

DRAFT CONSTITUTION — PROPOSALS

On Tuesday, August 13, 1991, the Committee of Experts appointed to draft proposals for Ghana's future Constitution presented a draft report to the nation.

To ensure that every Ghanaian has access to the proposals to facilitate public discussion which will be useful to the Consultative Assembly's deliberations, the GRAPHIC is as from today serialising the report in its supplementary edition.

WE were appointed under PNDC Law 252 and mandated to "draw up and submit to the Council proposals for a draft Constitution of Ghana". Section 4 of the Law provided as follows:

"(1) For the purposes of section 3 the Committee shall in its deliberations take into account the following:

- (a) the Report of the National Commission for Democracy of 25th March, 1991, on "Evolving a True Democracy";
 - (b) the abrogated Constitutions of Ghana of 1957, 1960, 1969 and 1979 and any other Constitutions;
 - (c) such other matters relating to proposals for a draft Constitution as the Council may refer to it;
 - (d) any other matter which in the opinion of the Committee is reasonably related to the foregoing.
- (2) Without prejudice to the provisions of subsection (1) the proposals shall —
- (a) provide for an Executive President to be elected on the basis of universal adult suffrage;
 - (b) provide for a Prime Minister who must command a majority in the National Assembly;
 - (c) provide for a National Assembly to be elected on the basis of universal adult suffrage;
 - (d) guarantee, protect and secure the enforcement of the enjoyment by every person in Ghana of the fundamental human rights and freedoms including the freedom of speech, freedom from arbitrary arrest and detention, freedom of assembly and association including the freedom to form political parties, women's rights, children's rights, workers' rights and the rights of the handicapped;
 - (e) provide for a free and independent Judiciary;
 - (f) guarantee the freedom and independence of the media;
 - (g) provide for directive principles of state policy that shall ensure participatory democracy and the sound management of the national economy;
 - (h) provide for a decentralised system of national administration based on a non-partisan District Assembly system with development as its objective and including revenue-sharing clauses, and
 - (i) reflect a commitment to equal and balanced development of all parts of Ghana particularly in the allocation of national resources and in the distribution of the national wealth".

The Committee commenced its deliberations on June 11, 1991.

2. APPROACH TO OUR WORK

As required by Law 252, the Committee took into account the following documents:

1. The Constitutions of 1957, 1960, 1969, and 1979
2. The above-mentioned NCD Report
3. The Constitutions of other countries
4. Several memoranda submitted to us from the public.

A reference to the above documents would have been meaningless without an evaluation of the constitutional practice and experience of Ghana and other countries. In Ghana, particular attention was paid to the constitutional practice and experience under the 1st, 2nd and 3rd Republics; the lessons of the NRC, SMC and the AFRC Governments and the developments within the past ten years. This necessarily involved an assessment of the various laws and institutions introduced by the PNDC.

General Introduction

3. The Committee operated on the cardinal principle that we should not re-invent the wheel. Accordingly wherever we found previous constitutional arrangements appropriate, we built on them. In this connection, with appropriate modifications, we relied substantially on some of the provisions of the 1969 and 1979 Constitutions of Ghana to the extent that they are relevant to the general constitutional structure proposed in this report.

4. Our report, however, introduces several innovations all designed to enhance the prospects of stability. Some of these innovations attempt to strike a balance between the need for effective government and the need to inculcate constitutionalism. Others are meant to forestall and diffuse major constitutional confrontations or deadlocks that threaten stability. Some impose appropriate constraints on Executive power, while others seek to promote various avenues for achieving consensus on national issues. In particular, we explored the possibility of alternative approaches to the notion of "winner takes all".

5. The purist wedded to formal classifications of constitutional systems will derive little comfort from some of the institutions proposed in this report. Our primary concern has been to devise viable mechanisms to ensure stability and the rule of law and not to conform to the logical requirements of a particular constitutional model. Thus we combine a presidential system with the principle of executive responsibility to Parliament, an important feature of parliamentary government. We have proposed a Council of State that draws on our traditional institution of a council of elders to enhance the prospects of national unity. In doing this we were not deterred by the strict injunctions of the principle of separation of powers. While the Supreme Court will exercise the power of judicial review, a special preventive role is assigned to the Judicial Committee of the Council of State to forestall potentially divisive constitutional confrontations that might threaten the foundations of the constitutional order. Again although we recommend that the Prime Minister and the majority of Ministers be appointed from Parliament, provision has been made for the appointment of some Ministers from without to assure the President the flexibility to fill any gaps in expertise or to redress any regional or gender imbalance. Finally we have devised checks and balances that impose appropriate restraints without stifling the effective exercise of constitutional functions.

6. With respect to the developments within the past 10 years, the guiding principle was that the essential attributes of institutions which are compatible with a constitutional order should be retained, subject to such modifications as are appropriate. The committee feels that in this regard the accent should be on substance not form. Thus, for example, the social or political values of accountability and probity and fidelity to the public interest should survive the inauguration of the constitution. On the other hand, not all mechanisms or processes that seek to promote these values are necessarily compatible with a constitutional order. Similarly, the introduction of the basic principles of decentralisation and grassroots participation in decision-making is not only in consonance with the constitutional order but also reflects the concerns of the international community generally. However, the acknowledgment of the essential validity of these principles does not necessarily mean the endorsement of all aspects of the structures instituted to implement these principles. To the extent it connotes bold, imaginative and original approaches to the solution of national problems, the term "revolutionary" should not be resisted as repugnant to a constitution. However, the basic tenets of the constitutional order must permeate all processes and procedures.

7. In preparing the constitutional proposals, the Committee went beyond the traditional notion that a constitution is essentially a static instrument for the distribution of powers between the organs of state and for distinguishing between public power and private right. The committee endorsed the current philosophy of constitution-making in several developing countries, that a Constitution is also an instrument for promoting development. We accordingly propose directive principles of State policy with respect to the management of the economy and have examined the structuring of institutions of economic significance such as the financial institutions, administration of land, and economic planning. While the Committee recognises

that particular economic programmes cannot be institutionalized in the constitutions, such as Brazil and India, demonstrates that a constitution can articulate basic principles of sound economic management that command the consensus of the nation.

8. A notable feature of the proposals is the prominence accorded to individual rights. The traditional guarantees for human rights have been extended to a wide variety of social and economic rights, in particular special rights for women, children, the disabled. The report reflects the heightened sensitivity of the public generally and special groups to the need to articulate and protect these fundamental rights and freedoms.

9. In its deliberations, the Committee kept uppermost in its mind the important principle that a catalogue of rights, however elaborate, is meaningless without an effective enforcement mechanism. We therefore propose entrusting the enforcement of the Constitution to particular institutions including the President, the Council of State, the Judicial Committee of the Council of State, Judiciary, a Special Commission on Human Rights and Administrative Justice and the Press Commission. The enforcement process involves educating the public about their rights, sensitizing individuals to specific individual rights guaranteed under the Constitution; assisting individuals to prosecute their rights and affording access to the Courts for purposes of enforcement. The democratic order will only be meaningful if the humblest person in the remotest village has been made aware of his constitutional rights, and the prospects for enforcing such rights have been assured. Only then will the ordinary Ghanaian feel he or she has a vested interest in the preservation of the Constitution.

10. Our constitutional experience demonstrates that the assurance of independence or autonomy to key institutions such as the Judiciary, the Ombudsman and the Press Commission under the constitution can only be effective if it is reinforced by concrete powers and resources. The Committee was mindful of the need to buttress such assurances with effective mechanisms to translate the constitutionally guaranteed independence into reality. Ultimately the viability of a constitutional order hinges on the commitment of the Ghanaian people to the Constitution and their readiness to protect and defend as the custodian of their freedoms, aspirations and values.

THE AREAS COVERED

11. In view of the time constraints under which the Committee laboured, we decided that the most realistic approach to our work would be to concentrate on formulating proposals for key areas of the proposed Constitution. Our report accordingly covers the following:

- (i) The Executive: This includes the

provisions relating to the President, the Prime Minister, the Council of Ministers, relations between the Executive and the Legislature, and the National Security Council.

(ii) The Council of State including the Judicial Committee of the Council of State.

(iii) The Legislature

(iv) Directive Principles of State Policy prescribing the broad political, economic and social goals. This should inform and guide all national and governmental endeavours.

(v) Fundamental Human Rights and Freedoms including social and economic rights of women and children.

(vi) Freedom and Independence of the Media.

(vii) Representation of the People and the Electoral System.

(viii) Political Parties.

(ix) The Judiciary.

(x) Economic aspects of the Constitution.

(xi) Land Administration.

(xii) Public Administration.

(xiii) Decentralization and Local Government.

(xiv) Chieftaincy.

(xv) Enforcement of the Constitution including the Commission on Human Rights and Administrative Justice.

(xvi) Citizenship.

(xvii) Amendment procedures.

Our treatment of the above subjects consists of:

- (1) a discussion of the relevant issues and the resulting proposals;
- (2) a precise formulation of the proposals providing the basis of the key constitutional provisions in the particular area.

As far as practicable, we have avoided the use of complex technical language in the drafting of the proposals.

We believe that the above-mentioned formulations will provide a sufficient basis for the deliberations of the Consultative Assembly. In accordance with PNDC Law 252, the Committee will be available to the Consultative Assembly during its deliberations to explain the proposals, assist in the definitive drafting of the Constitution and provide all necessary technical assistance in dealing with all aspects of the Constitution.

The Committee wishes to express its gratitude to the Government for entrusting us with this responsibility. We are also grateful to the Consultants, Research Assistants and Secretaries and other Staff for their invaluable assistance.

(Signed)

Dr S. K. B. Asante — *Chairman*
 Osagyefo Oseadeeyo Dr Agyeman-Badu (Dormaaahene) — *Member*
 Mrs Justice Annie Jagge — *Member*
 Mr J. Chirry-Hesse — *Member*
 Mr Ebo Beniss-Enchill — *Member*
 Dr K. Afari Gyan — *Member*
 Dr Charles D. Jebuni — *Member*
 Dr E. V. O. Dankwa — *Member*
 Mrs S. Ofori-Boateng — *Member/Secretary*

— Chapter One — THE EXECUTIVE

PNDC Law 252, which defines the Committee's terms of reference, introduces a constitutional novelty in Ghana with respect to the structure of the Executive. The constitutional proposals are to provide for an Executive President, elected by universal adult suffrage, and a Prime Minister, who commands a majority in Parliament. This represents a departure from the classical Westminster system, which leaves effective executive power in the hands of the Prime Minister — as in the 1957 and 1969 Constitutions of Ghana — and the Presidential system, which locates full executive power in the President — as in the 1960 and 1979 Constitutions of Ghana.

2. The executive structure envisaged here may be appropriately classified as a 'split' executive. It entails a sharing of effective executive power between the President and the Prime Minister. Variants of a 'split' executive are to be found under the Constitutions of France and many Francophone countries in Africa, some Commonwealth countries, such as Zambia, Sri Lanka, Zimbabwe and Namibia, and other countries such as the Republic of Korea. The system demands a careful demarcation of the powers and responsibilities of the President, on the one hand, and the Prime Minister and the Council of Ministers on the other.

3. Such a division of power has not always proved easy to operate in practice. Where the President and the Prime Minister belong to different political parties, a situation the French have termed "cohabitation", or where the personalities of the incumbents of the two offices differ, with the more assertive one encroaching upon the powers of the other, the possibility of conflict exists. Much depends on the good sense and co-operation of the main organs of state.

4. It is to be noted, however, that several countries have introduced this system as a deliberate way of instituting appropriate constraints on executive excesses. For example, the Constitution of Namibia vests executive power in the President and the Cabinet; the President of Zimbabwe is obliged to act in accordance with the advice of the Cabinet, a constraint which is more characteristic of a ceremonial presidency than the office of Executive President; and under the Constitutions of France, Zimbabwe, Namibia and Sri Lanka, a concept of executive responsibility to Parliament is maintained despite the adoption of the institution of Executive Presidency. The merit of the system is that the checks and balances that have been carefully built into it are

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Chapter Five: (Continued)

We have since yesterday started reproducing the Report of the Committee of Constitution Experts on proposals for a draft constitution of Ghana. The first instalment dealt with the General Introduction, the Executive, the Council of State, the Legislature, Directive Principles of State Policy and Fundamental Human Right and Freedoms.

Below is the continuation of Chapter Five which deals with the Fundamental Human Right and Freedoms.

CHILDREN'S RIGHTS

171. ANY provisions on human rights to be embodied in the new Constitution must provide for the rights of children. We find ourselves in complete agreement with the United Nations Convention on Children that children constitute a weak and vulnerable group within the population. There is ample evidence that from birth until adulthood some children suffer all kinds of abuses. In some cases the simple act of registering births and deaths and giving a child a name and the acknowledgment of paternity is often not observed. Sometimes, children are even treated as possessions or commodities to be bargained with or traded. In its most extreme forms the denial of an identity to children has led to slavery, forced labour, prostitution, and forced separation from parents.

172. Some Ghanaian children live abandoned by their families on the streets of the capital towns. Almost invariably, those street children who can work are exploited or otherwise abused — economically, physically and often sexually. It is not surprising, therefore, that the protection of the Ghanaian child from all forms of exploitation has become a national concern and has led to the establishment of the Ghana National Commission on Children. The Commission is empowered to take steps to protect children from all forms of physical or mental violence, neglect or maltreatment while in the care of parents, legal guardians or anyone responsible for their well-being.

173. In January 1990, the United Nations General Assembly adopted the convention on the rights of the child, which came into force on 2nd September, 1990. Ghana is a party to this Convention. Indeed, Ghana was the first country to ratify the Convention.

174. Given these considerations, the Committee makes the following proposals:

- (1) Children should have the right from birth to a name, the right to acquire a nationality and, subject to legislation enacted in the best interests of children, as far as possible, the right to know, and be cared for, by their parents.
- (2) Children (persons under 18 years) are entitled to be protected from economic exploitation and shall not be employed in or required to perform work that is likely to be hazardous or to interfere with their education, or to be harmful to their health or physical, mental, spiritual, moral or social development.
- (3) No child under the age of fourteen (14) years should be employed to work in any factory or mine, save under conditions and circumstances regulated by an Act of Parliament.
- (4) Any arrangement or scheme employed on any farm or other undertaking, the object or effect of which is to compel the minor children of an employee to work for or in the interest of the employer of such employee, should for the purposes of this Constitution, be deemed to constitute an arrangement or scheme to compel the performance of forced labour.
- (5) Disfigurement of children, especially by way of female circumcision or infiltration, should be abolished.
- (6) Children should have access to education and health facilities.
- (7) Children should have the right

HUMAN RIGHT AND FREEDOMS

- (8) Every child is entitled to the emotional warmth and security necessary for his development into a stable adult. This warmth and security can only be given by caring and responsible parents. In this context parents need not necessarily be the natural parents of the child.
- (9) The obligation to care properly for a child must be imposed on all those who have custody and control of the child.
- (10) Any person who has the control of a child under 18 years of age should be under the obligation to ensure that it is properly fed, clothed, housed and provided with medical care.

DISABLED PERSONS

175. The Committee paid particular attention to the status of disabled persons and proposes the following provisions to protect them:

1. Disabled persons have the right to live with their families or with foster parents and to participate in social, creative or recreational activities.
2. No disabled person should be subjected, as far as his or her residence is concerned, to differential treatment other than that required by his or her condition or by the improvement which he or she may derive therefrom.
3. If the stay of a disabled person in a specialized establishment is indispensable, the environment and living conditions therein should be as close as possible to those of the normal life of a person of his or her age.
4. Disabled persons should be protected against all exploitation, all regulations and all treatment of a discriminatory, abusive or degrading nature.
5. Disabled persons should be able to avail themselves of qualified legal aid when such aid proves indispensable for the protection of their persons and property.

6. If judicial proceedings are instituted against them, the legal procedure applied should take their physical and mental condition fully into account.
7. Disabled persons, their families and communities should be fully informed, by all appropriate means, of the rights contained in this Constitution.
8. As far as practicable, every public building must have appropriate facilities, including a ramp, for disabled persons.
9. Special incentives, such as tax reliefs, should be given to disabled persons engaged in business and also to business organisations that employ disabled persons in significant numbers.

176. ECONOMIC RIGHTS

- (i) The right of everyone to the enjoyment of just and favourable conditions of work should be guaranteed. All workers should have fair wages and equal salaries for work of equal value, without distinction of any kind, and their working conditions should be safe and healthy.
- (ii) Every worker should be assured of rest, leisure and reasonable limitation of working hours and a paid vacation, as well as remuneration for public holidays.
- (iii) Workers have a right to form trade unions and to join a trade union of their choice, subject to the rules of the union concerned, for the promotion and protection of their economic and social interests.
- (iv) Every individual should have the right to enjoy the best attainable state of physical and mental health. The State should take the necessary measures to protect the health of the people of Ghana.

CULTURE

177. Every person should be entitled to

enjoy, practise, profess, maintain and promote any culture, language, tradition or religion, subject to the terms of this Constitution and subject further to the condition that the rights protected by this Article do not impinge upon the rights of others or the national interest.

178. EDUCATION

1. All persons should have the right to education.
2. Basic education should be compulsory and the State should provide reasonable facilities to render effective this right for every resident within Ghana, by establishing and maintaining State schools at which basic education would be provided free of charge.
3. Children should not be allowed to leave school until they have completed their basic education or have attained the age of eighteen (18) years, whichever comes first, save in so far as this may be authorised by an Act of Parliament on grounds of health or other considerations pertaining to the public interest.
4. All persons should have the right, at their own expense, to establish and to maintain private schools, or colleges or other institutions of tertiary education provided that:
 - (a) such schools, colleges or institutions of tertiary education are registered with a Government department in accordance with any law authorising and regulating such registration;
 - (b) the standards maintained by such schools, colleges or institutions of tertiary education are not inferior to the standards maintained in comparable schools, colleges or institutions of tertiary education funded by the State;
 - (c) no restrictions of whatever nature are imposed with respect to the admission of pupils based on race, colour or creed.

