

# Ghana

## **Civil Society Report on the Implementation of the ICCPR (Replies to the List of Issues CCPR/C/GHA/Q/1)**

To be submitted for the Review of the Initial Report of Ghana (CCPR/C/GHA/1)  
At the 117<sup>th</sup> session of the Human Rights Committee  
(Geneva – 20 June to 15 July 2016)

By:

- *Human Rights Advocacy Centre (coordinator)*
- *Amnesty International, Ghana*
- *POS Foundation*
- *Media Foundation for West Africa*
- *MindFreedom Ghana*
- *BasicNeeds Ghana*
- *Commonwealth Human Rights Initiative, Africa Office*
- *Coalition on the Right to Information, Ghana*
- *Institute of Democratic Governance*
- *Ghana Federation of Disability Organisations*
- *ABANTU for Development*
- *Women in Law and Development in Africa*

*Accra, Ghana  
May, 2016*

With the support of:  
**Centre for Civil and Political Rights (CCPR-Centre)**

## Table of contents

I. Introduction .....	3
II. Replies of Civil Society to the Issues identified in the Lol.....	4
a. Constitutional and legal framework within which the Covenant is implemented (art. 2) .....	4
b. Non-discrimination and equality between men and women (arts. 2, 3 and 26).....	5
c. Violence against women and children, including domestic violence (arts. 3, 7, 23, 24 and 26) .	9
d. Right to life (art. 6) .....	14
e. Prohibition of torture and other cruel, inhuman and degrading treatment (arts. 2 and 7) .....	19
f. Liberty and security of person and treatment of persons deprived of their liberty (arts. 7, 9 and 10)	24
g. Right to a fair trial and independence of the judiciary (arts. 14 and 24).....	28
h. Elimination of slavery and servitude (art. 8) .....	31
i. Treatment of aliens, including refugees and asylum seekers (arts. 7, 12 and 13) .....	33
j. Right to privacy and family life (art. 17) .....	34
k. Rights of the child (arts. 16, 24 and 26).....	38
l. Freedom of opinion and expression (art. 19).....	41
m. Dissemination of information relating to the Covenant and the Optional Protocol (art. 2) .....	44

## **I. Introduction**

After more than a decade of delay, Ghana submitted its first report on the implementation of the International Covenant on Civil and Political Rights (ICCPR) to the United Nations Human Rights Committee (HR Committee) in 2014. The review of the State is scheduled at the 117<sup>th</sup> Session of the Human Rights Committee (20 June - 15 July 2016). As part of the review process, CSOs submit this report in response to the List of Issues adopted by the HR Committee to contribute to the review of Ghana from a civil society perspective.

In order to prepare this civil society report in reply to the LOI, the Human Rights Advocacy Centre (HRAC) in collaboration with the Centre for Civil and Political Rights (CCPR Centre) consulted with Civil Society Organisations in Accra in three different meetings from March to May, 2016. At the end of the said consultations CSOs prepared and validated this civil society report in response to the List of Issues. Also, three members of the CSOs who participated in the consultations were selected to represent the civil society of Ghana at the 117<sup>th</sup> Session of the United Nations Human Rights Committee in Geneva in June 2016. Further, the meetings contributed to the strengthening of CSOs collaboration towards the monitoring and assessment of the implementation of the ICCPR as well as reporting on progress made in Ghana.

### **• Joining organisations**

This joint report is prepared by:

1. Human Rights Advocacy Centre (coordinator)
2. *Amnesty International, Ghana*
3. *POS Foundation*
4. *Media Foundation for West Africa*
5. *MindFreedom Ghana*
6. *BasicNeeds Ghana*
7. *Commonwealth Human Rights Initiative, Africa Office*
8. *Coalition on the Right to Information, Ghana*
9. *Institute of Democratic Governance*
10. *Ghana Federation of Disability Organisations*
11. *ABANTU for Development*
12. *Women in Law and Development in Africa*

### **• Contact details**

Wendy Abbey

Human Rights Advocacy Centre

[wendy@hracghana.org](mailto:wendy@hracghana.org)

+233 302 768 733

+233 266 191 054

## II. Replies of Civil Society to the Issues identified in the Lol

### a. Constitutional and legal framework within which the Covenant is implemented (art. 2)

**Issue 1:** Please clarify the status of the Covenant within the domestic legal order, including whether the Covenant prevails over domestic laws in case of conflicting provisions, and provide example of cases in which the national courts have referred to the provisions of the Covenant. Please also indicate what procedures are in place for the implementation of the Committee's Views under the Optional Protocol, and provide information on measures taken to ensure full compliance with the Committee's Views concerning communication No. 2177/2012, *Johnson v. Ghana*.

#### **Comments from the civil society**

In 2000, by ratifying the ICCPR, Ghana as a State Party committed itself to fulfil the provisions of the treaty. However, as a dualist state, Ghana must take legislative or executive action to incorporate ratified international treaties into local law before it is applicable within the local jurisdiction. In the case of a conflict between the provisions of the 1992 Constitution and the ICCPR, domestic courts tend to apply the Constitution, not the ICCPR. Defendants have no other option than challenging decisions made by Ghanaian courts at international fora, such as in the case of *Johnson v. Ghana*. However, even in such cases, the State does not always implement the decisions issued by international mechanisms.

#### **Recommendations:**

##### The State Party should:

- 1) Incorporate the ICCPR into domestic law and ensure that judges, prosecutors and lawyers can directly invoke it at the national level
- 2) Consider establishing a specific mechanism to give full effect to the Committee's Views in order to guarantee effective remedies to the victim of a violation under the Covenant

**Issue 2:** Please clarify how the members of the Commission on Human Rights and Administrative Justice are selected and appointed, and give details on how a diverse composition of the Commission is ensured. Please also indicate the measures taken to provide the Commission with adequate financial and human resources, so as to enable it to discharge its mandate in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

#### **Comments from the civil society**

The Constitution mandates the Commission on Human Rights and Administrative Justice (CHRAJ) to ensure the effective implementation of the constitutional provisions on access to justice and protection of human rights as well monitoring and addressing State administrative injustices and corruption. The CHRAJ was established in 1993 by Act 456, also called the Commission on Human Rights and Administrative Justice Act. The CHRAJ is mandated to act as an independent national human rights organization, an ombudsman to ensure administrative justice, and an anti-corruption agency for the public sector. It also has the mandate to protect fundamental human rights as well as to act as a quasi-judicial institution to ensure transparency and accountability in the public sector. CHRAJ may address complaints of maladministration, corruption and human rights violations within the country. It may also initiate investigations, but this power is limited by Article 135 of the Constitution, which grants exclusive jurisdiction to the Supreme Court to determine whether a document should not be produced because it may be detrimental to State interests.

Article 225 of the 1992 Constitution provides that the Commission shall not be subject to the control of any person or authority. In practice, there has not been any visible interference by government in the work of the Commission and in the fulfilment of its tripartite mandate. However, there is a certain level of government influence in the procedure of selection of Commissioners since the Commission is constituted based on presidential appointment. Thus, currently there is no mechanism that guarantees the establishment of the Commission “in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the protection and promotion of human rights...” as required by the Paris Principles.

With regards to financial autonomy, the salaries and expenses of the Commission are charged to the Consolidated Fund as provided by Article 227 of the Constitution. The Commission prepares and submits its own budget to the Ministry of Finance for approval. Invariably, the Ministry cuts the budget after stringent budget hearings. The Commission has recommended to Parliament that it should be permitted to submit its budget directly to Parliament after it has been presented to the Ministry of Finance for consultation as is the case with the judiciary. This would make its institutionally guaranteed independence more meaningful. Donor support continues to be a vital support for initiating and sustaining public education, staff training and development projects and activities of the CHRAJ. The Commission, however, urgently requires additional resources to strengthen its capacity in order to adequately and efficiently discharge its constitutional mandate.<sup>1</sup>

The recommendation of the Ghana Constitution Review Commission in Section 122 states that "decisions [of the CHRAJ] be directly enforceable in the courts of law and [that] it should be empowered to initiate investigations into any matter within its mandate without a formal complaint".

#### **Recommendations:**

##### The State Party should:

- 1) Set up an independent mechanism for appointment of Commissioners of the CHRAJ
- 2) Ensure adequate and sufficient funding and human resources for the Commission
- 3) Modify the Constitution as to make decisions of the CHRAJ directly enforceable in courts of law and empower the Commission to initiate investigations into any matter without requiring to submit a formal complaint to the Supreme Court

#### **b. Non-discrimination and equality between men and women (arts. 2, 3 and 26)**

**Issue 3:** Please respond to reports that non-Ghanaians face discrimination on the basis of national origin, nationality and ethnicity. Please provide information on measures taken to combat the stigmatization of and discrimination against children, adults with disabilities, in particular psychosocial or mental disabilities, sex workers, persons with albinism and persons living with HIV/AIDS.

#### **Comments from the civil society**

---

<sup>1</sup> Speech by Anna Bossman at the Commonwealth Conference of National Human Rights Institutions, 2012 retrieved on 29<sup>th</sup> April, 2016 via [http://www.chrajghana.com/wp-content/uploads/2012/08/anna\\_speech.pdf](http://www.chrajghana.com/wp-content/uploads/2012/08/anna_speech.pdf)

- **Discrimination against non-Ghanaians on the basis of national origin, nationality and ethnicity**

Foreign nationals, who can prove their nationality and have residence permits in Ghana, have access to social services such as education, employment and health care. However, those who are unable to provide necessary legal documents of residence or nationality find it difficult to access these services. In situations where non-Ghanaians are being denied protection from the Ghana Refugee Board and the United Nations High Commissioner for Refugees, civil society organisations - such as the HRAC and the Legal Resources Centre - provide assistance in the form of legal aid for refugees and asylum seekers. The HRAC has worked to ensure that Liberian refugees are provided with adequate medical treatment and resettlement following their complaints to the Human Rights Clinic of HRAC.

- **Discrimination and stigmatisation against adults with disabilities, particularly mental disabilities**

Adults with psychosocial or mental disabilities are constant victims of discrimination. They are usually sent to “prayer camps”, where they suffer multiple human rights violations. People in prayer camps do not have the legal option to challenge their detention in the camps, since prayer camps are privately managed and are not supervised by the State. It is usually the relatives of persons with mental illness who independently resort to prayer camps other than accessing medical treatment for mental illness. Families of persons with mental illness resort to prayer camps as a means of escape from the high cost of medical treatment for mental health and stigma. (see more about prayer camps in the reply to Issue 14 below).

- **Discrimination and stigmatisation against sex workers**

Police abuse of sex workers is shockingly widespread. 57.1% of Ghanaian sex workers report being forced to have sex with policemen against their will.<sup>2</sup> Because sex work is illegal in Ghana, many women in dangerous and abusive situations are fearful to seek help from law enforcement agents, particularly as law enforcement agents often are the perpetrators of violence against sex workers. It does not appear that the government has taken measures to address this abuse. In the Concluding Observations adopted by CEDAW, the Committee highlights that “women in prostitution are disproportionately affected by the criminalization of prostitution compared with their clients.” The Committee also expressed concern about “the absence of information on the impact of existing rehabilitation and reintegration programmes for women wishing to leave prostitution.”<sup>3</sup>

- **Discrimination and stigmatisation against persons with albinism**

Discrimination against people with albinism takes place in school, residential areas, and businesses. Many people with albinism are expelled from their hometowns due to misconceptions about the people with albinism.<sup>4</sup> It does not appear that the government has taken measures to address this abuse.

- **Discrimination and stigmatisation against persons living with HIV/AIDS**

---

<sup>2</sup> “Exposure to childhood violence leads to adult violence – Research.” *GhanaWeb*. GhanaWeb, 26 March 2016, page 6. Web. 24 May 2016. <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Exposure-to-childhood-violence-leads-to-adult-violence-Research-426072>

<sup>3</sup> Committee on the Elimination of Discrimination against Women, Concluding observations on the combined sixth and seventh periodic reports of Ghana, Adopted by the Committee at its fifty-ninth session, meeting from 20 October to 7 November 2014.

<sup>4</sup> “Albinos Banished from Atebubu.” *GhanaWeb*. GhanaWeb, 5 June 2015. Web. 24 May 2016. <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Albinos-banished-from-Atebubu-361085>

In Ghana, persons with HIV/AIDS may face stigma and discrimination.<sup>5</sup> However, the government has engaged in several awareness events aimed at decreasing discrimination against persons with HIV/AIDS.<sup>6</sup>

### **Recommendations:**

The State Party should:

- 1) Expand healthcare and rights of persons affected with mental disabilities, and focus on removing the stigma surrounding mental illness
- 2) Increase protection for sex workers who have been victims of abuse and violence. Ensure that mechanisms are in place to prevent law enforcement from abusing women in sex work
- 3) Increase community awareness about the stigma surrounding persons with albinism and ensure that it is illegal to discriminate against them
- 4) Continue and reinforce the efforts to eliminate any form of discrimination or stigma against people living with HIV/AIDS

**Issue 4:** Please clarify whether sexual relations between consenting adults of the same sex are criminalized by virtue of section 104 of the Criminal Offences Act, 1960 (“unnatural carnal knowledge”). Please comment on reports of discrimination, stigmatization, hate speech and homophobic discourse, including by State officials, religious actors and the media, as well as violence against lesbian, gay, bisexual and transgender individuals and activists, and report on the measures taken to ensure the protection of victims and address impunity for such acts.

### **Comments from the civil society**

Although the Constitution offers a general framework for the protection against discrimination in Ghana, it is silent on the specific rights of sexual orientation and the claim to sexual identity of Lesbian, Gays, Bisexuals, Transgender and Intersex (LGBTI). The Criminal Code provision defines unnatural carnal knowledge as “sexual intercourse with a person in an unnatural manner”<sup>7</sup>. This has been interpreted to mean criminalization of homosexuality. The said criminal provision is silent on whether sexual relations between two consenting adults is a criminal offense or not. The Supreme Court has not clarified this issue.

In addition to the lack of clarity whether homosexuality is criminalized in Ghana, lesbian, gay, bisexual, and transgender individuals are often subjected to discrimination in relation to access to justice. It is reported that several judges in Ghana discriminate against LGBTI victims of violence, which is likely to decrease reporting of such incidents.<sup>8</sup> While civil society groups (including the Human Rights Advocacy Centre) have hosted trainings for law enforcement agents on the rights of LGBT individuals, the State does not appear to have promoted the equal treatment of LGBT individuals in Ghana.

---

<sup>5</sup> “Protect Gays, Sex Workers in Ghana- CDD.” *Vibe Ghana*. Vibe Ghana, 04 October 2015. Web. 24 May 2016. <http://vibeghana.com/2015/10/04/protect-gays-sex-workers-in-ghana-cdd/>

<sup>6</sup> “HIV-AIDS prevalence rate reduces to 1.3%.” *GhanaWeb*. GhanaWeb, 21 December 2015. Web. 24 May 2016. <http://www.ghanaweb.com/GhanaHomePage/health/HIV-AIDS-prevalence-rate-reduces-to-1-3-402260>

<sup>7</sup> Section 104(2) of the Criminal Code Act. 1960 (Act 29).

