

REPORT
of the
PROMOTION MISSION
to the
REPUBLIC OF GHANA

1 – 5 SEPTEMBER, 2008

Acknowledgement

The African Commission would like to express its gratitude to the government of the Republic of Ghana for inviting it to undertake this mission, and for putting at the disposal of its delegation all the necessary facilities and personnel to ensure the success of the mission. The African Commission would like to extend a special thanks to the Attorney General and Minister of Justice, Hon. Joe Ghartey, MP and his staff for efforts to ensure that all the appointments were respected.

List of abbreviations

ACHPR	African Commission on Human and Peoples' Rights
AFRC	Armed Forces Revolutionary Council
ARVs	Anti-Retrovirals
CAT	Convention Against Torture
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CHRAJ	Commission on Human Rights and Administrative Justice
CJ	Chief Justice
CRC	Convention on the Rights of the Child
DANIDA	Danish Institute for International Development
DFID	Department of International Development
DG	Director General
DVU	Domestic Violence Unit
ECOWAS	Economic Community of West African States
FGM	Female Genital Mutilation
GAC	Ghana AIDS Commission
GDP	Gross Domestic Product
GH¢	Ghana Cedi
GJA	Ghana Journalist Association
HRC	Human Rights Committee
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights

IGP	Inspector General of Police
LRC	Law Reform Commission
MPs	Members of Parliament
NCD	National Commission for Democracy
NGOs	Non-Governmental Organisations
NLC	National Liberation Council
NPP	New Patriotic Party
NRC	National Redemption Council
PNDC	Provisional National Defence Ruling Council
SADC	Southern African Development Community
SFO	Special Frauds Office
SMC	Supreme Military Council
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
WSU	Women Support Unit

Table of content

Cover page.....	01
Acknowledgement.....	02
Abbreviations.....	03
Table of content.....	05
Introduction.....	07
Brief history of the Republic of Ghana.....	07
Geography.....	10
The people.....	11
Economy.....	11
International human rights obligations and ratification of treaties.....	12
Compliance with reporting obligations.....	12
Composition of ACHPR delegation.....	12
Terms of Reference.....	12
Meetings held during the Mission.....	13
Courtesy visit on the Ministry of Foreign Affairs.....	13
Meeting with the Commission on Human Rights and Administrative Justice.....	15
Meeting with NGOs.....	17
Meeting with the Attorney General and Minister of Justice.....	19
Meeting with the Chief Justice.....	19
Meeting with the Faculty of Law, University of Legon.....	22
Meeting with the Ghana Journalist Association.....	23
Meeting with the Law Reform Commission.....	24

Meeting with the Ghana AIDS Commission.....	24
Meeting with the Ghana Police Force.....	25
Visit to the Senior Correctional Centre, Accra.....	27
Public Lecture on the work of the ACHPR.....	29
Meeting with the Director of Prisons.....	29
Meeting with the Ministry of Health.....	31
Meeting with the Refugee Board.....	33
Meeting with the Speaker of Parliament.....	34
Meeting with the Ministry of Women and Children Affairs.....	34
Briefing Meeting with the Attorney General.....	37
ACHPR's Observations and Analysis.....	40
Conclusions.....	45
Recommendations.....	46

Introduction

1. The African Charter on Human and Peoples' Rights (the African Charter) provides for the establishment of an African Commission on Human and Peoples' Rights (the African Commission or ACHPR). The first members of the African Commission were elected at the 23rd Assembly of Heads of State and Government of the Organisation of African Unity (OAU) in July 1987.
2. The African Commission is mandated to among other things, promote human and peoples' rights and ensure their protection in Africa.
3. Article 45 of the Charter implores the African Commission to promote human and peoples' rights through among other things, research, studies and undertaking visits to States Parties to gather information on human and peoples' rights, and formulating rules and regulations that could be used by States Parties in their human rights policies and legislation.
4. It was on this premise that a human rights promotion mission was undertaken to the Republic of Ghana from 1 – 5 September 2008, led by Commissioner Musa Ngary Bitaye.

Brief history of the Republic of Ghana

5. Modern Ghana takes its name from the ancient Kingdom of Ghana. One of the great sudanic states which dominate African history, the Kingdom of Ghana controlled the gold trade between the mining areas to the south and the Saharan trade routes to the north. The coming of Europeans altered the trading patterns, and the focus of economic power shifted to the West African coastline. The Portuguese came first, seeking the source of the African gold. It lay too far inland for them to reach; but on the Gold Coast they found a region where gold could be obtained, exported along established trade paths from the interior. Their fort at Elmina ("the mine") was the first in a series of forts along the Gold Coast designed to repel the other European seafarers who followed in their wake, all struggling for their share of the profitable Gold Coast trade.
6. In due course, however, slaves replaced gold as the most lucrative trade along the coast, with the European slave buyers using the forts and adjoining buildings for their own accommodation and protection, as well as for storing the goods, mainly guns and gunpowder, which they would barter for slaves. Some of the forts were also used for keeping newly acquired slaves pending the arrival of the ships sent to collect them.

7. At the end of the 17th Century, a number of small states emerged on the Gold Coast; by 1750, these had merged, by conquest or diplomacy, into two: the Asante Empire, and the Fantes. By the 19th century, the Asantes were seeking mastery of the coast, and especially access to the trading post of Elmina.

8. The Asante and Fante traditions of education and organization, and their urge for autonomy, remained throughout the years of British colonial rule. The Gold Coast was regarded as the showpiece of Britain's colonies: the richest, the best educated, the first to have an elected majority in the legislature and with the best organized native authorities. The Gold Coast riots in 1948, which marked the start of the people's agitation for independence, were instrumental in changing British policy and drove home the point that colonialism had no future.

9. But a long struggle still lay ahead - and the man who was the catalyst of that struggle was Dr. Kwame Nkrumah. He became prominent as a leader of West African organizations in London and was invited to return to Ghana as general secretary of the United Gold Coast Convention. In 1949 he broke away to form the Convention People's Party with the slogan Self-Government Now. In February 1951 the party swept to victory in the polls and became the leader of Government business in the colony's first African government. The Gold Coast had become the first British colony in Africa to achieve self-government.

10. On 6 March 1957 Ghana achieved independence - again, the first British colony in Africa to do so - with Dr. Kwame Nkrumah as its first Prime Minister. On 1 July, 1960 it became a republic with Kwame Nkrumah as its first President.

11. On 24 February 1966, the government of Dr. Nkrumah was overthrown by the Ghana armed forces and the police. A National Liberation Council (NLC), headed by Lt. General Joseph Arthur Ankrah, was formed to administer the country.

12. General Ankra who overthrew Nkrumah was himself removed from office in April 1969 and Lt. General Akwasi Amankwa Afrifa became the Chairman of the NLC. In the general election organized the same year, Edward Akufo Addo was elected president. On 13 January 1972, Colonel Ignatius Kutu Acheampong seized power and headed and in July 1978 he was replaced by General F.W.K. Akuffo in a palace coup. On 4 June 1979, an Armed Forces Revolutionary Council (AFRC) was set up under the chairmanship of Flt.-Lt. Jerry John Rawlings. The AFRC was in office for only three months and, in pursuance of a programme already set in motion before the uprising, allowed general elections to be held. On 24 September 1979, the AFRC handed over power to the civilian administration of Dr. Hilla Limann, leader of the People's National Party which had won the elections.

13. The Limann administration was overthrown on 31 December 1981. Flt.-Lt. Rawlings became the Chairman of a nine-member Provisional National Defence Ruling Council.

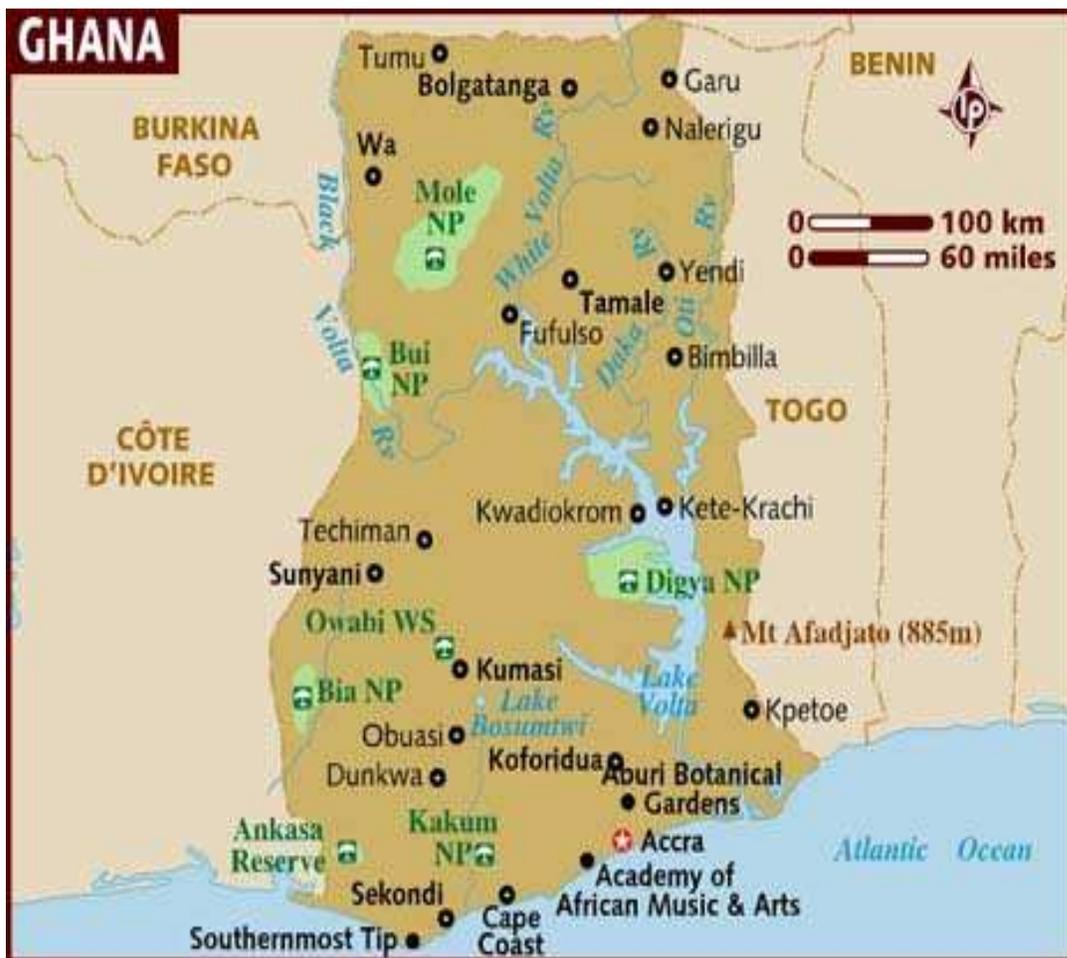
14. Immediately on assumption of office, the PNDC set up a National Commission for Democracy (NCD) charged with formulating a programme for the more effective realisation of true democracy. In 1990, the NCD organised forums in all the 10 regions of the country at which Ghanaians of all walks of life advanced their views as to what form of government they wanted. The final draft constitution was unanimously approved by the people in a referendum on April 28, 1992.

