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PRESS RELEASE

**ADVISORY ON MEDIA MONITORING REPORTS ON EXCESSES BY
LAW ENFORCEMENT AGENTS (SECURITY TASK FORCE) ON
COVID -19**

The Commission on Human Rights and Administrative Justice (CHRAJ), has been monitoring media reports on the implementation of the Executive Order on the lockdown of Greater Accra and Greater Kumasi. Pursuant to its constitutional mandate to promote and protect the fundamental human rights and freedoms of all persons in Ghana, which includes the issuance of advisories to government and its agents consistent with the Paris Principles, the Commission has found it compelling to issue this advisory on media reports on excesses attributed to the COVID-19 Security Task Force (COVID-19 STF) put together to enforce the Executive Order.

The Commission commends the initiative so far taken by government in combating the COVID -19 pandemic in the interest of public health and public safety. The initiative has culminated in the enactment of the Imposition of Restrictions Act, Act 1020 of 2020, which is anchored on Article 21(4) (c) (d) and (e) of the 1992 Constitution and gives legal effect to the restriction or curtailment of fundamental rights and freedoms in circumstances of national emergency or disaster to safeguard public health and public safety.

The Commission, however, has noted with concern media reports alleging excessive use of force and practices bordering on torture meted out to some persons who are reported to have breached the President's directives on the lockdown, particularly the directive to non-essential service providers to stay-at-home, by some security personnel in the course of enforcing the directives.

Notwithstanding the legal and constitutional bases for the lockdown and restriction or curtailment of movement, the media reports alleging excesses (taking the form of caning, beating, etc. of persons who are deemed to have breached the lockdown directives) should be of great concern to the entire nation. Some of the acts reported by the media to have been committed by some members of the COVID-19 STF obviously border on cruel, inhuman or degrading treatment (and could be referred to as "Torture").

CHRAJ recognises that the country finds itself in an emergency situation requiring the curtailment of certain fundamental rights and freedoms. However, it must be equally emphasised that, in the event of an emergency like what persists in Ghana, human dignity cannot be curtailed or “traded off”. Article 15(1) of the Constitution puts the matter beyond question when it provides as follows:

The dignity of all persons shall be inviolable.

We will therefore be remiss of our duty if we fail to call on the Government and all who have the duty to enforce the lockdown to do so in a manner that would protect the dignity of members of the public, including those found to have breached the Executive Order.

It is the considered view of the Commission that the exercise of the powers conferred on the COVID -19 STF should be consistent with both Ghana’s Constitution as well as International and Regional Human Rights law and normative frameworks as articulated in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the African Charter on Human and Peoples’ Rights (ACHPR), the Nelson Mandela Rules, the Luanda Guidelines and the Robben Island Guidelines (hereinafter referred to as “International Human Rights Instruments”).

To this end, the Commission wishes to state that even though the President has not specifically exercised his emergency powers under Article 31(1) of the Constitution, the powers being exercised under Act 1012 are in essence emergency powers, and should be exercised consistent with the Constitution. It is instructive to note that, Article 21(4) (a - e) of the Constitution on which Act 1012 is premised provides as follows:

Nothing in, or done under the authority of a law shall be held to be inconsistent with, or in contravention of, this article to the extent that the law in question makes provision –

except so far as that provision or as the case may be, the thing done under the authority of that law is shown not to be reasonably justifiable in terms of the spirit of this Constitution.

It is obvious that the Constitution envisages the need to control powers exercised by public bodies and officials under Article 21(4) of the Constitution even in emergency situations to avoid violations to human dignity, which have already started manifesting in the enforcement of Act 1012 as shown by the media reports.

In the circumstances, the Commission would like to remind all public bodies and officials, including COVID -19 STF, that are exercising power conferred on them

by law (Act 1012) that they should be careful not to exercise it arbitrarily. Indeed, such powers are constrained by Articles 23, 15(1) and 296 of the Constitution.


The Commission wishes to reiterate that in as much as it lauds efforts by both the Government and the COVID -19 STF in protecting public safety during the lockdown, it is equally imperative that the efforts at enforcing the law to safeguard public health and public safety should not be oblivious of the limitations imposed by the Constitution and International Human Rights Instruments.

In arriving at this position, CHRAJ is mindful of the logistical and operational constraints being faced by security personnel generally, but they owe it a duty to all to act proportionately in the performance of their duties, particularly regarding arrests and assaults. In this connection, CHRAJ wishes to advise the High Command of the Security Services to take necessary steps to strengthen the professional standards and behaviour of the security personnel to ensure that they operate within the ambit of the Constitution as well as the above mentioned International Human Rights Instruments. While the excesses reported on may not be widespread, the nation risks sliding into slippery ground if they are not held in check immediately by holding accountable those who may indulge in excesses that can bring embarrassment to the Government and the State.

In addition, it is imperative for the authorities to improve operational standards based on benchmarks set out, among others, in the UN Basic Principles on the Use of Force and Firearms, UN Code of Conduct for Law Enforcement Officials and the Declaration on Basic Principles for Justice of Victims of Crime and Abuse of Power, which are aimed at guiding security personnel to act proportionately to avoid Torture and abuse of power even in war and emergency situations.

CHRAJ wishes to remind all that, although we find ourselves in difficult and challenging times, we are not in a conventional war situation for which some sections of the populace including some security personnel believe unjustified use of force or Torture should be resorted to as means of enforcing the law.

The Commission also takes this opportunity to strongly advise members of the public in the lockdown areas to respect the lawful directives relating to the lockdown in order not to occasion any misunderstanding with the lawfully constituted COVID-19 Taskforce as it carries out its legal duties.



Joseph Whittal
Commissioner