<sup>8</sup> Mathews, Chris. “These are our rights’: Ghana’s LGBT Community finally finds Solace.” *The Guardian*. The Guardian, 11 February 2016. Web. 24 May 2016 <http://www.theguardian.com/global-development/2016/feb/11/these-are-our-rights-paralegals-empowering-lgbt-ghana>

## Recommendations:

### The State Party should:

- 1) Clarify section 104 of the Criminal Offences Act to establish the legality of homosexual activity in Ghana
- 2) Sensitize State officials towards respect for the human rights and non-discrimination of LGBTI persons in Ghana
- 3) Ensure that LGBTI people have access to justice and that all cases of violence against LGBTI are promptly and adequately investigated, prosecuted and sanctioned according to the laws

**Issue 5:** Please report on measures taken to eliminate discriminatory provisions and practices, both in statutory and customary law, limiting women's access to land, property and inheritance, including in the context of marriage. Please also clarify the current status of the Intestate Succession Bill and of the Property Rights of Spouses Bill and explain what measures are being considered to ensure their effective implementation.

## Comments from the civil society

- **Discriminatory practices against women**

The CEDAW expressed its deep concern about “the persistence of adverse cultural norms, practices and traditions, in addition to patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and in society, which contribute to the persistence of violence against women and harmful practices.”<sup>9</sup>

In Ghana, women do not have adequate inheritance rights when their husbands die. The woman herself is often “inherited” as a wife for the late husband's brother or the late husband's son from another wife.<sup>10</sup> Women also face discrimination in owning property.<sup>11</sup> Because women face more barriers to property ownership, they also experience more limited access to formal credit.<sup>12</sup> Additionally, according to the World Economic Forum, Ghana currently ranks 63 out of a total of 145 countries in the 2015 Gender Gap Index, with an overall score of 0.704 on the equality scale (where 0.00 = inequality and 1.00 = equality).<sup>13</sup> This amounts to an average difference of 7% in the earnings of women compared to men, with women earning a gross median monthly wage of €272 in comparison to the €293 earned by men.<sup>14</sup>

---

<sup>9</sup> Committee on the Elimination of Discrimination against Women, Concluding observations on the combined sixth and seventh periodic reports of Ghana, Adopted by the Committee at its fifty-ninth session, meeting from 20 October to 7 November 2014.

<sup>10</sup> Ertük, Yakin. “Ghana: women at war in a country at peace.” *OpenDemocracy*. OpenDemocracy, 25 November 2015. Web. 24 May 2016. <https://www.opendemocracy.net/5050/yakin-erturk/women-at-war-in-country-in-peace-ghana>

<sup>11</sup> Fetrie, Comfort. “Discrimination, violence – bane of the Ghanaian Woman.” *GNA*. GhanaWeb, 19 October 2010. Web. 24 May 2016. <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Discrimination-violence-bane-of-the-Ghanaian-Woman-195440>

<sup>12</sup> “Focus on women also to impact food security – Surevy.” GhanaWeb, GhanaWeb, 27 March 2016. Web. 24 May 2016. <http://www.ghanaweb.com/GhanaHomePage/business/Focus-on-women-also-to-impact-food-security-Survey-426276>

<sup>13</sup> “Ghana.” *Economies*. World Economic Forum, n.d. Web. 24 May 2016. <http://reports.weforum.org/global-gender-gap-report-2015/economies/#economy=GHA>

<sup>14</sup> “Ghana.” *WageIndicator Gender Pay Gap*. Silk. March 2016. Web. 26 May 2016. <http://wageindicator-gender-pay-gap.silk.co/page/Ghana>



- **Current status of the Intestate Succession Bill and of the Property Rights of Spouses Bill**

As of March 2016, the Intestate Succession Bill and the Property Rights of Spouses Bill have still not been passed.<sup>15</sup> Additionally, while the Intestate Succession Bill's objective is to protect widows and their children from eviction within the first 6 months of the husband's passing, the law has been misinterpreted to mean that widows can be evicted from their homes after the 6-month period.<sup>16</sup>

**Recommendations:**

The State Party should:

- 1) Ensure the immediate passage and implementation of the Intestate Succession Bill and the Property Rights of Spouses Bill
- 2) Expand women's options for pursuing credit and equal wages

**Issue 6:** Please report on the status of the Affirmative Action Bill. Please provide further information on measures taken to increase the representation of women in national and regional governance institutions and in the judiciary, particularly in decision-making positions, and the resulting progress.

**Comments from the civil society**

The Affirmative Action Bill is still being discussed in the Cabinet, though it is expected to pass through Parliament later this year.<sup>17</sup> This bill would ensure that a 40% quota of female representation is met. Currently in Ghana, 20% of Cabinet Ministers are women, 10.9% of members of Parliament are women, and under 5% of women participate in local governance.<sup>18</sup> There is no evidence to suggest any practical measures on the part of government to increase women's representation in government or public office outside the provisions of the Affirmative Action Bill.

**Recommendations:**

The State Party should:

- 1) Affirm its commitment to female representation by ensuring the timely passage of the Affirmative Action Bill.

**c. Violence against women and children, including domestic violence (arts. 3, 7, 23, 24 and 26)**

**Issue 7:** Please outline the measures taken: to eradicate effectively harmful practices, such as female genital mutilation, *trokosi* (ritual servitude), polygamy, forced and early marriage, abusive widowhood rites and stigmatization of widows, and witchcraft accusations leading to severe violence and confinement in so-called witch camps; to bring perpetrators to justice (please include relevant statistics); and to provide appropriate redress to victims

<sup>15</sup>"Oye lithur calls for swift action on Spousal Bill." *Atinkaonline*. GhanaWeb, 15 March 2016. Web. 24 May 2016. <http://www.ghanaweb.com/GhanaHomePage/regional/Oye-lithur-calls-for-swift-action-on-Spousal-Bill-423601>

<sup>16</sup>Ertük, Yakin. "Ghana: women at war in a country at peace." *OpenDemocracy*. OpenDemocracy, 25 November 2015. Web. 24 May 2016. <https://www.opendemocracy.net/5050/yakin-erturk/women-at-war-in-country-in-peace-ghana>

<sup>17</sup><http://pulse.com.gh/news/gender-inequality-why-are-there-so-few-women-in-ghanas-parliament-id4774663.html>

<sup>18</sup>"Ghana Affirms Commitment to Advance Women's Empowerment." *Peacefmonline*, 16 March 2016. Web. 24 May 2016. <http://news.peacefmonline.com/pages/social/201603/273381.php>

## Comments from civil society

- **Female Genital Mutilation**

Ghana has one of the lowest rates of female genital mutilation in Africa (4%), and most (93%) of Ghanaian women are not in favor of the practice.<sup>19</sup> Since FGM was banned in 1994, several perpetrators have been successfully prosecuted.<sup>20</sup> However, efforts need to be strengthened to completely eradicate FGM in the country.

- **Trokosi (ritual servitude)**

*Trokosi* is a practice in south-eastern Ghana where young virgin girls, typically from eight to fifteen years of age, are sent to fetish shrines to live and atone for the crimes of their family members. The victims of this practice are separated from their families and withdrawn from school, forced to work on fields from morning to evening without adequate food or any form of medical care.

On June 12, 1998, the government of Ghana criminalised the *trokosi* practice by passing a law that banned all forms of ritualised forced labour and made it an offence punishable by a minimum of three years in jail. It is unfortunate to note that even with the existence of this legal instrument, *trokosi* is still in practice today and no arrests have been made since the 1998 law was passed<sup>21</sup>. This came to light after a week of undercover mission to some of the shrines, where the practice is still “treasured” in some parts of the Volta Region by the chronicle newspaper of Ghana<sup>22</sup>. Those in the southern Volta region who practice *trokosi* are reluctant to abandon this cultural practice.<sup>23</sup> Reports indicate that there are at least 23 *trokosi* shrines in operation in the Volta region, and 3 in the Greater Accra Region.<sup>24</sup>

- **Polygamy**

Polygamy is illegal in Ghana, but appears to be permitted under customary and *shariah* law. An estimated 22% of the women in Ghana are living in polygamous marriages<sup>25</sup> which is legally acceptable under customary marriage. During her visit to Ghana in November 2013, the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Gulnara Shahinian, noted that polygamy is practised especially in the three northern regions of the country and it is accepted under customary law. She said “abuses within polygamous unions often include early marriages, which are unregistered, and the

---

<sup>19</sup>[http://www.unicef.org/media/files/FGMC\\_2016\\_brochure\\_final\\_UNICEF\\_SPREAD.pdf](http://www.unicef.org/media/files/FGMC_2016_brochure_final_UNICEF_SPREAD.pdf)

<sup>20</sup>Ertük, Yakin. “Ghana: women at war in a country at peace.” *OpenDemocracy*. OpenDemocracy, 25 November 2015. Web. 24 May 2016. <https://www.opendemocracy.net/5050/yakin-erturk/women-at-war-in-country-in-peace-ghana>

<sup>21</sup>[http://archives.ashesi.edu.gh/~archive/v4\\_2011\\_2013/images/academics/writing\\_center/docs/08\\_biney\\_essay.pdf](http://archives.ashesi.edu.gh/~archive/v4_2011_2013/images/academics/writing_center/docs/08_biney_essay.pdf)

<sup>22</sup>Akwetey, Isaac. “Trokoski the Savagery Victims Ordeal A Plea to Government.” *The Chronicle*. The Chronicle, 22 November 2016. Web. 24 May 2016. <http://thechronicle.com.gh/trokosi-the-savagery-victims-ordeal-a-plea-to-govt/>

<sup>23</sup>“Trokosi cannot be wiped away easily.” GhanaWeb. GhanaWeb, 25 August 2008. Web. 24 May 2016.

<http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Trokosi-cannot-be-wiped-away-easily-149077>

<sup>24</sup>Ertük, Yakin. “Ghana: women at war in a country at peace.” *OpenDemocracy*. OpenDemocracy, 25 November 2015. Web. 24 May 2016. <https://www.opendemocracy.net/5050/yakin-erturk/women-at-war-in-country-in-peace-ghana>

<sup>25</sup>“Ghana Polygamy Creating Problems in Northern Region.” *AfricanSpotlight*. AfricanSpotlight, 03 September 2011. Web. 24 May 2016. <http://africanspotlight.com/2011/09/03/ghana-polygamy-creating-problem-in-northern-region/>

different status of the different wives, which renders some vulnerable to mistreatment.”<sup>26</sup> In addition, CEDAW expressed its concern about the increase in polygamous marriages in Ghana.<sup>27</sup>

- **Forced and early marriage**

Though the minimum legal age of marriage in Ghana is 18, it is estimated that 27% of girls are married before her 18th birthday.<sup>28</sup> This number reaches as high as 39% in rural and Northern areas of Ghana. In 2014, the Ministry of Gender, Children, and Social Protection created an Ending Child Marriage Unit, which intervenes in communities through civil society and NGOs<sup>29</sup>. The Unit is aimed at promoting and coordinating national initiative aimed at ending child marriages in Ghana. Although it is under resourced, the Unit has made progress in addressing forced and early child marriage in Ghana. An Advisory Committee on Ending Child Marriage has been established through the functions of the Unit to provide guidance on interventions being proposed by the Ministry<sup>30</sup>. Also in February, 2016 the Ministry launched the 2017-2026 National Strategic Framework for ending child marriage in Ghana. On 24<sup>th</sup> May, 2016 a multi-stakeholder meeting was held to validate the said draft framework.

- **Abusive widowhood rites / stigmatization of widows**

In Ghana, unmarried women do not have inheritance rights when their spouses die. It is their children who have the right to inherit properties bequeathed to them from their deceased father (see reply to Issue 5 above for more information regarding inheritance rights and the Intestate Succession Bill and of the Property Rights of Spouses Bill). Married women may have access to inheritance if the spouse died testate based on the provisions of the will. However, in the absence of the Intestate Succession Bill and Property Rights of Spouses Bill, PNDC Law 111 is invoked through which the widow, her children and mother of the deceased get a share of the inheritance.

- **Witch camps**

Many people who are poor and elderly, mostly in the northern regions of Ghana, are falsely accused as witches and banished to “witch camps”.<sup>31</sup> These settlements are located in the Northern region within the Kukos, Bonyansi, Gambaga, Gnai-Tindang, Nabolli and Tindan-Zhie districts. It is estimated that there are about a thousand women in northern Ghana inhabiting camps whose sole occupants are deemed to be witches. These women are not allowed to return to their communities, as they are victims of discrimination and stigmatisation.

---

<sup>26</sup> Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Gulnara Shahinian, Mission to Ghana (22-29 November 2013), UN Document A/HRC/27/53/Add.3.

<sup>27</sup> Committee on the Elimination of Discrimination against Women, Concluding observations on the combined sixth and seventh periodic reports of Ghana, Adopted by the Committee at its fifty-ninth session, meeting from 20 October to 7 November 2014.

<sup>28</sup> “Ghana to launch ‘Ending Child Marriage’ campaign.” *Graphic Online*. Graphic, 09 February 2016. Web. 24 May 2016. <http://www.graphic.com.gh/news/general-news/57922-ghana-to-launch-ending-child-marriage-campaign.html>

<sup>29</sup> Ibid.

<sup>30</sup> Ministry of Gender, Children and Social Protection, “National Strategic Framework for Ending Child Marriage in Ghana, 2017-2026 (Third Draft) February, 2016.

<sup>31</sup> Ssengooba, Medi. “Like a Death Sentence: Abuses against Persons with Mental Disabilities in Ghana.” Human Rights Watch, 02 October 2012. Web. 24 May 2016.

Also, children who are believed to be relatives of these women are sent to serve the supposed witches for as long they remain at the camps. They are made to cook, fetch water, clean and sometimes bathe these women. As a result, the children miss out of opportunities to be educated or acquire any meaningful skills whilst on the camps.

