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Joint Reports Submitted to the Office of the United Nations High Commissioner for Human Rights by Civil Society Originations in Ghana towards its 3rd Universal Periodic Review-UPR (Workshop held on March 21st, 22nd, 28th, 2017, Accra, Ghana, Organized By Ghana Human Rights NGOs Forum (POS Foundation- Secretariat) And Kasa Initiative In Partnership With UPR Info, Africa Office, Kenya)

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**Sponsored By:**



**Contact Person: Jonathan Osei Owusu-POS Foundation (+233244175879, [posjonathan@gmail.com](mailto:posjonathan@gmail.com))**

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### **Executive Summary**

On 21<sup>st</sup> and 22<sup>nd</sup> March, 2017, the Ghana Human Rights NGOs Forum (POS Foundation-Secretariat) and Kasa Initiative Ghana in partnership with UPR info, Africa Office, in Kenya, held a CSO Pre UPR Submission workshop, which was attended by more than 70 civil society organizations (CSOs) in Accra. The reports by the CSOs was validated by same on 28th March, 2017.

The workshop for the CSOs was held nearly six months before Ghana's human rights record would be reviewed by the United Nations Human Rights Council under the Universal Periodic Review program of the United Nations. The review, to be conducted in November 2017, would be the third time that Ghana's human records would be reviewed, having had its human rights record reviewed in October 2012. During the review in 2012, Ghana received 150 recommendations from 63 states out of which Ghana accepted 123 recommendations.

A significant fact is that CSOs play an important role in providing input into the UPR process by filing reports to the Human Rights Council about the human rights situation in the country to be reviewed. However, in previous reviews on Ghana, no indigenous CSO filed a submission. In this regard, the workshop was held primarily to increase and strengthen the capacity of CSOs and other stakeholders to file submissions to the Human Rights Council and employ the UPR as a driver to improve human rights issues in Ghana. The objectives of the workshop were:

- Build the capacity of participants by training them on the history, importance, stages, processes and opportunities of the UPR and Ghana's past review.
- Train CSOs on the UN bodies, treaties, conventions, covenants and operations.
- Provide tools for the CSOs to enable them develop and finalize reports that will subsequently be submitted for Ghana's pending UPR and consequently push the human rights envelop in Ghana.
- Form a working committee responsible for the report and provide an opportunity to develop and deepen collaboration among Ghanaian CSOs through a formidable coalition.

Ghana's minister designate for Gender, Children, and Social Protection gave the keynote address at the opening ceremony. There were also remarks from the UN Country Representative, Commission on Human Rights and Administrative Justice, and Commonwealth Human Rights Initiative, among others. The Danish Embassy in Ghana sponsored the workshop.

Two key outcomes of the workshop were the submission of 10 reports by indigenous CSOs in Ghana, a landmark achievement, and an understanding that the UPR is a process and not an event - a meeting between diplomacy and human rights for a five year journey, which requires continuous engagement and monitoring to hold government accountable and improve human rights in Ghana.

### **THE UNIVERSAL PERIODIC REVIEW (UPR) – A PROCESS NOT AN EVENT-LESSONS**

The 1992 Constitution of Ghana enshrines and upholds the human rights of its people. It guarantees access to justice, protects human rights, ensures the autonomy of the media and permits its citizens to contribute to the development of the nation. At the last UPR cycle in 2012, Ghana accepted more than 120 Recommendations and made some progress in their implementation. The present UPR cycle thus presents an opportunity for Ghanaian Civil Society Organisations to hold the Government accountable for both their successes and failures on the human rights front in the international sphere dating from the second UPR cycle in 2012 to the present one in 2017.

This report covers a pre-UPR submission workshop organised in order to acquaint Ghanaian Civil Society Organisations (CSOs) with the UPR process to enable us draft our reports on the various thematic areas covered below. This report of the workshop organised by the Ghana Human Rights NGOs Forum (POS Foundation-Secretariat), KASA Initiative and UPR-Info Africa Office, Kenya on 21<sup>st</sup> and 22<sup>nd</sup> March, 2017 was attended by more than 70 civil society organizations in Accra, and validated by same on 28<sup>th</sup> March, 2017. The activities, lessons learned and the way forward are subsequently discussed.

After the two-day workshop held on the 21<sup>st</sup> and 22<sup>nd</sup> of March 2017, a working committee was formed to consolidate the research work of the various CSOs and draft reports. Although the original purpose of the workshop was to draft a joint report by all the CSOs present, it was found to be expedient to prepare a final figure of ten reports. The working committee was made up of 12 senior members of the CSOs present.

The working committee met from (Friday) 24<sup>th</sup> to (Monday) 27<sup>th</sup> March 2017 in order to be ready for the validation workshop slated for 28<sup>th</sup> March 2017. Even after the validation workshop, it was necessary for the working committee to stay on for further deliberations and editing until about 22:30 pm. The committee then departed for some much needed rest and met the entire following day for last minute edits and onward transmission to the various groups for submission.

The Technical Guidelines for the UPR 3<sup>rd</sup> Cycle were highly instructive especially with respect to the fact that individual written submissions were not exceed to 2815 words and joint submissions were limited to 5630 words.

Another point of major importance was the decision to include the Natural/Extractive Resources Sector represented by the KASA Platform to state their case as this was the first time that sector had been included in an international human rights report of this character.

## **Classification into Thematic Areas on 10 various Submissions**

The above themes and recommendations were then classified into the following areas, with the inclusion for the first time of the Natural/ Extractive Resources Sector Rights.

1. Right to Health
2. Corruption and CHRAJ
3. Access to Justice and Right to Life
4. Disability Rights
5. Women and Children's Rights
6. Natural /Extractive Resources Sector Rights
7. Freedom of Expression and Right to Information
8. Lesbian, Gay, Bisexual, Transsexual and Intersex (LGBTI) Rights
9. Ghana's obligations under international law
10. Right to work

## **1. RIGHT TO HEALTH**

Mind Freedom Ghana/Concern Health Education/ Gender Violence Survivors Support Network/ Network of Women in Growth Ghana/ Amnesty International/ Community and Family Aid Foundation/ Women in the Lord's Vineyard/ Grace to Grace Foundation/ Society and Youth Foundation/ Relive Ghana/ The Light Foundation Ghana (TLF)/ One Love Initiative Foundation/ Community Outreach Alliance/ Patient Friend Foundation (PFF)/ Community Youth Development Foundation (CYDEF)/ POS Foundation/ KASA Initiative – JOINT UPR SUBMISSION – 2017

(Under the Ghana Human Rights NGOs Forum)

Joint Stakeholders' Report

United Nations

Third Universal Periodic Review Ghana

### **UPR Submission, Ghana, March 2017**

#### ***Introduction and Methodology***

1. This report by the above list of civil society organizations focuses on the right to health in Ghana. The submission focuses on mental health, reproductive health, maternal health, and HIV/AIDS. The information presented in this submission is based on interviews conducted by a committee of working groups in health who are members of the Ghana Human Rights NGO Forum. The information was further discussed at a pre-UPR submission workshop on 21<sup>st</sup> and 22<sup>nd</sup> March, 2017 which was attended by more than 70 civil society organizations in Accra, and validated by same on 28<sup>th</sup> March, 2017.
2. The submission is prepared in line with Information and Guidelines for Relevant Stakeholders on the Universal Periodic Review Mechanism [as of 2 August 2016]. It covers the methodology for the preparation of the submission and measures undertaken by Ghana to preserve and implement the right to health which has implications for human rights. The human right to health means that everyone has the right to the highest attainable standard of physical and mental health, which includes access to all medical services, sanitation, adequate food, decent housing, healthy working conditions, and a clean environment. The information was further discussed at a pre-UPR submission workshop organised by Ghana Human Rights NGOs Forum (POS Foundation-Secretariat), KASA Initiative and UPR-Info Africa Office, Kenya on 21<sup>st</sup> and 22<sup>nd</sup> March, 2017 which was attended by more than 70 civil society organizations in Accra, and validated by same on 28th March, 2017. The submission subsequently highlights specific developments and follow-up measures by Ghana in relation to the summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution (16/21A/HRC/WG.6/14/GHA/3).
3. Ghana is a state party to several instruments on the Human Right to Health, which places an obligation on Ghana to promote and respect these obligations. Some of these instruments include the Convention on the Elimination of all forms of Discrimination against

Women (CEDAW), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention against Torture (CAT), the African Charter on Human and Peoples' Rights (ACHPR), the Protocol on the Rights of Women in Africa (Maputo Protocol), Convention on the Rights of the Child, the Universal Declaration of Human Rights, and the Convention on the Rights of Persons with Disabilities.

