Justice (Rtd.) Emile Francis Short is a Ghanaian Judge and academic and the first Commissioner of Ghana’s Commission on Human Rights and Administrative Justice (CHRAJ).

Emile Short was called to the Bar in England in 1966. He is also a member of the Bar in Ghana and Sierra Leone. In 1967, he obtained a Masters Degree in Law (LL. M.) from the London School of Economics and Political Science.

He has been a law lecturer at the University of Cape Coast in the Central Region of Ghana. He also lectured at the Middlesex Polytechnic in London, United Kingdom. He has been a consultant for the United Nations Development Programme UNDP, the Commonwealth Secretariat in London, the Carter Center in the United States, and Sweden’s Raoul Wallenberg University.

He was appointed the Commissioner for Human Rights and Administrative Justice in Ghana at the beginning of the Fourth Republic in 1993 by Former President Jerry Rawlings. Prior to working with CHRAJ, he was the head of a law firm in Cape Coast.

In 2004, he served as a Judge with the United Nations International Criminal Tribunal for Rwanda. The Tribunal was set up to determine the guilt or innocence of persons charged with genocide, crimes against humanity and war crimes in Rwanda in 1994. He returned to his position at CHRAJ in August 2009 and retired in November 2010.

In 2008, he received the Star of the Order of Volta in recognition for excellence in human rights administration.

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Ghana Center for Democratic Development (CDD-Ghana)
The Ghana Center for Democratic Development (CDD-Ghana) is an independent, non-partisan and nonprofit research think tank based in Accra, Ghana. CDD-Ghana is dedicated to the promotion of democracy, good governance and the development of a liberal political and economic environment in Ghana in particular and Africa in general. In so doing, CDD-Ghana seeks to enhance the democratic content of public policy and to advance the cause of constitutionalism, individual liberty, the rule of law, and integrity in public life.

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'Kronti ne Akwamu' is the adinkra symbol for democracy, duality of the essence of life, compositeness and complementarity. It encapsulates a system of governance with decentralized political authority and different branches of government that complement each other.
The *Kronti ne Akwamu* Lecture is the Center’s flagship annual public lecture on democracy and governance. It is one of the Center's initiatives aimed towards bridging the gap between reflection, research and analysis on one hand, and pro-democracy and good governance advocacy on the other. Therefore, it is aimed at enriching the quality of public discourse on democratic and governance reforms.

The lectures feature prominent scholars and/or activists of local and international repute whose work focus on democracy building and fostering good governance. Speakers are invited to share knowledge and insights on these issues, in the hope of stimulating vibrant public debate.

The lectures have been dubbed *Kronti ne Akwamu* after the Akan *adinkra* symbol that best represents democracy, duality of the essence of life, and interdependence. The symbol encapsulates a system of decentralized political authority with different branches of government complementing and also checking each other.

The maiden lecture was delivered in March 2005. It featured an internationally renowned scholar and activist of democratic development - Prof Larry Diamond, a senior fellow of the Hoover Institution at Stanford University (USA). He spoke on the topic: “Democracy and Development - A Case for Mutual Dependency.” The then Chief Justice of Ghana, His Lordship Justice George Kingsley Acquah was the chairman for that occasion.

The second *Kronti ne Akwamu* lecture was delivered by the distinguished Ghanaian lawyer, statesman and former Speaker of the Parliament of Ghana, the Rt. Hon Peter Ala Adjetey. He spoke on the topic “Reflections on the Effectiveness of the Parliament of the Fourth Republic of Ghana.” The distinguished chairman of that
event was The Very Reverend Professor S. K. Adjepong, Chairman of the National African Peer Review Mechanism Governing Council.

The third Kronti ne Akwamu lecture, the Golden Jubilee edition, was delivered by Professor Richard Joseph, a distinguished political scientist, former head of the Program of African Studies at the Northwestern University (USA), and former head of Africa programs at the Carter Center. He spoke on the topic: “Ghana and Democratic Development in Africa: Back to the Future”. That lecture event was chaired by the Hon. J. H. Mensah, then Chairman of the National Development Planning Commission.

The fourth Kronti ne Akwamu lecture was delivered by Dr. K.Y. Amoako, founder and president of the African Center for Economic Transformation, on the topic “The Future of Civil Society in Democratic Governance and Development in Africa.” The chairperson was Mrs. Mary Chinery Hesse, chief advisor to the former President, John Agyekum Kufuor.

The fifth lecture was organised in partnership with KPMG-Ghana and was delivered by Dr. Kwadwo Afari-Gyan, Chairman of the Electoral Commission, on the topic: “The Challenges to Conducting Free and Fair Elections in Emerging African Democracies: The Case of Ghana.”

The sixth lecture was delivered by Dr. Jendayi Frazer, a former Assistant Secretary of State for African Affairs and a distinguished service professor at Carnegie Mellon University, USA. She spoke on the topic: “Enhancing the Conflict Prevention Role of Elections in Africa.”

The seventh, which was delivered by Bisi Adeleye-Fayemi, President and Co-Founder of the Africa Women Development Fund (AWDF), was on the topic: “Democratization and Women in Africa – Progress, Stagnation or Retreat.”
This year’s lecture was on the topic: “The Quest for Governmental Accountability and Responsiveness in Ghana: Achievements, Challenges and the Way Forward.” It was delivered by Justice Emile Francis Short, Former Commissioner, Commission on Human Rights and Administrative Justice, Ghana.

Since inception, all the Krotni NeAkwamu lectures have been held at the British Council Auditorium. We are grateful to the management of the British Council for their cooperation. I am pleased to report that the texts of all the previous lectures have been published and disseminated.

I wish to place on record our profound gratitude to KPMG Ghana, the Friedrich Naumann Foundation (FNF), Unique Expressions Limited, and Joy FM for their generous sponsorship.

E. Gyimah-Boadi (Ph.D)
Executive Director, CDD-Ghana

May, 2012
Accra
Introduction

No issue is more central to good governance in contemporary Ghana than accountability generally and governmental accountability to the citizenry in particular. All over the country, and particularly since the year 2000 when Ghanaians peacefully and democratically switched from one political party to another to captain the ship of state, citizens have desired that governments should demonstrate responsiveness to their burning concerns, not being satisfied with the traditional practice of waiting till the next election season to register their discontent through the power of the thumb.

Government accountability lies at the heart of good governance. It is widely understood that open, transparent, accountable and equitable government practices are prerequisites for sustainable development. Good governance is the effective exercise of power and authority by government in a manner that serves to improve the quality of life of the people. This includes using state power to create a society in which the full development of individuals and of their capacity to control their lives is possible.

