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FOREWARD

This report is a compilation of interviews researching on human rights law under Ghana's constitution. From May 22 to August 11, 2006, we, Edudzi Ofori and Chelsea Paradis, law students from the University of Ottawa, undertook an internship with an international organization called Journalists for Human Rights (JHR), through another organization called Canadian Lawyers Abroad (CLA). Although we were working for JHR, our immediate supervisor was Madame Georgette Francois, of Georgette Francois and Associates. Over the past three months, we have met with various representatives of administrative bodies and non-governmental organizations (NGOs) involved in the protection of human rights and advocating for those whose rights have been violated.

Originally, our mandate for the internship was to identify the gaps in the system's structure and procedures that ensured the protection of human rights, specifically of vulnerable groups such as women and children. After identifying those gaps, we were expected to compile a manual to present at workshops for Canadian journalists explaining the basic tenets of human rights law from a Ghanaian perspective, in light of both its domestic and international obligations. However, after a preliminary research of speaking with some organizations, we came to the realization that our proposed work had already been done by different organisations in various ways. Most of the NGOs that we met with had already published literature on the status of human rights in Ghana. Some had manuals tailored to vulnerable groups, specifically women and children, outlining their rights and freedoms under the 1992 Constitution of the Republic of Ghana. We decided that it would be redundant to compile a human rights law manual when similar manuals were already available. Under the advisement of Madame Georgette Francois and with the consent of both JHR and CLA, we revised our mandate.

We narrowed down our scope to a specific group of people in the Ghanaian society, whom we viewed as vulnerable and who, in our opinion, had the least amount of support and efforts from the NGOs advocating for their rights and protection. This group of people is prisoners. In a separate report we analyse the rights of prisoners under the Ghanaian constitution and other local laws as well as their rights in the international context and contrast it with evidence taken from interviews with prisoners, reports by administrative bodies and interviews with NGOs involved in projects on prisoners' rights.

This report is a compilation of our interviews and observations with various administrative bodies and NGOs. The report is divided into two parts. Part I consists of the reports, which are either written in an interview format, in point form, or in the form of a summary. The reporting style differed depending on the nature of the organization and the structure of the interview. We had a basic list of questions regarding the general status of human rights in Ghana with the focus on access to justice.¹ The first half of our reports consists of meetings where general questions were asked. We stopped asking those broad questions once we decided to narrow our research topic to that of prisoners' rights. The second half of our reports consists of meetings we had with organizations who dedicated their time and effort to researching and advocating for prisoners' rights. Throughout our interviews and observations, we discovered some reoccurring themes. In Part II, we highlight those reoccurring themes and discuss some observations and opinions that we found very interesting and in some cases shocking when compared to the Canadian system. We conclude our report with a general impression of our internship.

¹ See Appendix A for the list of sample questions.

PART I

1. Human Rights Organizations

The first set of reports are based on interviews and observations with administrative bodies, organizations and individuals involved in promoting and protecting the rights of vulnerable groups in Ghana. In the interviews, we asked general questions regarding the history and the purpose of the organizations.² We wanted to have an idea of the efforts the organizations were making to improve the human rights status in Ghana. Most of our interviews touched on the issue of access to justice and the impediments in the Ghanaian system that are causing serious barriers to justice. There were a few interviews that were not with organizations per se, but rather with individuals, i.e.: two judges and a Queen Mother who were involved in the process of ensuring that those whose rights had been violated had a recourse within the system. The reports are presented in chronological order. In some of the reports, a brief personal summary on our thoughts about the interview/observations and overall impressions is given at the end.

Circuit Court

Date: Tuesday May 23, 2006 **Location:** Workers College **Time:** 9:00 am – 12:00 pm
Contact: Judge Georgina Dodoo

Observing Criminal Court Proceedings

I arrived at the building at 8:00 am and due to the rain, the judge's chambers and the court room were flooded with water. There was a woman cleaning so I left the area and returned at 8:50 am. When I returned, I joined Judge Dodoo in her chambers for a chat. Five minutes into our conversation, a gentleman walked in her chambers, and I excused myself and joined Chelsea in the court room. We waited for approximately 55 minutes for the hearings to proceed. From the manner in which people were filing into the room, Chelsea and I figured that because of the rain, the hearing was being delayed to allow more people to arrive so that their case could be heard. At 9:55 am a court clerk asked the court to rise and introduced Judge Dodoo to the court. After the judge took her seat we all sat down. In front of the judge's desk was a long table where two court clerks sat, facing the court and two police officers (prosecutors, we were later informed) sat facing the judge.

The proceedings began when one of the clerks stood up and read the names written on the docket files. Due to the rain (our assumption), most of the people that were called were not present, including their lawyers. In fact, throughout the entire proceedings, there was no lawyer to represent any of the accused present. Occasionally, when a name was called, one of the prosecutors would stand and request that the case be adjourned. Upon consulting the calendar, the judge would grant the request. In some cases, an accused would be present and upon responding to his/her name being called, would be asked to stand in the witness box and a judgement would be read. (I guess the trial would have already taken place). In total, two sentences were given. The first accused was found guilty of negligent driving causing harm. His sentence was 100 penalty units or 6 months in jail. The judge calculated that 100 penalty units

² Ibid.

amounted to a fine of 2 million Cedis. The second accused was found guilty for stealing. He has already served 5 months in custody because he was unable to pay for bail. In consideration of the time already served, he was sentenced to a fine of 1 million Cedis or 3 months in jail. In both cases, after the judge read the judgement in English, the court clerk explained it to the accused in his native language.

The proceedings were over at 11:00am, and the judge asked Chelsea and I to join her in her chambers.

Thoughts

Throughout the entire proceedings, Chelsea and I were confused as to the nature of the court. There were a lot of adjournments and no shows, so we thought it was the equivalent of a remand court in Canada. We were also confused as to the role of the two police officers who were quite involved in the proceedings. It was later explained to us that they were prosecutors for the republic of Ghana.

Interview

Q. We are confused on the role and jurisdiction of the court. It appears to be what we call “remand” court, in Ottawa.

This is not a remand court. You were confused because of the adjournments. There are a lot of adjournments because this is not the actual court house and a lot of people are confused or unaware of the court’s temporary relocation (since a part of the actual court house collapsed). The adjournments were unusually high today, because of the rain. It is unfortunate that a case was not heard today.

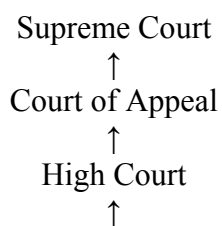
Q. Who were the two police officers and what was their role?

They are prosecutors.

Q. Is there not the appearance of bias, having police officers act as prosecutors?

No, there is not. I base my judgements upon the hearing and the examination of evidence. Regardless of whom the prosecutor is, he/she has to prove to me beyond a reasonable doubt, the elements of the crime before I can find the accused guilty. Also the police prosecutors are only at the district and circuit levels. Most of the cases heard are not serious crimes. At the higher level courts, actual prosecutors represent the public.

Judge Doodoo further explained her role as a judge, her background, including her work for the Human Rights Commission, and how the courts are structured in Ghana:



Circuit Court
↑
District Court

Any case involving a constitutional issue can be tried directly at the Supreme Court. If a case is being heard at the High Court level and it involves the determination of a constitutional issue, the case will be adjourned and the issue will be sent to the SC to be determined before the High Court can continue.

Q. What were the usual complaints at the Human Rights Commission?

I heard a lot of complaints relating to labour and employment and we kept informing the complainants that the Commission was not mandated to hear those types of complaints. Now a Labour Commission has been established and so I presume that it will be hearing those types of complaints. Other than labour complaints, I mostly heard child support claims.

Q. How does child support claims infringe on human rights?

Well if a parent is not paying child support for the child's living, health and educational expenses, it affects the child's rights. The right to live, the right to education, etc.

The judge explained to us the severity and frequency of the child support claims that she handled and gave examples by describing some of the cases she dealt with. She further explained that unfortunately, the powers of the Commission were limited as it does not have the power to give an order, so in most cases, it is better for the complainants to seek redress and enforcement in the court.

Q. What do you find frustrating about working as a judge? Which is more challenging, working as a judge or as a lawyer?

I find the adjournments frustrating, more so now because the courts have been relocated throughout the area due to the structural collapse of one of the court houses. What is also frustrating is the lack of resources available. There are fewer judges and more and more cases heard each year. The poor infrastructure in this country is also a problem, making it difficult for the justice system to run smoothly. For example, most residents do not have an address. It is very difficult to issue an order, warrant or subpoena without an address. Another example is those who did not show up at the hearings today will have to come down to the court house at a later time, find the clerk to enquire when and where their case will be heard next. This is something a simple phone call would have made easier, but we do not have the resources available for such things.

Chelsea and I had other discussions with the judge and superficially compared the Ghana system to the Canadian system. We ended our discussion in the hope that more people would show up the following day and that we would get the opportunity to observe a hearing.

Circuit Court (Interview # 2)

Date: Wednesday May 24, 2006 **Location:** Workers College **Time:** 9:00 am – 12:00 pm
Contact: Judge Georgina Dodoo

Observing Civil Court Proceedings

We arrived at the court house at 9:00 am. Court session did not begin until 10:00 am. The session began with the clerk reading the names on the docket files. All the cases were adjourned for a later date, because most or all the parties involved in each case were not present. The entire court session ended at 10:15 am.

During the process when Judge Dodoo was adjourning the cases, she made a comment that Chelsea and I found interesting. When the names of the parties to a case were read, one man stood up and the judge asked the man where his lawyer was? He explained that he did not know why his lawyer had not shown up, because his lawyer was aware of his hearing date. The judge then asked the man whether he has made it a point to remind his lawyer about his hearing date. We found this comment very interesting because our thoughts were: why should the client have to remind his lawyer about his hearing date? It is the lawyer's professional duty to know when he has to be in court.

After the 15-minute court session, the judge again asked Chelsea and I to join her in her chambers. She apologized for making us “witness” another uneventful court session. She expressed frustration about the fact that the courts have been relocated and therefore it was confusing for the lawyers and clients to find them. After her apologies we took the opportunity to ask the judge about her comments earlier and explained our confusion. Judge Dodoo explained that, unfortunately, that was the reality of the system in Ghana. Professionally, lawyers are responsible for ensuring that their clients, regardless of their background and economic position, receive the best representation possible. However in practice, this is unfortunately not the case with 99% of the lawyers in Ghana. As it turns out, lawyers need to be given stipends for their transportation to the court house. If a hearing is scheduled for a particular date and the client does not “remind” his lawyer about the date by providing money from transportation, the lawyer will most likely not show up for the hearing, ending in an adjournment. The regrettable part is that if a case is adjourned more than enough times, due to the fact that either the party or counsel for the party was absent, this will be taken into consideration when the parties are awarded compensation. We expressed our shock as to the discrimination and the obvious barrier to access to justice for clients who could not afford to pay for their lawyer's transportation costs. Many clients can barely pay for their own transportation costs.

During the discussion, a male judge, whose court was in the same building, walked in and after introductions, joined in on our discussion. He was very helpful in providing us with insights on what it means to be a lawyer and a judge in the Ghanaian judicial system. We had a healthy discussion on the bribery and corrupt practices in which some officers of the court were involved in, ranging from police officers, to court clerks, to lawyers and even to judges. Both judges gave us some examples and personal testimonies of circumstances in which they had been offered bribes by parties to a case and in some instances, even lawyers representing the parties. We also discussed the backlash and isolation of officers of the court who were trying to live and work honestly without bending the rules by taking or giving bribes. The male judge gave a personal

example of when he was almost re-assigned to sit at court in a remote village because of a comment he made in an interview simply admitting that “yes, judges do accept bribes.”

Thoughts

Our discussion was long and informative. Judge Dodoo and the other judge were very open and candid with us. Chelsea and I asked many questions about the framework of the system and compared it with what we had learned so far from the Canadian system. We exited the interview feeling very excited and thankful that although our observations in the court room over the past two days were unsuccessful, our interviews with the judges were far more pertinent to our project.

International Federation of Women Lawyers (FIDA)

Date: May 31, 2006 **Location:** FIDA- Legal Resource Centre- Accra Branch **Time:** 2:00 pm – 3:30 pm
Contact: Susan (Administrator)

Interview

After brief introductions, Susan enquired as to what kinds of questions we would be asking her. She was concerned that if the questions were related to the legal aid aspect of the organization then the best person to speak with would be one of the legal aid lawyers. We explained that our questions were a mixture of both. We agreed that she would answer questions relating to the general framework of the organization and would interview one of the legal aid lawyers at another time. The most active lawyer of the organization, James, was not available to speak to us at the time, however Susan agreed to refer us to him at a later date.

