

CDD organises workshop on local justice



Picture: SAMUEL ADJEI-BOATENG

Prof. Richard Crook (right), Research Fellow of Institute of Development Studies (IDS) in UK, interacting with Prof. E. Gylmah-Boadi (middle), Executive Director, CDD-Ghana, and Mrs Justice Sophia Adinyira, a Supreme Court Judge during a

workshop on Local Justice in Ghana, organised by Centre for Democratic Development (CDD) Ghana in collaboration with the Institute of Development Studies (IDS) UK, at Fiesta Royal Hotel in Accra.

The workshop was aimed at

generating evidence-based policy recommendations to the government and Ghana's development partners about how to improve the accessibility of justice for ordinary citizens.

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Daily Graphic

MONDAY, MAY 17, 2012. NO. 18227. PRICE: GH¢1.00

CHRAJ not a court

By Cecil Adadevoh

THE Committee of Experts which made proposals for the 1992 Constitution stated on page 115 of its report as follows:

"Courts are necessary institutions in a democratic society. They provide an impartial forum for the resolution of disputes between individual citizens or institutions, and between citizens and the State. They also play an important role of declaring the rights of citizens and of providing reliefs and remedies for the protection of human rights."

The primary duty of the promotion and protection of human rights belongs to the Commission on Human Rights and Administrative Justice (CHRAJ), a successor to the office of the Ombudsman. A summary of its mandate is as follows:

- Investigate human rights violations
- Investigate complaints concerning the functioning of the Public Service Commission, the Executive Branch of Government, the Armed Forces, the Police Service and the Prisons Service among others.
- Investigate human rights violations by all persons including private individuals
- Investigate all instances of alleged and suspected corruption and misappropriation of public funds by officials
- Educate the public on human rights.

In the exercise of its functions the commission conducts her investigations and other activities of protecting rights in a quasi-judicial manner.

Admittedly, however, the commission cannot by any stretch of the imagination be equated to a court.

However, it acts like a court in its functions by having the right to compel the attendance of witnesses before it and to testify truthfully. A clear indication that the commission is not a court is that it cannot punish directly contemptuous acts of persons who appear before it. It must of necessity do so by approaching a Superior Court.

The commission's mandate is also limited because it is precluded from hearing matters pending before a competent court of law or matters involving bilateral or multilateral international relations involving Ghana. It is also precluded from hearing matters involving the prerogative of mercy, a preserve of the President acting on the advice of the Supreme Court.

The commission in its work employs a more conciliatory approach than the adversarial nature of the court room.

In a lay definition, a court is defined by the Chambers 21st Century Dictionary as "a judge, law officials and a jury gathered to hear and decide on a case"

The commissions by the requirements of the 1992 Constitution must be legal practitioners and in the case of the commissioner of not less than twelve years standing at the bar and must be of high moral character; the same requirement for appointment to the Court of Appeal.

In the case of the two deputy commission-

ers, a legal practitioner of not less than ten years standing at the bar and must be of high moral character, the same requirement for appointment to the High Court.

The qualification or requirements for the appointment of the commissioner and his deputies is judicial in nature and indeed they enjoy the same terms and conditions of service as the Justices of the Court of Appeal and the High Court respectively. The mode for the removal of the commissioner and the two deputies are the same for the removal of a justice of the Superior Court.

By definition courts are creatures of statute, superior courts are created by the constitution while inferior courts are created by Acts of Parliament.

By definition the commission cannot be equated to a court, but if one reads the 1992 Constitution as a whole so as to ascertain the intention of the framers, one would find that the commission must have an unfettered access to the courts of Ghana in the exercise of its core functions of promoting and protecting human rights. In the exercise of this unfettered access it may refer matters of constitutional nature to the Supreme Court for determination.

This submission is fortified by the words of the Committee of Experts aforementioned:

"In the protection and enforcement of the liberty of the individual the courts play a unique role. It is in the courts that a citizen who considers his or her human rights abused or threatened can ventilate his or her grievance and seek appropriate relief."

• The writer is a legal practitioner and adjunct lecturer at the Regent University College of Science and Technology

CHRAJ makes in-roads into alternative dispute resolution

Story: Mark-Anthony Vinorkor

THE Commission on Human Rights and Administrative Justice (CHRAJ) is making in-roads in alternative dispute resolution in the rural areas, a study by the Centre for Democratic Development (CDD-Ghana), has revealed.

It said the successes being chalked up by the Commission had made it very attractive to poorer, younger people and to women, especially those seeking maintenance for children, divorce settlements and compensation for violent abuse.

"These are people who would not normally go to court because they are

ashamed or afraid, or they feel they cannot afford it. The accessibility can, therefore, be rated very highly," it added.

The findings of the study were discussed at a forum in Accra yesterday, attended mainly by legal practitioners, members of the bench and land administrators.

The study forms part of a programme of research being carried out by an international consortium called African Power Politics (APP) funded by the United Kingdom's Department for International Development (DFID).

In Ghana, as in many African coun-

tries, the legal system and the courts have been criticised as inaccessible to ordinary citizens because of their formality, long delays, cost and sometimes alien procedures and rule.

Recent policies in Ghana have emphasised the need for the courts to make increasing use of Alternative Dispute Resolution (ADR), and the state had also supported other dispute settlement institutions (DSIs) which use either informal mediation or customary codes and procedures, running in parallel with the court system.

The study sought to answer the question of whether those new approaches to the provision of justice had been effective and


accessible in the eyes of the public and thus consolidated the rule of law in its broadest sense.

The APP team sought to, specifically, compare the formal state courts with new, or informal DSIs and, therefore, carried out case studies of the magistrate courts, the district ADR services offered by CHRAJ, and the new land ADR tribunals envisaged by the Customary Land Secretariats introduced by the Land Administration Project.



Prof Richard Crook, the APP Local Justice Project Director, who led the process, said the main focus of the study was on land, inheritance, family and property cases, but the team also covered a variety of other kinds of cases including commercial and landlord-tenant relations.

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Democracy and Governance Internship Placement



10 weeks

The Ghana Center for Democratic Development (CDD-Ghana) is pleased to announce its Democracy and Governance Internship Program for Ghanaian university students.

Objective:
To offer opportunities for three promising undergraduate and post-graduate students to develop an interest and skills in research, analysis and advocacy in Ghanaian/African democratic development and good governance.

Eligibility:
Prospective level 400 and post-graduate students majoring in social sciences, humanities and law in any Ghanaian university.

Duration:
A maximum period of ten (10) weeks (June to August).

Awards:
A monthly stipend of two hundred and twenty (GH¢220) Ghana Cedis.

Application Procedure:

- Write to the Head of Programs, stating your program of study, level, and most recent Grade Point Average (GPA).
- Indicate your interest in issues of Ghanaian/African democratic development and good governance.
- Applications must be accompanied by a two-page (typed, single space) essay presenting your views on the topic: "Ghana's discovery of oil has been widely acclaimed as a blessing for national development-but a cautionary note has been struck due to Ghana's susceptibility to the Dutch Disease and the resource curse. Explain these concepts, and briefly outline what Ghana can do to ensure that the oil find will be a blessing, not a curse?"
- Only short-listed applicants will be contacted.

Application Deadline:
Applications must reach the Center by the 21st of May, 2010, through direct posting; email or hand delivery.

Direct Posting to: The Ghana Center for Democratic Development (CDD-Ghana) P.O. Box LG 404, Legon-Accra.	Email: jobs@cddghana.org	Office Location: H/No. 95 Nortel Ababio Loop, North Airport Residential Area, Accra
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