Indeed, in its Concluding Observations on Ghana, CEDAW noted “the high number of cases of violence against girls and older women alleged to be witches, which has caused several of them to seek refuge in so-called witch camps, often under difficult living conditions, including lack of access to adequate housing, sufficient food and water and sanitation.”<sup>32</sup>

The Gender Ministry in 2014 disbanded a number of witch camps in the Northern region and is expected to close all existing camps by 2017. The closure shall be complemented with the provision of rehabilitation, reintegration into the communities, alternatives housing and livelihood options to alleged witches.<sup>33</sup>

### **Recommendations:**

#### The State Party should:

- 1) Elaborate on its efforts to enforce the law against *trokosi* at the community and national levels, including by the implementation of the recommendations made by the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Gulnara Shahinia
- 2) Take adequate measures to reduce the incidence of polygamy, with a view to bringing about its abolition. In the meantime, commit to protecting the rights of women in polygamous marriages, including widowhood and inheritance rights.
- 3) Commit to eliminating the existence of witch camps and of human rights abuses against women accused of witchcraft, while ensuring adequate livelihood opportunities for the women when the camps will be closed.
- 4) Commit to finding solutions to retrieve and prevent children from serving alleged witches at witch camps

**Issue 8:** Please indicate the measures taken to address the prevalence of violence against women, including domestic violence, sexual assault and rape, particularly on: (a) encouraging reporting of such cases; (b) addressing impunity, discouraging mediation in cases of violence against women and ensuring their effective investigation and the prosecution and punishment of perpetrators; and (c) ensuring the availability of effective remedies for victims, including adequate State-run shelters and other resources and services to assist victims. Please also provide information on steps taken to combat effectively domestic violence and child abuse, including sexual abuse and incest, in the family, schools and care institutions.

### **Comments from Civil Society**

---

<sup>32</sup> Committee on the Elimination of Discrimination against Women, Concluding observations on the combined sixth and seventh periodic reports of Ghana, Adopted by the Committee at its fifty-ninth session, meeting from 20 October to 7 November 2014.

<sup>33</sup> Andogla-Bessa, Delali. “Closed Witches Camps by 2017 – CEDAW.” Citifmonline. Citifmonline, 27 November 2015. Web. 24 May 2016. <http://citifmonline.com/2015/11/27/closed-witches-camps-by-2017-cedaw/>

In 2015, the Domestic Violence and Victims Support Unit (DOVVSU) of the Ghana Police Service received 2500 reports of sexual and gender based violence in the Central Region. While this number is unchanged from previous years, assault cases are rising.<sup>34</sup> In 2015, the Ghanaian government partnered with the Danish International Development Agency to Ghana (DANIDA) to create awareness around sexual and gender-based violence and encourage reporting cases to the police.<sup>35</sup>

As of May 2016, the Ministry of Gender, Children and Social Protection has said it has completed processes on the drafting of the Legislative Instrument to give realistic meaning to the Domestic Violence Act 732, of 2007.<sup>36</sup> It subsequently introduced the Domestic Violence Regulations bill to be passed in Parliament later that year.<sup>37</sup> The Domestic Violence and Victim Support Unit must be strengthened in order to be truly effective.<sup>38</sup> According to DOVVSU statistics, only 10.3% of reported cases of gender-based violence have resulted in successful convictions of perpetrators.<sup>39</sup>

The State has established a Domestic Violence Fund to assist in the rehabilitation and re-integrations of victims of gender-based violence.<sup>40</sup> However, the State only runs one shelter for victims of gender-based violence.<sup>41</sup> This lack of State support may discourage women from reporting violence, especially domestic abuse, as their abusers may be their only means of material support. The Domestic Violence and Victim Support Unit has also been accused of shielding government employees from accusations of child sexual abuse.<sup>42</sup>

The Department of Gender in Ghana has also partnered with organizations such as the Ark Foundation that aim to educate parents on how to prevent child physical and sexual abuse in the home.<sup>43</sup>

## **Recommendations:**

### **The State Party should:**

---

<sup>34</sup> Gobah, Timothy. "Central Region Records 2,500 Cases of Sexual Gender Based Violence." GraphicOnline. Graphic, 6 January 2016. Web. 24 May 2016. <http://www.graphic.com.gh/news/general-news/55846-central-region-records-2-500-cases-of-sexual-gender-based-violence.html>

<sup>35</sup> Ibid.

<sup>36</sup> Taylor, Mildrid. "Ghana's Domestic Violence Act to be passed in July." Pulse. Pulse, 1 March 2016. Web. 24 May 2016. <http://pulse.com.gh/news/zero-discrimination-day-ghanas-domestic-violence-act-to-be-passed-in-july-id4747908.html>

<sup>37</sup> "Ghana Affirms Commitment to Advance Women's Empowerment." Peacefmonline, 16 March 2016. Web. 24 May 2016. <http://news.peacefmonline.com/pages/social/201603/273381.php>

<sup>38</sup> Bekoe, Adolf. "Elevation of DVVSU: President's promise still awaits redemption." GraphicOnline. Graphic, 29 February 2016. Web. 24 May 2016. <http://www.graphic.com.gh/features/opinion/59254-elevation-of-dovvsu-president-s-promise-still-awaits-redemption.html>

<sup>39</sup> Donkor, Salome. "Ghana Lauds UK's Financial Support to Deal with Sexual Gender Based Violence." GraphicOnline, Graphic, 24 March 2016. Web. 23 May 2016. <http://www.graphic.com.gh/news/general-news/60892-ghana-lauds-uk-s-financial-support-to-deal-with-sexual-gender-based-violence.html>

<sup>40</sup> Ibid.

<sup>41</sup> "Ghana Affirms Commitment to Advance Women's Empowerment." Peacefmonline, 16 March 2016. Web. 24 May 2016. <http://news.peacefmonline.com/pages/social/201603/273381.php>

<sup>42</sup> "DOVVSU Shields Minister's Body Guard in Defilement case." GhanaWeb. GhanaWeb, 16 March 2016. Web. 24 May 2016. <http://www.ghanaweb.com/GhanaHomePage/crime/DOVVSU-shields-minister-s-body-guard-in-defilement-case-423812>

<sup>43</sup> Gobah, Timothy. "Central Region Records 2,500 Cases of Sexual Gender Based Violence." GraphicOnline. Graphic, 6 January 2016. Web. 24 May 2016. <http://www.graphic.com.gh/news/general-news/55846-central-region-records-2-500-cases-of-sexual-gender-based-violence.html>

- 1) Fulfill prior promises to strengthen the Domestic Violence and Victim Support Unit through increasing resources
- 2) Pursue and prosecute all cases of reported gender based violence, and ensure that victims receive shelter and other resources

**d. Right to life (art. 6)**

**Issue 9:** Please report on the progress made towards the abolition of the death penalty and the implementation of the recommendations of the Constitutional Review Commission in that respect. Pending the abolition of the death penalty, please indicate whether legislation has been amended to ensure that the imposition of the death penalty is not mandatory and is based solely upon the category of crime for which the offender is found guilty, without the circumstances of the particular offence being taken into account. Please indicate whether the State party intends to ratify the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty.

**Comments from Civil Society**

Article 13 of the 1992 Ghanaian Constitution guarantees the right to life, however, the same article allows for the death penalty:

*13.(1) No person shall be deprived of his life intentionally except in the exercise of the execution of a sentence of a court in respect of a criminal offence under the laws of Ghana of which he has been convicted*

Article 3 (3) provides for mandatory death sentence for persons convicted of high treason:

*3. (3) Any person who (a) by himself or in concert with others by any violent or other unlawful means, suspends or overthrows or abrogates this Constitution or any part of it, or attempts to do any such act; or (b) aids and abets in any manner any person referred to in paragraph (a) of this clause; commits the offence of high treason and shall, upon conviction, be sentenced to suffer death.*

Ghana has not executed anyone since 1993<sup>44</sup> and the number of death-eligible crimes has decreased in recent years, for example, robbery offences are no longer punishable by death<sup>45</sup>. In 2014, President John Mahama commuted 21 death sentences to life imprisonment in commemoration of Ghana's 54<sup>th</sup> Republic Day Anniversary. However, courts continue to pronounce death sentences. By August 2015, 129 people were under sentence of death<sup>46</sup>. In practice death row inmates reportedly have their death sentences commuted to life imprisonment after they have served at least 10 years on death row. It's not clear whether this practice is consistently followed.

---

<sup>44</sup>Amnesty International (2016). Annual Report – Ghana 2015/2016. March 10, 2016.

<https://www.amnesty.org/en/countries/africa/ghana/report-ghana/>

<sup>45</sup>"Ghana." Death Penalty Worldwide. Cornell Law School, 14 October 2012. Web. March 10, 2016.

<http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Ghana>

<sup>46</sup>Ghana." Death Penalty Worldwide. Cornell Law School, 14 October 2012. Web. March 10, 2016.

<http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Ghana>

Ghana has systematically abstained from voting at the UN General Assembly votes on universal moratorium on executions. Although, there is the recognition of the need to ratify the Second Optional Protocol to the ICCPR, there is not clear commitment or process to that effect.

In December 2011, the Constitution Review Commission published a report in which it recommended that the death penalty should be abolished in the new Constitution and replaced with life imprisonment without parole<sup>47</sup>. In a White Paper published in June 2012, the Government accepted the Commissions' recommendations<sup>48</sup>. However, the government has not implemented the recommendations. Proposals made by the Constitutional Review Implementation Committee to abolish the death penalty were stalled as a result of delays in the constitutional review process<sup>49</sup> due to a court case involving the Constitutional Review Commission. However, the Supreme Court has now cleared the way for the review process to continue although it is not known that the Commission has taken any action to resume the process.

A number of public officials do support abolition. In October 2015, the Accra Centre for Criminology and Criminal Justice published a survey of public opinion on capital punishment in a broad cross-section of the capital's residents. The survey's most important finding was that, contrary to popular belief, a majority of the residents of Accra are opposed to the death penalty<sup>50</sup>. The results showed that views about the death penalty do not appear to be polarised. The majority of Ghanaian respondents (48.3%) expressed strong opposition to the death penalty. Only 8.6% indicated strong endorsement of this form of punishment.

### **Recommendations:**

#### **Government/The State should:**

- 1) Abolish the death penalty in law and ensure no executions are carried out.
- 2) Commute all death sentences in the country
- 3) Ratify the Second Optional Protocol to the ICCPR immediately
- 4) Ensure that provisions allowing for the retention of capital punishment are not included in the new Constitution of the Republic of Ghana

**Issue 10:** Please respond to reports of excessive use of force and unlawful killings by law enforcement and security personnel and provide information on investigations into such incidents, prosecution and punishment of the perpetrators and remedies granted to victims or their families. Please indicate whether measures have been taken to bring the permissive regulations on the use of lethal force, including article 13 of the Constitution, into compliance with the State party's obligations under article 6 of the Covenant.

### **Comments from Civil Society**

---

<sup>47</sup> Constitution Review Commission (2011) Final Report of the Constitution Review Commission. March 10, 2016, page 12 - 13 <http://www.media.myjoyonline.com/docs/201112/scan0005.pdf>

<sup>48</sup> "Ghana." Death Penalty Worldwide. Cornell Law School, 14 October 2012. Web. March 10, 2016. <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Ghana>

<sup>49</sup> Amnesty International (2016). Annual Report – Ghana 2015/2016. Web. March 10, 2016. <https://www.amnesty.org/en/countries/africa/ghana/report-ghana/>

<sup>50</sup> "Ghana." Death Penalty Worldwide. Cornell Law School, 14 October 2012. Web. March 10, 2016. <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Ghana>



Article 13 of Ghana's Constitution, which guarantees the right to life also provides for much wider grounds for the use of lethal force than is permissible under international standards. Article 13 (2) of the Ghanaian Constitution states:

*13. (2) A person shall not be held to have deprived another person of his life in contravention of clause (1) of this article if that other person dies as the result of a lawful act of war or if that other person dies as the result of the use of force to such an extent as is reasonably justifiable in the particular circumstances.-*

*(a) for the defence of any person from violence or for the defence of property; or*

*(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or*

*(c) for the purposes of suppressing a riot, insurrection or mutiny; or*

*(d) in order to prevent the commission of a crime by that person.*

While the use of force and firearms may sometimes be permissible when making an arrest or preventing a person from escaping, the provisions of Article 13 of Ghana's Constitution are impermissibly broad and do not require the existence of an imminent or grave threat of death or serious injury and have a more lenient standard of necessity than that which is required by international standards.

There is no independent mechanism to investigate police abuses. At a Multi-Stakeholder Roundtable Discussion on the establishment of an independent police complaint unit in Ghana held in Accra on December 10, 2014, the Minister of Interior made a commitment to establishing an independent police investigation mechanism. However, no action has been taken to deliver on this commitment.<sup>51</sup> Occasional unprofessional killings and injuries inflicted by the police during their operations are not properly investigated and sanctioned since the investigations are carried out by the police themselves against other colleagues. The investigations often lack transparency and fairness. The case of Stephen Arthur and Mampong school teacher Francis Gheneh presented respectively below is a clear example of this situation<sup>52</sup><sup>53</sup>. In February, 2016 Police in Mampong in the Ashanti Region reportedly shot and killed two teachers of the Mampong Midwifery Training College. Police mistook the two male teachers, who happen to be brothers, for armed robbery after an alarm of robbery attack was raised by residents in the area<sup>54</sup>.

### **Recommendations:**

#### The State Party should:

- 1) Ensure that the Constitutional provisions allowing for the use of lethal force comply with international standards
- 2) Ensure the establishment of an independent police investigation mechanism

---

<sup>51</sup> Report on Multi-Stakeholder Roundtable Discussion on Establishment of Independent Police Complaint Unit in Ghana, January 2015

<sup>52</sup> Appiah, Edwin. "Attorney General yet to pay compensation 3 years after police shot 20 year old." My Joy Online, 9 May 2016. Web. 24 May 2016. <http://m.myjoyonline.com/marticles/news/attorneygeneral-yet-to-pay-compensation-3-years-after-police-shot-20year-old>

<sup>53</sup> Dadzie, Ebenezer. "Police killed mampong nursing tutor 'intentionally' –school." CitiFm, 12 February 2016. Web. 24 May 2016. <http://citifmonline.com/2016/02/12/police-killed-mampong-nursing-tutor-intentionally-school/>

<sup>54</sup> Ghana/StarFMonline.com/ "Police Shoor dead two Mampong Midwifery teacher", February, 10 1026.



- 3) Ensure prompt and thorough investigations into reports of excessive use of force, police brutalities and unlawful killings by law enforcement and security personnel

**Issue 11:** Please give details of the measures taken to address the high maternal mortality rates and the resulting progress. Please outline the steps taken to ensure women’s effective access to legal, safe and affordable abortions.