Q: Can you tell us about FIDA Ghana?

FIDA Ghana was established in 1974, by a female lawyer who visited the United States and saw what FIDA was doing and decided to establish one in Ghana.

Q: How many offices and branches do you have?

We have two legal resource centers: the main branch is in Accra and the other is in Kumasi. We have two paralegal centers, one in Koforidua and the other in Tamale.

Q: What is the difference between the paralegal centers and the resource centres?

At the paralegal centres, leaders or individuals who are active in the community are trained to be paralegals. The role of the paralegal is to refer cases to the court, to make sure that the cases are being addressed, and that the various stakeholders who are involved in the cases attend to the matter expediently and efficiently. The paralegals are very active in their community and surrounding areas, creating awareness on women and children’s rights, the role of FIDA and the resources that are available to those who need legal help. Because the paralegals are active in the community, they are usually networked with their local police, local assembly members and opinion leaders. The paralegals work from the paralegal centres.

At the legal resource centres, such as this one in Accra, they are fully staffed with volunteer lawyers who can give legal advice and provide legal representation to members who are in need.

Q: Are they all female lawyers?

No. Most of them are females but we do have some male lawyers as well. In fact, our most active and committed lawyers are male. The female member lawyers tend to be very busy and preoccupied with their work, because of the nature of their practice (usually work for banks and corporations) or they leave FIDA for greener pastures. In the past, we had at least one active full time female lawyer who worked for us, but unfortunately she has also left the organization.

Q: It is interesting that your most active lawyers are male. Why did the organization decide to use male lawyers in the first place?

Yes, it is interesting that the most active lawyers are male, but that is not a bad thing at all. The organization needs all the help it can get, and if it uses male lawyers who are sensitive to gender issues, sometimes that works more in favour of the client in court, than if it had been a female lawyer. There are still officers of the court (including judges) who are not sensitive to gender imbalance issues, therefore sometimes having a male lawyer rather than a female lawyer representing our members carries more weight in court.

Q: Who are your clients?

Most of our clients are women. We have categories of women with legal issues who access FIDA. Regardless of their economic status, they must pay a token fee of 50,000 Cedis for general administrative expenses. But that can be waived if a member can show that they cannot afford the fee. Some of our clients are males who were referred to us by either their spouse or mother who is a female member. But a majority of our clients are female.

Q: Do you receive funding from FIDA international?

No. FIDA Ghana is self-funded. We work with various organizations such as UNICEF, UNDP, AWDP, Mamacash (Netherlands organization) and various organizations who help us with financial support. We keep expanding our network and database.

Q: Do you receive any funding from the government?

No. And we prefer not to. This way we can independently criticize and advocate for change without being controlled by a mandate or conditions to receive financial support. Also, we would like to be independent politically and not appear to be partisans to any political party.

Q: Apart from providing legal support what else does FIDA do?

Our core activity is providing legal aid. We also organize workshops and lectures on legal literacy. We simplify the laws into everyday language and put them into brochures and pamphlets to give to our member and clients. We also have mobile outreach clinics, where representatives go out into the community and educate women, especially on their rights and the laws of the country. We provide workshops for what we call our Capacity Project tailored to women in decision making, i.e.: during elections (local, regional or federal), we provide

workshops such as communication skills to women who are interested in participating, or representing their party. We also advocate for women in the different political parties to have more women represented at the various levels of government.

Q: Are there any laws that provide for mandatory number of seats to women?

No. But the current federal government has a mandate that gives 1/3 of the appointed positions to women. In the federal government, 50% of the positions are elected and the other 50% are appointed. Of the appointed positions, the government has made it a point to reserve at least 1/3 of the positions to women.

Q: What types of cases does FIDA frequently process?

Child maintenance cases, including pregnancy cases, followed by marital issue cases such as divorce and abuse, then custody cases. The marital issue cases can get very complicated, depending on the nature of the marriage. If it is a traditional marriage, then customary laws come into play. And then of course some of the couples are Muslim, then we would have to look at Islamic laws.

Q: Apart from legal advice and representation, do you provide ADR (Alternative Dispute Resolution) as well?

Yes we do. Our primary service at this centre is providing legal representation but we also provide mediation, arbitration and counselling. We have counsellors and psychologists on staff.

Q: In your opinion, what are some of the barriers to access to justice?

I think it is the slowness of the justice system. It's a very long bureaucratic process with many adjournments which results in high costs. That said, the judiciary cannot be blamed. It is difficult on the judges, the lawyers and everyone involved in making sure that the justice system is running. But speaking of the justice system itself, there are some lawyers and judges who are not gender sensitive, i.e.: in spousal property issues. In Ghana, the laws are highly unfavourable to women when it comes to division of properties. For example, if husband and wife build a house together, the husband, upon the dissolution of the marriage, gets the property. In order for the wife to get a piece of it, she will have to show receipts and other tangible proof that she helped with the acquisition or the development of the property.

Q: Are there other organizations that you work in collaboration with?

We do a lot of work with WISE (Women's Initiative for Self Empowerment). As a matter of fact, they handle the counselling on site. The ARK Foundation also works with us. Their core function is providing shelter for women who are victims of domestic violence. We also get a lot of referrals from the Women and Juvenile Unit (WAJU, now known as DOVVISU), whose special prosecutors are more sensitive and of course, trained. They are very effective especially in dealing with defilement cases.

Q: What is your opinion of the Legal Aid Board of Ghana?

I don't really have an informed opinion on them. I am aware that we are providing a similar service but I haven't had the opportunity to deal with them or work with them, so I would not know.

Thoughts

Susan was available to be interviewed on short notice. We did not get any more information from her as we would have had if they had a website. (FIDA's website is outdated and so the interview was worthwhile). We need to do a follow-up interview with a FIDA lawyer. I called Susan the following day and thanked her for the interview and reminded her that we would appreciate it if she could get us the contact for James (one of the active male lawyers at FIDA). I also expressed an interest in sitting in on one of their educational workshops. She took down my number and told me that she would contact me as soon as a date was set for their next workshop. Susan never called back and we never got the opportunity to interview a legal aid lawyer.

Legal Aid Board

Date: Thursday June 1, 2006 **Time:** 3:25 pm **Location:** Legal Aid Board
Contact: Mr. Korley (Director)

Q: Why and when was the board established?

The board was established in 1987, under PNDC Law 18. The board was established during a military rule, under Rawlings. It was established because the justice system was congested but it was mostly due to interest groups who were pressuring the federal government to set up a legal aid regime.

Q: What types of cases does Legal Aid handle?

We handle all types of cases, such as civil litigation, marital issues, and landlord and tenant issues. However we do not handle land litigation, because it is too time consuming and can go on for years. We do not have the resources to take on land litigation cases. That said, it does not mean that we turn applicants away when they come with land litigation disputes. It depends on the case and the issue at hand. But generally, we do not take on land litigation issues.

Q: Who are your clients?

Our clients are individuals, both men and women, who cannot afford the services of a lawyer. In order to determine who is eligible for legal aid, we ask that our clients complete an application form and from the questionnaire and subsequent interview, we determine if the applicant qualifies for Legal Aid or not. Our system is not perfect and some times those who should not qualify for Legal Aid do.

Q: What are some of the difficulties faced by Legal Aid?

There are several, but the most pertinent is financial constraints on our inability to adequately compensate the lawyers who take Legal Aid cases. It is very difficult to find lawyers who can

lend part or their time and effort to our clients. Most lawyers have no interest because the financial benefit is very little. There are five lawyers for in-house cases. Only one is full-time and that is the Assistant Director. The rest work part-time and on contract with Legal Aid. Then we have other lawyers from outside Legal Aid who we ask from time to time, to take on cases because the demand is too great for only the in-house lawyers to take on. The lawyers receive their salary from the government. (They receive 20% of the going rate). The Ghana Bar Association encourages lawyers to do pro bono work but not many lawyers do it. Most lawyers are already handling some pro bono work of their own, either for family or friends, and therefore cannot afford to take on legal cases at a further loss to their finances.

Q: In your opinion, what are some of the major problems with access to justice in the country?

Corruption is a major problem. Everyone is looking for a bribe. There are many cases where a victim/complainant will report an incident to the police, and in order for the police officer to investigate the case, the victim must pay him/her a bribe. To make matters worse, after taking the bribery, often times the victim/complainant is also bribed by the accused/defendant to drop the charges. This is not to say that it happens all the time, but it does happen.

There is also the problem of coordinating efforts between the courts and the prisons. The prisons are overcrowded and one of the major causes of this is the high number of prisoners on remand (prisoners who are in custody but have not been convicted). Legal Aid is getting more involved in these cases and is trying to establish a liaison between the prisons and the courts to help decongest the prisons.

Another issue is the backlog in the courts. This is a serious problem. The court system is so congested that a simple case, which should take at most three months to settle, can take up to three years. This makes it very difficult for the underprivileged to seek redress in the courts. If you visit any lower level court (District or Circuit courts), you will observe a lot of adjournments and a lot of self-representation by parties who cannot afford a lawyer. This is not to say that a party who has no representation will automatically lose their case. But in most cases, if the party would have been able to afford legal representation, the outcome would be much better.

One of the major things Legal Aid is doing to help manage its clients and also to avoid the problems with the courts is to provide mediation. Tuesdays and Thursdays are our intake days. We have intake officers who meet with potential clients to assess whether they qualify for Legal Aid and if their case can be mediated without going to court. If the clients are unable to settle the matter through mediation, then we give the case to one of our lawyers to go to court.

Q: In your opinion, since the 1992 Constitution, has there been a dramatic improvement in the legal system of Ghana?

Ghana has had a constitution. One might think that Legal Aid came about as a result of the country changing into a democratic system. Legal Aid was established during the military regime when Rawlings was in power. Legal Aid is a very rare concept in African countries. Of the African countries that offer Legal Aid, it is only offered for criminal cases. Ghana is the only country that offers Legal Aid for civil cases. South Africa doesn't even do that.

Thoughts

We were considerably late for the interview. This was because we had a difficult time finding the Legal Aid building. The interview was short because Mr. Korley had another engagement to attend to.

District Court

Date: Friday, June 2nd, 2006 **Location:** Ajabin (in Adabraka) **Time:** 9:00 am - 1:00pm
Contact person: Judge Georgina Mensah-Datsa

On Fridays, the court is used as a Family Tribunal. During the week, the court hears civil and criminal cases, but reserves Fridays for family related cases. On Fridays, instead of a regular court hearing, Judge Mensah-Datsa and two others (a social worker and another judge) sit as a three-member panel to settle family-related cases. The cases are heard in chambers where the parties, usually represented by their lawyers, present their case. The rules of the court govern the tribunal but it is not as strictly enforced because most cases involve child custody and support and other matrimonial issues such as divorce. With family cases, unlike criminal and most civil cases, there is an ongoing relationship between the parties regardless of how the cases are settled. The purpose of the tribunal is to settle the issues as amicably as possible where both parties can reach a settlement or an arrangement without becoming hostile to each other.

The sessions began an hour later than it was scheduled. We took the opportunity to ask Judge Mensah some questions about her background and some of the difficulties she was facing in her profession.

Judge Mensah was called to the Bar in 1996. She practiced for 6 years before she was appointed as a judge. After a few years of sitting on the bench, she decided to take a leave of absence to pursue her master's degree at Harvard Law School. After her post-graduate degree, she undertook an internship with the Rwanda Tribunal. Upon her return, she was posted to the Ajabin court.

This is what she had to say about the difficulties in working as a judge in the lower court level.

- We need more trained people in the legal system to record and transcribe the cases because right now, judges must write long hand (word for word) everything that people are saying during hearings and trials, which is very time-consuming. (They need some qualified stenographers!)
- Translation and interpretation is an important issue here because of all of the different languages used in Ghana. The clerks act as interpreters but most of the time the translation is not accurate. It is therefore advantageous for the judge to know many languages. This way, the judge can verify that the translation has been properly done by the clerk, who sometimes misses a word or meaning.
- At the District and Circuit court levels, judges must pay everything out of his/her own pocket. This includes telephone calls, printing, photocopying, and internet research. Furthermore, judges get no allowance for books in order to do research, nor are they given clerks to help them with their research. They must pay for everything themselves.
- The higher level court judges (High, Appeal and Supreme Courts) are provided with many more resources.