4. Ghana's domestic legal foundation is provided by the 1992 Constitution. Chapter 5 of the Constitution promotes and ensures the protection of the human rights of the citizenry.

➤ ***Mental Health***

5. In the UPR report 2012, Recommendation 125.67, it was recommended that Ghana "continue[s] efforts to improve the mental health sector and combat maternal mortality". In 2012, Ghana enacted the Mental Health Act 2012 (Act 846), which was supposed to inter alia, provide for monitoring activities in prayer camps, ensure sustained statutory funding for mental health care nationally, strengthen the rights of persons with mental disorders and the establishment of an individual complaint system for persons with mental disabilities to review and challenge prolonged detention before a judge. However, none of these improvements have been effected due in large part to the non-passage of a Legislative Instrument by Parliament, which is also attributed to a delay by the Government to submit the draft to Parliament.
6. Obligation: Per the above mentioned international instruments, Ghana is obligated to ensure that the right to health of persons in Ghana is respected, protected and respected.

7. ***Recommendations***

8. The State Party should:

I. ***Ensure that Parliament passes the Legislative Instrument to the Mental Health Act to foster the regulation of the activities of prayer camp operators and other faith based healers to effectively protect the rights of persons to health.***

➤ **Human Rights Abuses of Persons with Mental Disorders in Prayer Camps**

9. In the UPR 2012 report, it was recommended in 125.90 that Ghana "Roll[s] out the necessary measures for the oversight of activities of prayer camps in conformity with CRPD". Although Ghana has since been taking steps to address this issue, challenges remain as mentally ill persons continue to be physically abused in some of the hundreds of prayer camps that are located mainly in the southern regions of Ghana. While some maintain that the abusive treatment practices in prayer camps are justified by religious beliefs, adding that mental illness is rooted in one's spiritual demons or turmoil and can only be treated by spiritual leaders and practices rather than that of medicine and doctors, the UN Special Rapporteur on Torture said that culture and tradition could not be invoked to justify

harmful practices to individuals<sup>1</sup>. The prayer camps currently operate under little to no State regulation, although some level of oversight exists through the office of the Ghana Pentecostal and Charismatic Council, a non-governmental “umbrella body for 122 churches and evangelical associations in the country.”<sup>2</sup>

10. Some prayer camps are particularly notorious for inhumane practices and applying force restraints on patients. For instance, although the Council prohibits the chaining and fasting of any patient at the camps; however, such acts remain in several prayer camps. This group found during a visit to the “Edumfa” Prayer Camp in the Central Region of Ghana in March, 2017, that the camp, which has 16 concrete cells, had about 10 individuals chained to the floor in shackles. Two of these individuals were children whom, our team observed, likely suffered from skin diseases that required immediate treatment and medication. 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 the restraints were used on individuals for months. Apart from what our team found, there have been several media reports about these abuses in several prayer camps. In one publication, an 11-year old girl was reported to have been chained to a tree for days, with cuts on her legs, and malnourished at the Jesus Divine Temple<sup>3</sup> and with cuts on her legs.
11. Obligations: Per the above mentioned international instruments, including the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities, Ghana is obligated to ensure that the right to health of persons in Ghana is respected, protected and respected.

## ***12. Recommendations***

13. The State Party should:

- I. ***Ensure that Parliament passes the Legislative Instrument to the Mental Health Act to foster the regulation of the activities of prayer camp operators and other faith based healers to effectively protect the rights of persons to health.***

### **➤ Psychiatric Facilities**

14. In the UPR 2012 report, it was recommended in 125.45 that Ghana “Intensifies her efforts against harmful traditional practices and in favour of living conditions in prisons and psychiatric hospitals”. It was further recommended in 125.90 that Ghana “Rolls out the necessary measures for the oversight of activities of psychiatric hospitals and prayer camps in conformity with CRPD”.

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<sup>1</sup> [www.ohchr.org/EN/HRBodies/HRC/RegularSessions/.../A-HRC-25-60-Add-1\\_en.do](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/.../A-HRC-25-60-Add-1_en.do)

<sup>2</sup> <https://www.hrw.org/report/2012/10/02/death-sentence/abuses-against-persons-mental-disabilities-ghana>

<sup>3</sup> See <http://gbmnews.com/wp/archives/7049>. Part of the report said “An 11-year-old girl sits beneath a tree on a bed of bamboo. She cannot move because her ankles are chained to the tree, leaving cuts on her legs. Malnourished and unwashed, she pleads with passers-by for money to buy water and food. The girl has lived at Jesus Divine Temple Prayer Camp in Nyankumasi, a town in Ghana’s Central region, for nearly a year. Her mother, Ama, says she brought her daughter there so that the camp’s prophet could heal her from a mental condition. Some people have attested to the fact that the prophet can cure these illnesses,” says Ama, referring to the camp’s director. Ama does not know what type of mental disability her daughter has. She declined to give her surname or her daughter’s name to avoid stigma attached to mental disability in Ghana.

15. Due to inadequate funding by Government to procure the basic medications and logistics such as gloves, employ adequate number of nurses, among other things, the Accra Psychiatric Hospital, in October 2016, embarked on a sit down strike for about two weeks.<sup>4</sup> This sad situation resulted in some of the patients then on admission to be discharged although their conditions had not improved. No new cases were accepted at the facility, thereby depriving affected citizens their right to health. Poor working conditions for medical staff, inadequate logistics and facilities, including insufficient running water, electricity, among others are common in the major psychiatric hospitals.

16. Obligations: Per the above mentioned international instruments, including the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities, Ghana is obligated to ensure that the right to health of persons in Ghana is respected, protected and respected.

### **17. Recommendations**

18. The State Party should:

- I. Government must provide the statutory funding and resources to the Mental Health Authority to perform its work as mandated under the Mental Health Act.**
- II. Ensure that Parliament passes the Legislative Instrument to the Mental Health Act to foster the regulation of the activities of prayer camp operators and other faith based healers to effectively protect the rights of persons to health.**

### **➤ Female Genital Mutilation (FGM) and Reproductive Health**

19. Referenced to Recommendations 125.34 and 125.36 UPR 2012, it was recommended to Ghana to “Continue to fight against female genital mutilation” and “Step up efforts to fight female genital mutilation”. According to UNICEF, Ghana has one of the lowest rates of female genital mutilation in Africa (4%), and most (93%) of Ghanaian girls and women are not in favor of the practice.<sup>5</sup> Since FGM was banned in 1994, several perpetrators have been successfully prosecuted.<sup>6</sup> In 2007, Parliament further strengthened the law against FGM by increasing the maximum penalty from 5 years to 10 years of imprisonment and extending the range of persons who can be prosecuted for involvement in an act of FGM.

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<sup>4</sup> <http://www.myjoyonline.com/news/2016/october-31st/accra-psychiatric-nurses-being-indefinite-strike-over-dangerous-working-environment.php>

<sup>5</sup> [https://www.unicef.org/media/files/FGCM\\_Brochure\\_Hi\\_res.pdf](https://www.unicef.org/media/files/FGCM_Brochure_Hi_res.pdf)

<sup>6</sup> <https://www.opendemocracy.net/5050/yakin-erturk/women-at-war-in-country-in-peace-ghana>



20. Officials at all levels of government, including the President, have also publicly condemned FGM as an inhumane act. However, pockets remain in some rural hard to reach communities of Ghana where innocent female children undergo this inhumane practices, efforts need to be strengthened to completely eradicate FGM in the country. This group found that pockets of the FGM practice are mainly found in the Upper West, Upper East and the Northern Volta Regions of Ghana.