15. In the presidential elections held on November 3, 1992, Flt.-Lt. Rawlings beat to second place his closest rival Prof. Albert Adu Boahen. The Fourth Republic was inaugurated on January 7, 1993 with the swearing-in of Flt. Lt. Rawlings as President and his running mate, Mr.K.N. Arkaah as Vice President. In 1996 Rawlings was re-elected for a second term. In the 2000 elections, John A. Kufuor won against John Atta Mills. President Kufuor took the oath of office on January 7, 2001, becoming the first elected president in Ghana's history to succeed another elected president. He was re-elected in December 2004 for a second four-year term, becoming the first civilian president (without a military background) to fully serve his tenure and go ahead to be re-elected. In the December 2008 elections, Prof. John Atta Mills defeated Akufo Addo to replace President John Kufuor who has served his two four year terms.

Geography

16. Ghana is a West African country with a Land area of about 88,811 sq mi (230,020 sq km); total area: 92,456 sq mi (239,460 sq km). It borders on the Gulf of Guinea and is bounded by Côte d'Ivoire to the west, Burkina Faso to the north, Togo to the east, and the Atlantic Ocean to the south. The map below shows the international boundaries of modern Ghana.

Modern Map of Ghana



The people

17. Ghana has a total population of about 23,382,848 people with an annual growth rate of 1.9% and a birth rate of 29.2/1000. Infant mortality rate is 52.3/1000 and life expectancy is 59.4. The official language is English but other major African languages widely spoken include Akan, Moshi-Dagomba, Ewe, and Ga. The country is mainly Christian which comprise 63% of the population, indigenous beliefs 21% and Islam 16%. The population is composed of black Africans which make up 98.5% with the major tribes being Akan 44%, Moshi-Dagomba 16%, Ewe 13%, Ga 8%, Gurma 3%, and Yoruba 1%. The European and other population make up about 1.5%.

18. Ghana's population is concentrated along the coast and in the principal cities of Accra and Kumasi. Most Ghanaians descended from migrating tribes that probably came down the Volta River valley at the beginning of the 13th Century. Ethnically, Ghana is divided into small groups speaking more than 50 languages and dialects. Among the more important linguistic groups are the Akans, which include the Fantes along the coast and the Ashantis in the forest region north of the coast; the Guans, on the plains of the Volta River; the Ga- and Ewe-speaking peoples of the south and southeast; and the Moshi-Dagomba-speaking tribes of the northern and upper regions.

Economy

19. The economy of Ghana has a diverse and rich resource base, and as such, has one of the highest Gross Domestic Product (GDP) per capita in Africa. Ghana remains somewhat dependent on international financial and technical assistance as well as the activities of the extensive Ghanaian Diaspora. Gold, timber, cocoa, diamond, bauxite, and manganese exports are major sources of foreign exchange. An oilfield which is reported to contain up to 3 billion barrels (480,000,000 m³) of light oil was discovered in 2007. Oil exploration is ongoing and, the amount of oil continues to increase. The domestic economy continues to revolve around subsistence agriculture, which accounts for 50% of GDP and employs 85% of the work force, mainly small landholders. Tourism has become one of Ghana's largest foreign income earners (ranking third in 1997), and the Ghanaian Government has placed great emphasis upon further tourism support and development.

20. Ghana remains one of the more economically sound countries in all of Africa. The country has since July, 2007, embarked on a currency redenomination exercise, from Cedi (¢) to the new currency, the Ghana Cedi (GH¢). The new Ghana Cedi is now exchanging at a rate of \$1 USD = Gh¢ 0.93

International human rights obligations and Ratification of International Treaties

21. At the regional level, Ghana has ratified among others, the following human rights instruments:

- African Charter on Human and Peoples' Rights (1981),;
- Convention Governing the Specific Aspects of Refugee Problems in Africa (1969);
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003); and
- The Protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on Human and Peoples' Rights (1998).

Compliance with Reporting Obligations

22. In accordance with Article 62 of the African Charter, the Republic of Ghana submitted its Initial Report to the African Commission in 1999 and its First Periodic Report in 2003. Since then it has not submitted any other report and thus has three over due reports.

Composition of the Delegation

23. The delegation was composed of Commissioner Musa Ngary Bitaye, member of the African Commission responsible for human rights promotion in Ghana and Chairperson of the Commission's Working Group on Indigenous Populations/Communities in Africa, Dr. Robert Eno, Senior Legal Officer (Protection) and Mrs. Oluwatosin Nguher, Legal Officer (Protection) of the Secretariat of the African Commission.

Terms of Reference for the Mission

24. The terms of reference of the mission were as follows:

- To promote the African Charter on Human and Peoples' Rights and the activities of the African Commission on Human and Peoples' Rights;
- To engage the Government of Ghana on the measures it has or is taking to implement its international human rights obligations in general and its obligations under the African Charter in particular;

- To exchange views with the government of Ghana on the challenges it may be facing in fulfilling its international and regional human rights obligations and the extent to which the African Commission can assist;
- To exchange views with other human rights stakeholders in Ghana on ways and means of promoting and protecting human rights in the country;
- To encourage closer collaboration between the African Commission and the State on the one hand, and between the African Commission and civil society organisations on the other; and
- To encourage the government to participate regularly in the activities of the Commission including attending sessions of the Commission.

Meetings held during the Mission

Courtesy visit on the Minister of Foreign Affairs

25. The delegation paid a courtesy visit on the Hon. Minister of Foreign Affairs of the Republic of Ghana on 1 September 2008. After explaining the work of the African Commission, Commissioner Bitaye informed the Minister of the purpose of the mission. He told the Minister that the ACHPR was in the country on the invitation of the government of the Republic of Ghana to meet with government officials and other relevant human rights stakeholders in the country, to discuss and exchange views on the human rights situation in the country. He emphasized that the mission was a promotion mission to be differentiated from a fact-finding mission. He said being a promotion mission, the ACHPR will be listening to the various stakeholders on the measures they have taken to implement the African Charter and other human rights instruments, the successes they have made, the difficulties and challenges they may be encountering and the extent to which the ACHPR can work with them to deal with some of the challenges.
26. Commissioner Bitaye also informed the Minister on the procedure that the ACHPR adopts when it undertakes promotion missions. He indicated that the ACHPR starts by issuing a press release to inform the general public of the mission. When the delegation is in the country it pays a courtesy call on, generally, the Minister of Foreign Affairs, but can also do so only any other designated authority. After the courtesy call, the delegation then meets with the relevant stakeholders to discuss the human rights situation in the country. At the end of the mission, the Head of the delegation will brief the relevant government authority, usually the Minister responsible for human rights in the country, on the manner in which the mission was conducted and make preliminary observations and recommendations, where necessary. The mission ends with a press conference.

27. He also informed the Minister on the procedure followed by the ACHPR in the adoption of the report, indicating that after the mission, the report is submitted to the ACHPR during one of its sessions for consideration. After deliberations, the report is adopted and recommendations on how to enhance the human rights situation in the country made. The report is then sent to the state for its comments. The state is expected to send its comments, if any within three months. The report is then published with the comments of the state.
28. Commissioner Bitaye also raised some human rights issues with the Honourable Minister, including the fact that since 1999 when Ghana presented its First periodic Report, it has not submitted any report in accordance with Article 62 of the Charter. He encouraged the government to submit its overdue reports. He also raised the issue of the domestication of the Charter into the domestic law of Ghana, noting that Ghana was one of the first countries to ratify the Charter, but had still not incorporated the provisions of the Charter into Ghana law. He encouraged Ghana to follow Nigeria's example and enact an Act of Parliament to incorporate the Charter. Other issues raised included the fact that Ghana has not made a declaration under Article 34 (6) of the Protocol to the African Charter on the establishment of an African Court on Human and Peoples' Rights and also the fact that Ghana has not been consistent in attending the sessions of the ACHPR.
29. In his response, the Minister welcomed the delegation and said it was important that the African Commission visited Ghana so that people would be sensitized about their human rights, and those who feel aggrieved and cannot find satisfaction with the domestic system may be able to approach the ACHPR for redress. He said the delegation will receive answers for most of the issues raised from the relevant ministries, in particular, the Attorney General's Chamber. He said the Ministry of Foreign Affairs was responsible for ratification and the Attorney General for implementation.
30. The Minister then informed the delegation that the government of the Republic of Ghana was concerned that the ACHPR, with its Headquarters in Banjul, The Gambia, did not issue any statement to condemn the alleged murder of about 40 Ghanaians off the coast of the Gambia. He said both the government of The Gambia and Ghana has been trying to resolve the matter diplomatically to no avail. He informed the delegation that together with the Economic Community of West African States (ECOWAS) and the UN, the two governments have agreed to set up an investigative Committee to investigate the matter and make recommendations on the way forward.
31. Commissioner Bitaye informed the Minister that the ACHPR attaches a lot of importance in the protection of all human rights, in particular the right to

life. He also informed the Minister that the ACHPR was seized with the matter in the form of a communication submitted by some NGOs from Ghana. He said the Commission was handling the matter in accordance with the provisions of the Charter.