Manifest commitment to a high degree of accountability and responsiveness is now a standard recipe for good governance. This is understandable, given the reality that government is still the single most
powerful institution of contemporary Ghanaian society; government remains the only institution in any society commanding the legitimate right to dispossess citizens of their life, liberty and property. Additionally, every individual or corporate entity, regardless of their financial might or personal influence, must ultimately yield to, and abide by, laws and rules established and enforced by governments. It is said that to whom much is given, much is expected. So much power is entrusted to government in general, and to the President in particular, that it is extremely crucial that those who have the power and duty to manage our collective affairs for our collective and individual wellbeing are held highly accountable for their actions and inactions.

What approaches and institutional arrangements exist in Ghana for ensuring accountability by the government and the public servant to the citizen? How effective are the systems for ensuring governmental accountability and responsiveness in Ghana? What challenges have we encountered along this trajectory of good governance, and what have been our achievements in that domain? And what is the way forward in deepening governmental accountability and responsiveness in our country?

Distinguished Ladies and Gentlemen, these are among the crucial issues I seek to explore in this presentation. And before I proceed further, I must first register my profound gratitude to the Ghana Center for Democratic Development (CDD-Ghana) for the honour of inviting me to join the elite club of most distinguished scholars and professionals of diverse background who have mounted the podium of the Krontire Akwamu Lectures to share their thoughts on some of the most challenging national issues of our time.
Mr. Chairman, Distinguished Ladies and Gentlemen: Permit me to state at the outset my conviction that the quest for government accountability and responsiveness in Ghana is best accomplished when we throw the searchlight of our enquiry not only on the behavior of the current government but also on all previous administrations of the Fourth Republic. In my view, such a historical review is crucial in enabling us to achieve a comprehensive portrait of governmental performance in the twin areas of accountability and responsiveness. Indeed, it is also necessary for assuring balance in a country so politically polarized as it journeys gingerly toward the December 2012 polls over which so much cloud of chaos and violence hangs.

It is now trite that one of the key components of good governance is accountability and responsiveness of government to the needs and welfare of the governed. According to two leading international management and economic consultants, Rick Stapenhurst and Mitchell O’Brien, “Accountability ensures actions and decisions taken by public officials are subject to oversight so as to guarantee that government initiatives meet their stated objectives and respond to the needs of the community they are meant to be benefiting, thereby contributing to better governance and poverty reduction”. ¹

Conventional discourse on government accountability speaks of vertical versus horizontal accountability. Institutions of horizontal accountability include the Executive, Parliament and the Judiciary. They are supplemented by autonomous state institutions like Human Rights Commissions. Ombudsman, Anti-Corruption Commissions, and the Audit Service.
Vertical accountability is considered to be the means by which citizens and the mass media monitor and ensure that public officials perform their functions and duties appropriately.
Institutions of Horizontal Accountability

A. Oversight Function of the Executive by Parliament

At the heart of liberal democracy is the doctrine of Separation of Powers. This doctrine, formulated by Locke and Montesquieu, requires that the powers and functions of the three arms of government, namely, Parliament, the Executive and the Judiciary should be separate and they should be carried out by separate personnel. Parliament makes the laws; the Executive puts the laws into operation, and the Judiciary interprets the laws. The objective of this separation is to ensure that there are checks and balances among the three arms of government. This categorisation poses little or no problem when applied to the Judiciary, at least in Ghana. However, the relationship of the Executive and Parliament, especially for purposes of accountability, raises a number of critical issues.

In this regard, Ghana has alternated between the Westminster-style parliamentary system and the US-style presidential system (the details of which I would not go into because of time constraints). The present constitutional arrangement under the 1992 Constitution is a hybrid of the two systems with a popularly elected executive President and a Vice-President assisted by ministers drawn predominantly from within Parliament. This system of government has resulted in Executive dominance of Parliament and has undermined the ability of Parliament to exercise its oversight function over the Executive. This weakness of Parliament arises from several factors.
First, let us examine the combined effect of article 78 and article 108 of the 1992 Constitution.

Article 78, clause 1 requires that the majority of the President’s ministers should come from among members of Parliament and clause 2 allows the President to appoint such number of ministers as may be “necessary for the effective running of the State.” This means that the President may appoint ministers or deputy ministers (including regional ministers) from members of Parliament, invariably from his or her own party.

The result is that MPs who are ministers or deputy ministers are reluctant to criticise, question or vote against the policies and programs of the Executive for fear of losing their ministerial position which comes with attractive perks and other incentives and is seen as more prestigious than being just an MP. Consequently, their loyalty is more to the Executive than to Parliament. The party whip system also ensures that they are kept in check. Ministers have to divide their time between their ministerial responsibilities and their parliamentary functions. Worse still, many MPs who are appointed regional ministers find themselves far removed geographically from the seat of Parliament and cannot devote enough time to parliamentary business. Even MPs who are not ministers are waiting in the wings to be appointed ministers and therefore tread cautiously in expressing their views on government policies and programs.

This has led one commentator to observe that,

“Given our strong two-party tradition, as well as the absence of a tradition of conscience voting among MPs elected on a party ticket,
the provisions of article 78 (namely, the license the President has to appoint any number of ministers he deems necessary coupled with the requirement that he selects a majority of such ministers from Parliament) are not helpful to the development of a strong system of horizontal accountability built around an effective Parliament”

Second, although in theory, it is the province of Parliament to make laws, there appears to be a parliamentary practice or convention by which only the Executive can introduce in Parliament any bill that imposes a charge on the consolidated fund, or imposes taxation etc. This is the interpretation that has been placed on article 108 of the Constitution, which provides that:

“Parliament shall not, unless the bill is introduced or the motion is introduced by, or on behalf of the President —

(a) Proceed upon a bill including an amendment to a bill, that, in the opinion of the person presiding, makes provision for any of the following- (i) the imposition of taxation or the alteration of taxation otherwise than by reduction; or (ii) the imposition of a charge on the Consolidated Fund or other public funds of Ghana or the alteration of any such charge otherwise than by reduction; or (iii) the payment, issue or withdrawal from the Consolidated Fund or other public funds of Ghana of any moneys not charged on the Consolidated Fund or any increase in the amount of that payment, issue or withdrawal; or (iv) the composition or remission of any debt due to the Government of Ghana.
(b) Proceed upon a motion, including an amendment to a motion, the effect of which, in the opinion of the person presiding, would be to make provision for any of the purposes specified in the paragraph (a) of this article.

