

It may be observed that, apart from 30% of respondents who mentioned the tendency for political influence as a challenge, almost all the other challenges identified by about 58% of the respondents were financially based - inadequate funding and logistics, poor staff remuneration and conditions of service linked to a perception of corrupt staff. It may therefore be concluded that the main challenges that negatively impact on the performance of the CHRAJ are inadequate financial support and a perception of adverse political influence.

Political influence and the CHRAJ

The respondents' opinions were sought political influence which was one of the issues the respondents mentioned as a serious challenge to the effectiveness of the CHRAJ in its promotion of good governance. Specifically, the respondents gave their views on the tendency for political influence to be exerted on the CHRAJ, whether it can withstand such pressure, and whether the CHRAJ has the ability to effectively promote good governance in spite of any political influence.

Tables 7, 8 and 9 present the responses to these questions.

Table 7: Tendency for political influence of CHRAJ

Views	Frequency	Percentage
Yes	41	51.2
No	21	26.2
Don't know	18	22.6
Total	80	100.0

Source: Field data, 2008

Table 7 indicates that About 51 percent of respondents answered “yes” since they believed that, as an institution established by law and government, there is a high likelihood of political influence because the commissioners are appointees of the President and are thereby affiliated to the government that appointed them. However, 26.2 percent of the respondents thought that the CHRAJ is independent and no politician can have any influence on its operations even if its leaders are appointed by the government, for they have secured terms of office. Therefore, they would do their work and would not succumb to the pressures and influence of the government. About 22.6 percent of the respondents did not have an answer to this question.

The view of the majority of respondents is in accord with the APRM (2005) which viewed the adverse reaction of the government to CHRAJ’s decision on the culpability of some public officials as an attempt by government to interfere in the independence of the CHRAJ.

Table 8: CHRAJ capability to withstand political influence

Views	Frequency	Percentage
Yes	30	37.5
No	30	37.5
Don't know	20	25.0
Total	80	100.0

Source: Field data, 2008

Table 8 indicates that 37.5 percent of the respondents held the view that even if there is a tendency for politicians to have an influence on its operation, the CHRAJ could withstand it and still work as an independent body because the leaders of the CHRAJ have secure terms of office and therefore the government cannot arbitrarily remove them from office. They also believed that the commissioners have a lot of integrity and respect and make their own decisions based on facts. This finding is affirmed by Quashigah (2000) that the CHRAJ is capable of remaining independent of the Executive; moreover, even though appointed by the President, he has no hand in their removal and thus the Commissioners' security of tenure is well guaranteed.

However, the same number representing 37.5 percent of the respondents thought that the commissioners cannot withstand political influence simply because they work in a state institution, and therefore lack the capacity to withstand political pressure. These respondents also believe that the employees of the CHRAJ are partisan and because the leaders of the CHRAJ are appointed by

the President, he can influence their decisions. Twenty- five percent of the respondents could not give an opinion on this subject.

It can be observed that the same number of respondents took opposing views on the issue of whether the CHRAJ has the capacity to withstand political influence. This situation is similar to views of the APRM (2005) which initially questioned the CHRAJ’s ability to withstand political pressure and doubted its capability to investigate official abuses and corruption; however, it admitted that CHRAJ has been outstanding and has been able to take action to address complaints of administrative injustice, abuse and violations of human rights committed by public officials.

Table 9: CHRAJ’s ability to promote good governance in spite of political interference

Views	Frequency	Percentage
Yes	46	57.6
No	21	26.2
Don’t know	13	16.2
Total	80	100.0

Source: Field data 2008

Table 9 exhibits respondents’ views on the CHRAJ’s ability to promote good governance even when faced with political influence. A majority of 57.6 percent of the respondents stated that, even if there is political interference in the operations of the CHRAJ, it has the ability to ward off such attempts by

government and would manage to protect the rights of the citizenry. The respondents' reason for their view was that the CHRAJ was established as a constitutional body to ensure good governance; further it is an independent institution and relates to the grassroots populations. This category of respondents also believed that, if there is speedy resolution of conflicts, the CHRAJ could still promote good governance in spite of political influence.

On the other hand, 26.2 percent of the respondents held the view that if the government sets out to interfere in the operations of the CHRAJ, the latter would not have the ability to maintain its independence and consequently, it would not be able to promote good governance, because the respondents believed that the CHRAJ has to obey the Executive. The respondents stated that it is only when the CHRAJ ensures speedy resolution of complaints and its leaders choose to deal with human rights rather than politics, that the institution can influence good governance. About 16.2 percent did not have an opinion on this issue.

