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## Editorial

### WE ARE GOING, BUT WHERE ARE WE GOING?

The government, admittedly, inherited a battered economy from its military predecessors. Fully aware of the nature of the economic problems bequeathed to it, the government promised, on assuming the reins of power, to turn the economy around on the ashes of the mess left by the incompetent and reckless military rulers of the recent past. President Limann promised in his Sessional Address that he and his colleagues would work 'relentlessly to resuscitate our economy, restore public spiritedness, revive social consciousness, enforce accountability and ensure social justice.'

These are grand and inspiring words, but the President was not speaking with a tongue in cheek for he was fully conscious not only of the enormity of the task ahead of him; but also he was aware of the kind of expectations such words are most likely to generate. He noted in the Sessional Address:

'We have inherited huge domestic and external debts. Indeed, it is from this position of hollow financial base that we are expected to meet the present great expectations and the measureless hopes of our people. We are not cowed by the enormity of this task because we have asked for the mandate to save our country from further decline, disgrace and shame. We are therefore determined to rebuild our country and rescue it from its present plight'

Following closely on the heels of the Sessional Address - indeed barely a month later - the Minister of Finance and Economic Planning, Dr. Amon Nikoi, presented his budget proposals to Parliament. At the time both speeches were made, the critical problem we faced, and still face, was the acute shortage of basic consumer goods, notably household items like matches, soap, edible oils, and meat. In the Sessional Address and in the Budget we were told that short and long term plans of some sort have been worked out to provide the people with these household items. The President made it clear that certain short term effects will be achieved within the budget period and promised that:

'To arrest the inflationary situation and provide a sound trade policy my Government has worked out measures which will introduce order and discipline into the system of allocation and utilization of foreign exchange resources.....

In the short term, however, we have taken steps to import goods to minimize the current acute shortages but we hope to eliminate our over-dependence on imports, within a limited period of time. I shall personally take and execute steps to ensure that these plans are not frustrated by hoarders, profiteers and smugglers'.

As an earnest of the desire of the government to improve the supply of certain basic household items, the Minister of Finance also promised that small-scale industries which turn out such items as matches edible oils and soap will be developed. In this, policy will aim at a rapid transfer both of foreign exchange and local resources to selected target groups of small-scale enterprises. So reading the Presidential statements in conjunction with the budget proposals, it becomes quite clear that the government has set itself priorities. But are these priorities being followed?

A visit to any shop in the country will prove conclusively to any doubting Thomas that our shops are empty; basic household items like soap, matches and edible oils are in acutely short supply. Even the well-connected need to rely on an intricate network of kinship and friendship for the supply of these items. By the simple test of availability, then, it does not appear that the government is fulfilling its own promises. All in all, the supply situation has not improved in any significant respect since 1977.

Most Ghanaians would be prepared to live with the crippling shortages if they had reasons to believe that something concrete was being done about them. Unfortunately, however, the government has not given any indication that it is tackling this critical problem. No one in government has given us any idea of what is being done to translate all the promises into action; and there is a growing feeling that, at least in terms of availability of basic items, there is nothing to look forward to. The government has been in power for seven months now, and has provided no clear evidence of performance in this respect.

The budget period is coming to an end, and by all accounts, in terms of its impact on ordinary people, this was a rather drastic and harsh budget. Kerosene and petrol prices have gone up, and the lower-middle classes have been asked to pay more tax. All this would be a small price to pay, if the government provided concrete evidence that something was being done to improve the living conditions of the people. Unfortunately we see nothing in the shops, and we hear nothing from the government on the issues raised. One does not even know

whom to believe in government circles. While the President tells us that the food situation 'is not bad'; the Vice-President gravely informs Ghanaians in London that we face a 'difficult situation.' In terms of even evaluating the critical supply situation in the country, the government gives contradictory signals. What we have said in relation to the food situation applies with equal force to the other sectors of the economy. The budget period is coming to an end, and we seem to be going somewhere, but exactly where we are going is not clear to any one.

Without certain basic items, we cannot have a rational system of pay bargaining and improved productivity; without a rational system of pay bargaining, we cannot be stable economically; without being stable economically, as our recent history amply proves, we cannot be stable politically; without political stability no government in this country can succeed or survive. Therefore unless we seriously tackle the problem of the supply of basic household items, we shall be spelling our own doom. This is a chain of ideas which the government should be invited to sniff at.

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# Economy

## VRA ELECTRICITY TARIFF TO VALCO

By A Correspondent

The availability of low-cost power has traditionally been the key factor in the siting of aluminium smelters. As a result of this phenomenon, until very recently, smelters in the Western World were mainly located in Canada, Norway and the Pacific North West of the USA where the hydro-electric potentials of these areas were tapped to provide electric power for aluminium smelters and other large-scale users of electricity.

Electric energy is a very significant raw material in aluminium smelting. For example, the entire energy output of a 400 mw generating plant will be utilised by an aluminium smelter of the size of Valco, i.e. 200,000 tonne per year capacity. Put another way the entire energy output of both Kpong and the proposed Bui hydro-electric projects will be utilised by a smelter of the size of Valco. With this massive electric power requirement a smelter must preferably be located where it is assured of continuous power supply at a reasonable price.

Due to the costs involved in establishing their own electricity generating facilities, a number of existing smelters have had to purchase power, and the power contracts governing some of these purchases in the past made for very low electricity tariffs, sometimes at costs far below what the power could attract had it been devoted to other uses.

Since the oil crisis of 1973 it has, however, been recognised that the aluminium industry cannot lay exclusive claim to low-cost power sources whilst other consumers pay more. The industry has, therefore, of late, been called upon to contribute its fair share for electric energy utilised all over the world.

### Historical Background to VALCO Tariff

It is against this background of low tariffs before the 1970s that Kaiser Engineers and Construction Inc., consultants to the Akosombo Project, prepared their Report HC-60-2R. In this report it was estimated that in 1968 exportable power from Akosombo would be 429 mw with an average demand of 345 mw. Valco would take 312 mw and 286 mw of this power respectively. Energy consumption was estimated at  $2380 \times 10^6$  kwhr for Valco. On this basis the cost of energy supplied to Valco in 1968 was valued at 3.58 mills/kwhr and to other customers at 10.77 mills/kwhr.

For 1972, when all the 6 generating units should have been installed and Valco's energy consumption was estimated at  $2380 \times 10^6$  kwhr the study determined a tariff of 2.68 mills/kwhr for Valco and 5.26 mills/kwhr for non-Valco customers.

It is therefore a little surprising that at the end of the negotiations a rate of 2.625 mills/kwhr was settled for. It is however probable that the results of the negotiations were influenced by tariffs prevailing at the time, for a study by the Boneville Power Authority (BPA) in 1967 entitled, "The Aluminium Industry of the Pacific Northwest" revealed that comparable tariffs for some aluminium smelters in operation were:

Country	Year of Agreement	Tariffs mills/kwhr
Norway	1962	3.1
USA (BPA)	"	2.0
Norway	"	2.48
Venezuela	1961	3.0

Besides, between 1950 and 1960 average cost of thermal power decreased steadily from 3.8 mills/kwhr to 2.8 mills/kwhr. By 1964 cost of thermal power had fallen to 2.6 mills/kwhr.

### Power Contract Between VRA and VALCO

The power Contract between the Volta River Authority (VRA) and Valco was signed on February 8, 1962.

Under the Contract, Valco agreed to pay to the VRA a fixed tariff of 2.625 mills/kwhr for electric power delivered to the Valco smelter at Tema for a period of 30 years commencing on 25th April 1967, the 'Permanent Delivery Date' (PDD). The Agreement may be summarised as follows:

- i) by the 2nd anniversary of the PDD, VRA undertook to make up to 315 mw of power available to Valco.
- ii) by the same date Valco undertook to take or pay for annually a minimum of Akosombo Power.
- iii) Valco has the option up to the 10th anniversary of the PDD to claim up to 370 mw and in such circumstances, the offtake taken or paid for shall be the new power ceiling times  $0.95 \times 8760$  kwhr per annum.
- iv) Power to Valco is uninterruptible. The penalty for any interruption is contained in Article 15 of the Power Contract.

- v) There is no provision in the contract for any variation of the tariff.
- vi) Valco enjoys a most favoured currency parity and commercial purchaser status.

### Studies On Valco Tariff

A year after the permanent delivery date it became apparent to the VRA that with the existing Valco tariffs the Authority could be in financial difficulties as the possibility existed that it could not meet its contractual obligation of earning an 8% return on equity, starting 1974. The VRA therefore in 1968 commissioned Messrs Preece, Cardew and Rider of England to "Carry out an examination of the VRA tariff structure and a review of its 5 year financial forecasts." The aim of this exercise was possibly to provide VRA with ammunition

to take on Valco in a possible review of their tariff. In the final report of the consultants presented in

August 1970 it was recommended that, Valco tariff would have to be increased by 6.7% to 2.80 mills/kwhr if it is to meet its true share of the VRA's costs in 1974 and if it is to achieve an 8% return on the original Government investment.