The practical consequence of this interpretation is that policy and reform initiatives to address the needs of the citizen which require legislative action can only be introduced by the Executive. Without private member's bills, critical economic, social and other rights issues may be left unattended if the Executive is not disposed to addressing them. Although some bills like the Freedom of Information Bill, the Transitional Bill and the Broadcasting law have been initiated by civil society, they can only be introduced in Parliament at the pleasure of the Executive. The debilitating effect of this article on the legislative function of Parliament was aptly captured by the late and former Speaker of Parliament, Rt. Hon. Mr. Peter Ala-Adjetey when he said:

“... by one stroke of the pen, there was taken from Parliament one of its most important weapons or tools for securing control over or compliance by the executive, namely, what has been described as “the power of the purse”.

Third, the Public Accounts Committee of Parliament (PAC) is an important accountability mechanism to scrutinise public accounts of all ministries, departments and agencies (MDAs). It has the responsibility of ensuring that those who exercise power over the fiscal resources of the state are made accountable to the ordinary person. However, doubts have been raised about the efficacy of the Committee. Is the Committee well-equipped with experts like lawyers and accountants to perform effectively this important accountability function? In my sixteen years
as Commissioner of the Commission on Human Rights and Administrative Justice, not a single case of corruption or embezzlement of state funds has been referred by the PAC or the Auditor General to the Commission for investigation. Where does the work of the PAC end and who carries it forward?

Fourth, it has been observed by experts on international commercial agreements that Parliament is not adequately-equipped to critically examine some complex international agreements entered into by the Executive but which require Parliament’s approval.

Lastly, by article 103(3) of the 1992 Constitution “Committees of Parliament shall be charged with such functions, including the investigation and inquiry into the activities and administration of ministries and departments as Parliament may determine; and such investigation and inquiries may extend to proposals for legislation.” One wonders why this potent accountability function is hardly ever used.
B. Judicial Accountability

In order to perform its supervisory function over the Executive, the Judiciary must be independent. Presently, I think it is fair to assert that the Judiciary is functioning independently without any known Executive interference or manipulation. The Judiciary acts as a check on the Executive by ensuring that its decisions are in conformity with the Constitution and the law. Let me cite one recent example. The applicants in Anim Odoom v. The Attorney General and Head of Civil Service and Albert Anthony Ampong v. The Attorney General and Head of Civil Service, were respectively the Chief Director and Principal Accountant of the Ministry of Youth and Sports. Sometime in June 2009, Mr. Anim Odoom, is reported to have had reasonable cause to suspect that the then Minister for Youth and Sports was engaged in some acts of impropriety. Mr. Odoom is reported to have submitted his allegations to the Office of the President. Subsequently, H.E. the President instructed the National Security Coordinator to investigate the case. A three-member National Security Committee was set up to investigate the allegations.

The report of the National Security Committee exonerated the Minister but indicted the applicants even though no specific charge of impropriety was leveled against them. His Excellency the President caused a statement to be issued accepting the findings of the National Security Committee and directing the Head of Civil Service to apply appropriate sanctions against the applicants. Pending the decision of the Head of Civil Service, the two witnesses were interdicted by the President. The two applicants were subsequently interdicted by the Civil Service on the directives of the President.
In two separate judgments, the High Court issued a certiorari to quash the directives of H.E. the President as being, inter alia, ultra vires, void and in violation of due process and the relevant laws and disciplinary regulations for the Civil Service of Ghana.

The Civil Service, accordingly, recalled the applicants and subsequently posted them to the Office of the Head of Civil Service. Shortly after their resumption of office, however, the Civil Service Council caused the indictment of the applicants, pending investigations into their alleged involvement in some misappropriation of monies while they were at the Ministry of Youth and Sports. The applicant’s salaries also were halved while on interdiction. The Civil Service Council also imposed travel restrictions on the applicants for the period of investigations.

In a third action by the applicants, the Human Rights Court declared that the decisions of the Civil Service Council indicting the applicants and consequently sanctioning them by halving their salaries and imposing travel restrictions on them were unlawful in the light of the requirements of the Civil Service (Interim) Regulations, 1960 (C.I. 17) regarding the indictment of Civil Servants.

On the achievements of the Judiciary, the establishment of the Human Rights Court and the jurisprudence that has evolved from that Court have advanced the frontiers of human rights of citizens. For example, let me draw your attention to the jurisprudence of the Human Rights Court in protecting human rights of accused persons and how the prosecutorial discretion of the Attorney-General and the Police may be guided by it, in light of the debate on the scope of application of section 96(7) of the Criminal and Other Offences (Procedure) Act,
1960 (Act 30) vis-à-vis constitutional rights under articles 14 and 19 of the Constitution.

As far back as September 1977, Korsah J, in Seidu and Others v. The Republic [1978] 1 GLR 65 held (at holding 4) that:

"Any person preferring a charge under a criminal statute must be quite sure that the offence charged was within the letter of the law. It was unbelievable that the legislature by section 96 (7) of Act 30, intended the courts to refuse bail to persons against whom no proper charge... had been preferred. The presumption was that the legislature did not intend what was inconvenient or unreasonable. Those whom the legislature intended section 96 of Act 30 to cover were those against whom the charge... preferred could be said by the court to be supported by evidence which the prosecution professed to have, and not persons against whom there was no legally acceptable evidence connecting them with the charge of murder."

Thus, recently in the Republic v. Jude Wanbeck and Daniel Thompson, Suit No. HRSCM 153/12, 19/03/12 (unreported) the Human Rights Court presided over by his Lordship Justice Essel Mensah, observed that:

"... the strict compliance of Section 96(7) of Act 30 could work hardship and injustice in certain situations. However, the very good intentions of the lawmakers must not be eroded away by some of the negative consequences of the law. It is for the court, I think, to hold the balance between the just and the unjust. So, in a particular case, depending on the facts and circumstances, the court may grant bail. For the section to be invoked, the evidence against the accused must be very strong and compelling that a
reasonable person looking at it or reading it will unmistakably come to the conclusion that indeed the accused has a case to answer.

On the other hand, where the facts and evidence at the disposal of the prosecution are so lean, scanty, disjointed, incoherent and tenuous such that it does not link the applicant to the commission of the offence, it will be unjust to refuse bail to the applicant. I think it will amount to a miscarriage of justice to withhold bail in those circumstances on account of section 96(7) of Act 30/60. I do not think the makers of the law intended it to operate oppressively; neither did they intend it to behave like an unruly horse which is difficult to be kept within bounds”.

I share the position that it is only when on the summary of evidence, a case of murder, treason, subversion, robbery, etc. could be said to have been committed, that the court is mandatorily estopped by section 96(7) of Act 30 from granting bail to a person so charged. Even there, a case of unreasonable delay in trial should be adequate ground for granting bail. I do appreciate the difficulty of the security agencies and the State in investigating cases but it is important to always recognise that we, as Ghanaians, have through the 1992 Constitution committed ourselves to certain basic principles that we consider as the tenets of the Constitution. Human rights are by no means the least.

