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UNCLASSIFIED

(Classification)

GHANA

DEPARTMENT OF STATE  
EXECUTIVE SECRETARIAT  
TRANSMITTAL FORM

S/S 8632016

Date October 21, 1986

For: VADM John M. Poindexter  
National Security Council  
The White House

Reference:

To: President Reagan From: Mr Joe Apea  
Date: September 19, 1986 Subject: Write regarding crimes  
against the people of Ghana perpetrated by Rawlings government  
Referral Dated: October 15, 1986 ID# 427567  
(if any)

       The attached item was sent directly to the  
Department of State

Action Taken:

- X   A draft reply is attached.  
       A draft reply will be forwarded.  
       A translation is attached.  
       An information copy of a direct reply is attached.  
       We believe no response is necessary for the reason  
cited below.  
       The Department of State has no objection to the  
proposed travel.  
       Other.

Remarks:

*Nicholas A. Platt*  
Nicholas Platt  
Executive Secretary

UNCLASSIFIED

(Classification)

SUGGESTED REPLY

Dear Mr. Apea:

Your letter of September 19, 1986 to President Reagan has been referred to me for reply. I would like to thank you, on behalf of the President, for sharing your views on the human rights situation in Ghana.

The United States is anxious to foster respect for human rights throughout the world, and we have frequently expressed our concerns about human rights issues to the Ghanaian government through our Ambassador in Accra and in discussions with Ghanaian officials here in Washington. We have also informed the Government of Ghana, through these same channels, of our view that a return to representative forms of government would be most desirable.

We believe that the United States can best further respect for human rights in Ghana through maintaining businesslike relations with the Ghanaian government. The United States also provides a modest amount of food aid and development assistance to Ghana in order to help the Ghanaian people to improve their standard of living.

Let me assure you that your interest in human rights issues in

Ghana is understood and appreciated.

Sincerely,

Mr. Joe Apea

President

Ghana Citizens Organizatin of U.S.A. and Canada

P.O. Box 781

Park Forest, Illinois

3632016

T H E   W H I T E   H O U S E   O F F I C E

REFERRAL

OCTOBER 15, 1986

TO: DEPARTMENT OF STATE

ACTION REQUESTED:

DRAFT REPLY FOR SIGNATURE OF:  
WHITE HOUSE STAFF MEMBER

DESCRIPTION OF INCOMING:

ID: 427567

MEDIA: LETTER, DATED SEPTEMBER 19, 1986

TO: PRESIDENT REAGAN

FROM: MR. JOE APEA  
PRESIDENT  
GHANA CITIZENS ORGANIZATION OF  
U.S.A. AND CANADA  
POST OFFICE BOX 781  
PARK FOREST IL 60466

SUBJECT: WRITES REGARDING ATROCIOUS & HIDEOUS CRIMES  
BEING PERPETRATED AGAINST THE PEOPLE OF GHANA  
BY THE RAWLINGS GOVERNMENT & DEMANDS THE  
RELEASE OF GHANA TO THE GHANAIAIAN PEOPLE

PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN  
TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, PLEASE TELEPHONE THE  
UNDERSIGNED AT 456-7486.

RETURN CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE  
(OR DRAFT) TO:  
AGENCY LIAISON, ROOM 91, THE WHITE HOUSE, 20500

SALLY KELLEY  
DIRECTOR OF AGENCY LIAISON  
PRESIDENTIAL CORRESPONDENCE

THE WHITE HOUSE  
CORRESPONDENCE TRACKING WORKSHEET

36603

INCOMING

DATE RECEIVED: SEPTEMBER 23, 1986

NAME OF CORRESPONDENT: MR. JOE APEA

3632016

SUBJECT: WRITES REGARDING ATROCIOUS & HIDEOUS CRIMES  
BEING PERPETRATED AGAINST THE PEOPLE OF GHANA  
BY THE RAWLINGS GOVERNMENT & DEMANDS THE  
RELEASE OF GHANA TO THE GHANAIAIAN PEOPLE

ROUTE TO:		ACTION		DISPOSITION	
OFFICE/AGENCY	(STAFF NAME)	ACT CODE	DATE YY/MM/DD	TYPE RESP	C COMPLETED D YY/MM/DD
MINAS KOJELIS		ORG	86/09/23	NAN	96/09/24
PL MAX	REFERRAL NOT				
99005	REFERRAL NOT		86/05/25		
	REFERRAL NOT		86/10/14		
	REFERRAL NOT				
	REFERRAL NOT				
	REFERRAL NOT				

COMMENTS:

ADDITIONAL CORRESPONDENTS: MEDIA:L INDIVIDUAL CODES:

PL MAIL USER CODES: (A) (B) (C)

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*ACTION CODES:          *DISPOSITION          *OUTGOING          *
*                        *                        *CORRESPONDENCE:   *
*A-APPROPRIATE ACTION  *A-ANSWERED          *TYPE RESP=INITIALS *
*C-COMMENT/RECOM       *B-NON-SPEC-REFERRAL *OF SIGNER         *
*D-DRAFT RESPONSE      *C-COMPLETED        *CODE = A          *
*F-FURNISH FACT SHEET  *S-SUSPENDED        *COMPLETED = DATE OF *
*I-INFO COPY/NO ACT NEC*                        *OUTGOING          *
*R-DIRECT REPLY W/COPY *                        *                   *
*S-FOR-SIGNATURE       *                        *                   *
*X-INTERIM REPLY       *                        *                   *
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REFER QUESTIONS AND ROUTING UPDATES TO CENTRAL REFERENCE  
(ROOM 75, OEOB) EXT-2590  
KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING  
LETTER AT ALL TIMES AND SEND COMPLETED RECORD TO RECORDS  
MANAGEMENT.

5  
GHANA CITIZENS ORGANIZATION OF U.S.A. & CANADA

*Likojelis*  
Post Office Box 781 Park Forest, Illinois 60466 U.S.A.

427567

September 19, 1986

3632016

Ronald Reagan  
President of The United States  
1600 Pennsylvania Avenue NW  
Washington, D.C. 20500

Dear Sir:

In the past five years we have attempted through the media and other ways to point out the atrocious and hideous crimes being perpetrated against the people of Ghana by the Rawlings government. We have written to many Human Rights Organizations, the Secretary of United Nations, Honorable Perez De Quellar, many heads of States, and to the U.S. Commission on Human Rights about the wanton violations of individual rights by the regime. The regime continues to suppress, without any justifications, every aspect of human dignity.

The pleas and efforts we have made, however, have not produced any positive or effective responses from the world leadership to arrest the situation; in fact, some new reports have given credit to the regime on its economic recovery program as if that is enough to compensate for the human misery.

Sir, we deem the South African problem as very explosive, but equally as dangerous to peace loving societies of the West are the situations in Ghana, and other parts of Africa. The situation in Ghana must be looked at as a threat to destabilize the Region.

In Ghana today, the abhorring facts of killings, abductions without traces and detentions without trial continues unabated. Amnesty International has documented the horrible crimes of the Rawlings government since they overthrew the legitimately elected government of the people.

As recently as July, 1986, the regime has executed a total of about 22 people on the pretext that they were trying to destabilize the so-called "Peoples Revolution". To top this off, the government has just arrested Mr. Victor Owusu, a former presidential candidate for the PFP party in 1979, and the leader of the opposition party. Mr. Owusu whose political life spans over 30 years, has been a political force with a large following. He has vehemently and consistently denounced the Rawling government and its illegal activities.

The alleged charges are the usual trumped up accusations of attempting to destabilize the government. This has been the systematic practice of this regime to silence and suppress all political dissent.



WE STAND FOR DEMOCRACY IN GHANA

Even though he has been released, he is being subjected to continuous harassment. If past experience is our guide, we believe that Mr. Victor Owusu's life is in danger; for politicians previously subjected to this type of harassment, by the Rawlings regime, had ended up missing or dead.

In our view, this system breeds political anarchy and dictatorship in Ghana. Since the government has admittedly agreed to the failure of its economic program attempts will be made to suppress any public reaction at any human cost.

We want to express our strongest disapproval of this practice and therefore, call on the world leadership, organizations and peace loving societies to condemn the Rawlings regime. Above all we demand the immediate release of Ghana to the Ghanaian people who have the right of choice to select their form of government.

We are enclosing a document exposing the Human Rights violations by the Rawlings regime.

Sincerely



Joe Apea,  
President

Enclosures



## HUMAN RIGHTS VIOLATIONS IN GHANA SINCE THE MILITARY TAKE-OVER OF DECEMBER 31st,1981

In the preamble of the Charter of the United Nations, the peoples of the world affirm their faith in fundamental rights, in the dignity and worth of the human person, and in the equal rights of men and women and of nations large and small; and state clearly their determination to promote better standards of life in the larger freedom. Article 55 of the Charter gives the United Nations the responsibility for promoting respect for and observance of human rights and freedoms for all without distinction to race, sex, language or religion. In Article 56, all U.N. members pledge that they will take action to achieve that objective. Ghana is a member of the U.N.

The preamble to the Third ACP-EEC Convention contains a reaffirmation of the signatories' adherence to the principles of the United Nations Charter and their faith in fundamental human rights, in the dignity and worth of the human person. There is also a separate joint declaration reiterating the deep attachment of the contracting parties to human dignity and reaffirming their commitment to work for the elimination of all forms of discrimination on the grounds of ethnic origin, race, nationality, colour, sex, language or religion. The spirit and intent of the Community on the one hand and the concept of "special relations" assigned to the A.C.P. members on the other hand is to promote throughout the Community a harmonious development of economic activities, continuous and balanced expansion, an increase in stability and good Government, an accelerated raising of the standard of living and closer relations between member States of the Community and the ACP States.

This "common community spirit" is clearly expressed in the Preamble to the Treaty of Rome and in the Preamble to the Third Lome Convention and it expresses the intention of all member States to affirm the solidarity which binds the Community and their overseas independent countries, and the desire to ensure the development of their prosperity and the observance and promotion of Human Rights in accordance with the principles of the United Nations Charter.

It follows therefore that all member States of the Community as well as the overseas independent countries, via, the Lome III Convention are, having regard to the common intention, enjoined to promote and observe the provisions of the European Convention of Human Rights. In consequence therefore any State which has subscribed to the Rome Treaty and the Lome III Convention is in fact estopped by conduct from aiding or assisting violations of both the European Convention of Human Rights and the provisions of the U.N. Charter to which all contracting States

.i.e. the Community States and the A.C.P. member States have affirmed to uphold and observe .

From this premise therefore it is apparent that any A.C.P. member State which violates human rights with impunity could be brought before the European Court at Strasbourg as a contracting party with regard to violations enshrined in the European Convention of Human Rights.-

Ghana gained her independence on the 6th of March 1957. The country adopted the motto "Freedom and Justice". The constitution was patterned upon the Westminster Model i.e. parliamentary democracy. In 1960 Ghana became a Republic. The 1960 Constitution provided for a mixed presidential-parliamentary model. During the First Republic Ghana made significant strides in the advancement of social justice .Free education in primary and secondary schools was introduced ,a large number of scholarships to the secondary schools were established for the children of farmers ,and free medical attention at government hospitals was made available. The economy of Ghana was solely dependent on the one crop, cocoa whose price was dictated by the fluctuations of the world market. When therefore the world price of cocoa fell drastically the government faced tremendous difficulties in the large public sector it had created and under an environment of widespread public discontent the ground was prepared for a military take-over which was being advocated by the Opposition groups.

The First Republic was replaced in 1966 by Ghana's first military government ,The National Liberation Council (NLC). Right from the beginning the NLC made it quite plain that it was a caretaker government and that it intended to hand over to a civilian administration. The 1969 Constitution was prepared. This constitution sought to entrench the rule of law and guarantee the basic rights and freedoms. The Second Republic was not given much time to run the country. In 1972 the civilian government ,headed by Prime-Minister Kofi Busia ,was toppled by the army. This was a coup by majors though led by Colonel Acheampong.

