

The Commissioner,
Commission on Human Rights and
Administrative Justice (CHRAJ),
Old Parliament House,
Accra

ATTN: Joseph Whittal (Commissioner).

COMPLAINT BY: Samuel Okudzeto Ablakwa (MP) and Emmanuel Armah-Kofi Buah (MP).

RE: Investigation into election violence and killing of citizens during 2020 presidential and parliamentary elections.

ARTICLE 218(a) OF THE 1992 CONSTITUTION & SECTION 7(1)(a) OF THE COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE ACT, 1993 (ACT 456).

I. INTRODUCTION.

A. Invoking the mandate of the Commission.

1. Regulation 1 of the Commission on Human Rights and Administrative Justice (Investigations Procedure) Regulations, 2010 (C.I. 67) requires the constitutional mandate of the Commission on Human Rights and Administrative Justice be invoked by complaint to the Commission. **See Regulation 1(1) of CI 67.**

2. For the sake of convenience, we shall hereafter refer to the Commission on Human Rights and Administrative Justice simply as the “Commission” and the Commission on Human Rights and Administrative Justice (Investigations Procedure) Regulations, 2010 (C.I. 67) as “CI 67” or “the regulations”.

3. The law is that the use of the word “complaints” in article 218(a) of the 1992 Constitution is “limited to formal complaints made to the Commission...” **See: Republic v High Court (Fast Track Division) Accra; Ex parte Commission on Human Rights and Administrative Justice (Richard Anane-**

Interested Party) [2007-2008] 1 SCGLR 213. It is for this reason the instant complaint is formally lodged in this manner.

B. Complainants and capacity.

1. In the case of *Republic v High Court (Fast Track Division) Accra; Ex parte Commission on Human Rights and Administrative Justice (Richard Anane-Interested Party)* [2007-2008] 1 SCGLR 213 at page 260, the Supreme Court held that the formal complaint required to invoke the mandate of the Commission may be made “by an identifiable complainant; **not necessarily the victim**, but an identifiable complainant, armed with the complaint.” **Id at page 260.**

2. The complainants in this matter are Mr. Samuel Okudzeto Ablakwa who is the Member of Parliament for the North Tongu Constituency in the Volta Region of the Republic of Ghana and Mr. Emmanuel Armah-Kofi Buah also Member of Parliament for the Ellembele Constituency in the Western Region of the Republic of Ghana.

3. The instant complaint is lodged by COSMAS ANPENGNUO, ESQ., of Messrs. BAYONG LAW CONSULT for and on behalf of the complainants. For this reason, although the contact address of the complainants as required by the provisions of regulation 2(1) of CI 67 will be stated hereafter, all communication and/or correspondences regarding and in connection with the instant complaint should be addressed to the complainants’ lawyer, COSMAS ANPENGNUO, ESQ. whose address is; BAYONG LAW CONSULT, 23 OROKO AVENUE, KOKOMLEMLE, ACCRA.

4. The contract address of the complainants is;

PARLIAMENT OF GHANA,
PARLIAMENT HOUSE,
OSU, ACCRA.

5. The address above provided is to ensure compliance with the provisions of CI 67. It is repeated however that all correpondences and communication relating to the instant matter be directed at the complainants’ lawyers.

C. Bodies and Officials against whom the complaint is lodged.

1. The complaint is lodged against, the Minister of the Interior, the Minister of Defence as well as the Ghana Police Service and the Ghana Armed Forces respectively.

2. The Minister for the Interior is the appointee of His Excellency the President of the Republic of Ghana and has oversight responsibility for the Ghana Police service.
3. The Minister of Defence is the appointee of His Excellency the President of the Republic of Ghana and has oversight responsibility for the Ghana Armed Forces.
4. The Inspector-General of the Ghana Police Service is by virtue of article 202 of the 1992 Constitution, the head of the Police Service “responsible for the operational control” and “the administration” of the Police Service.
5. The Chief of Defence Staff is by virtue of article 213 of the 1992 Constitution, responsible for the operational control and command of the Ghana Armed Forces.

II.PARTICULARS OF COMPLAINT.