- The judge's salary does not amount to US \$400 a month, which is less than 3.5 million Cedis a month.
- Judges must see their job as being a service, or else they will not do a good job because it is a lot of work and it pays little.

Judge Mensah-Datsa gave specific examples about some of the problems the judiciary is having and the backlog of cases as a result of inadequate resources.

- She strongly encourages mediation rather than going to trial, and thus sometimes during a hearing she advises the parties of the benefits of mediation and in some cases she gives interim-orders for the parties to attend mediation.
- Unfortunately, ADR is not taken very seriously in Ghana; people don't think that mediation is a serious alternative to the courts.
- Along with mediation, there should be counselling services available. Many people suffer from psychological trauma, which is often at the root of the problem and the reason for being in court in the first place.

Thoughts

After the interview we sat in on a few family cases in the judge's chambers. Due to issues of confidentiality, we were not allowed to take notes of the tribunal hearings. Judge Mensah-Datsa is a very young judge and appeared very committed to her work. The tribunal hearings were very long and sometimes emotional. When we left after the fourth hearing it was almost 1:00 pm. Waiting outside was a long queue of parties for their cases to be heard. As usual, most of the cases scheduled to be heard will be adjourned to another day.

Amnesty International Ghana (Interview #1)

Date: Tuesday, June 6th, 2006 **Location:** Kokomlemle **Contact:** Prize McApreko (Director)
Interviewer: Chelsea Paradis

Access to justice:

Access to justice is an "interesting phenomenon" in Ghana, according to Mr. McApreko. Trying to obtain redress in the judicial system of Ghana is a cumbersome, expensive, frustrating, long-winding, and never-ending procedure. The way things are documented and legislated in the documents and books is right and good but the problem is always at the level of implementation. The poor people's access to justice is a very difficult route and usually impossible to obtain. Thus, justice exists in theory but not in practice. For example, access to housing is a huge problem in Ghana. Most people rent because they cannot afford to buy their own property. Many people are homeless in Accra. This makes especially young women vulnerable. For instance, a young girl may seek refuge in a kiosk owned by a man who will in exchange for refuge, rape her.

The Constitution:

Maintenance of the indemnity clause is refuted by Mr. McApreko and AI, because it provides bogus protection to those who have violated human rights abuses and thus perpetrates impunity.

AI is campaigning against impunity, especially in Africa, and Mr. McApreko has written many articles about this and has made demands to amend or expand on this indemnity clause.

Ghana's politics is mainly made up of two strong parties:

15) New Political Party (NPP) – President Kufuor's party

15) National Democratic Congress (NDC) – J.J. Rawlings's party

Ghanaians read into politics in so many aspects of their lives, from the colour of their dress to the football team they root for.

The death penalty:

It's unfortunate that the death penalty is legal under the Constitution of Ghana.

There has been much debate around abolishing it, but nothing has been done yet to do so. The fact that it is stipulated and supported by the Constitution creates at least three main problems:

- 1) It violates the most fundamental right of all humankind: the right to life;
- 2) The Constitution or statute of every country should reflect the government's role of protecting its people. Therefore, by supporting the death penalty it is being a complete hypocrite. The Ghanaian government is practicing the highest form of hypocrisy by blindly committing to the death penalty.
- 3) Ghana is proud of being an icon of democracy (within Africa at least) and claims to have good governance, especially that it was the first sub-Saharan African country to gain independence in 1958.

So far, President Kufuor has not given any statement on the death penalty. He most likely does not want to support the abolition of it for fear of losing many supporters. The previous Minister of Justice and Attorney General of Ghana, Mr. Ayikoi Otoo, once made a statement against the death penalty asking to abolish it. He was quoted as saying: "...there is a felt need for alternatives to the death sentence in the country. The death penalty is archaic, unreasonable, offends against all norms of decency and is brutish. It is important to generate public debate on the topic; finally, the death penalty has outlived its usefulness and should be abolished." (*from "Death Penalty Action: Ghana" AI*) Interestingly enough, this Minister has been since removed before the end of his term, and we can only speculate that it is due to this comment.

Also the Minister of Foreign Affairs, Mr. Nana Akufo-Addo, declared on Feb. 2001 that he did not support the death penalty. The UN Human Rights Council (new from a few months, replacing the UN Human Rights Commission) – during its creation, Ghana had the highest numbers of supporters to make Ghana the representative of Africa on the Council, which proves that it has a good reputation as a country which respects human rights, but it is not done in practice! At the end of the day, the Constitution has flaws and it is important that Ghana takes steps to abolish the death penalty and to bring up its human rights abuses. Mr. McApreko believes that the death penalty is not reformative enough. The last execution was carried out in 1993 in Ghana, however death sentences continue to be passed and according to the Ghana Prisons Service, there were 152 people on death row as of March 2006. All these people who are being detained for years end up suffering from torture in prison. They suffer from physical and psychological torture in that they know they are on death row and are just basically waiting to die. Hard words were used to describe the death penalty by the governments of Senegal and Liberia who have recently abolished the death penalty (2004). Ghana should have taken the lead

in West Africa to abolish the death penalty as it is supposed to be a leader in respecting human rights, but it has failed in this regard.

Mr. McApreko has written a letter to the President of the Republic of Ghana, urging him to abolish the death penalty, especially as the 50th anniversary of Ghana's independence is coming up soon (2007). It would be a perfect opportunity to abolish this practice once and for all.

UNCAT: United Nations Convention Against Torture:

- Ghana has just signed the 2nd Optional Protocol in order to ratify this convention, but has not yet ratified it. This is a step in the right direction. However, more needs to be done.
- Ghana has signed on to so many international conventions and treaties; however they are too often not respected.

Human Rights Violations of Women and Girls in Ghana:

- Women's rights are extremely violated in Ghana and West Africa in general.
- AI has a big campaign entitled: "Stop violence against women".
- Talk about widowhood rites.
- Very often, women in Ghana are not allowed to sign for property without the written consent of their husband.
- TROKOSI SYSTEM: the history behind this traditional practice is that people had a long time ago insulted the gods who afterwards needed to be pacified. In order to do this, young virgin girls were used to clean the sins of these men and women who had initially insulted the gods. Today some camps still exist, the "Trokosi Shrines", in the Volta Region where young virgins are sent to basically serve as property or sex slaves to the chief.
- Gambaga Witch Camp – in the Northern Region where women are sent because they are believed to be witches. Society has stigmatised and ostracized them so much that if they are released from the camp, they most likely refuse to go back into society because they feel like they will not be accepted anyway. Many women have been tortured and killed there.
- There is nothing of this sort done to men; all of these traditional practices violate the human rights of women only.
- The Ghanaian male is brought up to see women as inferior beings to them.
- Many young girls face problems when they get pregnant in Ghana (whether it's by rape or not). The girl's education is truncated because she must now take care of her baby. A cultural reality is that once a woman has a baby and is not married, no man will want to marry her, no matter how beautiful she is.
- Example of a common case that happens when it is raining outside. A young schoolgirl will be passing by and a man will offer her refuge in his house. At that point, the man takes advantage of the girl and rapes her while she is in his house.

Female Genital Mutilation:

- Female Genital Mutilation (FGM): is often referred to as "Female circumcision" because people are afraid of using the term "mutilation", they want to avoid using the term

because it sounds much more like a violation of human rights. The key word here is “mutilation”, which means it has been damaged.

- The history of this practice is that young women were circumcised in order to remain chaste and to show that they were a virgin at the time of their wedding night.
- With the clitoris removed, women who have suffered from FGM can never enjoy sex for the rest of their lives. So every time they have intercourse it is a painful process. (To me, it’s like the woman is being raped every time she has intercourse).

Ministry of Women and Children’s Affairs:

- President Kufuor created the Ministry of Women and Children’s Affairs when he came into power in 2000. The female Minister has been innovative and has been able to provide some financial support to women in programmes such as micro-credit projects in order for the women to become self-sufficient and economically independent from their husbands. This is a very serious problem in Ghana – in general, women rely on their husbands because of economic reasons, which make them extremely vulnerable to human rights abuses by their husbands.
- However, Mr. McApreko would like to see more will from the government to act. For instance, he wants to see men who violate women’s human rights to be condemned and men who rape to be given the highest prison sentence possible with hard labour to suffer for their crime.
- Mr. McApreko would also like to see the government’s will to strengthen legislation by stipulating that, for instance, 50% of government representatives must be women. Laws like these must be amended, put in to place, and then accepted by politicians and the Ghanaian citizens alike.

Other issues:

- If he were a developed donor country, Mr. McApreko would make human rights a condition to receiving loans.
- Water is a major problem in Accra. If the government cannot provide water to its people, it’s not just because it is poor, but it is because it lacks the commitment to do it. There is a common practice in Accra where people buy lots of water at a minimal cost and then sell it to people in the city when there is a water shortage and make a lot of money off of these desperate people who need water.
- The government calls the water system: “private sector participation”, rather than “water privatisation”, just to sound better! (again, it’s all a front to sound good)
- The government ignores people from the rural areas. Mr. McApreko is heartbroken when he goes to the rural areas and sees all the big signboards for the political parties who do not support the people at all. For instance, these people use the same water as the animals use for their drinking water.
- He sees too much greed and selfishness in the governments of developing nations, which is the barrier to justice and proper development.
- General human rights of the people are not respected even by the people themselves.

What needs to be done for us to see progress:

- Education is extremely important but difficult; there are barriers because of the mentality of Ghanaians. So it is more a question of changing Ghanaians' mentality, which will take some time. But education and awareness are always key.
- More resources and energies need to be redirected towards the minds of the youth because it is an investment for the country. Children are eager to learn and they learn quickly what they are taught – they have very receptive minds at such a young age. A lot of education towards the youth will save the future.
- “If the government invested in the minds of the youth, success would be ours.” (Prize McApreko)
- Many Ghanaians believe that if they have never left the country, they are worth nothing, they are nobodies.

Human Rights:

- I asked Mr. McApreko if he ever feared for his own safety and personal security because he spoke out against human rights violations in Ghana, and he answered that working for human rights is risky business but he has found his passion and niche and will keep working in this field forever!
- He is currently trying to work with the media and has approached a television show called “Talking Point”, a current affairs show, to see if they would be interested in hosting a show where Ghanaians can debate about the death penalty. He would like it to be an ongoing show and move it from one TV station to another.
- AI Ghana has existed for over 30 years and never had a director before Mr. McApreko. This is his second year working as the director of AI Ghana and he feels like he still has so much to learn.
- Very few men will speak up for women and their rights, but Mr. McApreko does. He believes and defends women's rights. He considers and treats women as his equals.

Thoughts

Mr. McApreko was available to be interviewed for two hours. It was very informative and inspiring and I will most likely return to meet with him when I have narrowed down my research for more detailed information as he is a fountain of knowledge!

Queen Mother

Date: Wednesday, June 7th, 2006 **Location:** Queen Mother's personal home in Osu (off Osu Loko Road)
Time: 2:00 pm – 3:00 pm **Contact Person:** Queen Mother Nana Obuobi

Every village has a Chief and a Queen Mother (QM). The Chief has his court and counsel and so does the QM. They both act as authority figures and are supposed to share the responsibility equally. In reality, the Chiefs have much more power than the QMs. Most of the major decisions, such as the sales of lands, are taken by the Chiefs without the consultation and the knowledge of the QMs. There are some QMs who feel excluded when it comes to the affairs of their village and feel that they are recognized only when there is a traditional function or ceremony. With the increase of women's rights advocacy and the need for women to actively participate in decision making, a lot of QMs, such as Nana Obuobi, are beginning to speak up and this is what Nana had to say.

- The Chiefs have claimed the human rights on the village, which conflict with women's rights. It is as though the Chiefs (who are all male), have taken over the decision-making process of the village without the consultations of their QMs.
- Some QMs are beginning to come together to create awareness, diffuse ideas and sensitize other women and QMs about their rights and the need to speak up. Most of the time the problem is not with the Chiefs, but actually with the women themselves who are allowing the men to take over.
- Nana sees women getting cheated by men all the time and will not take it anymore. She says that the women like to be cheated by the men, it's like they are used to it and want to keep it that way, because it is easier than trying to change it.
- She is literate and refuses to let tradition like this be justified to abuse women. In the past, she was often left behind by Chief elders who did not invite her to the village meetings when she was entitled to be present. She has since changed that by constantly voicing her opinion.
- Now she is often the only woman who takes part in the community discussions; the youth and the other women let her speak on their behalf. They tell her that she should go to represent them at the meetings and that whatever she says, they will agree with her. They don't want to speak up themselves. But Nana says that everyone has something to contribute whether they are 6 years old or 86 years old. Everyone should therefore participate and contribute.