There is only one caution I wish to emphasise. This principle must be applied to the poor as well as the rich; it must apply to the highly placed public officer or politician as much as to the lowly placed in society. It must also apply to the over 3,000 remand prisoners languishing in our deplorable prisons today, many of whom are simply victims of occasional inefficient investigative procedures of the Police.
Another notable achievement of the Judiciary has been the performance of the Commercial Court. According to a study commissioned by the World Bank called “The Ghana Court Uses and Users”, the automated Commercial Court has had a high case disposition rate and there has been greater efficiency in service of processes and case management. This Court granted fewer adjournments than the other courts. It was found that the Rules of Court applicable to the Commercial Court which require a mandatory attempt at pre-trial settlement resulted in speedier justice. Surprisingly, the study found that delays in the automated courts were comparable to those in the un-automated court and they performed only marginally better than the un-automated courts.

Also, mediation under the National ADR Programme of the Judicial Service in the District and Circuit Courts across the country has proved to be faster, cheaper, and restoring strained interpersonal relationships between parties in dispute.

The Chief Justice’s Forum which brings together the Chief Justice, Judges of the Superior Courts, other members of the Judiciary and the public to provide an open platform for the frank articulation of views and suggestions for enhancing the role of citizens in the administration of justice is an important and useful accountability event. It offers the general public the opportunity to express their concerns and grievances about the workings of the Judiciary and to learn more about the judicial process.

However, it is important to point out that the Judiciary itself is accountable to, and has to be responsive to the needs of, the public. Let’s examine some of the challenges facing the Judiciary. The perennial
delay in disposing of cases mainly due to constant adjournments is a cause for concern. The Chief Justice, Mrs. Justice Georgina Wood, herself has recently charged Judges to be concerned about the length of trial and management of cases in the trial process since they have complications for justice. She observed that some cases, especially land and chieftaincy disputes, dragged on for years and sometimes for decades. She reminded them that justice delayed is justice denied. She expressed this concern in Accra on April 20, 2012 at a stakeholders’ workshop on incorporating Alternative Dispute Resolution and Written Witness Statement into court adjudication processes. A legal practitioner also observed that land disputes on the average took about 8 years to resolve through the courts.

Another dimension of access to justice is the lack of enough District Courts in some regions, especially in the Northern Region. People living in some areas have to travel long distances to gain access to a District Court.

The situation of remand prisoners has attracted much publicity in recent times. The statistics show that as of Monday, 23rd April 2012 the total male population was 13,088 and the female 260. The total un-convicted prisoners is 3,052. Male prisoners on remand total 2,714 and many of them have been in custody without trial for long periods. “The Justice For ALL Program” was established by the Judiciary to address this problem. Judges would go to the prisons and hear the cases of these remand prisoners. However, the program has not made a significant impact on the situation on the ground. According to statistics obtained from the Prisons Service, from November 2007 – 2011, 1828 prisoners were tried, out of which 360 were discharged, 387 were granted bail
and 42 convicted. In 2011, a total of 442 remand prisoners were tried under the Justice for All and Access to Justice Programs, 130 were discharged, 142 were granted bail, and 14 convicted.

Considering that there are approximately 3,052 remand prisoners still in our prisons today, it is obvious that there remains much work to be done to remedy the situation of remand prisoners. Moreover, some prisoners have expressed frustration that the Justice for All Program focused on prisoners charged with less serious crimes.

The dire situation of remand prisoners at the Nsawam Prison resulted in a human rights action (in the case of Asumah Moshie and Others v. the Republic, Suit No. HRCM 26/10) initiated by the Director of Legal Aid in February, 2010 on behalf of 1,150 remand prisoners to enforce their human rights. This matter is still pending in court, so I will be cautious in what I say, lest I am cited for contempt.

Two of the applicants had been in custody without trial since 1993. The Human Rights Court, in February, 2012, ordered the release of all the applicants on the ground that their warrant for incarceration had expired. The Attorney-General has since applied for a stay of execution and indicated to the Court that a significant number of the applicants, have had closure brought to their cases.

There is the need for stronger collaboration between the institutions of State in charge of administration of justice than currently exists. Keeping a person in prison custody in excess of 15 years after the expiration of his warrant for incarceration is absolutely unacceptable,
no matter the offence he or she is alleged to have committed. Close collaboration between the Ghana Prisons Service, the Ghana Police Service, the Attorney-General’s Department and the Judiciary to monitor the progress of cases of remand prisoners would ensure that warrants of incarceration are renewed as their expiration dates approach.

Although the plight of remand prisoners is not a priority for many members of the public who take the view that they are criminals and should be left to languish in the prisons, the State has a responsibility to uphold the rights of all citizens including remand prisoners. The presumption of innocence and the right to a fair and speedy trial applies to all criminal cases without distinction. Successive governments since independence have shown little inclination to address the problem of remand prisoners as well as the overcrowding, poor sanitation and inadequate food and nutrition in our prisons. The conditions in the prisons constitute a violation of article 14 of the Ghana Constitution, provisions of the African Charter on Human and Peoples Rights, the United Nations’ Rules for Treatment of Prisoners as well as various human right treaties which Ghana has ratified.
Other Horizontal Institutions of Accountability

Autonomous state institutions like the ombudsman, human rights commissions, anti-corruption agencies, and the Auditor-General complement the oversight function of the Executive by Parliament and the Judiciary. I shall only deal with the Commission on Human Rights and Administrative Justice. (CHRAJ)

The Commission on Human Rights and Administrative Justice

CHRAJ is an important accountability institution. It has a triple mandate, namely, the promotion and protection of human rights, redressing complaints of administrative injustice and combating corruption.

On the human rights mandate, the Commission has in the 19 years of its existence investigated thousands of cases of human rights complaints covering a wide range of civil, political, economic, social and political rights. Since 1995, it has conducted annual inspection of prisons and other detention facilities and issued reports drawing attention to human rights abuses in the prisons and other detention centres. This led briefly to the increase of feeding allowance for the inmates, removal of juveniles from adult prisons and a greater sensitivity of the Police and Judges to the plight of pregnant accused women. However, the conditions in the prisons remain horrible.