The view of the majority of respondents that the CHRAJ is capable of promoting good governance even in the face of attempts at political influence is affirmed by ICHRP (2004) and the APRM (2005) that the Commission has been able to assert its independence and has continued its work and conduct of investigations against public officials.

Appointment and composition of the CHRAJ commissioners

Some of the issues usually linked to the independence and effectiveness of an NHRI like the CHRAJ are the appointment and composition of its leading

team. The respondents were asked to give their views on whether it was appropriate for the CHRAJ commissioners to be appointed by the President as required by law; and whether the current limitation of the composition of the CHRAJ commissioners to the legal profession was acceptable. Figures 8 and 9 show the respondents' views on these issues.

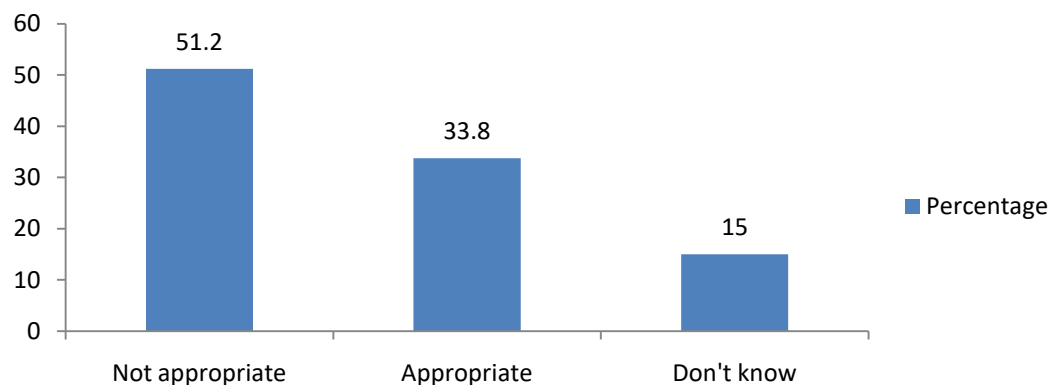


Figure 8: Appropriateness of appointment of CHRAJ commissioners by the President

Source: Field data, 2008

Figure 8 indicates that about 51.2 percent of respondents thought that, even though it is required by law, it is not appropriate for the President to appoint the commissioners because it breeds political influence in the CHRAJ's rulings and prevents the Commissioners from being neutral. However, about 33.8 percent of the respondents thought that the requirement is appropriate because it is backed by law and does not compromise the functioning of the commissioners as it is a duty performed by the President for similar public positions. Fifteen percent of respondents were not able to comment on this issue.

The result from the majority of the respondents suggests a change in appointing authority and a preference for the recommendation of the Paris Principles (1993) that the appointment of members of an NHRI should be by a procedure that provides for guarantees of independence by engaging a broad representation of civil society involved in the protection and promotion of human rights.

The respondents expressed various views on what would be the preferred alternative to the President as an appointing authority. While about 42.5 percent of the respondents could not give an answer, 22.5 percent chose Parliament, 16.2 percent preferred an electoral process, 11.2 percent selected the Judiciary and 7.5 percent chose the Council of State.



Figure 9: Appropriateness of composition of CHRAJ commissioners

Source: Field data, 2008

In answer to the question about the composition of the CHRAJ commissioners, Figure 9 indicates that 47.5 percent of the respondents said the composition was not appropriate and suggested that professionals apart from lawyers should be included in the team of commissioners of the CHRAJ. The reasons given for this view were that human rights concern all and the addition of

other professionals would introduce a variety of ideas for improving CHRAJ's performance. The view of these respondents is in accord with the guidelines of the Paris Principles that the composition of an NHRI should involve a pluralistic and broad representation of social forces in society.

On the other hand, 27 percent of the respondents were of the view that the choice of only lawyers as commissioners for the CHRAJ was appropriate since these respondents thought that human rights concerned legal matters and would therefore be better handled by lawyers.

How the CHRAJ should be funded

Financing is regarded as a key element in the performance of the CHRAJ. On the question of how the CHRAJ should be funded, all the respondents gave an answer and selected a variety of sources of funding. Table 10 presents the views of the respondents.