Meeting with the CHRAJ

32. The delegation met with the Commission on Human Rights and Administrative Justice (CHRAJ) on 1 September 2008. After describing the purpose of the mission, Commissioner Bitaye indicated that the ACHPR would like to know about the mandate, functions and challenges the CHRAJ may be facing in the promotion and protection of human rights in Ghana.
33. He said the ACHPR would like to know among other things, whether there were constitutional guarantees dealing with mineral rights of the State vis-à-vis communities that reside on the land on which the mineral is found. He indicated that the jurisprudence of the ACHPR favours the recognition of the rights of the communities to land and mineral resources in the area in which they reside. He encouraged the CHRAJ to apply for Affiliate status with the ACHPR with a view to working closely with the latter and other National Human Rights Institutions, to share experiences.
34. In response, the Deputy Commissioner of the CHRAJ made a power point presentation on the mandate, activities, operations and challenges of the CHRAJ.
35. In the presentation, he indicated that the CHRAJ was a creation of the 1992 Constitution of Ghana and came into existence in 1993. It is vested with the mandate to promote and protect fundamental human rights and freedoms and administrative justice in Ghana. It is also an anti-corruption agency vested with power to deal with conflict of interest, code of conduct/ethics and corruption in the public sector. According to him, the mandate of the CHRAJ embraces the functions of the traditional national human rights commission, an Ombudsman and an anti-corruption agency.
36. Article 218 (a), (c) and (f) of the 1992 Constitution and Section 7 (1) (a), (c) and (g) of the Commission of Human Rights and Administrative Justice Act (CHRAJ Act 45) of 1993 provides for the human rights mandate; Article 218 (a) and (b) of the 1992 Constitution and Section 7 (1) (a) and (b) of the CHRAJ Act provides for the Administration of Justice mandate; and Articles 218 (a) and (e), 284 – 288 of the 1992 Constitution and Section 7 (1) (a), (e) and (f) of the CHRAJ Act of 1993, provide for the anti-corruption mandate.

37. The human rights mandate includes the promotion, protection, prevention and enforcement of human rights. Through these broad headings, the CHRAJ undertakes public education, research, human rights monitoring, investigation of complaints, etc.
38. The key purpose of the administration of justice mandate is the avoidance of arbitrariness, excess of jurisdiction and the timely disposition or redress of citizen grievances arising from real or perceived acts of unfair treatment, bias, delay, caprice or dictatorship on the part of public officers.
39. The anti-corruption mandate includes the responsibility to prevent corruption, misappropriation and mismanagement of public money, misconduct, abuse of power and conflict of interest by public officials.
40. Most of the cases submitted to the CHRAJ are complaints involving human rights violations and administrative injustice. The CHRAJ receives an average of 12,000 complaints annually since 2000. It has also dealt with high profile cases on corruption, including allegations of impropriety involving car bonds to Members of Parliament (MPs), the case brought against the President by the minority in parliament and the hotel purchased by the son of the President.
41. The CHRAJ is of the view that the criminal justice process may not be effective in the fight against corruption. To this end, it has adopted a new approach that incorporates prevention, public education, and investigation. This approach, according to the CHRAJ is more cost-effective, human-friendly, participatory and encourages voluntary participation.
42. In terms of the CHRAJ Act, the CHRAJ has competence to deal with all matters except a matter which is pending before a court or judicial tribunal, a matter involving the relation or dealings between the government and any other tribunal or an international organization or a matter relating to the exercise of the prerogative of mercy.
43. The members of the CHRAJ stay in office until they reach retirement age. They are only three members, two male and one female.
44. According to the Commissioner, Justice Emile Short, since the CHRAJ was established before the adoption of the Paris Principles, it does not fully meet the requirement of the Paris Principles, in particular, its composition is not pluralistic. The delegation was informed that the CHRAJ has written to the government to draw its attention to the deficiency on plurality.
45. The CHRAJ reports to Parliament. During the reporting process, a delegation of the CHRAJ meets with a committee of parliament with

- respect to the report. The Act requires that the report be tabled in parliament by the Minister of Justice. However, an amendment to the law requires the speaker of parliament to nominate any person to present the report, and as such, the CHRAJ can table the report directly to Parliament.
46. On its relations with the Special Frauds Office (SFO), the CHRAJ indicated that there has been a good working relationship between the two bodies. The delegation was informed that while the SFO deals with white collar crimes such as banking, over-invoicing, etc, the CHRAJ deals with corruption related to public organs only. The SFO can refer a matter to the CHRAJ where the former believes the latter is better suited to deal with.
47. According to the CHRAJ, the main challenges it faces include, inter alia, insufficient funding from the government, heavy workload due to over-concentration on individual complaints resolution and unattractive conditions of service making it difficult to attract and retain qualified staff.

Meeting with NGOs

48. The delegation met with a group of NGOs on 1 September 2008. After explaining the purpose of the mission, Commissioner Bitaye informed the NGOs that they are partners with the ACHPR in the promotion and protection of human rights. He said the NGOs and ACHPR may be operating from different platforms, but the aim of both of them is to enhance the enjoyment of human rights on the continent. He said the ACHPR has established a formal relationship with NGOs, through the granting of Observer Status, with a view to ensuring proper cooperation and the effective discharge of its mandate.
49. In response, the NGOs raised questions about the operations of the ACHPR, ranging from the late receipt of invitation letters to sessions, whether the ACHPR could support the attendance of NGOs at its sessions, the number of female Commissioners, whether the mandate of the ACHPR extends to the implementation of the Protocol to the African Charter on Human and Peoples' Rights on the Protection of the Rights of Women in Africa. The NGOs also wanted to know whether the ACHPR has powers to impose sanctions on States that violate the African Charter.
50. In his response, Commissioner Bitaye indicated that the ACHPR also faces difficulties with funding and does not have funds to support NGOs that may not have the means to attend its sessions. On the implementation of the Protocol on the Rights of Women, he said that the ACHPR has put in place Special Mechanisms, including a Special Rapporteur on the rights of women in Africa, to ensure the promotion of the rights of women and monitor the implementation of the Protocol. He indicated that all the members of the ACHPR also monitor implementation

of the Protocol as they raise issues regarding the rights of women during missions undertaken to State Parties.

51. On the power of the ACHPR to enforce its decisions or sanction States, Commissioner Bitaye indicated that the ACHPR makes recommendations that are non-binding. He added that with the establishment of the African Court on Human and Peoples' Rights, which adopts legally binding decisions, the situation relating to the implementation of the decisions of the ACHPR may change.
52. He said notwithstanding the fact that the ACHPR's decisions are mere recommendations and thus non-binding, the ACHPR has adopted several other measures to enhance its effectiveness, including in particular, publication of its recommendations, naming and shaming, raising issues with States during the examination of their reports and during promotion missions. He indicated that the ACHPR is also exploring the possibility of adopting a Follow-up Committee to ensure the implementation of its recommendations.
53. Commissioner Bitaye also indicated that the ACHPR and the African Court will be meeting soon to harmonise their Rules of Procedure, noting that the ACHPR has been encouraging States to ratify the Protocol on the Court and make the declaration under Article 34 (6) of the Protocol on the Court. He said time was needed to sensitize States on the necessity to make the declaration, adding that the refusal by some States to make the declaration may be due to lack of information.
54. Other issues raised by the NGOs include the difficulties faced by some potential complainants in exhausting domestic remedies which are cumbersome and slow. The NGOs also wanted to know the relationship between the ACHPR and sub-regional human rights courts, such as the ECOWAS Community Court and the SADC Tribunal, in particular, whether complainants need to exhaust remedies under these sub-regional mechanisms before approaching the ACHPR.
55. On the exhaustion of local remedies, Commissioner Bitaye indicated that the ACHPR was aware that the wheels of justice at national level was usually very slow, and the ACHPR has put in place safeguards to prevent abuse and unnecessary delays. On the question relating to the sub-regional human rights bodies, Commissioner Bitaye indicated that the ACHPR was yet to adopt a position on the matter, adding that presently, they were not considered to constitute the local remedies to be exhausted.
56. Commissioner Bitaye finally urged those NGOs that have not already done so, to apply for observer status with the ACHPR, and to attend the sessions of the latter. He also urged the NGOs to partner with the

government and support human rights initiatives in the country. He said NGOs should stay in contact with the ACHPR to inform the latter on the human rights developments in the country.

Meeting with the Attorney General and Minister of Justice of the Republic of Ghana

57. The delegation met with the Attorney General and Minister of Justice of the Republic of Ghana, Honourable Joe Ghartey on 1 September 2008. During the meeting, which was attended by Directors of the Ministry, Commissioner Bitaye raised several issues regarding the human rights situation in Ghana.
58. Commissioner Bitaye informed the Minister that even though Ghana ratified the African Charter in 1989, and despite being regarded as the beacon of freedom in Africa, Ghana has still not domesticated the African Charter. He cited Nigeria as an example of a State Party that has domesticated the Charter through the enactment of an Act of parliament, and urged Ghana to follow suit. He also drew the Minister's attention to the fact that since submitting its initial and first periodic reports in 1993 and 1999, respectively, Ghana has relented in the fulfillment of its obligations under Article 62 of the African Charter. He indicated that the ACHPR was prepared to provide expertise and training to assist with the preparation of State reports should that be needed. He also urged the government to involve NGOs and other sectors of civil society in the preparation of State reports.
59. Other issues raised by Commissioner Bitaye included the fact that Ghana has not been regular in attending the sessions of the ACHPR, the problems with the Liberian refugees, the problem of long pre-trial detentions and overcrowding in prisons, the eviction of residents in the remote areas of Kumasi in May 2007, the trafficking in persons, the abolition of the death penalty and he also encouraged Ghana to make the declaration under Article 34 (6) of the Protocol on the Court.

Meeting with the Chief Justice of the Republic of Ghana

60. The delegation met with the Chief Justice (CJ) of the Republic of Ghana, Her Ladyship, Honourable Justice Georgina Wood. Other Justices of the Supreme Court were also present at the meeting. After the welcome by the CJ, Commissioner Bitaye briefed the Chief Justice about the African Commission and the purpose of the mission.
61. Commissioner Bitaye indicated that the Judiciary was a very important institution in the protection of human rights and can be relied on for the protection of rights enshrined in the African Charter. He noted that Ghana

has a dualist legal system of Government with international treaties to which they have obligations. He wanted to know whether the Courts in Ghana use provisions of international human rights treaties in their judgments, especially where there are gaps in the national laws, including the Constitution.