Col. Acheampong's regime needs to be viewed in two parts .In the first part the regime was named the National Redemption Council. This Council included the majors who were active participants in the coup. Col. Acheampong even though the Chairman did not have supreme powers. However, the presence of majors in the government who also retained their ranks in the army which contained Generals soon created problems of discipline. The NLC was replaced by the Supreme Military Council which was composed of the top military personnel. In the process Acheampong as Chairman retained for himself wide powers he did not have before. The result was the institutionalised rampant corruption and incompetence which were the main characteristics of the regime. Growing public discontent spearheaded by the professional bodies led to a successful palace coup in 1978 .

The Supreme Military Council (SMCII) was established under General Akuffo. The SMCII made preparations for a return to civilian rule. A new constitution was drawn up .Just before the elections were held another coup took place. This time the coup was organised by junior officers. This

was the beginning of the June 4th revolution. A new military government was established called The Armed Forces Revolutionary Council under the leadership of Flight Lieutenant Jerry Rawlings. The new regime could not postpone Ghana's return to civilian rule and the elections went on as planned. On September 24th the new regime handed over power to the newly elected civilian government. Many military officers, former officials and wealthy businessmen were tried by special military courts, the special AFRC-courts, during which eight senior government officials including three former Heads of State were summarily executed.

The 1979 Constitution for the Ghana's Third Republic contained an elaborate chapter on fundamental rights and freedoms and provisions for their enforcement in the Supreme Court.

Consideration will now be given to the details of the various violations of human rights under the various articles of the Universal Declaration of Human Rights.

ARTICLE 1.

ALL HUMAN BEINGS ARE BORN FREE AND EQUAL IN DIGNITY AND RIGHTS. THEY ARE ENDOWED WITH REASON AND CONSCIENCE AND SHOULD ACT TOWARDS ONE ANOTHER IN A SPIRIT OF BROTHERHOOD.

ARTICLE 2.

EVERYONE IS ENTITLED TO ALL THE RIGHTS AND FREEDOMS SET FORTH IN THIS DECLARATION, WITHOUT DISTINCTION OF ANY KIND, SUCH AS RACE, COLOUR, SEX, LANGUAGE, RELIGION, POLITICAL OR OTHER OPINION, NATIONAL OR SOCIAL ORIGIN, PROPERTY, BIRTH, OR OTHER STATUS. FURTHERMORE, NO DISTINCTION SHALL BE MADE ON THE BASIS OF THE POLITICAL, JURIDICAL OR INTERNATIONAL STATUS OF THE COUNTRY OR TERRITORY TO WHICH A PERSON BELONGS, WHETHER IT BE INDEPENDENT, TRUST, NON-SELF-GOVERNING OR UNDER ANY OTHER LIMITATION OF SOVEREIGNTY.

ARTICLE 3.

EVERYONE HAS THE RIGHT TO LIFE, LIBERTY AND SECURITY OF PERSON.

Because of the unaccountable nature of the PNDC regime the basic right of all -the right to life- has become meaningless. The potential for the loss of life as a result of executive action in breach of fundamental human rights is a real sword which hangs over the head of all but the most pliant of Ghanaian citizens. It is a real fact cowering the population into submission. In the vast majority of executions and disappearances the target has been carefully selected and the death of the victim sent a clear message. It is the classic modus operandus of terrorism.

Human rights are the rights of individuals and not rights which are in the gift of government. The Rawlings regime in Ghana has operated on the basis that any rights which the people enjoy are concessions given them. A government operating on that basis whether recognised or not is clearly in breach of such human rights.

The strategy adopted by the PNDC regime in their programme of deliberate murder of innocent citizens of Ghana took three major forms. Firstly

they created a tense atmosphere of fear and terror amongst the population by allowing various members and organs of the revolution the licence to do whatever they felt like doing without any fear of retribution whatsoever. Under such conditions members of the revolution then settled old scores by killing. In some cases they simply killed people they felt were enemies of the revolution or at times people with whom they had old scores to settle. The second method adopted was organised murder ordered from above. In this instance people are collected from their homes supposed for official interrogation of one form or the other but they are never seen again or else their bodies are discovered in out of the way places. There are a number of Ghanaians who are presently under the illusion that some relative of theirs are in exile in some country or other not knowing that they are in fact dead. It is when Ghana is finally liberated that the total loss of lives during the life of the regime will be determined. The other method involves the use of the Public Tribunals. People are arrested on some trumped up charge of treason or plotting against the State. The Tribunal goes through the ritual of trying them, convicting them and having them executed by firing squad. The decision to execute them would have been taken long before they were brought to the Tribunal.

In September 1986 the Ghana Democratic Movement published "Rawlings' Trail of Death and Destruction" in which a catalogue of the many murders that have been carried out in Ghana by that time were laid out. The publication acknowledged the great work done by the Association of Recognised Professional Bodies of Ghana and its constituent organisations, notably the Ghana Bar Association, who compiled and authenticated the list of murdered victims of the Rawlings' regime included in the pamphlet.

#### MURDER OF HIGH COURT JUDGES: THE UNSOLVED MYSTERY.

Perhaps the most blatant murder undertaken by the Rawlings' regime and the one that attracted the highest national and international attention was the murder of the three High Court Judges and a retired army officer.

Mrs. Justice Cecilia Koranteng-Addow, a mother of four and two other judges of the High Court, Mr. Justice Fred Sarkodie and Mr. Justice K Agyepong, were seized from their homes in Accra on June 30, 1982, by groups of soldiers. Their bodies were discovered three days later in the bush on the Plains of Accra. They had been shot and their bodies set on fire. Also abducted and killed with them was a former army officer, Major Sam Acquah, who had been Personnel Director of the Ghana Industrial Holding Corporation (GIHOC).

Before the bodies were discovered, the Chairman of the PNDC Jerry Rawlings had gone on radio to blame anti-government dissidents operating from abroad for the kidnapping of the judges. This diversionary allegation may have stuck but for an incredible act of God. The plan of the killers was to remove all trace by burning the bodies, and they poured petrol on them and set them alight. However, shortly after driving from the scene of the crime, a sudden rainstorm put off the fire, leaving the partially charred bodies in the bush. A farmer discovered them later and reported to the police. Such was the public outcry that Rawlings was compelled, after some foot-dragging, to set up an enquiry.

Mr. Justice Sam Azu-Crabbe, a former Chief Justice, who headed the enquiry, found himself obstructed in many ways but he managed to complete his job and produced a report which was a most damning indictment against the regime. As a result of the Board's work, Attorney-General and Secretary for Justice G.E.K. Aikins announced in November 1982 and again in May 1983, that proceedings would be taken against five people accused of the murder of the three judges and Major Acquah or of complicity in the murder. The five accused included Joachim Amartey Kwei, a member of the ruling PNDC at the time of the murders. The other four accused were lower ranking soldiers who were members of an elite group who were responsible for the protection of Rawlings and his family. The Board's final report of 30 March, 1983, recommended prosecuting others for the same crime, including Sgt. Alolga Akata-Pore, also a member of the PNDC at the time of the murders, and ex-Captain Kojo Tsikata, Special Advisor to the PNDC and head of security. The evidence presented by the Board against Sgt. Akata-Pore and ex-Captain Tsikata consisted largely of statements made by some of the accused, including Joachim Amartey Kwei. Amartey Kwei and the four others were tried, convicted and sentenced to death.

Despite the Board's recommendation that Sergeant Akata-Pore and Captain Tsikata be tried for murder, George Aikins announced in May 1983 that there was insufficient evidence to bring prosecutions against them and that the evidence against them was mostly hearsay and some what contradictory. Supporters of the government have alleged that the Board's investigation was politically biased and that its authors were determined to implicate as many members of the government as possible, and ex-Captain Tsikata in particular. Opponents of the government have alleged that, in refusing to prosecute Captain Tsikata and Sergeant Akata-Pore, as the Board's final report recommended, the government was attempting to hide the guilt of some of its own members. Amnesty International has received other reports suggesting that members of the government might have taken steps to influence certain aspects of the Board's report prior to its publication. These include the intimidation of witnesses.

Moreover two police officers who participated in the investigation into the murders were detained. Superintendent Yidana was accused of helping a criminal in the aftermath of the 23 November, 1982 attempted coup, and Assistant Superintendent Oduro was reported to be held on suspicion of giving classified information to a foreign government. Amnesty International has heard of other political killings which may have been done with the knowledge or tacit approval of the authorities or of individual members of the government.

The role of Rawlings himself remains shrouded in mystery. Although everybody was careful to avoid implicating him, it became clear that long before his broadcast in which he blamed it on dissidents, he had been aware of the identity of the soldiers who had been responsible. He had also been aware of the involvement of Amartey Kwei. So why did he make the attempt to divert attention and why did he keep Amartey Kwei in the PNDC for several months after the event until public pressure compelled him to have him arrested? The vehicle that was used for the operation was collected from the house of Rawlings' wife.

#### MARTYRDOM OF THE PRIEST AND THE BRAVE POLICEWOMAN.

On one bright and breezy Sunday morning in 1982, the Lord is my Shepherd Church was packed as usual with a large congregation listening to the sermon of the Founder and Leader of the church, Odiyifuo Samuel Asare. Suddenly, a group of armed soldiers burst into the church and interrupted the sermon. As a dumb-founded congregation looked on, one of the soldiers told the priest to end his sermon and leave the congregation to go and undertake communal labour. He declared that the people were required to go and work instead of sitting down for hours listening to long meaningless sermons. Odiyifuo Asare told the soldier: "communal labour is important but the work of God is even more important," and he asked the soldiers to leave them to conclude their service. To the astonishment of the congregation, one soldier cocked his rifle and aimed it at the priest.

In the congregation was a brave young policewoman, PW826 Cpl. Joana Essien. As everyone ducked or ran for cover, Cpl. Joana Essien leapt at the soldier and parried the rifle.

The bullet hit the pulpit, ricocheted and hit one of the invading soldiers instead. In the confusion that followed, Cpl. Joana was injured as were several other members of the congregation. But the priest was saved and taken out by other church members or so they thought. Within minutes of the incident, a whole truck load of troops was despatched to go and get hold of the priest and the policewoman and exact revenge for the injured soldier. And what revenge! First, the church house was burnt to the ground. Then the house of the priest, a rented house, was also burnt down. Odiyifuo Asare was found after a massive search. He was marched out, riddled with bullets and his body dragged to the central station of Kumasi, Kejetia, where the public was invited to see what happens to enemies of the Revolution'. The body of Odiyifuo Samuel Asare, leader of the Lord is my Shepherd Church, was soaked in petrol and set on fire.

Not content with the gruesome deed, the soldiers then set off in search of Cpl. Joana Essien. They found her at the Kumasi General Hospital where she had been admitted with the injuries she sustained in the struggle to save Odiyifuo Asare. The soldiers marched into the hospital and in the full view of nurses and other patients shot and killed Cpl. Joana Essien. To most people who had even the remotest contact with Ghana and Ghanaians, this will seem like a fairy tale. But it happened in Ghana, in Kumasi.

#### THE BUSINESSMAN WHO WAS SEIZED AT NIGHT.

John Ofori Wilson was a successful Ghanaian businessman, the head of a construction company with a fine track record. He also happened to be one of those businessmen with strong political opinions. He had been one of the founding members of the National Alliance of Liberals and a Parliamentary candidate in the Accra constituency of Ayawaso in the 1969 general elections. But perhaps worst of all, he was an uncle-in-law of Mr. J.H. Mensah, Chairman of the Ghana Democratic Movement. When early in 1985 Ghanaians awoke to the news that a group of Rawlings' former associates who had broken with him had infiltrated back into the country to try and overthrow him, Ofori Wilson thought nothing more than that another group of Ghanaian citizens were about to be sacrificed.

