



Dear Reader,

While wishing you a happy Easter we would like to share a synopsis of an article published in a recent edition of the Africa Legal Aid Quarterly on the Ghana Supreme Court decision which limits the powers of the Ghana National Human Rights Commission (CHRAJ). The decision should be of interest to Human Rights Advocates and National Human Rights Institutions in Africa.

31-3-2010

The question before the Ghana supreme court was whether the CHRAJ has the power to undertake investigations *Suo Motu*, i.e. without a complaint.

In his analysis of the Court's ruling, A.P. van der Mei is reminded of a classification of judges by the Latin-American jurist, Naclares Arongo.

The first type of judge is the artisan who using only his hands produces judgements without lowering himself to consider the human aspects or social order.

The second is the craftsman who uses his hands as well as his brains. Such a judge uses traditional interpretative methods which lead him merely to represent the legislature's intention.

Then there is the artist, who uses his hands, brain and heart. Such a judge broadens the horizon for citizens without losing sight of reality or of specific circumstances.

The author is of the view that neither the Chief Justice- in her majority opinion, nor Justice Date-Bah- in his dissenting opinion, can be accused of being artisan, robot like judges.

The Chief Justice's opinion would seem to be a product of the second type of judge, the craftswo(man), who "only attempted to effectuate the intention of the framers of the Constitution".

Justice Date-Bah's opinion went further. It involved more than mere craftsmanship, with a view to establishing what a reasonable legislator would have intended.

Justice Date-Bah interpreted Article 218(a) of the Constitution in the light of the spirit of the core values of the Constitution and its historical background.

Justice Date-Bah's conclusion "broadens the horizon for citizens", and as he himself seemed to admit, might go further than what the framers had in mind: "I am on this occasion inclined to be a bold spirit".

Originalists would probably side with the Chief Justice's majority opinion.

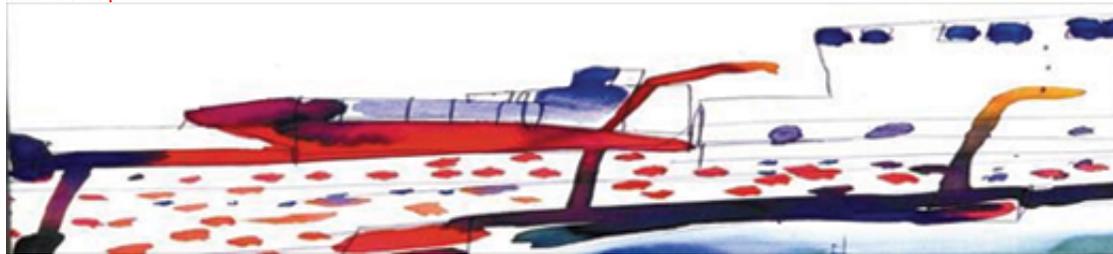
Yet A.P. van der Mei contends that Justice Date-Bah's purposive interpretation is the only legitimate one.

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