21. Obligations: Per the above mentioned international instruments, including the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention against Torture (CAT), the African Charter on Human and Peoples' Rights (ACHPR), and the Protocol on the Rights of Women in Africa (Maputo Protocol), Ghana is obligated to ensure that the right to health of persons in Ghana is respected, protected, and respected.

## **22. Recommendation**

23. The State Party should:

*I. Enforce the law of the arrest and detention of all perpetrators of FGM in the pocket areas in Ghana and increase the promotion of child welfare health advocacy campaigns and services to protect and safeguard the reproductive health of females in Ghana.*

### **➤ Maternal Health and Reproductive Health**

24. In the 2012 UPR, it was recommended in 125.67 that Ghana “ Continue[s] efforts to improve the mental health sector and combat maternal mortality”. This recommendation was supported by Ghana. Consequently, with reference to Recommendation 125.61 on birth registration Ghana continues the effort to improve the birth registration figures, having in mind that considerable improvement has already been achieved, as birth registration increased from around 30 per cent in 2000 to over 60 per cent in 2010. Ghana has also launched a new automated birth registration system so as to make registration of new babies quick and easy.<sup>7</sup>

25. Again, in UPR 2012 Recommendation 125.68, Ghana supported the UPR 2012 review to “continue efforts to provide access to health care to all the population under a health insurance system at the national level”.

26. As a component to the Universal Health Coverage and access to health care particularly, pregnant mothers remain a topical health concern to many CSOs in Ghana. More often delivery complications arising out of delayed birth and premature babies lead to death of pregnant mothers.

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<sup>7</sup> [https://www.unicef.org/ghana/media\\_10281.html](https://www.unicef.org/ghana/media_10281.html)

27. The 2014 Ghana Demographic and Health Survey<sup>8</sup> states that “Proper care during pregnancy and delivery is important for the health of both the mother and the baby. This was linked to the then MDG 5 (Millennium Development Goal (MDG) and today the sustainable development goals”. Pre-natal and Post-natal services are the measure of health systems to ensure the development and safety of all pregnant mothers. Many of the decentralized community health centers in Ghana called the “Community Base Health Planning Services” (CHPS)<sup>9</sup> are not completely stocked with the needed logistics and basic primary health care tools. Also the poor cold chain maintenance of the expanded program on immunization, vaccine shortages are some of the impeding problems to Universal Health Coverage. All pregnant mothers however are required to receive pre and post natal care for their most recent live births including receiving tetanus toxoid injections while pregnant. These neglect of rights impede on mothers to safe delivery and sometimes severe complications due to the weak infrastructure challenges at the CHPS and other levels of healthcare delivery in Ghana.
28. Access to maternal health care is still a challenge in Ghana especially in rural communities. This has contributed to the increasing prevalence rate in maternal and infant mortality in Ghana. Another challenge that impedes access to healthcare is the poor referral system which usually results from the small number of functional ambulances. This is also linked to the poor road network which hinders accessibility to a good number of inhabitants to seek health care.<sup>10</sup>
29. Again, the practices of family planning choices are quite often misunderstood by consenting married adults or are neglected. According to the “Ghana’s Demographic and Health Survey 2014 Edition page 16 “Among unmarried sexually active women, 42 percent have an unmet need for family planning and 45 percent are currently using a contraceptive method. The total demand for family planning among unmarried sexually active women is 87 percent, and only 51 percent of the potential demand for family planning is currently being satisfied. If all of the unmarried sexually active women who have an unmet need for family planning were to use contraceptive methods, the percentage would increase from 45 percent to 87 percent”. Planned Parenthood organisations are also mechanisms for ensuring maternal health.
30. There have been efforts to create awareness on adolescent reproductive health rights and sexuality, however there is increasing rate of teenage pregnancies in schools and the communities.
31. Obligations: Ghana remains a signatory to many of the World Health Organisation’s instruments, best practices and protocols. Ghana’s constitution also obligates the right to quality health to safeguard and protect all persons per Chapter 5 of the 1992 Constitution of Ghana.

## **32. Recommendations**

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<sup>8</sup> <http://www.statsghana.gov.gh/docfiles/publications/2014%20GDHS%20%20Report.pdf>

<sup>9</sup> <http://www.ghana.gov.gh/index.php/media-center/features/1022-the-way-forward-for-the-chps-programme>

<sup>10</sup> <https://www.ghanabusinessnews.com/2016/04/23/ghanas-free-maternal-healthcare-policy-not-working-research/>

- I. *Ghana must ensure that all Community-Based Health Planning Services (CHPs) compounds are resourced and functional to address the health emergencies and maternal health concerns and deliveries;*
- II. *Ghana must ensure the full implementation of Family Planning Costed Implementation 2015, a document developed by Ghana Health Service and also ensure that the provision of Family Planning services are covered under the National Health Insurance Scheme (NHIS);*
- III. *Ghana's National Health Insurance Scheme must be financially sustained to be able to provide basic healthcare to mothers, babies and the aged.*
- IV. *Ghana must include Comprehensive Sexual Education (CSE) in schools as complementary handbooks. Health facilities must have well-resourced Adolescent-Friendly Corners by March, 2018, which are financed by internally generated funds.*

➤ **HIV and AIDS including TB Challenges to Reproductive Health Rights in Ghana**

33. *In the 2012 UPR, it was recommended in 125.69 that Ghana “Continue[s] to implement programs and measures to prevent and combat HIV/AIDS”. Also per 2012 UPR 125.70, Ghana “Continue[s] to implement the HIV/AIDS prevention, care and treatment programmes to further reduce the prevalence.” Again the 2012 UPR 125.73 indicated that Ghana “Avails itself of additional funds for HIV/AIDS programmes, thereby encouraging the international community to match the funds in the fight against the HIV/AIDS epidemic.”*

34. The prevalence of HIV has drastically reduced in Ghana<sup>11</sup> however incidence levels among Men having sex with Men (MSM) and female sex workers are on the rise.<sup>12</sup>

35. Though the treatment of Tuberculosis (TB) in Ghana is free<sup>13</sup>, many Ghanaians are unaware of this. The global fund however needs to collectively work with government and CSOs to reduce the prevalence levels of HIV among MSMs and Female commercial sex workers. Access to Antiretroviral and PMTC are critical concerns of the Ghanaian community in the area of HIV.<sup>14</sup> Prevalence of TB in communities of Ghana equally requires greater attention from all stakeholders. Currently, very few CSOs are engaged in TB/HIV campaigns and a lot more is required for this to be improved.

36. Knowledge levels among younger persons as compared to adults are disproportionately low. Adult population seems to have more protection understanding of HIV knowledge more than the younger population.<sup>15</sup>

<sup>11</sup> <http://www.ghananewsagency.org/health/ghana-s-hiv-aids-prevalence-rate-declines--89493>

<sup>12</sup> <http://ccmghana.net/index.php/hiv-aids>

<sup>13</sup> <http://www.myjoyonline.com/news/2017/March-24th/ghana-records-increasing-multi-resistant-tuberculosis-cases.php>

<sup>14</sup> <http://thebftonline.com/world/africa/16320/children-lagging-behind-in-access-to-hiv-and-aids-services-unicef.html>

<sup>15</sup> <http://www.statsghana.gov.gh/docfiles/publications/2014%20GDHS%20%20Report.pdf>

37. Obligations: The Global Fund to support HIV/AIDS, TB and Malaria are international development funding portfolios earmarked for the treatment of TB AND HIV/AIDS. Ghana has remained a beneficiary for the last decade, however the Government of Ghana under the president must also dedicate itself to eradicate HIV/AIDS and TB among its citizens.