Little did he know that he was to be one of the main sacrificial lambs for the alleged 'invasion'.

Apart from the natural grief for the lives of those who were said to have been captured, he had no reason to feel unduly perturbed and went about his day's activities. He had said goodbye to the household and retired to bed when a sudden violent knock on the door was heard. He came out of his bedroom to enquire what was happening. "Open up", came a brisk order. "Open up or we fire". Peeping through the window he found that his house has been surrounded by armed troops. He had no option but to open up. Ofori-Wilson was seized and driven away in his pyjamas. It was the last anyone saw of him.

The next morning his bullet-ridden body was dumped at the Military hospital in Accra. Apparently, he had been driven to the Castle, the seat of the Ghana Government, where he was tortured in the hope of extracting a 'confession' that the alleged invasion had been organised with his support because of his relationship with the Chairman of GDM. When he resisted all pressure, the order was given for him to be liquidated. He was simply marched out and riddled with bullets. After three days, the PNDC issued a statement reporting the death of Mr. Ofori-Wilson, an alleged dissident who had been shot while trying to escape from custody.

**GHANA COCOA BOARD EMPLOYEE BEATEN TO DEATH (West Africa 29 July 1985)**  
Mr. Dickson Darko had been accused of stealing photomac films belonging to the Board and the matter was referred to the Gondar Barracks. At the Barracks he was beaten to death by soldiers. Mr. Darko reportedly maintained his innocence until he passed out. The PNDC subsequently set up an enquiry into the death with a six person committee, comprising 2 representatives from the Cocoa Board national union and one each from the CDR political Counsellor's Office, the Bureau of National Investigations, the Military Police and the Police CID.

#### LAW OF THE FIRING RANGE

Apart from the many who have been murdered in diverse circumstances, the Rawlings' regime instituted the law of the firing range as the supreme law of the land. Ignoring the established and respected judicial system, he set up a PNDC network of Peoples' Tribunals designed to hand down instant justice, in most cases involving death by firing squad. The exact number of people who have been killed in various circumstances cannot be determined accurately now. The regime would like to keep this a secret. It will require a full national enquiry in an environment of freedom and justice to unearth all the killings. Nevertheless it is known from information gathered from a variety of sources that the number of people who have lost their lives will be in four figures. These included most of Rawlings' own former colleagues who helped him seize power on December 31, 1981.

L/Cpl Halidu Gyiwa was Rawlings' own former body guard who was quick to turn against him because he rightly saw himself betrayed. Sgt. Malik was one of the bright non-commissioned officers from whom Rawlings derived his strength. Both men had good reason to turn against him. They were both executed by firing squad after a hurried kangaroo trial before Rawlings' own appointed tribunal.

L/Cpl Sarkodee was a member of the Armed Forces Revolutionary Council (AFRC) which Rawlings had led in his first seizure of power in 1979.

Like most of his previous colleagues, he opposed his 'second coming' as an unnecessary interference with the democratic process. He too was executed by firing squad.

Apart from those executed for political offences, Rawlings has been using the firing range as the instrument for enforcing compliance with his draconian economic measures. Accordingly, several people convicted of alleged crimes by his Tribunals have been executed. Among them have been officials of the Ghana Commercial Bank executed for stealing.

The following is only a partial list of the many who have been nailed to the stake and executed by Rawlings' firing squad for crimes ranging from attempts to overthrow his regime to attempted smuggling.

Major S.B.Okoyere, Cpl.Edward Ofei Pte Henry Obeng, Cpl.Evans Tekpor, Sgt. Malik, L/Cpl Halidu Gyiwa, L/Cpl. Sarkodee, Major John Ocranand Major Twumasi Antoh, Sgt.Francis Anku, Sgt. Joe Issaka, Shaibu Ibrahim; a civilian was executed with the last four. Sgt. Matthew Aawar, L/Cpl.Martin Ajomba, W.O.Frimpong, Cpl. Apatinga, Cpl.Gyekye, W.O. Mensah, L/Cpl.Bismark, L/Cpl. Djabaa, Pte. Kwame Tekpor.

Among civilians executed by firing squad for various crimes are: George Salami, R. Kofi Osei, Augustus Owoo, Mark Boham, Azina Nartey, Danjuma Abduramani, Douglas Ayithey, Bernard A. Odonkor Taller and Joseph K. Adu.

#### THE MYSTERY DEATH OF A CATHOLIC PRIEST

The account of this incident is given in the February 17,1986 issue of the Talking Drums. The facts are as follows: The Roman Catholic Priest, Brother Charles Kukah, had been at the Kotoka International Airport on the night of December 27,1985, to see off his younger brother Patrick, a medical doctor who was going to Poland for further studies. The following morning, he had breakfast with his elder brother and younger sisters at the SVD Guest House at the Cathedral at Adabraka, and parted company with them. Later on, he was said to have spoken briefly with a neighbour and there abruptly ended the life story of this priest.

The next day, December 29, a dead body was found by fishermen at the Faana beach near Bortianor, and the Weiija Police were informed.

Subsequently, radio and newspaper announcements described the body as bushy haired, bearded and suspected to be that of a Black American. U.S. Embassy officials were called in but could not identify the body as being that of any American citizen. As is common in present day Ghana when nobody has claimed a dead body, it was left on the slab in a corner of the mortuary to rot.

It was not until January 3,1986, that the body was identified as that of Brother Charles Kukah by some of his fellow priests and he was buried the next day, January,4. Brother Kukah had been in charge of the Mataheko parish in Accra and had only recently been transferred to Nkwatia Kwahu. His old parish in Mataheko had organised a farewell party for him for December 29 and part of the reason he had come to Accra and had been staying at the Guest House in the Cathedral compound was to be able to attend his send-off party.

The Talking Drums asked questions originally put by 'The Mirror' 'Ghana's most popular weekly. The beach where the body was found is some 15 miles or more from Adabraka, the last place the priest was seen alive. How then did he get to the beach when his car was still at the guest house? If he planned to go out, why did he not lock his door? If it was true that his body was found clad in a pair of white swimming



trunks, as the police announcement said , where then were the clothes he was last seen in - the pinkish pair of trousers and long sleeved shirt - where were his shoes? It was not likely that the priest could have gone to the beach , on foot, bare-footed, and dressed only in swimming trunks.

There seemed to be a consensus that Rev. Kukah was murdered, but it was in trying to find out why Rev. Kukah was murdered that a potentially devastating theory emerged which gained ground very rapidly in Accra and in Catholic churches around the country. The belief was that Rev. Kukah was the tragic victim of a mistaken identity, the real target of the murderer(s) was Rev. Charles Buckle , the editor of the banned Catholic Standard.

#### ROLL-CALL OF THE DEAD

##### Greater Accra Region

##### Three High Court Judges:

1. Justice Mrs Cecilia Koranteng Addow
2. Justice K. Agyepong
3. Justice Sarkodie ; AND

4. Retired Army Officer - Major Sam Acquah, Personal Director of GIHOC; were abducted from their residences on the night of 30th June, 1982. Their burnt bodies were discovered a few days later on the Accra Plains.

5. Madam Larmiokor Adjebu, aged about 63, and the soldiers fired at the boy - 2 gun shots - but missed him and shot a woman customer (the deceased). When she fell, the soldiers left without attending to her and she subsequently bled to death. The Kaneshie Police removed the dead body later.

- |                         |                          |
|-------------------------|--------------------------|
| 6. Azure Frafra         | 7 Akwei Allotey          |
| 8. Bokarri Moshie       | 9. Alberta Rockson       |
| 10. Kwame Danso         | 11. Emmanuel Oko Ashitey |
| 12. Joseph Kwaku Oduro  | 13. Samuel Amen Kotey    |
| 14. Nash                | 15. Mnuanuai Alhassan    |
| 16. Gadzi Jamesi        | 17. Alex Aggrey          |
| 18. Joseph Kweku Kwakye | 19. Abukarri Mukaila     |
| 20. E.K. Frimpong       | 21. Emmanuel Kwao Abbey  |
| 22. Rose Tetteh         | 23. Demawuna Grushie     |
| 24. Julius Odartey      | 25. Bonney Lartey        |
| 26. Okoe Allotey        | 27. Mohammed Alhassan    |

Frank Yaro, brother-in-law of the President Iy Hilla Limann, was seized by a group of soldiers and was so badly beaten up that he died soon afterwards.

#### Ashanti Region

- |  |   |
|--|---|
| 1. Kwaku Kramo   | 2. Kwabena Nti  |
| 3. No 24988 CC/a John Chinkwa  | 4. Akosua Addae   |
| 5. Kwame Kum   | 6. Gabriel Tseyi  |
| 7. Abdulai Moshie Alia Abdu  | 8. Ibrahim  |
| 8. Osumanu Sissala   | 9. Osumanu Sissala  |
| 10. Kofi Gyaaman   | 11. Kwado Boateng   |
| 12. Unknown Person   | 13. Unknown Person  |
| 14. Unknown Person   | 15. Benjamin Kwabena Whyte  |
| 16. Dagarti Seidu  | 17. Raphael Kobla Avorga  |
| 18. Azure Kussasi  | 19. Johnson Oware   |
| 20. Amma Agyeiwaa  | 21. Alhamadi Maiga  |
| 22. Kwabena Dapaah   | 23. Osei Kwame  |
| 24. Kwaku Opoku  | 25. Kwame Opoku   |
| 26. Agnes Korkor   | 27. Kpele Bimoaba   |
| 28. Kwadwo Nsafoa  | 29. Abena Afrah   |
| 30. Mohamadu Halifu  | 31. Kwame Nyamekye  |
| 32. Amma Asantewaah  | 33. David Darko   |
| 34. Agyaba   | 35. Oanduku Mantse alias<br>Amma Bimoba   |
| 36. Akua Takyiwaa  | 37. Moro Moshie   |
| 38. Mama Kanjarga  | 39. Ali Granshie  |
| 40. No 826 PH/Cpl Joana Essien of<br>The Lord Is My Shepherd Church,<br>shot on her hospital bed at<br>the Okomfo Anokye Hospital. | 41. Odiyfo Samuel Asare, Leader<br>The Lord Is My Shepherd<br>Church, body ridden with<br>bullets and thrown to the<br>public view at Kegatta -<br>Kumasi, and burnt. |

42. Mr Abu Kramo, shot by a policeman at Techiman.

43. Killing of GNTC 75 year old watchman at Kronum, in January, 1982 by soldier.

44. The shooting of Madam Abena Kyerowa at U.S.T. barrier over seized packets of matches.

#### Eastern Region

1. Mrs Solomon - wife of Proprietor of Solomon Commercial College, Koforidua, was hit by a soldier with the butt of a gun and collapsed and died on the spot - buried on 9th July, 1982.