Table 10: How the CHRAJ should be funded

Respondents' Views	Frequency	Percentage
Consolidated Fund	37	46.2
Self generated funds	17	21.2
Consolidated Fund and self generated funds	12	15.0
Donor institutions	12	15.0
Donor and self generated funds	2	2.6
Total	80	100.0

Source: Field data, 2008

Table 10 indicates that 46.2 percent of the respondents said that it is appropriate for financing to be from the Consolidated Fund. This view is affirmed by Quashigah (2000) that charging the expenses of the CHRAJ on the Consolidated Fund was intended to serve as a constitutional guarantee of financial autonomy.

About 21.2 percent of the respondents thought that the CHRAJ should be able to generate funds by itself through its operations as they believed that financial dependence of the CHRAJ would make it subject to political influence, thereby compromising its neutrality. While 15 percent of the respondents indicated that the CHRAJ should be supported by funding from both the Consolidated Fund and self generated funds, 15 percent thought that support should come from only donor institutions, and 2 percent of the respondents opted for a combination of donor and self generated funds.

Even though a variety of options were offered, on the whole, many of respondents thought that the state should finance the operations of the CHRAJ and through the Consolidated Fund.

On the related question of whether funding could be used to influence the CHRAJ, 55 percent of the respondents were of the view that funding from state coffers or other donors would not compromise the CHRAJ's neutrality.

On the other hand, 33.8 percent of the respondents held a contrary view and thought that the commissioners could be influenced by funding from donors, while 11 percent of respondents did not express an opinion on this issue.

Recommendations for enhancing CHRAJ's promotion of good governance

The respondents made a number of recommendations to help improve the promotion of good governance by the CHRAJ. The suggestions included measures by the government to support the CHRAJ maintain its functional independence and performance as well as changes that the institution could effect by itself. Apart from 20 percent of the respondents who offered no views, responses covered a number of recommendations as set out in Table 11.

Table 11: Recommendations for enhancing CHRAJ's promotion of good governance

Respondents' suggestions	Frequency	Percentage
Enhance public education on CHRAJ and good governance, and protection of citizens' rights	15	18.8
Improve funding, logistics and staff service conditions	14	17.5
Change appointing authority and composition of CHRAJ commissioners	12	15.0
Speed up complaints resolution	8	10.0
Strengthen structures at the district level	5	6.2
Ensure that officials are free and fair	4	5.0
Enhance CHRAJ's prosecution power	2	2.5
Don't know	20	25.0
Total	80	100.0

Source: Field data 2008

Table 11 shows that 18 percent of the respondents were of the view that the CHRAJ should enhance public education on the mandate of the CHRAJ and good governance issues, and improve protection of the rights of citizens. About 14 percent recommended that the government should increase financial and other resources to enable the CHRAJ acquire its own offices, better logistics, increased number of trained personnel and improved staff conditions of service. A suggestion was made by 12 percent of the respondents that the authority for appointing the CHRAJ commissioners should be changed from the President to an independent body and the composition of the three-member commission be expanded to include other disciplines apart from lawyers. While 8 percent of the respondents urged that the CHRAJ should speed up its resolution of complaints, 5 percent said the structures at the district level should be strengthened and 4 percent said that CHRAJ should ensure that its officials are neutral and fair in all operations. About 2 percent of the respondents recommended an enhancement of the CHRAJ's power to prosecute those its investigations found culpable of offences.

The recommended review of the CHRAJ's performance is in line with the view of ICHRP (2005) that an NHRI should regularly assess its performance to avoid losing its relevance and public trust, and particularly towards improving its promotion of relevant public education.

Based on the analysis, the CHRAJ has a role to play in the promotion of good governance in Ghana and has exhibited the capacity to fulfil its mandate. However, there are a number of challenges that include a perception of political

influence and inadequate financial resources that adversely impact on efficiency and quality of services. Towards ensuring improvement in the CHRAJ's performance, the respondents made recommendations such as government's provision of adequate financial and logistics support; a change in the appointment and composition of the commissioners; and measures that the CHRAJ itself should employ to improve its programmes and structures.

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

Introduction

This chapter comprises the summary of the whole study, and presents a summary of findings and conclusions drawn by the researcher. It also covers recommendations based on the research findings, as well as suggestions for research in the future.

Summary

The research sought to evaluate the role of the Commission of Human Rights and Administrative Justice in the promotion of good governance in Ghana. The objectives were to examine perceptions of good governance, the capacity of the CHRAJ to influence good governance, the challenges that it faces in carrying out its functions and suggest measures for improving the functioning of the CHRAJ.