A recent study of prison conditions in Ghana released by Amnesty International on 25 April 2012 confirmed the overcrowding, poor sanitation, poor ventilation to which CHRAJ has consistently drawn attention in its annual Prison Reports. The cover of the publication entitled, “Prisoners are Bottom of the Pile”, shows some men lying on
the floor close together like sardines with the frontal part of each prisoner glued to the back of the other. I leave to your imagination what conduct this lying position encourages. Ironically, there is a notice in the Diagnostic Centre of Nsawam Prisons saying “Sodomy is dangerous - Avoid it.”

CHRAJ’S Administrative Justice mandate requires it to ensure that the government and its officers are accountable and transparent. Specifically, under Article 218 (a) and (b) of the Constitution, the Commission is empowered to investigate, among other things, injustice, corruption, abuse of power and unfair treatment of any person by a public officer in the exercise of his or her duties. Public sector officials are constitutionally required to observe the principles of administrative justice. The right to administrative justice in Ghana is constitutionally rooted. Article 23 of the Constitution provides that:

Administrative bodies and administrative officials shall act fairly and reasonably and comply with the requirements imposed on them by law and persons aggrieved by the exercise of such acts and decisions shall have the right to seek redress before a court or other tribunal.

Undoubtedly, the CHRAJ falls into the category of ‘other tribunal’ from which aggrieved persons may seek redress. Administrative law aims at subordinating the actions and decisions of all officials to the due process of law. It emphasizes that since it is always possible for power to be abused and misapplied, absolute or unfettering administrative power is undesirable and the exercise of every power should be subject to legal limitations. The key purpose and foundational basis of administrative justice is the avoidance of arbitrariness, excess of
jurisdiction and the timely disposition or redress of citizens’ grievances arising from real or perceived acts of unfair treatment, bias, delay, caprice or dictatorship on the part of public officers.

The CHRAJ has reversed thousands of administrative actions and decisions by officials, which it found, after thorough investigations, to be unfair, oppressive or discriminatory. It has also returned to the owners numerous assets confiscated by military tribunals established by previous military dictatorships where it found that the confiscation was wrongful because due process was not followed. The CHRAJ, over the years, have emphasised the need for administrative decision-makers to give reasons for their decisions and to adhere to the strictest standards of natural justice and procedural fairness.

Permit me, Madam Chair, to cite only two of the many administrative justice cases that the Commission has handled. In one case, a Ghanaian resident in Canada applied to the Ghana mission in Canada for a new passport. He was required to pay and did pay an amount of $167 for the new passport which had a five-year duration period. Barely two years later, the Ministry of Foreign Affairs issued a directive withdrawing all passports irrespective of when they were issued and requesting everyone to obtain new passports on payment of a new fee. The petitioner complained alleging that the Ministry’s action smacks of “administrative impropriety, abuse, injustice or unfairness” and claimed a pro rata refund of the earlier fee he had paid. The Commission upheld the petitioner’s claim, taking the view that the Ministry’s action was arbitrary, unreasonable and unfair insofar as the directive applied to all Ghanaians irrespective of when they procured their old passport.
In yet another case, the Commission disagreed with the Bank of Ghana’s decision not to grant the owner of a Forex Bureau a license to open a Savings and Credit Bank because the Governor of the Bank claimed that it would create a situation where the applicant could siphon monies from the Bank to the Forex Bureau. The Commission noted that the applicant had satisfied all the Bank’s conditions for the issuance of a license and that the reason given by the Bank for the refusal was an irrelevant consideration and highly speculative.

Madam Chair, permit me to turn my attention to CHRAJ’s anti-corruption mandate which is an important accountability mechanism of the actions and conduct of all public officials. Before doing that, I would like to make a few general observations on the issue of corruption in Ghana. Article 35(8) of the 1992 Constitution, the Directive Principles of State Policy, mandates the State to take steps to eradicate corrupt practices and the abuse of power. All governments since the beginning of the Fourth Republic have made pledges to fight corruption. However, none has come out with a plan or strategy to do so. However, to their credit some governments have passed legislation aimed at addressing the problem of corruption. For example, the NDC administration established the Serious Fraud Office which is now the Economic and Organised Crime Office. The Kuffour administration passed the Audit Service Act 2000 (Act 584), the Public Procurement Act 2003 (Act 663), the Whistleblower Act 2006 (Act 720), the Internal Audit Agency Act 2003, Financial Administration Act 2003 and the Financial Administration Regulations 2004 (L.I. 1802). Although the Mutual Legal Assistance Act 2010 (Act 807) was initiated by the Kuffour Administration, it was passed by the present Mills administration. When the NPP took over the reigns of power from the NDC in 2001, it
declared a policy of zero tolerance for corruption. Discernible manifestation of this policy is the enactment of the important pieces of legislation referred to above and the establishment of the Office of Accountability at the Presidency. The idea behind the creation of that Office was a laudable one but I am not aware of what that office did in the fight against corruption.

A typical response of successive governments to the accusation that they are not combating corruption robustly is that anyone who has evidence of government officials indulging in corruption should lodge a complaint with the anti-corruption agencies like CHRAJ, SFO, now EOCO, or the Police. While it is necessary for those who allege corruption to provide evidence to substantiate the allegation, such a response does not meet the mandatory requirement in the Directive Principles of State Policy requiring Governments to take steps to eradicate corrupt practices.

In any event, how effective are these institutions in combating corruption? In all the corruption surveys done by the CDD and other institutions, the Police Service has been placed at the top of the list. Moreover, one hardly hears of the Police prosecuting anyone for corruption.

I shall not deal with EOCO because it is now a specialized body dealing with money laundering, human trafficking, cyber activity, tax fraud etc. I shall only deal with CHRAJ which is the main anti-corruption institution.

The mandate of the Commission is to investigate abuse of power and "all instances of alleged or suspected corruption and the misappropriation of public
monies by officials” (Article 218 (e)). The Commission investigates allegations of Conflict of Interest under Chapter 24 of the 1992 Constitution.

CHRAJ under this mandate promotes ethics and values in the public service, and conducts training and public education to sensitize public officials and the general public on corruption. In December 2007, CHRAJ issued “Guidelines on Conflict of Interest for Public Officers” and followed up in December 2009 with a generic code of conduct for all public officers. The code of conduct for public officials set out values and standards of ethical behavior and good conduct. The CHRAJ has already conducted a number of training programs on the Code of Conduct and Guidelines on Conflict of Interest for the public officers, including some Members of Parliament.