62. In her response, the Chief Justice indicated that courts in the country are at liberty to use international human rights treaties in their decisions, adding that this was a decision taken by the Supreme Court and lower courts are expected to implement.
63. Commissioner Bitaye then asked whether there were human rights training for members of the judiciary, especially for magistrates and junior judges.
64. The Chief Justice said that human rights training was previously done for members of the superior courts, starting from the level of the High Court, and that very soon, this will be extended to the lower courts. She also stated that a human rights division has been created within the High Court which deals exclusively with human rights and constitutional issues. She added that the Judiciary also has a very good relationship with the Fordham Law School which deals with human rights issues and some judicial officers will be going there for a two weeks training on human rights issues.
65. The Chief Justice stated that the Supreme Court has drawn a clear distinction between human rights cases and other civil cases to avoid confusion. This she said has been done despite the reservation/concern expressed by their Danish partners/donors who thought this distinction was not necessary because of their belief that there is always an underlying human rights issue in every civil case, and as a result of this, there is no need for the creation of a specialized court for human rights.
66. Commissioner Bitaye also asked about the abolition of the Death penalty which was still in the statute books of Ghana. In her response, the Chief Justice asked whether serial killers should be left to live.
67. Commissioner Bitaye then went ahead to explain to the CJ that sometimes, what these people need is psychological help and treatment and not to be put to death. He also indicated that in some cases where a person has been sentenced to capital punishment, before the penalty is carried out, usually after several years, this person is under a lot of stress and psychological torture, because they do not know when they will be killed. This, according to the Commissioner could amount to a violation of their right.

68. The CJ expressed her understanding of this explanation and said that it is the Government that has to take steps to change the legislation.
69. Commissioner Bitaye also mentioned the issue of congestion of prisons which he said has an effect on the rights of prisoners to health, shelter, food, etc. He asked if judges and magistrates are aware of the congestion in prisons and if the options of community service or fines have been considered for minor offences, to reduce congestion in prisons.
70. The CJ replied that this was a good idea, but there was the problem of insufficient capacity and personnel to do the supervision of the convicts in this type of circumstance.
71. Commissioner Bitaye raised the issue of corruption and in this regard drew the attention of the CJ to the Parliamentary Select Committee Report on the Judiciary in 2003, in which it was revealed that there were cases of bribery and arm twisting by the Government, within the judiciary. There were also allegations of loss of case files in the courts.
72. The CJ replied by saying that Transparency International has conducted a specific investigation on the Judiciary and the report stated that there is no corruption in the judiciary, especially at the level of the Supreme Court. She added that the conditions of service of the members of the judiciary have improved considerably, compared to what obtained before, which makes accepting bribe from litigants unattractive. She however noted that, at the lower level where there are petty cases, this may not be the case.
73. On the issue of Government interference in the judiciary, she said people always and will always attach issues of politics to the judiciary, adding that, all cases are decided transparently and reasons are given publicly for decisions made on every case. She said there was no Government interference on the judiciary, especially on the Supreme Court. She noted further that the media also plays a huge role in twisting facts and misinforming the public on issues regarding the judiciary.
74. On the issue of loss of files, she said the Judiciary has decided to start an electronic method of keeping case files. She added that, court fees will henceforth be paid directly into reputable banks instead of being paid at the court. In order to deal with allegations of bribery, a complaints unit has been set up in the Court where complaints against members of the judiciary and judicial officers are reported and promptly investigated. She however noted that most of these allegations have been found to be untrue. A code of ethics and profession document has also been prepared and distributed to justices and officials of the court.

75. Lastly, the Commissioner wanted to know whether in the sentencing of women, pregnancy tests are carried out on them before they are incarcerated. The Commissioner said that there are allegations of the test not being carried out before incarceration, and after incarceration it is found that they are pregnant and asked whether there was a specific legislation addressing the issue.
76. The CJ replied that there was no specific legislation dealing with the testing of female convicts before incarceration, but will be considered as a matter of practice. She then went further to state that there will be a challenge when it has to do with narcotics related crimes, for which the law does not under any circumstance, allow bail even where it involves a pregnant woman, however it will be left to the Attorney General's office to decide the matter

Meeting with the Faculty of Law of the University of Legon, Ghana

77. The delegation met with the Dean of the Faculty of Law, Dr. Kwadwo Appiagyei-Atua and some lecturers of the Faculty. After explaining the purpose of the mission, Commissioner Bitaye indicated that the delegation wanted to know the Faculty's position on a number of issues, including, the implementation of the African Charter by the Government; challenges and difficulties experienced in the implementation of the Charter; whether the obligations of State Parties under the Charter are shared by NGOs and the press; if the curriculum of the University includes human rights teaching.
78. The Dean of the Faculty indicated that the University had the privilege of having Professor EVO Dankwa, a former member and Chairperson of the Commission, as a former Professor at the Faculty, which has helped improve the human rights education in the Faculty. He said that the Faculty has the following human rights courses; International Human Rights Law, International Law, Constitutional Law (national and international) and International Humanitarian Law. The International Human Rights Law and Humanitarian Law were however elective courses.
79. The Post-graduate programme has also been restructured to include a programme on International Human Rights Law and Humanitarian law. The Faculty attends Moot Court competitions organised by the Centre for Human Rights University of Pretoria. He said students who attend these competitions have a good knowledge of the African Commission. He indicated that the Faculty of Law of the University of Pretoria also sends post-graduate students on the LLM on Human Rights and Democratisation in Africa programme to the University of Ghana for an internship in the second term of their programme.

80. On public responsibility, he said there was a human rights centre which has now been changed to Centre for Human Rights and Public Affairs in the University. He said as individuals, each member of the Faculty is involved with human rights work and they work with/or are members of NGOs. Some of the lecturers teach human rights at the Ghana Armed Forces Training School.
81. The Commissioner said he was happy to hear about the extensive work of the Faculty of Law on human rights, as the intention of the Commission is to see human rights education made compulsory in the educational sector.

Meeting with the Executive of the Ghana Association of Journalists

82. The delegation met with Secretary of the Ghana Association of Journalists and the Legal Adviser of the Organisation. After briefing them on the work of the Commission and the purpose of the mission, Commissioner Bitaye indicated that that was the first promotional mission of the Commission to the Republic of Ghana. He went further to ask whether the right to freedom of information and freedom of expression were undermined in any way. He also asked if there were any challenges faced by journalists in obtaining public information.
83. The Secretary of the GJA indicated with respect to the question on freedom of expression that there was some level of tolerance by the Government, that there has been no cases of arrest by the Government nor has there been instance of people being charged to court for defamation. He added that the Constitution of Ghana was very good and Article 12 thereof guarantees freedom of expression. He said there was however need for open discourse between the Government and the civil society in order to address misconceptions which the civil society has about the Government.
84. The Commissioner wanted to know the number of private and state-owned media in the country. The delegation was informed that there were two State owned newspapers and two State-owned TV stations in the country, while the private media was about eight times more than State owned media.
85. As regards access to public information, he said there was still more to be done although it has improved considerably. He said access to the Presidency used to be more restrictive but now it is a lot better. He said, access to public information actually depends on who is occupying the office at that point in time and his/her style of operating. He noted that a legislation was passed about 10 years ago, which prohibited public officials from giving public information, due to the fact that it requires them to obtain permission from their superior officers. That there was also the

State Secrets Act which states that there is some information which should not be made public. As an example, he cited the example of the salaries of some senior public officers which are never made public.

86. Commissioner Bitaye also wanted to know if the Association organises seminars for journalists to sensitize them on the Bill of Rights in particular and human rights in general. The GJA indicated that due to funding constraints, it has not been able to undertake such activities.

Meeting with the Law Reform Commission

87. The delegation met with the Executive Secretary of the Law Reform Commission (LRC) together with some members of staff of the Commission. Commissioner Bitaye briefed them about the work of the African Commission and explained the purpose of the mission. He wanted to know the level of awareness of the African Charter in Ghana and, whether the Charter has been operationalised in the country. He also wanted to know the mandate of the LRC, in particular, its functions, its role in reforming the laws of the land and the challenges it faced.

88. In his response, the Executive Secretary indicated that the Commission was set up eleven years after independence, that it was composed of nine members. He said a lot of work was being done in the promotion and protection of human rights in Ghana. He said the revision of the laws of the country is carried out on certain areas which require new legislation or revision. Recommendations are then sent to the Attorney General's office which may or may not approve them. He said proposals to the new law are also made by other stakeholders before they are submitted to the Office of the Attorney General.

Meeting with the Ghana AIDS Commission

89. The delegation met with the Chairperson, a member and some officials of the Ghana AIDS Commission (GAC). After describing the work of the ACHPR, Commissioner Bitaye explained the purpose of the mission and indicated that the HIV/AIDS pandemic has had serious consequences on all aspects of human life and brought about issues related to human rights such as discrimination, access to health care, equal opportunities in employment, etc. Commissioner Bitaye indicated that the Commission was thus interested to know if there were any challenges in the protection of rights of individuals either infected or affected with HIV, and how these challenges were being addressed, and the extent to which the ACHPR could be of assistance.

90. The officials of GAC stated that there were laws on HIV/AIDS in Ghana, but a lot needs to be done to sensitise the people more on the laws. They

informed the delegation that discrimination has been a major challenge and there was need for collaboration with other organisations for support and to develop policies to address the issue of discrimination. They indicated that the GAC organises annual programmes which emphasizes on behavioral change towards those infected or affected by HIV. The few people who know about their rights seek redress from the courts.

91. Commissioner Bitaye wanted to know the statistics of HIV infected people and was informed that as at 2007, 1.92% of the population was infected by the virus.
92. On the availability of Antiretroviral drugs, the delegation was informed that the National AIDS Control Programme handles treatment, care and support to those infected and provides Anti Retroviral Drugs (ARVs), adding that the cost of the ARV was is virtually free, with just about \$5 paid for each treatment.
93. The GAC gets its funding principally from the Government, but also receives support from the World Bank, Department for International Development (DFID) and Danish International Development Agency (DANIDA). It also has local civil society partners and external partners who work with other NGOs.

Meeting with the Ghana Police Force

94. The delegation met with officials of the Ghana Police at the Police Headquarters in Accra. The delegation was informed that the Inspector General of Police was unavoidably absent and tendered his apologies. The delegation thus met with the Deputy Inspector General of Police and key officers and policy makers of the Ghana Police Service.
95. After describing the work of the African Commission, Commissioner Bitaye explained the purpose of the mission. He indicated that the Police are one of the principal institutions in the promotion and protection of human rights and that is why the delegation decided to meet with them.
96. Commissioner Bitaye then raised a number of issues relating to the work of the Police and their impact on the protection of human rights. These issues range from the procedure of arrest to police training, the representation of women and challenges facing the police corps.
97. On the arrest and prosecution of suspects, Commissioner Bitaye wanted to know the successes and difficulties the police in Ghana have in enforcement of law, from the time a suspect is arrested to when he is taken to court, including whether and how soon a lawyer is made available

to a suspect after an arrest is made. Commissioner Bitaye also wanted to know whether there were training facilities, in particular human rights training for the police. He also asked about allegations of police abuse of power, including police officers acting as debt collectors, the use of disproportionate force in arrest of illegal miners in the mining areas and the issue of mob justice/instant justice. Commissioner Bitaye also observed that there seemed to be an almost parity in the number of female/male senior police officers and he asked about gender streamlining in the police force.