### **Comments from Civil Society**

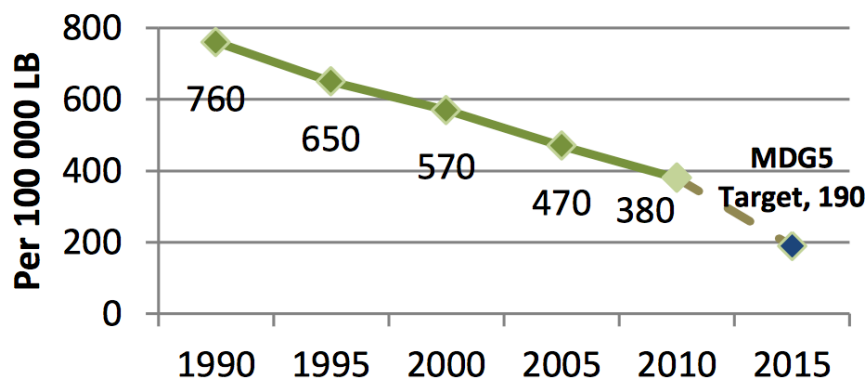
In 2008, the Government of Ghana declared maternal mortality a national emergency, when developing the MDG Acceleration Framework – Ghana Action Plan, with the aim of improving maternal health with the level of urgency required<sup>55</sup>. The implementation of the Ghana Shared Growth and Development Agenda 2010-13 Annual Progress Report 2012, recommended that, in order to make good progress toward achievement of the MDG’s, Ghana should scale up the delivery of safe motherhood and child survival interventions. The report also suggested that the National Health Insurance Scheme should be expanded to better target the poor and other marginalised people. Similarly, it recommended that the commitment to the treatment and prevention of HIV/AIDS be renewed, with extra focus being placed on groups that are most at risk such as pregnant women. The Malaria Control Program also needs to be strengthened in order to accommodate increasing net use by mothers and infants.

Though maternal health care has improved over the past years, the pace has been slow and extra effort is required. Whilst official figures show a reduction in maternal mortality rates in Ghana from 760 to 380 maternal deaths per 100,000 live births from 1990 to 2013, projections for figures in 2015 indicate that Ghana will fall short of the 75% reduction in the MMR required by MDGs. Indeed, the figures cited reflect a reduction of 49% in the MMR over 23 years, and therefore would require a further reduction of 26% over the two years between 2013 and 2015 - an unrealistic target. Thus, whilst official figures for 2015 are not currently available, it is almost certain that Ghana has managed to reduce its MMR but failed to achieve the objectives of MDGs.<sup>56</sup>

---

<sup>55</sup>“Current health issues and progress in Ghana.” Commonwealth Health Online, 2016. March 10, 2016. [http://www.commonwealthhealth.org/africa/ghana/current\\_health\\_issues\\_and\\_progress\\_in\\_ghana/](http://www.commonwealthhealth.org/africa/ghana/current_health_issues_and_progress_in_ghana/)

<sup>56</sup> “Ghana Maternal and Perinatal Health Profile.” World Health Organization, 2013. Web. March 10 2016. [http://www.who.int/maternal\\_child\\_adolescent/epidemiology/profiles/maternal/gha.pdf](http://www.who.int/maternal_child_adolescent/epidemiology/profiles/maternal/gha.pdf): “Ghana: Accelerated progress towards MDG5.” UNFPA Ghana, 2013. Web. 10 March 2016. <http://unfpa.ghana.org/assets/user/file/Factsheets/Ghana%20accelerating%20progress%20towards%20MDG5.pdf>



Maternal mortality rate in Ghana from 1990 to 2013. Source: World Health Organisation

A number of interventions introduced by government to improve maternal healthcare contributes to the progress, including the following<sup>57</sup>:

- The implementation of free maternal health services, repositioning family planning and training as well as repositioning reproductive and child health staff;
- A safe motherhood task force is operational and government is supporting increased production of midwives through direct midwifery training
- The High Impact Rapid Delivery (HIRD) approach is also being implemented as a complementary strategy to reduce maternal and child mortality. Several districts have indicated progress in service indicators achieved and innovative strategies implemented with regard to improving maternal health
- Other interventions also include Ghana VAST Survival Program, Prevention of Maternal Mortality Program (PMMP), and Safe-Motherhood Initiative
- There are also projects such as Making Pregnancy Safer Initiative, Prevention and Management of Safe Abortion Program, Maternal and Neonatal Health Program and Roll Back Malaria Program, Intermittent Preventive Treatment (IPT); and
- Emergency Obstetric and Neonatal Care (EmONC) is being implemented in all 10 regions, but not yet with full complement of required resources (midwives, equipment)

However, several challenges and bottlenecks in maternal health services still persist, including:<sup>58</sup>

- Increase in scaling up maternal health services, particularly at the district level as well as investments in Community Health Planning Services and related Primary Health Care infrastructure and systems within the context of the Ouagadougou Declaration;
- Improving deployment of skilled health workers, supply of equipment, logistics, staff accommodation, transportation and ambulance services in addressing human resource constraints and poor quality of care continue;

<sup>57</sup>"Improve Maternal Health." UNDP, 2015. Web. March 10, 2016.

<http://www.gh.undp.org/content/ghana/en/home/post-2015/mdgoverview/overview/mdg5.html>

<sup>58</sup>"Improve Maternal Health." UNDP, 2015. Web. March 10, 2016.

<http://www.gh.undp.org/content/ghana/en/home/post-2015/mdgoverview/overview/mdg5.html>

- Referrals still remain a problem in many districts. Three out of the five districts visited had no ambulance services. Although regional and district hospitals are well equipped to handle complicated labor cases, the main issue is how to timely transport women in labor to these facilities. The national ambulance service is said to be expensive (and probably not yet able to ensure district-based services);
- The NHIS does not cover the cost of conveying women in labor to the facilities. The fact that the additional costs of transporting the women in labor together with the responsible Traditional Birth Attendants to the nearby hospital or health facility are not covered may be one of the major factors explaining the reluctance of mothers to deliver at the facility;
- Unavailable data set on maternal healthcare for systematic investigation into maternal health and lack of well-structured plans and procedures to check and assess where maternal health programs are absent;
- Barriers to access to critical health services by families and communities, mainly due to inadequate financial capabilities of families or mothers, long distance to the health facility and low female literacy rate as well as poor health-seeking behaviours among the poor, and socio-cultural factors such as men's influence in healthcare decision making

Rights activists are also calling for a change in attitudes and in the law on abortion in Ghana. A report by Ghana's Adolescent Health and Development Program said that the number of unsafe abortions in 2009 was over 8,000. By 2010, the figure had climbed to more than 10,000 and the following year, it was as high as 16,000<sup>59</sup>. More recent figures were not available.

Abortion is legal in Ghana if the foetus is damaged, if the pregnancy is endangering a woman's life or if it is the result of rape. But most pregnant women wanting abortions don't fall into one of those three categories. Activists want the Health Minister to change the law on abortion. But policy makers may feel they have to tread cautiously because of faith-based opposition to liberalising abortion.

#### **Recommendations:**

##### The State Party should:

- 1) Scale up maternal health services, especially in the rural areas
- 2) Invest in Community Health Planning Services and related Health Care infrastructure and systems
- 3) Improve the deployment of skilled health workers, supply of equipment, logistics, staff accommodations, transport and ambulance services
- 4) Create available data set on maternal healthcare for systematic investigation into maternal health
- 5) Provide access to safe abortions in the cases permitted by law and consider modifying the legislation to include other situations when abortion can be legal in order to avoid risks to the life of the mother

#### **e. Prohibition of torture and other cruel, inhuman and degrading treatment (arts. 2 and 7)**

<p><b>Issue 12:</b> Please report on steps taken to include in the Criminal Code an offence of torture in full compliance with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and article 7 of the Covenant, providing for penalties commensurate with the</p>
---

<sup>59</sup>"Alarm in Ghana over rise in unsafe abortions." Deutsch Welle, 2015. Web. March 10, 2016.  
<http://www.dw.com/en/alarm-in-ghana-over-rise-in-unsafe-abortions/a-18772280>

gravity of the crime. Please clarify whether the principle of the absolute prohibition of torture, as well as the inadmissibility of forced confessions and evidence procured by means of torture, have been explicitly codified in the State party's legal order and domestic law and whether any officials have been prosecuted and punished for extracting a confession under torture, or if there have been cases where the courts have excluded such confessions from being used as evidence.

### **Comments from Civil Society**

Ghana has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in September 2002, but has not ratified its Optional Protocol. Torture is prohibited in the Constitution of Ghana by Article 15, paragraph 2. However, the offense of torture has not yet been introduced into the Criminal Code (Criminal Offences Act 1960). Therefore, torture has not yet been defined as required in the CAT and has not yet been met with penalties that commensurate the gravity of the crime.

None of the cases of torture and inhuman and degrading treatment have been recorded as having been heard in a competent court of jurisdiction. No official appears to have been prosecuted and punished for extracting a confession under torture. The Commission on Human Rights Administrative Justice has no data of cases of torture investigated and prosecuted.

### **Recommendations:**

#### The State Party should:

- 1) Criminalise torture in the domestic legislation according to international standards, including the inadmissibility of forced confessions and evidence procured by means of torture

**Issue 13:** Please provide information on measures taken to address instances of torture and ill-treatment in detention facilities, to investigate, prosecute and punish perpetrators and to provide effective remedies to victims. Please also clarify whether there are plans to set up an effective and fully independent mechanism to investigate promptly allegations of torture and ill-treatment. Please clarify whether an independent and effective mechanism mandated to inspect and monitor regularly places of deprivation of liberty has been established.

### **Comments from Civil Society**

In his follow-up visit to the Republic of Ghana, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment welcomed the role played by the Commission for Human Rights and Administrative Justice in seeking ratification of the OPCAT. However, it expressed particular disappointment that CHRAJ has abandoned its *de facto* prison monitoring mandate, and has not carried out visits to prisons in the recent years.<sup>60</sup>

The civil society organization, POS Foundation, carries out scoping visits<sup>61</sup> at prisons in the Volta Region within the framework of the Programme "Justice for All". However, the main objective of this Programme, as described below, is to give legal aid to prisoners on remand, not to monitor the human rights situation in

<sup>60</sup> Mendez, Juan E. "Follow up report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his follow-up visit to the Republic of Ghana." [http://antitorture.org/wp-content/uploads/2016/03/English\\_Ghana\\_Follow-up\\_Report.pdf](http://antitorture.org/wp-content/uploads/2016/03/English_Ghana_Follow-up_Report.pdf)

<sup>61</sup> "Justice for All Program Report, 2012" retrieved from POS Foundation Annual Report 2014

the prisons. However, whilst interviewing remand prisoners, POS Foundation came across inmates who claimed they were caned by the police officers whilst in police custody prior to their transfer to the prisons. Most prisoners experience a high level of emotional and psychological trauma as a result overcrowding, lack of adequate nutritious meals and poor health treatment.

Currently, there is no independent mechanism for people in detention to complain about cases of torture and ill-treatment. Article 22(1) of the Prisons Service Act provides that prisoners can complain of assault, mistreatment, intimidation, neglect, non-performance of duties, and other misconduct by prison officers. However statistical information regarding such complaints is unavailable. The UN Special Rapporteur on torture reaffirmed his previous conclusion that there appears to be surprisingly few complaints given the deplorable conditions experienced daily by nearly 15,000 prisoners nationwide. No prosecutions have been reported under Article 25f, which provides for penalties of up to five years for “any prison officer who in any way tortures, or subjects to cruelty, any prisoner.”<sup>62</sup>

### **Recommendations:**

#### The State Party should:

- 1) Ratify the Optional Protocol to the Convention Against Torture (OPCAT)
- 2) Take steps to establish an independent investigative mechanism on torture and keep data on cases

**Issue 14:** Please respond to reports of: (a) prolonged psychiatric treatment sanctioned by a court without periodic judicial review and hospitalization of patients long beyond their discharge date; and (b) electroshock therapy at the psychiatric hospital in Accra being practised with the use of restraints, without adequate anaesthesia and not as a measure of last resort, and allegedly without free and informed consent. Please report on measures taken to address the use of torture and inhuman and degrading treatment in psychiatric institutions and prayer camps, such as shackling and prolonged restraints, starvation or forced fasting, including of children, and treatment without free and informed consent, as well as measures to provide effective remedies for victims. Please clarify whether patients detained in prayer camps have their cases reviewed by a court (please provide relevant data) and whether an effective mechanism is in place to monitor prayer camps regularly.

### **Comments from Civil Society**

- **Use of electroconvulsive therapy**

According to the claims made by the Accra Psychiatric Hospital, electroconvulsive therapy (ETC) is now used less often. Between 1982 and 2002 its use in Ghana has more than halved, possibly because of better psychological and drug treatments for depression. Unavailability of ECT and Anesthetic Equipment also contributed to the low patronage of the therapy within those periods. However, ETC is still practice in the Accra Psychiatric Hospital.

- **Prolonged treatment**

---

<sup>62</sup> Mendez, Juan E. “Follow up report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his follow-up visit to the Republic of Ghana.” [http://antitorture.org/wp-content/uploads/2016/03/English\\_Ghana\\_Follow-up\\_Report.pdf](http://antitorture.org/wp-content/uploads/2016/03/English_Ghana_Follow-up_Report.pdf)

According to the Mental Health Law (Act 846) that was passed by Parliament on May 31, 2012, a psychiatrist or head of a facility may recommend the placement of a person under a temporary treatment court order for a prolonged treatment in a psychiatric hospital if the psychiatrist or head of a facility is of the opinion that the severity of the condition warrants it. The period of the prolonged treatment order shall not exceed twelve months at a time (46-1; 47-1).

- **Prayer camps**

As mentioned in the reply to Issue 3 above, people with mental disabilities in Ghana are often sent to the so-called prayer camps, where they are victims of human rights violations. Families of the people with mental health disabilities try to avoid psychiatric hospitals and instead prefer an alternative that they seek in the private sector. Most prominent in the private sector are those of prayer camps that receive nearly 70% of the population that is not received by the public mental sector. In Ghana, there are hundreds of prayer camps located largely in the southern regions of the nation. Throughout the nation it is largely seen that mental illness is rooted in one's spiritual demons or turmoil, therefore, prayer camps are appealing to the majority of the public that find such illness can only be treated by spiritual leaders and practices rather than that of medicine and doctors. The most dominant form of religion in the prayer camps is Christian-based faiths or that of Muslim faiths. The UN Special Rapporteur on torture said that no culture and tradition could be invoked to justify harmful practices to individuals.

The prayer camps currently operate under little to no State regulation. Some level of oversight exists through the office of the Ghana Pentecostal and Charismatic Council, an "umbrella body for 122 churches and evangelical associations in the country, has an ad hoc committee of elders but their oversight of the prayer camps is limited and practices in the camps are often inconsistent with guidelines of the Council"<sup>63</sup>.

For instance, the Council clearly prohibits the chaining and fasting of any patient at the camps. However, such acts remain not only existent but also prevalent in a large number of the prayer camps. The Edfuma prayer camp for example is made up of 16 concrete cells where 10 individuals were observed to be chained to the floor in shackles. Of which, two were small children that demonstrated signs of neurological diseases thus, calling for treatment and medication in public facilities not private. Another instance reported this past year was that of the conditions in the Jesus Divine Temple prayer camp, where patients were chained to trees out in the open. While the overseers of the camps claimed such restraints were only for temporary purposes to control or detain aggressive patients, it was observed that often times the restraints are used for months sometimes years. Apart from inhuman and unwarranted treatment with restraining patients, is also the inhuman act of holding patients against their consent. In the Jesus Divine Temple prayer camp for instance, patients are only allowed to leave the camp when the leader receives a 'message from God.' Therefore, many patients remain in the camps years on end without being allowed to leave.