2. Kwame Tetteh

3. S.K. Ampadu

4. Amma Ansah

5. Akosua Wiafe

6. Afuah Boshema

7. Osei Kofi

8. Mary Arkumaki

9. Adwoa Kyeraa

10. Vida Abia Amenuvor

11. Kudzonu Torgbe

12. James Olugan

13. Kwetty Marki

14. No 11519 E/Cpl S.K. Sarpong

15. Kwasi Mensah

16. Kwabena Doh

17. Salifu Zabrama

18. Supt. Owusu Siaw

19. Kwadwo Ampofo

20. Yaw Mosi

21. Adzo Adabla

22. Ossumanu Bussanga

#### Tema

1. Joseph Boateng

2. Anthony Dagarti

3. Joacob Ashmond Mensah

4. Justice Quainoo Paul

5. Aklugu Tugo

6. Abu Piss

7. Emmanuel Kwesi Nukpor

#### Brong Ahafo

1. Oboti Konkomba

2. Abubakari Yakubu

3. Keana Tere

4. Kwabena Yendor

5. Saidu Gonja

6. D.K. Deku

- |                   |                     |
|-------------------|---------------------|
| 7. Adamu Moshie   | 8. Kwabena Oppong   |
| 9. Abu Bayou      | 10. Kwasi Ankomah   |
| 11. Kofi Amponsah | 12. Abena Boaduwoah |

Volta Region

1. Popular Fetish Priest, Akakpovi Ahiaka of Atidzeve near Abor, arrested at his village, taken to Volta Army Barracks at Ho, later charred body found - remains later released to family for burial.
  2. April, 1982 - Sampson Daniel Kwao of Anloga, member of Ghana Traditional Healers Association, arrested taken to Volta Army Barracks, Ho, later charred body found in forest near Adaklue a few miles away from Ho.
  3. Well -to -do- trader, Mr Hanson Benefacious Ankrah of Agirtune Afegane near Kpetoe about 12 miles from Ho, arrested at gun point at night by a group of people, some in army uniform. His room ransacked, substantial amount of money taken. Wife threatened to be shot if she followed - later charred body found a few miles away.
  4. Mr Avorga Ahiagba of Wlite near Akatsi, arrested by soldiers, tried and fined by court for C700.00. Later released from prison, he mysteriously disappeared. Dead body, partially charred, found near Ho Sports Stadium. Soldiers who arrested him were alleged to have sworn to teach all those involved with the trial and fine of Avorgah, a lesson, including the judge who had mercy.
- |                                       |                          |
|---------------------------------------|--------------------------|
| 5. L/Cpl Owusu Pepira                 | 6. Agbodzihu Kudzordzi   |
| 7. Kwesi Boateng                      | 8. Mawulawoe Forfoe      |
| 9. Huges                              | 10. Kwame Amevor Kprpedo |
| 11. Agbotsi Duxo                      | 12. Sherri Kwame Feleme  |
| 13. Grace Bagadu                      | 14. Apedo Damalie        |
| 15. Labadi Kabre                      | 16. Tiedah Kabre         |
| 17. Justin Kwame Egabadzor            | 18. Selima Yawa Dankah   |
| 19. Winfred Ashong Degli              | 20. Kwame Kortogbi       |
| 21. Korkuvi Agbenyegah                | 22. Kwashie Azi          |
| 23. Atsu Gator                        | 24. Nene Kinikini 1      |
| 25. Kofi Sowrlo                       | 26. Afatsao Gamado       |
| 27. No 168778 BDR<br>Estey Amegayibor | 28. Amos Kwasi Fiaybenya |

Western Region

Takoradi Naval Base

- |  |                       |
|--|-----------------------|
| 1. Commander Barnor  | 2. Commander Adjavon  |
| 3. Petty Officer Hughes<br>(were shot by Navy personnel in January)  |                       |
| 4. Joseph Yinta  | 5. Anthony Beyeeman   |
| 6. Kwesi Essuon  | 7. Awudu Walla        |
| 8. No 11340G/Sgd Joseph Aikins, shot<br>for collecting a cake of soap given<br>to him by passenger at the<br>Border. | 9. Kwesi Sam          |
|  | 10. Atta Panyin       |
| 11. Kwadwo Boamah  | 12. Kwesi Badu        |
| 13. Adwoa Nduah  | 14. Adjoba Woke       |
| 15. Kwame Dankwa   | 16. Kwame Poku        |
| 17. Kofi Nketsia   | 18. No 177168 A/B J.W |
| 19. Ghanny Kow Ackon   | 20. Afua Harkowah     |
| 21. Barnaba Kwadwo   | 22. Kyaya             |
| 23. Armah Kojo   | 24. Kwasi Attah       |
| 25. Ama Attah and  | 26. Grumah            |
| 27. Kwame Boateng  | 28. Adjoa Sasa        |
| 29. Kwesi Ahwer  |                       |

Central Region

- |                          |                              |
|--------------------------|------------------------------|
| 1. Kojo Mensah           | 2. Ekua Edua                 |
| 3. Kofi Ankomah          | 4. Osumanu Sokoto            |
| 5. Kwame Addo            | 6. Kofi Badu                 |
| 7. Kwasi Oguaman         | 8. Adwoa Ebuakwa             |
| 9. Michael Kwadjo Asante | 10. Nana Korankyi Sarfour II |
| 11. Kwaka Aduaoni        | 12. Kwasi Manu               |
| 13. Kwame Ketewa         | 14. Esi Essong               |

15. Kennedy Amissah

16. Kobina Ntaamah

Northern Region

1. Misay Fulani

2. Hajia Bibata Kponlana

3. Seidu Allando

4. Jatawari Fulani

5. Challa Kokomba

6. Adama Mahama

7. Bawa Njasolo

8. Tia Nsaigri

9. Zakari Ibrahim

10. Baba Gazelle

Upper Region

1. Yakubu Dogbeli

2. Azawe Achana

3. Aluguchaab Akansianab

4. Matiki Abugri

5. Jalawari Fulani

6. Kumayo Tonye

7. Emmanuel Kweku Ali

8. Alebadigi Adindamu

9. Bawa Afoblikame

10. Inni Dagoro

11. John Sasane

12. Amedagoro Aderi

Lieutenant Commander Barnor, Commander Adjavon and Petty Officer Class 1 Hughes were killed at Sekondi-Takoradi naval base in February 1982, allegedly because of disagreement with troops under their command, but the soldiers who were identified as responsible for the killings have not been disciplined.

In May 1982, a number of soldiers were alleged to have tried to kill Captain Amatomey and other officers in Kumasi who had forbidden them to perform police duties. They were said to have been arrested and transferred to PNDC HQ in Accra to await disciplinary proceedings but to have later been released and allowed to rejoin their units without any action being taken against them.

At Techiman, an important market town in Brong-Ahafo Region, up to 13 people are reported to have been shot by soldiers on a single day in mid- 1982. They were apparently suspected of black marketeering. Two survived.

It seems that a certain Akondaya was shot dead by police corporal at Chuchuliga, Upper Region, on 24 December, 1982. Malam Mahidu is reported to have been killed at Ejura in Ashanti Region by soldiers on 25 December, 1982. On 1 January, 1983 a soldier fired shots into a taxi in Kumasi, injuring several students and killing Kwame Owusu. In April 1982, Daniel Amoah was beaten to death by soldiers in Kumasi after he

challenged them about jumping a queue. A man was recovering in Sunyani hospital in Brong-Ahafo Region on 9 May, 1983 after being shot in the neck by a soldier who fired into a crowd. Another person is thought to have died in the same incident.

A series of killings of fetish priests in Volta Region during 1982 in particular were alleged to have been done with the complicity of the regional authorities. The victims included Akakpovi Ahiaku of Atidzeve, killed after being taken to Volta Barracks at Ho, and Sampson Avorga Daniel Kwao of Angola, also killed at Volta Barracks in April 1982, and Avorga Ahiagba of White. No action is reported to have been taken by the central government, although the circumstances of the killings in Volta Region were well known. Suspected political opponents of the government are said to have been executed without trial at the Air Force Station attached to Burma Camp, near Accra. Major Nantugmah, Brigade Major at Brigade Headquarters in Accra, was allegedly killed by troops under the command of Sergeant Major Konu in mid-January 1982 because he was suspected of being opposed to the 31 December, 1981 coup. Sergeant Gakpo, formerly associated with the AFRC, was killed some days later and Warrent Officer Kingston in February 1982. Three people were shot on 27 February, 1983 on suspicion of involvement in an attempted coup. One of the three was later said to have recovered from his wounds".

And still the abductions and the killings continue. A Special Correspondent to the March 17, 1986 issue of the Talking Drums sought to explain why the killings in Ghana go on. He wrote "The PNDC accepts abduction, murder and executions as extensions of its policies by other means. Chairman Rawlings presides over a particularly violent regime. To anyone familiar with his views and ideas of the key people around him, this should come as no surprise. They all believe in the use of violence as a means of coercive control.

Before he seized power in December 31 1981, Rawlings often stressed the need for any government he led to kill as many Ghanaians as possible; not only to rid the regime of actual and potential critics but also to create a climate of fear which would allow him and his cronies to do as they pleased.

Therefore when he overthrew the civilian government in 1981, one of his first actions was to set up special squads under the late Warrant Officer Kingston of Airforce Station, Accra to eliminate Military Intelligence personnel, soldiers and civilians suspected of being "enemies of the Revolution" and people unfortunate enough to have incurred the displeasure of Rawlings and some of his supporters. In the early days of the Rawlings revolution, the order "Send him to Kingston" was the pre-arranged signal that whoever it was, was to be sent to the airforce base to be killed by Kingston's men.

It was one of these squads under a Sergeant-Major Konu of the Recce Regiment which went to the headquarters of the First Brigade to abduct Major Nantogma, kill him in an armoured car and then dumped his body on the road to the Airforce Station, Accra, from Arakan Barracks. Until his own rather mysterious death, said to be at the hands of other soldiers, Kingston was the chief executioner of the PNDC.

After Kingston's death, the special squads were reorganised and placed directly under the Operations Branch of the PNDC Headquarters. Extra men

and women were recruited from the armed Forces , Police and the civilian population . The criterion for admission into these was proven loyalty to Rawlings and Kojo Tsikata. There were indications to suggest that only Rawlings ,Kojo Tsikata and the Chief Operations Officer at the PNDC Headquarters could authorise their "special operations".

Various places all over Ghana have been identified as locations for executions. A sample of some of these places in the Accra area is set out below to give readers an indication of the extent to which the Rawlings regime is prepared to go to kill its own people: Air Force Station; Taungup Range - behind Burma Camp; The vast area between the Airforce Station and Arakan Barracks; The area behind Recce Regiment; The Labadi and Black Star Square beaches; Michel Camp.

There are reports too suggesting that secret killings also take place in the Castle, Osu.

The killings have continued persistently throughout 1985 and are continuing during 1986. On June 22, 1986, the P.N.D.C. government of Ft. Lt. J. J. Rawlings executed another sixteen Ghanaians by firing squad. Seven of the people executed were among 15 people convicted in the recent trial. They were Godwin Mawuli Kofi Dra-Goka, Yaw Brefo Berko, Kyeremeh Djan, Samuel Boamah Panyin, Ahmed Braimah Kankani, W.O. Samuel Charles Lartey Aforo and Private Charles Koomson. These people were not caught involved in any physical act of subversion. Those of them who were present in Ghana at the time were arrested from their homes and "confessions" forcefully extracted from them after they had been subjected to the most inhuman and degrading human torture during which the flesh of one of them was removed and given to another to chew. It was based on such evidence that they were convicted and finally executed.

There is another batch of people currently in detention, if they are still alive, who will definitely be similarly executed. They were captured in a joint operation code-named Operation Judas (reported in West Africa of 9th June 1986). A combined force of the army and police on May 28, 1986, captured a group of dissidents led by Captain Edward Adjei Ampofo a former officer of Military Intelligence, who had infiltrated the country from Lome, Togo. They were captured on their way to their hide-out at Madina, a suburb of Accra. Lance -Corporal Benefo, who was involved in a coup plot in 1983 and escaped arrest was also captured.

#### ARTICLE 4

NO ONE SHALL BE HELD IN SLAVERY OR SERVITUDE; SLAVERY AND THE SLAVE TRADE SHALL BE PROHIBITED IN ALL THEIR FORMS.

SECTION 3 of PNDC Law 42 gives the PNDC the power "to mobilize and deploy manpower. These are clearly the seeds of forced labour which is not only repugnant to Ghanaians but a breach of human rights. The PNDC is here empowered to forcibly take any person away from his private employer or employment and assign him to work elsewhere without his consent . The Section does not even stipulate whether such a person will be entitled to compensation or payment for his forced labour and by whom - his employer or the Government, and under what conditions.