How QMs are chosen:

- QMs are chosen by their family and the village elders. But they must come from a particular royal family lineage.
- Nana was chosen at the age of 41 and it totally took her by surprise. She had been working with Ghana Airways as a flight attendant for about 20 years prior to being approached and she did not want to lose her job. She was upset at this imposition on her to be QM. She has since retired from Ghana Airways, but she was able to keep working there while also being a QM.
- As a QM, she is required to visit her village at least once a month. This is not too difficult for her because her village is very close to Accra (about 10 km away) and so she visits often, at least two to three times a week.

Problems with the Chief:

- Nana's main problem with her Chief is the lack of communication and effort to do his part. The Chief is an orthopaedic surgeon who lives and practices in Accra. Unlike Nana who visits her village regularly, the Chief is rarely there.
- Nana does not think it is fair to be left with all the decisions and the responsibilities of the village. At first, it bothered her a lot. She tried to find ways to get the Chief to fulfil his obligations. Now she has given up and has decided to do as much as she can on her own.
- However, what she finds more frustrating is that most of the decisions she makes to improve the welfare of her village are not followed because she is a woman. In some cases she had to ask her Chief to present her ideas to the people, before they were motivated to follow them.

- She attended a communications workshop given by the West Africa Dispute Resolution Centre (WADREC) where she expressed her frustrations and lack of unity with her Chief.
- She was told at the workshop that as part of a personal project, she was to go see the Chief once more with her newly equipped communication skills to try to reconcile their differences.

Problems with the District Assembly:

- Members of the District Assembly need to brief the QM and the Chief because they are not up-to-date with what is going on in the village since they both live in Accra and only come to visit the village once in a while.
- There are 33 villages under one district and the District Assembly is like the local government for that area.
- Her village has a population of 2005 people where most live in Accra because it is not far away from the village.

Her accomplishments:

- Nana has instituted a non-political, non-traditional local Parliament in her village. She has chosen individuals to be ministers of her parliament. They decide what to do in the village. They normally meet from 10:00 am to 2:00 pm on Sundays once a month.
- She has appointed an Assembly man to be the “prime minister” of this local Parliament. Her reason for doing so is that the Assembly man can carry the community’s view to the District Assembly which is more effective.
- Many individuals from the village are shy to speak up because of their low level of education. Nana trains them to speak up. Also, Nana knows all the right people whom she can go for help in meeting the community needs.
- The District Assembly approved of the idea of creating a local Parliament and is beginning to encourage other villages to take such initiative.
- Nana and 20 other QMs have been trained as Mediators. They are called Queen Mediators.
- They qualified as mediators when they attended four organised workshops given by the Centre for Indigenous Knowledge and Organisational Development (CIKOD) in conjunction with Cape Coast University. In total 20 QMs and 7 Chiefs attended the workshops.
- WADREC will soon be giving a similar training to 30 QMs from all the regions of Ghana.
- There are no QMs, only Chiefs, in the northern regions of Ghana (the three northern regions are: the Northern Region, the Upper West Region and the Upper East Region.)

The Challenges facing Nana Obuobi:

- Since the mediation workshop in Cape Coast, Nana has attended various workshops and is always bringing new ideas to her village.
- In terms of education and knowledge, she is ahead of her people and she feels that they are not supporting her due to ignorance. For example: she organised a Fun Sports Day on January 1st (and wanted it to become an annual event) but she got no support from the Chief and therefore no support from the people of their village.

- Using funds from the stool fund, Nana bought a generator for the whole community because there is no light there (no electricity). However, no one was ready to contribute for the purchase of fuel necessary to run the generator. So it has been left there to rust.
- In another instance, she purchased cement to build proper toilets in her village. When the cement arrived someone took it and used it to build their house. She believes that the main obstacle for the people in her village is: LACK OF EDUCATION.
- Nana is President of the Queen Mothers Assembly.
- Since their mediation training 15 months ago, none of the mothers have started a mediation centre yet. QMs are going to introduce mediation to settle disputes, which she believes as being better than arbitration for communities.
- Customary mediation is similar to arbitration, where one party will be happy, but not the other. Whereas “modern” mediation is more like coming to an agreement and finding a happy medium to try and please all the parties involved.

LAWA:

- LAWA: Leadership and Advocacy for Women in Africa (Ghana) Alumnae Inc. is made up of trained lawyers who teach women to fight for their rights.
- LAWA is fighting to defend domestic servants and fighting for QMs to get their own chieftaincy house. Chiefs have the National House of Chiefs only for the Paramount Chiefs. The house is in Kumasi and it is only for men. There is one Paramount Chief who is a woman and she is not allowed to go the House because she’s a woman so LAWA is fighting for her to be able to access National House of Chiefs.

Thoughts

The interview took place at the home of Nana Obuobi. We decided to interview her at the suggestion of Madame Francois to find out how cases were settled under customary laws and what were in the Queen Mother’s view, some barriers to accessing justice. Nana was very informative and had a lot to say about her role as a Queen Mother. We ended up discussing some of the difficulties she was experiencing in performing her role and how she was handling them. Nana was very friendly and easy to interview.

Commission for Human Rights and Administrative Justice (CHRAJ)

Date: Monday, June 12th, 2006 **Location:** High Street
Time: 12:00 pm **Contact Person:** Mr. Samuel Bosompem (lawyer)

Chelsea began the interview with introductions; where we are from; why we are here and why we chose to interview a lawyer with CHRAJ. In the introduction Chelsea asked Mr. Bosompem to give us an overview of his background, why he chose to work at CHRAJ, what is the purpose of CHRAJ and his views on access to justice in Ghana.

Mr. Bosompem’s bio:

- Mr. Bosompem is a human rights lawyer and has been with CHRAJ since 1999 where he transferred from another organisation.
- He has always been interested in human rights, civic education and democracy.
- He is currently president of an NGO called “CIVITAS Ghana”, which specialises in teaching human rights and democracy. They are strong in promoting rights and do a lot of advocacy work.
- He is a Harvard fellow and studied at the University of Minnesota for a year (has his masters of Law).
- He worked at the Commission of Human Rights in Arusha, Rwanda for the ICTR.

History of Ghana:

- Ghana was under a military rule for years (1982-1993) and the transition in 1993 to democracy and constitutional rule changed things drastically. Journalists have been at the forefront of democracy in Ghana.
- Between 1992 and 2006, the atmosphere for democracy has improved considerably due to Ghana’s Constitution of 1992.
- Civil liberties are enjoyed widely in Ghana as the core democratic values are present and respected (rule of law, equality before the law, etc.), but there are still serious human rights violations occurring, especially in regards to the status of women, cultural rights and rights of vulnerable groups, such as women, children and the disabled.
- Even if there has been some advancement in legislation, it seems to have shot ahead from practice.
- Ex: the TROKOSI SHRINES – this cultural practice violates women in the Volta and the Greater Accra regions.
- Criminal libel law has been abolished but we still have a long way to go for free speech, etc. The Freedom of Information Act would enhance human rights work as it would provide a form of protection to journalists and human rights activists in their work.

CHRAJ’s Role in Human Rights Protection:

- CHRAJ plays a vital role in human rights protection and advancing human rights in Ghana.
- It has a three-prong mandate:
 - 6) Works as an agency in the area of administrative justice;
 - 6) Is an anti-corruption body; and
 - 6) Is a Human Rights Commission.
- CHRAJ works well with human rights NGOs and journalists because one of its key functions in combating corruption is the mandate to investigate all reports of alleged corruption.
- Distinction: CHRAJ works as an investigative body. In two court decisions in 2004, the Supreme Court of Ghana held that CHRAJ is an investigative body.
- CHRAJ has also highly contributed to the jurisprudence of Ghana and Africa. Ex: in a case of the Attorney General vs. CHRAJ, the Supreme Court looked at the position of CHRAJ in Ghana’s judicial set-up. It was recognised that it played an important role in the judicial system of Ghana.
- In 2003-04: 12,000 cases were investigated by CHRAJ countrywide.

CHRAJ's composition:

- It has 10 regional offices and 138 District offices.
- CHRAJ has a lot of credibility. In 1999, Human Rights Watch termed CHRAJ as being one of the best human rights commissions in Africa. It provided expertise and helped set up HR commissions in Tanzania and Malawi.
- CHRAJ is non-partisan.
- CHRAJ is not a Tribunal, but rather a constitutional body. A human rights commission should ride on its credibility.

Effects of the 1992 Constitution of Ghana:

- In terms of human rights in Ghana, there has been significant improvement since 1992 because of the Constitution, which provides basic human rights principles. Also, ordinary people started caring about national interest. For example: the government has to counsel in a public debate: US \$1 billion loan given to an organisation which was not credible. Ghanaians are now holding leaders accountable.
- Ghanaians can enjoy speaking freely as people are committed to democracy. Civil society in Ghana is very vibrant!

Challenges:

- The main problem is the implementation (or lack of) of the Constitution. For instance, Art. 33.5 of the Constitution protects any specific human right that is not captured in the Ghana Constitution but which is enjoyed by other democracies. For example: prisoners' rights.
- The executive presidency has too much power – the effect is that the president of Ghana has too much power.
- The 1992 Constitution is a hybrid of the British and American constitutions which is worrisome in the area of appointment of judges, for example, which is done by the President of Ghana.
- Mr. Bosompem would like Parliament to be stronger and have more say and power.

Access to justice:

- Access to justice is a huge issue in Ghana. It is expensive to litigate in Ghana and the courts are challenged: "Justice delayed is justice denied".
- Because of widespread poverty, it is difficult for the ordinary person to get justice because it costs money.
- The magistrate travels to a district which doesn't have his own court. This magistrate is therefore overloaded. It takes 2-3 years to train a career magistrate.
- We must strengthen and push for more ADR in the judicial system in Ghana as an alternative to the courts.
- However the challenge is that the courts themselves, who are overloaded and could use some help to relieve the numbers of cases, have actually announced ADR as being a "weak" alternative. Nevertheless, the situation is improving in Ghana.
- Mr. Bosompem commends the Chief Justice for declaring "ADR week" last year, but he doesn't know the success rate of these cases.

The need for more Public Education:

- CHRAJ and Street Law have been working on giving training on human rights to the Winneba school.
- It is important for Ghanaian students to study sciences, but we cannot forget that there needs to be a balance with studying arts as well.
- We must introduce legal clinical work and experience for law students in Ghana.
- Must also increase computer skills of students.
- The concept of Human Rights courses is very recent in law schools here.
- We need an explosion of civic education in Ghana everywhere! More training, more exposure is necessary and we must challenge men to be responsible for women's rights. These things can no longer be taboo; we have to talk openly about violence against women.
- Example of public education: CHRAJ trained 80 law students in human rights issues who then went to various schools to educate and sensitise youth.
- Imitative learning is how most children learn, therefore it is important to show a good example.
- CHRAJ has an Enforcement Team – Mr. Bosompem is on it. He wants to focus on the Public Legal Education aspect.

Example of a case that CHRAJ defended:

- A pregnant woman was rushed to Tema hospital because she was about to give birth. She had a condition that needed to be treated. The night doctor was not around and there was only a nurse on duty who did her best to alleviate the situation. In the end, both the mother and the child died. The mother's parents filed a complaint to CHRAJ against the hospital for negligence and they won. The hospital had to pay a large sum to the family of the deceased woman and thus didn't have to go to court.

Types of cases:

- In 2002, 65% of CHRAJ cases were labour cases. In urban areas, there are more labour cases; in rural areas, there are more family cases.
- Labour Commission: CHRAJ refers many of their cases to them.
- The complaint procedure: it can be a formally written complaint, but not necessary. CHRAJ uses mediation and negotiation to solve as many complaints as possible. It creates a much friendlier atmosphere.
- After the investigation, if there is an infraction, it goes to the Attorney General who is also the Minister of Justice who is a politician so he should defend his people.

Women in Law and Development in Africa (WILDAF Ghana)

Date: Thursday, June 15th, 2006 **Location:** WILDAF Ghana (at the Christian Council, Osu Loko Road)

Time: 10:00 am – 11:00 am **Contact Person:** Mrs. Bernice Sam (National Program Director)

Interviewer: Chelsea Paradis

Mrs. Sam's Bio:

- Mme Sam is a lawyer by trade. She started the Legal Awareness Programme at WILDAF Ghana in 1995. She left to do her masters in the U.S. (Georgetown University) and came back in 2004 as Program Coordinator of WILDAF Ghana.