98. In response, the Deputy IGP indicated with respect to the issue of training that, there was an ongoing training programme for the police which include human rights. The IGP stated that there are six (6) training schools for the police, all of them teaching human rights as one of the core courses. Human rights officers come from the Attorney General's office to train the police officers on human rights. In 2003 there was a general human rights training for all police officers, initiated by the police and officials from the CHRAJ served as resource persons. There were plans to have a similar training in September sponsored by the UNDP, where some key officers would be trained as human rights instructors who will in turn train other future police officers.
99. On female representation, the Deputy IGP indicated that the ratio of female to male was 1:4. On the arrest and prosecution of suspects, she indicated that the fundamental human rights enshrined in the Constitution of the Republic of Ghana are followed to the letter. She noted however that the difficulty may be found in some cases in the area of interpretation which could cause a breakdown of communication, adding that usually there was no problem of interpretation because when an illiterate suspect is arrested, there is always a police officer who is able to speak to him in his/her language to make him understand the reason for his/her arrest.
100. The delegation was also informed that suspects were usually informed that they were entitled to a lawyer, however, most suspects do not know about the necessity of having a lawyer before their arrest. This challenge is usually found in the rural areas. However in rural areas the suspect may ask for an elder in his family to be present with him/her at the time of taking the statement.
101. On the question of abuse of power by the police, the Deputy IGP stated that in the course of training the police officers, they are trained to differentiate between fraud and civil cases, where a matter is a civil one, the police should have nothing to do with it and any officer who delves into this will be appropriately dealt with. She indicated that however, there are some police officers who still go on collecting debts, noting that this may be because they can still not differentiate between civil and criminal

matters. The Deputy IGP noted that where report of these reaches the police headquarters, investigations are carried out and guilty police officers are appropriately dealt with depending on the gravity of the offence. She added that this was not rampant and most police officers were aware. The Deputy IGP also observed that the judicial process may also contribute to this problem because it takes a long time for cases to be disposed of, and people turn to the police to ask for help to facilitate collection of debts owed to them.

102. Commissioner Bitaye advised that the work of the police on this issue should be publicized so that the public is aware of measures taken by the police against defaulting officers. However the Deputy IGP replied that this may be viewed as “washing dirty linen in public”, but however indicated that the suggestion of Commissioner Bitaye will be taken into consideration.
103. On the question using disproportionate force in the arrest of suspects in the mining communities, the IGP stated that it is difficult for the police to go to those areas to arrest illegal miners due to the fact that the terrain is quite hostile and most of these illegal miners are armed. When the police go there, it is usually on an operation, whereby they go as a group to round up suspects. She said it was not true that the police killed some of the suspects, adding that in the course of trying to arrest them, a lot of them fall into the pits they have dug and die, and all the police does is to pick up the dead bodies when they come on the operation. She added that Mining companies which have been granted mining concessions in these areas also have their own security officers who may be responsible for the death of some of those illegal miners.
104. On the of mob justice which is known as “instant justice”, the police stated that this is a worrisome issue especially where those accused of witchcraft are mobbed to death. The delegation was informed that most of the time before the police arrives the scene, the mob would have killed the victim. However, the occurrence of this has decreased greatly, due to sensitization campaigns and in-depth studies by international organisations.
105. Commissioner Bitaye also wanted to know about allegations of politicians using “Macho Men” to attack opponents during their campaigns, as well as the use of “Land Guards” by some landlords to guard land which may have been sold to several people. He also raised the question of violence against women and what the police was doing about the issue.
106. On the question of macho men, the Deputy IGP indicated that not all campaign areas were troublesome adding that where the police anticipate that there will be violence in a particular campaign area, they

deploy more officers there to keep the peace, even though no area is left completely unattended to. On the question of violence against women, the delegation was informed that there has been tremendous assistance from the UNDP and other NGOs to deal with the problem, but there is still a lot to be done.

Visit to the Senior Correctional Center for juveniles.

107. The delegation paid a visit to the Senior Correctional Centre for Juveniles based in Accra. Mrs. Elizabeth King, the Officer in Charge and Regional Director of the Accra Prisons Service, led the delegation to tour the facility.
108. Before the tour started, Mrs. King briefed the delegation on the work of the Centre. She said that most of the inmates were between the ages of 15-18 years old and when brought to the centre, they are put through an observation process, which includes moral and spiritual counseling. Six months after, they are taught a vocation of their choice such as tailoring, carpentry, brick making, mechanic work etc. Some of them are in Junior High School, but every one of them is put through a semi-formal education to enable them to be able to read and write. They go to school with the children of other officers of the facility and as a result they are not identified as prisoners or inmates. The overall purpose of their stay is for rehabilitation and reintegration back into the society.
109. The human rights of the children are looked after by welfare officers and the facility is more or less run like a boarding school. The facility is not fenced in order for them not to feel like they are in a prison, however there are officers available all the time that look after them. NGOs also come to assist in one way or the other. Fridays are reserved as socialization days where the inmates are visited by their families who bring food and other provisions to them.
110. When it is time for inmates to leave the facility, they are given necessary survival tools like sewing machines, carpentry tools etc to put to use when they are back in the society, to ensure that they do not engage in criminal activities. Follow-up is also done, where visits are paid to them at their houses to make sure they are coping well outside the Centre. The delegation was informed that due to the monitoring and the assistance given when they leave the Centre, there has not been any case of recidivism.
111. At the time of the visit, there were 122 male offenders in the facility and no female offender.

Public lecture organized in collaboration with the Third World Network

112. In collaboration with the Third World Network, an Accra-based NGO with observer status with the Commission, Commissioner Bitaye delivered a public lecture on 'the work of the African Commission for the last two decades'. The lecture was held in the Teachers Hall in Accra, and was attended by over fifty participants drawn from NGOs, members of the army and the police, government and other civil society sectors. Several questions were raised relating to among other things, the composition, functions, effectiveness and relevance on the Commission.

Meeting with the Director General of Prisons

113. The delegation met with the Director General of Prisons of Ghana on 4 September 2008, and after describing the work of the Commission, Commissioner Bitaye briefed the Director of the purpose of the mission. He also informed the DG, who was accompanied by several other colleagues, about the visit to the Correctional Centre and the positive initiatives in the centre. Commissioner Bitaye informed the Director that the African Commission would like to know the human rights obligations of the prison services in Ghana, the challenges faced by the prison service in Ghana, the funding situation, including information on the funds allegedly disbursed by the Government and the Government of South Africa for the building of a prison complex and training of prison personnel.

114. The DG informed the delegation that the Government took a loan of 6 million Dollars from Stanbic Bank which is to be utilized in two phases of three million each. The first phase is to build ten carpentry workshops and twenty tailoring workshops. According to the Director General, the carpentry workshops were already installed by technicians from South Africa but material for the tailoring workshops were still at the harbor and would soon be cleared and brought into the country for installation. The rest of the machinery which contains 3 motor mechanics shops, 3 vulcanizing shops, 10 shoemaking shops, 3 pottery shops, and 3 electronics shops were in the second phase scheduled to start in August 2009.

115. The rest of the money is for the purchase of equipment like helmets, boots, and vehicles etc, for the protection of prison officers and the Prison Service had already taken delivery thereof. The Director indicated that the vehicles helped in the mobility of the officers and in transportation of the prisoners to court. There were about 3 custom-made vehicles for the transportation of prisoners, which ensures the safe travel of the prisoners and officers from place to place.

116. The Commissioner also wanted to know if there has been any form of support by any other organisation or body apart from the government. The Director General indicated that the UNDP and the President's Special Initiative were the main supporters of the Government, adding that the latter donates money for machinery and pays prison instructors about 5 Ghana Cedes per hour.
117. The Director General indicated that the aim of the prison service has always been reformation and rehabilitation of the prisoners. When asked if there are separate facilities for female and male inmates, the DG indicated that there were five separate prison facilities for female convicts.
118. On the prison population and the problem of overpopulation in the prisons, he indicated that there was a 60% rate of overcrowding in the prisons, but added that with the new prison being constructed with a capacity of 5, 000, the congestion will be reduced. He said the major problem is found in the remand prisons where suspects are kept for years without being tried. He said, if they are convicted there would be a place to put them, but their not being convicted creates a problem at the remand prisons.
119. He indicated that there was a new initiative by the Attorney General's office, which invites circuit judges to pay particular attention to the cases of those awaiting trial. This has resulted on the release of over 50 remanded detainees. The Director General added that the police prosecution is usually uncooperative and they contribute to the remandees staying on remand for longer than they normally should. He said there were over 4,390 remand prisoners out of a total of 14,080 prisoners. There is a ratio of 50:1 male to female prison inmates.
120. On the issue of health care for the prisoners, he said the Government has started a free National Health Insurance Scheme which extends to all prisoners and prison officers and their families. There is also a water system connected in the toilets for the prisoners compared to the pit latrine which they were using.
121. To enhancing the feeding of the inmates, the government gave 15 tractors to the prisons on hire purchase to help in farming. The prison is self-sufficient in vegetable production which is what feeds all the prisoners and caters for their nutritional needs. There is also a maize farm, cassava and yam farm, cultivated by the prisoners themselves. Some prisoners have family members who bring food for them in the prison, the prison service does not stop this practice, which started sometime in 1983.
122. The Director General was of the opinion that if the Government increases the capital base of the prisons, there would be more food for the

- prisoners, because the same allocation is what has been given to the prisons for the past few years.
123. On the allegation of denying access to prisons for NGOs, the DG indicated that NGOs are not denied access to the prisons, provided they comply with the law and rules of engagement. He reiterated that rules have to be followed by NGOs and anyone coming to visit the prisoners, otherwise they will be denied access.
124. Commissioner Bitaye also wanted to know if it was a requirement that before a female convict is brought into the prison, a pregnancy test has to be carried out on her. The DG indicated that this is a rule of practice for the courts and they admit the convict after all this has been done. However, this is usually not done. The issue has always been one of who will foot the medical test bills/ expenses. Until a policy is made on this issue and a budget allocated for this purpose this will remain an issue.
125. Commissioner Bitaye indicated that there should be cooperation between all Government institutions so that all these issues can be dealt with to enhance the protection of inmates.
126. The DG stated that a baby-friendly unit had been established in the prison where female prisoners with babies can take care of them conveniently. This they claimed has however been criticised by some observers, who say that the prison services is encouraging children being born in prison, and that this is an abuse of the rights of the child. Commissioner Bitaye however commended the efforts of the prison authorities for establishing a child care unit in the prisons.