## ARTICLE 5

NO ONE SHALL BE SUBJECTED TO TORTURE OR TO CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT.

The success of the coup of December, 31 1981 was the signal for the mass ill-treatment of Ghanaians both in custody and at liberty by members of the armed forces and the various organs of the revolution. Anybody considered to be an opponent of the regime or else not being a sympathiser if caught expressing a view that is against the government is subjected to beating. It was common sight to see women caught in some trade misdemeanor being laid up and given the cane and not only at the back but at times at the front. Ministers, Deputy Ministers and Party officials who were detained at the Nsawam Prison were subjected to physical labour as further punishment. The former Vice-President, Dr. J. W. S. deGraft-Johnson was subjected to physical molestation and beatings when he was taken into military custody. The indiscriminate molestation of people was intended to instil fear into the people and this was largely achieved.

The draught was very severe in 1983 and nowhere were the effects of the drought felt more than in the prisons in the country. At Nsawam prison water was virtually cut off. The little supply that was made available was by courtesy of the Roman Catholic Church but even this was not quite enough. The net result was that the inmates drank whatever water was available and at times from the gutter. Cholera struck the prisons and at the Nsawam Prison the inmates were dying at the rate of 8 a day and they were being buried in mass graves. And nothing could be more degrading than the sight of cholera infected inmates easing themselves under uncontrollable conditions.

It is the usual thing for soldiers in this regime when they have nothing to do, to go on the town in search of people they considered to be law-breakers. Any such people when accosted are arrested and sent to the military camp where they are subjected to very severe molestation and beatings at times till they are unconscious.

In December 23/30, 1985 issue of Talking Drums, Adongo John recounts his experience as a guest of Rawlings' security. Adongo John, born on 25th July 1964, joined the Junior Leaders Company in 1979 after finishing primary school. Whilst still serving in this unit he got rather disillusioned with what the regime was doing. He felt that Rawlings after overthrowing a democratically elected government was doing far worse than the civilian government and therefore when he was approached to help overthrow the regime he decided to help. On the 2nd February 1985, during one of the final meetings they were attacked by the government's commandos. He was hit by three bullets and fragments of an exploded grenade. He was quickly rushed to the hospital. After his treatment a team of officers came and demanded that he should be released to them. The doctor could not do anything about it and he was released to them. These officers took him to an unknown place and started interrogating him. He was asked to give the names of the other people involved. When he could not give them the names, one of them immediately used AK47 rifle bayonet to pluck off one of his toes and then showed it to him. He was in the process of plucking the second toe off when another officer started removing the stitches from the wounds with the bayonet. The pain was such that he became unconscious. When he came round he realised that he was in a plane being taken to the Accra

Air Force Station. When they got there, there was an argument between them as to whether he should be shot there and then. They decided to send him to prison. He was then subjected to intense interrogation and here Adongo gave the gruesome details. They injected drugs into him which made him hilarious and write what he was not aware of. They then burnt his body using a spring electric heater. Then they flogged him using a variety of flogging equipment. A tube was inserted into his sex organ to generate heat and pain whilst all this time he was under an intense light. He was made to sit in a chair with devices which presumably could determine whether he was telling the truth or not whilst his head was strapped in a way that made any movement of the head painful. The torture was such that he became unconscious and had to be sent to the hospital. When they realised that they could not get what they wanted from him it was decided that he should be executed. But he managed to escape and to tell his story. This is a typical account of what people, suspected of being against the regime, have to go through.

#### ARTICLE 7

ALL ARE EQUAL BEFORE THE LAW AND ARE ENTITLED WITHOUT ANY DISCRIMINATION TO EQUAL PROTECTION OF THE LAW. ALL ARE ENTITLED TO EQUAL PROTECTION AGAINST ANY DISCRIMINATION IN VIOLATION OF THIS DECLARATION AND AGAINST ANY INCITEMENT TO SUCH DISCRIMINATION.

#### ARTICLE 8

EVERYONE HAS THE RIGHT TO AN EFFECTIVE REMEDY BY THE COMPETENT NATIONAL TRIBUNALS FOR ACTS VIOLATING THE FUNDAMENTAL RIGHTS GRANTED HIM BY THE CONSTITUTION OR BY LAW.

#### ARTICLE 9

NO ONE SHALL BE SUBJECTED TO ARBITRARY ARREST, DETENTION OR EXILE.

In a society without law the citizen cannot be protected by the law. Early in January, 1982 soon after the coup, the PNDC ordered former members of the Limann government and the now proscribed PNP, as well as certain other individuals, to report to the nearest police station or army barracks. Many of those who did so, were detained; some were released almost as soon as their names were registered. The exact number of people detained at this time would have to wait for a full investigation. Dr. Hilla Limann, the former President was detained at a Security building in Accra. The others were all kept in the various prisons spread over the country. The majority was kept at Nsawam Medium Security Prison. These included the following:

Dr. J. W. S. deGraft-Johnson, The former Vice-President; Dr. Isaac Chinebuah, former Minister of Foreign Affairs; Dr. Ekow Daniels, the former Minister of Interior; Dr. J. Nabilla, former Minister of Presidential Affairs; Mr. S. K. Riley-Poku, former Minister of Defence; Mr. Felix Amoah, former Minister of Works and Housing; Mr. Agbesi former Minister of Agriculture; Mr. Harry Sawyerr, former Minister of Transport and Communication; J. A. Kwofie, former Deputy Minister of Information and Tourism; I. D. T. Agumey, former Regional Minister for the Volta Region; J. E. Adarkwa-Yiadom, ex-Member of Parliament for Kwame Danso; Rowland Atta-Kesson, ex-Member of Parliament for Wassa West; Joe Amartey Hyde, ex-MP; S. O. Lamptey, former Deputy National Organiser of the

P.N.P.Dr. Alex Arthur, former executive secretary to the President; Alex Adjei, ex-M.P.

None of these were charged with any offence. They were detained for varying periods, the last one Mr. Kankam Da Costa was detained for over three and a half years.

The detention of Ghanaians for political and other reasons without trial has continued to the present.

In March, 1982, 21 people were detained allegedly on suspicion of planning to assassinate Fl. Lt. J. J. Rawlings in an operation code-named "Operation Sadat". Capt. Owoo, formerly associated with AFRC and a former Military Intelligence Officer was among this group. Capt. Owoo was detained in Nsawam Prison until he escaped on 19th June 1983.

On 25 July, 1982 at least six people were detained in connection with an alleged plot to assassinate members of the PNDC or other members of the government. Those detained in this connection included, Flying Officer Ebenezer Odoi, Bombardier Mathias Cudjoe, Corporal Amedeka, Sergeant Charles Asante, Warrant Officer A. K. Duku, and Lieutenant Bernasko. Flying Officer Odoi had been the prosecutor in the AFRC Special Courts in 1979 and at the time of his detention was a senior official at the PNDC headquarters and a member of the National Investigation Committee. He was kept in detention at Anomabo prison and subsequently released without being charged with any offence. It emerged later that the arrest and detention of Corporal Amedeka was intended somehow to protect him from being prosecuted for the murder of the three judges in which he was later identified as being implicated. He was later charged with the murder of the three judges and a retired army officer and was sentenced to death along with others. However he managed to escape during the jail break of 19th June, 1983.

On 23 November, 1982, there was an attempted coup against the PNDC. Although the soldiers alleged to have participated in it were not immediately apprehended, during the week there was a series of arrests of between 10 and 20 people, mostly civilian members of the National Defence Council (NDC) and its secretariat. (The NDC was the national body which supervised the PDC's).

Many of those arrested between 24 and 30 November, 1982 were associated with a left-wing pressure group, the United Front, which had recently been created after a merger between The June Fourth Movement and the People's Revolutionary League of Ghana. Those detained included Ofori, the editor of The Workers Banner. Although, accounts of this attempted coup still differ, some sources suggest that members of The United Front and the NDC were detained on account of their political opinions and not because of any connection with the attempted coup. On 30 November and over the next few days, the PNDC reported the detention of some 22 people on suspicion of incitement to mutiny in the aftermath of the attempted coup. The 22 included: Sergeant Alolga Akata-Pore, a member of the PNDC; Lance-Corporal Eric Asare; Corporal Braimah; Corporal Giwa; Corporal Adeboga; Corporal Adam Saki; Corporal Liyu.

A few days after the PNDC announcement Regimental Sergeant-Major Abu Baba was arrested after a gun battle, reportedly on suspicion of participating in the 23 November attempted coup. Civilians who are

still being detained include Kwame Pianim (an economist) and Dan Nii Oku (a lawyer).

The exact circumstances of the 23 November alleged coup attempt remain something of a mystery. Those detained appear to have belonged to at least two quite distinct political groups, and there is no clear evidence yet that all of them were implicated in the coup attempt.

Some people are reported to have been detained whose names were not announced by the government - including Corporal Mohammed, Corporal Paba Sawiba, Sergeant Awar and Corporal Akadema. The total number of those detained in late November and early December 1982 for political reasons seems to be about 40.

The trial of 26 people accused of plotting against the PNDC in November 1982, or of being accessories to such a plot, started in a Public Tribunal in Accra on 15 March. The accused included many whose detention had not been officially announced, although many of those reported to have been arrested in November or December 1982 have still not been tried.

On 2 March 1983 it was officially announced that the government had, on 27 February, detained nine soldiers suspected of preparing a coup. Although not all those arrested were named by the government, unofficial reports indicate that the total number of arrests could have been higher than the nine officially announced. Two people alleged to have been implicated in the attempted coup were executed without trial in the Air Force Station at Burma Camp.

Four people were detained without official announcement during 1982 on suspicion of membership of the Movement on National Affairs (MONAS). This is a political group founded by Major Boakye-Djan, formerly Flight-lieutenant Rawlings' colleague in the AFRC and currently a leader of the foreign-based opposition group, the Campaign for Democracy in Ghana. Those detained reportedly on suspicion of membership of MONAS included Frederick Blay, a Takoradi barrister detained in February 1982 and Yaw Adu-Larbe, detained in April 1982. Both are officially reported to have been released on 31 December 1982. Apparently they were not charged with any offences, nor is there any evidence that either had used or advocated violence in support of his political views. Kweku Baako and Kwesi Agbley also were detained on suspicion of belonging to MONAS.

#### ARTICLE 10

EVERYONE IS ENTITLED IN FULL EQUALITY TO A FAIR AND PUBLIC HEARING BY AN INDEPENDENT AND IMPARTIAL TRIBUNAL, IN THE DETERMINATION OF HIS RIGHTS AND OBLIGATIONS AND OF ANY CRIMINAL CHARGES AGAINST HIM.

Much has been made of the criticisms of the established judicial system by the Rawlings' regime. However, that system despite its deficiencies operated under a constitution and was limited by it. The constitution created a basis for an independent judiciary.

The public tribunals on the other hand are tools in their revolutionary process and are not designed to be independent or impartial. It is these

tribunals composed of persons most of whom are not legally trained and dealing with defendants most of whom are not legally represented, which have tried and convicted a steady stream of persons alleged to be subversives and sentenced them to death.

It is also worth emphasising that after the destruction of the constitutional basis of the established judicial system it has also been deprived of the foundations of its independence. Further, the murder in June, 1982 of three High Court Judges by agents of the regime and for reasons connected with the performance by them of their professional duties was intended to intimidate the judiciary through terror. The dismissal in April 1986 of 16 judges of all ranks and the dissolution of the Judicial Service Commission was clearly intended to subvert the authority and the independence of the established judiciary and make even that institution unlikely to be impartial.