In 1974, a Canadian firm, Shawmont Ltd., was also commissioned to study the tariff structure of the VRA. In its August 1976 report entitled "Power Rate Study" the consultants recommended "that a rate in 1974 for Valco of 5.00 mills/kwhr is fair and reasonable...and should apply until Valco's load increases to 370 mw." Shawmont further recommended the following rates for the customers of VRA from 1974 through 1980.

YEAR	TARIFF			
	VALCO		CEB*	OTHERS
	Mills/kwhr	Pesewas/kwhr	Pesewas/kwhr	Pesewas/kwhr
1974	5.00	0.575	0.959	0.8
1975	5.06	0.582	1.380	1.0
1976	5.12	0.589	1.80	1.2
1977	4.41	0.507	1.80	1.2
1978	4.27	0.491	1.80	1.2
1979	4.36	0.501	1.80	1.2
1980	4.36	0.513	1.80	1.2

(\*CEB stands for Communaute Electrique du Benin.) Shawmont, however, conceded that the 'take or pay' provision in the power contract, Valco's payments in convertible currency as well as Valco's importance in ensuring the original feasibility of the project are important factors weighing in their favour, but that these factors are difficult to quantify in any analytical manner.

The consultants therefore concluded that the above factors notwithstanding Valco's tariff was too low and had to be adjusted.

### Critique of the two Studies

The major defect of the Preece, Cardew & Rider as well as Shawmont Ltd. studies is that they determined tariffs payable by Valco based on their contribution to VRA's costs both capital and operating without considering factors such as costs of alternative power, tariffs payable by other smelters etc.

If these factors had been considered, particularly by Shawmont Ltd., whose study was commissioned after the 1973 oil crisis, that consultant would not have made the recommendations contained in the preceding paragraph.

The studies also recognised that factors such as 'take or pay,' convertible currency payments etc weigh in favour of Valco. Unfortunately the reports are silent on the fact that Valco has first call on VRA power. (Article 5D of the power contract). The implications of this clause are rather ominous for Ghana since in the events of any crisis at the Akosombo Power plant the whole of Ghana, apart from essential services, has to be cut-off power and placed in darkness while any power so generated during this period is made available to Valco.

### Review of Power Contract

Thus, it is against the background of these tariff review studies that some amendments of funda-

mental import have been made in the power contract. Since February 8, 1962, the Power Contract has been amended 5 times. The first two amendments dated March 15, 1963 and November 25, 1963 are of no relevance to this article. The third amendment of October 25, 1972 saw the first change in the tariff VRA charges to Valco. Under the original terms of the Power Contract, tariffs to Valco were fixed for 30 years at US 2.625 mills/kwhr, but the third amendment amended this fixed tariff clause so that:

for every kilowatt hour (kwhr) of energy taken and utilised by Valco prior to 25th October, 1972 the power rate shall be US 2.625 mills/kwhr thereafter the rate shall be US 2.75 mills/kwhr. The fourth amendment of October 26, 1973 had the effect of granting an

"interim tariff increase from US 2.75 mills/kwhr to US 3.125 mills/kwhr for every kilowatt hour of energy used."

But there was a caveat which was to the effect that any additional revenues accruing be held until Shawmont Limited completed their power rate study and negotiations on power tariffs were finalised.

The fifth amendment dated 3rd June, 1977 further amended Article 12 of the Power Contract so that tariffs to Valco for uninterrupted power are presently determined on the following basis:

- A
- i) Prior to October 25, 1972, US 2.625 mills/kwhr
  - ii) From October 25, 1972 through February 28, 1973 US 2.75 mills/kwhr
  - iii) From March 1, 1973 through December 31, 1975 US 3.25 mills/kwhr
  - iv) For 1976, 1977 and 1978, US 4.5 mills/kwhr, for 1979 US 4.6 mills/kwhr, for 1980 US 4.75 mills/kwhr and for 1981 and each year thereafter US 5.0 mills/kwhr provided energy consumed each year is not more than 370,000 times 8760 kilowatt hours.
- B
- i) An adjustment formula which takes account of labour and equipment costs, and currency fluctuations, is inserted.
- C
- i) Starting 1976, if Valco's energy usage exceeds 370,000 times 8760 kwhr, then the base tariff is 6.75 mills/kwhr.
  - ii) Whenever Kpong is placed in commercial operation a formula will be employed to adjust the Valco tariffs should Valco's energy utilisation exceed that stated in C (i) above.

The fifth amendment creates the impression that Valco tariffs could be 6.75 mills/kwhr starting 1976 but actually so far this clause has been a legalistic eye wash since Valco's energy usage has never exceeded 370,000 times 8760 kwhr. It looks like for a long time to come VRA will have to be content with only A (iv) above together with its attendant escalation formula to earn revenues from Valco.

It is important to realize that these amendments to the original agreement have been made without any legal obligation on Valco's part to have made them. In other words, the Master Agreement did not (and still does not) contain any clause for the periodic re-negotiation of the fixed base tariff. The fact that Valco agreed to these upward adjustments, whilst not under any legal obligation so to do, indicates its recognition of the utter ridiculousness of the original fixed power rate of 2.625 mills/kwhr (for a 30-year period).

For such adjustments to have any impact, however, they must be seen to be and must actually be substantial, not token. So far, Valco's policy seems to be based on dishing out occasional pittances (by way of marginal increases) whenever it is likely that some pressure is about to be exerted on it to pay more for its power. And this strategy seems to have worked, since it has succeeded in keeping the Valco rates still very low, but gives the impression that Valco has voluntarily and gratuitously agreed to three increases in the rates it pays for its power within the period of 8 years, when in fact the rises are minimal.

#### Energy Cost & The Aluminium Industry

Turning away from history to the present, it must be recognised that the world energy equation has dramatically changed since the oil crisis of 1973. The price of energy, be it thermal, hydro, nuclear or otherwise, has taken an upward swing since 1973. The availability of power and the price for energy have therefore since 1973 changed the outlook of the aluminium industry. Previously, smelters were located in areas where there was the assurance of "continuous power supply at a reasonable and stable price." In those days power was almost invariably cheap. But 1970s have changed all these, power which was taken for granted is now scarce and commands a high price. Smelters are being located in areas where there is the assurance of continuous power supply but the power price is neither cheap nor stable.

Aluminium smelting is an energy consuming enterprise. For a typical potline, a smelter requires 16.5 kwhr to produce 1 kilo of aluminium ingot or 7.5 kwhr to produce 1 lb of aluminium ingot. If a

smelter therefore pays 20 mills/kwhr for power the energy cost component of the ingot at today's ingot prices will be about 25%.

In 1968, the energy cost component of Valco metal was 7.39% of aluminium ingot price. In 1973 this figure rose to 9.24% but dropped in 1979 to 5.02% due to Valco's very low tariff relative to ingot price.

The worldwide high energy contribution to aluminium ingot cost has led countries like Japan to discourage the establishment of energy consuming plants like aluminium smelters.

This is where it becomes indefensible for Valco to continue using historical arguments to try to justify its continued enjoyment of power prices which cannot be reconciled with any arguments based on today's economic realities. Whilst power costs have gone up all over the world, Valco insists that there is still justification for its continued payment of very low tariffs based on arguments which may have justified those tariffs (arguably) in 1962.

But in the face of worldwide power price increases, the value of Akosombo hydro-power to Ghana has gone up much more than at the inception of the project, and it is this new reality which Valco has to take account of if it is to continue to enjoy the goodwill of Ghanaians.

The enormous power taken by Valco has serious implications for the country in the sense that if, as a result of Valco's energy requirements, it ever becomes necessary for the country to generate electrical power by means of oil-fired thermal generators to meet increased load, then the country shall be confronted with even bigger oil bills.

### Comparative Tariffs of Smelters Worldwide

Some smelters in the world in 1979 paid as much as US 30-40 mills/kwhr for energy. Currently the aluminium industries' weighted average price for energy is estimated at 15 mills/kwhr but in Ghana, Valco in 1979, paid only 4.6 mills/kwhr for uninterruptible power.

The Bonneville Power Authority (BPA) in the USA, which supplies hydropower to smelters in the Pacific Northwest Region of the USA, and has been a source of cheap power for these smelters for a very long time, has in 1980 steeply increased its tariffs though admittedly from a very low present base. Under the terms of the BPA's agreement with the smelters, these smelters are supplied with 75% interruptible power and 25% uninterruptible power. For 1980, uninterruptible power will attract 106% tariff increase while interruptible power tariffs are raised by 195%. Tariffs to smelters in these areas are being raised from 3.2 mills/kwhr to 8.7 mills/kwhr.

The Tennessee Valley Authority (TVA) more than quadrupled its tariffs through the 1970s. This feature might look like the direct result of the quadrupling of oil prices during the decade until it is remembered that the TVA does not burn any oil for generation of electricity since it operates hydro-electric plants only.