With the adoption of the Mental Health Act in 2012, was supposed to come the monitoring of psychiatric hospitals and prayer camps, an increase in funding, and the establishment of an individual complaint system for persons with mental disabilities to review and challenge prolonged detention before a judge. However,

---

<sup>63</sup> Mendez, Juan E. "Follow up report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his follow-up visit to the Republic of Ghana." [http://antitorture.org/wp-content/uploads/2016/03/English\\_Ghana\\_Follow-up\\_Report.pdf](http://antitorture.org/wp-content/uploads/2016/03/English_Ghana_Follow-up_Report.pdf)

monitoring and government oversight on the inhuman conditions currently existing in both the public and private sector has fallen through.

Due to the categorization of the ill treatment and conditions of individuals in prayer camps as torture and inhuman treatment comes the relevance of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Act signed by the UN in 1987.

Abused mental health patients at prayer camps do not report to law enforcement agencies for legal action and there are no mechanisms to monitor or even officially estimate prayer camps in the country.

It is important to notice that even though some of the patients remain in the prayer camps against their will, most of the local population still independently chooses to seek assistance in prayer camps over the official psychiatric hospitals due to the burden of social stigma attached to mental illness (to attend a psychiatric hospital is perceived as confirming ones mental illness upon which you would be later discriminated). Also, relatives of persons with mental illness resort to prayer camps as a means of escape from the high cost of medical treatment for mental health.

Accordingly, the Chief Executive Officer of the Mental Health Authority (MHA), Dr. Akwasi, states stigmatization and discrimination as some of the factors contributing to the poor delivery of mental health care services. There is also a general lack of human resources and lack of funds in addition to the insufficient training and limited medication. Meanwhile, there were few efforts done to create collaboration between Pantang Psychiatric Hospital and Mount Horeb Prayer Camp in order to improve the conditions of the prayer camps. As a result, religious leaders are educated about the basics of the ethical approach to the mental disability and, in some cases, patients were encouraged by the authoritative “prophet” to combine their practices of spiritual healing with an orthodox medical treatment instead of completely avoiding it because of the stigma. This form of collaboration between the unofficially established yet predominately popular religious institutions and less favoured but the only medically trained centres offers an alternative and feasible solution to both the monitoring and stigma issue.

**Recommendations:**

The State Party should:

- 1) create hotline services to provide citizens with the necessary information on mental healthcare;
- 2) establish homes for mentally impaired children and the aged, and reduce costs in accessing mental healthcare especially in the Northern Region of Ghana;
- 3) address the poor delivery of mental healthcare services by supporting regional hospitals to establish psychiatric wings to provide mental health service;
- 4) encourage cooperation between psychiatric hospitals and prayer camps or provide an alternative monitoring solution;
- 5) train traditional faith healers in the respect of human rights in the prayer camps;
- 6) address the growing lack of human resources by providing financial support/ incentives to attract more professionals in the medical field of Psychiatry.

**Issue 15:** Please respond to reports that: (a) owing to the understaffing of prisons, selected prisoners are entrusted to exercise authority over other prisoners in their cell or block; (b) prisoner-on-prisoner violence is being committed by certain prisoners designated by the authorities as “black coats”, in particular in Kumasi

and Sekondi prisons; and (c) caning is sometimes used as a physical punishment by prison guards, but is most often carried out by prisoners under the authority of the prison staff.

### **Comments from Civil Society**

Ghana's Prison Standing Order No. 460<sup>64</sup> designates prisoners, who have shown good conduct and steady progress in a special class known as "star class". The government claims that these prisoners are not given special powers or allowed to exercise disciplinary functions. However, prisoner officers do allow prisoners leadership and authority in the form of responsibilities over other prisoners<sup>65</sup>. When prisoners behave well, it's seen as normal to give them a little bit more responsibilities. This not only occurs in Kumasi and Sekondi, but all over the country. Therefore it is important to provide effective supervision over such prisoners with responsibilities over their colleague inmates in order to eliminate abuse.

### **Recommendations:**

The State Party should:

- 1) Increase prison staff to take full responsibilities over prisoners
- 2) Effectively supervise the existing system –'the black coat' to reduce prison-to-prisoner abuse

### **f. Liberty and security of person and treatment of persons deprived of their liberty (arts. 7, 9 and 10)**

**Issue 16:** Please respond to reports that, in practice, persons suspected of having committed an offence, including juveniles, are not always brought before a judge within 48 hours as prescribed by law, and that often remand warrants are signed by police officers. Please report on measures taken: (a) to address arbitrary or unlawful detention due to lengthy delays in the administration of justice and unavailability of legal aid; (b) to address the severe shortage of legal aid defence counsels and to ensure effective legal aid for indigent persons and for all criminal offences; (c) to ensure access to genuine independent medical examination not controlled by government medical officers; and (d) to ensure that detainees have the right, in any circumstances, to challenge the lawfulness of their detention before a judge and to be released if their detention is found to be unlawful.

### **Comments from Civil Society**

In October 2015, a UN Special Rapporteur on torture visited Ghana, considering liberty and security of persons and treatment of persons deprived of their liberty, he said it had to be expanded with effective implementation of the Legal Aid Scheme<sup>66</sup>.

The Legal Aid Scheme was set up by an Act of Parliament, Act 1997, (Act 542). According to the Act, the Legal Aid Scheme "was established to protect and defend the rights of the poor and vulnerable against abuse. It also ensures that no person in Ghana suffers injustice by virtue of his or her poor economic

<sup>64</sup>"HIV/TB Workplace Police and Implementation Strategy." Ghana Prisons. International Labour Organisation, December 2013. Web. April 23, 2016. [http://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---ilo\\_aids/documents/legaldocument/wcms\\_229639.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_229639.pdf)

<sup>65</sup>Justice for All Program Report, 2012" retrieved from POS Foundation Annual Report 2014

<sup>66</sup>"UN rights expert welcomes steps taken to combat torture in Ghana, but says more remains to be done." UN News Centre. United Nations, 2015. Web. March 10, 2016.

<http://www.un.org/apps/news/story.asp?NewsID=52196#.Vv5jv8fPySM>



status”<sup>67</sup>. However, the existing Legal Aid Scheme is bedevilled with challenges. There is an average of three attorneys for each regional office with a total of fourteen attorneys servicing Ghana’s total population of twenty four million<sup>68</sup>. The police use the 48-hour period of detention on weekends to abuse the rights of detainees, as there are no courts that operate on the weekend. The lack of awareness about legal rights, long delays in proceedings and the woeful representation of lawyers at the legal aid scheme and cost associated with the legal process and running of other supporting agencies impede the practical delivery of justice. This lack of resources affects their monitoring of cases that have been referred to as pro-bono lawyers, causing the weak and vulnerable to spend long detention in prison and sometimes wrongfully sentences without legal representation in court.

Government intervention in solving the unlawful detention, due to long delays, include the introduction of the Justice for All Programme, that seeks to adjudicate remand cases through a special in-prison court setup across the country as means to decongest the prisons.

It must be mentioned that one of the root causes of this long pre-trial detention emanate from article 14(4) of the 1992 Constitution of Ghana, which declares that a person who is arrested or detained, but has not received a trial within a ‘reasonable period of time’, is entitled to unconditional release or release subject to conditions necessary for reappearance for judicial proceedings. What constitutes reasonable time, as stipulated by the constitution, is yet to be properly determined. The absence of codification of this rule is primarily responsible for the excessive periods persons detained on suspicion of having committed a crime in Ghana are held without trial.

Government can take a clue from the Justice for All Programme remand review tax force criteria, where first degree felonies qualify to benefit from the programme if the prisoners have been on remand for more than four (4) years. And, also misdemeanours are considered to benefit from the Justice for All Programme, no matter the number of periods served on remand.

When someone is arrested and charged before a competent court of jurisdiction by the police/prosecution, the court may begin trial, grant bail or issue a ‘Remand’ warrant for the person to be kept either in police or prison Custody. The warrant issued ought to be renewed fortnightly in order to legitimise the continued detention. When the remand warrant on which the prisoners are held expires, it results in the illegal detention of the remand prisoner. In most cases, prisoners are not brought before court within the stipulated 14 day period for the renewal of arrest warrant. Also, in cases where they do appear before the courts, their warrants are frequently renewed and they are sent back to prison without evidence that progress is being made in the investigations. The courts in some instances remand prisoners without charge, for indefinite periods of time.

Among all the remand prisoners interviewed by the Justice for All Programme facilitators, about 60% who had their warrant expired complained of police officers not taking them to court, but taking their remand warrant to be renewed or signed for them to be brought back to prison.

---

<sup>67</sup>The Legal Aid Scheme Act of Parliament, Act 1997, (Act 542)

<sup>68</sup>“Government Urged to Explain Legal Aid Scheme.” Modern Ghana. Modern Ghana, 28 May 2012. Web. 10 March 2016 <http://www.modernghana.com/news/398087/1/govt-urged-to-expand-legal-aid-scheme.html>

Medical status of prisoners has been one of the issues facilitators of the Justice for all Programme have been confronted with. In the cause of interviewing remand prisoners, the most common medical condition in the prisons is skin deceases due to overcrowding or congestion. Prisoners often receive the basic medical attention from the prison infirmary, which is often inadequate.

The Justice system gives room for an appeal in higher court when one is dissatisfied by the ruling made by a judge or a court. This is a common phenomenon, except that due to financial constraint, most people are unable to appeal. Some resort assistance from human rights organizations and other pro-bono advocates like Human Rights Advocacy Centre to appeal.

### **Recommendations:**

#### The State Party should:

- 1) Keep a proper record, online or computerised system on judicial cases
- 2) Clearly define court procedures
- 3) Educate the public on human rights of the detainees
- 4) The forty eight hours (48) period should be clearly spelled out to include weekend arrest, which is often used to abuse the right of citizen upon weekend arrest, where there is no court sitting until the following week
- 5) The legal aid should be well resourced
- 6) The State should ensure that the General Legal Council makes provision of pro bono services for vulnerable populations mandatory requirement for renewing of legal practice license

#### **Issue 17:** Please report on measures taken:

- (a) To improve the poor living conditions and the treatment of patients in psychiatric institutions, in particular the Accra Psychiatric Hospital, and to facilitate their reintegration into society;
- (b) To address overcrowding and to improve the poor conditions of detention, including for prisoners on death row, including such elements as inadequate nutrition and health care, the shortage of food, medicine and bedding, and poor hygiene conditions;
- (c) To address the severe shortage of prison staff;
- (d) To increase educational opportunities and skills training for prisoners;
- (e) To facilitate meaningful family visits, including by children under 18 years of age, and communication in private;
- (f) To increase the number of remand homes for juvenile offenders, improve conditions of detention and ensure that juvenile offenders are segregated from adult offenders;
- (g) To ensure that accused persons are segregated from convicted persons;
- (h) To use alternatives to custodial sentences.

### **Comments from Civil Society**

With the implementation of the Mental Health Act has come some progress in the conditions and treatment taking place for the people with mental health problems. However, there remains significant room for change still in both the private and public sector. In the public sector, there stands a serious shortage of mental health facilities and services. Currently there are only 12 practicing psychiatrists and 600 psychiatric nurses across all of Ghana serving to a population exceeding 25 million. That equates to roughly one psychiatrist for every two million individuals in Ghana. In terms of facilities, Ghana has only three public

psychiatric hospitals of which, all were reported to be lacking in sufficient staff, equipment, and sanitation, according to the report of the UN Special Rapporteur on torture after his visit in 2015.

Because mental health care is not included in national health insurance, the psychiatric hospitals are extremely underfunded and only provided with roughly half the amount of medication and supplies necessary. The psychiatric hospital in Ankaful for instance, is currently overcrowded by over 100% capacity leaving many patients sleeping in the courtyard with no food and no shelter. Due to the shortage in facilities, service, and supplies has led to a reduction in the number of patients able to be taken in at the public facilities, forcing people to turn to the private sector for medical attention. It, nevertheless, also should be noticed that another important factor that contribute to the preference of the private sector over the official health institutions is the intensity of stigma surrounding the topic of mental health.

The Ghana Prison Service has revealed that conditions at the country's prisons have seen little improvement, despite countless appeals<sup>69</sup>. Juan Mendez indicated that the human right conduct in Ghana's prisons does not meet international standards<sup>70</sup>. And still there is an extreme level of overcrowding, resulting in a number of serious violations, including inadequate nutrition, insufficient access to medical care, poor sanitation, personal security and the absence of rehabilitation services. "In the Nsawam medium security prison (men's section), which has a 750 – 800 person capacity, the Special Rapporteur found a total of 3,449 inmates (2,875 convicted, 297 on remand, and 126 in death row), at a staggering rate of 431% over capacity."<sup>71</sup>

Juvenile homes in Ghana have not been increased, nor have the conditions in these places been improved. In addition, occasionally, juveniles are held in adult prisons, and some even convicted and sent to adult prisons. POS Foundations and Social Welfare in their regular follow ups on these complaints by prison officers on juvenile convicts realised that of documentation on registration of births, and easily accessible mechanisms for detecting age of juveniles when arrested contribute greatly to the situation where juveniles are held in adult prisons, tried as adults and sentenced to serve their terms in adult prisons.

Families or mates of prisoners are allowed, within the visiting hours, to see a prisoner. But the physical structure and the conditions at the prisons are not favourable to encourage private communication.

Accused persons are not segregated from convicted persons and remand prisoners are mixed up in the same prisons with convicts.

---

<sup>69</sup>"Assessment of Mental Distress among prison inmates in Ghana's correctional system: a cross-sectional study using the Kessler Psychological Distress Scale." Biomed Central, 29 March 2015. Web. March 10, 2016.  
<http://ijmhs.biomedcentral.com/articles/10.1186/s13033-015-0011-0>

<sup>70</sup> Mendez, Juan E. "Follow up report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his follow-up visit to the Republic of Ghana." [http://antitorture.org/wp-content/uploads/2016/03/English\\_Ghana\\_Follow-up\\_Report.pdf](http://antitorture.org/wp-content/uploads/2016/03/English_Ghana_Follow-up_Report.pdf)

<sup>71</sup> Mendez, Juan E. "Follow up report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his follow-up visit to the Republic of Ghana." [http://antitorture.org/wp-content/uploads/2016/03/English\\_Ghana\\_Follow-up\\_Report.pdf](http://antitorture.org/wp-content/uploads/2016/03/English_Ghana_Follow-up_Report.pdf)

The Prisons Service Council and the Prison's Directorate are asking the public to help raise 2 million Ghanaian Cedis (500,000 USD) to resolve the substandard conditions within the nation's prisons. Titled Project Efiase, this ten-year fundraising program is seeking philanthropic support from corporate and individual donors across Ghana, to both modernise the country's prisons and pilot new job-training initiatives for inmates. The Project Efiase though laudable, does not address the congestion prisons or the low human resource of the Prison Service. Although "Efiase" Project took off in 2015, 26 June, with lot of energy and publicity, unfortunately, they haven't been able to sustain the momentum.