— Chapter Six —

FREEDOM AND INDEPENDENCE OF THE MEDIA

179. IN his classic essay *On Liberty* John Stuart Mill observed wisely that:

"The time, it is to be hoped, is gone by, when any defence would be necessary of the 'liberty of the press' as one of the securities against corrupt or tyrannical government". The liberty of the press, as J. S. Mill rightly pointed out, is an aspect of the basic liberty of thought and expression (of opinion), and that the best government has no more right to control the expression of opinion than the worst. As he put it, "if all mankind minus one were of one opinion and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind".

180. In the modern world, freedom of thought and expression including freedom of the press; the rule of law and the independence of the judiciary; and fair and free elections are considered to be three pillars on which the edifice of democracy stands. All these three pillars are interdependent and inter-connected. Destruction of them can undermine the whole structure of democracy and lead to its collapse.

181. The experience of modern states has demonstrated convincingly that in the absence of freedom of the press and thought, and an enlightened and vigilant public opinion, a safe future for democracy and its success cannot be ensured anywhere. The mass media, the press and platform are the means to educate the people and make them the watchdogs of their liberties inher-

ent in a democracy. So vital is the role of the mass media that freedom of expression along with that of the press has been called "the first freedom". Once this freedom is denied, governments are free to abuse basic human rights without any publicity and frequently with impunity. It is the case that no dictator can tolerate freedom of thought, expression and the press.

182. Thus, the mass media play a vital, even indispensable, role in any modern society that aspires towards democracy. To ensure a bright future for democracy in Ghana's Fourth Republic, Law 225 which sets out the Committee of Experts' terms of reference, inter alia, called on the Committee to work out proposals to guarantee, as in the 1969 and 1979 Constitutions, a free and independent media and freedom of expression. It is through responsible and independent media that objective information is disseminated, different and opposed views are presented and shared, enlightened public opinion is formed and political consensus mobilised and achieved.

183. S.E. Finner, an authority on constitutions and comparative government has argued that *public opinion* in the sense of a reflecting and self-conscious set of ideas about allegiance and civic duty: — that is, a self-conscious and critical awareness of and involvement in government activity can only flourish in an atmosphere in which free press and mass media is guaranteed.

184. In addition to the role of informing and educating the public and government on their constitutional rights and duties, the press and the mass-media would have a vital role to play as a watchdog ensuring

that the constitution is respected and honoured. The free and responsible press and the mass media would be expected to expose and denounce abuses and misuse of power, defend human rights and educate, mobilise and articulate public opinion and feelings on national affairs.

185. For the government in power, a free, responsible and independent press and mass-media provides channels to obtain feedback on its performance and also acts as a safety valve by enabling citizens to freely express their views. An Akan proverb goes "He who is cutting a path through the bush cannot tell that the line behind him is crooked". A free and independent press, serving as a barometer of public opinion as well as its shaper, has a responsibility to look around the 'path-cutters' — the policy makers — to scrutinize, alert them of mistakes, check waste, inefficiency and corruption. It is through the free press and mass-media that a people become empowered and are able to exercise their basic democratic rights and assume their civic duties.

186. A good polity assumes that politicians are ordinary men and women. The essence of political democracy is that politicians are subordinate to the public in whom are vested the fundamental rights of free criticism, opposition and dismissal. A political system in which the public surrenders these rights to a political party or

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DECENTRALISATION AND LOCAL GOVERNMENT

Below is the third part of the 'Report on proposals for a draft constitution of Ghana' which we started reproducing as a supplementary edition since Monday. Yesterday's series ended on Chapter Eleven: Decentralisation and local government.

324. THERE are three other issue-areas relating to the District Assemblies as they are currently set up which require the attention of the Consultative Assembly. These are:

- the District Assemblies and partisan politics;
- the links between the central government and the District Assemblies; and
- relations between the District Assemblies and traditional authorities.

Partisan Politics

325. As we intimated earlier on, the tendency for an incumbent government to exert undue influence on local government bodies to win political advantage has been very pronounced in the politics of our past. On the other hand, the Committee notes that the non-partisan nature of the District Assemblies has tended to facilitate the mobilization of the people and to be more conducive to consensus formation, factors that are crucial to development efforts at the grassroots level.

326. Accordingly, we propose that:

- any candidate seeking election to a District Assembly should present himself or herself to the electorate as an individual, and should not use any symbols associated with any registered political party; and
- it should be made an offence, punishable by law, for a political party to endorse, offer a platform to or in any way whatsoever campaign for a candidate seeking election to a District Assembly.

Links with the Government

327. The Committee acknowledges the importance of central government's presence at the district level and the necessity of government oversight of the activities of the District Assemblies. But oversight is not synonymous with control.

328. We reiterate that the nature of the linkages which the central government establishes with local government bodies determines the degree of autonomy of the latter. In this regard, we urge the Consultative Assembly to critically examine the role of the District Secretary, the control of personnel of decentralized sector Ministries, and the Regional Co-ordinating Councils in the present set-up of the District Assemblies.

329. In the view of the Committee, the current role of the District Secretary in the District Assembly set-up amounts to more than oversight. Since under party politics the District Secretary is likely to be a party appointee, the role as currently constituted would offer avenues and opportunities for such control of the Assembly as would be incompatible with the desire to insulate it from partisan political considerations.

330. The Committee therefore recommends that the District Secretary should continue to be appointed by the Government, as its representative at the district level, but that he or she should be an ex-officio member of the Assembly. We also

recommend that, instead of a Presiding Member in the nature of a Speaker of an Assembly, a Chairman of the Assembly be elected from among its elected members and be given such powers as give him or her an ongoing role in the affairs of the Assembly.

331. At present effective control of personnel of central Ministries and agencies serving at the district level does not reside in the District Assembly. Whereas decisions are taken by the local authorities, the administrators are subject to the direction and control of central government agencies. It would appear that as long as such personnel continue to be paid and promoted by their central organizations, their effective control by the District Assemblies will be elusive. Nor can the possibility of a conflict of allegiance on the part of such personnel be entirely ruled out should conflicts arise between the District Assembly and their sector Ministries.

332. These problems notwithstanding, the Committee is fully aware that the District Assemblies have not as yet developed sufficient capacity to be able to execute their functions entirely on their own. We therefore recommend that in the measure such capacity is developed by the District Assemblies, administrative decentralization should be brought in line with political decentralization.

333. The Committee considers the de-emphasis of the Regional level in the current set-up of the District Assemblies to be consistent with the grassroots orientation of the envisaged decentralisation; that is, the emphasis placed on the initiative and power of smaller local communities. However, it also considers some regional presence in the set-up to be necessary, if only for purposes of co-ordination. We therefore recommend that the Regional Co-ordinating Councils be maintained, but that in their composition central government-related personnel should not outnumber representatives of the District Assemblies and that the membership should include two chiefs appointed by the Regional House of Chiefs of the Region.

District Assemblies and Traditional Authorities

334. The Committee finds the relationship between the District Assemblies and traditional authorities in the districts to be ill-defined. It must be borne in mind that there was a time in our history when local governance revolved around chiefly institutions. Since independence chiefly authority has continued, albeit with different degrees of emphasis, to receive general recognition as an important traditional institution. This recognition has often found ample expression in our central institutions.

335. The Committee sees a clear need to take due cognizance of the institution at the level of local government, where it has an even more easily perceptible role to play in offering counsel and in mobilizing the people for development.

336. The Committee therefore urges the Consultative Assembly to find ways for the effective participation of traditional authorities in the work of the District Assemblies. To this end, we recommend the following for the Assembly's consideration:

- a Paramount Chief as the ceremonial head of the Assembly, with the right of address;
- setting aside a certain percentage of the total membership of the Assembly for traditional authorities;
- co-optation of a number of chiefs as members of the Assembly, without the right of vote, or

The Committee does not consider any of the above measures to be incompatible with democracy.

337. For inclusion in the Constitution, the Committee makes the following specific proposals for the consideration of the Consultative Assembly:

Chapter Eleven : (Contd)

- (1) For the purposes of local government, Ghana should be deemed to have been divided into the Districts which existed immediately before the coming into force of this Constitution.
- (2) Parliament should by law make provision for the alteration of the boundary or name of a District or its abolition.
- (3) The system of local government should be based on a democratically elected District Assembly in each District.
- (4) A District Assembly should be the highest political authority in the District, and should have deliberative, legislative and executive powers.

2. (1) A District Assembly should consist of the following members:

- one person from each electoral area within the District, directly elected by universal adult suffrage;
- the representative of the central government in the District, as ex-officio member; and
- such other members as may be provided for by Law/Parliament.

(2) Subject to the provisions of this Constitution, the qualifications for membership of a District Assembly, the procedures and processes of a District Assembly and what sub-district structures may be established should be provided for by Law.

(3) Subject to the provisions of this Constitution, within the broad guidelines of national policy and Law, the function which a District Assembly should perform should include:

- the formulation and execution of plans, programmes and strategies for the effective mobilization of the resources necessary for the overall development of the District;
- the levying and collection of taxes, rates, duties and fees;
- the construction and maintenance of public works and facilities;
- the provision and maintenance of educational and health facilities; and
- such other functions as may be conferred on a District Assembly by Law/Parliament.

(4) There should be a Chairman of each of the District Assemblies who should be elected from among the elected members of the Assembly by at least two-thirds of all the members of the Assembly.

(5) Any matters arising over the validity of the election or the continued tenure of office of an Assembly member should be determined by the District Public Tribunal established under this Constitution, with a right of appeal to the High Court.

(6) (1) There should be established an Executive Committee of a District Assembly which should perform the executive functions of the District Assembly.

(2) Without prejudice to subsection (1) the Executive Committee should:

- co-ordinate the plans and programmes of any subcommittees of the Assembly and submit these as comprehensive plans of action to the District Assembly;
- implement resolutions of the District Assembly;
- oversee the day-to-day administration of the District; and
- perform any functions assigned to it by Law.

(3) The composition of the Executive Committee would be as provided for by law, except that the Chairman of the Assembly should preside over the meetings of the Executive Committee, and that the central government's representative should be an ex-officio member of the Committee.

(4) The Executive Committee may co-opt any person to attend any of its meetings, but a person so co-opted should not have a right to vote.

(5) A District Assembly should have such other committees as may be provided for by

law.

3 (1) Subject to the provisions of this Constitution, Parliament should make provision for statutory allocation of public revenue to the District Assemblies.

(2) The State should cede its revenue from the following sources to a Common Fund of the District Assemblies:

- Entertainment Duty;
- Casino Revenue;
- Betting Tax;
- Gambling Tax;
- Income Tax on registration of trade, business, profession or vocation;
- Advertisement Tax;
- Daily Transport Tax;
- Any other source of revenue as may be determined by Parliament.

(3) The monies accruing to the District Assemblies in the Common Fund should be shared among all the District Assemblies on the basis of equality, population and the development needs of each District.

(4) (1) Not less than fifteen per cent of the net revenue accruing to the state from dues, rents, royalties or from the operations of any enterprise or undertaking of any person or body of persons however described operating within the area of authority of a District Assembly in respect of Land water or mineral resources should be set aside by the State for the developmental needs of the District Assemblies.

(2) Of the amount so set aside, twenty per cent should be paid by the State directly to the District Assembly from whose area of authority the revenue was derived; and the remaining eighty per cent should be paid into the Common Fund for the District Assemblies for distribution to all the District Assemblies on the basis of the formula contained in 3(3).

(3) Nothing in the provisions of this Constitution or any law should be deemed as prohibiting the State or other bodies from making grants-in-aid to any District Assembly.

(4) The Auditor-General of Ghana should audit annually the accounts of the District Assemblies and should lay the report thereof before Parliament.

4. (1) There should be established for each Region of Ghana a Regional Co-ordinating Council.

(2) A Regional Co-ordinating Council should have such membership as would be prescribed by law; so however that central government-related members should not outnumber representatives of the District Assemblies, and that the membership should include two chiefs appointed by the Regional House of Chiefs.

(3) Subject to the provisions of this Constitution, the functions of a Regional Co-ordinating Committee should be as prescribed by law.

5. (1) The Minister responsible for local government should exercise general oversight of the activities of District Assemblies, particularly in matters of finance, budgeting, planning, personnel training and execution of development projects; but he or she should not exercise any control over the District Assemblies incompatible with their decentralized status, and generally not in accordance with law.

(2) Any citizen resident in a District should have the right to make a complaint to the Commission on Human Rights and Administrative Justice about the administrative actions of the District Assembly of the District or of any of its members or officials.

(3) Subject to procedure established by law, the mandate of an elected member of a District Assembly should be revoked by the electorate if they lose confidence in such a member on any of the following grounds:

- that he or she has abandoned the ideas and programmes for which he or she was elected;
- that he or she has systematically neglected his or her duties; or
- that he or she has committed acts incompatible with his or her office as member of the District Assembly.

DRAFT CONSTITUTION — PROPOSALS

— APPENDIX D — (Continued) THE DIRECTIVE PRINCIPLES OF STATE POLICY

Below is the fourth in our series of reproduction of the "Report on proposals for a draft constitution of Ghana" which we started on Monday in the form of free supplementary editions.

ECONOMIC OBJECTIVES

3. (1) The State shall take all necessary action to ensure that the national economy is managed in such a manner as to increase the rate of economic development and to secure the maximum welfare, freedom and happiness of every citizen of Ghana and to provide adequate means of livelihood and suitable employment and public assistance to the needy.

(2) The state shall, in particular, take all necessary steps to establish a sound and healthy economy whose underlying principles shall include:

- (i) the assurance of fair remuneration for production and productivity in order to encourage continued production and higher productivity;
- (ii) affording ample opportunity for individual initiative and creativity in economic activities and fostering an enabling environment for a pronounced role of the private sector in the economy, while at the same time ensuring that individuals and the private sector bear their fair share of social and national responsibilities including responsibilities to contribute to the overall development of the country, addressing the needs of the vulnerable groups and protecting the global environment;
- (iii) undertaking even and balanced development of all regions and every part of each region in Ghana, and, in particular, improvement of the conditions of life in the rural areas, and generally redressing the imbalance in development between the rural and the urban areas;
- (iv) the recognition that the most secure democracy is the one that assures the basic necessities of life for its people as a fundamental duty.

(3) The State shall take appropriate measures to promote the development of agriculture and industry.

(4) Foreign investment shall be encouraged within Ghana, subject to any law for the time being in force regulating investment in Ghana.

(5) For the purposes of the foregoing clauses of this article, within two years after assuming office, the Government shall present to Parliament a coordinated programme of economic and social development policies, including agricultural and industrial programmes at all levels and in all the regions of Ghana.

(6) The State shall afford equality of economic opportunity to all citizens; and, in particular, the State shall take all necessary steps so as to ensure the full integration of women into the mainstream of Ghana's economic development.

(7) The State shall guarantee the ownership of property and the right of inheritance.

(8) The state shall recognise that ownership and possession of land carries a social obligation to serve the larger community; and, in particular, that the managers of public, stool and family lands are fiduciaries charged with the obligation to discharge their functions for the benefit of the people of Ghana, of the stool concerned and of the family concerned, and are accountable as fiduciaries in this regard.

(9) The State shall take appropriate measures needed to protect and safeguard the national environment for posterity; and shall seek cooperation with other States and bodies for purposes of protecting the wider international environment for mankind.

(10) The State shall safeguard the health, safety and welfare of all persons in employment, and shall establish the basis for the full deployment of the creative potential of all Ghanaians.

(11) The measures to be taken by the State for the purposes of clause (10) of this article to achieve this objective shall include:

- (a) ensuring that workers are paid a living wage adequate for the maintenance of a decent standard of living and the enjoyment of leisure, social and cultural opportunities;
- (b) recognition of the right of workers to form trade unions at the work place to protect their rights and interests; encouragement and promotion of sound labour relations and fair employment practices; and
- (c) encouragement of the participation of workers in the decision-making process at the work place.

SOCIAL OBJECTIVES

4. (1) The State shall endeavour to secure and protect as effectively as it is able to do so, a social order founded on the ideals and principles of freedom, equality, justice and accountability as enshrined in Chapter (on fundamental human rights) of this Constitution.

(2) In particular, the State shall direct its policy towards ensuring —

- (a) that every citizen has equality of rights, obligations and opportunities before the law;
- (b) that the sanctity of the human person and human dignity is recognised, maintained and enhanced; and
- (c) that the independence, impartiality, integrity and easy accessibility of the courts of law are secured and maintained.

(3) In furtherance of the objectives contained in clauses (1) and (2) of this article it shall be the obligation of the State to ensure —

- (a) that all citizens, without discrimination on any ground, have the opportunity for securing adequate means of livelihood as well as adequate opportunities to secure suitable employment;
- (b) that provision is made for public assistance for those in need and the conditions under which such assistance may be given and in particular, that free legal aid is offered to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities;
- (c) that conditions of work are just and humane, and that there are facilities for leisure and for social and cultural life;
- (d) that adequate facilities for sports are provided throughout the country, and that sports are promoted as a means of fostering national integration, health and self-discipline as well as international friendship and understanding;
- (e) that there are adequate medical and health facilities for all persons;
- (f) that there is no discrimination in remuneration of men and women for work of equal value;
- (g) that children, young persons, the aged, the infirm and the handicapped are protected against ex-

ploitation and against moral and material neglect;

(h) that in exercising their powers, authorities and persons in whom are vested powers of appointment under this constitution do, as far as practicable, appoint an equal number of men and women;

- (i) that adequate retiring awards are provided for all workers;
- (j) that contributory schemes are instituted and maintained that will provide economic security for self-employed and other citizens of Ghana; and
- (k) that old persons are entitled to and do receive a regular pension adequate for the maintenance of a decent standard of living and the enjoyment of social and cultural opportunities.