**38. Recommendations:**

- I. *Ghana must ensure that HIV and TB are collectively integrated in the fight as the two are co-infections ( an HIV positive person is highly a TB positive person also). Government must ensure readily available anti -retroviral drugs and stock pile of all TB and HIV treatment systems available at all hospitals and clinics in Ghana , in order to regulate shortages and other redirection of drugs meant for PLWHIV AND TB clients a strong system must be in place to control medicine theft and high pricing of stocks.*

## 2. CORRUPTION AND COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE -CHRAJ



*POS Foundation/ [posfoundation.org](http://posfoundation.org)/ [posjonathan@gmail.com](mailto:posjonathan@gmail.com)*



*KASA Initiative/[kasaghana.org](http://kasaghana.org)/[kasaghana@gmail.com](mailto:kasaghana@gmail.com)*



*African Centre for International Law and Accountability/ [www.acila.org](http://www.acila.org)/[wnyarko@acilla.com](mailto:wnyarko@acilla.com)*

POS Foundation/KASA Initiative/Africa Centre for International Law and Accountability (ACILA) – JOINT UPR SUBMISSION – 2017

(Under the Ghana Human Rights NGOs Forum)  
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## ***INTRODUCTION AND METHODOLOGY***

39. This report considers the progress Ghana has made on the issues of Corruption and the Commission on Human Rights and Administrative Justice (CHRAJ).
40. The submission is prepared in line with Information and Guidelines for Relevant Stakeholders on the Universal Periodic Review Mechanism [as of 2 August 2016]. It covers the methodology for the preparation of the submission and measures undertaken by Ghana to entrench democracy, which has implications for human rights, constitutionalism, rule of law and the fight against corruption in the country. The information was further discussed at a pre-UPR submission workshop organised by Ghana Human Rights NGOs Forum (POS Foundation-Secretariat), KASA Initiative and UPR-Info Africa Office, Kenya on 21<sup>st</sup> and 22<sup>nd</sup> March, 2017 which was attended by more than 70 civil society organizations in Accra, and validated by same on 28th March, 2017. The submission subsequently highlights specific developments and follow-up measures by Ghana in relation to the summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution (16/21A/HRC/WG.6/14/GHA/3).
41. Ghana has ratified the International Covenant on Civil and Political Rights (ICCPR), the Second Optional Protocol to the International Covenant on Civil and Political Rights, the UN Convention against Corruption (UNCAC), the UN Convention against Transnational Organised Crimes, The African Union Convention on Preventing and Combating Corruption, The UN Declaration against Corruption and Bribery in International Commercial Transactions, The International Code of Conduct for Public officials, The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and FATF 40+9 Recommendations. Additionally, Ghana is a member of the Inter-Governmental Action Group against Money Laundering in West Africa, the Financial Action Task Force and the Open Government Partnership (OGP).
42. Ghana's domestic legal foundation is provided by the 1992 Constitution. Chapter 5 of the Constitution promotes and ensures the protection of the human rights of the citizenry. Subsequent Acts and legislation derived from the Constitution have been enacted by Parliament of Ghana under the 4<sup>th</sup> Republic, which include, but are not limited to, the establishment of the Commission of Human Rights and Administrative Justice (CHRAJ, Act 456) and The National Anti-Corruption Action Plan (NACAP) in 2014.

### **Corruption:**

43. Certain comments on the state of corruption were made during the interactive dialogue session of the 2012 UPR Process; 38 (Egypt), 53 (Malaysia), 56 (Morocco), and 102 (Turkey).

44. Corruption continues to be a drawback to the fight against poverty. According to the Ghana Integrity Initiative (GII), the local chapter of the Transparency International (TI), corruption is one of the many reasons Ghana was unable to achieve some of the targets of the Millennium Development Goals (MDGs)<sup>16</sup>.
45. According to the 2016 edition of the GII's Corruption Perception Index (CPI), Ghana ranked 70 out of 176 countries included in the years' index, with a score of 43 points out of 100. The GII report noted that Ghana's score of 43 is a likely reflection of the many exposés of public sector corruption in the last few years including the police recruitment scam<sup>17</sup>, Ghana Youth Employment and Entrepreneurial Development Authority (GYEEDA) scandal<sup>18</sup>, Savannah Accelerated Development Authority (SADA) scandal<sup>19</sup>, GHC 144 million (USD 33,181,310) GRA/Subah Scandal<sup>20</sup>, the infamous Woyome's GHC 51 million (USD 11,751,714) judgment debt saga<sup>21</sup> and the Smarttys' bus rebranding deal<sup>22</sup>. According to GII, this is likely compounded by government perceived inability to fully resolve high profile corruption cases<sup>23</sup>.
46. In the case of GYEEDA for example, the GYEEDA was established by the government of Ghana as a means of reducing the mass rate of youth unemployment confronting the nation. In the 4-year period, spanning 2009 to 2012, GYEEDA received GHC 949,661,017 (USD 218,826,363) from five unauthorized sources (District Assembly Common Fund, Ghana Education Trust Fund (GETFUND), The National Health Insurance Scheme) NHIS, Ministry of Finance and Economic Planning and Communication Service Tax) to fund its unspecified and ill-defined projects/activities (sometimes called modules). Not only was the allocation of the sum of GHC 949,661,017 (USD 218,826,363) from 2008-2012 not accounted for, by way of audited (or even unaudited) financial statements, GYEEDA also owed an additional sum of GH¢259,000,000 (USD 59,680,272) as at June 2013. Thus, the total spending by GYEEDA within the 4-year period exceeded GH¢1,000,000,000 (USD 230,425,762) of monies allocated to it.
47. According to the US Ambassador to Ghana, Ghana has lost many business opportunities due to acts of bribery and corruption. "Corruption inhibits free enterprise and slows economic growth, and is compromising the quality of much needed services that safeguards health, creates opportunity and save lives".<sup>24</sup> Reports indicate that a typical agricultural exporter in Ghana faces more than forty check points between Accra and the border with Burkina Faso. These check points add up to 100 dollars or more in what is known as 'facilitation fees'<sup>25</sup>.

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<sup>16</sup> <https://www.tighana.org/media/upcoming-events/annual-anti-corruption-forum/#sthash.2Wam50QB.dpuf>

<sup>17</sup> <http://www.myjoyonline.com/news/2016/March-21st/police-recruitment-scam-finding-cop-patrick-timbilla-culpable-may-be-difficult-police.php>

<sup>18</sup> <http://citifmonline.com/2016/03/16/gyeeda-scandal-rlg-asongtaba-refund-looted-cash-with-interest/>

<sup>19</sup> <https://yen.com.gh/57962-scandals-that-have-rocked-mahama-administration.html>

<sup>20</sup> <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/GHc144m-GRA-Subah-Scandal-Where-the-monies-went-289928>

<sup>21</sup> <http://www.myjoyonline.com/news/2015/March-12th/live-update-woyome-verdict.php>

<sup>22</sup> <http://www.myjoyonline.com/news/2016/May-9th/explosive-expos-on-smarttys-bus-branding-deal-by-occupyghana.php>

<sup>23</sup> <https://www.tighana.org/assets/Uploads/DOC-20170125-WA0000.pdf>

<sup>24</sup> <https://www.newsghana.com.gh/gii-survey-reveals-the-true-picture-of-corruption-at-dvla-gra-passport-office/>

<sup>25</sup> <http://citifmonline.com/2017/03/08/corruption-at-dvla-gra-passport-office-very-real-gii-survey>

48. Obligations: Ghana is obliged to fulfil its obligations under the various international and regional conventions/treaties relating to corruption, implement the NACAP, the 2016 UK Anti- Corruption summit recommendations as well as commitments under the Open Government Partnership National Action plan.