What is WILDAF?

- WILDAF: Women in Law and Development in Africa
- A pan-African network, with their headquarters in Harare, Zimbabwe; The sub regional office is in Togo.
- 31 countries in Africa are part of the network.
- There are 7 member countries in West Africa: Ghana, Togo, Nigeria, Benin, Senegal, Mali and Gambia.
- There are 3 main focuses as a pan-African organisation:
 - 0) **Networking:** so that when there is a human rights issue or question, they can meet and discuss it.
 - 0) **Training:** develop manuals for legal literacy.
 - 0) **Legal education literacy for women:** work on women's access to justice, such as legal education literacy because they recognise that women don't know their rights and to stop violence against women. ****This is the main focus!****

WILDAF Ghana:

- WILDAF has a constitution: Ghana adopted it as well as a by-law created more specifically to Ghana.
- In Ghana, there are 2 core programme areas:
 - **Women's access to justice**
 - **Women's participation in democratic governance**
- There are 3 offices in Ghana with a total of 18 staff members: Accra (Greater Accra Region), Takoradi (Western Region) and Ho (Volta Region).
- WILDAF Ghana is a network made up of 65 members comprising of individuals and organisations and works as an NGO as well.
- Has a very functional Board.
- Secretariat (this Accra office) serves as a focus point for network members and liaison to other offices outside of Ghana. For example, when West Africa has an activity in the region, a representative of WILDAF Ghana must go to the projects that are funded by the European Union.

Programming:

4) Women's Access to Justice

- Legal Awareness Programme (LAP) is their longest running program (since 1995): includes training, legal aid, pro bono work, and they work with paralegals in other communities and train them to add on to their knowledge (has been doing so for 10 years).

- They provide legal aid services to men, women and children. There are two legal aid centres: in Takoradi and Ho. Lawyers at these centres are ready to offer legal assistance on family related issues.
- The legal education activities are carried out to many groups including market women, various professional associations, churches, Islamic groups and schools. The important target groups for the outreach activities are the rural towns and communities in the Western and Volta Regions.
- Workshops, seminars and durbars are organised on topics such as Human Rights generally, legal rights of women, violence against women and children, women and land rights, trafficking, child maintenance, marriage, divorce, heritage and HIV/AIDS.
- Legal Literacy Volunteers (LLVs) are community legal educators (both men and women) employed by WILDAF who have undergone training on various legal topics. They have either received formal education and are therefore literate or they do not have very high education but can read and write.

4) *National and International Advocacy Activities*

- Work with coalitions and networks on particular issues.
- WILDAF takes on activities in the regions because they already have a presence there and they often speak on behalf of other regional offices.

) *National Advocacy Activities*

- Currently working with the Ghana Domestic Violence Bill Coalition.
- Women's Manifesto Coalition:
 - was created 2 years ago
 - involved people from the public
 - 10 thematic areas: situation/problems; challenges; what they want the government to work on, etc.
 - WILDAF has spoken about all topics on behalf of civil society on numerous occasions.
 - Has taken on activities such as looking at social security in the informal sector as part of demands of the Manifesto. Everyone (including NGOs and individuals) take on bits and pieces to achieve their goals, so it really is about team work.
- Millennium Development Goals (MDG) - WILDAF's role has been public awareness on gender issues (national advocacy).
- Another advocacy project that is coming up is a 2-year project which will give voice to partners in consensual unions (non married couples) to make sure that women's rights are being respected and promoted (that the women in non marital relationships have as many rights as women in marital relationships).

) *International Advocacy Activities*

- Every year, WILDAF comes up with a creative project to get the public's attention and sensitise it on gender violence on internationally marked days, such as December 1 (World AIDS Day) and December 16 (Human Rights Day):

- Last year, they had the “Faces of Violence” photo exhibit where they collected photos of abused women and blew them up in poster size.
- Another project was when they had women and men dressed up in wedding outfits, standing at busy traffic corners to raise awareness about domestic violence.
- March 8: International Women’s Day. Every year, the UN gives a theme for International Women’s Day and the countries are supposed to follow it. WILDAF Ghana held church services to thank God for women’s work; basically worshipping women.
 - This year, WILDAF Ghana collected used clothing from Accra and went out to the Volta region (a more deprived community in general) to donate clothes at the churches there.
- Commonwealth Plan of Action for Gender Equality (CPOA)
 - Every four years, there is a Women’s Affairs Ministers Meeting (WAMM). WILDAF commented on the content of the last CPOA.
 - The 8th WAMM will happen next year in Uganda. Civil society has been responsible for developing WAMM.
 - WILDAF was the voice representing the Commonwealth Women’s Network for West Africa. WILDAF made aware the CPOA and wants Ghana’s ministers to act upon the recommendations of the CPOA. For that, there will be a colloquium in September 2006 in Ghana where there will also be representatives of West Africa. Trying to encourage more people to get involved.
- Beijing + 10: WILDAF was part of the team for West Africa which fed into Africa and then in the UN.
- WILDAF Ghana coordinated a report from Ghana on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), a UN international Human Rights treaty, which was sent out to the UN yesterday (June 14th 2006). Ghana is responsible for reporting at the UN in New York this coming August and WILDAF will be there.

Challenges WILDAF faces:

- The challenge is of course, the lack of core funding. They are always looking for more funding. The past two years have been good but nevertheless, funding remains a constant challenge.
- There are 2 pool resources of funding in Ghana:
 - 0) In-country pool funding by a number of agencies in Ghana for civil society organisations;
 - 0) Outside funding from the EU, CIDA, USAID, etc.

Domestic Violence Victims Support Unit (DOVVISU)

Date: June 21st, 2006 **Location:** Police Headquarters – Ring Road
Time: 10:00 am – 11:30 am **Contact Person:** Angela Obeng (Dept. Coordinating Director) and Haleema Boakye – both clinical psychologists

We met with Supt. Zib-Naziri (Coordinating Director) for a few minutes who directed us to meet with Angela Obeng and Haleema Boakye.

Unit Background

Formerly WAJU, Women and Juvenile Unit, it was formed in 1998. It was established as part of government's fulfilment of international obligations. These are:

- The international human rights conventions and instruments
- Convention on the Elimination of Discriminations Against Women (CEDAW)
- Convention on the Rights of the Child (CRC)
- The Beijing Platform of Action
- The Millennium Development Goals (MDG)

This led to the following changes in the criminal code:

- Summary trial for rape of any child below the age of 16 (defilement)
- Abolition of harmful customary or ritual servitude – Trokosi, FGM
- Revision of sexual offences sentences to include indecent assault sentences.
- WAJU became the implementing agency of these legislations on behalf of the government of Ghana.

Objectives

- To protect the rights of women and children
- Investigate all domestic assault violence cases
- Arrest and prosecute offenders/perpetrators of abuse

Why Change from WAJU to DOVVISU?

There were a lot of misconceptions about the purpose of the unit. Most people, men in particular, felt that the purpose of the unit was to address women issues and to help women only. Even though the name has changed, that perception is still there, but not as strong as before. Here is a list of reasons for the name change:

- To ensure that all groups (vulnerable groups) men, women and children can report issues of violence against them;
- To conform to international standards;
- To highlight on the victim support functions of the unit through outreach programmes, collaboration with other service institutions, including Department of Social Welfare (DSW), Legal Aid, and NGOs, to assist and support victims of abuse with these services.

All the 11 police regions have DOVISSU units. In total there are 29 units nationwide in some divisions and districts. DOVISSU's target is to have a unit in each political administrative district in the country. Currently, all activities of the unit are coordinated at the national secretariat.

Types of Cases

Sexual Offences

- Rape

Child Related

Abduction

- Defilement
- Indecent assault
- Sodomy
- Incest
- Unnatural Carnal Knowledge
- Criminal Abortion
- Child Trafficking
- Exposing child to harm
- Harm
- Non- Maintenance
- Forced Marriage
- Unlawful removal of child
- Abandoned child
- Child stealing
- Child abuse



Others

- Assault
- Threatening
- Causing harm
- Offensive damage
- Bigamy
- Threat of harm
- All other issues on domestic violence

How cases are handled

0. Complaints are received at a secured and private charge office
0. The station officer:
 - . Assigns the case to investigators
 - . a police medical form is issued
 - AND/OR
 - . Refers the case for counselling, Legal Aid or DSW for non-maintenance cases
0. After the case is investigated,
 - . The case is sent to court based on the complainant's willingness to have the case prosecuted, except in the case of sexual offences, child-related cases and serious assault cases.
 - . Cases not sent to court are also referred for counselling or Legal Aid depending on needs of the complainant.

Collaboration with partners

The needs of victims are many and cannot be handled by one agency alone. In order to provide a holistic service the unit collaborates with the following organizations:

- Department of Social Welfare
- Legal Aid
- FIDA
- WISE and other NGOs that provide counselling services
- NGOs that provide economic and skills training
- ARK Foundation
- Donor agencies and NGOs for capacity-building of personnel and who work in gender and child related issues, i.e.: UNICEF, UNIPA, NPC, MOWAC, etc.

Summary

Data collected indicated that as law enforcers, we have to accept the fact that gender-based violence can no longer be treated as a ‘family or private matter’ as in the past, because it infringes on the fundamental human rights of others. Hence, it is a crime for one to abuse another by virtue of the relationship that exists.

Department of Social Welfare

Date: Thursday, June 29th, 2006 **Location:** Ministries Police Station, 1st floor **Time:** 10:00 a.m.
Contact Person: Mr. Dela Ashiabor (Officer-in-charge of Social Welfare/DOVVISU)

Purpose of the Department of Social Welfare (DSW) Unit at DOVVISU

The Unit was established after the main DOVISSU (formerly WAJU) unit was set up. Most of the cases handled by DOVVISU are domestic assault on women, access to justice, child maintenance and custody cases. DOVVISU handles the criminal aspects of the cases while the DSW handles the social aspects. The services provided by the DSW are free because it is a government-funded program.

Here is a list issues that the DSW deals with:

- Child support
- Child maintenance
- Paternity issues
- Access of children to parents

Because rape and defilement cases are that of a serious nature, all aspects of those cases are dealt with by the courts. The DSW does not deal with these cases. In all other cases, the paramount priority is the welfare of the child – this determines what actions will be taken to resolve the case. For example, in cases of abuse, although the case may still be before the court, the DSW acts interim to remove the children out of a potentially dangerous home settings.

Problems facing the DSW:

- Too great demand for too little resources and capacity to meet the demand.
- Record-keeping is a long and painful process as everything is done in long hand (like the judges in the courts).
- The police are not in tune with the social aspects of abuse and crime and therefore neglect to refer some of the cases to the DSW.
- There is a lack of communication and coordination between the DSW unit and DOVVISU. Mr. Ashiabor wants to meet with the coordinating director of DOVVISU to discuss DSW’s role.
- The police either call DOVVISU or DSW, however they should work together. If it is abuse and it goes to court, DSW comes into play to place the children in a safe environment and to ensure a good future and education for the child. If it’s purely a court issue, DSW should not get involved.
- DSW is one of the worse-funded departments of the Ghanaian government. It lacks tools and resources to meet the great demand.
- Social services here in Ghana are purely political. There is a Social Welfare department in every district of the country that handles the affairs of women and children. Recently,

the Ministry for Women and Children was established which appears to be redundant in terms of purpose. The Ministry does not work with the DSW and therefore they are competing for resources. The Ministry would benefit if it involved organisations at the grassroots level, like the DSW, which work on the front line and really understand the reality of victims.

Thoughts

It was quite plain to see the inadequacy of the Unit at the station. Mr Ashibor brought toys from home for kids to play with when they come into the office. The office was bare and consisted of his desk and chair and two extra chairs for clients. There is also a wooden bench in case a larger group of people come in the room so they can sit on it. Mr. Ashiabor informed us that he is always preparing reports for the courts which he has to write long hand and ask his assistant to type it up and print it at a personal loss for him. He is doing too many things at once. He doesn't have time to do it all.

2. Prisoners Rights Organizations

The following reports are from discussions with organizations that are either fully devoted to the advocacy of prisoners rights or as part of their mandate, have undertaken projects examining the human rights violations in the prisons and police detention centres. Some of the organizations we interviewed in the first part were interviewed again, but with a focus on prisoners' rights.