(5) (1) The State recognises the Human Right to Development, which means that people must be active participants in and beneficiaries of development processes, and that the State is obligated to protect and promote human rights as interdependent ends and means of development.

(2) Pursuant to this obligation the State will enact appropriate legal measures to assure:

- (a) the enjoyment of rights of effective participation in development processes which include: rights of people to form their own associations free from state interference and use them to promote and protect their interests in relation to development processes; rights of access to agencies and officials of the state necessary to realise effective participation in development processes; freedom to form organisations to engage in self help and income generating projects; freedom to raise funds to support these activities;
- (b) the protection and promotion of all other basic human rights, including the rights of women, children and other vulnerable groups, in development processes.

(3) In the discharge of the obligations stated above, the state will be guided by International Human Rights Instruments (such as the United Nations Convention on the Elimination of All Forms of Discrimination Against Women) which recognise and apply particular categories of basic human rights to development processes.

EDUCATIONAL OBJECTIVES

(5) (1) The State shall acknowledge its paramount responsibility for the provision of educational facilities at all levels and in all the Regions of Ghana, and shall, to the greatest extent feasible, make those facilities available without discrimination as to gender.

(2) The Government shall, within two years after the coming into force of this constitution, draw up a programme for implementation within the following ten years for the provision of free, compulsory and universal basic education.

(3) The State shall, subject to the availability of resources, provide —

- (a) free and equal access to secondary and other appropriate pre-university education;
- (b) equal access to university or equivalent education;
- (c) free adult literacy programme;
- (d) life-long education; and
- (e) free vocational training, rehabilita-

tion and resettlement of disabled persons.

CULTURAL OBJECTIVES

6. (1) That traditional cultural values are adapted and developed as an integral part of the growing needs of the society as a whole; and in particular that traditional practices which are injurious to the health and well-being of the person are abolished;

(2) Subject to paragraph (1) the State shall take steps to encourage the integration of traditional values into the fabric of national life through formal and informal education and the conscious introduction of cultural dimensions to relevant aspects of national planning.

(3) The State shall foster the development of Ghanaian languages and pride in Ghanaian culture.

(4) The State shall endeavour to preserve and protect places and buildings of historical significance.

INTERNATIONAL RELATIONS

7. (1) In her dealings with other nations, the Government shall —

- (a) promote and protect the interests of Ghana;
- (b) seek the establishment of a just and equitable international economic and social order;
- (c) promote respect for international law and treaty obligations and the settlement of international disputes by peaceful means;
- (d) adhere to the principles enshrined in —
 - (i) the Charter of the United Nations;
 - (ii) the Charter of the Organisation of African Unity;
 - (iii) the Treaty of the Economic Community of West African States; and
 - (iv) promote the effective realisation of African unity.

DUTIES OF THE CITIZEN

8. The exercise and enjoyment of rights and freedoms is inseparable from the performance of duties and obligations, and accordingly, it shall be the duty of every citizen —

- (a) to enhance the prestige and good name of Ghana and respect the symbols of the nation;
- (b) to uphold and defend this Constitution and the law;
- (c) to foster national unity and live in harmony with others;
- (d) to respect the rights, freedoms and legitimate interests of others, and generally to refrain from doing acts detrimental to the welfare of other persons;
- (e) to work conscientiously in his or her chosen occupation, to protect and preserve public property and expose and combat misuse and waste of public funds and property;
- (f) to contribute to the well-being of the community where that citizen lives;
- (g) to defend Ghana and render national service when necessary;
- (h) to cooperate with lawful agencies in the maintenance of law and order;
- (i) to declare his or her income honestly to the appropriate and lawful agencies and to pay his or her income tax promptly; and
- (j) to protect and safeguard the environment.

— APPENDIX E —

PROVISIONS OF FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

POLITICAL AND CIVIL RIGHTS

1. PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS

(1) The fundamental rights and freedoms enshrined in this Chapter shall be respected and upheld by the Executive, Legislature and Judiciary and all organs of the Government and its agencies and, where applicable to them, by all natural and legal persons in Ghana, and shall be enforceable

by the courts as provided for in this Constitution.

(2) Every person in Ghana, whatever his race, place of origin, political opinion, colour, creed or gender shall be entitled to the fundamental rights and freedoms of the individual contained in this Chapter but subject to respect for the rights and freedoms of others and for the public interest.

(3) All citizens shall enjoy the Human Right to Development by virtue of which

they are entitled to exercise and realise their basic rights in relation to development processes and projects carried on under the aegis of the state.

2. PROTECTION OF LIFE

(1) No person shall be deprived of his life intentionally except in the execution of a sentence of a court in respect of a criminal offence under the law of Ghana of

Contd on Page 2

Appendix E (Continued) Provisions On Fundamental Human Rights And Freedoms

Contd from Page 1

which he has been convicted.
(2) A person shall not be regarded as having been deprived of his life in contravention of this article if he dies as the result of the use of force reasonably justifiable in the particular circumstances —

- (a) for the defence of any person from violence or for the defence of property; or
- (b) for the purposes of suppressing a riot, insurrection or mutiny; or

3. PROTECTION OF PERSONAL LIBERTY

(1) Every person shall be entitled to his personal liberty and no person shall be deprived of his personal liberty except in the following cases and in accordance with procedure permitted by law —

- (a) in execution of the sentence or order of a court in respect of a criminal offence of which he has been convicted; or
- (b) in execution of the order of a Court punishing him for contempt of court; or
- (c) for the purposes of bringing him before a court in execution of the order of a court; or
- (d) for the purposes of the education or welfare of a person who has not attained the age of majority; or
- (e) upon reasonable suspicion of his having committed or being about to commit a criminal offence under the law of Ghana; or
- (f) in the case of a person suffering from infectious or contagious disease, persons addicted to drugs or alcohol or vagrants, for the purpose of their care or treatment or the protection of the community;
- (g) for the purposes of preventing the unlawful entry of that person into Ghana, or of effecting the expulsion, extradition or other lawful removal of that person from Ghana, or for the purposes of restricting that person while he is being lawfully conveyed through Ghana in the course of his extradition or removal from one country to another.

(2) A person who is arrested, restricted or detained shall be informed immediately, in a language that he understands, of the reasons for his arrest, restriction or detention and of his right to consult counsel of his own choice.

(3) A person who is arrested, restricted or detained —

- (a) for the purposes of bringing him before a court in execution of the order of a court; or
- (b) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law of Ghana, and who is not released, shall be brought before a court within forty-eight hours of the arrest, restriction or detention.

(4) Where a person arrested, restricted or detained under paragraph (b) of clause (3) of this article is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

(5) A person who is unlawfully arrested, restricted or detained by any other person shall be entitled to compensation from that other person.

(6) Where a person is convicted and sentenced to a term of imprisonment, any period he has spent in lawful custody before the completion of his trial shall be taken into account in imposing the term of imprisonment.

(7) Where a person who has served the whole or a part of his sentence is acquitted on appeal by a court, other than the Supreme Court, the court may certify to the Supreme Court that the person acquitted be paid compensation; and the Supreme Court may, upon examination of all the facts and the certificate of the court concerned, award such compensa-

tion as it may think fit; or where the acquittal is by the Supreme Court, it may order compensation to be paid to the person acquitted.

(8) Subject to this Constitution, Parliament shall have no power to enact legislation which retroactively imposes any limitation on or adversely affects the personal rights and liberties of any person.

4. RESPECT FOR HUMAN DIGNITY

(1) The dignity of all persons shall be inviolable.

(2) No person shall, whether or not he is arrested, restricted or detained, be subjected to —

- (a) torture or inhuman or degrading punishment; or
- (b) any other condition that detracts or is likely to detract from his dignity and worth as a human being.

(3) A person who has not been convicted of a criminal offence shall not be kept or confined in a prison or treated as a convicted person and shall be kept away from convicted persons.

5. PROTECTION FROM SLAVERY AND FORCED LABOUR

(1) No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced labour.

(3) For the purposes of this Article, the expression "forced labour" shall not include —

- (a) any labour required as a result of a sentence or order of a court; or
- (b) any labour required of a member of a disciplined force as his duty or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labour that person is required by law to perform in place of such service; or
- (c) any labour required during any period when Ghana is at war or in the event of an emergency or calamity that threatens the life and well-being of the community to the extent that the requirement of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period for the purposes of dealing with the situation; or
- (d) any labour reasonably required as part of normal communal or other civic obligations.

6. EQUALITY AND FREEDOM FROM DISCRIMINATION

(1) All persons shall be equal before the law.

(2) No person may be discriminated against on the grounds of gender, race, colour, ethnic origin, religion, creed or social or economic status.

(3) For the purposes of this article, the expression "discriminatory" means affording different treatment to different persons attributable only or mainly to their respective descriptions by race, place of origin, political opinions, colour, gender, occupation or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

7. PROTECTION OF PRIVACY OF HOME AND OTHER PROPERTY

No person shall be subject to interference with the privacy of his home, his property, correspondence or communication except in accordance with law and as may be necessary in a democratic society, public safety or the economic well-being of the country, for the protection of health or morals, for the prevention of disorder or crime or for the protection of the rights or freedom of others.

8. FAIR TRIAL

(1) Whenever a person is charged with a criminal offence, unless the charge is withdrawn, that person shall be afforded a fair hearing within a reasonable time by a court.

(2) A person who is charged with a criminal offence —

- (a) shall, in the case of an offence, other than treason, the punishment for which is death or imprisonment for life, be tried by a Judge and jury and the verdict of the jury shall be unanimous; and

(b) shall be presumed to be innocent until he is proved or has pleaded guilty; and

(c) shall be informed immediately in a language that he understands, and in detail, of the nature of the offence charged; and

(d) shall be given adequate time and facilities for the preparation of his defence; and

(e) shall be permitted to defend himself before the court in person or by counsel of his own choice; and

(f) shall be afforded facilities to examine, in person or by his counsel the witnesses, called by the prosecution before the court, and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those to witnesses called by the prosecution; and

(g) shall be permitted to have, without payment by him, the assistance of an interpreter where he cannot understand the language used at the trial; and

(h) shall, in the case of the offence of treason, be tried by the High Court duly constituted by three Justices thereof.

(3) The trial of a person charged with a criminal offence shall take place in his presence unless —

- (a) he conducts himself in such a manner as to render the continuation of the proceedings in his presence impracticable and the court orders him to be removed for the trial to proceed in his absence; or
- (b) he refuses to appear before the court for the trial to be conducted in his presence after he has been duly notified of the trial.

(4) Whenever a person is tried for a criminal offence, the accused person or a person authorised by him in that behalf shall, if he so requires, be given, within a reasonable time not exceeding six months after judgement, a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(5) No person shall be held to be guilty of a criminal offence on account of an act or omission that did not at the time it took place constitute an offence.

(6) No penalty shall be imposed for a criminal offence that is severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed.

(7) No person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or any other criminal offence of which he could have been convicted at the trial for the offence, except on the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.

(8) Notwithstanding the provisions of clause (7) of this article, an acquittal of a person on a trial for treason shall not be a bar to the institution of any proceedings for any other offence against that person.

(9) The provisions of paragraph (a) of clause (2) of this article shall not apply in the case of trials by courts-martial or other military tribunals.

(10) No person who is tried for a criminal offence shall be compelled to give evidence at the trial.

(11) No person shall be convicted of a criminal offence unless that offence is defined and the penalty for it is prescribed in a written law.

(12) Nothing contained in clause (11) of this article shall prevent a court of record from punishing a person for contempt of itself notwithstanding that the act or omission constituting the contempt is not defined in a written law and the penalty is not so prescribed.

(13) An adjudicating authority for the determination of the existence or extent of a civil right or obligation shall, subject to the provisions of this Constitution, be established by law and shall be independent and impartial; and where proceedings for such a determination are instituted by a person before any such adjudicating authority the case shall be given a fair hearing within a reasonable time.

(14) Except as may be otherwise ordered by the adjudicating authority in the interest of public morality, public safety, or public order the proceedings of any such adjudicating authority shall be in public.

(15) Nothing contained in this article shall prevent an adjudicating authority from excluding from the proceedings persons, other than the parties to the proceedings and their counsel, to such an extent as that authority —

(a) may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice; or

(b) may be empowered by law to do so in the interest of defence, public safety, public order, public morality, the welfare of persons under the age of majority or the protection of the private lives of persons concerned in the proceedings.

(16) Nothing contained in or done under the authority of any law shall be held to be inconsistent with, or in contravention of, the following provisions —

(a) paragraph (b) of clause (2) of this article, to the extent that the law in question imposes upon a person charged with a criminal offence the burden of proving particular facts; or

(b) clause (5) of this article, to the extent that the law in question authorises a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of the force, except that any court which tries that member and convicts him shall, in sentencing him to any punishment, take into account any punishment awarded him under that disciplinary law.

(17) Subject to the provisions of clause (18) of this article, treason shall consist only —

- (a) in levying war against Ghana or assisting any state or person or inciting or conspiring with any person to levy war against Ghana; or
- (b) in attempting by force of arms or other violent means to overthrow the organs of government established by or under the constitution; or
- (c) in taking part or being concerned in or inciting or conspiring with any person to make or take part or be concerned in, any such attempt.

(18) An act which aims at procuring by constitutional means an alteration of the law or of the policies of the Government shall not be considered as an act calculated to overthrow the organs of government.

(19) Notwithstanding any other provision of this article, but subject to clause (20) of this article, Parliament may, by or under an Act of Parliament, establish military courts or tribunals for the trial of offences against military law committed by persons subject to military law.

(20) Where a person subject to military law who is not in active service, commits an offence which is within the jurisdiction of a civil court, he shall not be tried by a court-martial or military tribunal for the offence unless the offence committed is within the jurisdiction of a court-martial or other military tribunal under any law for the enforcement of military discipline.

(21) For the purposes of this article, the expression "criminal offence" means a criminal offence under the law of Ghana.

9. PREVENTION OF DEPRIVATION OF PROPERTY

(1) No property of any description, or interest in or right over any property, shall be compulsorily taken possession of or acquired by the State unless it is done in accordance with law and it is necessary in the public interest.

(2) A law enacted for compulsory acquisition of property shall provide for prompt payment of adequate compensation and shall give to any person claiming compensation a right of access to a court or tribunal for the determination of his interest in the property and the amount of compensation to which he is entitled.

(3) Nothing in clause (1) of this article shall be construed as affecting the operation of any general law that provides for the taking of possession or acquisition of the property —

- (a) for the vesting and administration of the property of persons adjudged or otherwise declared bankrupt or insolvent, or persons of unsound mind or deceased persons, and of corporate or unincorporated bodies in the course of winding up;
- (b) for vesting of trust properties.

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- (c) for to vesting or administration of enemy property;
- (d) for the imposition or enforcement of any tax, rate or duty;
- (e) in the execution of judgments or orders of the courts;
- (f) by reason of the property being in a dangerous state or injurious to the health of human beings, animals or plants;
- (g) with respect to limitation of actions;
- (h) for the temporary possession of property for the purposes of any examination, investigation or enquiry;
- (i) for the carrying out of work on any land for the purposes of provision of public facilities or utilities; except that where any damage results from any such work there shall be paid appropriate compensation.
- (4) Any property compulsorily taken possession of or acquired in the public interest or for a public purpose shall be used only in the public interest or for the public purpose for which it was acquired.
- (5) Where the property is not used in the public interest or for the purpose for which it was acquired the owner of the property immediately before the compulsory acquisition shall be given the first option for acquiring the property and shall on such re-acquisition refund the whole or part of the compensation paid to him as provided for by law.

10. GENERAL FUNDAMENTAL FREEDOMS

- (1) All persons shall have the right to:
- (a) freedom of speech and expression, which shall include freedom of the press and other media;
- (b) freedom of thought, conscience and belief, which shall include academic freedom in institutions of higher learning;
- (c) freedom to practise any religion and to manifest such practice;
- (d) freedom of assembly including freedom to processions and demonstrations;
- (e) freedom of association, which shall include freedom to form and join trade unions or other associations, national and international, for the protection of his interests;
- (f) freedom to form political parties; and all citizens shall have the right to participate in peaceful political activity intended to influence the composition and policies of the Government subject to such qualifications prescribed by law as are necessary in a democratic society;
- (g) freedom of movement; and for the purposes of this article freedom of movement means the right to move freely in Ghana, the right to reside in any part of Ghana, the right to leave and to enter Ghana and immunity from expulsion from Ghana;
- (h) a restriction on a person's freedom of movement that is involved in his lawful detention shall not be held to be inconsistent with, or in contravention of, this article.
- (2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with, or in contravention of this article to the extent that the law in question makes provision —
- (a) for the imposition of restrictions, by order of a court, that is reasonably required in the interest of defence, public safety or public order, on the movement or residence within Ghana of any person; or
- (b) for the imposition of restrictions, by order of a court, on the movement or residence within Ghana of any person either as a result of his having been found guilty of a criminal offence under the law of Ghana or for the purposes of ensuring that he appears before a court at a later date for trial for such criminal offence or for proceedings relating to his extradition or lawful removal from Ghana; or
- (c) for the imposition of restrictions that are reasonably required in the interest of defence, public safety, public order, public mo-

ality, public health or the running of essential services, or the movement or residence within Ghana of any person or persons generally, or any class of persons, and except so far as that provision or, as the case may be, the thing done under the authority, is shown not to be reasonably justifiable in terms of the spirit of this Constitution.

(3) Whenever a person, whose freedom of movement has been restricted by the order of a court under paragraph (a) of clause (2) of this article, requests at any time during the period of that restriction not earlier than seven days after the order was made or three months after he last made such request, as the case may be, his case shall be reviewed by that court.