To achieve the objectives, the study used both primary and secondary data as its data type and source. With the primary source of data, a non-interventional and descriptive study design was employed. A quantitative method was used; specifically, survey was conducted through administration of questionnaires to respondents. Secondary sources of data included references from relevant documentation on human rights, legal and policy provisions, administrative justice, national human rights institutions and allied governance bodies.

The main findings from the study have been summarised under the following headings:

1. Perceptions of good governance
2. The capacity of the CHRAJ to influence good governance
3. Challenges that the CHRAJ faces in carrying out its functions
4. Suggestions for improving the functioning of the CHRAJ

Perceptions of good governance

Under the first objective of examining perceptions of good governance, the respondents made the following submissions:

The respondents submitted that good governance entails the presence of an administration that can effectively ensure that, in a society,

- There is love, peace, respect and liberty, including freedom of speech and association;
- The human rights of citizens are not abused;
- There is no corruption; and
- Basic social services are provided for citizens.

Capacity of the CHRAJ to influence good governance

In relation to the second objective of examining the capacity of the CHRAJ to influence good governance, the study revealed the following findings:

- The CHRAJ has a vital role and the capacity for substantial contribution to the promotion of good governance. This has been demonstrated by its provision of satisfactory services for safeguarding the rights of citizens

through educational programmes, reports and publications; enhancing access to justice by addressing complaints involving administrative justice, corruption and violations of human rights; conducting investigations and making requisite recommendations;

- The CHRAJ has the ability to promote good governance in spite of political interference;
- The CHRAJ has been given the legal and institutional framework to enable it promote good governance. The 1992 Constitution and the CHRAJ's enabling legislation provide for a guaranteed independent status that is supported by security of tenure for the commissioners and funding from the Consolidated Fund.
- The CHRAJ has competence from an appropriately broad mandate with its scope covering good governance issues such as human rights, administrative justice and anti-corruption; authority to establish requisite administrative structures, and redress mechanism for complaints resolution, investigations and enforcement of its decisions.

Challenges that CHRAJ faces in carrying out its functions

In exploring the third objective, the study found that the main challenges faced by the CHRAJ include the following:

- A tendency for political influence by government. This perception was thought to be further compound by issues such as the appointment

procedure and the requirement by law for the President to be the appointing authority of CHRAJ commissioners;

- Inadequacy of financial resources and logistics which has a potential to undermine the CHRAJ's functional autonomy and provision of quality services;
- Poor staff remuneration and conditions of service resulting in a high attrition of trained staff and engendering some corrupt staff;
- Slow nature of investigations and resolution of large numbers of complaints.

Respondents' recommendations for improving the functioning of CHRAJ

In order to ensure improvement of the performance of the CHRAJ towards its promotion of good governance, the respondents made submissions that:

- The CHRAJ should
 - enhance public education on its work and on good governance;
 - improve protection of the rights of citizens;
 - speed up resolution of complaints;
 - strengthen the structure at the district level;
 - ensure that its officials are free and fair in all their operations;
- The government should increase funding to the CHRAJ for offices, logistics and better staff conditions of service;

- The appointing authority of the commissioners should be changed from the President to an independent body; and the number and composition of the commissioners should be expanded.

Conclusions

The CHRAJ is one of the bodies created to support the new democratic dispensation and to foster good governance in Ghana. It is a special mechanism to ensure the promotion and protection of human rights and freedoms, curb administrative malfeasance and corruption, and enhance access to justice, thereby promoting good governance. The national Constitution has equipped the CHRAJ with requisite competence for its work including an independent status, appropriately broad mandate, jurisdiction, investigative power, and redress and enforcement authority.

In general, the respondents' views on the performance of the CHRAJ revealed that public perceptions of the CHRAJ have been positive. This indicates public acceptance of the CHRAJ as a source for promoting good governance and democratic development. International and regional reviews also show that the CHRAJ, as Ghana's NHRI, is capable of performing creditably.

However, it was observed that the CHRAJ has some weaknesses and challenges such as inadequate financial and logistical support from the government that has the potential to undermine its financial and functional autonomy and provision of quality services. Another major challenge is a perception of political interference that could affect public confidence in its

neutrality and independence from government and acceptability of its decisions. On its part, the CHRAJ needs to strengthen its structures and human rights education to provide more public awareness about its mandate and functioning and knowledge of governance issues.

The CHRAJ has shown itself to be a commendable national human rights institution, and has demonstrated capability of fulfilling its mandate. The challenges it faces should therefore be comprehensively addressed if the institution is to live up to, and sustain, its noble objectives of effectively promoting human rights and good governance.