Meeting with the Ministry of Health

127. The delegation met with the Acting Chief Director of Health of the Ministry of Health of the Republic of Ghana, Mrs. Salamata Abdulsalam, including some members of staff of the Ministry.
128. Commissioner Bitaye started by briefing the Acting Chief Director on the work of the African Commission and the purpose of the mission. He stated that the right to health is one of the basic human rights enshrined in the Charter, an important right which affects the enjoyment of several other rights, including the right to life. He indicated that the African Commission would like to get information on many issues, including in particular, the number of hospitals and clinics in the country, the minimum requirement of healthcare met by the ministry, the number of doctors in the country and the proportion to the population as a whole, whether there were training facilities available to health workers and doctors in the country, the challenges faced by the Ministry in terms of medicines and

whether the medicines were from local manufacturing companies or they are all imported, mechanisms in place to deal with HIV/AIDS in the country, including policies for the care and protection of people who suffer medically, socially and psychologically from the disease.

129. In her response, the Acting Chief Director indicated that some of the answers, in particular those which have to do with statistics, will be provided later after consultation with the Attorney General's office, who will transmit it to the Commission. This she said was due to the short notice that the Ministry received regarding the mission.

130. On the provision of minimal basic healthcare, she said the Ministry tries as much as possible to meet the minimal healthcare needs of all Ghanaians who come to the public hospitals for healthcare. There is a policy based on the slogan "health is wealth", which encourages health practices and the need to eat healthy food at all times. Basic healthcare services are provided at all times.

131. She said about 87% of all medicines were available in the health facilities but the aim is to get to at least 90% and eventually 100%. With respect to ARVs, she said it was almost 100% available free of charge. The challenge however is the required testing which must be done before administration of the drug. Policies have been developed on herbal medicines and students are being trained on the development and administration of herbal medicines as well.

132. She said 80% of medicines are imported and only 20% is manufactured locally, even though all the ingredients are imported. In order to make local manufacturers to remain in business, preference is given to drugs manufactured by them. The policies and laws developed in the ministry over the years have been geared towards making medicines available to everybody by making sure they are cheap and affordable. The policies are to make sure that poor people are able to get access to medicines and as much as possible guarantee the safe delivery of healthy children. However, childhood diseases still remain a challenge to the Ministry.

133. The Ministry also publishes newsletters and posters which help sensitise people on what to expect in the hospital and clinics, so that when they don't get this, they can report to the appropriate authorities. Privacy is also an important thing, patient's privacy is highly protected. Free pre-hospital emergency treatment is provided to accident victims.

Meeting with the Refugee Board

134. The delegation met with the Secretary to the Refugee Board to secure permission to visit the Liberian Refugee in the Bujumbura Camp. However, the delegation was informed that due to time constraints and security considerations, it will not be possible to visit the camp. Commissioner Bitaye took the opportunity to get information on refugees and other refugee and asylum matters from the Secretary of the Board. He in particular wanted to know the problem faced by the Liberian refugees were involved in confrontation with the security forces earlier in the year, the refugee population in Ghana, the number of refugees repatriated in 2008, the facilities available in the refugees camps.
135. In his response, the Secretary of the Refugee Board indicated that voluntary repatriation was an ongoing process for Liberian refugees, in accordance with a tripartite agreement with the Government of Ghana, the government of Liberia and the UNHCR. He said the Government asked the UNHCR to increase the repatriation package of the refugees which was just \$5 to \$100 which is now the same as what other refugees are paid.
136. On the disturbances involving the Liberian refugees, the Secretary indicated that, the issue which led to the incident was the fact that the refugees asked for a repatriation package of \$3000, which the UNHCR could not afford to give them. The refugees then started a demonstration which was a breach of the laws of Ghana and the authorities had to take appropriate measures to stop the demonstrations.
137. Presently, the official population of refugees in Ghana is 26,967 and the unofficial population is 40,000 people. The Liberians came into Ghana around 1990-2000, shortly thereafter, there were voluntary repatriations but when the crisis started again, a lot of them came back into the country again.
138. The UNHCR does the repatriation and gives the package on behalf of the Government. Since April of this year, there has been 6,000 refugees who opted to go back home, especially since the repatriation package was increased to \$100. Repatriation has been slow due to transportation challenges, the roads are not good enough and they are quite dangerous too, so this has slowed down progress. Refugees who intend to be voluntarily repatriated put their name down at the registration centre on the camp, pending processing of their repatriation papers and repatriation to their country.
139. The Board deals with voluntary repatriation and local integration of the refugees depending on the circumstances of each case. Some

refugees have asked for work permits and have been granted same and they work as normal citizens in the country.

140. The issue of security has been a challenge in integration, due to the allegation that some of the refugees are combatants and this disqualifies such individuals as refugees. They have to be profiled, well investigated and cleared before they are integrated into the society.

141. There are facilities like police stations, clinics and schools in the camp. There are 11 zones in the camp and a 12th zone is located outside the camp. The camp has a camp manager/settlement manager, a Liberian welfare council, refugee welfare council and Zonal Heads. There is also an education board run by the refugees and the Liberian council of elders who intervene to settle disputes in the camp.

Meeting with the Speaker of Parliament

142. The Parliament was not in session at the time of the mission and as a result the delegation was unable to meet with parliamentarians or the relevant parliamentary committees dealing with human rights issues. The delegation however had a brief meeting with the speaker of the Parliament, Honourable Ebenezer Sekyi-Hughes.

143. The Speaker indicated his willingness to receive the Commission at a later stage when parliament will be in session.

Meeting with the Ministry of Women and Children's Affairs

144. The delegation met with the Deputy Minister of the Ministry of Women and Children's Affairs, Mr. Daniel Apprah together with a number of staff members of the Ministry.

145. Commissioner Bitaye briefed the Deputy Minister about the work of the African Commission and the purpose of the mission to Ghana. He then indicated that the delegation had visited the Ministry to among other things exchange views on a wide range of issues relating to the promotion and protection of the rights of women and children, and in particular find out from the Ministry the challenges it may be facing in the promotion and protection of the rights of women and children, the question of domestic violence against women and the measures the Ministry has put in place to deal with the issue, whether FGM was a problem and if so what was being done to tackle it, measures put in place to protect girls from the practice of "trokosi" which is being practiced in some parts of the country, gender mainstreaming in the public service, child labour, trafficking and early marriages, the prevention/prohibition of sexual exploitation of children.

146. In his response, Mr. Apprah indicated that the issue of violence against women and children is greatly frowned upon in Ghana. He noted that the government adopted the Domestic Violence Act in 2007 which spells out clearly what a domestic setting should be like and provides clearly that domestic violence against the vulnerable in a home is a crime. A lot of sensitization campaigns have also been carried out to talk against domestic violence, and as a result of this, women are getting bolder. He indicated that recent reports indicate that women are now the ones beating up their husbands at home. The sensitization has encouraged not only the woman to report abuses, but co-workers and anyone can report cases of domestic violence against colleagues or neighbours. There have been established domestic violence support centres at police stations to deal with cases of domestic violence.
147. On the issue of sexual exploitation of children, he said this was punishable under Ghanaian law as the crime of defilement, and any man who sleeps with a girl below the age of 16 with or without her consent, has committed the crime and is liable to imprisonment. Rape is also frowned upon by the law and any fondling of a child's private parts, exposing a child to pornographic material are all illegal acts, punishable by law. He indicated that marital rape is also discouraged and many societies and cultures in Ghana do not allow it at all.
148. On Female Genital Mutilation (FGM) he said even though it has been outlawed, there was a cultural challenge. He indicated that the Government was carrying out sensitization campaigns to fight this issue and was winning the fight.
149. On child trafficking he said, even though it is a crime in Ghana, people still exploit children, adding that through cooperation by the Law Enforcement Agencies and support from some civil society organizations, a few children have been rescued from being trafficked and a man was recently sentenced to 7 years imprisonment for trafficking his own kid.
150. On the issue of the prevalence of child labour, he said there was a perception that children are taken to cocoa farms to do manual labour, which was not the case. He said statistics have shown that children who live in the cocoa plantation areas, attend school even more than those who live in other areas. He said most of the kids who work in the farms do so only after school so as to help their parents.
151. On the issue of early marriages, he said the Ministry has been making efforts to stop the practice, however it was faced with a strong cultural challenge. He cited a case where an official of the Ministry tried to intervene in a case of early marriage in the Northern part of the country, to

- prevent a very brilliant young girl from being taken off school and given into marriage. By the time the official could bring in other officials to persuade the parents, the girl had been forced to leave the village with the man and they were nowhere to be found. He said there is generally a cultural belief that when a girl is left to grow old, she will not get a good husband to marry when she becomes older.
152. On school attendance, he said it was high and Government has introduced incentives for children who attend school. The public schools are free and feeding has been introduced in some public schools. Government is also coming up with measures of training teachers and has promised incentives to teachers, which encourages them to do their work with more dedication.
153. On gender mainstreaming, he said the Government was trying hard to involve women in the public service, noting that the Chief Justice is a woman, the Vice Chancellor of the University of Cape Coast is a woman and that 10% of parliamentarians are women, eight Chief Executives of Ministries are women. He said these women have also proved themselves to be very capable in their various offices as well. He also indicated that there is also a gender neutral budget/salary system where everyone is paid equally for equal work.
154. Commissioner Bitaye also wanted to know how decentralized the ministry was in a bid to reach many people. The Deputy Minister indicated that the Ministry was more centralised in nature, adding that there was a problem of not having representation in the district level which was due for the most part to budgetary reasons more than any other reason. He however added that the Ministry works closely with NGOs to reach the districts and some committees have been established to deal with issues at the district level, which helps the Ministry to better carry out its mandate.
155. On the challenges facing the Ministry, the Deputy Minister noted that the Government has not come to a point where child protection services could take away children who are being abused in the home so as to give them proper care. He said there was also the challenge of societal and behavioural change, where people and especially women are still afraid to report abuses, and even the society, including family relations could blame a woman for reporting an abusive husband. Associated to this is the challenge of supporting the children or repairing a relationship after an abusive husband has been made to serve time in prison. He said Trokosi is another practice which presents a challenge to the Government but in a lot of ways this has been greatly reduced. He said some sections of society strongly believe that this practice should continue even though the government and NGOs have been fighting against the practice.