(4) On a review by a court under clause (3) of this article, the court may, subject to the right of appeal from its decision, make such order for the continuation or termination of the restriction as it considers necessary or expedient.

11. RIGHT TO ESTATE OF A SPOUSE

No spouse may be deprived of a reasonable provision out of the estate of a spouse whether the estate is testate or intestate.

12. ADMINISTRATIVE JUSTICE

Administrative bodies and administrative officials shall act fairly and reasonably and comply with the requirements imposed upon such bodies and officials by common law and any relevant legislation; and persons aggrieved by the exercise of such acts and decisions shall have the right to seek redress before a court or tribunal.

13. ECONOMIC RIGHTS

(1) Every person shall have the right to work under equitable and satisfactory condition, and shall receive equal pay for equal work without distinction of any kind, and under safe and healthy working conditions.

(2) Every worker shall be assured of rest, leisure and reasonable limitation of working hours and period of holidays with pay, as well as remuneration for public holidays.

(3) Every worker has a right to form a trade union and to join the trade union of his choice, subject to the rules of the union concerned for the promotion and protection of his economic and social interests.

(4) No restriction may be placed on the exercise of this right other than those prescribed by law and which are necessary in the interest of national security or public order, or for the protection of the right and freedoms of others.

(5) The right of everyone to social security, including social insurance shall be guaranteed.

14. SOCIAL RIGHTS

EDUCATION

- (1) All persons shall have the right to education, and with a view to achieving the full realisation of this right:
- (a) primary education shall be compulsory and available to all;
- (b) secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
- (c) higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
- (d) functional literacy shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
- (e) the development of a system of schools at all levels shall be actively pursued, and the material conditions of teaching staff shall be continuously improved.
- (2) Children shall not be allowed to leave school until they have completed their primary education or have attained the age of eighteen years, which ever is the sooner, except to the extent as may be otherwise authorised by Act of Parliament on grounds of health or other considerations relating to the public interest.
- (3) All persons shall have the right, at their own expense, to establish and main-

tain private schools, or colleges or other institutions of tertiary education if —

- (a) such schools, colleges or institutions of tertiary education are registered with a government department in accordance with any law authorising and regulating such registration;
- (b) the standard of education maintained by such schools, colleges or institutions of tertiary education are not inferior to the standards maintained in comparable schools, colleges or institutions of tertiary education funded by the State;
- (c) no restrictions of whatever nature are imposed with respect to the admission of pupils based on race, colour or creed; and
- (d) no restrictions of whatever nature are imposed with respect to the recruitment of staff based on race or colour.

15. CULTURE

(1) Every person shall be entitled to enjoy, practise, profess, maintain and promote any culture, language, tradition or religion subject to the terms of this Constitution and subject to the further condition that the rights protected by this Article do not impinge upon the rights of others or the national interest.

(2) The state shall take steps to encourage the integration of traditional values into the fabric of daily life.

(3) The State shall promote formal and informal education as vehicles of inculcating these values in consonance with our national aspirations.

(4) The State shall ensure the provision of conscious cultural dimensions to all aspects of national planning.

(5) The State shall foster the development of Ghanaian languages and pride in Ghanaian culture.

16. WOMEN'S RIGHTS

(1) All customary practices which are injurious to the physical and mental well-being of women shall be abolished.

(2) Female circumcision shall be an offence.

(3) Special care shall be accorded to mothers during a reasonable period before and after childbirth. During such periods working mothers shall be accorded paid leave or leave with adequate social security benefits.

(4) Parliament shall enact legislation regulating the property rights of women in marriage soon after coming into force of this Constitution.

(5) With a view to achieving the full realisation of these rights:

- (a) women shall have equal access as their spouses to property jointly acquired during marriage;
- (b) assets which are jointly acquired during marriage shall be distributed equitably between the spouses upon dissolution of the marriage.

(6) Facilities should be provided for the care of children below school-going age to enable women, who have the traditional care for children, realise their full potential.

(7) In employment, women shall be guaranteed conditions of work not inferior to those enjoyed by men with equal pay for work of equal value.

(8) Women shall be guaranteed equal rights to training and promotion without any impediment from any person, or harassment from colleagues, superior officers or employers.

(9) On the coming into force of the Constitution, Government in making appointments to boards and delegations should strive towards equal representation and participation of women and men.

17. CHILDREN'S RIGHTS

(1) Children shall have the right from birth to a name, the right to acquire a nationality and, subject to legislation enacted in the best interest of children, as far as possible the right to know and be cared for by their parents.

(2) Every child has the inherent right to life, and the child's survival and development shall be ensured.

(3) Each child shall be protected from any form of discrimination.

(4) Children shall have the right to parental care and support especially during the tender years of childhood.

(5) Every child is entitled to the emotional warmth and security necessary for

his development into a stable adult. This warmth and security can only be given by caring and responsible parents. In this context parents need not necessarily be the natural parents of the child.

(6) Any person who has the control or custody of a child under 18 years of age, shall be under an obligation to ensure that he is properly fed, clothed, housed and provided with medical care.

(7) Every child shall be protected from any form of maltreatment perpetrated by parents or others responsible for his care.

(8) Disfigurement of children especially by way of female circumcision or infibulation is hereby abolished.

(9) Every child has the right to rest and leisure, play and participation in cultural and artistic activities.

(10) Each child has a right to be protected from engaging in work that constitutes a threat to his health, education or development.

(11) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

(12) The minimum age of marriage for children is 18. For the purposes of this Article a child means a person below the age of 18 years.

18. RIGHTS OF DISABLED PERSONS

(1) Disabled persons have the right to live with their families or with foster parents and to participate in social, creative or recreational activities.

(2) No disabled person shall be subjected, as far as his residence is concerned, to differential treatment other than that required by his or her condition or by the improvement which he may derive therefrom.

(3) If the stay of a disabled person in a specialised establishment is indispensable, the environment and living conditions there shall be as close as possible to those of the normal life of a person of his age.

(4) Disabled persons should be protected against all exploitation, all regulations and all treatment of a discriminatory, abusive or degrading nature.

(5) If judicial proceedings are instituted against them, the legal procedure applied shall take their physical and mental condition fully into account.

(6) Disabled persons, their families and communities shall be fully informed, by all appropriate means, of the rights contained in this Constitution.

(7) As far as practicable, every public building must have appropriate facilities, including a ramp, for disabled persons.

(8) Special incentives, such as tax reliefs, should be given to disabled persons engaged in business and also to business organisations that employ disabled persons in significant numbers.

19. EMERGENCY POWERS

(1) The President may, acting in accordance with the advice of the council of State, by proclamation published in the Gazette, declare that a state of public emergency exists in Ghana or in any part of Ghana for the purposes of the provisions of this Constitution.

(2) Notwithstanding any other provision of this article, where a Proclamation is published under clause (1) of this article, the President shall place immediately before Parliament the facts and circumstances leading to the declaration of the state of public emergency.

(3) Parliament shall, within seventy-two hours of being so notified, decide whether the Proclamation shall remain in force or shall be revoked; and the President shall act in accordance with the decision of Parliament.

(4) A declaration of a state of public emergency shall cease to have effect at the expiration of a period of seven days beginning with the date of publication of the declaration unless, before the expiration of that period, it is approved by a resolution passed in that behalf by a majority of all the members of Parliament.

(5) Subject to clause (7) of this article, a declaration of a state of public emergency approved by a resolution of Parliament under clause (4) of this article shall continue in force until the expiration of a period of three months beginning with the date of its being so approved or until such earlier date as may be specified in

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the resolution.
(6) Parliament may, by resolution, extend its approval of the declaration for periods of not more than one month at a time.

(7) Parliament may, by a resolution passed by a majority of all the members of Parliament, at any time revoke a declaration of a state of public emergency approved by Parliament under this article.

(8) For the avoidance of doubt, it is hereby declared that the provisions of any enactment, other than an Act of Parliament, dealing with a state of public emergency declared under clause (1) of this article shall apply only to that part of Ghana where any such emergency exists.

(9) For the purposes of this article, a state of public emergency includes any action that has been taken or is immediately threatened by any persons or body of persons

(a) which is calculated to deprive the community of the essentials of life; or

(b) which renders necessary the taking of measures which are required for securing the public safety, the defence of Ghana and the maintenance of public order and of supplies and services essential to the life of the community.

(10) Nothing contained in or done under the authority of an Act of Parliament shall be held to be inconsistent with, or in contravention of articles 1 to 18 of this Chapter to the extent that the Act in question authorises the taking during any period when a declaration of a state of public emergency is in force, of measures that are reasonably justifiable for the purposes of dealing with the situation that exists during that period.

20. (1) Where a person is restricted or detained by virtue of a law made pursuant to a declaration of a state of emergency, the following provisions shall apply, namely —

(a) he shall as soon as practicable and in any case not later than twenty-four hours after the commencement of the restriction or detention, be furnished with a statement in writing specifying in detail the grounds upon which he is restricted or detained and the statement shall be read or interpreted to the person restricted or detained;

(b) the spouse, parent, child or other available next of kin of the person restricted or detained shall be informed of the detention or restriction within twenty-four hours of the commencement of the detention or restriction and be permitted access to the person at the earliest practicable opportunity and in any case within seventy-two hours of the commencement of the restriction or detention;

(c) not more than ten days after the commencement of his restriction or detention, a notification shall be published in the Gazette stating that he has been restricted or detained and giving particulars of the provision of law under which his restriction or detention is authorised and the grounds of his restriction or detention;

(d) not more than ten days after the commencement of his restriction or detention and thereafter during his restriction or detention at intervals of not more than three months, his case shall be reviewed by a tribunal composed of not less than three Justices of the Supreme Court appointed by the Chief Justice and presided over by the Chief Justice or a Justice of the Supreme Court appointed by the Chief Justice, except that the same tribunal shall not review more than once the case of a person restricted or detained;

(e) he shall be afforded every possible facility to consult counsel of his own choice who shall be permitted to make representations to the tribunal appointed for the review of the case of the restricted or detained person;

(f) at the hearing of this case he shall be permitted to appear in person or by counsel of his own choice.

(2) On a review by a tribunal of the case of a restricted or detained person, the tribunal shall have power to order the release of the person and the payment to him of adequate compensation or uphold

the grounds of his restriction or detention and the authority by which the restriction or detention was ordered shall act accordingly.

(3) In every month in which there is a sitting of Parliament a Minister of State authorised by the President shall make a report to Parliament of the number of persons restricted or detained by virtue of such a law as is referred to in clause (1) of article 19 of this Chapter and the number of cases in which the authority that ordered the restriction or detention has acted in accordance with the decisions of the tribunal appointed under this article.

(4) Notwithstanding clause (3) of this article the Minister referred to therein shall publish every month in the Gazette:

(a) the number and the names and addresses of persons restricted or detained;

(b) the number of cases reviewed by the tribunal; and

(c) the number of cases in which the authority which ordered the restriction or

detention has acted in accordance with the decisions of the tribunal appointed under this article.

(5) For the avoidance of doubt, it is hereby declared that at the end of an emergency declared under clause (1) of article 19 of this Chapter, a person in restriction or detention or in custody as a result of the declaration of the emergency shall forthwith be released.

21. PROTECTION OF RIGHTS BY THE COURTS

(1) Where a person alleges that a provision of this constitution on the fundamental human rights and freedoms has been, or is being or is likely to be contravened in relation to him, then, without prejudice to any other action that is lawfully available, that person may apply to the High Court for redress.

(2) The High Court shall, under clause (1) of this article, have power to issue such directions or orders or writs including writs

or orders in the nature of *habeas corpus certiorari, mandamus prohibitorum*, and *quo warranto* as it may consider appropriate for the purposes of enforcing or securing the enforcement of any of the provisions on the fundamental human rights and freedoms to the protection of which the person concerned is entitled.

(3) A person aggrieved by a determination of the High Court may appeal to the Court of Appeal with the right of a further appeal to the Supreme Court.

(4) The Rules of Court Committee may make Rules of Court with respect to the practice and procedure of the Superior Courts for the purposes of this article.

(5) The rights, duties, declarations and guarantees relating to the fundamental human rights specifically mentioned in this Chapter shall not be regarded as excluding others not specifically mentioned which are considered to be inherent in democracy and intended to secure the freedom and dignity of man.

— APPENDIX F —

FREEDOM AND INDEPENDENCE OF THE MEDIA

1. Everyone shall have the right freely to express and disseminate his opinion by speech, writing and pictures and freely to inform himself from generally accessible sources.

2. Freedom of the press and freedom of reporting by means of broadcasts and other electronic media are guaranteed.

3. There shall be no censorship in Ghana.

4. There shall be no impediments to the establishment of private press or media. In particular, there shall be no law requiring any person to obtain a licence as a prerequisite to the establishment or operation of a newspaper, journal or other media for mass communication or information.

5. Editors and publishers of newspapers and other institutions of the mass-media shall not be subject to governmental control or interference, nor shall they be penalised or harassed for their editorial opinions and views or the content of their publications.

6. (1) State-owned media for the dissemination of information to the public shall afford equal opportunities and facilities for the presentation of opposing or differing views. Dissenting opinions may be freely expressed in such media.

(2) Editors and employees of such state-owned media shall not be appointed or removed or in any way influenced by the Government or any agency thereof.

7. The above provisions are subject to laws that are reasonably required in the interests of national security, public order, and public morality and for the purpose of protecting the reputations, rights and freedoms of other persons.

B. THE NATIONAL MEDIA COMMISSION

1. There shall be a National Media Commission which shall be non-partisan and autonomous and shall have the following functions:

a. To promote and ensure the freedom and independence of the media for mass communication or information.

b. To take all appropriate measures to ensure the establishment and maintenance of the highest journalistic standards in the mass media including the investigation, mediation and settlement of complaints made against or by the press and other mass media.

c. To insulate the state-owned media from governmental control.

d. To appoint the chairman and other members of the governing bodies of public corporations managing the state-owned media.

e. To make regulations for the registration of newspapers and other publications provided such regulations shall not impose the requirement of a licence or other precondition for such publications.

2. Subject to the foregoing provision, the National Media Commission shall not exercise any control or direction over the professional functions of a person engaged in the production of newspapers or other means of mass communication.

3. In the performance of its functions,

the National Media Commission shall be subject only to this Constitution and shall not be subject to the direction or control of any other person or authority.

4. The National Media Commission shall consist of such persons as may be specified by law, but shall include:

- (a) One representative each nominated by:
 - (i) Association of Recognised Professional bodies;
 - (ii) The Ghana Bar Association;
 - (iii) The Trades Union Congress;
 - (iv) The Ghana National Association of Teachers;
 - (v) The University Teachers Association of Ghana;
 - (vi) The Ghana National Association of Farmers and Fishermen;
 - (vii) The Catholic Secretariat;
 - (viii) The Federation of Muslim Councils;

— APPENDIX G —

REPRESENTATION OF THE PEOPLE

THE RIGHT TO VOTE

1. Every citizen of Ghana of eighteen years of age and above and of sound mind has a right to vote, and shall be entitled to be registered as a voter for the purposes of public elections and referenda.

ELECTORAL COMMISSION

2. (1) There shall be an Electoral Commission which shall consist of a sole Commissioner;

(2) The Electoral Commissioner shall be appointed by the President acting in consultation with the Council of State.

FUNCTIONS OF THE ELECTORAL COMMISSIONER

3. (1) The Electoral Commissioner shall have the following functions —

- (a) compile the registers of voters and revise the registers at such periods as is determined by law;
- (b) demarcate the electoral boundaries for both national and local elections;
- (c) conduct and supervise all public elections and referenda;
- (d) educate the people on the electoral process and its purpose;
- (e) undertake programmes for the expansion of voters registration; and
- (f) perform such other functions as may be prescribed by law.

(2) A person aggrieved by a decision of the Electoral Commissioner in respect of a demarcation of a boundary may appeal to a tribunal consisting of three persons appointed by the Chief Justice.

(3) A person shall not qualify to be ap-

pointed as Electoral Commissioner unless he qualifies to be elected as a member of Parliament.

(4) The Electoral Commissioner shall have the same terms and conditions of service as a Justice of the Court of Appeal.

(5) The Electoral Commissioner shall not whilst he holds the office, hold any other public office.

(6) In the absence of death of the Electoral Commissioner the President shall acting in accordance with the advice of the Council of State appoint a qualified person to perform those functions until the assumption of office of the Electoral Commissioner or until the appointment of a new Electoral Commissioner.

(7) In the performance of his functions the Electoral Commissioner shall be subject only to this Constitution and shall not be subject to the direction or control of any other person or authority.

(8) There shall be in every Region capital a Regional representative of the Electoral Commissioner who shall perform such functions as shall be assigned to him by the Electoral Commissioner.

(9) The appointment of officers and other employees and staff of the Electoral Commission shall be made by the Electoral Commissioner acting in consultation with the Public Services Commission.

(10) The administrative expense of the Electoral Commission, including salaries, allowances and pensions shall be, or in respect of persons se-

Contd on Page 5

Appendix G (Continued)

Representation Of The People

Contd from Page 4

with the Commission shall be a charge upon the Consolidated Fund.

(11) The Electoral Commissioner shall by legislative instrument make regulations as he considers necessary for the effective performance of his functions under this Constitution or any other law.

CONSTITUENCIES

4. (1) Ghana shall be divided into as many constituencies as there are members of Parliament in such manner as the Electoral Commissioner may prescribe.

(2) No constituency shall fall within more than one Region.

(3) The boundaries of each constituency shall be such that the number of inhabitants in the constituency is, as nearly as possible, equal to the population quota.

(4) For the purpose of clause (3) of this article, the number of inhabitants of a constituency may be greater or less than the population quota in order to take account of means of communication, geographical features, density of population and area and boundaries of the Regions and other administrative or traditional areas.

(5) The Electoral Commission shall review the division of Ghana into constituencies at intervals of not less than seven years, or within twelve months of the publication of the enumeration figures after the holding of a census of the population of Ghana, whichever is earlier and may as a result alter the constituencies.