Recommendations

Based on the findings of this study, a number of recommendations could be made for the CHRAJ to improve its effectiveness towards its promotion of good governance.

1. The government should ensure provision of adequate releases of funding to the CHRAJ to ensure its financial and functional autonomy. This may be best achieved through allowing the CHRAJ to submit its budget directly to Parliament. There could also be a call for a constitutional provision to be made for the CHRAJ similar to that which ensures the Judiciary its financial independence from the Executive.
2. The government should address the issue of unattractive remuneration and staff conditions of service in order to curtail the high attrition rate of essential staff.

3. It is vital to forestall the perception and tendency of political influence and its negative impact on the CHRAJ's independence. Accordingly, the appointing authority for CHRAJ commissioners should be changed from the President to an independent body with an openly consultative procedure that involves a broad representation of civil society. This may require a call for a constitutional amendment to change the appointing authority and process altogether, or expand the bodies involved in the selection of the commissioners.
4. The composition of the Commissioners should also be changed to become pluralistic and representative of society by expanding the number of commissioners and including persons from other disciplines apart from lawyers.
5. The CHRAJ should enhance public education on its mandate and functioning and on issues of good governance. CHRAJ should collaborate more effectively with relevant civil society bodies and the public institutions like the NCCE for conduct of its public education programmes.
6. The CHRAJ should improve its processes to ensure speedy and efficient resolution of complaints. This may be aided by improvement in its use of ICT for managing its receipt, tracking and supervision of the resolution system in all CHRAJ offices.
7. The CHRAJ should strengthen its structures at the district level in order to enhance its performance throughout the country.

8. The CHRAJ should generally improve its capacity by regular and high quality training for its commissioners and all staff.

Suggestions for future research

The present study covered the role of national human rights institutions in the promotion of good governance in Ghana reviewing the CHRAJ and focused on only two operational areas in Accra and Cape Coast. Future research could expand its coverage to look at other regions or operational areas of the CHRAJ. Secondly, this study focused on the CHRAJ; future research could be conducted on other governance institutions in Ghana to help inform the promotion of good governance in a more holistic way.

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APPENDICES

APPENDIX A

QUESTIONNAIRE

Instructions: Mark with an X where indicated and fill out form as appropriate.

SECTION ONE: DEMOGRAPHIC INFORMATION ON RESPONDENT

1.1 Sex

1.2 Age

1.3 Region

Male	<input type="checkbox"/>	20 – 24	<input type="checkbox"/>	Greater Accra	<input type="checkbox"/>
Female	<input type="checkbox"/>	25-29	<input type="checkbox"/>	Eastern	<input type="checkbox"/>
		30-34	<input type="checkbox"/>	Volta	<input type="checkbox"/>
		35-40	<input type="checkbox"/>	Central	<input type="checkbox"/>
		40-44	<input type="checkbox"/>	Upper East	<input type="checkbox"/>
		45-49	<input type="checkbox"/>	Upper West	<input type="checkbox"/>
		50-54	<input type="checkbox"/>	Northern	<input type="checkbox"/>
		55-59	<input type="checkbox"/>	Ashanti	<input type="checkbox"/>
		> 60	<input type="checkbox"/>	Western	<input type="checkbox"/>
			Brong Ahafo	<input type="checkbox"/>	

1.4 Educational Background

Middle School/JSS	<input type="checkbox"/>
O Level/SSS	<input type="checkbox"/>

'A' Level	<input type="checkbox"/>
Commercial/Technical	<input type="checkbox"/>
Vocational	<input type="checkbox"/>
Polytechnic/Postsecondary	<input type="checkbox"/>
University/Tertiary	<input type="checkbox"/>
Post-graduate	<input type="checkbox"/>
Other (please specify)	<input type="checkbox"/>

1.5	Occupation:
1.6	Position / Rank.....

**SECTION 2: CAPACITY OF INSTITUTIONS TO INFLUENCE OR
CONTRIBUTE SUBSTANTIALLY TO GOOD GOVERNANCE**

2.1	I have accessed the services of the following institutions		
	CHRAJ	<input type="checkbox"/>	Yes
		<input type="checkbox"/>	No
	JUDICIARY	<input type="checkbox"/>	Yes

			No
	NCCE		Yes
			No
	ELECTORAL COMMISSION		Yes
			No
	OTHER		Yes
			No

Rate your satisfaction with respect to service provided

2.2

	Very Good	Good	Satisfactory	Poor	Very poor	Don't know
CHRAJ	1	2	3	4	5	
JUDICIARY	1	2	3	4	5	
NCCE	1	2	3	4	5	
ELECTORAL COMMISSION	1	2	3	4	5	
OTHER	1	2	3	4	5	

2.3 Do you think CHRAJ has been able to safeguard appropriately the rights of citizens in Ghana?

- Yes
- No
- Don't Know

Give reasons for your answer.....
.....
.....
.....
.....
.....