Commission for Human Rights and Administrative Justice (Interview # 2)

Date: Wednesday, June 28th, 2006 **Location:** High Street **Time:** 2:30 p.m.

Contact Person: Mr. Samuel Bosompem

The purpose of the second interview was to narrow our focus and to seek specific information on prisoner's rights and what CHRAJ was doing to protect those rights.

As part of its duty to ensure the protection of human rights and freedoms for all persons in Ghana, including prisoners, the CHRAJ has a Prison Monitoring Program. This program has been in existence since 1995 and consists of an annual inspection of all the prisons and police cells in the country, by the Director of Research, the Director of Public Relations and other members of CHRAJ. Annual reports on their findings are then published. It is not directly spelt out in CHRAJ's mandate to do prison investigations, but it has become one of their projects. CHRAJ bases its authority to inspect the prisons from the 1995 CHRAJ Act.

The general conclusion is that the conditions prisoners live in are very poor. For example, in an inspection of a police station, one of the cells that was supposed to house a maximum of 3 inmates, held 30. Evidence that the prisons' living conditions are poor is that the HIV/AIDS rate is higher in prisons than in the regular Ghanaian society. Another important issue to consider is the fact that job security in prisons is extremely low. Employees can get fired anytime which creates a high level of insecurity amongst the prison officers, causing them to have high levels of stress. However, CHRAJ assures us that the situation has improved and is better today than it was in the previous years, due in large part to CHRAJ's contribution.

The difference between Prisons, Prison Camps and Police Cells:

Prisons:

- The prisoners are forced to do harder labour.
- Hard labour is regulated by law: the prisoners have to be under escort by prison officials. An example of hard labour is clearing the roads with machetes, etc.

Prison Camps:

- Innovative way of keeping prisoners because they are settlement farms (or camps). It's a more relaxed environment.
- The prisoners who are placed in prison camps are those who are less likely to run away.
- There are some in the Western Region.
- Better feeding conditions and the prisoners look healthier.

Police Cells:

- Dotted around almost all police stations around the country.
- Not an end point, they are merely to hold suspects and remand prisoners who will be prosecuted in courts before going to an actual prison.

If we want to see a decrease in human rights violations of prisoners, major changes will have to be made to bring transparency into prisons and police cells. This would be beneficial to all parties involved because it would expose and place under scrutiny the activities of the detention centres, which would inevitably force both the Ghana Police Service and the Ghana Prisons Service to improve their treatment of prisoners, thus decreasing the violation of their human rights. Furthermore, this would increase the service departments' chance of receiving more funding and resources to improve the detainees' living conditions, as it would be known that they are lacking funds, which create the deplorable conditions.

Legal Aid (# 2)

Date: July 5th, 2006 **Time:** 2:40 pm **Location:** High Street **Contact:** Martin Nwosu

Position: Assistant Director – Attorney

Interviewer: Edudzi Ofori

Two weeks prior to this interview, we had observed a series of mediation sessions facilitated by Legal Aid. We were not given the opportunity to interview Mr. Nwosu following the sessions.

Q: Chelsea and I sat in on about 5 mediation sessions. In all five sessions, after both parties were given the opportunity to present their side, the mediators adjourned the case to another day. I am assuming that most of the sessions are adjourned. Why is this so?

If it is the first time that the parties are presenting their case, depending on the emotions and the temperament of the parties involved, there is a need to adjourn the case after both sides have been given the opportunity to state their position. In doing so, the parties can take the opportunity to reflect on the issues involved and also to think about the mediation process and what it entails.

You see, most people think that mediation is a court proceeding, so once they realize that it is not court, they can either decide to proceed with mediation, withdraw their position, or seek redress in court.

Q: Is your mediation mandatory? (Is mediation a mandatory policy for all cases brought to Legal Aid?)

No, we do not have a mandatory policy. When a person applies for Legal Aid, the first person they meet is a case officer who does the intake and determines the nature of the case. If it is a domestic case, or a case involving a family dispute, the case will most likely be referred for mediation. Similar to what I stated before, we feel that mediation gives the parties the opportunity to present their side of the issue without the costs and time consumption of going to court. In most cases, once both sides have been given the opportunity to present their side, the case/issue is withdrawn. But to answer your question, mediation is not mandatory.

Q: If mediation is not mandatory, how do you get both sides to even attend the first session? For example, if I had a problem with my husband and I came to Legal Aid for mediation, how would I get my husband to attend the session with me?

Well like I said before, after the case officer had determined that you need mediation, he would write an invitation letter to your husband.

Q: Who sends the invitation letter?

We usually get the complainant to give the invitation letter to the respondent. In some cases, if the complainant explains that the respondent will not accept the invitation letter from him/her, then one of the officers will serve the respondent with the invitation letter.

Q: Is the acceptance rate high?

Most of the respondents oblige to the invitation letter. I would say that the acceptance rate is about 80%, which is very good. You know Legal Aid has been offering mediation over the past five years and we have seen a lot of improvement in our case management.

After a few more discussions about mediation, I explained to Mr. Nwosu, that we had decided to focus our project on prisoners' rights and the reasons behind our focus. I asked Mr. Nwosu, to explain how Legal Aid works with prisoners and their collaboration with the Prisons Service.

There are two categories of cases where prisoners may seek the help of Legal Aid. The first category is appeal cases. In many cases, prisoners seeking aid have been told by relatives, friends or prison officers, that they have a good chance of winning their case on appeal. Unfortunately by then, it is common that the prisoners have depleted their resources and are therefore unable to seek private representation in which case they turn to Legal Aid for help. The second category is remand prisoners, who either have not had the opportunity to go to trial or their trial is still ongoing. Currently, there is a very large number of remand prisoners in Ghana's prisons waiting to be processed through the court system, making this issue the most pertinent one related to the prison system. This problem in turn has created some serious overcrowding in detention centres. Recently, Legal Aid, with the help and resources of UNDP, began a project to determine the

number remand prisoners in the country, and come up with ways to gain access to them to see what can be done to mitigate this serious problem.

Q: How do prisoners apply for Legal Aid? Do you have officers stationed at the various prisons and detention centres?

No we do not have officers stationed at the various prisons and detention centres. Prisoners apply to Legal Aid, usually through the referral of the prison officers. Other times, it is the prisoners' relatives who apply on their behalf. But as part of the ongoing project we are seriously thinking of placing case officers at the prisons. Case officers do not have to be lawyers; they can be trained to do the intake. At least we would like some of the prison officers to be trained to conduct case intake.

Q: What prompted this project?

Well the issue of overcrowding in the prisons has been ongoing for a long time. Furthermore, CHRAJ conducts an annual report on the prisons in Ghana, highlighting the need for the overwhelming number of remand prisoners to be processed. Legal Aid is obviously concerned with this issue because it is in our mandate to represent the poor in both criminal and civil matters. Last year Legal Aid asked the Director of the Prisons Service to give us a list of all the remand prisoners in the greater Accra region. We were given a partial list with the promise for the complete list to be given later on. We are still waiting. The partial list was from the James Fort prison. Of the entire prison population, 721 were male remand prisoners and 38 were female remand prisoners. Like I said, until today, we are still waiting for the list of remand prisoners from the Nsawam detention centre.

Q: You mentioned earlier that prisoners who sought Legal Aid fit into two categories. To your knowledge, have there been any formal complaints to Legal Aid about the conditions and/or the treatment of prisoners?

No there haven't been any complaints. I know there are rumours of such problems and complaints but there hasn't been a formal complaint. Even if there is, the Commission for Human Rights and Administrative Justice (CHRAJ) is the best organization to handle such complaints.

Q: But CHRAJ is an investigative body and their findings and recommendations are not binding.

This is true that it is an investigative body. However, if for example CHRAJ takes up a complaint and after investigation, makes a recommendation to the Prisons Service and it does not adhere to it, CHRAJ can then take the issue to court and ask that the court give an order to which the Prisons Service will have to follow.

Thoughts

The interview went very well. I asked Mr. Nwosu why he chose to work for Legal Aid and he informed me that he came from a very poor background and felt the desire to help the poor. His mate in law school was Nana Oye Lithur, the current director of Commonwealth Human Rights Initiative (CHRI). We further discussed the possibility of piggy-backing on one of Legal Aid's

prison visits and he asked us to meet with him and the lawyer who does the prison visits, Mr. Ellis Quarshigah, the following day. Over all, Mr. Nwosu has been very helpful and accommodating to our project.

Amnesty International (Interview #2)

Date: Thursday, July 6th, 2006 **Location:** Amnesty International **Time:** 10:00 – 11:00 a.m.
Contact Person: Mr. Prize McApreko (Director)

“As a prisoner, one loses his/her civil and political rights, but all other rights must remain intact.”

- It is sad to be born an African female. Females are disadvantaged in so many areas. There is no exception when it comes to the tolerance of prisons conditions.
- Conditions in the prison system are offensive to human dignity. It is more so for women who physiologically require special care.
- In cases where mothers are put behind bars along with their baby, there is a dual argument: you cannot free the mother just because she has a child, nor can you detach the newborn from the mother just because she is in prison. In these cases, the prisoner suffers because she is female.
- In general, the bathrooms and toilet facilities in prisons are offensive to human dignity. Again, it is more pronounced for women and there is no special attention given to the women. For instance, when a woman is menstruating, there is no privacy for her, which makes it difficult for women physiologically (which can lead to psychological stress), more so than for the men.

The Optional Protocol of the Convention against Torture (OPCAT)

- AI is pushing for Ghana to ratify the 2nd Optional Protocol of the Convention against Torture (OPCAT) because it has not yet ratified it.
- By signing it, a country commits itself in making sure that places of detention in the country are fit for human conditions and if not can be forcibly compelled to do so.
- If the OPCAT was ratified, it would force governments to revisit the prison conditions to improve on it so that prisoners get better living conditions.
- It is baffling why Ghana hasn't yet ratified the OPCAT. We have signed it but have not ratified it. It is probably because the government knows that it is not capable of meeting the requirements of the protocol now. But if that is the case, why sign on to the protocol in the first place?
- It is difficult to draw the line between hypocrisy and diplomacy, which is a higher/better form of hypocrisy, says Mr. McApreko.
- In this part of the world, those who can do something about it do not appreciate the essence of Human Rights, until their rights have been violated or they have been victimized. By then, they are not in the position or do not have the power to effect change.

Who is to blame for poor prison conditions?

Mr. McApreko blames all units involved for poor conditions:

- 6) **Ghana Prisons Service** – Has been put in place by the government thus it works in a framework and in a context of rules set out by the government. So it cannot do much to change the conditions, but at the same time, it can play an extremely key role in changing the conditions because they are the best people to give feedback and evaluate the situation since they are in the system.
- 6) **Prison Council** – Governs the Prisons Service and its purpose is to implement the policies. Although the council members are appointed by the government and again operate under the framework of the government, they too can take a proactive approach in effecting change.
- 7) **Government** – well that is a different story. That said, all the blame cannot be placed on the government. The Prisons Service and the Council are partly to blame. If a prison is designed to take 31 inmates, after taking in the 32nd inmate, a reference should be made to whoever is in charge. The problem should at least be voiced! Sooner or later someone will sit up and listen. Common sense should prevail.

Controversial areas

- Why keep on sentencing people when the prisons are already completely congested? The Prisons Service and/or the government should be focussing its work on decongesting the prisons, rather than adding prisoners to them.
- Prisoners do not deserve any human dignity is the attitude of today's society in Ghana. Keep them behind bars where they belong, let them die there.
- It should be a place for rehabilitation rather than a place of punishment, which is what it is currently. The mentality right now is about punishing the culprit and not rehabilitating him/her to facilitate integration into society.

Be creative with limited resources

- Poverty within a framework of Prisons Service – bad food because it is state funded.
- Should use inmates who are able-bodied men and women to clean the city streets, to cultivate and work on the farms.
- Prison authorities are not being creative nor exploring the possibilities of what to do with the prisoners and how to use them in an efficient and productive way.
- They are not being realistic to the situation, not being pro-active.
- A pro-active example of using prisoners to do some productive work while also protecting the environment:
 - Coconut shells are used to make car seats in Trotros, why not make prisoners pick up coconut shells and have them work on preparing them for manufacturing, rather than simply throwing away the shells?

The Advancement of Rights

- It is baffling how advanced civil and political rights are in Ghana while economic, social and cultural rights have fallen behind. Citizens are supposed to be as responsible as, or more so, than its government about their rights. At the end of the day, is it the citizens of the country who are more to blame and not the government.