Briefing of the Attorney General and Minister of Justice

156. At the end of the meetings and with the various stakeholders, the delegation had a meeting with the Attorney General and Minister of Justice of the Republic of Ghana to brief him on the preliminary findings and observations of the mission. During the briefing meeting, Commissioner Bitaye made the following observations:

- a) That the mission went very well adding that the persons and institutions met were engaged in a frank and constructive manner;
- b) That the delegation was particularly impressed by the broad powers given to the CHRAJ and the enormous work it has done in the promotion and protection of human rights in Ghana. He said the delegation appreciates the fact that the members of the CHRAJ were appointed for life, thus guaranteeing their security of tenure and to a large extent their independence. He encouraged the CHRAJ to apply for affiliate status with the African Commission, so that other National Human Rights Commissions/ Institutions could benefit from its experience;
- c) He said the delegation was also impressed with the initiatives being taken to enhance the rights of persons incarcerated, in particular, the fenceless and humane conditions under which juveniles at the Senior Correctional Centre were held. The delegation also found the “Justice for All” programme a very good initiative and would like to encourage all stakeholders to fully support it;
- d) He said the fact that the judiciary is going to adopt an electronic case management system and has adopted a code of ethics for judges and magistrates as well as established a complaints unit to deal with allegations brought against members of the judiciary was a commendable initiative;
- e) Commissioner Bitaye also observed that the adoption of the Patient’s Charter by the Ministry of Health was a good initiative, as it gave patients and health officials information regarding their rights and responsibilities;
- f) Commissioner Bitaye indicated that the Commission appreciated the adoption of the Domestic Violence Act, 2007, as well as the government’s intention to deal with congestion in prison with the building of a new prison with a holding capacity of 5,000.

157. Commissioner Bitaye also drew the attention of the Attorney General to some issues of concern which needed some action on the part of the government. These issues included, inter alia:

- a) The fact that since 1999, Ghana has not submitted its periodic report in conformity with Article 62 of the African Charter;

- b) The fact that the African Charter and other international human rights instruments have not been domesticated in Ghana in spite of the fact that Ghana has been a beacon of hope in Africa as far as issues of freedom and respect for human rights are concerned;
- c) The fact that Ghana has not made a declaration under Article 34 (6) of the Protocol of the Court;
- d) The fact that the death penalty remains in the Statute books of Ghana, even though there is a *de facto* moratorium on the death penalty;
- e) The fact that the President has an almost absolute discretion in the appointment of the Commissioners of CHRAJ;
- f) That the delegation would like to have more clarification on the Kumasi evictions of May 2007;
- g) the high level of congestion in the prisons which was, at the time of the mission, about 60% overcrowded, and was equally concerned about the high number of remandees in custody and the fact that people are incarcerated for minor or petty offences for which they could be given non-custodial sentences or fines;
- h) The delegation would also like to seek clarification on the alleged lack of access to public information;
- i) That the Commission continues to receive reports of sexual violence against women, including violence against the girl-child in spite the adoption of the Domestic Violence Act in May 2007. The delegation further notes that in spite of the law prohibiting FGM, there are reports of this practice continuing in some parts of the country;
- j) The delegation is also concerned about violence in the mining communities which has resulted in the loss of lives and property;
- k) The delegation was concerned by the seeming misunderstanding or lack of cooperation among the various law enforcement authorities, that is, the police, prison officials, office of the Attorney General and judiciary, regarding the handling of suspects on remand, and in particular, the institution or department charged with the responsibility of paying medical expenses for persons who have been convicted, especially presumed pregnant women;
- l) To seek more information and what the government was doing on the phenomenon of mature men and land guards.

158. In his response, the Attorney General thanked the delegation of the African Commission and Commissioner Bitaye in particular for his frankness, and assured him that the Government was already taking steps to deal with most of the issues which have been raised.

159. On the Kumasi evictions, the AG gave an example of efforts which were being made by the Government, about a place known as Sodom and Gomorrah, which is notorious for crime and drugs, the Government met with and had a dialogue with the inhabitants proposing a relocation of these people to another area of the country. The chiefs in the new location

however refused to have them relocated to their area because of their notoriety. However the Government will not relent in its efforts to ensure that a safe environment is provided for the citizenry.

160. On domestic violence, he said there was a Domestic Violence Unit (DVU) within the Police Stations which handles all matters of domestic violence. The name of this unit was changed from Women Support Unit (WSU) to Domestic Violence Unit in recognition of the fact that not only women were being abused, but men were increasingly being physically abused by their women.
161. On the issue of the number of accused persons on remand, the Attorney general informed the Commissioner that, 400 cases have been reviewed recently by the Chief Justice and 14 circuit judges, under the “Justice for All” system. The work is an on-going process.
162. On the issue of who will bear the expenses for medical test for female convicts, the Attorney General said that a budget line will be created to cater for this, as this is the responsibility of the Attorney General’s Office.
163. On the issue of the “Land Guards”, he said due to pressure on land in the Accra area, Chiefs who own these lands are fond of selling a piece of land to several people, thereby causing confusion. This has prompted some landowners/buyers to employ the services of private security, known as Land Guards to protect their land. This problem is mostly caused by the fact that land is not vested in the Government but on the people, and there are several land registries/ institutions where ownership of land can be registered.
164. He said the Government was trying to deal with the problems on the land issue and efforts were being made to deal with the issue, through among others, developing a land administration project to deal with administration of land in Ghana. Through this project, there will now be a centralized land administration department, which it is hoped would reduce the problems associated with land, especially in Accra; the establishment of a specialised fast-track land courts to deal specifically with land cases. He noted that the discovery of oil in the western region will reduce pressure of land ownership in the capital, because more people will move towards the west to acquire land. That the police have set up a special unit to deal with these issues adding that it is now a criminal offence to have land guards and issues of trespass are being taken seriously. That the government has also embarked on a project to build apartment blocks for civil servants in order to reduce housing problems.

165. Commissioner Bitaye held a press conference at the end of the mission which was attended by a cross section of the media in Ghana.

The ACHPR's observations and analysis

166. In this section of the Report the African Commission analyses the human rights situation in Ghana based on the information it gathered from the meetings and discussions with the different stakeholders.

167. The delegation of the ACHPR visited only one Correctional Centre during the mission, that is, the **Juvenile Senior Correctional Centre** in Accra, and met with the Director General of Prisons, who briefed it on the prison and detention conditions in the country. The Senior Correctional Centre was clean, less crowded and did not reflect a sense that the inmates were in detention. The fenceless nature of the Centre and the constant interaction between inmates and members of the public provide a sense of belonging for the inmates. The fact that children of staff members of the Centre and inmates go to the same school and ride in the same school bus reflects the desire to integrate the inmates in society without harming their image. The African Commission finds this Centre as a good example of how juveniles in detention should be treated. This is buttressed by the fact that, according to the authorities of the Centre, none of the inmates released from the Centre has been brought back for a crime or reported to have committed any crime after leaving the Centre.

168. The African Commission must hasten to add that the conditions in the Centre do not in any way reflect the prison and detention conditions in Ghana as a whole. Due to time constraints, the delegation could not visit other detention facilities. However, in the meeting with the Director of Prisons, he admitted that there was overcrowding in some of the prisons and this was caused by the large number of pre-trial detainees. To deal with this problem, the government is building a 5,000 capacity modern prison. The African Commission is of the view that while this will decongest certain prisons in the short term, it is not a sustainable solution to prison overcrowding. The African Commission is conscious of the human resource capacity necessary to institute non-custodial punishments such as community services, but believes that if the government invests in human capacity development, this would be a sustainable approach to prison congestion.

169. The ACHPR observes with appreciation the dynamism of **Civil Society Organizations** in Ghana. The NGOs met by the African Commission did not express any particular human rights problems in the country. They admitted that a lot has been done in the area of human rights, but that more can still be done to enhance the enjoyment of human rights in the country. The establishment of the **Commission on Human**

Rights and Administrative Justice, together with the independence of the judiciary and other institutions supporting democracy, the rule of law and human rights, have created a conducive atmosphere of trust in which a culture of human rights can flourish. The African Commission also appreciates the close collaboration between the government and civil society organizations and urges this partnership to be strengthened.

170. While it was clear that these institutions were operating well, it was also evident that some of them, in particular, the CHRAJ could do much better if its resources were enhanced. The CHRAJ cited inadequate funding from the government as its major challenge. Given the broad mandate of the CHRAJ and the trust and confidence it has instilled in the public, enhance resources will enable it recruit permanent and qualified staff and conduct proper investigations.
171. The African Commission notes the fact that the three Commissioners of the CHRAJ serve until they reach retirement age. While this provides some assurance of security of tenure and may guarantee the independence of the CHRAJ, the fact that the President has absolute discretion in the appointment of the Commissioners, may open the process of appointment to abuse. The President may decide to appoint only persons that are loyal to him or persons that may not be competent.
172. With respect to the **Judiciary**, the African Commission was pleased to learn from the Chief Justice that the Courts in the country were at liberty to use international human rights treaties and the decisions of human rights bodies in their decisions, adding that this was a decision taken by the Supreme Court and lower courts are expected to implement. The African Commission also notes that human rights' training for members of the Judiciary was an ongoing activity, and the Judiciary had partnered with the Fordham Law School for the training of judges on human rights issues. In a bid to enhance transparency and fight corruption, the Judiciary has improved the conditions of service of judges, and started an electronic method of keeping case files, and court fees will be paid directly into reputable banks instead of being paid at the court. In order to deal with allegations of bribery and other malpractices within the Judiciary, a complaints unit has been set up in the Court where complaints against members of the Judiciary and judicial officers are reported and promptly investigated and a code of ethics has been prepared and distributed to justices and officials of the court to guide them.
173. These initiatives notwithstanding, the ACHPR is concerned with the high backlog of cases in the courts that have led to more and more people being held in detention beyond the constitutionally prescribed duration. Even though it doesn't seem to be a state policy, there was indication that