The table below shows tariffs charged to aluminium smelters by two hydro-electric plants - Tennessee Valley Authority (TVA) and the Volta River Authority (VRA):

COMPARISON OF TVA & VRA TARIFFS TO SMELTERS

YEAR	T	V	A	VRA
	ALCOA MILLS/KWHR		REYNOLDS MILLS/KWHR	VALCO MILLS/KWHR
1967	4.26		4.14	2.625
1970	4.68		4.55	2.625
1973	6.76		4.21	3.25
1976	18.42		14.73	4.50
1977	16.25		15.39	4.50

Whereas TVA tariffs to Alcoa increased by 247% from 4.68 mills to 16.25 mills and those to Reynolds by 238% from 4.55 mills to 15.39 mills between 1970 and 1977, VRA's tariffs to Valco increased only by 71% from 2.65 mills to 4.50 mills for the same periods. By 1977, VRA tariffs to Valco

were much lower than TVA tariffs to Alcoa and Reynolds in 1970.

Surely, if in the most developed nations in the world, with all the cost reduction factors at their disposal, tariffs could be increased by more than 200% during the decade, there is no justification

for keeping tariffs that are so low in a developing nation like Ghana.

Valco has at one time justified its low tariffs on the grounds that before the advent of the Akosombo project and the smelter the "Volta River flowed into the sea." (See Valco Managing Director's letter which appeared in *Daily Graphic* of March 7, 1980) But we are of the view that this argument is invalid since the Tennessee River similarly flowed into the sea before the dams which supply power to the aluminium smelters were built.

The New Zealand Manipouri hydroelectric plant was, like the Akosombo plant, built by the New Zealand Government primarily to supply electric power to the New Zealand Aluminium smelters owned by a Consortium including Kaiser Aluminium who own 23% of the shares in the smelter through Comalco.

In 1963 the price for Manipouri power was fixed for 3 mills/kwhr but in 1978 while the Power Contract was still operative, the New Zealand Government unilaterally abrogated the Power Contract and increased the power price to 15 mills/kwhr.

All that these show is that suppliers of hydro-energy move their prices somewhat in step with the prices of other energy sources.

#### Inadequacy of Valco Tariffs

One way of pricing a product in a market economy is to determine the production cost and add a profit margin. A look at the 1977 Annual Report of the VRA indicates that between 1967 and 1975 Valco tariffs were less than VRA's unit cost per kwhr of powersold. In 1976 a slight change occurred with Valco tariffs exceeding unit cost but in 1977 VRA's unit cost was equal to Valco tariffs. The inference from the statistical data there provided is that other customers have had to subsidise Valco over the years. A multinational which lays claim to helping in the development of a developing country is not perturbed if the nationals of that country rather subsidise its major raw material input.

Another indication of the inadequacy of Valco tariffs as compared to tariffs to other customers lies in the fact that whereas for 1977 Valco utilised 65% of energy produced by VRA, its contribution to VRA revenues accounted for only 41%. ECG on the other hand consumed 24% of energy produced by VRA and contributed 39.8% of VRA revenues.

We admit that in electricity tariff administration bulk purchasers have the advantage of paying slightly lower tariffs than customers whose load is not of similar magnitude, but at least these tariffs should cover costs.

#### Rocking the Boat

The fallacious point is made by some Ghanaians that any attempt to discuss the Master Agreement, much more to raise Valco tariffs to conform to present day realities, is an attempt to 'rock the boat' and drive away investors. The writer begs to differ, for exploitative investment is not the form of investment Ghana has to attract, otherwise we might end up like certain countries which, through a policy of 'open-door' investment, have literally sold away their countries' birthright. Zaire offers the best example of this phenomenon. With all the 'friends of Zaire' that that country has, Zaire is still on the edge of bankruptcy mainly because the sort of investment which its mining sector attracts has little or no spill-overs to the economy at large.

What these "don't rock the boat" advocates conveniently gloss over is that in company-country negotiations leading to the agreements in the aluminium industry, the countries are usually at a disadvantage since they lack the technical knowledge about the functioning of the industry. Whereas the companies are better organised for the production and accumulation of information on prices, costs, alternative expansion paths, production conditions etc., Governments, especially those of developing countries, are not. It is the business of the company to know, collect, collate and analyse information. Under such circumstances it is not impossible to enter into an agreement with a company which, with hindsight, would appear to be inimical to the general interest of the country. When a people's awareness therefore catches up with this fact it is only natural that the rules of the game have to be redrawn.

Drawing up fresh rules does not mean 'rocking the boat' or driving away investors. It rather is a way of fashioning an agreement which is mutually acceptable to the parties involved and in which no party feels that it has been taken advantage of, for any agreement in which one party feels cheated never, never lasts!

To these sceptics again we would say that in 1979 Valco paid US \$13.4 million to the VRA for electricity consumed. If the tariff to Valco had been raised from US 4.50 mills to US 10 mills/kwhr, revenues to VRA from Valco would have been US \$29 million. If the tariff had been 15 mills/kwhr, an amount of US \$43.6 million would have accrued to VRA and no sane Ghanaian can say that this amount would not greatly benefit foreign exchange-starved Ghana.

#### CONCLUSION

We recognise that these sceptics would raise issue that if tariffs are so raised Valco's operations

would not be profitable. The answer to this is simple. When New Zealand raised tariffs to the New Zealand Aluminium-Smelting from 3 mills/kwhr to 15 mills/kwhr, the company, of which Kaiser Aluminium is a shareholder, has not folded up. It is still a profitable venture. The profitability of the aluminium companies in the face of steep energy price increases is due to the fact that between 1970 and 1979 aluminium ingot prices have increased by 127% from US \$0.29 to US \$0.66 per lb.

The aluminium companies simply transfer any input price increases to the consumers of aluminium. The recent energy price increases are reflected in today's ingot prices. There is a standard published price for aluminium ingot irrespective of energy cost to a particular smelter. Any low tariffs to Valco therefore only go to swell the profits of Valco's shareholders and Valco, without any benefit to Ghana, for Ghana buys aluminium ingot at existing world prices without any rebate. (Pioneer Aluminium Company Ltd., of Tema imports aluminium ingots). We are certain that if even Valco ever sells aluminium ingot on the local market it would do so at world market prices even though production cost of Valco metal is far below the industry's mean, thanks to the low power tariffs.

To erase any doubts, Valco might as well tell their friends the 1980 power tariff for plants which Kaiser Aluminium wholly or partly owns and, which are all profitable ventures based on hydro-electric power.

The writer would recommend that the power tariffs to Valco be revised upward immediately to a minimum of 10 mills/kwhr before any escalation is applied to account for inflation over time. Such a rate would be in conformity with present electric power tariffs to aluminium smelters, since the writer's researches have not revealed any place (leaving out the Eastern countries about which information is not readily available) where aluminium smelting companies are paying comparably ridiculous low rates for power as Valco is paying for VRA power.

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## Politics

### THE TRANSITIONAL PROVISIONS

By

Kweku Folson

Much has been said and written about the transitional provisions of the present constitution. The central concern of the views expressed so far relate in the main to the fate of those who were the victims of the "revolutionary justice" of the Armed Forces Revolutionary Council (AFRC). The transitional provisions themselves have come in for comment only in so far as they make the resolution of the victims' cases difficult, if not impossible. The first purpose of this article is to give a general outline of the sort of matters dealt with in the transitional provisions. The second is to indicate more precisely those sections of the provisions which closely affect the victims of revolutionary justice. Thirdly, I intend to raise a few questions about the character of these sections.

The draft constitution which the Constituent Assembly submitted to SMC II had, following the report of the Constitutional Commission, its own transitional provisions, divided into seven parts and eleven sections. The provisions dealt with such matters as the interim government between the coming into force of the constitution and the hand-over to an elected, civilian government; the election of the first President and Parliament; the discharge of some of the functions of the Supreme Court before the court itself was to be set up; guaranteeing the offices of people in the public services on the coming into force of the constitution as well as the continuity of legal matters pending before courts and property held by public authorities; devolution of certain rights; indemnity for coup-makers; the continued existence of public corporations; and authentication of original copies of the new constitution.

The transitional provisions generally talked and written about are those contained in the AFRC constitution. These comprise five parts divided into twenty sections. They omit altogether any references to a caretaker government, make some drafting changes and corrections in the transitional provisions of the Draft Constitution and introduce into the latter some drastic changes relating to the functions of the courts as well as in the indemnity granted past coup-makers. In what follows I shall deal sequentially with Part I of the transitional provisions of the Draft Constitution on

caretaker government, the five parts of the AFRC transitional provisions and Part VII of the Draft Constitution dealing with original copies of the constitution.

### Caretaker Government

The Constituent Assembly, following the Constitutional Commission, envisaged that the constitution would come into force before the hand-over of power to the new civilian administration. It accordingly made provision for a caretaker government for the interim period. The AFRC decided that when it was ready to hand over power the constitution would come into force and therefore saw no need for special provisions governing a caretaker government.