On 5 January 1982, within a week of his installation as Head of State for the second time, Flight-Lieutenant Rawlings made a speech to the nation in which he revealed that the government intended to establish a Public Tribunal in which, according to an Accra radio report, 'the dispensation of justice itself will be democratized'. Flight-Lieutenant Rawlings explained that such a tribunal was necessary to prevent the courts being fettered by 'technical rules which, in the past, have perverted the course of justice and enabled criminals to go free'. The Public Tribunal was not, however, officially inaugurated until later in the year. The legal instrument enabling its creation is PNDC Law 24 of July 1982, which provides for the institution of a Public Tribunals Board consisting of not less than five and not more than 15 individuals appointed by the PNDC, at least one of whom must be a lawyer. The Board is intended to run the Public Tribunals.

A Public Tribunal is empowered to try in particular:

'Any person or group of persons who, while holding high office of state or any public office in Ghana, corruptly or dishonestly abuses or abused the office for private profit or benefit or any person or group of persons who, being holders of such office, acts or acted in collaboration with any person or group of persons holding such office in respect of any acts specified under this paragraph.'

However, Section 3(1)(d) also states that a Public Tribunal may try:

'..... any offence under any enactment which may be referred to it by the Council (i.e. by the PNDC)'.

The Public Tribunals law also specifies in Article 7(11) that a Tribunal must be guided by 'the rules of natural justice'. The same article (paragraph 17) specifies that 'non-compliance with the rules governing the mode of trial shall not render a trial invalid unless a substantial miscarriage of justice has been occasioned'. The tribunal may impose the death penalty. There is no right of appeal, although the PNDC has received petitions from people sentenced by a Public Tribunal and has occasionally revised sentences imposed by a tribunal. Death penalties imposed by a Public Tribunal must be confirmed by the PNDC, although in at least one case such confirmation appears to have been perfunctory and made after little or no examination of trial proceedings.

The first session of a Public Tribunal was inaugurated in Accra by Flight-Lieutenant Rawlings on 26 August 1982 and began sitting on 31 August 1982. From their inception, proceedings of all Public Tribunals have been held in public and the accused have had a right to legal counsel. Most defendants, however, have not been represented by counsel due to a boycott of the tribunals by the Ghana Bar Association, which has described them as representing 'a misguided attempt to supplant the ordinary criminal courts of Ghana'. Only a few lawyers have appeared before Public Tribunals, in defiance of the Bar Association's boycott, which has most recently re-affirmed its boycott in protest against specific features of the Public Tribunal, including the lack of right of appeal, their duplication of the function of the traditional courts, and the Public Tribunal's veto of technical argument.

Since August 1982 the Public Tribunals have functioned in tandem with the established courts, except for a brief period in June 1983. This interlude occurred when representatives of the WDCs of Accra and Tema occupied the Supreme Court building on 21 June 1983. They announced the dissolution of the Judicial Council and the abolition of the post of Chief Justice. Three days later, people speaking on behalf of the WDCs claimed that the time had come to abolish the old judicial system and to replace it with what they described as 'a more dynamic and egalitarian people's judicial system'. According to their statement, the Public Tribunals Board would constitute an interim people's judicial council with additional representatives from various other organizations, including the WDCs of the judicial service. The projected People's Judicial Council would apparently be mandated to establish guidelines for a new judicial system. Although this action was widely reported as the abolition of the traditional judicial system, Attorney-General George Aikins stated in an interview with Ghanaian Times on 26 June 1983, that F.K. Apaloo remained Chief Justice and that his post had not been abolished. He said that the government was continuing to take steps to reform the judicial system, and that 'a spontaneous and precipitate abolition' of the traditional system would not achieve the result desired by the government. Mr Aikins stressed that the Public Tribunals could be operated only by people authorized to do so by the law.

The precise purpose of the Public Tribunals has been the subject of conflicting statements. For example, during an interview with a delegate from Amnesty International on 17 August 1983, Kwamena Ahwoi, PNDC Coordinator of Investigations, Vetting and Tribunals, stated that the Public Tribunals were intended eventually to replace the established courts entirely. He added that the interim period, during which a dual judicial system was in operation, was a necessary step in the transformation of old state structures. However, on other occasions the authorities have stated that the purpose of the Public Tribunals is not to supersede the ordinary criminal courts, as the Ghana Bar Association has claimed and as Kwamena Ahwoi stated.

For example, a message from Flight-Lieutenant Rawlings, Chairman of the PNDC, was read by Attorney-General G.E.K. Aikins to the annual general conference of the Bar Association on 12 January 1984. In his message, the Chairman of the PNDC stated that the aim of the Public Tribunals is

'to deal with certain areas of social misconduct and related matters as an alternative judicial system for the prompt and effective assessment and adjudication of specified matters'.

The statement continued that:

'It (the government) does not see this system as an attempt to dismantle institutions fundamental to a good legal system or to introduce concepts which are at variance with cherished relevant and acceptable principles of law as an instrument of social ordering. It is not the intention of the PNDC to discredit the idea of positive law or to hold law in contempt. Rather it is part of its response to the demands of a growing legal consciousness on the part of our people and to the need to simplify and speed up the dispensation of justice.'

Despite this and similar government statements, concern continues because of a lack of clarity about the exact competence of Public Tribunals. It remains unclear, for example, why some cases are referred to Public Tribunals when other comparable cases are heard by the established courts. Nor is it clear which officials or bodies decide whether a given case is to be heard by an established court or by a Public Tribunal. The two most important officials associated with the Public Tribunals are George Kwaku Agyekum, the Chairman of the Board of Public Tribunals, and Kwamena Ahwoi, PNDC Coordinator of Investigations, Vetting and Tribunals. However, their respective duties are not known to be specified in any legal text and the exact scope of their functions has not always been apparent. The lack of clarity regarding the jurisdiction of the established courts and the Public Tribunals and regarding the procedures for referring cases to them gives particular concern not only because the punishments imposed by Public Tribunals are sometimes heavier than those envisaged by the established courts, but also because the standard of proof is rather lower. Some people, including former members of the government, have alleged that in some cases the authorities have directed that a case be heard by a Public Tribunal for political reasons, because there exists a higher chance of conviction.

An example of the confusion surrounding the selection of cases to be heard by Public Tribunals concerns the prosecution of Joachim Amartey Kwei and four others charged with the murder of three High Court judges and a retired army officer. In December 1982, George Aikins, the Attorney-General, declared that they were to be tried by the High Court. In fact, they were tried by a Public Tribunal in August 1983 and were subsequently executed after being found guilty of murder. It was not clear why the designated jurisdiction for hearing the case was changed nor which person or body had made the decision.

By May 1983 Public Tribunals had been established in most or all of the capital cities of Ghana's provinces. In June 1983, the Public Tribunals were reported to have sentenced over 7,000 people since their inception 10 months previously. On 22 December 1983, the government announced its intention of establishing the Public Tribunals at every level from district courts to higher courts and of creating an appeals system.

Right of Appeal; Commutation of Death Sentences; Other Special Concerns  
with respect to Death Penalty Cases

Article 14 (5) of the International Covenant on Civil and Political Rights articulates the fundamental international legal standard relating to appeals from criminal convictions:

'Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.'

A fundamental flaw of the Public Tribunal system in Ghana is its failure to provide the right of appeal to those convicted of criminal offences by the Public Tribunals. It is imperative, in Amnesty International's view, that such a right of appeal be instituted. Such appeal should be before a judicial body established by law with a membership different from the convicting Public Tribunal and including one or more legally trained individuals. The convicted individual should have adequate opportunity to receive, review and respond to the judgment against him or her in the context of the appellate proceedings and should have the right to legal representation. The procedures to be followed by the appellate body should be clearly set out in law.

Although the PNDC is reported to have received petitions from people convicted by Public Tribunals, officials have stated that there is no right of petition. Mr. Addo-Aikins is reported to have declared in April 1983, in response to a newspaper article, that people convicted by Public Tribunal do not have a right of appeal or petition, although they may seek leave to petition.

Government officials with whom the Amnesty International delegate spoke pointed out that the PNDC itself must confirm death sentences imposed by Public Tribunals and may commute such sentences. The right to seek commutation of a death sentence is, however, separate from the right to judicial appeal. In addition to specifying a right of appeal as described above, the International covenant on civil and Political rights, in Article 6 (4), states:

'Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.'

Amnesty International is in fact gravely concerned that the procedures currently followed by the PNDC in considering the commutation of death sentences is seriously inadequate. As was noted in an introductory section to this memorandum, Joachim Amartey Kwei and four of his co-defendants were sentenced to death by a Public Tribunal on 15 August 1983. On 17 August, during the course of meetings with officials, it was confirmed to the Amnesty International delegate that the written judgment in the case had been prepared and would be forwarded to the PNDC to consider whether the death sentences should be confirmed or commuted. As of 4.45 p.m on the afternoon of 17 August, the official with whom the delegate was then speaking, who said that he was



responsible for forwarding the judgment to the PNDC, stated that he had not yet done so. Yet, the death sentence against three of the convicted individuals was carried out the following morning at dawn. This sequence of events indicated that the PNDC did not have adequate time to give due consideration to the contents of the judgement before confirming the death penalties therein. The defendants themselves appear not to have been given copies of such judgements so that they might address specific points included therein. In the light of these concerns, Amnesty International called upon the Government to clarify the procedures followed with respect to confirmation of death sentences by the PNDC and to take all necessary steps to bring such procedures into conformity with United Nations General Assembly resolution 35/177 of 15 December 1980 on arbitrary or summary executions, which provides that 'no death sentence shall be carried out until the procedures of appeal and pardon have been terminated and, in any case, not until a reasonable time after the passing of the sentence in the court of first instance'.

Amnesty International, as an organization unconditionally opposed to the death in all cases, sought the Government's clarification with respect to Section 8 (1) of PNDC Law 24 which provides:

'The death penalty may be imposed by a tribunal for such offences as may be specified in writing by the council and in respect of cases where the tribunal is satisfied that very grave circumstances meriting such a penalty have been revealed.'

The wording of the second half of this provision is ambiguous as to whether a Public Tribunal might in some cases apply the death penalty at its own discretion, regardless of whether the offence in question has been specified in law as a capital offence. Such a practice would be directly contrary to the fundamental principle of international law that a heavier penalty may not be imposed on a criminal defendant than was applicable at the time when the criminal offence was committed. It would also be contrary to the United Nations General Assembly resolution 32/61 of 8 December 1977 which:

'Reaffirms that ..... the main objective to be pursued in the field of capital punishment is that of progressively restricting the number of offences for which the death penalty may be imposed with a view to the desirability of abolishing this punishment ..... '

While officials with whom the Amnesty International delegate spoke stated that PNDC Law 24 was not meant to give the Public Tribunals discretion to impose the death penalty for crimes not previously designated by the PNDC, Amnesty International has noted with concern that the Public Tribunal (Procedure) Rules 1982, apparently promulgated after PNDC Law 24, state, in section 13 (4) :

'The death penalty may only be imposed by a tribunal for such offences as may be specified in writing by the Council or in respect of cases where the tribunal is satisfied that very grave circumstances meriting such a penalty have been revealed '.

Amnesty International would of course call upon the Government of the Republic of Ghana unconditionally to abolish the death penalty in all cases. Failing this, it is incumbent upon the Government to clarify that the Public Tribunals may not in their discretion increase the number of offences for which the death penalty may be applied.

#### Legal Training of Public Tribunal Members.

Individuals being tried on criminal charges are entitled, as a fundamental principle of international law, to a fair and public hearing by a competent, independent and impartial tribunal established by law. The competence of such a tribunal must of necessity extend to the ability of that body to comprehend, interpret and apply both the substantive and procedural laws relevant to the case under consideration. Yet, PNDC Law 24, as presently drafted, includes no prerequisite for the legal training of the members of Public Tribunals panels. Section 2 (1) of PNDC Law 24 provides that the Board of Public Tribunals, responsible for administering the Public Tribunals, must include at least one 'lawyer of not less than five years' standing as a lawyer' amongst its five to 15 members. With respect to the Public Tribunal panels responsible for the actual hearing of cases, however, Section 2 (2) provides only that these three to five members bodies 'shall consist of such members of the public as may be appointed by the Council'.