A. National Election Security Taskforce (NESTF).

1. During the general elections held in the Republic of Ghana in or about December 7, 2020, the Ghana Police Service and the Ghana Armed Forces established a National Election Security Taskforce (NESTF) to support the effort to ensure smooth and transparent conduct of the said elections. This was necessary for purposes of safeguarding the democratic values and principles of free and fair elections.
2. This effort was also necessary to provide citizens of the Republic of Ghana including voters with security during the conduct of the elections.
3. Apart from the NESTF, there were other members of the Police Service and Ghana Armed Forces who played diverse roles during the period of the 2020 Presidential and Parliamentary elections.
4. The complaint is restricted to the Techiman South, Odododiodio, Ablekuma Central, and Savelugu constituencies in the Bono East, Greater Accra and Northern Regions of the Republic of Ghana respectively.
5. The complaint relates to the manner in which the Ghana Police Service and the Ghana Armed Forces discharged their constitutional and statutory mandates in the constituencies mentioned above.
6. In the case of the Ghana Armed Forces, their conduct in furtherance of the purpose of the NESTF did not promote the development of Ghana as prescribed

by article 210(3) of the 1992 Constitution, as their conduct caused damage to life, limb and property.

7. Regarding the Ghana Police service, the manner in which they carried out their functions to further the purpose of the NESTF undermined their constitutional obligation under article 200(3) of performing their “traditional role of maintaining law and order.”

B. Techiman South constituency.

1. At about 3:00 pm [15:00 hours GMT], on the 8th day of December 2020, armed officers attacked, violently abused, and in some instances killed civilians in the Techiman South constituency. The victims of their actions were unarmed civilians who had turned out peacefully in front of the Brokyepem Hall close to the Municipal Assembly to exercise their franchise.

2. The officers carried out the acts referred to in paragraph 1 above, by indiscriminately shooting into the crowd of voters and observers at the said polling station. It is important to underscore the fact that at the time the uniformed officers decided to, and indeed indiscriminately shot at the voters and observers at the Brokyepem Hall in the Techiman South constituency, there was no imminent and compelling threat to justify the use of, let alone the excessive and rather reckless use of such force against the unarmed civilians who were lawfully exercising their constitutional right at the polls.

3. The result of their actions was death caused to the following individuals.

- i. 39 years old Tajudeen Alhassan and
- ii. 18 years old Abdallah Ayaric.

4. Apart from causing the death of the two above mentioned the officers also unlawfully assaulted and battered civilians gathered in front of the Brokyepem Hall close to the Techiman Municipal Assembly. Amongst the injured were;

- i. Alhassan Nasiru
 - ii. Abubakar Iddris
 - iii. Paul Asue
 - iv. Shaibu Bani
 - v. Jadalhak Iddris
 - vi. Aremeaw Alhassan and
 - vii. Sulemana Elliasu.

C. Ododiodio constituency.

1. On the same day (8th day of December 2020) the uniformed officers employed unreasonable and unjustifiable force in the discharge of their functions by discharging tear gas and apprehending persons who were resident in a hotel known as Modak Hotel at the Bombay Korle Wonkon area and against whom no crime was alleged.
2. The acts of these uniformed officers resulted in the death of two persons namely;
 - i. 36 years old Emmanuel Dompere and
 - ii. 15 years old Rita Otoo.
3. The armed officers executed these acts in clear breach of the statutory procedure for arrests and needlessly visited upon unarmed and peaceful civilians, acts of brutality resulting in death and injuries to others.

D. Savelugu constituency.

1. In the Savelugu Constituency two young persons, were shot and killed by armed officers on the 8th day of December, 2020 without any provocation whatsoever. These young persons are;
 - i. 14 years old Samira Zakaria, and
 - ii. 15 years old Fuseini Musah.

E. Ablekuma Central constituency.

1. In this constituency, at the Odorkor Police Church Collation Centre;
 - i. Thirty (30) years old Ibrahim Abbas was shot dead.
 - ii. A level 300 student journalist at the Ghana Institute of Journalism by name Pious Kwanin Asiedu was also shot and injured.

Like the other shooting incidents, there was no justification for this clear violation of their (the officers) mandate to provide and safeguard the security of citizens who legitimately came to the polling station to vote and observe the polls.