Since 1995, CHRAJ has investigated complaints and media allegations of corruption against top public officials like Ministers and special advisers to the President. In 1995/1996, CHRAJ broke new ground by investigating in public media allegations of corruption against several sitting Ministers of State and a Presidential Adviser. Although the then Government rejected the findings of CHRAJ, it stood its ground and the Ministers against whom CHRAJ made adverse findings resigned. In 2003, CHRAJ received and investigated a complaint by the then Minority Leader of Parliament, Mr. Alban Bagbin, against the sitting President J. A. Kuffour based on an allegation that the latter had used public funds to renovate his private residence. CHRAJ has therefore demonstrated its willingness and ability to hold accountable public officials at the highest level.
However, in my humble opinion, CHRAJ is not adequately equipped institutionally to combat corruption in a robust manner for a number of reasons. First, the procedure for investigating complaints of human rights abuses and administrative justice is not appropriate for investigating allegations or complaints of corruption. In the case of Ex Parte Commission on Human Rights and Administrative Justice (Richard Anane Interested Party) [2007-2008] SCGLR 213, the Supreme Court (Per Brobbey and Ansah JJSC at holding 13, page 227, pointed out that CHRAJ’s Constitutional Instrument NO. 7 (Procedure for Investigating Complaints) did not cover “the procedure and investigation of informal complaints or investigation triggered by allegations or suspicions of corruption or misappropriation of public moneys.”

What this case brought out clearly was that having one procedure for investigating complaints of human rights and administrative justice on the one hand and allegations or suspicions of corruption or misappropriation of public moneys on the other has inherent difficulties. The CHRAJ was compelled to remedy this defect by an amendment of the regulations. However, the amendment has not addressed other problems. Indeed, when it comes to issues of standard of proof, the standard for corruption is one beyond reasonable doubt because it is a criminal offence whereas for other matters under CHRAJ’s mandate which are civil in nature, it is one on the balance of probability.

In addition, there is a long line of cases which have held that where a public official is charged with maintaining a standard of life incommensurate with his or her pecuniary resources or property, once the prosecution has established his or her known income etc, it is for the person accused to provide a satisfactory explanation as to how he
or she acquired the extra income or property because those facts are within his or her own peculiar knowledge. In *Attorney General v Hui Kin Hong* (CA 1995) the court explained:

“Where corruption is concerned one can readily see the need – within reason of course for special powers of investigation and provisions such as ones requiring the accused to provide an explanation. Special corrupt acts are inherently difficult to detect let alone to prove in the normal way. The true victim, society as a whole, is generally unaware of the specific occasions on which it is victimized.”

The difference in evidential procedures pose challenges for CHRAJ in having the same complaints procedure for investigating allegations and complaints of corruption as well as human rights and abuse of office complaints.

Furthermore, where the Commission carries out a preliminary investigation into an allegation or complaint of corruption and is satisfied that there are grounds to proceed with the investigation, it may then shift gear into what is described as a full or formal investigation. This second tier of the investigation has the appearance of a court adjudicatory process with all the trappings of calling witnesses, cross-examination, tendering documents, giving rulings on legal objections raised by Counsel etc. If the Commission is not taken to court on some legal ground, as has happened on a number of occasions, it may proceed to give a Decision. Where the Decision makes a finding of corruption, it cannot prosecute but can only make a recommendation to prosecute to the Attorney General and Minister of Justice. He or she may choose not to prosecute as has happened in the past, especially if the respondent before CHRAJ is an official of
the sitting government. Even if he or she decides to prosecute, he or she would have to conduct a fresh investigation, call all or some or none of the witnesses who appeared before the Commission. This in my humble opinion is a cumbersome procedure and a waste of state resources.

In some cases, the CHRAJ, in the midst of investigating an allegation or complaint of corruption, may be taken to court on some legal ground and would have to suspend its investigation until the issue is determined by the Court. That could take several years. Let me illustrate the point with a practical example. In one high profile case of corruption case pending before CHRAJ, the Commission commenced investigation on the 7th October, 2009. After its preliminary investigation, it then started hearing the case on the 15th March, 2010. It was taken to court on a legal technicality on 26th March 2010. The matter is still pending before the Supreme Court which has not yet fixed a date for hearing.

It is my humble view that this is an inefficient way of investigating and fighting corruption. For the foregoing reasons and based on my experience as former Commissioner of CHRAJ, I am of the firm conviction that the anti-corruption wing of the Commission should be set up by legislation as a separate and independent anti-corruption agency, with the present staff of that department forming the nucleus of the new agency. It should be equipped with a large and well-paid staff, comprising of lawyers, accountants, investigators and its own support staff. The anti-corruption Department of CHRAJ does not have sufficient personnel, financial resources and the necessary logistics to combat corruption effectively. I am reliably informed that the Anti-Corruption Dept received 21 cases of corruption nationwide in 2011.
with 13 cases rolled over from 2010. It investigated and closed 13 cases for 2011. It initiated only 1 case of corruption and an NGO brought a complaint on the same matter. The proactive investigation of corruption cases by CHRAJ has been hardly invoked because of the limitations and constraints of the Department.

The proposed anti-corruption agency should be granted powers of arrest and prosecution. Where after a preliminary investigation, it is satisfied that there are sufficient grounds to prove corruption, it could then prosecute the matter before court and all legal issues could be determined in the court action.

Such an agency should have, like some other anti-corruption agencies, an Investigation Department, a Public Education Department and a Corruption Prevention Department. The latter Department should be empowered to fund studies for public sector agencies, especially those prone to corruption, and make recommendations to Government on how those public sector agencies can be transformed to eliminate or reduce corruption. Presently, top-notch investigative journalists, like Anas Aremeyaw Anas, may succeed in uncovering endemic corruption in a particular public sector institution but after the hue and cry, nothing happens. The institutions continue to function as before causing the State to lose billions of cedis. The Corruption Prevention Department will also be empowered to regularly review laws and suggest revisions on the basis of conclusions from its studies. The cost of setting up such a Commission would be negligible when compared to the billions of cedis it would save the nation.
There is also the need for collaboration between CHRAJ, the Auditor General and the Public Accounts Committee to take follow-up action on the reports of the Auditor General. Where do the reports of the Auditor General end and who carries them forward?

Lastly CHRAJ, in collaboration with a national Working Group comprising experts drawn from civil society, the National Development Planning Commission (NDPC), the Presidency and other relevant government agencies, has developed a National Anti-Corruption Action Plan which has been submitted to Government. Government needs to adopt it and state how it is going to implement the plan.

Challenges faced by CHRAJ over the years include lack of adequate financial resources, personnel and logistics to discharge its broad triple mandate effectively. Invariably, its subvention is not released on time and sometimes not all of the approved budget is released. The uncompetitive salary levels and conditions of service have led to a high turnover of staff, especially lawyers, some going to the then SFO, the Judiciary and other private institutions. I agree with the observation by one commentator that “It is no secret that governments sometimes play financial football with financing for democracy-enabling institutions; sometimes they play one institution against the other. And as the Akan people of Ghana say, ‘the chick that is closest to the mother hen gets the thigh of the grasshopper.”