The Constituent Assembly also used these provisions to regulate an even more important matter. Under these provisions it required the Chairman and other members of the Supreme Military Council (SMC) and all members of the Armed Forces and the Police Force, who had in the past held or were at the time of the coming into force of the constitution holding office as Commissioners or Ambassadors, or chief executives, managing directors, general managers or equivalent offices in public corporations, to retire from the Armed Forces or the Police Force or the public service as the case may be, unless they were specifically exempted by the President. By simply removing Part I of the original transitional provisions, therefore, the AFRC made it possible for this class of people to continue to hold service appointments after holding supreme political power.

The significance of this is that the Constituent Assembly thought it imperative that in order to prevent the politicization of the army and to reduce the probability of coups, all officers who had tasted political power and served in other civilian positions should not return to or remain in the Armed Forces. The AFRC by removing this part of the transitional provisions made it possible for their own members to return to the Armed Forces even after they had handed over power to a properly elected, civilian government. There is little doubt but that this decision is not compatible with the type of stability we need for our development.

### First President

The Draft Constitution regulated the election of the first President to ensure that it was done under the supervision of the independent Electoral Commissioner and in conformity with the method prescribed by the Draft for electing the President. It also specified that the first President was to assume office on 1st July, 1979, "or soon thereafter."

The whole of this part of the transitional provisions was replaced by the AFRC. The AFRC transitional provisions assume that the first President would have been elected by the time the Constitution came into force and therefore simply assert that he would be the rightful President and would assume power on the day the Constitution came into force. Consequently, "First President" is substituted as the title for "Election of First President."

### First Parliament

Like the preceding part, this part of the Draft Constitution ensured that the election of the first Parliament would be under the control of the independent Electoral Commissioner. It also ensured that the election would be held before the end of June, 1979. Lastly, it empowered the Clerk of the Constituent Assembly to convene the first meeting of Parliament.

Again, the AFRC Constitution assumes the election of Parliament, and accordingly changes the title of this part from "Election of First Parliament" simply to "First Parliament." It then affirms the validity of the election. In addition, it strengthens the constitutional position of the Clerk of the Constituent Assembly, but in doing so it makes it possible to appoint someone other than the Clerk of the Constituent Assembly to become Clerk to the new Parliament.

### The Judiciary

The sections of the transitional provisions in the Draft Constitution relating to the judiciary sought to do three things. First, they lay it down that the Supreme Court should be established within twelve months after the coming into effect of the Constitution. Secondly, they empowered the existing Court of Appeal to perform the functions of the Supreme Court in relation to the appellate jurisdiction of the latter. Thirdly, they regulated the retirement of justices of the Superior Court of Judicature and related matters.

Part III of the Armed Forces Revolutionary Council Constitution relating to the judiciary first makes some drafting corrections and other changes consequent on an amendment made by the Constituent Assembly. It, secondly, makes a drastic change in the temporary functions to be performed by the Court of Appeal in the name of the Supreme Court before the latter is set up. Whereas the Draft Constitution makes the Court of Appeal competent to discharge the Supreme Court's appellate functions only, the AFRC Constitution makes it competent to discharge the Supreme Court's function of

adjudicating on any challenge to the election of a President as well as exercise the original jurisdiction of the Supreme Court also. Thus, under the Draft Constitution passed by the Constituent Assembly, the constitutional challenge posed to the Government over the issue of the appointment of the editors would have had to await the appointment of the substantive Supreme Court and could not have been handled by the Court of Appeal. This was a conscious and deliberate decision taken by the Constituent Assembly, seeing that it was not in the original proposals presented to it by the Constitutional Commission.

Thirdly, the AFRC Constitution brings under this part two completely reformulated subsections from Section 9 of the Draft Constitution. These affect proceedings and reviews pending before the courts at the time the Constitution came into effect.

Finally, a completely new section is added transferring all petitions pending before the Commissions and Committees of Enquiry Review Tribunal to the Court of Appeal.

#### Miscellaneous

The most drastic changes in the transitional provisions are made in Part IV, labelled "miscellaneous." There are, of course, the usual drafting changes and corrections. In addition, completely new sections and sub-sections have been introduced and wholesale revisions and substitutions for sections and subsections made.

Section 8 (of the AFRC Constitution) is new, but it is brought here from Article 57 of the Draft Constitution, and it requires that first appointments of the persons referred to in that article should be made within six months after the coming into effect of the Constitution. Examples of such persons are the Ombudsman, the Electoral Commissioner, Chairman and other members of the Lands Commission and the Local Government Grants Commission, and Chairman of the National Council for Higher Education.

Section 9, also new, ensures that until Parliament makes provision for the establishment of a Customs and Preventive Service the Border Guards will continue to be part of the Armed Forces. Sections 10 and 11, also new, safeguard the constitutional position of sitting Committees and Commissions of Enquiry and their findings and reports.

Section 15 of the AFRC Constitution corresponds to Section 9 of the Draft Constitution. As just pointed out, the first two subsections of the latter are removed to sections 8 and 9 of the AFRC Constitution. Section 15 makes three important changes. The first ensures that the immunities

extended to the coup-makers of 1966, 1972, 1975 and 1978 by the Draft Constitution are also extended to the mutineers-turned-coup-makers of June, 1979. A new paragraph (d) ensures that the same immunities are stretched to cover the confiscation of properties and any other penalties imposed by the Armed Forces Revolutionary Council. (More about this last point soon.) These two important changes are contained in Section 15 (1).

#### Draconian Changes

The third change, also made by Section 15 (1) is a very fundamental one which deserves careful examination. Section 9 (3) of the Draft Constitution only indemnifies the Governments and people helping them to overthrow the preceding governments. The AFRC Constitution in addition indemnifies "any person acting under the authority of the Government of Ghana." It is not clear what this expression means in relation to the overthrow of governments, but in relation to the confiscation of assets it means, or it purports to mean, that individual members of the Armed Forces Revolutionary Council and their agents are immune to any legal processes for any number of illegalities and injustices committed by them e.g. acts of extortion.

It will be recalled that when the indemnity clause was passed by the Constituent Assembly there was a hue and cry in the country, and the students of the University of Ghana, Legon, drove down to the Constituent Assembly, asked for their Pro-Vice-Chancellor and delivered a stinging rebuke to him over the indemnity clause and alleged misdeeds of University authorities. In response to the outcry the Constituent Assembly passed Section 9 (4) of the Draft Constitution making it clear that the indemnity covered only the actual acts of overthrow and that any other act or omission on the part of any person was justiciable. This subsection of the Draft Constitution is replaced in the AFRC Constitution by three of the most obnoxious provisions of the AFRC transitional provisions and these go flatly against the amendment passed by the Constituent Assembly in deference to public opinion. The new Sections are 15 (2) - (4).

Section 15 (2) says that "no executive, legislative or judicial action taken or purported to have been taken by the Armed Forces Revolutionary Council or by any person in the name of that Council shall be questioned in any proceedings whatsoever" in any court or tribunal. "... taken or purported to have been taken ... by any person in the name of the Council..."? Section 15 (3) says the action above is legally valid even if it "was not taken in accor-

dance with any procedure prescribed by any law." "...not taken in accordance with any procedure prescribed by any law"? To crown it all, section 15 (4) makes it impossible to take legal action in respect of any act or omission against "any person acting or omitting to act, on the instructions or authority of the Armed Forces Revolutionary Council or any member of the Armed Forces Revolutionary Council and alleged to be in contravention of any law..." Against "any person acting or omitting to act, on the instructions or authority of any member of the AFRC... in contravention of any law..."?

### Significance

Two things stand out about these amazing provisions. First, they show a certain anxiety to protect the possible illegalities, injustices and acts of corruption, not of the AFRC government as such, but of individual members of the AFRC and other agents or advisers of the AFRC. I find this extremely disturbing and suspicious, and it therefore convinces me that there is something terribly wrong hidden somewhere which the AFRC or their advisers are anxious to keep hidden. The second thing that stands out about these provisions is that they evince a determination to make what may regretfully be called "jungle law" part of a constitution that makes a special claim to uphold accountability. How can anyone think that an injunction that any executive or judicial act taken or purported to have been by any person in the name of the AFRC or on the instructions or authority of any member of the AFRC even if not taken in accordance with any procedure prescribed by any law and in contravention of any law cannot only be law but part of the supreme law? Did not the Armed Forces Revolutionary Council have people to advise them that the principle embodied in these provisions are the exact opposite of the principle of constitutionalism and that therefore it is incompatible with the constitution? And were the members of the AFRC themselves not sensitive enough to realize that one cannot in the same breath pass laws making people unaccountable for their acts and preach accountability?