- Ex: cleaning up the gutters. The government spends money to clean them up just so that people can re-litter them. What's the point of using money and manpower in that case?
- The media plays a big role in bringing up the information to the public's attention.
- Ordinary Ghanaians are not aware of their rights, this is compounded by the fact that access to justice is frustrating.
- When an individual's rights have been violated, the typical Ghanaian attitude is: "Let it go, leave it to God, whatever happens, happens, etc..."
- A Nigerian adage says: "Ghana is the gateway to Africa. But Nigeria is the final destination!"
- We fail to hold our government accountable for human rights, which is a very serious problem. We must hold our governments accountable.
- If civil society and the media used their position more, they could do a lot for the advancement of human rights. The media can help keep the focus on certain things. Currently there is too much attention on politics in Ghana.
- Prisons in Ghana are just a finger snap away because the system in Ghana is such that police officers can overreact or use force when it is not necessary, and bribe people for money. "I will show you where power lies", type of policing in Ghana.

How the OPCAT would change the prison system

- Pledge to protect human rights in all detention centres of the country.
- Expect that:
 - Prisoners not be tortured;
 - All human rights be respected.
- This would bring positive change in the detention centres. It would be very effective if we could open up the prison system of Ghana to international scrutiny. This would greatly decrease the human rights abuses present.
- No punitive sanctions – works as an honour system whereby countries who sign and ratify promise that they will act on the Protocol.
- Once a country has ratified, international observers can come in at any time without notice to evaluate the prisons of that country.
- In comparison to other neighbouring countries such as Togo, Sierra Leone, and Liberia, Ghana has a good reputation internationally. It is renowned as being one of the leaders for an African nation in respect to human rights.
- However, this is as skewed comparison because these other countries are nothing to compare it to. Ghana should raise its standards by comparing itself to other countries outside of Africa. Ghana does this because it makes them look good on the international front and makes them feel better about where they are at. This is detrimental to the country because it means that it is satisfied right where it is, which could stump the growth to progress.

Legal Resource Centre

Date: Friday, July 7th, 2006 **Location:** Dzorwulu **Time:** 9:30 am – 10:00 am

Contact: Saani Ibrahim

The Legal Resource Centre (LRC) is an NGO interested in using law to promote development. It campaigns for human rights, using research and advocacy.

They have 2 core programs:

5. Research and Advocacy
5. Human Rights Cities Program: to educate people on what their rights are to be able to assess and enjoy their rights. Build capacity of communities by training and doing community-based advocacy in order to engage those who have power, to assess rights for everyone. Basically, to make it possible for the poor and communities that have no access to be aware of their rights.
 - o The Prisons Project falls under the H.R. Cities Program.
 - The goal is to bring justice to innocent convicts who have been incarcerated.
 - Trying to identify human rights abuses in prisons and how to address some of these abuses.

18) Projects under Research and Advocacy:

- PAP: Parliamentary Advocacy Project – consists of monitoring the Parliament of Ghana by analysing bills and identifying legal issues and then determining who will be affected by the bill. Inform the people who would be affected by the bill, about the bill and get their feedback on it. Once they speak to the people or the community affected, they meet with the relevant Parliament committee to amend the bill for it to be accessible to all once the bill has been passed and also to benefit those who need it the most.
- Action Aid Project – Donour NGO – consists of training staff across Ghana on a rights-based approach to development and of providing technical assistance in this new approach.
- International Human Rights and Lawyering Internship Project – many American law students come and work with them and do research on different areas. Ex: health rights because there are no clear provisions in domestic law (the 1992 Constitution) stating health rights for Ghanaians.
 - Looking at Ghana's international treaties.
 - Looking at carry and cash system (pay before being treated).
 - Children under 5 years of age are supposed to be treated free of charge but parents have to pay for the medication. Sometimes, there is an exemption to pay.

18) Prison Project:

- Started in 2002-03, but then there was a problem with funding so the project has been stalled for the moment. They go to prisons, categorise prisoners; remand prisoners; condemned prisoners and “lifers” to look at what conditions they are living in. They make recommendations for reform.
- They provide free legal representation and started the process of appealing for convicts (Court of Appeal and High Court) who they thought would not have been convicted if they had had legal representation.
- For other prisoners, they exhausted all forms of support by writing letters of amnesty to the President of Ghana.
- In 2003-04, 2000 prisoners were granted amnesty across the country.

- They had an officer-in-charge of legal representation on a regular basis and then he briefs others on the cases.
- Originally, the funding by Open Society Initiative for West Africa (OSIWA), an international organisation, was a large amount. But now they only receive bits and pieces of funding to do prisons reform – it has become a 6-month project.
- NGOs who partnered to form a Prison Coalition to push forward the project:
 - Legal Resource Centre (LRC)
 - Centre for Public Interest Law (CEPIL)
 - Commonwealth Human Rights Initiative (CHRI)
 - Prisoners Rehabilitation and Welfare Action (PRAWA)

Thoughts

Mr. Bosompem referred us to LRC to meet with Eddie Amuzu. When he arrived we were informed that he had been admitted to a hospital. Saani Ibrahim, a lawyer at the centre, volunteered to answer some of our questions and suggested that we come at a later date to meet with Mr. Amuzu where a copy of the preliminary report on prisoner's rights would be made available to us. We never returned to meet with Mr. Amuzu.

Commission for Human Rights Initiative (CHRI)

Date: Tuesday, July 11th, 2006 **Location:** CHRI at the British Council **Time:** 3:30 – 4:30 p.m.
Contact: Mrs. Nana Oye Lithur

Mrs. Lithur's Bio

Mrs. Lithur is lawyer who is involved in advocating for political rights of women (look at the historical context of such as women voting in public elections, running for public office, etc. She looked at pre and post independence contexts). She also does many abortion and reproductive rights cases, and heritance rights cases. She did her masters in South Africa and looked at the advantages of proportional representation in South Africa to see the impact on women and gender stereotyping. She also looked at political roles women have played.

About CHRI's prison-related work

CHRI is constantly analyzing issues related to prisoners' rights and prison conditions. Issues on why remand prisoners are detained for long periods of time and finding ways to decongest the prisons are currently the hot issues in this country. Access to justice from the prisons is a huge problem in most developing countries and Ghana is no exception. CHRI is doing a lot to advocate for prisoners' rights. Currently, CHRI has plans on hosting Human Rights Public lectures in October 2006. The lectures will involve:

- Looking at police stations and prisons from a human rights perspective. More specifically looking at police brutality and human rights violations that occur.
- Powers of arrest: whether the police tell people about their rights, whether or not they tell them why they are being detained or arrested. Look at the Constitution to see if the police are respecting the rights of the detainees.
- They want public attention to be redirected.

Recommendations on how to approach our Prison Project

- We should look at the US State Department Reports on Human Rights – they report on prisons at the international level.
- Look at CHRAJ’s Annual Reports and the Ghana Prisons Service Reports.
- African Human Rights Commission – look at the African Charter on Human and People’s Rights. The difference is that Human Rights are individual rights and the People’s Rights are the rights and responsibilities of the community as a whole, since Africa places such importance on community living.
- South Africa – University of Western Cape Community Law Centre website: has a project on prison diversion. Ghana could perhaps follow that model.
- French-speaking countries follow the international conventions better than the English-speaking countries because as soon as the former ratify an international convention, they adopt it in their domestic law. In other words, they do not have to create or ratify a domestic law to correlate with the international law.
- **None of the international laws that Ghana has ratified have been domesticated.**

Centre for Public Interest Law (CEPIL)

Date: July 12th, 2006 **Location:** F12/15 Cantoments Road Osu **Time:** 1:15pm – 2:00pm

Contact: Dominic Ayine (Director)

CEPIL was established in 1999 as an NGO promoting human rights, with the aim of assisting poor communities and individuals to seek redress against powerful actors whose policies and actions infringe upon their basic human rights. It began with the initial focus of advocating for mining communities in the Ashanti Region, whose rights were being ignored and abused by mining companies. Since then, it has been involved in advocating on a number of public interest issues.

Their most current project that has been put on hold pending funding is a prisoners’ rights project. The initial phase of the project has been completed. It involved 5 legal interns from the University of Stanford working with 2 lawyers from CEPIL who visited prisons and detention centres, observed and interviewed a good sample of prisoners and detainees. The main focus of the project is to examine the problem with remand prisoners and the issue of their long detention in inhumane conditions without trial. CEPIL feels that the plight of remand prisoners is more pressing because it is unconstitutional and definitely a violation of their rights to keep them detained for an average of 5 years without trial. An initial report has been written and now the project has been put on hold pending funding. Once funding is obtained, CEPIL will resume the project concentrating on alleviating the problem with remand prisoners at James Fort Detention Centre. Other projects that CEPIL still has in the works are continued advocacy and representation for the mining communities and now settlers who are being evicted along the railway tracks in certain parts of the country. CEPIL is currently not working with any other organizations nor is it aware of the other similar prison projects that are in the works.

Prisoners Rehabilitation and Welfare Action (PRAWA)

Date: July 13th, 2006 **Location:** Tantra Hill (Cynthia's House) **Time:** 1:00pm – 2:00pm
Contact: Cynthia Jikpamn **Position:** Director. She was on maternity leave when we met with her. Her colleague Enyonam Kumekpor has since resigned and the office is in the process of relocating.

Background

PRAWA Ghana is an NGO that seeks to improve conditions for prisoners, ex-convicts and prison officers in the country. It has been in existence since 2001. PRAWA Ghana is purely an advocacy work organization and provides no legal representation. It was set up as an offshoot of PRAWA Nigeria which has been in existence for the past 11 years. Since its establishment in Ghana, PRAWA has undertaken a number of projects to sensitize the public and to create awareness of the human rights of prisoners, the plights of victims of torture and their families. In July 2005, former country Director Mr. Sylver, a Nigerian, left his position for further studies. Cynthia and her colleague Enyonam took over the organization.

Meeting

One of the major projects that PRAWA has been involved in under the new leadership was the Abolition of the Death Penalty Campaign. The main focus of the project was to create awareness about the death penalty in Ghana. PRAWA began the project with an open symposium on the topic inviting 250 people from all walks of life. It was very interesting and informative to learn about other people's views on the subject. The project recently ended in May 2006. Another project that should have been ongoing was the visit and inspection of prisons and detention centres to call for better living conditions and treatment of detainees. Prior to the take over in July 2005, PRAWA was allowed to visit the prisons, but now their access has been denied by the Ghana Prisons Service. Cynthia was not sure why this is so; perhaps new policies are in place to limit such access or, perhaps PRAWA, under new management, is too upfront with its purpose behind the visits. It could also be that PRAWA is asking for unlimited and unrestricted access, unlike before.

The purpose of this major project is to simply advocate for prisoners' rights. More specifically, advocate for better prison conditions and treatment of prisoners. The project does not only look at prisons. Police detention centres are another place to examine. PRAWA did manage to visit the Accra Central Police Station, where they interacted with the remand prisoners and examined the cells with no restrictions. Although the project has been stalled due to lack of access and funding, they can say from the one visit that they were granted, that indeed the detention centres are congested and not conducive to human stay. Some of the deplorable conditions they observed were congested cells, detainees sleeping on bare floors, poor ventilation, no light and all of this leading to skin and other diseases. Cynthia explained that, the person in charge of Accra Central, at that time, one Mr. Asiedu was very welcoming and encouraging to their visit. In fact, he drafted a proposal for funding for the expansion and renovation of the detention cells and asked PRAWA if they could help in soliciting for funds from potential donors. PRAWA took on the proposal with the intention of soliciting funds from the general Ghanaian public. So far, it has been unsuccessful because this is not the priority of Ghanaians. Perhaps once the office relocates and Cynthia returns from her leave, PRAWA will be able to revive the project.

Thoughts

After meeting with PRAWA, LRC, CEPIL, and CHRI, four key organizations involved in projects advocating for prisoners' rights, we realized that they were all advancing their cause independently. A reoccurring theme with all three organizations was that their prison project had been stalled due to lack of funding and/or lack of access to the prisons. For whatever reason, these organizations did not see the need to collaborate and work as a united front in advocating for prisoners' rights.

When asked if Cynthia was aware of the other prison projects that the Legal Resource Centre, Centre for Public Interest Law, Legal Aid and Commonwealth Human Rights Initiative were separately conducting, she responded in the negative. In fact, with the exception of Legal Aid, she had never heard of the other three organisations. With the exception of Amnesty International, with which PRAWA had worked on the abolition of the death penalty project, PRAWA had not collaborated with any other organizations involved in similar prison projects.

