



**SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES AND RECOMMENDATIONS MADE**

This report considers Right to Life and Access to Justice (excessive use of force by the police, prison overcrowding, inadequate legal aid, mob injustice, abuse of persons with mental health disorders and the death penalty).

Ghana received recommendations pertaining to excessive use of force by the police during the 3rd UPR cycle; 146.38 which was to establish an independent mechanism to carry out investigations of alleged misconduct by police officers. Recommendation 147.19 urges the state to rectify the Kampala amendment to the Roma statute on the crime of aggression, recommendation 146.86 by the United States, indicated that the state should enact criminal justice sector reforms to protect the rights of the accused, in particular the right to trial within a reasonable time and to legal assistance while recommendation 146.86 urged Ghana to enact criminal justice sector reforms to protect the rights of the accused to include access to legal assistance.

Ghana is an abolitionist of the death penalty in practice (it has not executed anyone since 1993) and has been recommended in 2012 during the UPR process from recommendations 126.1 to 126.15, and as also recommended in 2017 during the UPR process from recommendations 146.1 to 146.8.0 to scrap the death penalty out of its laws, however, the State has failed to do so.

**NATIONAL FRAMEWORK**

1. Ghana's domestic legal foundation is provided by the 1992 Constitution in which Chapter 5 of the Constitution promotes and ensures the protection of the human rights of the citizenry.
2. The Criminal Offences Act (Act 29) of 1960 and Criminal Procedure Code (Act 30) of 1960
3. The Legal Aid Scheme, now amended to the Legal Aid Commission, was set up by an Act of Parliament 1997, (Act 542) to protect and defend the rights of the poor and vulnerable against abuse.
4. Ghana has ratified the International Covenant on Civil and Political Rights (ICCPR), Second Optional Protocol to the International Covenant on Civil and Political Rights, the Convention against Torture (CAT), Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and the African Charter on Human and Peoples' Rights (ACHPR) including the Protocol on the Rights of Women in Africa (Maputo Protocol), and the African Charter on the Rights and Welfare of the Child (ACRWC)

**CURRENT ISSUES , CHALLENGES / IMPACT**

**Excessive Use of Force by the Police :** 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. The Police in Ghana have used excessive force in their attempt to control and manage demonstrations and protest which have often resulted in abuse including grave assault and unwarranted arrest.

**Mob Injustice (Instant Injustice) :** Article 19 of the 1992 Constitution provides "a person charged with a criminal offence shall be presumed innocent until he is proved or has pleaded guilty." However, legislative protection from mob injustice should be expanded to include those suspected of witchcraft, general individuals suspected of committing an offence including persons belonging to marginalised groups.

**Alternatives to Incarceration:** led by the POS Foundation, civil society and the Ministry of Interior have introduced a Community Service Bill which is currently before cabinet after public consultation and have drafted Constitutional Instruments for parole which has been submitted by the POS Foundation to the Prisons Council. The Ministry of Interior expects to push for this legislation to the cabinet to be subsequently laid before Parliament.

**Prison Conditions and Congestion :** Prison conditions are generally harsh and sometimes life-threatening due to overcrowding, inadequate sanitary conditions, lack of medical care, physical abuse, and food shortages. According to the Director-General of the Prisons Services, as of 24 June 2022, the total prison population was 13,200, despite an authorised capacity of 9,945. Food given to prison inmates is inadequate due to the insufficient feeding grant of GHC1.80 (US\$0.30) a day per inmate.

**Inadequacy of Legal Aid :** The Legal Aid Commission (LAC) was established in fulfilment of Article 294 of the 1992 Constitution, to grant all persons the right to legal aid for the enforcement of their rights or any provision under the 1992 Constitution. However, as at November, 2021 only 34 lawyers have been engaged so far across the country to work on all cases including criminal and civil proceedings and this is preventing many from accessing justice in the country, thereby defeating the Sustainable Development Goal (SDG) 16 which mandates states to ensure peace, justice and strong institutions.

**Death Penalty :** Ghana is an abolitionist of the death penalty in practice; even though recommendations have been made to the State during the 2nd UPR Cycle in 2012 through recommendations 126.1 to 126.15, and also during the 3rd Cycle in 2017 through recommendations 146.1 to 146.80, this terminal form of punishment is still present in its statute book. Though there has not been any execution made since 1993, Courts continue to pronounce death sentences. By August 2015, 129 people were under sentence of death but it increased to 168 as of 6th June 2022. However, CSOs in Ghana have advocated for a Private Member Bill currently before the Parliament of Ghana to abolish the death penalty in the Criminal Offences Act (Act 29) and Ghana Armed Forces (Act 105). It is important to note that this would not require a referendum, since that would only be needed on the issue of treason nevertheless, this amendment would affect the offence of murder which by default would take away the death penalty as it is a fact that no one is currently incarcerated on the charge of treason.

## RECOMMENDATION

1. Establish an independent complaint/investigative commission to deal with Police brutality cases.
2. Continuous training for security officers and police on human rights, constitutional guarantee, and enforce legislation that prosecutes alleged offenders and discourage participation in mob injustice.
3. Reform the criminal justice sector to expand the use of ADR; pass the Community Service Sentencing Bill; and consider the passage of draft regulation/CI for parole.
4. Increase the budget and fully resource the Legal Aid Commission, introduce paralegal regulatory framework and hire more lawyers in order to adequately represent citizens.
5. Repeal the mandatory death sentence provision in Ghana's constitution by fast-tracking the process of passing the Private Member Bill currently before the Parliament of Ghana to abolish the death penalty in the Criminal Offences Act (Act 29) and Ghana Armed Forces (Act 105).
6. Ratify, without reservation, the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty.

## ABOUT THIS FACTSHEET

*This factsheet was compiled by the following institutions under the auspices of the Ghana UPR Civil Society Organisation Platform by POS FOUNDATION, AMNESTY INTERNATIONAL, HUMAN RIGHT ADVOCACY CENTRE, LEGAL RESOURCE CENTRE, REFORMATION OF HOPE FOUNDATION, CENTRE FOR SECURITY POLICY AND RESEARCH (CSPR) and CDD-GHANA.*

## REFERENCE

### Links

<https://www.amnesty.org/en/location/africa/west-and-central-africa/ghana/report-ghana/>  
<http://www.Deathpenaltyworldwide.Org/country-search-post.Cfm?Country=ghana>  
<https://www.modernghana.com/news/1157211/prison-conditions-in-ghana-harden-criminals-lawy.html>  
<https://www.graphic.com.gh/news/general-news/ghana-new-s-legal-aid-commission-needs-more->  
<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

*Article 13 of the 1992 constitution of Ghana guarantees the right to life. However, the same article allows for the death penalty.*