Rule of Law

The rule of law is an essential component of good governance. Observance of and respect for the rule of law is a mark of a civilized
society. This doctrine postulates, among other things, that no one is above the law, that all persons are equal before the law and are entitled to equal protection of the law, irrespective of race, colour, sex, language, religion, political or other opinion, national or social origin or sexual orientation. It requires that law enforcement agencies should apply the law in an impartial and professional manner.

The incidences of mob justice whether it takes the form of lynching of alleged robbers or entering the homes of alleged homosexuals, dragging them out and subjecting them to physical assault, are unacceptable in a society governed by the rule of law. No justification can be advanced by anyone for taking the law into his or her own hands. More disquieting is the fact that sometimes these acts of lawlessness go unpunished. Such offenders should be made to face the full rigours of the law. The due process of law must be respected at all times. Protection of minority and marginalised groups is an important responsibility of governments and its agencies.

The ostracization and banishment of old women alleged to be witches to witches camps where they are left to their own devices, are all serious violations of the rule of law and which call for intervention and response from governments.

Alleged witches who for many years have been left to live a life of isolation in horrible conditions at so-called witches’ camps deserve the attention of governments. The existence of witches’ camps in this country is a blot on our human rights record. These camps should be dismantled and the inmates should be reintegrated into their communities after adequate education by state authorities and the NGO
community or alternatively resettled in a new community with much better conditions of life. It is interesting to note that the wizards in these communities are free from harassment. On the contrary, they are viewed with admiration and sought by people who seek political power, wealth or some other pleasures of life. The computer industry reinforces this discriminatory distinction! A computer wizard, not a computer witch, will show you how to install your computer software.

The lawlessness on our roads also largely goes unpunished. It is frustrating to see motorists who think that by merely putting on their emergency linkers and blowing their horns, they can overtake on the pavement, on the right and left sides of other law abiding motorists who patiently wait in the queue. Their actions largely go unpunished.

All these acts of lawlessness require a response by the appropriate state authorities.

Economic and social rights

Article 34(2) of Chapter 6 of the 1992 Constitution, The Directive Principles of State Policy, requires the President to report to Parliament at least once a year all the steps taken to ensure the realization of the policy objectives contained in that Chapter; and in particular the realization of basic human rights, a healthy economy, the right to work, the right to good health care and the right to education.

It is interesting to note that while the economies of some western countries are faltering and economic growth is on the decline, Ghana’s
economic growth is on the increase. Real gross domestic product (GDP) growth in Ghana for the year 2012 will be 8.8%, the International Monetary Fund (IMF) projected in its April 2012 World Economic Outlook (WEO) released on April 17, 2012, citing robustness of the economy.

“After the one-time boost from the start of oil production last year, Ghana’s growth is set to moderate to a still-robust 8.8% this year,” said the WEO.

It is therefore difficult to understand why successive governments have been unable to provide for its citizens fundamental human rights like access to safe drinking water and proper sanitation facilities. It is common knowledge that many areas in the capital Accra go without water for months, not to speak of the situation in the rural areas. According to UN statistics, it is estimated that each year, more than 3.5 million people die from diseases spread by contaminated water. It is also reported that the lack of access to water killed more children annually than AIDS, malaria and measles combined. One of every eight people lacked access to drinking water, and each day, women spent more than 200 million hours on transporting water. We have not heard of any plan or blueprint to deal with the lack of access to water for a considerable number of Ghanaians.

Again, according to a UNICEF report published in The Daily Graphic on 21 April 2012, urban poverty is deepening. According to the report jointly launched by the Mayor of Accra, Mr Vanderpuije and the UNICEF Representative to Ghana “available evidence suggests poverty to be increasing in the urban areas. In the Greater Accra Region
for instance, the proportion of people living below the poverty line increased from four percent in 1999 to 12 percent in 2005/06”.

The absence of sufficient public toilets which forces people to ease themselves anywhere they find convenient is another matter that needs serious attention by the authorities.

Why is the steady economic growth not being translated into better conditions of life for the majority of people?

A frustrated citizen observed:

In Ghana, we do not hold our elected officials accountable. Government officials are by and large “seat fillers or seat warmers”. More often than not we see them at political rallies or sometimes in nice suits being chauffeured in their air-conditioned limousines between their homes and offices or rushing off to meetings. When serious problems like street flooding occurs during heavy downpours of rain, the respective ministers or their deputies regurgitate meaningless and worn phrases like “the government will solve this problem once and for all”. Yet the same problems persist year after year, government after government, decade after decade. In the meantime the streets continue to be riddled with gaping potholes. The gutters collect grime and waste water. Streets are dirty, littered with empty plastic water bags. Streets are flooded whenever it rains. Alleys become public roadways for vehicles. Potable water is scarce outside the major cities and towns. People continue to build anywhere without regard to public access. You
see palatial mansions sitting in the middle of nowhere with mud tracks passing for roadways leading to these monuments of self-aggrandizement. Finding places or giving directions continues to be a nightmare. The following is typical: “My house is the gray building at the corner of the street leading to the police station in Teshie!” The absence of decent public places of convenience forces people to ease themselves in alleys and behind houses and in the coastal areas, the once-pristine beaches become places of convenience. (Charles C. T. Blankson, Ph.D., Urban, Regional & Environmental Planning, Currently residing in California, U.S.A.) January 10, 2011

The Role of Civil Society

Holding government accountable and making them responsive to the needs of the people is a shared responsibility. The NGOs, think tanks, democratic governance institutions like the CDD, IEA, IDEG, and the media have all played a critical role in achieving this objective.

CDD-Ghana, IEA, IDEG, all organise policy dialogues and training workshops for government officials, policy makers and the private sector. CDD’s Afro-Barometer Surveys capture the views of Ghanaians and Africans on development issues like corruption etc. The Civil Society Coalition, made up of Ghana Integrity Initiative (GII), the Ghana Anti-Corruption Coalition (GACC) and Ghana Center for Democratic Development (CDD-Ghana) has recently launched a project on Monitoring Abuse of Incumbency in Ghana’s Election 2012 by monitoring, reporting and advocacy.
The Presidential Debates and Evening Encounters have also afforded the opportunity for individuals, groups and institutions to engage in dialogue with Presidential candidates and to discuss their vision, policies and programs for leading the country.

Radio stations have provided a platform for discussing issues of governance. The media has the responsibility of providing accurate and objective information to the public. Many citizens know little or nothing about what government is doing. The mass media can provide information to citizens about government actions or omissions and thereby enable them to hold government accountable. Such information can be used by voters to determine whether they would vote for elected officials.