F. Evidence supporting the acts complained about.

1. Attached to this complaint are;

- i. Medical reports for Aremeaw Alhassan, Mohammed Tajudeen, Paul Asue, Sulemana Elliasu, Abubakari Iddrisu, Abdallah Arayek, Alhassan Abdul-Rahman, and Alhassan Nasiru are attached hereto and marked A1, A2, A3, A4, A5, A6, A7 and A8 respectively.
- ii. Statement dated 10th December, 2020 issued by National Election Security Taskforce (NESTF) as reproduced by Citi News Room marked B1.
- iii. Media reports from Citi newsroom and the website named pulse.com.gh attached hereto and marked “B2” and “B3”.
- iv. Video footages on some of the incidents contained in a pen drive attached hereto and marked “C”. Its contents include;
 - a. A Citi TV Video report on the inauguration of the NESTF.
 - b. News report by TV3 showing chaos with sounds believed to be from gunshots at the Ablekuma Central Collation Centre.
 - c. A Citi TV newsroom report on updates from court proceedings following the shooting incident at Ablekuma Central.
 - d. A Citi TV report on the chaos at the Odorkor police church Collation centre.
 - e. A Joy news video report on the Ablekuma Central Incident.
 - f. A Citi TV video report on the Techiman South incident.
 - g. An amateur video showing victims of the Techiman South shootings.
 - h. An Ohbraa Tv Video showing victims of the Techiman South shootings.
 - i. A Hitz 103.9FM Video showing armed uniformed officers firing into a crowd at the Techiman South Collation Centre.
- v. A police report signed by C/Supt. Alhaji Huseini M. Awinaba dated the 9th of February, 2021 in respect of the Techiman South Constituency shooting Incident marked “D”.
- vi. Witnesses will be called to testify and corroborate the facts contained herein.

2. A review of the documents and video footages which accompany this complaint will show that, the victims were indeed injured and killed by the direct conduct or actions of uniformed officers and the NESTF during the period of the December 2020 Presidential and Parliamentary elections.

3. The evidence will also point to a display of needless and unjustifiable brute and excessive force incommensurate with the actual threat with disregard for other less fatal options for the purpose.

III. CASE FOR INVESTIGATIONS.

A. Mandate of the Commission.

1. Under and by virtue of the provisions of article 218(a) of the 1992 Constitution, the functions of the Commission are described as inclusive of the duty to investigate complaints of violations of

- i. fundamental right and freedoms.
- ii. injustice.
- iii. abuse of power, and
- iv. unfair treatment of any person.

2. The matters above specified, and which fall within the Commission's constitutional mandate to investigate must arise from acts "by a public officer in the exercise of his official duties".

3. It has already been stated above that the Ghana Police Service and the Ghana Armed Forces, formed the NESTF for purposes of assisting in the conduct of free, fair and transparent elections during the general elections of December 2020.

4. It has also been established that aside the NESTF, other uniformed officers from both the police service and military played diverse roles during the period of the elections.

5. In carrying out the functions entrusted to the NESTF therefore, there can be no doubt whatsoever that the NESTF carried out those functions as "public officer[s] **in the exercise of [their] official duties**".

6. The acts alleged against the NESTF who are, members of the Ghana Police Service, and the Ghana Armed Forces put it beyond every doubt whatsoever that in the purported exercise of their official duties, the NESTF and other officers violated

- i. the fundamental right and freedoms of the victims mentioned in this complaint.
- ii. caused them injustice.
- iii. treated them unfairly, and
- iv. abused their power.

7. The matters above mentioned undoubtedly fall within the constitutional mandate of the Commission to investigate.

B. The Ghana Police Service.

1. In the case of the Ghana Police Service, the fact that they abused their power apart, the Ghana Police Service, is constitutionally and statutorily established to “**prevent and detect crime, apprehend offenders, and maintain public order and the safety of persons and property.**” See article 200 of the 1992 Constitution and section 1(1) of the Ghana Police Service Act, 1970 (Act 350)

2. In so far as the acts on which this complaint is lodged are concerned, the Ghana Police Service has a constitutional and statutory obligation to have ensured that in the discharge of the official duties of the NESTF,

- i. the safety of persons was maintained.
- ii. detected and acted on the crimes of murder and assault committed against citizens; and
- iii. apprehended all members of the NESTF who engaged in such crimes.

3. The failure to carry out their constitutional and statutory functions above set out resulted in a further breach of article 12(1) of the 1992 Constitution of the Republic of Ghana. This constitutional provision requires that “the Executive, Legislature, Judiciary, and all other organs of government and its agencies” respect and uphold the fundamental human rights and freedoms enshrined in the Constitution.