**11. Recommendations:**

12. The State Party should:

- I. Strengthen Anti-Corruption institutions such as CHRAJ, EOCO etc. to effectively carry out their mandate;*
- II. Demonstrate political will and take the necessary steps to sanction corrupt officials both past and present;*
- III. Close the legislation gaps, for example there is an urgent need to pass outstanding legislation such as the Right to Information Bill and the Code of Conduct for public officials;*
- IV. Adequately incentivise whistle blowers to enable them to expose corruption without fear of victimisation;*
- V. Ensure that assets disclosed by public officers are made public to enable verification and monitoring.*

Commission on Human Rights and Administrative Justice -CHRAJ:

*13. At the UPR Process in 2012, Ghana received and accepted the following Recommendations 125.7 – 125.9<sup>26</sup> to:*

- Strengthen the Commission on Human Rights and Administrative Justice (CHRAJ) through financial and human resources;*
- Strengthen CHRAJ for its compliance with the Paris Principles;*
- Effectuate the expansion of the mandate of the CHRAJ.*

14. The Commission on Human Rights and Administrative Justice (CHRAJ) serves as the Anti-Corruption Agency in Ghana. Its anti-corruption powers are derived from Articles 218(a) & (e), 284-288 of the 1992 Constitution of Ghana and Section 7(1) (a), (e) & (f) of Human Rights and Administrative Justice Act 1993 (Act 456). The Commission is mandated to investigate abuse of power and all instances of alleged and suspected corruption and the misappropriation of public monies by officials. Some of the challenges confronting CHRAJ include the lack of demonstrable political will for the enforcement of its decisions, the lack of statutory power to verify the accuracy of assets declared by public officials, lack of financial autonomy and inadequate financial resources (CHRAJ cannot obtain funds without recourse to the Ministry of Finance). Following recommendations by the Constitution Review Commission (CRC) in 2011, the Government of Ghana in its white paper accepted the proposal to strengthen the prosecutorial powers of CHRAJ; however, this recommendation has not been satisfactorily fulfilled.

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<sup>26</sup> A/HRC/22/6 - Para. 125



15. Obligations: Ghana is obliged to implement the UN UPR 2012 recommendations, the international instruments to which it is a State Party, and the recommendations of the government white paper.

16. *Recommendations:*

17. **The State Party should:**

- I. Strengthen CHRAJ by granting it the financial autonomy needed to effectively deal with corruption;*
- II. Take steps to implement the government white paper recommendations on CHRAJ;*
- III. Ensure that assets disclosed by public officers are made public to enable verification and monitoring.*

### 3. *RIGHT TO LIFE AND ACCESS TO JUSTICE*



*POS Foundation/ posfoundation.org/ posjonathan@gmail.com*

*Amnesty International/ amnestyghana.org/ frank@amnestyghana.org*



*Legal Resources Centre/ lrcghana.org/ dnabila@lrcghana.org*



*Commonwealth Human Rights Initiative Ghana/ www.humanrightsinitiative.org/ mina@humanrightsinitiative.org*



*Solace Brothers Foundation/ m.facebook.com/solacefoundation/ solacebfoundation@gmail.com*



*African Centre for International Law and Accountability/ www.acila.org/ wnyarko@acilla.com*

GHANA

POS Foundation/Amnesty International/Legal Resources Centre/Commonwealth Human Rights Initiative/Solace Brothers/Africa Centre for International Law and Accountability (ACILA) – JOINT UPR SUBMISSION – 2017

(Under the Ghana Human Rights NGOs Forum)

Joint Stakeholders' Report

United Nations

Third Universal Periodic Review Ghana

## ***INTRODUCTION AND METHODOLOGY***

49. This report considers the Right to Life and Access to Justice (excessive use of force by the Police, prison overcrowding, juvenile justice, unlawful detention and inadequate legal aid).
50. The information presented in this submission is based on interviews conducted by the above mentioned network of CSOs with officials of Ghana's Criminal Justice Delivery Systems, including officials at the court system and prison service in the regions of Ghana as well as with lawyers, justice advocates, the media, prisoners, convicts and civil society groups living and working in the communities. The information was further discussed at a pre-UPR submission workshop organised by Ghana Human Rights NGOs Forum (POS Foundation-Secretariat), KASA Initiative and UPR-Info Africa Office, Kenya on 21<sup>st</sup> and 22<sup>nd</sup> March, 2017 which was attended by more than 70 civil society organizations in Accra, and validated by same on 28th March, 2017. The submission subsequently highlights specific developments and follow-up measures by Ghana in relation to the summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution (16/21A/HRC/WG.6/14/GHA/3).
51. 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)
52. Ghana's domestic legal foundation is provided by the 1992 Constitution. Chapter 5 of the Constitution promotes and ensures the protection of the human rights of the citizenry. Subsequent Acts and legislation derived from the Constitution have been enacted by Parliament of Ghana under the 4<sup>th</sup> Republic, which include, but are not limited to, the Children's Act and the Juvenile Justice Act.

### **➤ *RIGHT TO LIFE***

#### ***Death Penalty***

53. Ghana is an abolitionist of the death penalty in practice<sup>27</sup> and as recommended in 2012 during the UPR Process from Recommendations 126.1 to 126.15<sup>28</sup>, it has not executed anyone since 1993<sup>29</sup>. The number of death-eligible crimes has also

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<sup>27</sup> Article 13 of the 1992 Constitution of Ghana 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:

decreased in recent years. For example, robbery offences are no longer punishable by death.<sup>30</sup> In 2014, President John Mahama commuted 21 death sentences to life imprisonment in commemoration of Ghana's 54th Republic Day Anniversary. However, courts continue to pronounce death sentences. By August 2015, 129 people were under sentence of death<sup>31</sup>. The Constitutional Review Commission's (CRC) December 2011 report recommends the replacement of the death penalty with life imprisonment without parole, which is a stiffer punishment than the current practice. In 2014, Government rejected the recommendation of the Constitutional Review Implementation Committee to abolish death penalty, or to adopt a formal interim moratorium on executions, or to ratify the ICCPR-OP2. Government agreed, however to put to a referendum all the recommendations of the CRC requiring amendment of the Constitution, including death penalty abolition, which is an entrenched provision in the Constitution and requires a referendum. However, although the CRC submitted a draft bill for the required constitutional amendments, the bill was not approved by the Cabinet, Parliament, or Council of State, as required before a referendum could be held.

54. In addition, Ghana abstained from voting on UNGAOR 69/186 (universal abolition of death penalty/moratorium on executions) in 2014. UNHRC concluded that Ghana had violated its obligations under the ICCPR through the mandatory imposition of the death penalty (*Johnson v. Ghana*<sup>32</sup>).
55. In 2015, the proposals made by the Constitutional Review Implementation Committee (CRIC) to abolish the death penalty were delayed<sup>33</sup> due to a court case involving the Constitutional Review Commission. However, although the Supreme Court has now cleared the way for the review process to continue, no further action has been taken.
56. A number of public officials 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>34</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.
57. Obligations: Ghana is obligated to respect its Right to Life obligations under Article 6 of the International Covenant on Civil and Political Rights; Optional Protocol to the International Covenant on Civil and Political Rights, Second Optional Protocol to the

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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.

<sup>28</sup> See Theme: D23 Death penalty from recommendations 126.1 to 126.15 where a number of States called on Ghana to take various actions to put a moratorium on executions, amend its constitution to align with its international obligations aimed at abolishing the death, to which Ghana noted.

<sup>29</sup> <https://www.amnesty.org/en/countries/africa/ghana/report-ghana/>

<sup>30</sup> <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Ghana>

<sup>31</sup> Ibid

<sup>32</sup> <https://www.deathpenaltyproject.org/news/1911/dexter-johnson-v-the-republic-of-ghana/>

<sup>33</sup> <https://www.amnesty.org/en/countries/africa/ghana/report-ghana/>

<sup>34</sup> <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Ghana>

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.

## ***10. Recommendations***

### 11. The State Party

- I. Should continue to abide by the moratorium on executions of persons convicted for murder.
- II. Commutes all death sentences to life imprisonment by 1st July, 2018 and thereafter commute all death sentences to life imprisonment.
- III. Repeals the mandatory death sentence provision in Ghana's constitution by prioritizing the holding of the referendum by December 2018 and thereafter repealing the mandatory sentence of death by December 2019 upon an affirmation by voters in the referendum.