James Fort Prison Visit

Date: July 15th, 2006 **Location:** James Fort Prison in James Town **Time:** 10:00 am – 12:00 pm
Contact: Ellis Quarshigah (Legal Aid Lawyer)

When we arrived at the prison, Mr. Quarshigah presented a letter to the prison guard. The prison guard asked us to wait outside while he went inside to deliver the letter. After 10-15 minutes, the prison guard ushered us inside. The prison was originally built as a fort, hence the name James Fort. It appears that the James Fort prison since its erection has not been modified as a detention centre. We were ushered into the main office where the attending officer confiscated our cell phones and our bags. We noticed on the wall a chalkboard that listed the number of prisoners and their status as of that day. There were 720 prisoners in total: 680 remand prisoners, 4 lodgers, 18 convicts and 18 were currently on trial. We were curious about the 4 lodgers. The officer in charge informed us that the Deputy Director would like to speak with us and gave the males, Zack and Ellis, a badge that said visitor and gave us nothing, since we were females and could easily be accounted for. We were then ushered upstairs into the Deputy Director's office.

Deputy Director Alhassan Legibo – the following notes were taken from our discussion with him. He was very apprehensive about granting us the tour of the prison, explaining that our official letter from the Legal Aid Board was insufficient. Also, in order to be granted a tour of the prison, we would have to obtain the permission of the Director of the Ghana Prisons Service. Since we had no such letter authorizing him to allow the tour, he was unable to grant our request. He then asked us the nature of the questions we had prepared to ask some of the prisoners. After I presented him with a copy of our questions, he explained that he would be able to provide one or two prisoners for the interview.

History: James Fort was not purposely built as a prison. As the name suggests, it was built as a fort in 1746. It is the oldest prison in Ghana. With the exception of Nsawam prison which was built during the Nkrumah Regime, no other prison has been purposely built in Ghana. James Fort was where the big six were held: Kwame Nkrumah, Ofori-Attah, Danquah, Ako-Adjie, Obiste-Lamptey and Akufo Addo. These are the men who led Ghana to independence in 1956. Nkrumah

was still at James Fort when independence was declared and it was from James Fort, where he left to give the declaratory speech at Independence Square.

Questions: After the brief history, Edudzi began by asking who the 4 lodgers were that were listed on the board. Mr. Alhassan explained that the lodgers were mostly transferees, who were transferring from one facility to another and were lodging at the fort interim, or were lodging pending trial. Edudzi then asked why there were a large number of prisoners on remand. He explained that James Fort was mainly a remand centre and in actual fact, was not supposed to take in convicts. But due to the overcrowding of other prisons, mainly Nsawam, they were compelled to house a few convicts. What is interesting is that, Nsawam, a medium security prison that is not supposed to house remand prisoners, does have some. The convicts at James Fort are currently not segregated from the remand prisoners, which should not be the case. They are treated differently in the sense that they are required to do labour work while remand prisoners, because they have not been convicted by a court, cannot be forced to do any form of labour. He explained that the law was very strict on remand prisoners. The law regulating the prisons apart from the Prisons Service Decree was the Prison Regulatory & Standing Orders 1958 LN 412/58. Remand prisoners just loaf around killing time. There is no maximum number of years that a person is held on remand and then released. To his knowledge, the maximum number of years a person has been held on remand is 14 years and he was released recently, with the help and intervention of Legal Aid. The convicts are identifiable in a blue uniform, while the “remanders” are allowed to wear what they wish.

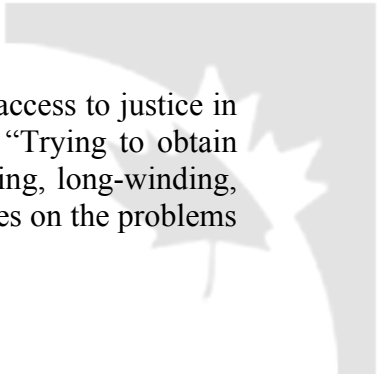
There are about 130 officers in total who work at the prison varying in shifts. Mr. Alhassan declined to tell us how many officers are on duty at any given time, probably due to security reasons. There is also a section divided by a wall with its own entrance dedicated to the female prisoners. That section is an entirely complete unit on its own with its own deputy director. Mr. Alhassan explained that his power to grant us limited access did not have any bearing on the female section and we would be at the discretion of that deputy director if we wanted access.

Limited Access

We were allowed to see Kwame Nkrumah’s cell, which was being used as storage of old records. In order to see the cell, we had to go through another gate into the main section where the inmates’ cells are. We spent less than five minutes in that section and therefore got a brief look at the cells and the inmates that were in there. Because we were not permitted to inspect any of the cells or talk to any inmates without being given specific permission, we were not able to determine or accurately assess the living conditions and the treatment of the inmates. After the cell visit we were ushered into an office where a prison officer, Mr. Amoah (Deputy to the Deputy Director) was waiting for us. With him in the office were two inmates that he had chosen for us to interview. Chelsea interviewed the first inmate while Edudzi interviewed the other. The questions were very basic asking for the in-mates personal information, which included: address, marital status, employment status, and then the circumstances surrounding his situation.

PART II

Observations



In compiling this report, we observed some reoccurring themes that hindered access to justice in this country. Mr. McApreko accurately stated in one of the interviews that “Trying to obtain redress in the judicial system of Ghana is a cumbersome, expensive, frustrating, long-winding, and never-ending procedure.” There were numerous opinions varying in degrees on the problems with access to justice. The following are the main problems that we observed.

Lack of Resources

The most pressing problem in this country is the lack of resources. Looking at the judicial system, the lack of resources hinders the average Ghanaian from properly seeking redress, while on the side of the courts, the same problem prevents them from ensuring that the system is run effectively and efficiently. For example, if a complainant has legal representation on a case currently under trial, apart from the regular retainer fees that the complainant must pay, he/she must also ensure that the transportation fees are paid to his/her lawyer prior to each court hearing. Judge Doodoo at Circuit Court referred to this as “reminding” your lawyer about your court date. If, for whatever reasons, the complainant fails to “remind” his/her lawyer prior to the hearing, there is a high probability that the lawyer might “forget” to show up, simply because he was not “reminded.” If the lawyer is absent at the hearing, the hearing date will most likely be adjourned. If throughout the trial there are a series of adjournments, which is the case most of the time, the judge will take that into consideration when awarding costs. This is a vicious cycle because the judicial system is backlogged with numerous cases dragging on for quite a number of years, mainly due to adjournments. The average person cannot afford a lawyer for such a long period of time and therefore either ends up dropping the case entirely or dropping the lawyer for self representation.

Corruption

Corruption is another problem that stems from the lack of resources and financial means by the average worker. It affects everyone and everything in the country. The judicial system is no exception. For instance, when a victim complains to the police, his/her ability to financially persuade the officer to investigate the case will affect how the case will be processed. In some cases, the officer can be counter-persuaded by the accused to drop the charges. If and when the case goes to court, again, both the victim and the accused will suffer if they are unable to afford the fees that come with legal representation, the filing of appropriate claims, and applications in the situation where the accused obtains bail. Another reality is that the court clerks and even judges can be financially persuaded to influence the outcome of the trial. This is not to say that the entire judicial system is corrupt but simply to show how corruption affects access to justice.

Lack of Creativity

Another problem with access to justice is the lack of creatively using the limited resources available. For example, the courts systems and organizations such as Legal Aid and CHRAJ complain of their inability to fulfill the demands made on them due to the lack of resources. In an interview with Judge Mensah at the Ajabin Court, she complained of the long and tedious process of writing everything in long hand and also of doing her own case law research on some of the issues before her. Why isn't there any arrangement with the courts to take on students from the faculty of Law and the Law Schools to work as clerks for the judges? The students will be gaining practical experience for their legal education and the judges will have personal clerks

to help them with their cases. Organizations such as Legal Aid, CHRAJ and the Department of Social Welfare would benefit from a similar arrangement.

Need to Educate

According to the organizations we interviewed, the average Ghanaian is not aware of her rights and or in some cases not educated enough to know how to assert those rights. One of the main causes of most of the organizations we interviewed was to increase public awareness, through research, workshops and publishing pamphlets and manuals. Most were of the view that if the average person knew about their rights, they could be pro-active in effecting change and holding the government accountable for its actions.

Lack of Collaboration

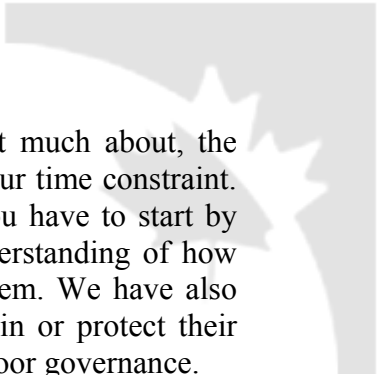
We observed a lack of collaboration between some organizations that were advancing similar causes. Five organizations: Legal Aid, LRC, PRAWA, CEPIL and CHRI, are all organisations involved in separate yet extremely similar projects advocating for prisoners rights. With the exception of Legal Aid, a government agency, the other four had stalled their projects due lack of funding and/or lack of access to the prisons. We found it very interesting that these organizations did not see the need to collaborate and work as a united front in advocating for prisoner's rights. It is apparently a major issue with non-governmental organizations in Ghana. They are all asking for funding from the same donors and therefore have the inherent need to compete and succeed in their own independent projects in order to receive more funds. One wonders if this attitude is actually helping the disadvantaged whose causes they are all promoting.

Lack of Transparency and Accountability

Some organizations complained about the lack of transparency of some government agencies. Most of the NGOs that were doing a project on the prisons and prisoners' rights, expressed frustration on the lack of cooperation by the Ghana Prisons Service. Some of the views expressed suggested that the prisons were not being transparent because they were afraid of the backlash from local and international human rights bodies. Even CHRAJ, an administrative body, established by an act of Parliament with the mandate of protecting the human rights of all persons including prisoners, is sometimes prevented from properly conducting their annual prison inspections. Mr. Bosompem, during an interview, emphasized that it would be beneficial to all involved if the Ghana Prisons Service was more transparent. Besides increasing the demand for better treatment of prisoners, there would most likely be an increase in resources and funding for the Prisons Service, which would lead to an improvement of prison conditions thereby decreasing human rights violations of prisoners.

CONCLUSION

Overall impressions of the project



The internship was extremely beneficial as we were exposed to, and learnt much about, the realities on the ground of the legal system in Ghana, especially considering our time constraint. The internship was a total of three months, which is not very long when you have to start by laying the groundwork. We will now go home to Canada with a better understanding of how legal systems work in developing countries, in comparison to our legal system. We have also realised the many challenges citizens and organisations who seek to maintain or protect their own basic human rights must face everyday, such as poverty, corruption and poor governance.

Madame Francois called everyone she knew that would be of interest to our research, introduced us to them and helped us set up interviews with them. All the experts and professionals we met, from lawyers, to judges, to members of organisations were very helpful and considerate of our work. They were willing to give us direction when necessary and share pertinent information and their knowledge with us. It made our work so much easier and more enjoyable. We appreciate them greatly.

Difficulties

The difficulties we encountered were the lack of time and lack of access to visit police cells and prisons. Once we decided to do the prisoners' rights project, we intended on visiting both prisons in Accra to interview prisoners if possible and to witness the conditions the prisoners lived in. We were able to get a short tour of James Fort prison, however we would have preferred to have the opportunity to examine the cells and interview more prisoners without the presence of a prison officer. Afterwards, we went to the Nsawam prison but were denied access. The authorities wanted an official letter from the Prisons Service. This is exactly what we are talking about: the barriers to access to justice! The prisons have so much to hide, especially from foreigners that they are afraid to let us in to see what is really going on. Their fear and concerns are that we will report to the outside world what we saw inside their prison.

Besides the two prisons, we would have liked to visit police cells in Accra. We went to the Nima Police Station once, but only in passing, therefore we did not get the chance to interview a detainee or actually see inside the cell. We lacked time to accompany a lawyer to access the police cells. Furthermore, we were also looking to interview ex-prisoners to hear first hand personal experiences of living in prison or a police cell. Again, it was very difficult for us to find that category of individuals. At one point, we were in communication with three men who were ex-prisoners and who were willing to tell us their story, but unfortunately, we ran out of time as they lived in a village in the Volta region and not in Accra and time did not permit us to travel there.