2.4 What in your view constitutes good governance? (Please tick all that apply)

- A society where there is no corruption
- A society in which the human rights of citizens are not abused
- A society which provides social services for its citizens
- A society which allows freedom of speech and association.
- Other (please specify).....
- Don't know

2.5 Do you think CHRAJ has a role in the promotion of good governance?

- Yes
- No
- Don't Know

2.6 If you answered "Yes" to Q. 2.5, in what way do you think CHRAJ has promoted good governance in Ghana?

- By its reports and publications
- Through its educational programmes and workshops
- By addressing the complaints and petitions
- Other (please specify).....
- Don't know

2.8 Were you satisfied with the decision CHRAJ made?

- Yes
- No
- Provide additional details
.....
.....
.....

2.9 Do you think CHRAJ has the capacity to influence the course of good governance in Ghana?

- Yes
- No
- Don't know
- Give reasons for each answer

.....

.....

.....

.....

SECTION 3: CHALLENGES THAT CHRAJ & OTHER PUBLIC/GOVERNANCE INSTITUTIONS FACE IN CARRYING OUT THEIR FUNCTIONS IN ORDER TO PROMOTE GOOD GOVERNANCE

3.1 Which of the following do you consider as the greatest challenge to public institutions in Ghana?

- Lack of financial resources
- Political interference
- Lack of personnel and logistics
- Corrupt staff
- Poor remuneration and conditions of service for staff

Other (please specify).....

3.2 Which of the following do you consider as the greatest challenge to CHRAJ?

- Lack of financial resources
- Political interference
- Lack of personnel and logistics
- Corrupt staff
- Poor remuneration and conditions of service for staff
- Other (please specify).....

3.3 What do you think of the scope of CHRAJ's mandate?

- Appropriate
- Too large/broad
- Don't know
- Give reasons for your answer
.....

3.4 What issues do you think should fall within the mandate of CHRAJ

<input type="checkbox"/>	Human rights; administrative justice; corruption
<input type="checkbox"/>	Human rights and administrative justice
<input type="checkbox"/>	Human rights only

<input type="checkbox"/>	Administrative justice only
<input type="checkbox"/>	Anti-corruption only
<input type="checkbox"/>	Don't know
<input type="checkbox"/>	Give reasons for your answer.....

3.5 Do you think CHRAJ is subjected to political influence?

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No
<input type="checkbox"/>	Don't know
<input type="checkbox"/>	Provide additional details.....

3.6(a) Do you think CHRAJ can withstand political influence?

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No
<input type="checkbox"/>	Don't know

3.6(b)

<input type="checkbox"/>	Explain your response

3.7(a) Do you think CHRAJ can promote good governance in spite of political interference

Yes

No

Don't know

3.7(b)

Explain your response
.....

3.8 What do you think CHRAJ should do to promote good governance in the country?

.....

SECTION 4:

LEGAL FRAMEWORK, STRUCTURE AND FINANCIAL INDEPENDENCE

4.1 Do you think the constitutional provision which allows the

(a) President to appoint the CHRAJ Commissioners is appropriate?

Yes

No

Don't know

4.1

Explain your response

(b)

.....
.....

4.2 If you answered "No" to Q. 4.1, who do you think should be the appointing authority?

Parliament

Judiciary

Council of State

Through elections/electorate

Other (please specify).....

4.3 Should professionals other than lawyers be allowed to serve as Commission members?

Yes

No

Don't know

Explain your response

.....
.....

4.5 How would you want CHRAJ to operate financially?

- From the Consolidated Fund only
- From donor institutions only
- From self generated funds only
- From consolidated and generated funds only
- Other (please specify)

4.4 What do you think of the administrative structure of CHRAJ?

- Appropriate
- Inappropriate
- Don't know
- Please elaborate on your answers.....

4.6 Do you think funding from state coffers compromises CHRAJ's neutrality?

<input type="checkbox"/>	Yes
<input type="checkbox"/>	No
<input type="checkbox"/>	Don't know

4.7 What would you like to see changed in CHRAJ?

.....
.....

4.8 What recommendations would you make to improve the operation of CHRAJ?

.....
.....

APPENDIX B

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.