(6) Where the boundaries of a constituency established pursuant to this article are altered as a result of a review, the alteration shall come into effect upon the next dissolution of Parliament.

(7) For the purposes of this article the expression "population quota" means the number obtained by dividing the number of inhabitants of Ghana by the number of constituencies into which Ghana is divided pursuant to this article.

VOTING AT ELECTIONS AND REFERENDUMS

5. (1) At any public election or referendum voting shall be by secret ballot.

(2) Immediately after the close of the poll, the presiding officer shall, in the presence of such of the candidates or their representatives and their polling agents who are present, proceed to count, at that polling station, the ballot papers and record the votes cast in favour of each candidate or question.

(3) The presiding officer, the candidates or their representatives and the polling agent shall then sign a declaration stating—

(a) the total number of voters entitled to vote at that polling station; and

(b) the number of the votes cast in favour of each candidate or question; and the presiding officer shall, there and then, announce the results of the voting at that polling station before communicating them to the returning officer.

(4) Subject to this Constitution, at any referendum, no results shall be declared by the Electoral Commission unless thirty-five per cent or more of the persons entitled to vote cast their votes, and at least seventy per cent of those who voted, cast their votes in favour of or against the issue for determination at the referendum.

ELECTION OF CANDIDATES

6. (1) Subject to the provisions of this article, where as the close of nominations on the nomination day before a public election—

(a) two or more candidates have been nominated the election shall be held and the candidates receiving the largest number of votes cast shall be declared elected;

(b) where only one candidate is nominated there shall be no election and that candidate shall be declared elected.

(2) Where for the purposes of a public election two or more candidates are nominated but at the close of the nominations on the nomination day before the election only one candidate stands nominated, a further period of ten days shall be allowed for nomination of other candidates, and it shall not be lawful for any person nominated within that period of ten days to withdraw his nomination.

(3) Where at the close of nominations under clause (2) of this article only one candidate stands nominated there shall be no election and that candidate shall be

declared elected.

(4) Where at the close of nominations but before the election one of the candidates dies, a further period of ten days shall be allowed for nominations and where the death occurs at any time within twenty-five days of the election, the election in that constituency or unit shall be postponed.

ORGANISATION OF POLITICAL PARTIES

7. (1) The right to form political parties is hereby guaranteed.

(2) Every citizen of Ghana of voting age shall have the right to form or join a political party.

(3) Subject to the provisions of this article a political party shall be free to participate in shaping the political will of the people, to disseminate information on political ideas, social and economic programmes of a national character, sponsor candidates for elections to any public office other than to District Assemblies.

(4) Every political party shall have a national character and membership shall not be based on ethnic, religious, regional or other sectional divisions.

(5) The internal organisation of a political party shall conform to democratic principles, and its actions and purposes shall not contravene, or be inconsistent with this Constitution or any other law.

(6) No organisation shall operate as a political party unless it is registered as such under the law for the time being in force for the purpose.

(7) For purposes of registration, a prospective political party shall furnish the Electoral Commissioner with a copy of its constitution and the names and addresses of its national officers; and shall satisfy the Commissioner—

(a) that at least one founding member

of the party is ordinarily resident or is registered as a voter in each district of Ghana, and that he belongs to the ethnic group which is dominant in that District;

(b) that the party has branches in all the regions of Ghana and is, in addition, effectively organised in not less than two-thirds of the districts in each region;

(c) that the party's name, emblem, colour, motto or any other symbol has no ethnic, regional, religious or other sectional connotation or gives the appearance that its activities are confined only to a part of Ghana; and

(d) that the party has its headquarters in the national capital.

(7) No political party shall have as a founding member, a leader or a member of its executive, a person who is not qualified to be elected as a member of Parliament or to hold any other public office.

(8) The members of the executive committee of a political party shall be chosen from all the regions of Ghana.

(9) The objectives, programmes and activities of a political party shall be aimed at achieving the aims of the Directive Principles of State Policy specified in this Constitution.

(10) Membership of the Public Services shall not prevent anyone from membership of a political party.

(11) Every citizen of Ghana of voting age shall have the right to participate in peaceful political activity intended to influence the composition and policies of the Government or a political party.

(12) Any activity of a person or group of persons which suppresses or seeks to suppress the lawful political activity of any other person or group of persons shall be an

unlawful act; and the High Court shall have power to prevent the said unlawful act.

(13) The State shall provide equal opportunity to all political parties to present their programmes to the public by ensuring equal access to the state-owned media.

(14) Without prejudice to the right of every candidate for election to Parliament to conduct his campaign freely in accordance with law, the State shall provide common platforms for all the candidates in a constituency to present themselves and their programmes to the electorate and to respond to questions and queries.

(15) All presidential candidates shall be given the same amount of time on radio and television and the same amount of space in the newspapers owned by the State to present their programmes to the people.

(16) Political parties shall be required by law to declare to the public their revenue and assets.

(17) Only a citizen of Ghana may make a contribution or donation to a political party registered in Ghana.

(18) No member of an organisation or interest group shall be required to join a particular political party by virtue of his membership of the organisation or group.

(19) Subject to this chapter, Parliament shall by law, regulate the establishment and functioning of political parties.

RESTRICTIONS ON CERTAIN PROPAGANDA

8. (1) Parliament shall have no power to enact a law to establish or authorise the establishment of a body or movement with the right or power to impose a common programme or a set of objectives of a religious or political nature for the country.

— APPENDIX H — JUDICIARY

INDEPENDENCE OF THE JUDICIARY

1. EXCEPT as otherwise provided in this Constitution, the judicial power of Ghana shall be vested in the Judiciary of which the Chief Justice shall be the Head; accordingly no organ or agency of the Executive or Legislature shall have final judicial power.

2. In the exercise of the judicial power of Ghana, the Judiciary in both its judicial and administrative functions including financial administration, shall be subject only to the Constitution and shall not be subject to the control and direction of any other person.

3. No member of the Executive or the Legislature or any other person shall interfere with Judges or judicial officers in the exercise of their judicial functions, and all organs of the State shall accord to the courts such assistance as the courts may require to protect their independence, dignity and effectiveness, subject to this Constitution or any other law.

4. The Judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law without any restriction, improper influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason.

5. The Judiciary shall have jurisdiction in all matters civil and criminal including matters relating to the Constitution and such other jurisdiction as Parliament may confer on it.

6. Except as otherwise provided in this Constitution or as may be ordered by a court in the interest of public morality, safety or public order, the proceedings of every court including the announcement of its decision shall be in public.

7. A Justice of the Superior Court or any person exercising judicial power shall not be liable to any action or suit for any matter or thing done by him in the performance of his functions.

8. Judges shall be persons of high moral character with the requisite professional qualifications.

9. The conditions of service in the Judiciary shall be conducive to the dignity and integrity of judges.

10. The salaries, allowances, gratuities and pension of the Justices of the Superior Courts, and other officers of the Judicial Service shall be a charge upon the Consolidated Fund.

11. The salary, allowances and privileges, rights in respect of leave of absence,

gratuity or pension and other conditions of service of a Justice of the Superior Court shall not be varied to his disadvantage.

12. All Judges shall declare their assets within six months of the coming into force of this constitution or upon assuming office.

PART II — JUDICIAL SYSTEM

13. There shall be one Judicial System in the country.

14. The Chief Justice shall, subject to this Constitution, be responsible for the administration and supervision of the Judiciary and all adjudicating authorities in Ghana.

(TWO ALTERNATIVE STRUCTURES OF THE COURTS ARE PRESENTED)

PART III A — STRUCTURE OF THE COURTS — ALTERNATIVE ONE

15. The Judiciary shall consist of:

- (a) the Superior Court comprising:
 - (i) the Supreme Court;
 - (ii) the Court of Appeal; and
 - (iii) the High Court;
- (b) the Lower Courts comprising the Circuit Courts and the Public Tribunals; and
- (c) such other lower courts as Parliament may by law establish.

THE SUPREME COURT

16. The Supreme Court shall consist of the Chief Justice and not less than six other Justices of the Supreme Court.

17. Judges of the Supreme Court shall be lawyers of at least 15 years standing as lawyers.

18. The Supreme Court shall be duly constituted for its work by not less than five Supreme Court Judges.

19. The Chief Justice shall preside at the sittings of the Supreme Court and in his absence the most senior of the Justices of the Supreme Court as constituted shall preside.

20. Except as otherwise provided in the Constitution the Supreme Court shall be the final court of appeal in Ghana and shall have appellate and other jurisdiction as may be conferred on it by this Constitution or any other law.

21. Subject to the jurisdiction of the Judicial Committee of the Council of State in constitutional matters and the jurisdiction of the High Court in the enforcement of

fundamental human rights and freedoms as provided in this Constitution, the Supreme Court shall have exclusive original jurisdiction in—

- (a) all matters relating to the enforcement or interpretation of the Constitution; and
- (b) all matters arising as to whether an enactment was made in excess of the powers conferred on Parliament or any other authority or person by law or under the Constitution.

22. The Supreme Court shall have supervisory jurisdiction over all courts and over any adjudicating authority unless expressly excluded under this Constitution and shall in the exercise of this supervisory jurisdiction have power to issue orders and directions for the purpose of enforcing or securing the enforcement of its supervisory power.

23. An appeal shall lie from a judgement of the Court of Appeal to the Supreme Court as of right in civil matters; as of right in criminal matters in respect of which an appeal has been brought from a judgement of a High Court; and with the leave of the Court of Appeal in any other criminal matter where the Court of Appeal is satisfied that the case involves a substantial question of law or of public importance.

24. The Supreme Court shall have appellate jurisdiction, to the exclusion of the Court of Appeal, to determine matters relating to the conviction or otherwise of a person for treason by the High Court.

25. An appeal from the Judicial Committee of the National House of Chiefs shall lie to the Supreme Court.

26. The Supreme Court shall not be bound to follow the decisions of any other court.

27. The Supreme Court may, while treating its own previous decision as normally binding depart from a previous decision when it appears right so to do and all other Courts shall be bound to follow the decisions of the Supreme Court on questions of law.

COURT OF APPEAL

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Draft Constitution: Proposals • • • Draft Constitution: Proposals • • •

- Appendix H - (Continued)

Independence Of The Judiciary

Contd from Page 5

28. The Court of Appeal shall consist

- (a) the Chief Justice;
- (b) not less than five Justices of the Court of Appeal; and such other Justices of the Superior Court as the Chief Justice may, for the determination of a particular cause or matter by writing under his hand, request to sit in the Court of Appeal for any specified period.

29. Judges of the Court of Appeal shall be lawyers of at least 12 years standing as lawyers.

30. The court of Appeal shall be duly constituted by not less than three Justices of the Court of Appeal and when so constituted, the most senior of the Justices shall preside.

31. The Chief Justice may create such divisions of the Court of Appeal as he considers necessary to sit in such places as the Chief Justice may determine.

32. Subject to paragraph 27, the Court of Appeal shall be bound by its own previous decisions and all courts lower than the Court of Appeal shall follow the decisions of the Court of Appeal on questions of law.

33. The Court of Appeal shall have jurisdiction throughout Ghana to hear and determine, subject to the provisions of this Constitution, appeals from a judgement, decree or order of the High Court; civil appeals from the Circuit Courts; criminal appeals from trials on indictment from the Circuit Courts; and such other appellate jurisdiction as may be conferred upon it by this Constitution or any other law.

34. Except as otherwise provided in this Constitution, an appeal shall lie as of right from a judgement, decree or order of the High Court to the Court of Appeal.

35. An appeal shall lie as of right from the Land Court and Tax Court Divisions of the High Court to the Court of Appeal.

HIGH COURT

36. The High Court shall consist of the Chief Justice, not less than twelve High Court Judges and other Justices of the Superior Court as the Chief Justice may by writing under his hand request to sit as High Court Judges for any period.

37. The High Court Judges shall be lawyers of at least ten years standing as lawyers.

38. Except as otherwise provided in this Constitution the High Court shall be duly constituted by a single Judge or a single Judge and a jury.

39. There shall be in the High Court such Divisions consisting of such number of Justices respectively as may be assigned for the purpose by the Chief Justice; and sitting in such places in Ghana as the Chief Justice may determine.

40. There shall be a Division of the High Court to be known as the Land Court which shall have jurisdiction to hear and determine land cases only.

41. There shall be a Division of the High Court to be known as the Tax Court which shall have jurisdiction to hear and determine tax cases and to which appeals relating to tax cases from the lower tax court shall lie.

42. The Tax Court Division of the High Court shall be constituted by a High Court Judge and an accountant appointed by the Chief Justice.

43. The High Court shall have jurisdiction in civil and criminal matters and such other original, appellate and other jurisdiction as may be conferred upon it by this Constitution or any other law.

44. The High Court shall have jurisdiction to enforce the fundamental human rights and freedoms guaranteed under this Constitution.

45. The High Court shall have jurisdiction to hear and determine any matter relating to industrial and labour disputes and administrative complaints and in respect of such other subjects as may be provided by law.

46. The High Court shall have supervisory jurisdiction over all lower courts and any lower adjudicating authority and shall in the exercise of this supervisory jurisdiction have power to issue orders and directions for the purpose of enforcing or securing the enforcement of its supervisory powers.

PART III B — STRUCTURE OF THE

COURTS

ALTERNATIVE TWO

47. The Judiciary shall consist of
(a) the Superior Courts comprising —
(i) the Supreme Court; and
(ii) the High Court; and
(b) the Lower Courts comprising the Public Tribunals and such other lower courts as Parliament may by law establish.

The Supreme Court

48. The Supreme Court shall consist of the Chief Justice and not less than six other Justices of the Supreme Court.

49. Judges of the Supreme Court shall be lawyers of at least 15 years standing as lawyers.

50. The Supreme Court shall be duly constituted for its work by not less than five Supreme Court Judges.

51. The Chief Justice shall preside at the sittings of the Supreme Court and in his absence the most senior of the Justices of the Supreme Court as constituted shall preside.

52. Except as otherwise provided in this Constitution the Supreme Court shall be the final court of appeal in Ghana and shall have appellate and other jurisdiction as may be conferred on it by this Constitution or any other law.

53. Subject to the jurisdiction of the Judicial Committee of the Council of State in constitutional matters and the jurisdiction of the High Court in the enforcement of the fundamental human rights and freedoms as provided in this Constitution, the Supreme Court shall have exclusive original jurisdiction in —

- (a) all matters relating to the enforcement or interpretation of this Constitution; and
- (b) all matters arising as to whether an enactment was made in excess of the powers conferred on Parliament or by any other authority or person by law or under the Constitution.

54. An appeal shall lie from a judgement of the High Court to the Supreme Court as of right in both civil and criminal matters.

55. An appeal from the Judicial Committee of the National House of Chiefs shall lie to the Supreme Court.

HIGH COURT

56. The High Court shall consist of the Chief Justice, not less than twelve Justices of the High Court and such other Justices of the Superior Court as the Chief Justice may by writing under his hand request to sit as High Court Judges for any period.

57. The High Court Judges shall be lawyers of at least ten years standing as lawyers.

58. Except as otherwise provided in this Constitution the High Court shall be duly constituted by a single Judge or a single Judge and a jury.

59. There shall be in the High Court such Divisions consisting of such number of Justices as may be assigned for the purpose by the Chief Justice; and sitting in such places in Ghana as the Chief Justice may determine.

60. There shall be a Division of the High Court to be known as the Land Court which shall have jurisdiction to hear and determine land cases only.

61. There shall be a Division of the High Court to be known as the Tax Court which shall have jurisdiction to hear and determine tax cases and to which appeals relating to tax cases from any lower tax court shall lie.

62. The Tax Court Division of the High Court shall be constituted by a High Court Judge and an accountant appointed by the Chief Justice.

63. The High Court shall have jurisdiction in civil and criminal matters and such other original, appellate and other jurisdiction as may be conferred upon it by this Constitution or by any other law.

64. The High Court shall have jurisdiction to enforce the fundamental human rights and freedoms guaranteed under this Constitution.

65. The High Court shall have jurisdiction to hear and determine any matter relating to industrial and labour disputes and administrative complaints and in respect of such other subjects as may be provided by law.

66. The High Court shall have supervisory jurisdiction over all lower courts and any lower adjudicating authority or any law and shall in the exercise of this supervisory jurisdiction have power to issue orders and directions for the purpose of enforcing or securing the enforcement of its supervisory

powers.

PART IV — APPOINTMENT, REMOVAL AND RETIREMENT OF JUDGES

67. The Chief Justice shall be appointed by the President acting in consultation with the Council of State.

68. The other Supreme Court Judges shall be appointed by the President acting on the advice of the Judicial Council and in consultation with the Council of State.

69. All other Superior Court Judges shall be appointed by the President on the advice of the Judicial Council.

70. A person shall not qualify to be appointed a Justice of the Superior Court, unless he is a person of high moral character and has practised or has been entitled to practice as counsel in a court with unlimited jurisdiction in civil and criminal matters in Ghana or any other country that has a system of law analogous to that of Ghana and approved by the Judicial Council.

71. Where the office of the Chief Justice is vacant or where the Chief Justice is for any reason unable to perform the functions of his office, then —

- (a) until a person has been appointed to and has assumed the functions of that office, or
- (b) until the person holding that office has resumed the functions of that office, as the case may be those functions shall be performed by the most senior for the time being of the Justices of the Supreme Court.

72. The office of a Justice of the Superior Court of Judicature shall not be abolished while there is a substantive holder thereof.

73. Judges of the Superior Courts may retire at 60 years and shall retire on the attainment of the age of 65 unless the President on the recommendation of the Judicial Council extends the appointment which shall not exceed two years in respect of any such Judge.

74. A Justice of the Superior Court shall not be removed from office except on stated misbehaviour or incompetence or on ground of inability to perform the functions of his office arising from infirmity of body or mind.