This is the source of the problem of the victims of revolutionary justice. At the time the people's courts were sitting there were rumours that some of the victims were in fact never tried and that even those tried were "tried" by masked men or "judges" hidden behind screens. There were published cases of people being publicly "brutalized" only to be told later that they were in fact not guilty of any misdeed. I certainly know that people who had never been asked to report to any authorities were tried in absentia while they were at home right here

in Accra. The proceedings of the Special Tribunal have confirmed, what one had been told at the time the trials were taking place, that at least one person was tried in absentia whilst on admission at Korle Bu Hospital. And I have been told that some businessmen were given similar treatment though they were legitimately out of the country when they were asked to report to the authorities. I have also heard it suggested that quite a few of these trials and even executions were merely settling of old scores. The provisions under discussion purport to say no courts can put to right any of the above acts of plain injustice. At the time these acts were taking place some of us suggested that the best that could be done was to make them public. Unfortunately, too many people influential at the time thought the essence of revolution was secrecy and mindless blood-letting.

### Confiscation of Property and Other Penalties

Section 16 specifically applies the principle of unaccountability to the confiscation of assets and penalties imposed by the peoples' courts. It has already been pointed out that the indemnity provisions have been extended to cover these. It must also be pointed out that here the legal draftsmen appear to have tripped badly. A careful reading of the section makes it clear that only one class of confiscation of property and other penalties can not be reversed by any authority under this constitution: those confiscations and penalties made or imposed with a view to purging the Armed Forces of corruption and graft, restoring the image of the military and dealing with the accomplices of the guilty members of the Armed Forces and other persons guilty of malpractices to the detriment of the economy of Ghana or the public interest or both. Granted that all these draconian provisions are a valid part of the Constitution, the courts have first to decide whether any confiscation or penalty conforms to the objectives laid down in the section itself. If it does, then the courts cannot touch it; but if it does not satisfy the objectives, then the courts have every right to reverse it. The popular assumption that all the confiscations and penalties of the peoples' courts are immune to legal attack appears to be wrong.

### Other Provisions

Section 17 established the Special Tribunal to take over from the peoples' courts, to try cases arising out of the findings of committees of enquiry set up by the AFRC, and to review the findings of such committees of enquiry. Section 18 is substantially a re-enactment of Sections 9 (5) - (7) of the Draft Constitution with minor and consequential changes.

Section 19 is also a re-enactment of Section 9 (8) of the Draft, but whereas the Draft entrenched the indemnity clause as well as the amendment making individual members of all previous military governments legally responsible for their acts, Section 19 of the AFRC Constitution entrenches sections 15 - 18, that is, all the sections that make them and their agents and advisers immune to any legal acts whatsoever. This means that even if it were proved beyond the shadow of doubt that a member of the AFRC or any individual purporting to act on his instructions was guilty of extortion, corruption, burglary or rape no court can touch him, and even the amendment process laid down in the constitution cannot be used to change any of the transitional provisions to enable the courts to deal with him.

Part VII of the Draft Constitution ensured that the Chairman, the Deputy Chairman and at least one of the Clerks of the Constituent Assembly would check the constitution carefully to ensure that only the copies of the constitution as approved by the Constituent Assembly were deposited with the Supreme Military Council, the Chief Justice, the Speaker of Parliament and the Government Archivist. The AFRC constitution omits this part completely.

#### Conclusion

It does not appear to be widely known that the changes made in the transitional provisions by the Armed Forces Revolutionary Council are only part of changes made to the Draft Constitution as a whole and that some of the changes made in the main body of the Draft were quite substantial. It is also generally assumed that these changes are validly part of the constitution. In subsequent articles I intend to indicate the changes made in the main body of the Draft Constitution and to ask whether they should be properly considered as part of the supreme law of the land.

## Africa

### IS AFRICA'S REFUGEE PROBLEM UNDERSTOOD? - II

By

Richard Greenfield

After general discussion of the seriousness of Africa's current refugee problem, it was revealed that a major proportion of the continent's displaced persons and refugees are to be found in North-eastern Africa and the Horn of Africa, to be specific, in the countries bordering on Ethiopia and within that tormented country itself. Very senior represen-

tatives of the governments of the Republic of the Sudan, the Republic of Jibouti and of the Somali Democratic Republic have on many separate occasions over the past year and before, expressed deep concern - even alarm - as the refugee problem continues to worsen. The refugee situation in Jibouti was also examined in Part I of this article. The problem is on a much larger scale in the Sudan.

#### Background To Refugee Problem In The Sudan

Following the 'creeping coup' of 1974 and the subsequent takeover of the government of the Ethiopian empire by a junta of officers and NCOs, the 'dergue', as the governing committee soon came to be called, opted increasingly for a military approach to the problems inherent in the structure and composition of the empire-state which they had inherited. Unlike most leaders of post-colonial Africa, Emperor Haile Sellassie, who had been in more or less effective power, apart from the Italian period (1936-1941), since 1916, had ruled through the shrewdly calculated balance of disunity, rather than the positive promotion of unity. Nor were strong-arm methods particularly new. Assisted by the United Kingdom, first in Tigrai and later in Bali, and then on a much larger scale by the United States and Israel, in Eritrea, the Ogaden and Gojjam, Haile Sellassie had long employed his imperial forces to hold down what have come uncritically to be called 'insurgencies' in the provinces. Even so, over the years the 'problem of the nationalities' and the status of Eritrea had been the subject of many pamphlets and extensive debate in Ethiopian emigre circles in the United States and Europe as they awaited the inevitable revolution. These were problems capable of solution. Thus it was that there was a hiatus - at first hopeful then increasingly apprehensive - as one after another military head of government met his death in the process of so-called 'revolutionary justice' - actually often western-style shoot-outs.

Nor were refugees, particularly from Eritrea - a U.N sponsored, self governing country, annexed by Ethiopia, its supposed federal partner, in 1962 - a purely post-revolutionary feature. But as 'terror', or response to it, became increasingly an official Ethiopian policy in the mid 1970s, so Ethiopian refugees of both 'rightist' and 'leftist' persuasion and increasing numbers of Eritreans flooded into the Sudan, bringing massive attendant problems. By May 1979, the refugee population in the Republic of Sudan approached half a million and that year also brought a new influx from Uganda.

#### Social Problems Created By Refugees

The resultant trauma has had little equal in the developing world. Social service, rudimentary at

the best of times, were overtaxed. Friction due to cultural and religious differences became rife. Clashes between rival factions amongst the refugees themselves, sorely taxed the patience and resources of the Sudanese municipal and provincial authorities. In June 1969, in the northern cities of Kassala and Gadaref, approaching a quarter of the urban population - and nearly 80% of admissions to government hospitals for example - were foreign refugees. In Port Sudan, slum suburbs, which already had a substantial immigrant Eritrean population, expanded to breaking point. Would-be stowaways crowded the docks and waterfronts. Soon breakdowns in the electricity supplies were - quite wrongly but nonetheless significantly - blamed on the Eritreans.

In Khartoum itself, literally thousands of refugees daily blocked certain accesses to the Ministries and the UN offices, seeking official status and travel documents with which to enter a wider diaspora, which included the oil producing countries of the Middle East, Italy, the United Kingdom, and the United States. Many taxi-drivers in Washington D.C. are Eritrean, for instance. Khartoum soon felt the pressure reflected in transport difficulties, rising house rents, the availability of food and on hospitals, schools and other public facilities. Prostitution, long associated in the popular mind only with Ethiopian women (although it needs clients too, to keep a prostitute in business!) was subjectively held to be on the increase. There has been occasional violence in the streets and curfews have sometimes been imposed, but in all this the really remarkable thing - and most refugees will admit this in their cooler moments - has been the generosity and understanding of the silent majority of the Sudanese people.

#### Problems Of Refugee Settlement

The Sudanese Government has established a number of regular refugee settlements. The experience of the Commissioner and his staff stems from years of experience firstly with Nigerian and other Sahelian immigrants and then with refugees from Chad, Zaire and elsewhere: five of Sudan's eight international frontiers, in fact, have of late leaked refugees. Settlement of refugees in the Sudan demands the provision of precious water from the Nile river system or from wells as well as many other services and this can be a very expensive undertaking. Even if much of the funding comes from the UNHCR, the secondment of staff and the time of top level planners in preparing papers and appeals is no mean contribution in the developing world, particularly when officials work with far less middle level administrative, secretarial and clerical support than is available in Ghana, for

instance.

It is to the great credit of the Sudanese Government, the UN agencies, 'friendly governments', the Red Cross and Crescent and a number of voluntary agencies, that 75,000 rural refugees have been settled and this programme is being extended. The aim, which will take a long time, is to achieve rural self-sufficiency. Slowly the camps become communities, although unfortunately in one sense, some that have done so, are being moved since they are adjudged too near the national borders. Another problem is a recent influx of Oromo refugees, fleeing from Wellega, where the Ethiopian government's 'Green Revolution' campaign rightly or wrongly is seen merely as a reimposition of *naftanya* (settlers) - originally members of the northern Ethiopian armies which first conquered the area during the scramble for Africa - and not as an aspect of Marxist agrarian reform as some observers have claimed.