**Recommendations:**

The State party should:

- 1) Uphold all private institutions to the standard of public mental health facilities, as a way of regulating and standardizing treatment for persons with mental illness
- 2) Provide sufficient funds to improve living conditions in mental hospitals
- 3) Regulate and monitor private institutions that offer mental health care
- 4) Commit to passing the Bill on non-custodial sentencing
- 3) Government must have budgetary allocations for Justice for All and proactively release funds to deal with the back log of remand prisoners while instituting measures like Remand case management software and addressing the primary legislative loopholes that contribute to the back lock in the system.
- 4) A review of the criminal code and the codification of article 14(4) of the 1992 constitution.
- 5) Provide remand homes, to segregate the remand prisoner from the convicted and improve conditions at police cells
- 6) Build new Juvenile homes and revamp existing ones to ensure proper rehabilitation of juveniles
- 7) Regulate prayer camps and provide treatment for mentally ill patients

**g. Right to a fair trial and independence of the judiciary (arts. 14 and 24)**

**Issue 18:** Please respond to concerns that the dual political and prosecutorial role vested in a single official acting both as Attorney General and Minister of Justice may breach the principle of separation of powers and undermine in some cases the independence of the judiciary. Please report on measures taken to address the lengthy delays in the criminal justice system, including the substantial backlog of remand cases (please provide relevant statistics). Please explain how domestic courts interpret the obligation to bring a person to trial within "a reasonable period of time" (art. 14 (4) of the Constitution) and how this is implemented in practice. Please also indicate whether adequate remedies are provided in practice for delays in proceedings.

**Comments from Civil Society**

The ruling National Democratic Congress (NDC) government in its 2012 manifesto and the opposition New Patriotic Party (NPP) in their campaign messages, promised to separate the Ministry of Justice from the Attorney General's office as a measure to check corruption. Persons who serve in this special office should not hold positions by presidential appointment but through an independent mechanism.

Though the current situation of the double role that the Attorney General plays does not directly undermine the independence of the Judiciary, it does undermine the rights to a fair trial when a case is brought against the State. In that, the Attorney General who holds the dual role of being the principal legal advisor to the

government and also the initiator of public prosecution will be unable to investigate and prosecute activities involving his colleague-ministers.

The introduction of Justice for All Programme in 2007 by Attorney General, now spearheaded by the Judiciary together with the Police and Prison Service as well as civil society, is an initiative that seeks to adjudicate remand cases by setting up periodic in-prison specialised courts to decongest the prisons on pretrial detainees and to address undue delays and backlogs. Since 2007, 1467 detainees have benefitted from the program and are currently out of prison with their families. The period of pretrial detainees ranges from 4 months to 20 years in prison. Below is a table of the statistics of remand prisoners who benefitted from the Justice for All Programme from 2007 to 2015:

**JUSTICE FOR ALL PROGRAMME STATISTICS FROM 2007 TO 2015**

YEAR	NO. OF INMATES BENEFITTED	DISCHARGED	BAILED	CONVICTED
2007	85	25	8	5
2008	60	15	3	NIL
2009	480	23	20	5
2010	534	157	95	18
2011	340	125	117	10
2012	140	49	62	NIL
2013	119	30	45	2
2014	396	113	197	4
2015	465	108	147	57
TOTAL	2619	672	694	101

Source: POS Foundation Communications Report (2014)

As of Monday, February 22, 2016, statistics from the Ghana Prisons Service stated that 2,464 inmates, representing 18.2 percent of the total prison population are Remand Prisoners or on pre-trial detention in Ghana as compared to 31.5 percent in 2007.

It must be mentioned that the Justice for All Programme has been funded by donors (UNDP, STAR GHANA-DANIDA, USIAD, EU, and DFID) without any financial support from the central government making the program not sustainable in the future. In the presentation of the 2016 budget in November 2015, allocations were made for the Justice for All Programme yet there has not been any fund made available as stated in the budget which points to lack of commitment on the part of government to ensure sustainability of this initiative.

Article 14(4) of the 1992 Constitution of Ghana declares that a person who is arrested or detained but has not received a trial within a 'reasonable period of time', is entitled to unconditional release or release subject to conditions necessary for reappearance for judicial proceedings. What constitutes reasonable time, as stipulated by the constitution, is yet to be properly determined. The absence of codification of this rule is primarily responsible for the excessive periods persons detained on suspicion of having committed a crime in Ghana are held without trial.

When someone is arrested and charged before a competent Court of jurisdiction by the police/prosecution, the court may begin trial, grant bail under section (96) of the criminal procedure code of 1960 or issue a 'Remand' Warrant for the person to be kept either in Police or Prison Custody. The warrant issued ought to be renewed fortnightly in order to legitimise the continued detention. When the remand warrant on which the prisoners are held expires, it results in the illegal detention of the remand prisoner. In most cases, prisoners are not brought before court within the 14 days period and in cases where they do appear before the courts, their warrants are frequently renewed and they are sent back to prison without evidence that progress is being made in the investigations. The courts in some instances remand prisoners without charge, for indefinite periods of time

Even in the case of untraceable dockets and files, remand warrants are renewed and prisoners are incarcerated for unduly long periods of time. In some instances, such cases just become 'forgotten'. Detainees sometimes serve more time in detention awaiting trial, than the maximum possible sentence the law prescribes for their offences. Another contributing factor is case management procedures on the part of the Police. Sometimes prisoners are kept on remand while their cases are being investigated. When investigating police officers are transferred, re-assigned or retire without proper handing over of cases to another officer, such remand prisoners get 'lost in the system' and consequently spend years in prison. There have been calls from different stakeholders and eminent personalities including the Chief Justice and the Interior Minister to review and amend the Criminal Code as well as to clarify the Article 14(4) of the 1992 Constitution.<sup>72</sup>

The existing remedies for addressing delays in procedures are the Justice for All Programme and the Public Relations and Complaint Unit within the Judiciary System which is partially effective, only in Greater Accra Region, Kumasi and Western Region. The Unit was set up under the funding of DANID's Partnership Programme with the Judiciary Service to receive complaints from the general public on judicial procedures and conduct of judicial staff, investigate and make recommendations on complaints for redress. Beside the Unit, people also have the opportunity to often petition the Chief Justice directly, for redress on some of the cases of misconduct and complaints. One of the main challenges is that the general public is not aware of the existence of this unit.

In a related development, prison inmates at the Ankaful Maximum Prisons in the Central Region have appealed to Government to pass and implement the non-custodial sentencing bill. The non-custodial sentencing document makes provision for alternative sentences to be meted out to offenders instead of the conventional custodial sentence/imprisonment in certain types of offenses. This allows a judge to sentence

---

<sup>72</sup>Justice for All Program Report, 2012" retrieved from POS Foundation Annual Report 2014

an offender to community service and not to be placed in detention. This can potentially aid in decongesting the prisons across the country and also improve prison conditions to meet international standards.<sup>73</sup> In addition, the non-custodial sentencing policy must ensure the reformation and rehabilitation of offender and just to seek to punish or serve as a punitive measure to offenders.

#### **Recommendations:**

##### The State Party should:

- 1) Separate the Ministry of Justice from the Attorney General and ensure the independence of the appointment of the Attorney General
- 2) Address the delays in the criminal justice system, including by improving the system to avoid having cases that get lost or forgotten
- 3) Clarify the obligation to bring a person to trial within “a reasonable period of time” set out in article 14 (4) of the Constitution

#### **h. Elimination of slavery and servitude (art. 8)**

**Issue 19:** Please report on measures taken: (a) to eliminate child labour in such sectors as artisanal gold mining, agriculture, including cocoa-farming and fishing (in particular artisanal or small-scale fishing sector), *trokosi* and child domestic servitude; (b) to combat internal and cross-border trafficking in women, men and children for purposes of sexual exploitation, including within the tourism industry, or forced labour; (c) to provide specialized training for all relevant stakeholders, including prosecutors and other judicial personnel; (d) to effectively investigate, prosecute and punish perpetrators for trafficking and child labour (please provide relevant statistics); and (e) to address the lack of adequate government shelters and support and assistance services to victims.

#### **Comments from Civil Society**

- **Child labour**

In Ghana, it is reported that 21.8 %(1.9 million) of children between 5 and 17 years old are child labourers, and 14.2% (1.2 million) are engaged in “hazardous child labour” as defined by the Children Act, Act 560<sup>74</sup>. Many of the child labourers work in the Volta region in the fishing industry and suffer from injuries and health problems related to their work.

The International Labour Organization/Ghana Statistical Services 2003 Child Labour Survey estimated that over a million children in Ghana are denied education because of the need to work instead of attending school. The International Labour Organization/International Programme on Elimination of Child Labour (ILO/IPEC) Analytical Study on Child Labour In Lake Volta Fishing in Ghana (August 2013) estimates that there 49,000 Children working in the fishing industry on Lake Volta, with 21,000 forced to undertake hazardous child labour.

---

<sup>73</sup>“Efiase Project.” Ghana Prison Service, 2015. Web.10 March 2016. <http://www.ghanaprison.gov.gh/efiase.html>

<sup>74</sup>Annan, James. “Eliminating Child Slavery of Lake Volta.” GhanaWeb, 31 March 2016. Web. 24 May 2016. <http://www.ghanaweb.com/GhanaHomePage/features/Eliminating-child-slavery-on-Lake-Volta-427317>

Another area for the State to address would be young female *Kayayo* (head porters) in Ghana's large cities (see reply to Issue 20 below) as well as the *trokosi* system (see reply to Issue 7 above).

- **Trafficking in women, men and children**

The Ministry of Gender, Children, and Social Protection (MoGCSP) is in the process of developing a Human Trafficking National Plan of Action that will coordinate and standardise the efforts to fight trafficking by all stakeholders. The State is also currently implementing the Child Protection Compact Agreement to create awareness of trafficking issues amongst the public.<sup>75</sup> The government also has partnered with local Non-Governmental Organisations in the Lake Volta region to combat child trafficking.

The organization Challenging Heights and the Anti-Human Trafficking Unit (AHTU) of Ghana Police Service collaborated to intercept 33 trafficked and at-risk children in August 2014, and the police followed up with investigations and contacting the children's family members. The police also arrested five traffickers after receiving tips from Challenging Heights in 2014, and one of these arrests resulted in conviction. In 2015, Challenging Heights collaborated with the AHTU and the Department of Social Welfare to remove 41 child slaves from Lake Volta.<sup>76</sup> Also, twenty one minors who had been trafficked to South Africa were recently rescued by the MoGCSP's Department of Social Development, in collaboration with the International Organisation of Migration and the Anti-Human Trafficking Unit of the Police Service.<sup>77</sup> After the incident, the Acting Executive Secretary of the Human Trafficking and Domestic Violence Secretariat, Madam Victoria Natsu, stated that the children were rehabilitated by the MoGCSP.

However, the US State Department has shown concern that trafficking in Ghana is actually on the rise. In 2016, Ghana has been unable to demonstrate overall increasing anti-trafficking efforts compared to the previous year and as such, was demoted from Tier 2 to the Tier 2 Watch-List according to the minimum standards established in the Trafficking Victims Protection Act (TVPA). This status means that trafficking in Ghana is increasing, or that the government has failed to provide evidence of increasing efforts to combat trafficking from the previous year.<sup>78</sup>

It does not appear that the State has taken measures to provide specialised training for stakeholders in regards to human trafficking. Most anti-trafficking efforts appear to be spearheaded by NGO and civil society organisations. Currently, there is only one shelter for victims of trafficking in Ghana.<sup>79</sup>

Though the State has 9 regional Anti-Human Trafficking Units, very few cases of trafficking are prosecuted each year<sup>80</sup>. The State's failure to investigate and prosecute the suspected 190,000 cases of trafficking in

---

<sup>75</sup>"Gender Ministry develops human trafficking action plan." Child Trafficking. Pulse, 27 February 2016. Web. 10 March 2015 <http://pulse.com.gh/news/child-trafficking-gender-ministry-develops-human-trafficking-action-plan-id4735650.html>

<sup>76</sup> Annan, James Kofi. "How Government Interventions Can Help End Modern Slavery", News Ghana, 22 April 2016. 27 May 2016. <https://www.newsghana.com.gh/how-government-interventions-can-help-end-modern-slavery/>

<sup>77</sup> Appiah, Salomey. "21 Children rescued from South Africa", Graphic Online, 25 February 2016. Web. 27 May 2016. <http://www.graphic.com.gh/news/general-news/58999-21-children-rescued-from-south-africa.html>

<sup>78</sup>Annan, James. "Bring An End To Modern Slavery Through Government Intervention." PeaceFM, 25 April 2016. Web. 24 May 2016. <http://comment.peacefmonline.com/pages/features/201604/277200.php>

<sup>79</sup>"Ghana Affirms Commitment to Advance Women's Empowerment." GNA. PeaceFM, 16 March 2016. Web. 24 May 2016. <http://news.peacefmonline.com/pages/social/201603/273381.php>



Ghana has been attributed to inadequate funding for Anti-Human Trafficking Unit, the DOVVSU and Social Welfares.<sup>81</sup>

### **Recommendations:**

The State Party should:

- 1) Increase its sensitization efforts concerning child labour and trafficking, particularly in the Volta region.
- 2) Publish and increase awareness around the forthcoming Human Trafficking National Plan of Action from the MOGCSP.
- 3) Construct and furnish shelters for rescued trafficked children

#### **i. Treatment of aliens, including refugees and asylum seekers (arts. 7, 12 and 13)**

**Issue 20:** Please report on measures taken: (a) to amend refugee legislation to ensure unhindered access to fair and efficient asylum procedures, including referral mechanisms at the border crossing points, and adequate procedural safeguards for asylum seekers, particularly effective legal remedy for those whose asylum applications have been rejected; (b) to prevent statelessness; and (c) to address the causes of the internal displacement of persons in the Northern Region and to ensure, in law and in practice, the protection of internally displaced persons.

### **Comments from Civil Society**

Though there are an estimated 21,000 refugees and asylum seekers in Ghana, limited information has been released concerning the adequacy of Ghana's refugee laws.<sup>82</sup> Additionally, many Cote d'Ivoirian refugees report poor conditions in refugee camps in Ghana.<sup>83</sup> Refugee legislation has not been amended to include improved referral mechanisms at border crossing points or more procedural safeguards for asylum seekers.<sup>84</sup>

In the Abidjan Declaration of 2015, Ghana committed to acceding to the two Statelessness Conventions by the end of 2016, and the Deputy Minister of the Interior has stated that a memorandum is soon to be presented before cabinet for approval.<sup>85</sup> The UNHCR has commended this initiative to develop legal and

---

<sup>80</sup> "Public advised to assist to combat human trafficking." Ghana Web, 27 March 2016. Web. 24 May 2016. <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Public-advised-to-assist-to-combat-human-trafficking-426294>

<sup>81</sup> Ibid.