The Chairman of the Board of Public Tribunals explained to Amnesty International's delegate that the Board current practice is to ensure that at least one qualified lawyer sits on each Public Tribunal which is constituted. This practice, he stated, was followed both in Accra and in all of the provinces where Public Tribunal have been set up. The presiding chairman of the two Public Tribunals which the Amnesty International delegate observed were in fact experienced lawyers. The Chairman of the Board of Public Tribunals also suggested the possibility of increasing the number of trained lawyers available to serve on Public Tribunals. He also referred to his desire to provide some basic legal training for non-lawyer members of the Public Tribunals.

While welcoming the assurance that current practice is to require each Public Tribunal to include at least one qualified lawyer, Amnesty International believes that it is imperative that the relevant law itself reflects this arrangement as a minimum prerequisite for the establishment of a Public Tribunal. Furthermore, the law should specify explicitly the minimum level of experience (e.g. number of years of practice as a lawyer) required of lawyers sitting on Public Tribunals.

An additional concern is the fact that, even where one or more members of a Public Tribunal may be legally trained, the other lay members of the panel will lack such training. When Amnesty International's delegate raised this concern with government officials, they responded that this was not different from Ghana's traditional court system where criminal cases may be decided by a legally trained judge, who takes decisions of law, and a lay jury, which makes determinations of fact.

The flaw in this argumentation, however, is that section 7 (22) of PNDC law 24 provides that decisions of a Public Tribunal may be taken by a mere majority vote by members of the Public Tribunal, except in cases involving a decision to impose the death penalty, which requires a unanimous decision. It is conceivable, therefore, that a lawyer sitting on non-capital cases before the Public Tribunal may make a determination that a certain outcome is required as a matter of law and yet be overruled by a majority of his or her colleagues untrained in the law. In order to overcome this potential problem, Amnesty International believes that any amendment of PNDC Law 24 should include reference to the fact that questions of law coming before a Public tribunal are to go decided by the legally trained member or members of that Public Tribunal and not by the body as a whole.

#### Independence and Impartiality of the Public Tribunals

As noted above, international legal standards provide that criminal charges against an individual are to be heard before a tribunal which is independent and impartial. A determination whether a particular tribunal is in fact operating independently and impartially requires detailed and specific information regarding the actual basis on which that tribunal is taking decisions and the nature of its interdependence with other parts of the government. Amnesty International did not have sufficient information available to it to make such a determination with respect to the Public Tribunals in Ghana.

At the same time, however, the organisation was concerned that certain elements of the law and procedural practices relating to the Public Tribunals gave the appearance that due independence and impartiality was not maintained. Amnesty International then called upon the Government of the Republic of Ghana to make appropriate changes in the law and procedural rules relating to the Public Tribunals so as to allay such concerns.

Amnesty International noted that Section 2 of PNDC Law 24 provided that both members of the board of Public Tribunals and members themselves were appointed by the PNDC. It is of course not unheard of that judicial officers are appointed by the executive branch of the government. What is of more serious concern is that, under the law as presently enacted, members of the Board of Public Tribunals serve at the will of the PNDC. The period and terms of service of such officials are not designated, nor are the procedures and grounds set down for potential dismissal. Arbitrary dismissal by the PNDC on any or no grounds would seem to be a possibility. This is in contrast to the traditional court system in Ghana where judges serve until retirement unless a cause is found for their dismissal; under a particular procedure laid down in law. Amnesty International considered it important that the law relating to Public Tribunals be amended to reflect the fact that dismissal would be only for just cause according to specifically designated reasons and further believed it imperative that an amended law should establish procedure independent of the PNDC for the determination of such dismissals.

Two further provisions of current PNDC Law 24 raise doubts in the mind of an objective observer regarding the independence and impartiality of the Public Tribunals. The first relates to how decisions are taken to bring a particular prosecution before the Public Tribunals rather than before the traditional courts. The system as it presently operates would appear to be somewhat arbitrary. Section 3 (1) (d) provides that the Public Tribunals may 'try any offence under any enactment which may be referred to it by the Council'. Subsequent to the promulgation of PNDC Law 24, the Council has designated certain crimes as falling within the jurisdiction of the Public Tribunals and may designate others at will. At the same time, the traditional courts in Ghana maintain concurrent jurisdiction over crimes defined in the criminal code. The decision as to which judicial body will hear a particular case would in many cases therefore seem to be in the hands of the investigating authorities - be they the police or the National Investigation Committee or in some cases even the Peoples' Defence Committee - and no basis for the choice to be made is provided in law.

This particular concern is increased by the fact that the sentencing provisions applicable to the Public Tribunals vary considerably from those applied by the traditional court system. The traditional courts are bound by those provisions of the Criminal Code and Criminal Procedural Code setting out particular penalties for certain crimes and categories of crimes. Section 8 (5) of PNDC Law 24, by contrast, says that, in cases where pre-existing criminal law designates particular penalties in appropriate cases in so far as such application is consistent with the terms, effect and purposes of this law. At the same time, however, Section 8 (2)-(3) suggests a minimum term of imprisonment of not less than three years except where the Public Tribunal deems this too harsh.

The apparent arbitrariness with which cases may be referred to the Public Tribunals and with which sentencing may be carried out by these bodies can, in Amnesty International's view, raise doubts as to the independence and impartiality of the Public Tribunals. It would also appear contrary to the international legal requirement that every individual be entitled to equal treatment before the law and the courts. The organisation therefore called upon the Government of the Republic of Ghana, in any amendment of PNDC Law 24, to clarify the specific criteria for referral of cases to the Public Tribunals and for the application of penalties by the Public Tribunals.

#### Burden and Standard of Proof.

The right of a criminal defendant to be presumed innocent until proven guilty according to the law is enshrined in all major international human rights instruments. Amnesty International noted with concern that section 7 (14) of PNDC Law 24 provided:

"In every trial arising out of an adverse finding of a committee against the accused, the findings shall be deemed to be prima facie evidence of the facts found and the accused shall be called upon to show cause why he should not be sentenced according to law for the commission of the offence charged."

This same shifting of the burden of proof is not specified in PNDC Law 24 with respect to trials which do not arise from the findings of committees. However, Amnesty International has been informed by lawyers who have appeared before and observed the Public Tribunals that, in cases where the prosecution has in their estimation clearly failed to make a prima facie case, the Public Tribunals have nonetheless refused to allow defence motions of "no case" at the end of the prosecution case. This would appear to indicate that the presumption of innocence is not operating in such cases.

With respect to the standard of proof applied by the Public Tribunals, section 7 (19) of PNDC Law 24 provides that, upon hearing all relevant evidence, the Public Tribunal shall convict the accused 'where it is satisfied that all things considered, the offence was committed by the accused'. On its face, this formulation appears considerably weaker than the standard of 'beyond a reasonable doubt' applied by the traditional courts in Ghana and in various other legal systems. The Chairman of the Board of Public Tribunals indicated to the Amnesty International's delegate that the traditional formula was omitted from PNDC Law 24 not because it was inapplicable before the Public Tribunal, but rather because the drafters were seeking to explain a complex legal concept in layman's language. It would seem that the Public Tribunals themselves interpret section 7 (19) differently. In the 2 August 1983 judgement against Major Seidu Musahand 25 others, the Public Tribunal wrote:

'PNDC Law 24 in section 7 (19) requires the Tribunal to be satisfied after consideration of all things about the guilt of the accused before it convicts. This provision avoids the usual legal phrases about 'burden of proof' and it makes it the Tribunal's duty to look at the cases a whole before deciding. Indeed, deciding the weighty issues at stake under this law it would be unreasonable not to take the totality of the situation as it emerges from the trial into account. Accordingly, we shall examine the evidence before this tribunal and relate it to the case against each accused person in turn.'

#### (5) Right to Legal Counsel

Fundamental international legal standards with respect to a criminal defendant right to legal counsel are articulated in Article 14 (3) of the International Covenant on Civil and Political Rights which describes, in sub-paragraphs (b) and (d), the defendant's right:

'(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing and

'(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing ; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it'.

The Amnesty International delegate was told that the arresting authorities in Ghana are legally required to advise those arrested of their right to legal counsel. In one of the Public Tribunal proceedings which the delegate attended, several of the defendants claimed not to have been advised.

#### ARTICLE 13

1. EVERYONE HAS THE RIGHT TO FREEDOM OF MOVEMENT AND RESIDENCE WITHIN THE BORDERS OF THE STATE.
2. EVERYONE HAS THE RIGHT TO LEAVE ANY COUNTRY, INCLUDING HIS OWN, AND TO RETURN TO HIS COUNTRY.

#### ARTICLE 17.

1. EVERYONE HAS THE RIGHT TO OWN PROPERTY ALONE AS WELL AS IN ASSOCIATION WITH OTHERS.
2. NO ONE SHALL BE ARBITRARILY DEPRIVED OF HIS PROPERTY.

Section 2 of the PNDC Law 42 empowers the PNDC "for the purpose of achieving the objectives of the December 31st Revolution" to direct the use of property in certain specified circumstances or "in any other circumstances where the overall national interest demands such utilisation of such property as the Council directs". Presumably it is the PNDC which will decide what is in the national interest. Although provision is made for the aggrieved persons to apply to the National Defence Committee for redress, there is nothing to say that such an aggrieved person is entitled to compensation.

Recourse to the National Defence Committee for redress of grievance by the affected individuals is deplorable since the NDC is not a court that can dispense justice. Its composition is political and the procedure not based on any rule of law. The NDC being apolitical organ, it cannot deliberate on such matters as efficiently as the court of law and there is no doubt that this is a clear violation of the rule of law. As to the NDC itself there is no provision indicating whether this body can be made subject to the jurisdiction of the High Court by writ of Certiorari to correct any errors of law on the face of the record since this writ itself is abolished by the PNDC. The PNDC is in effect acting as a judge in its own court. This violates the sanctity of ownership and of enjoyment of property as enunciated in the U.N. Charter.

In its wider interpretation the law also violates international law regarding the expropriation of property of foreign nationals with investments in Ghana by substituting NDC for the law courts and the ICJ at the Hague. A foreign national whose property has been so expropriated by the government "in the interest" of the State has no protection by the courts to redress his legal grievance, nor the protection of his government to vindicate his acquired rights in ICJ. In a hostile regime like the one in Ghana it is more real than probable that the Government would resort to the use of detention and deportation or a combination of

both to arrest any embarrassment that any law suits brought against it by the property owner may cause. And once the plaintiff is no longer within the Court's jurisdiction, it is highly improbable that he can be effectively legally represented in the law courts.

M. Fattal a Lebanese National then resident in Accra set up a prosperous business organisation dealing in import of trucks, cars and other accessories. He also ran a service garage alongside the establishment. ON the fateful day of June 4, the AFRC headed by J.J.Rawlings took over the Government of General Akuffo otherwise known as SMC II. M Fattal's establishment was expropriated by the the Government "in the national interest". Fattal was arrested and detained for an indefinite period and finally deported. No compensation was paid to Fattal and, it seems by his detention without trial access to the Court was denied. The trouble was compounded by his eventual deportation and in the final analysis he died of broken heart and broken hope.

#### ARTICLE 19.

EVERYONE HAS THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION: THIS RIGHT INCLUDES FREEDOM TO HOLD OPINIONS WITHOUT INTERFERENCE AND TO SEEK, RECEIVE AND IMPART INFORMATION AND IDEAS THROUGH ANY MEDIA AND REGARDLESS OF FRONTIERS.