Controversy continues to surround a recent stated policy of the Sudanese government to extend rural settlements which are often rather remote, to include urban refugees who at least to some extent, appear in danger of becoming scapegoats for wider economic problems which are not of their making. Latent frustrations and animosities might surface in such an event. Nor is it by any means certain that a significant proportion of urban refugees so transferred, would not immediately endeavour to return to the nearest urban centre. Without the imposition of a security restraint, which would be costly not just in money but in goodwill, they might well succeed in disrupting the fragile supportive infrastructure both in the camps and the urban suburbs.

#### Age And Some Political Consequences Of The Refugee Problem

Urban refugees include a considerable proportion of young people both from Eritrea and Ethiopia who, like their brothers and sisters in West Africa could inevitably have drifted to the cities in search of schools with higher classes or grades, opportunities at home or abroad for higher education, scholarships and sponsors - even if their schools and colleges had not been closed. Significantly, random enquiry soon suggests that these young men and women have by no means all had exposure to activist political parties or liberation movements. They are, however, quite vocal and capable of self-organisation. Even without 'agitators' or recruitment agents for 'freedom-fighters' - call them what you will - such politically conscious refugees undoubtedly present a dilemma to the security authorities.

So serious are the overall problems, in the view of the Sudanese authorities, who are understandably particularly concerned at the growing refugee potential for destabilizing not only development plans but perhaps even the government itself, that in October 1979, Sayed Abel Alier, Vice President of the Sudan, himself journeyed to speak before the 34th Session of the United Nations General Assembly in New York and the 30th Session of the Executive Committee of the UNHCR in Geneva. To the former he urged "that we all work together, hand-in-hand, to find political solutions to internal problems which gave birth to the exodus of nationals from their homeland". To the latter he advised "The number of refugees which began with 7,000 in 1965 has now reached over 400,000 registered refugees, which we believe is far less than the actual number ... the problem lies with the growing number of refugees who live outside regular settlements and who constitute 78% of the total... Then, a few days later, on 15th October 1979, in the company of the Ambassador to the Court of St. James and the Commissioner for Refugees, the Vice-President announced in London that, early in 1980, the Sudan would call a fund raising conference having "named the year of 1980 as **Refugee Year in the Sudan**". Will the attendant publicity lead to changes?

Moving from the western to the eastern marches of Ethiopia to the western ones, a problem of at least equal dimension is soon apparent. Ever since Ethiopian Amhara columns from Shewa first captured Harar and began their penetration into the semi-desert regions, usually loosely referred to as the Ogaden, towards the end of the nineteenth century, there have been movements of refugees across the disputed boundaries of the Horn of Africa into what today forms the Somali Democratic Republic, - quite apart from natural movements dictated by the transhumant life-patterns of all the Somali people. In the first two decades of this century refugees fled from campaigns mounted jointly by the British and the Ethiopians against the resistance organised by Sayyid Muhammad Abdille Hassan - the so-called 'Mad Mullah', although he was neither - who fought to prevent the partition of the Somali lands between Britain, Italy, France and Ethiopia. The literature contains many further references to refugees from the Ethiopians both before and after the independence of the Italian and British ruled Somalilands in 1960 - especially in that year and in 1964. Nevertheless, the major influxes have been in the 1970's. At the end of 1979, a year and a half after the end of the Ogaden War of 1977-78, refugees continue to flow into Somalia and the majority are still Somali.

However, late in 1979, increasing numbers of Oromo, mainly women and children, have swelled the tide which has continued to sweep over from Ethiopia since the initial stages of the conflict and who now sees little prospect of returning.

### The Refugee Problem In Somalia

The Somali Government - and Somalia is not a rich country - has spent more than US \$20m on refugees, since 1978. This has been supplemented by grants and assistance from UNHCR and other UN agencies have supplied food and medical equipment. As in the Sudan, significant though far from adequate assistance has also been received from humanitarian organisations and voluntary agencies and direct from several sympathetic governments.

There are 22 refugee camps in Somalia, seldom located very far from the borders, and they include three temporary transit camps where new refugees stay for only a few hours before being transported to more permanent camps. This aspect at least is well organised, drawing doubtless on experience gained in coping with the many refugees who fled from the famine which struck parts of Ethiopia and the Ogaden in the early 1970's.

In the first half of 1978 there were 80,000 persons housed in refugee camps and a much greater number 'at large' or 'invisible', as the new refugee jargon has it, throughout the Somali countryside but not yet very noticeably in the cities, except for some temporary tents set up in Hargeisa late in 1979. By December 1978, refugee numbers in the camps had risen to 103,159; by mid-May 1979, the figure had reached 189,155; by August, 270,738; by September, 309,991 and on 22nd October, 1979 reached a staggering 350,308. Senator Kennedy tried to draw the U.S. Senate's attention to the problem - so serious it was becoming - in December. The Somalis claim that the grand total of refugees in their country now tops the million mark. A state of national emergency was declared late in 1979.

The Office of the Commissioner of Refugees - which, like that in the Sudan, comes directly under the Presidency - also has responsibility for the hundreds of thousands of refugees 'at large' who have settled in the border villages or joined their own families and relatives.

A table, accepted by UNHCR as having a margin of error of no more than 5 percent follows to illustrate the predominance of young children and female adults. Many of the children, especially in the younger category, are undernourished and suffer from vitamin deficiencies. Many men have stayed to fight or have been killed.

## Refugees In Camps In The Somali Democratic Republic

REGIONS	CHILDREN		ADULTS		TOTAL
	0-6yrs	7-15yrs	Male	Female	
North West	16,418	17,220	8,299	13,460	55,397
Hiran	34,615	32,738	13,085	33,273	113,711
Gedo	37,820	27,847	6,644	51,343	123,654
Lower Shabele	18,503	16,209	3,303	11,493	49,508
Badool	2,140	2,645	1,020	2,233	8,038
<b>Total</b>	<b>109,496</b>	<b>96,559</b>	<b>32,351</b>	<b>111,802</b>	<b>350,308</b>

Figures for the total Refugee population are not available, but must be 500,000 and are probably much higher, possibly over one million.

#### Disruption Of Normal Patterns Of Life

Normal patterns of Somali life in the Ogaden - or Western Somalia as the Liberation Front calls it have been completely disrupted by the continuing confrontation in the area. The Ogaden Somalis retained or regained control of the countryside in 1979 and continue to insist on 'self-determination', although the fighting has largely dropped out of the news. Fierce reprisals, including the use of napalm from the air, have followed military activity by the 'Western Somali' and the 'Abbo' liberation fronts. Moreover in adjacent areas further west, Oromo resistance to the Ethiopian government has increased. Such military activity inevitably involves civilian refugees, and they continue to make their way in substantial numbers into the northern part of the Somali Democratic Republic. They originate from Arsi (alternatively Arusi, an Ethiopian Governorate-General and a largely Oromo area) and from the Ogaden and other parts of Western Somalia, particularly the Jijjiga and Degahabur areas, where Ethiopian and Cuban troops and Ethiopian warplanes are most active.

#### Medical Problems Of Refugees

In some camps across the border in Northern Somalia, such as at Tog Wajale, due north of Jijjiga, food, firewood and even water have to be transported many kilometres. As the refugees arrive, the more seriously ill and the injured includ-

ing those with shrapnel and gunshot wounds and napalm burns are taken from medical reception tents by whatever transport is available, to the government hospital at Hargeisa, the provincial headquarters which was formerly the capital of the British Somaliland Protectorate and which has developed as an important commercial as well as administrative centre. There, those with minor injuries are separated from those requiring abdominal or chest operations, or the treatment of fractures. The treatment accorded the refugees - and others - benefits considerably from the attachment to the hospital of a team of six skilled surgeons and specialist doctors from the peoples Republic of China, far removed from the popular bare-foot image.

There have undoubtedly been problems in the provision or replacement of equipment, instruments and drugs, but compared with the medical tents, in the field, this hospital, originally built by the British in 1954, is comparatively well provided for. Its facilities, however, are greatly extended by the needs of the refugees, especially since they coincide with the current rapid expansion of the city of Hargeisa itself (an expansion due to many factors, not excluding the remission of funds from Somalis, bilingual in English and Arabic, working in the oil-rich countries of the Middle East). The proportion of refugee patients is a less vexatious issue than in the northern cities of the Sudan only because the majority are, like the population, themselves Somali.

After they have recovered from operations, refugees are returned to the camps. There is only one doctor on tour of the clinics in the northern camps although some volunteer nurses arrived in 1979. Emergency food supplies are often barely sufficient and there is not enough special food and vitamins for children. Many suffer from bacillary dysentery and enteritis and some of the children have bronchitis and pneumonia. There have been cases of abscesses, some due to unnecessary injections with unsterilised syringes. Several of the camps are very exposed, both to the elements and to air raids, although there has been a lull in late 1979, since the Arusha conference outlawed the bombing of refugee camps.

### Refugees And The Future

Populations are being moved to camps with access to surface well water but there are, in the words of the Somali Delegate to the United Nations on October 13th 1979, serious long term implications:

"... The transhumant pattern of life of the majority of our people is most seriously threatened, particularly in terms of grazing and water.