75. The method for the removal of a Justice of the Superior Courts shall be as follows —

- (a) if the President receives a petition of complaint against a Judge of the Superior Courts other than the Chief Justice, he shall refer the petition to the Chief Justice, who will determine whether there is a prima facie case;
- (b) where the Chief Justice decides that there is a prima facie case he shall set up a tribunal consisting of three Judges of the Superior Courts appointed by the Judicial Council and two persons appointed by Parliament to investigate matter and make its recommendation to the President;
- (c) where the petition is against the Chief Justice, the President shall refer the matter to the Judicial Committee of the Council of State which shall after having satisfied itself that there is a prima facie case against the Chief Justice empanel a tribunal of five, three of whom shall be members of the Judicial Committee of the Council of State, and two persons appointed by Parliament to examine the issues;
- (d) the proceedings shall be held in camera and the Justice concerned shall be entitled to be heard in his defence by himself or by a lawyer or other expert;
- (e) the President shall act in accordance with the recommendations of the tribunal in both cases;
- (f) where the case before the tribunal is against the Chief Justice, the President may acting in accordance with the advice of the Council of State by warrant under his hand suspend the Chief Justice; and where the case is against any other superior court judge, the President may acting in accordance with the advice of the Judicial Council suspend the judge.

76. Appointment of other judicial officers shall vest, subject to the approval of the President, in the Chief Justice who shall exercise the power in accordance with the advice of the Judicial Council.

Judicial Council

77. There shall be a Judicial Council which shall comprise the following persons —

- (i) the Chief Justice;

- (ii) the Attorney-General
- (iii) the most senior Judge of the Supreme Court;
- (iv) the most senior Judge of the Court of Appeal;
- (v) the most senior Judge of the High Court;
- (vi) 2 representatives of the Bar Association one of whom shall be a lawyer of not less than ten years standing as a lawyer;
- (vii) a representative of the Association of Circuit Court Judges and Public Tribunals Panel Members.
- (viii) the Judge Advocate-General of the Ghana Armed Forces; and
- (ix) three other persons appointed by the President.

* Subject to which of the alternatives is adopted:

78. The Judicial Council may establish such Committees as it deems fit to which it shall refer matters relating to the Judiciary.

79. The Judicial Council shall have the following other functions —

- (a) propose for consideration of government, judicial reforms to improve the level of administration of justice and efficiency in the Judiciary;
- (b) be a forum for consideration and discussion of all matters relating to the discharge of the functions of the Judiciary and shall thereby assist the Chief Justice in the performance of his duties with a view to ensuring efficiency and effective realisation of justice; and
- (c) perform any other function conferred on it under this Constitution or any other enactment.

MISCELLANEOUS

80. The Supreme Court shall have exclusive jurisdiction to determine whether an official document shall not be produced in Court because its production will be prejudicial to the security of the State or is injurious to the public interest.

81. When any issue arises as to the production or otherwise of an official document in an action before any court other than the Supreme Court,

the proceedings in that action shall be suspended while the Supreme Court examines the document and determines whether the document should be produced or not; and the Supreme Court shall make the appropriate order which shall be final.

82. The proceedings of the Supreme Court as to whether an official document should be produced shall be held in camera.

83. There shall be a Rules of Court Committee which shall consist of the Chief Justice, the members of the Judicial Council and two practising lawyers of ten and five years standing respectively as lawyers.

84. The Rules of Court Committee shall make rules and regulations for regulating the practice and procedure of all courts in Ghana.

85. A person holding a judicial office shall be removed from office by the Chief Justice on grounds of stated misbehaviour, incompetence or infirmity of mind or body upon a resolution passed in that behalf and supported by the votes of not less than two-thirds of all the members of the Judicial Council.

86. A person holding office as a Judge or Chairman of a Public Tribunal may retire from office at any time after attaining the age of sixty years and shall retire from office on attaining the age of sixty-five years.

87. The appointment of other officers of the Court shall be made by the Chief Justice or such Justice or officer of the Court as the Chief Justice may in writing direct.

88. The Chief Justice acting in accordance with the advice of the Judicial Council and with the approval of the President may make regulations for the efficient performance of the function of the Judicial Service and the Judicial Council under this Chapter.

89. The fee, fines and other money paid to the courts shall form part of the Consolidated Fund.

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— APPENDIX I —

ADMINISTRATION OF LAND

1. EVERY mineral in its natural state in, under or upon any land in Ghana, rivers, streams, water courses throughout Ghana, the exclusive economic zone and any area covered by territorial waters or continental shelf is the property of the Republic of Ghana and shall be vested in the President in trust for, and on behalf of, the people of Ghana.

2. (1) All public lands in Ghana shall be vested in the President in trust for, and on behalf of, the people of Ghana.
For the purposes of this Article the expression public lands includes any land which, immediately before the coming into force of this Constitution, was vested in the Government of Ghana in trust for, and on behalf of, the people of Ghana for the public service of Ghana, and any other land acquired in the public interest for the purposes of the Government of Ghana, before, on or after that date.

3. Subject to the provisions of this Constitution, Parliament may by law provide for the establishment of such Commissions or bodies as it may determine which shall be responsible for the regulation and management of the natural resource concerned.

LANDS COMMISSION

4. There shall be established a Lands Commission which shall, in co-ordination with the relevant public agencies and governmental bodies, perform the following functions:-

- (a) on behalf of the Government, manage public lands and any lands vested in the Commission by any law or acquired by the Government;
- (b) advise the Government, local authorities and traditional authorities on the policy framework for the development of particular areas of the country to ensure that the development of individual pieces of land is co-ordinated with the relevant development plan for the area concerned; formulate and submit to Government recommendations on a national policy with respect to
- (c) land use and capability; advise on and assist in the execution of a comprehensive programme for the registration of title to land throughout Ghana;
- (d) perform such other functions as the Minister responsible for Lands and Natural Resources may assign to the Commission.

5. The Lands Commission shall have regional branches each of which shall be responsible for the performance of the above functions in respect of the region concerned.

6. (1) The Lands Commission shall consist of such members as the President shall appoint, but shall include:

- (a) a representative of the National House of Chiefs;
- (b) a representative of the Ghana Institution of Surveyors;
- (c) not less than 10 other members each of whom shall come from each region of Ghana.

(2) The regional branches of the Lands Commission shall consist of such members as the Minister responsible for Lands and Natural Resources may appoint, but shall include the person appointed from the region to serve on the Lands Commission under the foregoing clause 1(c).

STOOL LANDS

7. (1) All stool lands in Ghana shall vest in the appropriate stool in trust for, and on behalf of, the subjects of the stool.

(2) There shall be established the office of the Administrator of Stool Lands which shall be responsible

- (a) for the establishment of a stool land account for each stool into which shall be paid all rents, dues, royalties, revenues or other payments whether in the nature of income or capital from the stool lands;
- (b) for the collection of all such rents, dues, royalties, revenues or other payments whether in the nature of income or capital and to account for them to the stool concerned and other bodies and authorities specified in clause 9 of this Article;
- (c) for the disbursement of such revenues in accordance with the formula provided in clauses 4 and 5 of this Article.

8. There shall be no disposition or development of any stool land unless the Regional Branch of the Lands Commission has certified that such disposition or development is consistent with the development plan drawn up or approved by the Commission for the area concerned.

9. There shall be paid out of the stool lands account revenues accruing from the stool land in the following proportions:

- (a) 20% to the stool, through the traditional authority for the maintenance of the stool in keeping with its status;
- (b) 25% to the traditional authority;
- (c) 55% to the District Assembly; within whose area of authority the stool lands are situated.

10. For the purposes of this chapter the expression "stool" includes a "skin".

11. The Administrator of Stool Lands and the Regional branch of the Lands Commission shall consult with the stools and other traditional authorities in all matters relating to the administration and development of stool land and shall make available all relevant information and data to them.

12. The Lands Commission and the Administration of Stool Lands shall co-ordinate with all relevant public agencies and traditional authorities and stools in preparing a policy framework for the national and productive development and management of stool lands.

— APPENDIX J —

DECENTRALIZATION AND LOCAL GOVERNMENT

1. THERE shall be a system of local government and administration which shall be decentralised as far as practicable, and shall have the following basic features:

- (i) Appropriate measures shall be taken to ensure that functions, powers, responsibilities and resources are at all times transferred from the Central Government to local government units in a co-ordinated manner as a package.
- (ii) There shall be established for each local government unit a sound financial base with adequate and reliable sources of revenue.
- (iii) Appropriate measures shall be taken to enhance the capacity of local government authorities to plan, initiate, co-ordinate, manage and execute policies in respect of all matters affecting the people within their areas, with a view to ultimately achieving localisation of such activities.
- (iv) As far as practicable, persons in the service of local government should be subject to the effective control of local authorities.
- (v) To ensure the accountability of local government authorities, people in particular local areas shall, as far as practicable, be afforded the opportunity to participate effectively in their governance.

2. For the purposes of local government, Ghana shall be deemed to have been divided into the Districts which existed immediately before the coming into force of this Constitution.

3. Parliament may by law make provision for the redrawing of the boundaries of Districts or for reconstituting Districts.

4. The system of local government shall be based on a democratically elected District Assembly in each District.

5. A District Assembly shall be the highest political authority in the District, and shall have deliberative, legislative and executive powers.

6. A District Assembly shall consist of the following members:

- (a) one person from each electoral area within the District, directly elected by universal adult suffrage;
- (b) the chief representative of the Central Government in the District as ex-officio member; and
- (c) such other members as may be provided for by Law.

7. Any candidate seeking election to a District Assembly shall present himself to the electorate as an individual, and shall not use any symbols associated with any political party. No political party shall endorse, sponsor, offer a platform or in any way whatsoever campaign for a candidate seeking election to the District Assembly.

8. Subject to this Constitution, the qualifications for membership of a District Assembly, the procedures of a District Assembly and the sub-district structures that

may be created shall be provided for by law.

9. Parliament shall by law prescribe the functions of District Assemblies which shall include —

- (a) the formulation and execution of plans, programmes and strategies for the effective mobilisation of the resources necessary for the overall development of the District;
- (b) the levying and collection of taxes, rates, duties and fees;
- (c) the construction and maintenance of public works and facilities; and
- (d) the provision and maintenance of educational and health facilities.

10. There shall be a Chairman for every District Assembly who shall be elected from among the elected members of the Assembly by a majority of at least two-thirds of all the members of the Assembly.

11. There shall be established an Executive Committee of a District Assembly which shall perform the executive and administrative functions of the District Assembly.

12. The composition of the Executive Committee shall be provided by law, except that the Chairman of the Assembly shall preside over the meetings of the Executive Committee. The chief representative of the government in the District shall be an ex-officio member of the Executive Committee.

13. The Executive Committee may co-opt any person to attend any of its meetings, but a person co-opted shall not have a right to vote.

14. A District Assembly shall have such other committees as may be provided by law.

15. Subject to the provisions of this Constitution, Parliament shall make provision for allocation of public revenue to the District Assemblies.

16. There shall be a fund to be known as the District Assemblies Common Fund into which revenue from the following sources in every district shall be paid —

- (a) Entertainment Duty;
- (b) Casino Revenue;
- (c) Betting Tax;
- (d) Gambling Tax;
- (e) Income Tax on registration of trade, business, profession or vocation;
- (f) Advertisement Tax;
- (g) Daily Transport Tax;
- (h) any other source of revenue as may be determined by Parliament.

(2) The monies accruing to the District Assemblies in the Common Fund shall be shared among all the District Assemblies on the basis of equality, population and the developmental needs of each District.

17. (1) Not less than fifteen per cent of the net revenue accruing to the state from dues, rents, royalties or from the operations of any enterprise or undertaking of any person or body of persons operating within the area of authority of a District Assembly in respect of land and mineral resources shall be set aside by the State for the developmental needs of the District Assembly.

18. Nothing in this Constitution or any other law shall be considered as prohibiting the State or other bodies from making grants-in-aid to any District Assembly.

19. (1) There shall be established for each Region of Ghana, a Regional Co-ordinating Council.
(2) A Regional Co-ordinating Council shall have such membership as shall be prescribed by law, except that members representative of the Central government shall not outnumber representatives of the District Assemblies.
(3) The membership of a Regional Co-ordinating Council shall include two chiefs appointed by the Regional House of Chiefs.
(4) Subject to this Constitution, the functions of a Regional Co-ordinating Council shall be as prescribed by Parliament.

20. The Auditor-General shall audit annually the accounts of the District Assemblies and shall lay the report before Parliament.

21. Parliament shall enact such laws and take steps such as may be necessary for further decentralisation of administrative functions of the central government projects, but shall not exercise any control over the District Assemblies that is incompatible with their decentralised status, or otherwise contrary to law.

22. Any citizen resident in a District shall have the right to make a complaint to the Commission on Human Rights and Administrative Justice about the administrative actions of the District Assembly or of any of its members or officials.

23. (1) Subject to the procedure established by law, the mandate of an elected member of a District Assembly shall be revoked by the electorate if they lose confidence in such a member on any of the following grounds:

- (a) that he has abandoned the ideas and programmes for which he was elected;
- (b) that he has systematically neglected his duties; as a member of the District Assembly or
- (c) that he has committed acts incompatible with his office as member of the District Assembly.

24. (1) Not less than fifteen per cent of the net revenue accruing to the state from dues, rents, royalties or from the operations of any enterprise or undertaking of any person or body of persons operating within the area of authority of a District Assembly in respect of land and mineral resources shall be set aside by the State for the developmental needs of the District Assembly.

25. (1) Not less than fifteen per cent of the net revenue accruing to the state from dues, rents, royalties or from the operations of any enterprise or undertaking of any person or body of persons operating within the area of authority of a District Assembly in respect of land and mineral resources shall be set aside by the State for the developmental needs of the District Assembly.

26. (1) Not less than fifteen per cent of the net revenue accruing to the state from dues, rents, royalties or from the operations of any enterprise or undertaking of any person or body of persons operating within the area of authority of a District Assembly in respect of land and mineral resources shall be set aside by the State for the developmental needs of the District Assembly.

27. (1) Not less than fifteen per cent of the net revenue accruing to the state from dues, rents, royalties or from the operations of any enterprise or undertaking of any person or body of persons operating within the area of authority of a District Assembly in respect of land and mineral resources shall be set aside by the State for the developmental needs of the District Assembly.

28. (1) Not less than fifteen per cent of the net revenue accruing to the state from dues, rents, royalties or from the operations of any enterprise or undertaking of any person or body of persons operating within the area of authority of a District Assembly in respect of land and mineral resources shall be set aside by the State for the developmental needs of the District Assembly.

29. (1) Not less than fifteen per cent of the net revenue accruing to the state from dues, rents, royalties or from the operations of any enterprise or undertaking of any person or body of persons operating within the area of authority of a District Assembly in respect of land and mineral resources shall be set aside by the State for the developmental needs of the District Assembly.

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Appendix H (Contd)

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90. All judges shall take the judicial oath.

TO FORM PART OF TRANSITIONAL PROVISIONS PUBLIC TRIBUNALS

The Public Tribunals existing immediately before the coming into force of this Constitution are hereby integrated with the main courts system as follows:

1. The District/Community Tribunals are hereby merged with District Magistrate Grade I Courts. They shall be known as Public Tribunals and shall exercise the jurisdiction of District Magistrate Grade I Courts.

2. The following courts shall also be designated as Public Tribunals: Family Courts, Motor Courts, Juvenile Courts and District Tax Courts.

3. District Magistrate Grade II Courts are hereby abolished.

4. There shall be a merger of Regional Public Tribunals and Circuit Courts, to be known as Circuit Courts which shall exercise the jurisdiction of the Circuit Courts.

5. Public Tribunals established under this Constitution shall be constituted by a panel of three persons consisting of a chairman who shall be a lawyer of at least three years standing as a lawyer and two laymen.

6. National Public Tribunals and the Public Tribunals Board are hereby abolished.

7. Persons employed as Chairmen of District/Community Public Tribunals, Regional and National Public Tribunals who qualify for appointment as chairmen of the Public Tribunals established under this Constitution, Circuit Court Judges or High Court Judges, as the case may be, shall be so appointed on the recommendations of the Judicial Council.

8. Persons employed as District Magistrates Grade II who qualify for appointment as lay members of the panels of Public Tribunals shall be so appointed.

9. All other persons employed at the Public Tribunals who qualify for appointment into the Judicial Service shall be so appointed.