### ➤ **ACCESS TO JUSTICE RECOMMENDATIONS – 2<sup>ND</sup> CYCLE**

12. As per Recommendation 123.21 of the 2012 UPR Process, Ghana was expected to report back to the Working Group of the UPR on the subject of access to justice at the next review of Ghana for the UPR. In this vein, this submission considers excessive force, prison overcrowding, juvenile justice, unlawful detention and inadequate legal aid.

#### ***A. Excessive Use of Force by the Police***

13. Ghana had four Recommendations pertaining to excessive use of force by the police; 123.22, 124.3, 124.4, 125.5.

14. 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. 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.

15. 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 establish an independent police investigation mechanism. However, no action has been taken to deliver on this commitment. The investigations on occasional unprofessional killings and injuries inflicted by the police during their operations often lack transparency and fairness. An example of the use of excessive force by the police occurred in 2015 when "Let my Vote Count Alliance", a non-state actor, went on a peaceful demonstration to put pressure on the Electoral Commission of Ghana to create a new voter's register turned violent after some of the protesters deviated from the planned route and the police responded with tear gas, sticks and water cannons. The Ghana Police Service has categorically stated that its men followed due process in dispersing the "Let my Vote Count Alliance" protestors who were bent on storming the Electoral Commission of Ghana, contrary to a restraining court order. The police used tear gas and water cannons to stop the protestors resulting in several injuries.

16. The director in charge of police operations, COP John Kudalor, essentially patted his men on the back; “I don’t feel sorry, the boys did well,” COP Kudalor told Ultimate FM’s Breakfast Show host Prince Minkah. He stressed: “That’s what they were supposed to do...once there is life and property, we must maintain law and order.”

17. Obligations: Ghana is a state party to the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture (CAT), Optional Protocol of the Convention against Torture (OP-CAT), the African Charter on Human and Peoples’ Rights (ACHPR).

### 18. *Recommendations*

19. The State Party

- I. *Establishes an Independent Police Complaint Commission to deal with police brutality cases and provide an effective remedy to victims of the police brutality.*
- II.
- III. Educates the police on the human rights of detainees and accelerates necessary measures for training police personnel on the principles of human rights and the minimum treatment of prisoners and detainees according to a clear curriculum.
- IV. Redoubles efforts to combat police brutality through administrative and judicial sanctions against perpetrators, provides ongoing training and education for serving police officers, and includes relevant human rights education materials in the training curriculum of cadets.
- V.
- VI. Clarifies that the forty-eight hours (48) period for detention without charge includes 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.
- VII. Reviews and amends the Police Service Act, 1970 (Act 350).
- VIII.
- IX. Establishes an independent body (with participation from outside the police force) with a mandate to investigate issues of police brutality because the so-called independent body (Police Intelligence and Professional Standards (PIPS)) does not actually run impartial investigations.
- X.
- XI. Designates a national mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.

### *B. Overcrowding in Prisons*

20. As per Recommendations 123.22, 124.5, 124.6, 125.17, 125.18, 125.45 Ghana was expected to adopt and apply legislation that effectively improves detention conditions in prison centres and ensure the respect of judicial guarantees offered to detainees. To date, nothing has changed.

21. The Ghana Prison Service has revealed that conditions at the country's prisons have seen little improvement, despite countless appeals<sup>35</sup>. The Special Rapporteur has indicated that the human rights conditions in Ghana's prisons do not meet international standards.<sup>36</sup> 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. The deplorable state of conditions in Ghanaian prisons have been captured by the two documentaries ("Locked and Forgotten"<sup>37</sup> and "Left to Rot"<sup>38</sup>) produced by Seth Kwame Boateng of JoyFM in March 2015 and June 2016.

22. The Judicial service in collaboration with DANIDA, the Attorney Justice and Ministry of Justice, the Police and Prisons Service and the POS Foundation have attempted to alleviate overcrowding through the Justice for All programme,<sup>39</sup> but much remains to be done. "In the Nsawam medium security prison (men's section), which has a 750 to 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>40</sup>

23. Similarly, the chairman of the Prison Service Council, Dr. Stephen Wengam, explained in 2015 that there are plans for what he termed the 'Efiase project'. This is an initiative by the Prisons Service Council aimed at creating awareness of the deplorable prison conditions and to raise funds from corporate Ghana, institutions and individuals to improve the conditions of prisons and transform the prisons into practicable reformation centres.<sup>41</sup> With respect to the finances of the Project, Dr. Wengam indicated that the service received GH¢252,264.70 (57,980.52 USD) in cash and spent GH¢115,088.23 (26,451.88 USD) on activities, leaving a balance of GH¢137,176.47 (31,528.64 USD) in its account. According to the report, the service would need GH¢25 million (5,746,000.00 USD) annually to run projects earmarked for the country's penal system. As at July 2016 the Efiase Project has launched a shortcode, 9050, as part of fundraising measures.<sup>42</sup>

24. Obligations: Ghana is a state party to the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture (CAT), Optional Protocol of the Convention against Torture (OP-CAT), the African Charter on Human and Peoples' Rights (ACHPR).

## 25. *Recommendations*

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<sup>35</sup><http://ijmhs.biomedcentral.com/articles/10.1186/s13033-015-0011-0>

<sup>36</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>37</sup> <https://www.youtube.com/watch?v=eyFvSXC2x8I>

<sup>38</sup> [https://www.youtube.com/watch?v=9\\_V11EiwIMY](https://www.youtube.com/watch?v=9_V11EiwIMY)

<sup>39</sup> Justice for All Program Report, 2012, retrieved from POS Foundation Annual Report 2014

<sup>40</sup> Ibid

<sup>41</sup> <http://www.ghanaprison.gov.gh/news19.html>

<sup>42</sup> <http://www.graphic.com.gh/news/general-news/prisons-service-launches-short-code-for-efiase-project.html>

## 26. The State Party

- I. Clarifies that the forty- eight hours (48) period for detention without charge includes weekend arrest, which is often used to abuse the right of citizens upon weekend arrest, where there is no court sitting until the following week.
- II.
- III. Fully implement the use Alternative Dispute Resolution (ADR) as against the Inquistorial Court System and adequately remunerates and provides resources for mediation officers under the Legal Aid Scheme to efficiently execute their duties targeted at vulnerable groups, as well as, adequately funds the legal aid scheme especially to represent vulnerable populations in rural areas.
- IV.
- V. Ensures that the General Legal Council makes the provision of pro bono services for vulnerable populations a mandatory requirement for renewal of legal practice license and to make it a requirement for pupils to represent prisoners pro bono before their certificates as lawyers are issued and or renewed.
- VI.
- VII. Expands the Justice for All Programme (JFAP) to cover convicts who wish to appeal their convictions.
- VIII. Decriminalizes narcotics especially cannabis by amending the NACOB law to make the sentence of possession commensurate with the offence or in the alternative convicts could be sent to rehabilitation centres.
- IX.
- X. Ensures human rights training for prosecutors and investigators as well as other justice sector actors on a regular basis.
- XI. Provides a mechanism to track recidivism of released former remand prisoners.
- XII. Provides alternatives to custodial sentences, including non-custodial sentencing.
- XIII.
- XIV. Establishes more courts in prisons;
- XV. Provides a case management software to be used by stakeholders in the criminal justice system to monitor the movement of cases right from the police station to the court, the attorney-general and the prisons.
- XVI.
- XVII. Adequately resources the legal aid scheme and the attorney-general's department.<sup>43</sup>
- XVIII. Ensures that juvenile courts are made available in at least 40 districts across the country before the next review and subsequently replicated in other districts in the long term.
- XIX.
- XX. Continues efforts to reduce overcrowding in the prison system and detention centres and ensures that the standard minimum rules for the treatment of prisoners are observed, adopts and applies legislation that effectively improves detention conditions in prison centres and ensures the respect of judicial guarantees offered to detainees.