Nor is it just the overgrazing of the countryside which affects the vegetation and disturbs the delicate ecological balance so crucial for the survival of livestock and the avoidance of a recurrence of the famines of the early 1970's. The destruction of virgin bushland by refugees building shelters and collecting firewood for cooking and warmth is already at an unacceptable level."

## NOTES ON CONTRIBUTORS

### **Kweku Folson:**

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### **Richard Greenfield:**

Now at St. Anthony's College, Oxford University, was formerly Senior Research Fellow and Administrative Secretary at Institute of African Studies, Legon.

Clearly sooner rather than late, the O.A.U. may have to consider taking the next step and endeavouring to find a solution to the fundamental problems of the area. It is pointless hiding behind the O.A.U. resolution on frontiers passed by the heads of states and government at Cairo in 1964. In any event, the problem of the Somalis was recognised as already being before the organization, and in the record, was excepted. No one would deny that Ethiopia's role in Africa has in every way been an exception. To shy away from discussing the real wishes of the people involved is still, as Nkrumah remarked at that 1964 session, "to sweep under the carpet." A just and final solution in an exceptional circumstance cannot, as many fear, present a precedent for fragmentation elsewhere - the historical background is quite unique. Moreover the problem will not go away if it is not tackled. Indeed the tendency has been for it to escalate - with forseen consequences. An African solution; and end to human suffering; is called for - loud and clear.

*As we go to press the total figure in camps as of 15 December 1979 has been released in Geneva as 442,000.*

*Editor.*

(Concluded)

## Notebook

### THE KOWUS AFFAIR

The unfortunate confrontation between the Attorney-General and the Special Tribunal in the latter's ruling on Kowus Motors has revealed that the Kowus affair is a sensitive one. Public reaction to the Tribunal's ruling also indicates that it is a matter of considerable national interest, fraught as it were with political, economic and security implications.

Probably as a result of these considerations, the Attorney-General was led to issue a strongly-worded press statement in which he accused the Special Tribunal of issuing orders and directives that were 'illegal and futile'. The Special Tribunal in turn reacted by serialising its ruling in a national daily, and in a separate statement claimed that it had jurisdiction under the constitution to issue 'consequential orders' having regard to the circumstances of each case brought before it.

So far, the Special Tribunal in its deliberations has convicted some people and ordered the confiscation of their assets and properties. It has set aside some adverse findings arising out of the reports of Committees of Enquiry on the Cocoa

Marketing Board, the State Fishing Corporation, Ghana Airways Corporation and Airtours Limited and others. It has ordered the release of certain individuals and directed that their properties should be restored to them or their bank accounts defroze. In some cases, the State has been ordered to refund monies previously paid to it by individuals during the AFRC days.

We find it difficult to believe that all these orders and directives have not been carried out because they were considered 'illegal and futile.' Or if they have been carried out, this has been done without the active co-operation and knowledge of the Attorney-General, the Minister of Interior and the President. In the absence of any concrete evidence to the contrary, we would presume that the orders of the Special Tribunal so far have been implemented, and that it has been enjoying the confidence, trust and co-operation of the Government. If indeed this has been the case in fact, why then did the Attorney-General choose to make a test case of the Kowus ruling and thereby create the unfortunate impression of lack of consultation, co-ordination and mutual trust?

The notion of stability in government implies open and unfettered lines of communication and consultation; it implies co-ordination between appropriate agencies and institutions of government. It implies a healthy respect for the integrity of individual institutions and the absence of a calculated policy of interference in their work. Where a government lacks people sufficiently gifted to appreciate these nuances or to promote consultation and co-ordination in the affairs of the State, there is usually a resort to preemptory interference, arbitrary decisions, and precipitate actions and statements that create confusion rather than clarification. The recent episode on the Kowus affair is too close to this ideal for comfort.

We would therefore appeal to the Government to respect the ruling of the Special Tribunal and heed its call for a new probe. A fresh and thorough Committee of Enquiry, with wide terms of reference that are carefully worded may have the advantage of establishing the truth in this complicated matter.

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## Letters

### Economic Consequences of Rawlings

SIR - Permit me to comment on the piece by your "Special Correspondent" on "The Economic Consequences of Rawlings." I think this was an

excellent essay and a credit to your journal. His treatment of the issue of price controls, even if not vigorous enough in exposing its futility in curbing price inflation and maldistribution of incomes and power, should be very informative for those who peg so much of their hopes on them.

But the correspondent erred in recording a negative for Rawlings when he observed: "In not pursuing the currency reform to its logical conclusion, Flt. Lt. Rawlings has missed a golden opportunity" because "...Rawlings could have rectified the inequity and failure of the March currency (change) by asking that all deposits in the banking system in March be taxed retroactively at the rates that were applied to cash holdings." (L.O., Vol. XI, No. 12, page 286) Your correspondent erred because this policy recommendation is both theoretically faulty and operationally dangerous for the economy, and anyone who ignores it must receive a plus instead. For the A.F.R.C. regime that was characterized by "action" and "indeed ideally placed to implement it", it must be that good judgement prevailed over bad, that this erroneous bank deposit tax proposal was never taken up. One could also record a plus for the SMC II for ignoring it, or be less generous enough to say "it was just a fortunate coincidence of good economic judgement and personal interest."

It would take much more space to expand on the error of the bank deposit tax proposal than a letter would allow. Anyone with any serious exposure to Monetary Theory would recognize that bank deposits are assets just as cars, houses, land, or jewellery held by wealth owners. The main differences between these assets (aside from their rates of return) lie in their liquidity and contributions to economic growth. Bank deposits take the highest ranking on both points. None of the others takes a zero score on liquidity, whereas land may take on a zero with respect to economic growth. What is more, bank deposits are hardly the cause of inflation, but mainly currency issued from the Central Bank in excess of the economy's productive capacity. Note that bank deposits and currency are not one and the same thing!

It would appear then that the bank deposit tax proposal is dangerous for economic growth and fosters more inequity among asset holders. May this erroneous proposal find peaceful rest.

*This letter took a long time to reach its destination hence its publication now. Editor*

35 Charles Street West, James C. W. Abiakpor  
Apt 614, Toronto  
Ontario, Canada

GHANA PUBLISHING CORPORATION  
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NEW BOOK  
UNIVERSITY STUDENTS' POLITICAL ACTION  
IN GHANA

by S. A. Amoah

This book brilliantly documents the role students' political action has played in Ghana. It starts by tracing the contributions students have made in the past towards their societies. They played major roles in the radical and reform movements in the 19th century in Germany and Austria. And in Czarist Russia they contributed greatly in revolutionary activity and helped to overthrow the Chinese dynasty in 1911. Students have in fact helped in the evolution and re-organisation of their societies in places like Indonesia, Pakistan and France.

But why, in the face of all this evidence, has student activity not caught the necessary attention or generated enough analysis as a sociological phenomenon until very recently? Basing his analysis, in the main, on the Ghanaian experience, the author sets out to answer the question and advise on how student effort could be turned into a social movement and students' political awareness increased. Mr. S. A. Amoah has done an excellent job that should be the source of much sociological interest and activity.

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NEW BOOK

THE GREENHILL CASEBOOK

By

R. Dennison, James Nti & S. A. Pepra

This book contains case studies on organizational behaviour and human relations in West African Public Administration. All the cases are set in West Africa and all have been used on courses at the Ghana Institute of Management and Public Administration, Greenhill, and in one case, on a course organized by the Ghana State Planning Commission in conjunction with the Ford Foundation. The majority of these cases have been revised one or more times on the basis of class discussion experience.

The Greenhill Casebook will be of tremendous use to people in managerial positions in the public services and the Corporations as well as in the private sectors of administration in many countries. This book is recommended for practising administrators, employers and students of Administration. The general reader will also learn a lot about the intricacies of human relations and administration as operates in organizations.