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— APPENDIX K —

CHIEFTAINCY

Contd from Page 7

1. THE Institution of chieftaincy together with its traditional councils as established by customary law and usage is hereby guaranteed.
Parliament shall have no power to enact any legislation —
(a) which confers on any person or authority the right to accord or withdraw recognition to or from a chief for any purpose whatsoever; or
(b) which in any way detracts or derogates from the honour and dignity of the institution of chieftaincy.
2. Nothing contained in or done under the authority of any law shall be held to be inconsistent with, or in contravention of, the above provisions if the law makes provision —
(a) for the determination, in accordance with the appropriate customary law and usage, by a traditional council, a Regional House of Chiefs or the National House of Chiefs or a chieftaincy tribunal thereof, of the validity of the nomination, election, installation or deposition of a person as a chief;
(b) for a traditional council or a Regional House of Chiefs or the National House of Chiefs to establish and operate a procedure for the registration of chiefs and the public notification in the Gazette or otherwise of the status of persons as chiefs in Ghana;
3. **National House of Chiefs**
(1) There shall be a National House of Chiefs.
(2) The House of Chiefs of each Region shall elect as members of the National House of Chiefs five paramount chiefs from the Region.
(3) Where in a Region there are less than five paramount chiefs, the House of Chiefs of the Region shall elect such number of divisional chiefs as shall make up the required representation of chiefs for the Region.
4. **Functions of the National House**

- of Chiefs
The House of Chiefs shall —
- (a) advise any person or authority charged with any responsibility under this Constitution or any other law for any matter relating to or affecting chieftaincy;
 - (b) undertake the progressive study, interpretation and codification of customary law with a view to evolving, in appropriate cases, a unified system of rules of customary law;
 - (c) undertake an evaluation of traditional customs and usages with a view to eliminating such customs and usages as are outmoded and socially harmful;
 - (d) assist in the clarification of issues and the resolution of disputes relating to land-ownership and land tenure in various traditional areas with a view to ensuring security of title to land in the country generally;
 - (e) perform such functions, not being inconsistent with any function assigned to the House of Chiefs of a Region, as Parliament may confer on it or otherwise refer to it.
5. **National Chieftaincy Tribunal**
(1) The National House of Chiefs shall have appellate jurisdiction in any matter relating to chieftaincy which has been determined by the Regional House of Chiefs in a Region, from which appellate jurisdiction there shall be an appeal with the leave of the Supreme Court or of the National House of Chiefs, to the Supreme Court.
(2) The appellate jurisdiction of the National House of Chiefs shall be exercised by a National Chieftaincy Tribunal consisting of five persons appointed by that House from among its members.
(3) The National Chieftaincy Tribunal shall be assisted by counsel of not less than seven years' standing as a lawyer appointed by the National House of Chiefs on the recommendations of the Attorney-General.
(4) A member of a National Chieftaincy

- Tribunal may be removed from office on the grounds of stated misbehaviour or of infirmity of mind or body by the votes of not less than two-thirds of all the members of the National House of Chiefs.
(5) A National Chieftaincy Tribunal established under this article shall have original jurisdiction in any matter relating to chieftaincy —
(a) which lies within the competence of two or more Regional Houses of Chiefs, or
(b) which is not properly within the jurisdiction of a Regional House of Chiefs, or
(c) which cannot otherwise be dealt with by a Regional House of Chiefs.
Appeal shall lie in respect of any matter dealt with by a National Chieftaincy Tribunal under clause (5) to the Supreme Court.
6. **REGIONAL HOUSE OF CHIEFS**
(1) There shall be established in and for each Region a Regional House of Chiefs.
(2) The Regional House of Chiefs shall —
(a) perform in and for the Region such other functions as may be conferred upon it by or under the authority of any Act of Parliament; advise any person or authority charged with a responsibility under this Constitution or any other law for any matter relating to or affecting chieftaincy in the Region;
(c) establish a regional chieftaincy tribunal or hear and determine appeals from the highest traditional council within the area of authority of the traditional authority within which the area established in respect of the nomination, election, installation or deposition of a person as a chief;
(d) have original jurisdiction in all matters relating to a paramount stool or the occupant of a paramount stool, including a queenmother to a paramount stool;
(e) assist in the clarification of issues

- and the resolution of disputes relating to land-ownership and land tenure in the Region with a view to ensuring security of title to land.
- (1) undertake a study and make such general recommendations as are appropriate for the resolution and expeditious disposition of chieftaincy disputes in the Region.
 - (3) The regional chieftaincy tribunal shall consist of three chiefs appointed by the Regional House of Chiefs from among its members.
 - (4) A regional chieftaincy tribunal shall be assisted by counsel of not less than five years' standing appointed by the Regional House of Chiefs on the recommendations of the Attorney-General.
 - (5) A member of the regional chieftaincy tribunal may be removed from office on the grounds of stated misbehaviour or infirmity of mind or body by the votes of not less than two-thirds of all the members of the Regional House of Chiefs.
7. **THE STATUS OF WOMEN AS TRADITIONAL LEADERS**
Women duly installed as chiefs or queenmothers shall be adequately represented on the statutory bodies created for chiefs, and shall be entitled to all the statutory prerequisites and facilities available to chiefs.
8. **DEFINITION OF CHIEF**
For the purpose of this Chapter, the expression 'chief' means a person (whether male or female) who, hailing from the appropriate family and lineage, has been validly nominated, elected, and entooled enskinned or installed as a chief or queenmother by his or her people in accordance with the requisite applicable customary law and usage; provided that no person shall be recognised as a Chief for the purpose of exercising any statutory functions if he or she has been convicted for treason or convicted for an offence involving the security of the State, fraud, dishonesty or moral turpitude.

— APPENDIX L —

ENFORCEMENT OF THE CONSTITUTION

THE PRESIDENT

1. THE President shall be the guarantor and defender of the Constitution by upholding it.
2. The President shall act within the powers allocated to him under the Constitution.
3. While not encroaching upon the powers of the Prime Minister, Ministers of State and other State functionaries, the President shall call attention of these State officials when they infringe the provisions of the Constitution.
4. The President shall use the authority of his high office, the Council of State and informal procedures to counsel against any threat to the constitutional order.
5. The President shall invoke the special presidential powers where there is a major crisis threatening the fundamental basis of the Constitutional order. Thereafter he shall exert all his presidential powers to restore normalcy.

The Council of State

It shall counsel the President, the Prime Minister, the Speaker, other high State officials about infringement or imminent infringement of the Constitution and the remedial action which should be taken.

The Judicial Committee of the Council of State

1. It shall initiate preventive action to forestall or diffuse violations of the constitution.
2. It shall have jurisdiction to and adjudicate on the Constitutionality of bills, proposed regulations or subsidiary legislation;
- (ii) determine the constitutionality of proposals; executive acts or measures;
- (iii) resolve constitutional disputes between organs of state with a view to preventing any major constitutional confrontation.

The Supreme Court

1. It shall be the main organ for the

judicial enforcement of the Constitution.
2. It shall have the jurisdiction to entertain all —
(i) cases relating to the enforcement and interpretation of the Constitution; and
(ii) interpretation of any provision of the Constitution and all questions relating to the constitutionality of any enactment or any act or omission by any person.
The foregoing jurisdiction of the Supreme Court may be invoked by any citizen of Ghana.

The High Court

1. The High Court shall have jurisdiction to enforce individual rights guaranteed under the Constitution.
2. In the exercise of this jurisdiction the High Court shall have power to issue orders and directives as are appropriate for the purpose of enforcing the right in question.

The Commission On Human Rights And Administrative Justice

1. The commission shall promote the observance of human rights.
2. It shall be the duty of the Commission to —
(a) investigate complaints concerning alleged or apparent instances of violations of fundamental rights and freedoms, abuse of power, corruption or conduct of any official of an organ of government which would properly be regarded as unlawful, oppressive or unfair in a democratic society; and
(b) the duty to investigate complaints about practices and actions by private institutions, enterprises and persons where the complainants allege that the fundamental rights and freedoms enshrined in the Constitution have been violated.
3. The Commission shall draw the attention of Parliament to legislation which has adverse impact on human rights.
4. The Commission shall also enter into communication with Government to avert violations of human rights, and where they persist the Commission shall have power to

publish the violation.
5. The Commission shall publish an annual report stating the Human Rights position in Ghana.

Commission On Human Rights And Administrative Justice

1. (1) There shall be established a Commission on Human Rights and Administrative Justice which shall consist of —
(a) a Commissioner for Human Rights and Administrative Justice; and
(b) two Deputy Commissioners for Human Rights and Administrative Justice.
- (2) An Act of Parliament enacted pursuant to clause 1 of this article shall provide for the creation for regional branches of the Commission
- (3) (a) A person shall not be qualified for appointment as a Commissioner for Human Rights and Administrative Justice, unless he or she is a person of high moral character and has practised as Counsel in a Court having unlimited jurisdiction in civil and criminal matters in Ghana or any other country having a system of law analogous to that of Ghana and approved by the Judicial Council, and has been entitled to practise as such counsel, with at least twelve years standing at the Bar.
(b) And in the case of a Deputy Commissioner, with at least ten years standing at the Bar.
For the purpose of sub-clause 3 of this article, a person shall be regarded as entitled to practise or as having practised if he has been called, enrolled or otherwise admitted as such and has not subsequently been disbarred or removed from the Role of Counsel on legal practitioners.
- (4) The Commissioner and Deputy Commissioners shall not hold any other public office or be a Member of Parliament; and they must not have attained the age of sixty-five years.
- (5) The Commissioner and Deputy Commissioners shall enjoy the terms and conditions of service, other than such

- terms and conditions as relate to awards, of a Justice of the Court of Appeal and High Court respectively.
4. Whenever the Commissioner dies, resigns or is removed from office or is for any other reason unable to perform the functions of his office, the President shall, acting in accordance with the advice of the Council of State, appoint a person qualified to be appointed Commissioner to perform those functions until the appointment of a new Commissioner.
 5. In the performance of his functions the Commissioner shall be subject only to this Constitution and shall not be subject to the direction and control of any other person or authority.
 6. The appointment of officers and other employees of the staff of the Commission shall be made by the Commissioner acting in consultation with the Public Service Commission.
 7. The administrative expenses of the Commissioner, including all salaries, allowances and pensions payable to, or respect of, persons serving with the Commission shall be a charge upon the Consolidated Fund.
 8. The procedure for the removal of the Commissioner and Deputy Commissioners shall be the same as that provided for the removal of Justice of the Supreme Court of Judicature under the provisions of the Constitution.
 9. For the purposes of performing functions under this Constitution and other law the Commissioner may be actions before any court in Ghana and seek any and all remedies which may be available for such court.
 10. Subject to the provisions of the Constitution and to an Act enacted by Parliament pursuant to the provisions of the Commission, the Commissioner shall make, by constitution instrument, Regulations regarding manner and procedure for bringing complaints before him and the investigation thereof.

(To be contd. tomorrow)

DRAFT CONSTITUTION — PROPOSALS

— APPENDIX L — (Continued)

ENFORCEMENT OF THE CONSTITUTION

Below is the final instalment of our series of reproductions of the "Report on proposals for a draft constitution of Ghana" which we started on Monday in the form of free supplementary editions.

FUNCTIONS

(1) THE functions of the Commissioner shall be defined and prescribed by an Act of Parliament and shall include the following:

- (a) the duty to investigate complaints concerning alleged or apparent instances of violations of fundamental rights and freedoms, abuse of power, unfair, harsh, insensitive or discourteous treatment of an inhabitant of Ghana by an official in the employ of any organ of Government (whether central or local), manifest injustice, or corruption or conduct by such official which would properly be regarded as unlawful, oppressive or unfair in a democratic society;
- (b) the duty to investigate complaints concerning the

functioning of the Public Service Commission, administrative organs of the State, the defence force, the police force and the prison service in so far as such complaints relate to the failure to achieve a balanced structuring of such services or equal access by all to the recruitment of such services or fair administration in relation to such services;

- (c) the duty to investigate complaints concerning practices and actions by persons, enterprises and other private institutions where such complaints allege that violations of fundamental rights and freedoms under this Constitution have taken place;
- (d) the duty and power to take appropriate action to call for the remedying, correction and reversal of instances specified in the preceding Sub-Articles through such means as are fair, proper and effective, including:
- (e) negotiation and compromise between the parties concerned;
- (f) causing the complaint and its finding thereon to be

- (g) reported to the superior of an offending person;
- (g) bringing proceedings in a competent Court for a remedy to secure the termination of the offending action or conduct, or the abandonment or alteration of the offending procedures;
- (h) bringing proceedings to interdict the enforcement of such legislation or regulation by challenging its validity if the offending action or conduct is sought to be justified by subordinate legislation or regulation which is grossly unreasonable or otherwise *ultra vires*;
- (i) the duty to investigate vigorously all instances of alleged or suspected corruption and the misappropriation of public monies by officials and to take appropriate steps, including reports to the Attorney-General and the Auditor-General, pursuant thereto;
- (j) the duty to report annually to the Parliament on the exercise of his or her powers and functions;
- (k) to educate the public as to human rights by such means as publications; lectures and symposia.

POWERS OF INVESTIGATION

The powers of the Commissioner shall be defined by Act of Parliament and shall include the power:

- (a) to issue subpoenas requiring the attendance of any person before the Commissioner and the production of any document or record relevant to any investigation by the Commissioner;
- (b) to cause any person contemptuous of any such subpoena to be prosecuted before a competent Court;
- (c) to question any person;
- (d) to require any person to co-operate with the Commissioner and to disclose truthfully and frankly any information within his or her knowledge relevant to any investigation of the Commissioner.

The Commissioner shall not investigate —

- (i) a matter which is sub-judice before a Court or judicial tribunal; or
- (ii) a matter involving the relations or dealings between the Government or an international organisation; or
- (iii) a matter relating to the exercise of the prerogative of mercy.

— APPENDIX M —

ECONOMIC AND FINANCIAL ORDER

PART 1

GENERAL OBJECTIVES

1. (1) THE economic order of Ghana shall seek to develop a dynamic and diversified economy that is responsive to the changing domestic and international economic environment.

(2) The State shall endeavour to avoid the imposition of administrative controls in the management of the economy such as the administrative determination of the exchange rate of the currency of Ghana, allocation of import licence and the setting of ceiling prices.

(3) Government shall ensure that macro-economic policies from year to year are managed so as to increase the economy's adaptability to external shocks.

(4) For the purposes of clause (3), Parliament may pass laws requiring the establishment of a stabilization reserve fund.

(5) In the management of key sectors of the economy measures shall be taken to provide for consultation with key actors in the

economy.

(6) Any advisory board set up for any Ministry shall include representatives from private and public sector agencies whose operations relate to the Ministry concerned.

(7) The State shall pursue prudent, fiscal and monetary policies.

(8) Development budgets of all public institutions including Ministries shall be based on programmes and activities taking into consideration the long-term development objective of Ghana and the development of their respective areas of jurisdiction.

(9) District Assemblies shall maintain fiscal discipline.

(2) Workers shall be paid a fair wage as an incentive for increased production and productivity.

3. (1) State policy shall create in Ghana an environment that is conducive to the development and deployment of individual initiative and creativity in economic activities.

(2) For the achievement of the objectives stated in clause (1) of this article —

- (a) the State shall encourage the

development and participation of the private sector of the economy and in particular, the development, consolidation and participation of small scale enterprises;

- (b) public sector companies and joint ventures, other than those in utilities, shall not enjoy any special privileges or exemptions to the exclusion of the private sector.

4. (1) Economic and financial management by all Ministries and public institutions shall be based on the principles of efficient and effective utilisation of resources.

(2) All spending ministries, public corporations and parastatal organisations including state-owned financial institutions and banks shall operate in such a manner as to maintain fiscal, financial and monetary discipline.

(3) For the purposes of clause (2) of this article, all institutions referred to in that clause shall endeavour to operate within their budgetary and resource constraints.

- (4) An institution referred to in

clause (2) of this article shall not over-run its budget without prior approval by Parliament.

(5) Public corporations set up as commercial ventures shall —

- (a) operate in such a manner that it is at all times commercially viable;
- (b) pay all appropriate taxes and shall not be exempted from any such tax from which other enterprises operating in similar circumstances are not exempted;
- (c) pay dividends to Government out of its profits;
- (d) make adequate provision for its future growth.

5. The Bank of Ghana and the Statistical Service Board shall, in respect of each quarter, and not later than two months after the end of the quarter, publish and make available to Parliament, the Government and the public key indicators on the performance of the economy of Ghana.

Contd on Page 2

— APPENDIX M — (Continued)

Economic And Financial Order

Contd. from Page 1

PART II

NATIONAL ECONOMIC DEVELOPMENT COMMISSION

6. (1) There shall be a National Economic Development Commission.
- (2) The Commission should consist of —
 - (a) the Prime Minister, who shall be Chairman;
 - (b) the Minister responsible for Finance;
 - (c) the Minister responsible for Education;
 - (d) the Governor of the Bank of Ghana;
 - (e) one representative from each region of Ghana elected by the Regional Coordinating Council;
 - (f) one representative each of identified private sector trade and industrial organisations;
 - (g) one representative of the Trades Union Congress;
 - (h) a representative each of the minority parties in Parliament;
 - (i) such other persons as may be appointed by the President on the recommendation of the Prime Minister having regard to their knowledge and experience of the relevant areas of economic or social planning and the need for gender balance.
7. The commission shall be responsible for —
 - (a) the strategic analysis of macro-economic and structural reform options and the development of multi-year rolling plans taking into consideration the resource potential and comparative advantage of the different districts of Ghana; and
 - (b) the monitoring, evaluation and co-ordination of development policies, programmes and projects.
8. (1) The Commission shall have a Secretariat which shall have professionals with the necessary expertise in the various aspects of economic development including social and physical planning.
 - (2) The Secretariat of the Commission shall be headed by an Executive Director appointed by the President on the advice of the Prime Minister on the basis of his professional expertise in economic and development issues.
9. The Commission shall be under the Prime Minister.
10. The President shall have the right to address the commission from time to time.

PART III

FINANCE

GENERAL

11. (1) Taxation shall not be imposed except by or under the authority of an Act of Parliament.
 - (2) Where an Act, enacted under clause (1) of this article, confers power on any person or authority to waive or vary a tax imposed by that Act, the exercise of the power of waiver or variation, in favour of any person or authority, shall be subject to the prior approval of Parliament by resolution.
 - (3) Parliament may by resolution, supported by the votes of not less than two thirds of all members of Parliament exempt the exercise of any power from the provisions of clause (2) of this article.
12. (1) There shall be a Consolidated Fund into which shall be paid, subject to the provisions of this article —
 - (a) all revenue or other moneys raised or received for the purposes of, or on behalf of, the Government; and
 - (b) any other moneys raised or received in trust for, or on behalf of, the Government.
- (2) The revenues or other moneys referred to in clause (1) of this article shall not include revenues or other moneys —
 - (a) that are payable by or under an Act of Parliament into some other fund established for a specific purpose; or
 - (b) that may, by or under an Act of Parliament, be retained by the department of Government that received them for the purposes of defraying the expenses of that department.
13. (1) Moneys shall not be withdrawn from the Consolidated Fund except —
 - (a) to meet expenditure that is charged on that Fund by this Constitution or by an Act of Parliament; or
 - (b) where the issue of the moneys has been authorised —
 - (i) by an Appropriation Act; or
 - (ii) by a supplementary estimate approved by a resolution of Parliament passed for the purpose; or
 - (iii) by an Act of Parliament enacted under article 15 of this Chapter; or
 - (iv) by rules or regulations made under an Act of Parliament in respect of trust moneys paid into the Consolidated Fund.