#### ARTICLE 20.

1. EVERYONE HAS THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION.

2. NO ONE MAY BE COMPELLED TO BELONG TO AN ASSOCIATION.

The true nature of the position in Ghana has been obscured by the real breaches of the above articles by the regime now in power. Without a free media abuses cannot be reported. The regime has consistently attacked objective journalists. The Free Press, a privately published paper in the country has been a particular victim. Its proprietor and journalists have been repeatedly detained without being charged or brought before any tribunal. After a particularly lengthy period of incarceration the respected Ghanaian journalist, John Kublenu died. The Catholic Standard, a publication of the Catholic Church of Ghana has also been shut down by the regime after it published its now celebrated editorial on the Sousoudis/Scranage/CIA spy exchange affair. An attempt was made to kill its editor by unidentified persons but another priest Rev.. Father Kaku was killed instead.

In the June, 1986 issue of Africa Now, Ken Amankwah in a paper entitled "Ghana: End of the Free Press" portrays accurately the Rawlings' regime's attitude to this article in the Universal Declaration of Human Rights. "The Free Press, the only remaining independent newspaper in Ghana ceased publication on April 25, 1986. In doing so it followed the long line of privately owned independent newspapers, weeklies and magazines that have been banned, refused licence to operate or forced to close down as a result of official harassment.

The Provisional National Defence Council (PNDC) maintains an effective grip on the Ghanaian press with the obnoxious Newspaper Licensing Decree of 1982. Under the Decree, all newspapers, magazines and periodicals have to be licensed yearly by the Ministry of Information in order to operate. One of its victims was the Catholic Church, which was refused renewal of its licence earlier in the year.

The Standard, like the Free Press, provided the only forum for independent thinking on national issues; their factual and detailed reporting of events galled the government. The Free Press, however, was never denied its licence during the four years of its operations. Instead, it was never granted import licences for newsprint, ink or other essentials.

Its newsprint had to be bought on the open market at inflated prices and suppliers were changed often as were the printing houses willing print each edition of the paper. There was considerable risk doing business with the Free Press; any company rumoured to be doing so was immediately struck off the import licence register.

A week before its closure, the paper's research editor, Kweku Baako, was picked up at his desk by the Bureau of National Investigations. The last time this happened, he spent two years at the notorious Nsawam medium security prison. No charges were ever preferred against him, nor have any been made since then.

Three other people have also been arrested under similar circumstances. These are Kwesi Pratt, public relations officer of the Ministry of Fuel and Power, an outspoken critic of the government's economic programme; Tony 'Shee-she' Ampaw, member of the New Democratic Movement and Ralph Kugbey, a cadre of the secretariat of the Committee for the Defence of the Revolution (CDR).

All three were former supporters of the government but had of late become disillusioned by its increasing arbitrariness. The heavily censored government dailies, the People's Graphic and the Ghanaian Times, conveniently neglected to report the arrests; only the Free Press carried the news of the detentions.

It was this willingness to ignore government censorship that has always made the paper's existence a troubled one. In June 1983, for example, an organised demonstration against the attempted coup of June 19, veered off course to the offices of the Free Press. The paper's editorial staff were brutally attacked, the office ransacked and valuable printing machinery totally vandalised. The government, as usual, denied responsibility. The demonstrators were condemned for their excesses and the Free Press was assured in a government statement that, 'despite a conflict of views', it would 'continue to promote and protect press freedom'.



Yet the publisher, Tommy Thompson, together with the editor John Kugblenu and columnist Mike Adjei were all arrested and detained for two years. Kugblenu never survived the torture meted out to him in prison; he suffered a mental breakdown and died just one month after his release. The Free Press was forced to close for nearly a year; it then reopened under the editorship of Kabral Blay-Amihere. A self-declared socialist of the Nkrumah school, he was a popular columnist for the Weekly Spectator and Journalist of the Year in 1981. Despite suspicions about his reasons for accepting the post, Blay-Amihere continued in the tradition of the Free Press, making it a forum for frank and open debate about national issues.

For example, it was the only newspaper which dared to publish the names of people detained without charges. It became prominent in criticising the government for its violations of human rights and, in its last edition, it dedicated its entire centre pages: 'To all those detained yesterday and will be detained today or tomorrow for their political views. And to the day there will be true freedom and justice in the land'

Since the coup the regime has also banned all political meetings not sanctioned by it. This is a negation of the right to peaceful assembly and association. Without such assembly and association the political infrastructure cannot be created to safeguard the rights of the individual and the community and to expose any breaches.

#### ARTICLE 21

1. EVERYONE HAS THE RIGHT TO TAKE PART IN THE GOVERNMENT OF HIS COUNTRY DIRECTLY OR THROUGH FREELY CHOSEN REPRESENTATIVES.
2. EVERYONE HAS THE RIGHT OF EQUAL ACCESS TO PUBLIC SERVICE IN HIS COUNTRY.
3. THE WILL OF THE PEOPLE SHALL BE THE BASIS OF THE AUTHORITY OF GOVERNMENT; THIS WILL SHALL BE EXPRESSED IN PERIODIC AND GENUINE ELECTIONS WHICH SHALL BE BY UNIVERSAL AND EQUAL SUFFRAGE AND SHALL BE HELD BY SECRET VOTE OR BY EQUIVALENT FREE VOTING PROCEDURES.

The basic rationale for opposing the Rawlings' regime is that its establishment was in violation of the constitution of the Third Republic and the rights enshrined in the above article. These violations are continuing acts and the refusal to return to a system of free elections perpetuates them.

The fact that the regime is both the de facto and de jure government of Ghana is an irrelevance since issues of human rights go beyond considerations of the strict legality of government.

Again, in connection with the regime and its claim to have created new democratic structures of mass participation little can be said in its favour. These new structures are exclusive (being reserved for workers or activists) and in any event are instruments of government power and not a basis for that power. It is uncontroverted that the Committees for the Defence of the Revolution do not either directly or indirectly elect or select any of the members of the

regime. The government basis its authority on the coup of 31st December, 1981.

The worst form of human rights violations are those incorporated in laws or in the constitution. When such violations exist in the laws of the land or in the constitution, the people cannot legally fight them. This is the case with PNDC Law 42 which effectively is the new constitution under which the PNDC is governing Ghana.

The fundamental Law or Constitution of a democratic society must not only set up the various institutions and organs of state, it must also clearly define and place limits on their powers. It must enable the people to choose those who rule them and set limits to the term of office of those entrusted with government. It must leave no doubt as to the rights of citizens and the machinery for enforcing those rights. A Constitution must above all avoid excessive concentration of power in one person or organ of the state. For wherever and whenever there is such concentration of power, abuse of power inevitably is the result.

PNDC Law 42 having abrogated the Constitution of 1979 became in effect the new Constitution. It was signed on 30th December, 1982 and notified in the Gazette on 18th February, 1983. PNDC Law 42, unlike the 1979 Constitution that it abrogated, incorporated many violations and has therefore been the subject of widespread comment. On 18th April, 1983 The Ghana Bar Association issued a memorandum in which the Association made extensive comments on PNDC Law 42 and what was wrong with it. The memorandum has been used in preparing this section of the paper.

The manner in which PNDC Law 42 came into being called for comment. One of the main planks of the PNDC when it took over power in December 1981, was "PARTICIPATION OF THE PEOPLE IN DECISION MAKING PROCESS". The form and content of what is in effect the fundamental law of the land must be one of the important decisions which can be taken in any country. And yet PNDC Law 42 was promulgated and is now operating as Law without participation by the people in that decision.

SECTION 1 sets the tone and objectives of the law and justifies the description of the law as the constitution or fundamental law of the land. It lays down certain "Directive Principles of State Policy which provide the basic framework for the exercise of all powers of Government". It further provides that the Directive Principles of State Policy shall "provide the framework for the operation of all persons, organisations, bodies or companies registered in Ghana which operate within Ghana or in such a manner as affects Ghana and any existing arrangement or practice that constitutes an obstacle to the realisation of the objectives enshrined in these Principles shall be terminated or altered as appropriate". There is no indication, however, as to the process by which an existing arrangement or practice may be found to constitute an obstacle and who decides that it is an obstacle. It gives the PNDC and its executives unlimited powers to control all aspects of

the issues and actions of every single Ghanaian citizen or institution in the land. There is no appeal to anywhere from such an opinion. Under Section 1 which is also applied to the Judiciary, judges can be controlled by the PNDC and its executives in the exercise of their functions.

Respect for fundamental human rights and for the dignity of the person is stated to be one of the directive principles of State Policy; they are to be cultivated among all sections of the society and established as part of the basis of social justice. These sound fine on paper. However these have not been guaranteed in any way.

Chapter 6 of the 1979 Constitution clearly set out the fundamental human rights of every person in Ghana, whatever his race, place of origin, political opinions, colour, creed or sex. Articles 19 to 34 inclusive then tabulated in detail these fundamental liberties and their extent. Then Article 35 made provisions to ensure that these fundamental rights received protection. Indeed any person who alleged that a provision of Articles 19 to 34 inclusive of the 1979 Constitution had been or was being or was even likely to be contravened in relation to him, would, without prejudice to any other action with respect to the same matter lawfully available, apply to the High Court of Justice for redress. The High Court was given wide powers to issue such directions or orders as it considered appropriate for the purposes of enforcing or securing the enforcement of any of the provisions of Article 19 to 34 inclusive, to the protection of which the person concerned was entitled.

SECTION 4 of PNDC Law 42 is one of the most dangerous provisions of this Law. It enables the Chairman of the P.N.D.C. to wield all the powers of the P.N.D.C. alone, "in circumstances of public emergency or in exceptional circumstances where it is impossible for the council to meet." It is not specified what is an exceptional circumstance or who decides that exceptional circumstances exist. It is too dangerous to clothe one person with such power even in a period of emergency because once he assumes it he may refuse to let go and convert the powers conferred temporarily in an emergency into something permanent. It is true that there is provision for the P.N.D.C. later to confirm, vary or revoke any act of the chairman "as soon as it is practicable". The vagueness of "as soon as it is practicable" underlines the apprehension which this provision generates in the minds of those who can see its potential abuse.

SECTION 8 of PNDC Law 42 gives the P.N.D.C. the exclusive power to levy taxes. This power is not made subject to any qualification or restraint. The power to impose tax is a very important one which must be regularly subjected to the closest scrutiny. As it is the people of Ghana have no choice, even indirectly, through their chosen representatives, in deciding how they should be taxed. The Power to impose taxes is a vital decision making process in which under this law the people are not invited to take part contrary to the professed aims of the 31st December Revolution".

SECTION 9 of PNDC Law 42 established the consolidated fund into which all revenue is paid. There is no provision however for the P.N.D.C. presenting an Annual Budget for the people to see, read, discuss and approve as evidence of their participation in the decision-making process before their money is spent by the council. This is important because the people must authorise how their hard earned taxes in the form of state revenue is spent. Moreover, there is a very serious omission in that no where in the whole of Law 42 is there a provision obliging the P.N.D.C. to submit public accounts of Government's expenditure to the Auditor-general for audit. Section 38 which sets up an Audit Service Board and spells out its functions does not specifically anywhere empower the Auditor-General appointed by the Council to demand that the Government submit its public accounts for Audit purposes as was provided for by Article 151 of the 1979 Constitution. What happens then if the Auditor-General is refused access to documents, Books and other Accounting Records of the Public Accounts? thus under Law 42 the P.N.D.C. has no specific responsibility by law to render public accounts of its expenditure or State Revenue.

#### CONCLUSION.

This is the catalogue of a persistent pattern of gross and reliably attested violations of human rights and fundamental freedoms by the present regime in Ghana. It is urgently required that some concerted action be taken by the international community and the other states to arrest this terrible situation before it erupts into violence.