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### ADMISSION REQUIREMENTS FOR BACHELOR'S DEGREE COURSES OF THE UNIVERSITY OF GHANA - OCTOBER 1983

Since August 1979 the University has been engaged in a review of admission requirements with the following objectives in mind:

- students enter the University from studies reflecting as broad a curriculum as possible;
  - students are adequately prepared for advanced studies in the various fields of specialisation;
  - the University's products can adapt their training to the demands that are likely to be made on them subsequently in their places of work and at home in a world of science and technology.
2. Initial drafts of proposals were circulated to heads of educational institutions. Comments received were considered at the various stages of the review.
3. The Academic Board is now able to advise the general public that with effect from October 1983 candidates seeking admission to degree courses of the University will be expected to satisfy the following requirements:

#### ADMISSION TO BACHELOR'S DEGREE COURSES OCTOBER 1983

A. Register of approved Subjects - GCE passes 'O' Level Grade 6 or better) obtained from the following lists will count towards admission requirements:

I - Lang & Comm.	II-Quantitative	III - Scientific	IV - General	V-Vocational
Eng. Lang	Mathematics	Agric. Sc. or Bio. or Bot. or Zoo	Art	Accounting
	Add. Mathematics	Chemistry	Econ. or Govt or Hist.	Bus. Methods Management
Greek	Statistics	General Science I	Eng. Literature	Commerce
Latin		General Science II	Geography	S'hd/Typewriting
Arabic		Geology	Logic	Home Management
French		Health Science	Music	Clothing, & T'tile
German		Physics or P-W-M.	Rel. Knowledge	Food & Nutrition
Italian				Needlework & Dressmaking
Russian				Auto-Mechanics
Spanish				Applied Elect.
Akan				Elem. Survey
Ewe				Geom. & Bld.
Fanti				Drawing
Ga				Geom. & Mech.
Twi				Drawing
Igbo				Metalwork
Hausa				Tech. Drawing
Yoruba				Woodwork

- B. General Requirements** —
- i.* Five passes including English Language, Mathematics and at least one from each of categories III and IV.
  - ii.* Three passes including at least one of grade D or better must be obtained at the Advanced Level.
  - iii.* A pass in General Paper.

**C. Faculty Requirements**

- B. Sc. Administration )  
 Bachelor of Arts ) 'A' Levels may include one only from category V.  
 Bachelor of Laws )

B. Sc. Agriculture — 'A' Level Chemistry, Physics and Biology or Botany or Zoology subject to the following:

- i.* Geography may be substituted for Physics and counted with Chemistry and Biology (rather than Botany or Zoology) if candidate has 'O' Level background in Physics;
- ii.* Mathematics may be substituted for Physics and counted with Chemistry and Biology (rather than Botany or Zoology) if candidate has 'O' Level background in Physics or Gen. Science;
- iii.* Physics with Mathematics may be substituted for Physics or Mathematics and may not be counted with either subject.

B. Sc. Home Science — Agriculture/Foods Option - 'A' Level Chemistry plus at least 'O' Level background in three of Economics, Geography, Gen. Science or Biology or Botany or Zoology, Mathematics or Physics-with-Mathematics, Physics or Physics-with-Mathematics.

Family & Society Option - Passes at 'O' or 'A' Level must include either Gen. Science or two of Chemistry, Physics, Biology or Botany or Zoology.

Bachelor of Medicine/  
Dentistry

— 'A' Level Chemistry, Physics and Biology or Agric. Science or Mathematics subject to the following conditions:

- i.* Agric. Science will count if candidate has at least 'O' Level background in Biology or Gen. Science I & II.
- ii.* Combinations which do not feature Biology or Agric. Science are acceptable if grades obtained are BBC or better and candidate has 'O' Level background in Biology or Gen. Sc. I & II.
- iii.* Physics-with-Mathematics may be substituted for either Mathematics or Physics and will not be counted with either subject.

Bachelor of Science — 'A' Levels from categories II (Mathematics only) and III will count except that:

- i. Geography in category iv may be counted as one;
- ii. Physics-with-Mathematics may not be counted with either Physics or Mathematics.

#### D. Subject Requirements

i) The following do not require qualifications beyond the General and Faculty Requirements: Administration; Classical Civilization; Law; Linguistics; Economics; Philosophy; Political Science; Psychology; Sociology; and Statistics (up to FUE only).

ii) Minimum requirements for other subjects are the following:

- |                   |   |
|-------------------|---|
| Archaeology       | — 'O' Level Geography or History  |
| Biology           | — 'A' Level Biology is recommended but not required.  |
| Biochemistry      | — Available in second and third years. Preferred combination in Year I is Chemistry, Biology and Physics.   |
| Botany            | — Not available in Year I. Students who propose to offer courses in Botany in years II and III must offer Biology in Year I.  |
| Chemistry         | — 'A' Level Chemistry   |
| Computer Sc.      | — 'A' Level Mathematics   |
| Drama/English     | — 'A' Level English   |
| Geography         | — 'O' Level Geography   |
| Geology           | — 'A' Level in two of Chemistry, Mathematics and Physics and at least 'O' Level in the third.   |
| Ancient Hist )    | — Previous study of History is recommended but not required.  |
| History )         | —   |
| Home Science      | — Home Science is also available as a subject for B.A.; the preferred combination in Year I is Home Science with two or Economics, Geography, Psychology and Sociology. |
| Music             | — 'A' Level Music   |
| Nursing           | — 'O' Level Chemistry or Gen. Science I & II  |
| Nutrition )       | — Available in second and third years. Preferred combination  |
| Food Science )    | in Year I is Chemistry, Biology and Physics.  |
| Study of          |   |
| Religions         | — 'O' Level Religious Studies   |
| Greek             | — 'O' Level Greek   |
| Latin             | — 'O' Level Latin   |
| Mathematics       | — 'A' Level Mathematics   |
| Modern Languages: |   |
| French            | — 'A' Level French  |
| Arabic)           | — 'O' Level English (Gd. 4)   |
| Russian)          | or 'O' Level in two Languages (Gd. 5 in each)   |
| Swahili)          |   |
| Spanish           | — 'O' Level Spanish or Latin  |
|                   | or 'O' Level French plus 'A' Level English  |
|                   | or 'A' Level French   |
| Statistics        | — For courses beyond FUE 'A' Level Mathematics is normally required   |
| Zoology           | — Not available in Year I. Students who propose to offer courses in Zoology in Yr. II and III must offer Biology in Yr. I.  |

### Trial By Fetish?

SIR - Mr. Augustine Andoh makes an unfortunately short-sighted conclusion indeed when he says in his letter published in L.O. Vol. XII No. 5 that Flt. Lt. Rawlings, by his preference for trial by fetish, is encouraging people to adopt a "non-scientific approach to the solution of our problems."

For, without necessarily sharing the beliefs of Rawlings, it is easy to see that his statement, far from doing what Mr. Andoh claims, is a loaded condemnation of the ugly legal framework under which Ghanaians languish - a framework which gets the innocent and lets the real criminals go; a framework which countenances palpable lies as those fed to us by some of our former Heads of State; a framework under which some judges willfully grant bail to people in cases where they have no jurisdiction.

Mr. Andoh how do you interpret such utterances by Flt. Lt. Rawlings as: "To hell with the legal canopy" - under which "there was too much deprivation in the social life of Ghanaians" - under which "people swear on the Holy Bible and still lie with impunity?" (See, for instance, L.O. Vol. XII No. 4).

Let us face it: we have a real problem of institutionalised injustice on our hands. And just as we can not solve it by the so-called "non-scientific approach," so also can we not avoid it by mere references to fictional themes of "a University that has a Faculty of Science (that) can not endorse... charms," nor with mere quotations from Catholic Bishops.

And if Rawlings' crime is "harbouring fantasies," which to Mr. Andoh is against the principles of 'progressiveness' then one wonders what the crime of Bishop Sarpong will be who lingers under another "fantasy" which some other 'progressives' have condemned as nothing but an "opium of the Masses"!

J.9 Commonwealth Hall, Tetteh Harmeku-Adjei Legon.

## For The Record

APRIL 2, 1980

### Kowus is Cleared

The Special Tribunal has dismissed adverse findings made against Emmanuel Kwaku Owusu, former Chairman of Kowus Motors Limited, by the Amarteifo Committee which probed the affairs of the company in September last year.

This followed a petition filed by Mr. Owusu, his wife and children.

Mr. Owusu, was sentenced to 25 years imprisonment by the AFRC Special Court following the Amarteifo report.

Meanwhile, the Attorney-General, Mr. Joe Reindorf, has said he was considering taking action in an appropriate court to set aside and nullify what he described as "illegal and futile orders by the Special Tribunal."

APRIL 9, 1980

### Help curb exodus - Limann

The President, Dr. Hilla Limann has appealed to the Ghana National Association of Teachers (GNAT) to put forward proposals to help stop the exodus of teachers to neighbouring countries.

The President was opening the fifth biennial national delegates conference of GNAT at Legon.

He expressed concern over the alarming rate at which teachers trained with the taxpayer's money were leaving to help develop other countries.

APRIL 10, 1980

### Foreign Agric. Experts may be Engaged if . . .

The Vice-President, Dr. J. W. S. de Graft Johnson, has said the Government would not hesitate to engage expatriate agricultural personnel to enable it achieve its agricultural targets if Ghanaian trained agriculturists showed less interest.

Dr. de Graft Johnson was delivering the key note address at the opening of this year's Easter School at Bolgatanga under the theme, "Agricultural Development in Savanna Ghana".

He urged Ghanaian agricultural experts "to submerge self-interest" by working relentlessly for the general well-being of Ghanaians.

APRIL 10, 1980

### Let's have one Grade Petrol

The Committee on Energy Resources has recommended that the Government should introduce one grade of petrol to replace the existing two grades - normal and super.

The two grades have different octane contents: super has 93.2 octane and normal, 85.

The committee's interim report suggested a grade with 93 octane.



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