<sup>82</sup> Citifonline. "Ghana ranked freest country in Sub-Saharan Africa", Ghana Web, 15 August 2015. 27 May 2016. <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Ghana-ranked-freest-country-in-Sub-Saharan-Africa-375338>

<sup>83</sup> Folley, Patience. "UNHCR Ghana receive essential funding support from the Government of Japan", United Nations High Commissioner for Refugees, 8 July 2015. 27 May 2016. <http://unhcr-ghana.org/unhcr-ghana-receive-essential-funding-support-from-the-government-of-japan/>

<sup>84</sup> *Refugee Law*, 1992 (PNDCL 305D). 27 May 2016. <http://laws.ghanalegal.com/acts/id/550/refugee-law#>

<sup>85</sup> Folley, Patience. "UNHCR Ghana holds Preparatory Workshop to develop National action plan against Statelessness in Ghana", United Nations High Commissioner for Refugees, 1 January 2016. 27 May 2016. <http://unhcr-ghana.org/unhcr-ghana-holds-preparatory-workshop-to-develop-national-action-plan-against-statelessness-in-ghana/>

political policy framework for preventing statelessness in Ghana.<sup>86</sup> In the past year, a total of 22,000 stateless people acquired legal identities in West Africa.<sup>87</sup>

There are many internal migrants within Ghana who are also vulnerable to abuses. One such example would be the young female *Kayayei* (head porters) in Ghana's large cities. Many *kayayei* are young women and children who report a lack of shelter and high rates of poverty and sexual assault.<sup>88</sup> It does not appear that the state has taken any recent measure to address the causes of these *kayayei*. However, on protection of these populations, the Ministry Gender, Children and Social Protection and the Domestic Violence Secretariat has launched model Gender Based Violence Response Centres (GBVRC) for market women at Mallam Atta and Agbobbloshie Markets in Accra to provide legal assistance for women who sell at the markets as well as *kayayei*.

### **Recommendations:**

The State Party should:

- 1) Enact the Abidjan Declaration against statelessness in Ghana.
- 2) Ensure that all refugee camps meet requirements for living conditions.
- 3) Update legislation surrounding refugees to ensure that all asylum-seekers are given access to referrals and fair treatment.
- 4) Indicate what steps it is taking to ratify the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness

### **j. Right to privacy and family life (art. 17)**

**Issue 21:** Please provide information about the legal safeguards in place against arbitrary interference with the privacy, home and correspondence of individuals, and their observance in practice. Please respond to reports of increased use of practice of secret tape recordings of prominent Ghanaian politicians.

### **Comments from Civil Society**

Article 17 Clause 2 of Ghana's Constitution clearly states that "No person shall be subjected to interference with the privacy of his home, property, correspondence or communication except in accordance with law and as may be necessary in a free and democratic society for public safety or the economic well-being of the country, for the protection of health or morals, for the prevention of disorder or crime or for the protection of the rights or freedoms of others." Also is the Data Protection Act, 2012 (Act 843) which is passed to ensure the Protection of Privacy and Data in the Information Age.

---

<sup>86</sup> Yire, Iddi Z. "Ending statelessness in West Africa, the role of governments", Ghana Business News, 14 April 2015. 27 May 2016. <https://www.ghanabusinessnews.com/2015/04/14/ending-statelessness-in-west-africa-the-role-of-governments/>

<sup>87</sup> United Nations High Commissioner for Refugees. "First anniversary of the Abidjan Declaration on the eradication of statelessness", 25 February 2016. 27 May 2016. <http://www.unhcr.org/56ceda796.html>

<sup>88</sup> Naab, Francis Zana. "Kayayo In Perspective- A Problematic Problem", Ghana Web, 31 October 2012. 27 May 2015. <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Kayayo-In-Perspective-A-Problematic-Problem-254842>

However, the draft Bill on interception of postal packets and telecommunication messages (2015), if passed into law, will give Government and National Security far-reaching powers to conduct surveillance and intercept private communication. Only three weeks have been provided for the public to debate the Bill.

### **Purposes for interception**

The draft Bill allows interception for the purposes of “protecting national security” (Article 2(a)) and for “fighting crime generally” (Article 2(b)). However, these terms are not defined anywhere in the Bill. Both can be used to cover a wide range of activities, leaving individuals without meaningful guidance as to which conducts might trigger surveillance. This lack of definitions is of significant concerns as it may lead to abuses. In particular, the draft Bill does not refer to any other Ghanaian laws that may define “national security”. The lack of definition leaves the authorities almost unlimited discretion in determining what conduct may trigger the need for interception to protect national security, what is the threshold of such threat and whether or not the threat is serious enough to justify secret surveillance.

### **Unclear role of the judge in authorising an interception warrant**

The procedure for interception envisaged in the draft Bill includes reference to seeking an interception warrant by a Justice of the High Court (Article 4.1). However, nowhere in the draft Bill is specified the role of the judge in authorising such warrants. There is no indication as to what test the judge should apply in deciding whether or not to authorise the interception and what safeguards he/she can impose, or any role in supervising the execution of the interception warrant. Further, Article 5 requires that sufficient information is provided to the National Security Co-ordinator in order to determine whether the conditions to grant authorisation have been satisfied. However, there is no provision requiring the judge to review such information. And Article 6 requires an officer nominated by the National Security Co-ordinator to consider the application and make the necessary inquiries before submitting their opinion on whether the request fulfils the relevant conditions. Prima facie then, it seems that there is no role given to a judge in reviewing and assessing the information in support for an interception warrant. The risk is that the judge will simply authorise, without substantive review of the case, the requests for interceptions.

### **Conditions for the interception warrants for criminal investigation**

Article 7 contains a list of conditions related to interception warrants for criminal investigations. While reference to “privacy’s consideration is included in subparagraph 7(f), it does not specify the need to apply a test of necessity and proportionality to assess whether the envisaged interception measure does not exceed lawful interference with the rights to privacy or freedom of expression under international human rights standards.

### **Conditions for interception warrant for security reasons**

Article 8 does not require any “privacy” or ‘freedom of expression’ impact assessment when issuing warrants of interception in the interest of state security (which remains undefined.) It only refers to “the importance of obtaining the information by interception is in the circumstances sufficient to justify the interception.” This is too vague a criterion to allow any proper assessment of the necessity and proportionality of the surveillance measure vis-a-vis its impact on individual's rights to privacy and freedom of expression.

### **Lack of regulation of use, storage and sharing of the intercepted communications**

Nowhere in the draft Bill is there any provisions detailing the procedure to be followed for examining, using and storing the data obtained through the interception; the limits, safeguards and precautions to be taken when communicating the intercepted messages to other parties; and the circumstances in which intercepted communications may or must be erased or destroyed.

### **Unauthorised disclosure**

Article 10 of the draft Bill imposes to a wide range of persons, including telecommunication service providers, an obligation to keep confidential the existence and contents of the interception warrants. Disclosure is considered an offence punishable also by imprisonment. Article 10(4) includes limited grounds of defence in relation to a disclosure of a confidential matter. Notably this list of defence does not include public interest. It is not known whether “public interest” is recognized under Ghanaian law as a lawful justification that can override the non-disclosure. These provisions are likely to further limit the capacity of telecommunication service providers to publish statistics and other relevant information on interception of communications. Already Ghanaian law is limiting the publication of such information<sup>89</sup>.

Further, the draft Bill contains no provision to require that those subjected to surveillance are notified that their communications have been intercepted, not even after the completion of the relevant investigation. This is a significant shortcoming which will negatively affect the right of individuals to seek redress for unlawful surveillance.

### **Obligations of telecommunications operators**

Article 13(3) provides that when an interception warrant is served on a person who provides a telecommunication service or cyberspace telecommunication service, that person shall take the necessary action to enforce the warrant in the manner specified therein. What steps can be imposed on telecommunication service providers is regulated in Article 14. The National Security Co-ordinator, without any need of judicial authorisation, can dictate such steps to ensure “the necessary practical interception capabilities”. When it comes to configuring the telecommunication networks for “lawful interception”, Article 14(5) refers to the standards developed by the European Telecommunications Standards Institute, i.e. the technical protocols enacted across Europe for “lawful interception”. While these standards do not require direct, unmonitored access to the telecommunication network by the security agencies, the draft Bill imposes secrecy over the “existence of the equipment and packets or messages intercepted by means of the equipment” (Article 14(7)).

### **Decryption**

Article 15(3) and (4) regulates the possibility of decrypting encrypted communications. According to Article 15(3)(b) decryption can only take place if the decryption key is provided. Additionally, Article 15(4) limits the obligations to decrypt by stating that service providers cannot be required to have the “ability to decrypt a telecommunication message” or to impose an obligation to decrypt if “encryption is provided by means of a product that is supplied” by the telecommunication service. The above suggests that the draft Bill does not

---

<sup>89</sup> Vodaphone Group Plc. “Sustainability Report 2014/15”, 2015. 27 May 2016.

<https://www.vodafone.com/content/dam/vodafone-images/sustainability/downloads/vodafone-full-report-2015.pdf>

empower the government to require service providers to establish “back doors” or otherwise require them to maintain a general capability to decrypt communications going through their networks. However, it remains unclear what powers can be exerted to obtain decryption keys. In light of the high risk of abuse, the regulation of decryption must define strictly the conditions and safeguards under which decryption order can be imposed. In the words of the UN Special Rapporteur on freedom of expression, “orders should be based on publicly accessible law, clearly limited in scope focused on a specific target, implemented under independent and impartial judicial authority, in particular to preserve the due process rights of targets, and only adopted when necessary and when less intrusive means of investigation are not available. Such measures may only be justified if used in targeting a specific user or users, subject to judicial oversight.” (UN Doc. A/HRC/29/32, paragraph 45.)

### **Supervision of the implementation**

Article 18 provides that the Chief Justice “may” appoint a judge to supervise the implementation of the Act. The judge can initiate its own investigation, and require the relevant authorities to disclose “any information” in respect of the grant or the application for the authorisation. However such provision does not grant the judge the capacity to monitor and supervise the implementation of the interception warrants.

Every year, the judge shall submit a report on the application of the Act. The report is submitted to the National Security-Coordinator. There is no requirement that such report is published. Instead the National Security Co-ordinator shall submit an annual report to Parliament. Again there is no requirement of the report to be made public. Further, the report shall not contain information such as the names of the service providers who are providing assistance in the enforcement of the interception warrants.<sup>90</sup>

In the past, especially in the lead up to the 2012 General Election, there have been a number of secret recordings of some top politicians. Popular among them was the voice purported to be that of Hon. Baba Jamal, the then Minister of Information in August 2011. He was speaking to a group of workers at the Information Services Department (ISD) and the District Chief Executives during a meeting in Accra. His “secret message” to them in that secret meeting which was recorded and made public by someone, was that, the core duty of the workers is to make government look good at all cost even if it means lying. He has since denied the voice on that recording being his.

Also, there was a phone conversation recording between Mr Kofi Adams of the NDC and Mr. Gabby AsareOtchere-Darko of the NPP. Mr. Kofi Adams was heard telling him that, he would do everything possible to prevent (late) President Mills from securing the mandate of Ghanaians for a second term. Even though he denied the voice on that recording being his and challenging the authenticity of the recording, this led to his suspension as the Deputy National Organiser of the NDC. His suspension has since been lifted.<sup>91</sup>

---

<sup>90</sup> Privacy International and Article 19. “Submission to Committee on Defence and Interior, Parliament of Ghana on the Interception of Postal Packets and Telecommunication Messages Bill”, 10 March 2016. 27 May 2016. [https://www.privacyinternational.org/sites/default/files/Submission\\_Ghana\\_Interception\\_Bill\\_1.pdf](https://www.privacyinternational.org/sites/default/files/Submission_Ghana_Interception_Bill_1.pdf)

<sup>91</sup> Vibe Ghana. “Baba Jamal: If gov’t buys sheep, say it’s a cow”, 9 August 2011. 27 May 2016. <http://vibeghana.com/2011/08/09/baba-jamal-if-govt-buys-sheep-say-its-a-cow/>

Another recording of a prominent Ghanaian politician was that of the then NPP Parliamentary Candidate for Lawra in the Upper West Region, Mr. Anthony Kabo, who had a secret meeting with mercenaries from Benin, Liberia and Libya who he tasked to assail electorates in order to pronounce his party victors in the December 7 2012 elections. Even though he also, just like the previous ones, denied the voice being his, he was invited by the security agencies for questioning.<sup>92</sup>

There have also been a number of screenshots of private conversations and messages of prominent politicians which have been shared on social media.

### **Recommendations:**

#### **The State Party should:**

- 1) Desist from passing the Postal Packets and Telecommunication Messages Bill into law
- 2) Prosecute people who illegally breach on people's privacy
- 3) In protecting the public from any form of terrorism, the State party should not do so with total disregard to privacy and other human rights

### **k. Rights of the child (arts. 16, 24 and 26)**

**Issue 22:** Please report on measures taken to explicitly prohibit the corporal punishment of children in all settings, including in the home, school and alternative care settings, and repeal the "reasonable" and "justifiable" legal defences.

### **Comments from Civil Society**

The Ghana Education Service and the Ministry of Education are the two main bodies that have the mandate to call for a law/act that will prevent the corporal punishment of school children, and there is no act or directive like that yet from any of them. Meanwhile, some organisations and individuals have been advocating for the banning of all forms of corporal punishments for children in homes and schools. It is these various calls/advocacies that has been taken well by some schools, orphanages and homes leading to their own regulations against caning the children. For instance, in August 2015, caning in Ga West Schools was banned by its Education Director.<sup>93</sup> This was replicated in the Nsawam Adoagyri Municipality when the Director banned caning in schools in his municipality.<sup>94</sup>

---

<sup>92</sup>Mensah, Dorcas Efe. "Kofi Adams suspended as member of NDC - General Mosquito", Myjoyonline.com, 27 August 2012. 27 May 2016. <http://politics.myjoyonline.com/pages/news/201203/83817.php>

<sup>93</sup> Ghana News Agency. "Canning in Ga West Schools Banned", 26 August 2015. 27 May 2016. <http://www.ghananewsagency.org/education/canning-in-ga-west-schools-banned--93684>

<sup>94</sup> Ghana News Agency. "Director bans canning/extra classes", 10 June 2015. 27 May 2016. <http://ghananewsagency.org/education/director-bans-canning-extra-classes--90339>

However, in practice, corporal punishment still exists in the government schools, especially in the remote areas. There are allegations of cases where teachers asked the students to lie down and stepped on them. A teacher of the Multi Educational Complex at Wassa Akropong in the Western region of Ghana has been caught on camera stomping on pupils who failed to do their homework or read properly. In a video circulated on YouTube, two pupils could be seen lying face-down while class was in session as the teacher identified as Christiana Owusu merrily jumped on their backs to punish them. The helpless class four pupils reeled in pain. According to Starr FM, reports say some of the pupils have been enduring this method of punishment for some time now and authorities in the region have refused to act.<sup>95</sup>

### **Recommendations:**

#### The State Party should:

- 1) The Ghana Education Service and the Ministry of Education should effect a policy change to protect children from being avoidably whipped in schools.
- 2) The Ghana Education Service and the Ministry should ensure a frequent inspection to ensure compliance.
- 3) Adopt a Law to explicitly prohibit the corporal punishment of children in all settings
- 4) Find alternative for the “Spare the rod and spoil the child” mantra to desist people from meting out capital punishment to children.