~~(2) A public fund other than the Consolidated Fund and the Contingency Fund shall not be established except by or under the authority of an Act of Parliament.~~

- (3) Moneys shall not be withdrawn from a public fund other than the Consolidated Fund and the Contingency Fund unless authorised by or under an Act of Parliament.
14. (1) The Prime Minister shall cause to be prepared and laid before Parliament at least one month before the end of each financial year, estimates of the revenues and expenditure of the Government of Ghana for the next following financial year.
 - (2) For the purposes of clause (1) of this article, the estimates of expenditure of all public offices and also those of public corporations, other than those set up as commercial ventures, shall be classified under programmes or activities which shall be included in a bill to be known as an Appropriation Bill.
 - (3) The Appropriation Bill shall be introduced into Parliament to provide for the issue from the Consolidated Fund or other appropriate fund of sums of money necessary to meet the expenditure referred to in clause (2) of this article and the appropriation of those funds for the purposes specified in that bill.
 - (4) The Chief Justice shall, in consultation with the Judicial Council, cause to be submitted to the Prime Minister at least two months before the end of each financial year, and thereafter as and when the need arises —
 - (a) the estimates of administrative expenses of the Judiciary charged on the Consolidated Fund under article () of this Constitution (i.e. article which charges administrative expenses including judges' salaries on the Consolidated Fund); and
 - (b) estimates of development expenditure of the Judiciary.
 - (5) The Prime Minister shall, at the time specified in clause (1) of this article, or thereafter, as and when submitted to him under clause (4) of this article, cause the estimates referred to in clause (4) of this article to be laid before Parliament.
 - (6) The estimates shall be laid before Parliament under clause (5) by the Prime Minister without revision but with any recommendations that the Government may have on them.
 - (7) In the case of the development expenditure of the Judiciary, the Prime Minister shall seek the approval of Parliament for it; and if approved by Parliament by resolution, it shall be a charge on the Consolidated Fund.
 - (8) The Prime Minister shall cause to be laid before Parliament for its information, all payments charged on the Consolidated Fund.
 - (9) Where in respect of a financial year, it is found that the amount of moneys appropriated by the

- Appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no money has been appropriated by that Act, a supplementary estimate showing the sum of money required shall be laid before Parliament for its approval.
- (10) Where, in respect of a financial year, a supplementary estimate has been approved by Parliament in accordance with clause (9) of this article, a Supplementary Appropriation Bill shall be introduced into Parliament in the financial year next following the financial year to which the estimate relates, providing for the appropriation of the sums so approved for the purposes specified in that estimate.
- (11) Notwithstanding the other provisions of this article, the Prime Minister may —
 - (a) cause to be presented to Parliament programmes and plans such as referred to in article of this Constitution (requiring Government to present to Parliament a planned and co-ordinated programme of economic and social development) covering periods exceeding one year;
 - (b) cause to be prepared and laid before Parliament estimates of revenue and expenditure covering period exceeding one year.
15. Where it appears to the Prime Minister that the Appropriation Act in respect of any financial year will not come into operation by the beginning of that year, he may, with the prior approval of Parliament signified by a resolution, authorise the withdrawal of moneys from the Consolidated Fund for the purpose of meeting expenditure necessary to carry on services of the Government in respect of the period expiring 12 months from the beginning of financial year or on the coming into operation of the Act whichever is earlier.
16. (1) There shall be a Contingency Fund into which shall be paid moneys voted for that purpose by Parliament and from advances may be authorised the committee responsible for financial measures in Parliament appointed under article of this Constitution, whenever committee is satisfied that has arisen an urgent or unforeseen need for expenditure for no other provision exists to that need.
 - (2) Where an advance is from the Contingency Fund supplementary estimate shall be presented as soon as possible to Parliament for the purpose of laying the amount so advanced

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— APPENDIX M — (Continued)

Economic And Financial Order

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(3) Whenever in the estimates prepared under clauses (1) and (9) of article 14 of this Constitution provision is made for an item or vote other than for the Contingency Fund, not relating to a specific item of expenditure, any moneys voted by Parliament in respect of that item or vote shall be under the control and supervision of a committee which shall consist of the Prime Minister, the Speaker and the Chairman of the Council of State.

17. (1) Parliament may, by a resolution supported by the votes of a majority of all the members of Parliament, authorise the Government to enter into an agreement for the granting of a loan out of any public fund or public account.

(2) An agreement entered into under clause (1) of this article shall be laid before (b) cause to be prepared and laid before Parliament and shall not come into operation unless it has been approved by a resolution of Parliament.

(3) A loan shall not be raised by the Government on behalf of itself or any other public institution or authority except authorised by or under an Act of Parliament.

(4) An Act of Parliament enacted in accordance with clause (3) of this article shall provide —

(a) that the terms and conditions of a loan shall be laid before Parliament and shall not come into operation unless they have been approved by a resolution of Parliament; and

(b) that any moneys received in respect of that loan shall be paid into the Consolidated Fund and form part of that fund or into some other public fund either existing or created for the purpose of the loan.

(5) This article shall, with the necessary modifications, apply to an international business or economic transaction to which the Government is a party as it applies to a loan.

(6) For the purposes of this article, the expression "loan" includes any money lent or given to or by the Government on condition of return or repayment and any other form of borrowing or lending in respect of which —

- (a) moneys from the Consolidated Fund or any other public fund may be used for payment or repayment;
 - (b) moneys from any fund by whatever name called established for the purposes of payment or repayment whether in whole or in part and whether directly or indirectly may be used for payment or repayment.
- (7) The Minister responsible for

Finance shall, at such times as Parliament may determine, present to Parliament any information concerning any discrepancies relating to —

- (a) the granting of loans, their repayment and servicing;
- (b) the payment of proceeds into the Consolidated Fund or special fund in respect of loans, raised on institutions outside Ghana.

18. (1) The public debt of Ghana is charged on the Consolidated Fund and other public funds of Ghana.

(2) For the purposes of this article, the public debt includes interest on that debt, sinking fund payments and redemption moneys in respect of that debt and the costs, charges and expenses incidental to the management of that debt.

19. (1) The Bank of Ghana shall be the central bank of Ghana and shall be the only authority to issue the currency of Ghana.

(2) The Bank of Ghana shall —

(a) promote and maintain the stability of the value of the currency of Ghana and direct and regulate the currency system in the interest of the economic progress of Ghana;

(b) be the sole custodian of State funds of Ghana both in and outside Ghana and may, by notice published in the Gazette, authorise any other person or authority to act as a custodian of any such fund as may be specified in the notice;

(c) encourage and promote economic development in, and the efficient utilisation of, the resources of Ghana through effective and efficient operation of a banking and credit system in Ghana; and

(d) do all other things not inconsistent with this article as may be prescribed by law.

(3) The Governor of the Bank of Ghana may, for the purposes of this article, disallow any transaction or transfer of any foreign exchange whether in Ghana or outside Ghana which is contrary to law.

(4) The following shall apply to the Governor of the Bank of Ghana —

- (a) he shall be appointed by the President acting in consultation with the Council of State for a period of five years which shall be renewable for periods of five years each;
- (b) his emoluments shall not be reduced while he continues to hold office as Governor;
- (c) he shall not be removed from office except on like grounds and in the like manner as a Justice of the Superior Court of Judicature, other than the

Chief Justice, may be removed.

20. (1) The committee of Parliament responsible for financial matters shall monitor the foreign exchange receipts and payments or transfers of the Bank of Ghana in and outside Ghana and shall report to Parliament once in every six months.

(2) The Bank of Ghana shall, not later than three months —

(a) after the end of the first six months of its financial year; and

(b) after the end of its financial year, submit to the Auditor-General for audit a statement of its foreign exchange receipts and payments or transfers in and outside Ghana.

(3) The Auditor-General shall, not later than three months after the submission of the statement referred to in clause (2) of this article, submit his report to Parliament on the statement.

(4) Parliament shall debate the report of the Auditor-General and appoint where necessary in the public interest, a committee to deal with any matters arising from the report.

THE STATISTICAL SERVICE

21. (1) There shall be a Statistical Service which shall form part of the public services of Ghana.

(2) The head of the Statistical Service shall be the Government Statistician.

(3) The Government Statistician shall be appointed by the President in consultation with the Statistical Service Board.

22. (1) There shall be a Statistical Service Board which shall consist of —

(a) a chairman and not more than five other members all of whom shall be appointed by the President having regard to their expert knowledge, in consultation with the Council of State; and

(b) the Government Statistician who shall be an ex-officio member of the Board.

(2) The Government Statistician, under the supervision of the Statistical Service Board, shall be responsible for the collection, compilation, analysis and publication of socio-economic data on Ghana and shall perform such other functions as may be prescribed by or under an Act of Parliament.

(3) The Statistical Service Board may prescribe the manner in which data may be compiled and kept by any person or authority in Ghana.

THE AUDITOR-GENERAL

23. (1) There shall be an Auditor-General of Ghana whose office shall be a public office.

(2) The public accounts of Ghana and of all public offices, including the Courts, the central and local government administrations, of the Universities and public institutions of like nature, of any public corporation or other body or organisation established by an Act of Parliament shall be audited and reported on by the Auditor-General.

(3) For the purposes of clause (2) of this article, the Auditor-General or any person authorised or appointed for the purpose by the Auditor-General, shall have access to all books, records, returns and other documents relating or relevant to those accounts.

(4) The public accounts of Ghana and of all other persons or authorities referred to in clause (2) of this article shall be kept in such form as the Auditor-General shall approve.

(5) The Auditor-General shall, within six months after the end of the immediately preceding financial year, to which each of the accounts mentioned in clause (2) of this article relates, submit his report to Parliament and shall, in that report, draw attention to irregularities in the accounts audited and to any other matter which in his opinion ought to be brought to the notice of Parliament.

(6) Parliament shall debate the report of the Auditor-General and appoint where necessary in the public interest, a committee to deal with any matters arising from the report.

(7) In the performance of his functions under this Constitution or any other law, the Auditor-General —

(a) shall not be subject to the direction or control of any other person or authority;

(b) shall have power to disallow any item of expenditure which is contrary to law and to surcharge —

(i) the amount of any expenditure disallowed upon the person responsible for incurring or authorising that expenditure; or

(ii) any sum which has not been duly brought into account upon the person by whom the sum ought to have been brought into account; or

(iii) the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred.

(8) The provisions of paragraph (a) of clause (7) of this article shall not preclude the President, acting in consultation with the Council of State, from requesting the Auditor-General in the public inter-

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— APPENDIX O —

CITIZENSHIP

1. (1) EVERY person who, on the coming into force of this Constitution, is a citizen of Ghana by law shall continue to be a citizen of Ghana.

(2) Subject to the provisions of this Chapter, a person born in Ghana after the coming into force of this Constitution shall become a citizen of Ghana at the date of his birth if either of his parents or grandparents is or was a citizen of Ghana.

(3) Subject to the provisions of this Chapter, a person born outside Ghana after the coming into force of this Constitution shall become a citizen of Ghana at the date of his birth if either of his parents is or was a citizen of Ghana.

(4) A child of not more than seven years of age found in Ghana whose parents are not known shall be presumed to be a citizen of Ghana by birth.

(5) A child of not more than sixteen years of age neither of whose parents is a citizen of Ghana who is adopted by a citizen of Ghana shall, by virtue of

the adoption, be a citizen of Ghana.

2. (1) A woman who, on the coming into force of this Constitution, is or has been married to a person —

(a) who is or becomes a citizen of Ghana by virtue of clause (1) of article 1 of this Chapter; or

(b) who, would have become a citizen of Ghana by the operation of that clause but for his death before the coming into force of this Constitution, may, upon making an application in the manner prescribed by Parliament, be registered as a citizen of Ghana.

(2) A woman who is married to a person who subsequently becomes a citizen of Ghana may, upon making an application in the manner prescribed by Parliament, be registered as a citizen of Ghana.

(3) A woman who, after the coming into force of this Constitution, marries a citizen of Ghana may, upon making an application in the manner prescribed by Parliament, be registered as a citizen

of Ghana.

(4) Where the marriage of any woman is annulled after the woman has been registered as a citizen of Ghana by virtue of the marriage, she shall, unless she renounces the citizenship, continue to be a citizen of Ghana.

(5) Any child of a marriage to which clause (4) of this article applies shall continue to be a citizen of Ghana unless he renounces that citizenship.

(6) A man who, on or after the coming into force of this Constitution, is married to, or marries, a woman who is a citizen of Ghana may, upon making an application in the manner, prescribed by Parliament, be registered as a citizen of Ghana.

(7) Where upon an application for registration it appears to the authority responsible for such registration that a marriage has been entered into primarily with a view to obtaining such a registration, the authority may request the applicant to satisfy him that the marriage was entered into in good faith and the authority may only effect the registration upon being so satisfied.

(8) Clause (6) of this article shall apply only where the applicant is permanently resident in Ghana.

3. (1) Subject to this article, a citizen of Ghana shall cease forthwith to be a citizen of Ghana if as a person of majority age, he by a voluntary act, other than marriage, acquires or retains the citizenship of a country other than Ghana.

(2) A person who becomes a citizen of Ghana by registration and is immediately after the day on which he becomes a citizen of Ghana is also a citizen of some other country shall cease to be a citizen of Ghana unless he has renounced his citizenship of that other country, taken the oath of allegiance and made and registered such declaration of his intentions concerning residence as may be prescribed by law, or unless he has obtained an extension of time for taking those steps and the extended period has not expired.

(3) A Ghanaian citizen who loses his Ghanaian citizenship as a result of the acquisition or possession of the citizenship of a country other than Ghana shall, on the renunciation of his citizenship of that other country become a citizen of Ghana.

(4) Where the law of a country, other than Ghana, requires a person who marries a citizen of that country to renounce the citizenship of his own country by virtue of that marriage, a citizen of Ghana who is deprived of his citizenship of Ghana by virtue of that marriage shall, on the dissolution of that marriage if he thus loses his citizenship acquired by that marriage,

become a citizen of Ghana.

4. (1) Parliament may make provision for the acquisition of citizenship of Ghana by persons who are not eligible or who are no longer eligible to become citizens of Ghana under the provisions of this Chapter.

(2) Except as otherwise provided in this article, no person shall be registered as a citizen of Ghana unless at the time of his application for registration he is able to speak and understand an indigenous language of Ghana.

(3) The High Court may, on an application made for that purpose by the Attorney-General, deprive a person who is a citizen of Ghana, otherwise than by birth, of that citizenship on the ground —

(a) that the activities of that person are inimical to the security of the State or prejudicial to public morality or the public interest; or

(b) that the citizenship was acquired by fraud, misrepresentation or any other improper or irregular practice.

(4) There shall be published in the Gazette by the appropriate authority and within three months after the application or the registration as the case may be, the name, particulars and other details of a person who, under this article applies to be registered as a citizen of Ghana or has been registered as a citizen of Ghana.

(5) Parliament may make provision for the renunciation by any person of his citizenship of Ghana.

5. (1) A reference in this Chapter to the national status of the parent of a person at the time of the birth of that person shall, in relation to a person born after the death of the parent, be construed as a reference to the national status of the parent at the time of the parent's death.

(2) For the purposes of clause (1) of this article, where the death occurred before the coming into force of this Constitution, the national status that the parent would have had if he or she had died on the coming into force of this Constitution shall be deemed to be his or her national status at the time of his or her death.



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est to audit, at any particular time, the accounts of anybody or organisation referred to in clause (2) of this article.

(9) A person aggrieved by a disallowance or surcharge made by the Auditor-General may appeal to the High Court.

(10) The Rules of Court Committee may, by constitutional instrument, make Rules of Court for the purposes of clause (9) of this article.

(11) The salary and allowances payable to the Auditor-General shall be a charge on the Consolidated Fund.

(12) The salary and allowances payable to the Auditor-General, his rights in respect of leave of absence, retiring award or retiring age shall not be varied to his disadvantage during his tenure of office.

(13) The provisions of article . . . (tenure of office of Superior Court Justices) of this Constitution relating to the removal of a Justice of the Superior Court of Judicature from office shall apply to the Auditor-General.

(14) The administrative expenses of the office of the Auditor-General including all salaries, allowances, gratuities and pensions payable to or in respect of persons serving in the Audit Service shall be a charge on the Consolidated Fund.

(15) The accounts of the office of the Auditor-General shall be audited and reported upon by an auditor appointed by Parlia-

ment.

THE AUDIT SERVICE

24. There shall be an Audit Service which shall form part of the Public Services of Ghana.

25. (1) There shall be an Audit Service Board which shall consist of a chairman and four other members all of whom shall be appointed by the President, acting in consultation with the Council of State, the Auditor-General and the Head of the Civil Service or his representative who shall be ex-officio members of the Audit Board.

(2) The appointment of officers and other employees in the Audit Service, other than the Auditor-General, shall be made by the Audit Service Board, acting in consultation with the Public Services Commission.

(3) The Audit Service Board shall, acting in consultation with the Public Services Commission, and with the prior approval of the Council of State, make regulations by constitutional instrument, prescribing the terms and conditions of service of officers and other employees in the Audit Service and generally for the effective and efficient administration of the Audit Service.

(4) A member of the Audit Service Board, other than an ex-officio member, may be removed from office by the President, acting in consultation with the Council of State, for inability to perform the functions of his office arising from infirmity of mind or body or for any other sufficient cause.