### ***C. Juvenile Justice***

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<sup>43</sup> Joint communique issued by stakeholders – Justice for all programme (JFAP), following discussions held December 14, 2016 at the Accra City Hotel, Accra.



27. As per Recommendations 124.7, 125.59, Ghana was expected to ensure Juvenile Justice, however Ghana is still behind the times.  
28. Although Ghana has a Criminal Procedure Code Act 30 of 1960, which provides for children in conflict with the law to be treated differently from adults, yet the Act has major shortcomings. For instance, part III of the Code, which elucidates a new system of punishment “encourages juveniles to inflate their ages to be treated as adults in the criminal justice system” (Osafo, 2007). This provision encourages age misrepresentation in Ghanaian courts. Ghana’s Commission on Human Rights and Administrative Justice (CHRAJ) reported that many juveniles are perishing in adult prisons in the country due to this unfortunate provision in the Criminal Procedure Code. The POS Foundation has also found this to be true and has reported it in its private Justice for All Programme reports after every court sitting to the Judicial Service of Ghana.

29. Unfortunately, the Children’s Act, 1998<sup>44</sup> and the Juvenile Justice Act 2003<sup>45</sup> which were meant to ratify some of the anomalies in the Criminal Justice Act of 1960 are themselves inadequate as they have gaps that hinder effective administration of juvenile justice in Ghana. For instance, Section 17(4) of the Juvenile Justice Act, 2003 stipulates: “A charge against a juvenile for an offence if committed by an adult would be punishable by death shall be heard by a court of summary jurisdiction other than a juvenile court.” Murder is a first-degree felony. Article 19 of Ghana’s 1992 constitution requires that it be tried by a judge and jury. Thus, the provision of the Act, 2003 contradicts this constitutional requirement. “Can a murder case be tried summarily?” The late Justice OsafoSampong, justice of the Court of Appeal queried.<sup>46</sup>

30. In addition to the outlined inadequacies in the above mentioned Acts, Baerg and Hoffmann (2011) bemoaned the lack of enforcement of these regulations by the courts and the police. 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 inadequately resourced.<sup>47</sup>

31. Obligations: Ghana is a state party to the Convention on the Rights of the Child (CRC), International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention against Torture (CAT), Optional Protocol of the Convention against Torture (OP-CAT), the African Charter on Human and Peoples’ Rights (ACHPR), and the African Charter on the Rights and Welfare of the Child (ACRWC).

### 32. *Recommendations*

#### 33. The State Party

- I. Fully implements the Juvenile Justice Act 2003.
- II. Ensures the separation of juveniles and adults in prison cells, through, inter alia, establishing adequately resourced juvenile detention centres.

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<sup>44</sup> <https://s3.amazonaws.com/ndpc-static/CACHES/PUBLICATIONS/2016/04/16/CHHILDREN+ACT.pdf>

<sup>45</sup> [http://www.africanchildinfo.net/clar/Legislation%20Per%20Country/ghana/ghana\\_juvjustice\\_2003\\_en.pdf](http://www.africanchildinfo.net/clar/Legislation%20Per%20Country/ghana/ghana_juvjustice_2003_en.pdf)

<sup>46</sup> <http://www.jtighana.org/new/links/papers/TREATMENT%20OF%20JUVENILE%20OFFENDERS%20-Justice%20Sampong.pdf>

<sup>47</sup> <https://www.newsghana.com.gh/ghanas-juvenile-reformation-centres-in-broke/>

### III. Adequately resources the Legal Aid Scheme.

#### D. Unlawful detention and Inadequate Legal Aid

34. As per Recommendations 123.19, 124.6, 125.17, 125.58, Ghana was required to ideally eradicate unlawful detention and improve on the availability of legal aid.

35. In October 2015, the UN Special Rapporteur on Torture visited Ghana and, noting widespread violations of the right to counsel – especially in criminal cases, called for the effective implementation of the Legal Aid Scheme.<sup>48</sup>

36. 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 status”.<sup>49</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 serving Ghana’s total population of twenty-four million<sup>50</sup>. The lack of awareness about legal rights, long delays in proceedings, woeful underrepresentation 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 pro bono lawyers, causing the weak and vulnerable to spend long detention in prison and sometimes serve wrongful sentences without legal representation in court.

37. Government has introduced the Justice for All Programme, which seeks to adjudicate remand cases through a special in-prison court setup across the country, as a means to decongest the prisons and remedy the high incidence of wrongful detention.

38. It must be mentioned that one of the root causes of this long pre-trial detention emanates from article 14(4) of the 1992 Constitution of Ghana, which provides 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 in large measure responsible for the excessive periods persons detained on suspicion of having committed a crime in Ghana are held without trial.

39. Moreover, when a person 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 a prisoner is held expires and the prisoner is not released, continued detention is illegal. In most cases, prisoners are not brought before court within the

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<sup>48</sup><http://www.un.org/apps/news/story.asp?NewsID=52196#.Vv5jV8fPySM>

<sup>49</sup>The Legal Aid Scheme Act of Parliament, Act 1997, (Act 542)

<sup>50</sup><http://www.modernghana.com/news/398087/1/govt-urged-to-expand-legal-aid-scheme.html>

stipulated 14-day period for the renewal of the arrest warrant. In addition, in cases where remand prisoners 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.

40. Government can take a cue from the criteria of the Justice for All Programme's Remand Review Task Force, under which murder suspects qualify to benefit from the programme if the prisoners have been on remand for at least two (2) years. And misdemeanours are eligible to benefit from the Justice for All Programme, no matter the period of time served on remand. This is because the Supreme Court of Ghana in 2016 held that henceforth a court has jurisdiction to hear murder, rape, treason, piracy, defilement cases, among others to grant suspects bail.<sup>51</sup>

41. Among all the remand prisoners interviewed by the Justice for All Programme facilitators, about 60% who had their warrants expired complained of police officers not taking them to court, but taking their remand warrants to be renewed or signed for them to be brought back to prison.<sup>52</sup>

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

43. While prisoners do enjoy the right to appeal unfavorable determinations, most are unable to avail themselves of this right due to financial constraints. Some are able to obtain assistance from human rights organizations and other pro-bono advocates like the Human Rights Advocacy Centre (HRAC) to appeal.

44. Obligations: Ghana is a state party to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of all forms of Discrimination against Women, Standard Minimum Rules for the Treatment of Prisoners, the Convention against Torture (CAT), Optional Protocol of the Convention against Torture (OP-CAT), 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).

#### 45. *Recommendations*

46. The State Party should:

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<sup>51</sup> <http://citifmonline.com/2016/05/05/supreme-court-strikes-out-non-bailable-offences-law/>

<sup>52</sup> Justice for All Program Report, 2012" retrieved from POS Foundation Annual Report 2014

- I. Clarifies that the forty- eight hours (48) period for detention without charge includes weekend arrest, which is often used to abuse the right of citizens upon weekend arrest, where there is no court sitting until the following week.
- II.
- III. Fully implement the use Alternative Dispute Resolution (ADR) as against the Inquistorial Court System and adequately remunerates and provides resources for mediation officers under the Legal Aid Scheme to efficiently execute their duties targeted at vulnerable groups, as well as, adequately funds the legal aid scheme especially to represent vulnerable populations in rural areas.
- IV. Ensures that the General Legal Council makes the provision of pro bono services for vulnerable populations a mandatory requirement for renewal of legal practice license and to make it a requirement for pupils to represent prisoners pro bono before their certificates as lawyers are issued and or renewed.
- V.
- VI. Expands the Justice for All Programme (JFAP) to cover convicts who wish to appeal their convictions.
- VII. Decriminalizes narcotics especially cannabis by amending the NACOB law to make the sentence of possession commensurate with the offence or in the alternative convicts could be sent to rehabilitation centres.
- VIII. Ensures human rights training for prosecutors and investigators as well as other justice sector actors on a regular basis.
- IX. Provides a mechanism to track recidivism of released former remand prisoners.
- X. Provides alternatives to custodial sentences, including non-custodial sentencing.
- XI.
- XII. *Establishes more courts in prisons;***
- XIII. Provides a case management software to be used by stakeholders in the criminal justice system to monitor the movement of cases right from the police station to the court, the attorney-general and the prisons.
- XIV. Adequately resources the legal aid scheme and the attorney-general's department.<sup>53</sup>
- XV.
- XVI. Ensures that juvenile courts are made available in at least 40 districts across the country before the next review and subsequently replicated in other districts in the long term.
- XVII.
- XVIII. Continues efforts to reduce overcrowding in the prison system and detention centres and ensures that the standard minimum rules for the treatment of prisoners are observed, adopts and applies legislation that effectively improves detention conditions in prison centres and ensures the respect of judicial guarantees offered to detainees.