“Mass media can play a key role in enabling citizens to monitor the actions of incumbents and to use this information in their voting decisions. This can lead to government which is more accountable and responsive to its citizens’ needs.

“Mass media can thus play a central role in enhancing responsiveness by providing information that citizens can use to decide whom to vote for.”

While some media houses are discharging this function effectively, others tend to over-concentrate their reportage on sensational political issues without paying adequate attention to developmental projects which are of greater import and concern to the electorate, and to the sustainability of our democracy. Citizens want to know what government is doing about providing roads, medical facilities, water, toilet facilities, schools, etc.
There are also concerns about media irresponsibility. It is the private print and electronic media that has provided the platform for politicians to engage in the current politics of insults. Neither the Ghana Journalists' Association nor the Media Commission appears to be able to hold accountable journalists who breach their Code of Ethics. The Broadcasting Law, which hopefully would introduce some form of media control has still not seen the light of day.

Ghanaians as a people have not developed the habit or culture of demanding accountability from our public officials. Breaches of their rights are committed on a regular basis but as a general rule, the people, including the intelligent and enlightened, do not take the necessary steps to hold the responsible officials accountable. The cases that are brought to CHRAJ and the courts represent an insignificant percentage of rights violations committed by public officials.
Recommendations

1. Parliament should consider making the following amendments:

   Articles 78(1) and 79(2) should be amended so that a member of Parliament or a Metropolitan or District Chief Executive who is subsequently appointed a Minister or Deputy Minister of the Government of the Republic of Ghana, on taking the oath of office as Minister shall be deemed to have resigned his membership of Parliament or the relevant Assembly. Additionally, Article 111 of the Constitution should be amended so that Members of the Executive will be barred from sitting and voting in Parliament. I also join the call for article 108 to be repealed or substantially amended.

2. Government should adopt and implement the National Anti-Corruption Action Plan which was submitted by CHRAJ and the Working Group to the Vice-President earlier this year. The Plan has been referred to the Constitutional, Legal and Parliamentary Affairs Committee for adoption by Parliament as a policy document. It is my hope that the Government would respond to the plan and indicate what steps it would take to implement it.

3. Government should introduce a bill in Parliament to transform the anti-corruption wing of CHRAJ into a fully-fledged well resourced anti-corruption commission with the present staff of that Department forming the nucleus of the new Commission.

4. Government should, as a matter of urgency, introduce a bill in Parliament to enable the courts impose non-custodial sentences
such as community service for minor offenses to reduce prison overcrowding and government's expenditure in the upkeep of prisoners. This recommendation has been made by a number of institutions for several years without implementation from successive governments.

5. Government should come out with a plan or blueprint for dealing with the lack of access to water by many Ghanaians.

6. Government should as a matter of urgency build public toilet facilities across the length and breadth of Ghana to improve sanitation and meet an important public need and demand.

7. There is the need to strengthen the role of Parliamentary oversight committees like the Public Accounts Committee by providing funds and facilities to MPs and engage staff for accountability research and publicity.

8. State institutions should consider conducting public hearings. This is an important institutional device widely used by governmental agencies and legislative bodies at all levels in the United States to encourage public accountability. Such hearings are frequently used for formulating the annual budgets of government at the national, state and local levels. As such, they provide for extensive citizen input into the shaping of what typically is the most important decision driving process of governmental units and/or agencies in the United States. They are however also used for a host of other purposes ranging from agency goal setting to making decisions about land use.
9. The Police Service should take steps to enforce traffic laws and regulations so that there is law and order on our roads.

10. I urge the Government to pass the Freedom of Information Bill without further delay. Lack of information is one of the hindrances to holding public officials accountable.

11. CHRAJ must more robustly exercise its authority and power to receive citizens’ grievances as well as issue reports recommending changes in practices by agencies in order to remedy injustices or to avoid subsequent problems.
**Conclusion**

I am not unmindful of the democratic gains that Ghana has achieved since the transition to democracy and constitutional rule in 1993. The Electoral Commission has successfully conducted five elections which have been described by both domestic and international observers as free and fair. We have enjoyed political stability since then, experienced an expansion of the media landscape even though there are excesses, and achieved an impressive macro economy. Recently it was announced that Ghana has achieved a middle income status. Political pluralism is flourishing even though the “winner-takes-all” system has raised the stakes so high and is primarily responsible for the highly divisive politics and tension that we are experiencing.

Ghana has been described as a beacon of democracy on the African continent. But we must stop to find out by what standards our democracy is being measured. We should not judge the quality of our democracy by the mediocre standards of some struggling African states. We must look beyond to the liberal democracies of the West and some exemplary Asian countries and even African countries like South Africa and Namibia.

Lastly, Chairperson, Ladies and Gentlemen, effective government accountability calls for social accountability. Social accountability has been defined as “an approach towards building accountability that relies on civic engagement, i.e., in which it is ordinary citizens and/or civil
society organizations who participate directly or indirectly in exacting accountability.” Examples of social accountability initiatives include ‘traditional’ forms, such as public demonstrations, advocacy campaigns, investigative journalism; and, the recent ones such as citizen report cards, participatory public policy making, public expenditure tracking, and “efforts to improve the effectiveness of “internal” accountability mechanisms of the government, for example by involving citizens in public commissions and hearings and oversight committees.” However, negative aspects of social accountability like the phenomenon of foot-soldiers going on a rampage and closing down offices should be avoided.

Ghanaians must be prepared to demand their rights from Government. We should see more examples of the citizen who took the Electricity Corporation to court for wrongly disconnecting his electricity supply and got damages for this wrongful act. There should be more public interest litigation to enforce the rights of the vulnerable and poor segments of society. Throughout history people have been the agents of change. Liberty and freedom have never been granted on a silver platter.

I thank you for your attention.
Endnotes

1 Rick Stapenhurst. Senior Public Sector Management Specialist, World Bank Institute and Mitchell O’Brien, Consultant, World Bank Institute- undated web article.

2 H. Kwasi Prempeh. Critical Perspectives No. 15, Ghana Center for Democratic Development.


4 Suit No. AHR 74/09, 23rd November, 2009, (unreported).


8 From the Situation Report from the Ghana Prisons service as of 23rd April, 2012.

9 See Amnesty International Report. “Prisoners are bottom of the Pile” released in April 2012.

10 “Prisoners are Bottom of the Pile” The Human Rights of Inmates in Ghana, Amnesty International, 2012.


12 Malena, Forster and Singh. 2004 (c)

13 Ibid.