**Issue 23:** Please report on measures taken: (a) to ensure a sufficient number of specialized juvenile courts and remand facilities; and (b) to ensure that juvenile offenders are held in custody only when it is absolutely necessary, as a measure of last resort and only for as short a time as possible. Please also give details of any available alternative measures to imprisonment of juvenile offenders and their application in practice.

### **Comments from Civil Society**

Under the Juvenile Justice Act, juvenile courts have been established to deal with juvenile cases, except that they are not available in all districts across the country. The Juvenile Justice Act also establishes homes for juvenile offenders, but they are in adequately resourced.

### **Recommendations:**

#### The State Party should:

- 1) Increase juvenile courts in the country
- 2) Increase and resource juvenile home across the country
- 3) Ensure that detention of juvenile offenders is only a measure of last resort

**Issue 24:** Please report on measures taken to further increase the birth registration rate, particularly in rural areas, and the resulting progress. Please also clarify whether steps have been taken to ensure that recognized refugees, in particular refugee children who are born outside Ghana and do not possess a birth certificate, may be issued with a substitute birth certificate.

### **Comments from Civil Society**

---

<sup>95</sup> Starr FM.online.com, YouTube, 17 February 2015. 27 May 2016. <https://www.youtube.com/watch?v=K4Y1MHRMYzY>

In Ghana the Births and Deaths Registry is the legal authority responsible for registering all the countries births and deaths. This body has worked hard to improve the coverage rate of birth registration of children less than five years of age. Through interventions, including awareness campaigns and removal of registration fees for children less than a year old, the registry managed to increase birth registration from 17 percent in 2002 to about 58 percent in 2014.<sup>96</sup>

Although noting this significant progress, the UN Committee on the Rights of the Child still has concerns about the issue. The Committee put down these concerns in its Concluding Observations on the Combined Third to Fifth Periodic Reports of Ghana<sup>97</sup>. The report mentions challenges such as understaffing and inadequate funding, but emphasizes on difficulties in ensuring, particularly, the birth registration of children in rural areas, as well as of asylum-seeking and refugee children.

The Ghana Ministry of Local Government and Rural Development, with the support of UNICEF, carried out a research in 2013, providing an analysis of birth registration in Ghana<sup>98</sup>. The analysis indicates that the registry lacks sufficient capacity to meet the increased demand for registration that arose as the population became more aware of the importance of registering their children's birth.

Both the UN Committee on the Rights of the Child and UNICEF report underlying structural weaknesses caused by unpredictable and inadequate financing for birth registration services. Among other challenges are insufficient human resources, transportation, and supplies.

Given this backdrop, Ghana's Birth and Deaths Registry is currently unable to deliver equitable, accessible, and timely birth registration services to children. Without strategic action, the registry may not attain its goal of achieving a 90 percent birth registration coverage rate by 2016<sup>99</sup>. With the end of 2016 soon approaching, the government has set new indicators to improve birth registration services<sup>100</sup>. These include ensuring that at least 75 percent of children below age one, those under five in rural communities, and 70 percent of those under five from the poorest wealth quintile are registered by 2016.

Some clear actions have already been taken towards this commitment. They include mobile registration services in hard-to-reach areas, improved supply of registration materials, and renewed collaborative efforts with the health and education systems. Moreover, efforts are underway to reform civil registration and vital statistics systems nationally, in order to improve national planning across all sectors of the country, including those of particular relevance to children.

---

<sup>96</sup>UNICEF report (2013)

<sup>97</sup>United Nations Committee on the Rights of the Child. "Concluding observations on the combined third to fifth periodic reports of Ghana", 9 June 2015, CRC/C/GHA/CO/3-5. 27 May 2016. <http://www.refworld.org/docid/566fc3944.html>

<sup>98</sup>Ghana Ministry of Local Government and Rural Development. "Birth Registration in Ghana: A Bottleneck Analysis for Improved Coverage that Leaves No One Out", 2013

<sup>99</sup>Allan, Emelia. "An Identity for Every Child: Birth Registration and Equity in Ghana", FXB Center for Health & Human Rights. Harvard University, 18 March 2015. 27 May 2016. <https://fxb.harvard.edu/an-identity-for-every-child-birth-registration-and-equity-in-ghana/>

<sup>100</sup><sup>100</sup>Ghana Ministry of Local Government and Rural Development. "Birth Registration in Ghana: A Bottleneck Analysis for Improved Coverage that Leaves No One Out", 2013



One remaining challenge is that birth registration is not free above the age of one year, therefore the Committee also recommends to extend free birth registration and issuance of certificates for, at least, children under five years of age, so that children from poor homes can register their children as well.

Concerning asylum-seeking and refugee children, there is a refugee law<sup>101</sup>. However, this law does not clearly ensure that recognized refugee children, born outside the state party, can be issued with a birth certificate. Therefore, the UN Committee recommends an amendment of the refugee law. Currently, the Ministry of Interior has initiated a memorandum for the amendment of the Refugee Law in Ghana.

### **Recommendations:**

#### The State Party should:

- 1) Implement the recommendations of the Birth Registration Bottleneck Analysis and the Committee of the Rights of the Child
- 2) Allocate sufficient funds for the strengthening of birth registration initiatives
- 3) Extend free birth registration and issuance of certificates for, at least, children under five years of age
- 4) Strengthen and expand mobile birth registration to reach universal coverage, particularly for registration of children in rural areas, asylum-seeking and refugee children, and those who have never been registered
- 5) Amend the refugee law (1992) to ensure that recognized refugee children born outside the state party can be issued with birth certificates

### **I. Freedom of opinion and expression (art. 19)**

**Issue 25:** Please respond to reports that journalists are subjected to physical attacks and threats by security forces and individuals, as well as to arrests and detention, and report on measures taken to protect journalists and bring perpetrators of such acts to justice. Please provide information on the status of the Right to Information Bill and its compliance with the Covenant.

#### **Comments from Civil Society**

- **Attacks against journalists**

The Media Foundation for West Africa (MFWA) has recorded about 158 press freedom violations from 2002-2015. These figures are based on reported incidents hence the number could be higher. These reported violations have mostly been in the form of physical attacks, arrests and detentions, threats, censorship etc.

These violations have been perpetuated by both state and non-state actors. State actors such as security agencies (military and police), state officials like members of parliament and ministers of state. Non-state actors have included political party affiliates, organised groups and individuals. More often than not, most of these violations go unpunished. At best, the perpetrators render an apology and journalists and media organisations do not get any form of real redress or justice.

---

<sup>101</sup>Refugee Law, 1992 (PNDCL 305D). 27 May 2016. <http://laws.ghanalegal.com/acts/id/550/refugee-law#>

Violence perpetrated by State actors to repress freedom of opinion and expression is particularly disturbing. In one example, during the 56<sup>th</sup> Independence Day Celebration at the Independence Square in 2014, the military reportedly manhandled and assaulted two photojournalists in the process of doing their jobs as journalists.<sup>102</sup> Fortunately, the military persons involved in this act were later found culprits and the victims (ie. reporters) were compensated. In another State-perpetrated incident, on 19 August 2015, Stan Dogbe, a presidential staffer seized and smashed a voice recorder of the journalist who had gone to the 37 Military Hospital to follow up on an accident involving the presidential press corps.<sup>103</sup> Subsequently, the Media Foundation for West Africa released a statement to condemn the action and a follow up petition to the president to sanction the presidential staffer. The president formally acknowledged receipt of the petition but to date has not communicated to having taken any action on the said case.

In addition to State-led violence, the State has also failed to intervene in crimes against the freedom of expression perpetrated by non-State actors. Just in March this year, there was a report of a reporter with Bohye FM beaten by some men at Moshi-Zongo in Manhyia North Constituency, where elections for polling station executives of the New Patriotic Party (NPP) were being re-run.<sup>104</sup>

- **Status of the Right to Information Bill**

On Right to Information, after more than twelve (12) years since the first draft of the Right to Information (RTI) Bill was crafted by the Attorney General's Department in 2002, Ghana's Parliament is still in the process of passing the RTI Bill into law. The Bill was presented to the current parliament (6<sup>th</sup> Parliament) in 2013 and was subsequently referred to the Select Committee on Constitutional, Legal and Parliamentary Affairs, made up of members from both majority and minority in Parliament.

Following concerns raised on the Coalition on the Right to Information, the Parliamentary Select Committee held consultative meetings on the Bill in May and September 2014 with representation from the Attorney General's Department, the RTI Coalition and other stakeholders. After the meetings, the Parliamentary Select Committee unanimously adopted a number of critical amendments to the Bill in its report and submitted it to Parliament in December 2014.

The objective of the proposed amendments by the bipartisan Committee was to ensure that the Bill is in line with international standards and best practices on the right to information legislation such that when it is passed into law, it would be effective in promoting transparency, accountability and citizen participation in the fight against corruption. The proposed amendments by the Parliamentary Committee on the RTI Bill are

---

<sup>102</sup> Daily Graphic. "Journalists assaulted by security men at Indece parade", Myjoyonline.com, 7 March 2016. 27 May 2016. <http://edition.myjoyonline.com/pages/news/201303/102373.php>

<sup>103</sup> Media Foundation for West Africa. "Ghana: MFWA Condemns Assault On Journalist By Presidential Staffer, Demands", 1 September 2015. 27 May 2016. <http://www.mfwa.org/ghana-mfwa-condemns-assault-on-journalist-by-presidential-staffer-demands/>

<sup>104</sup> Adomonline. "Journalist assaulted by machomen at Manhyia North", Ghana News, March 3, 2016. 27 May 2016. <http://www.ghana-news.adomonline.com/politics/2016/march-3rd/journalist-assaulted-by-machomen-at-manhyia-north.php>

in line with the proposals by the CSOs Coalition and the provisions of the African Union Model law on Access to Information.<sup>105</sup>

The submission of the Committee's report, paved way for the Attorney General and Minister for Justice (Mrs. Marieta Brew Appiah-Opong) to move the motion for the second reading of the Bill on June 25, 2015 in Parliament. Discussions on the Bill as part of the second reading commenced on June 30, 2015 and ended on July 24, 2015, the same day Parliament went on recess for that session. The Bill was subsequently referred to the next stage in the legislative process – the consideration stage.

On October 27, 2015, Parliament resumed sitting from the recess for the last quarter of the year. Although the consideration of the RTI Bill kept appearing on Parliament's agenda throughout the session, it was never considered until it went on recess in December 2015. Parliament resumed sitting in February this year and only started considering the Bill sometime in March<sup>106</sup>, however, out of the 50 pages of amendments proposed, only one clause was considered before Parliament went on recess in March 2016<sup>107</sup>. On 18<sup>th</sup> May, 2016 Parliament resumed discussions on the proposed amendments.

CSOs are concerned with the slow pace with which Parliament is proceeding with the consideration process. This is because Parliament is scheduled to rise in July to campaign for the elections in November 2016. If the Bill is not passed before the elections, the Bill will be referred once more to the new Cabinet of the new government, for the legislative process to start all over again. CSOs are particularly concerned because the Parliamentary Select Committee that worked on the Bill have been able to capture all the concerns that CSOs have raised on the content of the Bill making the Bill robust and effective in promoting transparency and accountability in governance. Therefore if this Parliament lapses without passing the Bill, it is not certain that the new Parliament and the new government will support or agree to include the progressive amendments that have been proposed.

Government has often given the excuse that the proposed amendments on the Bill are too many and as such they need to take more time to consider it. But in our view this excuse is not justifiable because this cannot be the first time Parliament has come across a Bill with such amendments. CSOs believe that the excuse that the amendments are too many only shows governments lack of commitment to the passage of an effective RTI Bill.

There is currently no clear indication as to how Parliament is planning to ensure that the Bill is passed before the elections in November, 2016.

### **Recommendations:**

The State Party should:

---

<sup>105</sup> RTI Coalition. "RTI commends select committee on constitutional legal and parliamentary affairs", Inform Ghana, 8 September 2014. 27 May 2016. <http://www.informghana.com/rti-commends-select-committee-on-constitutional-legal-and-parliamentary-affairs/>

<sup>106</sup> Ghana News Agency. "Parliament considers RTI Bill", 10 March 2016. 27 May 2016. [www.ghananewsagency.org/social/parliament-considers-rti-bill-101403](http://www.ghananewsagency.org/social/parliament-considers-rti-bill-101403)

<sup>107</sup> Myjoyonline.com. "RTI: Parliament admits pressure is mounting on it to pass Bill", 9 March 2016. 27 May 2016. <http://www.myjoyonline.com/news/2016/March-9th/rti-parliament-admits-pressure-is-mounting-on-it-to-pass-bill.php>

- 1) Investigate, prosecute and sanction the attacks against journalists
- 2) Guarantee adequate protection and security for journalists, so they can effectively perform their duties without any fear of victimization
- 3) Train security agencies on the good media relations and respect of human rights
- 4) Immediately pass the Bill with the amendments before the elections in November 2016

**m. Dissemination of information relating to the Covenant and the Optional Protocol (art. 2)**

**Issue 26:** Please provide information on the steps taken to disseminate information on the Covenant and the First Optional Protocol thereto, the submission of the initial report of the State party and its forthcoming examination by the Committee. Please also provide more information on the involvement of civil society, non-governmental organizations and the Commission on Human Rights and Administrative Justice in the preparation of the report.

**Comments from Civil Society**

Currently, there has not been any evidence to suggest that conscious steps are being undertaken by the State to raise awareness and disseminate provisions of the Covenant and its Optional Protocol. The Attorney General's Department was invited to a CSOs meeting on 4<sup>th</sup> March 2016 on the implementation of the ICCPR in Ghana, in which he confirmed that the Department did not engage with the Civil Society Organisations during the compilation of the State report on ICCPR. This reveals that there is little or limited engagement with CSOs and the general public on disseminating information on the ICCPR and Ghana's report.

**Recommendations:**

The State Party should:

- 1) Resource the Commission on Human Rights and Administrative Justice (CHRAJ) as well as the National Commission for Civic Education (NCCE) to embark on comprehensive public education on the Covenant and its First Optional Protocol
- 2) Partner/network with Civil Society Organizations to raise greater awareness on the Covenant, its First Optional Protocol and the Concluding Observations that will be adopted by the Committee at its 117 session