4. In the light of the constitutional provision just referred to, the Ghana Police Service is not only under a burden or obligation to have avoided all acts which undermined the fundamental human rights of the victims mentioned in the complaint but also had a responsibility to have used its constitutional and statutory powers to ensure that their rights were not violated.

C. Ghana Armed Forces.

1. In the case of the Ghana Armed Forces, it suffices to refer to the provisions of article 12(1) discussed in relation to the police service. In the discharge of their obligations, they not only owed a duty to

- i. avoid the abuse of fundamental rights and freedoms of the victims mentioned in this complaint

- ii. to avoid injustice to the said persons, but also
- iii. to treat them fairly, and
- iv. refrain from abusing their power.

2. The Ghana Armed Forces also ought to have been mindful of their constitutional obligations as an “organ[s] of government” to respect and uphold the fundamental human rights and freedoms enshrined in the Constitution.

3. The direct engagement of the Ghana Armed Forces in the matters the subject matter of the instant complaint certainly falls within the constitutional mandate of the Commission to investigate.

IV.RELIEFS SOUGHT FROM THE COMMISSION.

A. Investigation into the matters complained about.

1. In terms of the Commission’s mandate provided for under article 218(a) of the Constitution, the complaint demands an investigation into the

- i. violations of fundamental rights and freedoms of the persons mentioned in the complaint.
- ii. the unfair treatment meted out to the said persons.
- iii. the injustice caused to them, and
- iii. the abuse of power clearly exhibited by the Ghana Police Service and Ghana Armed Forces.

2. The complainants demand that the Commission conduct investigations into the NESTF’s activities during the December 2020 elections at the Techiman South, Odododiodio, Ablekuma Central and Savelugu constituencies in the Bono East, Greater Accra Region, and Northern Regions of the Republic of Ghana.

3. The Complainants also demand that the investigation identify officials of the Ghana Police Service and Ghana Armed Forces responsible for the unlawful acts the subject matter of the present complaint and the persons under whose command and instructions they acted.

4. The Complainants finally demand that the investigation identify the role played by the Ministers of the Interior and Defence in terms of instructions and orders in relation to the conduct resulting in this complaint, and the lack of leadership or proper oversight to prevent, stop or respond in a manner to curb the violations that have occurred.

B. Compensation.

In terms of the Commission’s mandate under article 218(i) the Complainants demand that the Commission recommend that the Ghana Police Service and Ghana Armed Forces negotiate and reach an agreed sum as compensation with the victims and in appropriate cases, their personal representatives, or in the alternative, that the Commission recommends an amount as compensation to the victims or families of the victims.

C. Disciplinary action and prosecution.

The complainants also pray that upon identifying the officials responsible for the acts the subject matter of the instant complaint, that the Commission recommends appropriate disciplinary sanctions in accordance with law.

V. CONCLUSION.

1. The Complainants herein bring this matter before the commission based on the Commission’s legal mandate to investigate the conduct of the security officers complained about in the instant petition in a timeous manner for justice to prevail for the victims and their families.

2. It is instructive to note that the Ministers holding the portfolios of Defence and Interior, as well as the Chief of Defence Staff [with two other members of the Armed Forces] and the Inspector-General of Police [also with two other members of the Police Service] are members of the National Security Council. **See article 83(1)(c), (d) and (e) of the 1992 Constitution.**

3. The functions of the National Security Council include among others **considering and taking appropriate measures to safeguard the internal security of Ghana and indeed ensuring the collection of information relating to the security of Ghana and the integration of the domestic security policies relating to it so as to enable the security services and other departments and agencies of the Government to cooperate more effectively in matters relating to national security. See article 83(2)(a) and (b) of the 1992 Constitution.** The respondents to this complaint who are all members of the National Security Council, all failed the Republic of Ghana in this regard.

DATED AT ACCRA THIS 24TH DAY OF AUGUST, 2021

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SOLICITORS FOR COMPLAINANTS

AND FOR SERVICE ON THE

1. MINISTER FOR THE INTERIOR,
MINISTRIES,
ACCRA.
2. THE MINISTER FOR DEFENCE,
MINISTRY FOR DEFENCE,
ACCRA.
3. THE INSPECTOR GENERAL OF POLICE,
POLICE HEADQUARTERS,
ACCRA.
4. CHIEF OF DEFENCE STAFF,
BURMA CAMP,
ACCRA.