- the government and some politicians were trying to interfere with the independence of the Judiciary.
174. The African Commission is concerned that there is no proper collaboration among the different law enforcement agencies. This was evidenced by the large number of backlog of cases, high number of pre-trial detainees and the fact that none of the agencies seemed to know who was responsible for ensuring that women were tested or whether they should be tested for pregnancy before being sentenced or sent to prison.
175. The African Commission appreciates the work being done by the **Law Reform Commission** in the promotion and protection of human rights in Ghana, in particular, the review of legislation to make them human rights friendly. The African Commission particularly appreciates the participation of other stakeholders in the preparation of the draft laws before they are sent to government for consideration.
176. The African Commission notes the impressive work being done by the **Ghana Aids Commission** but however observes there is still the challenge of stigmatization and discrimination against people living with HIV/AIDS. The Commission further observes that ARV is not provided free of charge, even though the cost per treatment is very low, that is, about \$5 for each treatment.
177. The African Commission observes with interest the **Ministry of Health's** policy based on the slogan "health is wealth", which encourages healthy practices based on the need to eat healthy food at all times. It also notes with appreciation the efforts being made to ensure that medicines were available in all health facilities and the efforts to encourage herbal/traditional medicine, especially the training of students on the development and administration of herbal medicines. The Commission however notes with concern that 80% of medicines are imported and only 20% is manufactured locally.
178. With respect to the problem of the **Liberian Refugees**, the African Commission observed that there was lack of information and communication. The refugees did not know or had information on the body responsible for their repatriation processes. It was also observed that the refugees were frustrated by the fact that they were being treated unfairly by being given a repatriation fee of only \$5, while refugees in other regions were getting much more. The Commission also notes that in spite the increase in the number of request for repatriation few refugees have actually been repatriated due to transportation challenges, include bad roads and insecurity.
179. The African Commission welcomes the efforts by the **Faculty of Law, University of Legon** to introduce human rights courses such as

International Human Rights Law, International Law and International Humanitarian Law in its curriculum, and participates in the annual Moot Court competitions organised by the Centre for Human Rights, University of Pretoria, and receive post-graduate students on the LLM on Human Rights and Democratisation in Africa programme from the University of Pretoria, South Africa, for internship. The African Commission appreciates the establishment of the Centre for Human Rights and Public Affairs in the University which will help to disseminate information on human rights to the students and the public at large.

180. While appreciating the contribution of the individual staff members of the Faculty in the activities of human rights organisations, the African Commission did not see a direct relationship between the Faculty and the government. The Government does not seem to be using the expertise at the Faculty in dealing human rights issues in the country. It was not clear whether the Faculty made or would be call to make any contribution in the human rights agenda of the government, including in the preparation of the latter's periodic reports to treaty bodies.

181. On **Freedom of Expression and Access to Information**, the African Commission was impressed with the dynamism of the Ghanaian press and welcomed the freedom both the print and electronic media were enjoying. The Commission was however concerned about access to information, especially after its meeting with the Ghana Association of Journalists. While accepting that there was some level of tolerance, the GJA noted that there was need for open discourse between the Government and the civil society in order to address misconceptions which the civil society has about the Government. The GJA said access to public information in Ghana depends on who is occupying the office at that point in time and his/her style of operating. He noted that a legislation was passed about 10 years ago, which prohibited public officials from giving public information, due to the fact that it requires them to obtain permission from their superior officers. That there was also the State Secrets Act which states that there is some information which should not be made public. As an example, he cited the example of the salaries of some senior public officers which are never made public.

182. The **Police** are one of the most important institutions in the protection of human rights. The Police are established to among other things, provide protection for persons and property, prevent the commission of crime, and uphold the rule of law. During the mission, there were allegations of disproportionate use of force by the Police in dealing with illegal miners in mining communities. This has led to the death of some citizens. The Police argue that it was not responsible for the death of the illegal immigrants, that they die in pits that they dig themselves. The

fact that the Police consider its mission in the mining area as an 'operation', and sends well armed officials there, demonstrates that it is prepared to deal with the illegal miners through whatever means. The Police have not opened any independent investigation to determine whether the illegal miners died through the bullet of the Police or after fallen in a pit. The police have no independent oversight body, even though it had established an internal investigation system to deal with malpractices.

183. The African Commission also notes that some Police officers, either deliberately or out of ignorance, get involved in solving civil disputes, in particular, debt collection, and in most cases this resulted in abuse of powers. The Commission was also pleased to know that the Police Force was taking the matter seriously and according to the Deputy IGP where report of abuse of power reaches the police headquarters, investigations are carried out and guilty police officers are appropriately dealt with. The desire to resort to the Police may be attributed to the delays in the disposal of civil cases. This has led to some members of the public to corrupt/use some police officers to recover debt owed to them. The Macho Men and Land Guards phenomenon, if not tackled urgently may deteriorate into a gang of armed units within the country. The phenomenon is not backed by any piece of legislation and neither is it established as part of private security apparatus. It may result to a system of 'might is right'.
184. The African Commission was pleased to learn that there was an on-going human rights training programme for all cadres of the police. This is supported by the establishment of six (6) training schools for the police, all of them teaching human rights as one of the core courses. The African Commission was however concerned about the low level of representation of women in the police force, especially at the high echelon of the police.
185. The African Commission observes that Ghana has takes steps o **comply with its international human rights obligations**. It has ratified most of the major international and regional human rights instruments, such as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the African Charter on Human and Peoples' Rights (ACHPR) and the Protocol to the African Charter on Human and Peoples' Rights relating to the Rights of Women in Africa, the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (the African Court Protocol). However, in spite being one of the first African countries to ratify the African Charter and a beacon of freedom in Africa, Ghana has not been faithful in its reporting obligations to the African Commission. Its last

- periodic Report was submitted in 1999. Despite having ratified the African Court Protocol, Ghana is yet to make the Declaration under Article 34 (6).
186. Furthermore, even though the Bill of rights contains some of the provisions of the African Charter, it falls short of a wholesale domestication of the Charter. The complete domestication of the Charter would give persons within the jurisdiction of Ghana a broader array of rights and an opportunity to hold the government accountable for those rights.
187. The ACHPR also observed that NGOs in Ghana hardly **attend the sessions of the African Commission** and the CHRAJ does not even have affiliate status, in spite being one of the oldest African National Human Rights Institutions. The absence of the CHRAJ and NGOs from Ghana at the ACHPR's sessions makes it difficult for the Commission to meaningfully engage with civil society organizations in the promotion of human rights in the country. They have not been able to benefit from the experience-sharing with other like-minded institutions that attend the sessions of the ACHPR, and the NGO Forum that precedes the sessions.

Conclusions

188. Meetings and discussions with the various stakeholders, including government departments, the Human Rights Commission and NGOs gave the ACHPR an opportunity to examine the successes, explore the challenges and consider ways and means of enhancing the enjoyment of human rights in Ghana. Given the time constraints, the ACHPR could not meet with all the stakeholders especially the refugees in Bajumbura. However, it is convinced that the persons and institutions met and the frank discussions that emanated there from have given it an opportunity to have a better understanding of the human rights situation in the country. The ACHPR is further convinced that the information it has gathered provides a representative picture of the human rights situation in the country and the basis on which it can make an informed opinion and formulate appropriate recommendations on how to enhance the enjoyment of human rights in the country.
189. In making the recommendations to improve the promotion and protection of human rights in Ghana, the ACHPR is cognizant of the politico-economic development of the country, but at the same time conscious of the responsibility of States to protect human rights irrespective of their socio-economic development. The Commission is firmly convinced that the respect for all human rights provides the foundation for any meaningful political and economic development.

Recommendations

190. Based on the above analysis, the ACHPR makes the following recommendations:
- a) The government should submit its Periodic Report in conformity with Article 62 of the African Charter;
 - b) The government should, in collaboration with the Judiciary, organize regular training for members of the Judiciary on the use of international treaties and human rights decisions, and take steps to incorporate international treaties into domestic law;
 - c) The government should take steps to domesticate the African Charter on Human and Peoples' Rights and other international human rights instruments it has ratified;
 - d) The government should ratify all the international and regional human rights instruments it is yet to ratify, including in particular, the Merged Single Document of the African Court on Justice and human rights, and make the declaration under Article 34 (6) thereto;
 - e) The government should take steps to establish independent prison monitoring bodies, with adequate funding and other facilities;
 - f) The government should consider adopting non-custodial punishments such as community services and fines, especially for minor crimes and petty offences;
 - g) The government should investigate allegations of deaths and disproportionate use of force by the police in arresting illegal miners. Investigations should also be conducted on allegations of deaths caused by private security companies recruited by the mining companies. Those found guilty should be brought to justice.
 - h) The government should consider establishing an independent Police oversight body to investigate all allegations of police malpractices.
 - i) The government and other political figures should ensure respect for and the independence of the judiciary.
 - j) The government should ensure that laws, policies and other pieces of legislation such as the State Secrets Act which place unnecessary restrictions on access to information be amended to ensure easy access to information with due regard to the security of the State.
 - k) Adequate resources should be provided to independent institutions such as the CHRAJ to ensure they fully accomplish their mandates.
 - l) The government should abolish the death penalty;
 - m) Law enforcement agencies, in particular, the police, the judiciary and the prison service should set up mechanisms to deal with the problem of pre-trial detainees and the backlog of cases;
 - n) The government should promote more sensitization campaigns, and where necessary legislation to ensure that people with HIV/AIDS are not stigmatized or discriminated against, especially in places of work;

- o) Government should put in place legislation to make ARVs free of charge;
- p) The government should increase funding for law enforcement agencies, in particular, the Prison Service;
- q) The government should take steps to encourage more women to join the Police Force, including the appointment of women in the higher echelon of the Force;
- r) The government should take urgent measures to eliminate the macho men and land guards phenomenon, as this may lead to lawlessness and encourage powerful and rich people taking the law into their own hands and exploiting the weak and the poor in society;
- s) Measures should be taken to tackle prison congestion. Such measures may include the introduction of community service and institution of fines for petty and minor offences;
- t) Female convicts should be tested to determine whether they are pregnant before being sent to jail;
- u) The government should ensure that refugees are provided the protection required under international law;
- v) The CHRAJ should be encouraged to apply for affiliate status with the African Commission and NGOs in the country should also be encouraged to attend the sessions of the African Commission and be more involved in the activities of the latter;
- w) Efforts should be made to increase local capacity to manufacture medicines and lessen over dependence on imported medicines; and
- x) Government should participate more frequently at the Ordinary Sessions of the Commission.