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<sup>53</sup> Joint communique issued by stakeholders – Justice for all programme (JFAP), following discussions held December 14, 2016 at the Accra City Hotel, Accra.

#### 4. RIGHTS OF THE DISABLED



Divine Group International Ghana/ [divinegroupinternational@gmail.com](mailto:divinegroupinternational@gmail.com)

UPR Submission, Ghana, March 2017

#### **Introduction**

1. This submission focuses on Divine Group International Foundation (DGI Foundation) and Center for Employment of Persons with Disabilities (CEPD) current work on disability in Ghana with a specific focus on lack of access to public space, the enforcement of disability Act, inaccessible transportation, lack of school enrollment, quality and affordable health, equal employment opportunity.
2. The information presented in this submission is based on interviews conducted by the DGI Foundation and CEPD with over 200 people in Ghana's state-run health sector, including four disability schools in three regions (Upper West, Eastern and Central Region) as well as with health administrators, health advocates, and civil society groups living and working in these communities. The

information was further discussed at a pre-UPR submission workshop on 21<sup>st</sup> and 22<sup>nd</sup> March, 2017 which was attended by more than 70 civil society organizations in Accra, and validated by same on 28<sup>th</sup> March, 2017.

3. Ghana has ratified international instruments including United Nation Convention on the Rights of Persons with Disabilities (UNCPRD), Declaration On the Right of Disabled Persons as well as domestic laws against disability.
4. Ghana's domestic legal foundation is provided by the 1992 Constitution. Chapter 5 of the Constitution promotes and ensures the protection of the human rights of the citizenry.
5. Ghana does not have statistics on persons with disabilities.<sup>54</sup> With the 2011 World Health Organization estimate of 15 percent of every population having some form of disability, however, Ghana out of a population of 28 million has 4.2 million people as persons living with disabilities. This large number of the population cannot be denied their fundamental human rights.
6. Governments over the years have not shown any commitments even though it passed the Persons with Disability Law in 2006, Act 715<sup>55</sup> and the implementation of the Convention on the Rights of Persons with Disabilities. Employment and public buildings are not accessible to persons with disabilities in Ghana.
  - Lack of access to public space
7. Per Recommendation 125.89 in UPR 2012, Ghana was to undertake effective policy measures and develop the necessary infrastructure to address issues concerning the rights of persons with disabilities. To date, Ghana has not taken steps to address this issue as infrastructure in public spaces continue to be built without due regard for the need to develop infrastructure in line with providing access to people with disabilities. Public buildings do not have elevators.
8. Over ten years since the passage of the law, there has not been an enactment of a single legislative Instrument to make the Law operational. The ten-year moratorium given by the law to make physical environments accessible has also elapsed without any monitoring, and people are putting up all kinds of building structures without recourse to the law on persons with disabilities.
9. Obligation:

The government of Ghana is obliged to ensure the implementation of the Act 715 by enacting a Legislative Instrument which will give a full effect to the persons with disability law. The ratification of the UNCPRD in 2012 with its optional protocol, places the responsibility on the government of Ghana to amend the local law to conform to the UNCPRD. The UNCPRD which was enacted by the world assembly in 2006 had considered all other enactments preceding it, including the equalizations of opportunities for persons with disabilities.

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<sup>54</sup> <http://www.gfdgh.org/EmploymentMinistry.pdf>

<sup>55</sup> <http://www.gfdgh.org/DisabilityActMustAmmended.pdf>

## 10. Recommendations

### 11. The State Party must:

#### ***I. Monitor the implementation of the Disability Law to ensure an accessible environment; including accessible transportation, accessible health, education and employment.***

##### ***➤ The enforcement of the Disability Act***

12. Per Recommendation 125.87 Ghana was required to improve its domestic legal framework on the rights of persons with disabilities in line with the provisions of the relevant international convention. To date, Ghana has not taken the needed steps to enact the LI into an Act. Ghana ratified the United Nation Convention on the Rights of Persons with Disabilities (UNCPRD) in 2012, and there after nothing has happened.

13. The Disability Movement, led by Ghana Federation of Disability Organizations, conducted a GAP analysis of UNCPRD and the Ghana PWDs Act 715, and identified a lot of weakness within our Local Law.<sup>56</sup> For example, matters of children with disabilities, women with disabilities, Parents of Children with disabilities, unequal employment opportunities, lack of provisions for affirmative actions, right to information, right to equal recognitions, humanitarian services as well as political participation of persons with disabilities have all not been covered in the Act.

#### 14. Obligation:

The government of Ghana is obliged to ensure the implementation of the Act 715 by enacting a Legislative Instrument which will give a full effect to the persons with disability law.

15. The ratification of the UNCPRD in 2012 with its optional protocol, places the responsibility on the government of Ghana to amend the local law to conform to the UNCPRD. The UNCPRD which was enacted by the world assembly in 2006 had considered all other enactments preceding it, including the equalizations of opportunities for persons with disabilities.

## ***16. Recommendations***

### ***17. The State Party must:***

#### ***I. Amend the Act 715 to conform to the UNCPRD by March 2018***

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<sup>56</sup> <http://www.gfdgh.org/News%20-%20GFD%20Advocates%20Disability%20Law%20Ammendment%20-%202028%20April%202014.pdf>

## 5. WOMEN AND CHILDREN – EQUALITY AND NON-DISCRIMINATION

ORGANISATION	WEBSITE	EMAIL
Women's Initiative for Self-Empowerment	m.facebook.com/pg/Womens Initiative for Self-Empowerment	ajubam@yahoo.com
Legal Resources Centre	Lrcghana.org	dnabila@lrcghana.org
Commonwealth Human Rights Initiative Africa	Humanrightsinitiative.org	mina@humanrights.org
Africa Centre for International Law and Accountability	Acila.org	wnyarko@acilaa.com
POS Foundation	Posfoundation.org	posjonathan@gmail.com
KASA Initiative Ghana	Kasaghana.org	kasaghana@gmail.com
Restoration of Hope Foundation	www.facebook.com/Restoration-of-Hope-Foundation/	restorationofhope1@gmail.com
Amnesty International	Amnesty.org	frank@amnesty.org
IUCN Ghana	Iucn.org	Saadia.Bobtoya@iucn.org
Gender Violence Survivors Support Network Ghana	www.facebook.com/Gender-Violence-Survivor-Support-Network-GVSSN/	James.clayman@yahoo.com
Network of Women in Growth	www.facebook.com/NEWIGGH	Newig2002@yahoo.com

Women's Initiative for Self-Empowerment/ Legal Resources Centre/Commonwealth Human Rights Initiative Africa/Africa Centre for International Law and Accountability/ Restoration of Hope Foundation/ POS Foundation/ KASA Initiative Ghana/ Amnesty International/ IUCN Ghana/ Gender Violence Survivors Support Network Ghana/ Network of Women in Growth– JOINT UPR SUBMISSION – 2017

(Under the Ghana Human Rights NGOs Forum)  
Joint Stakeholders' Report



United Nations Third Universal Periodic Review Ghana  
EQUALITY AND NON-DISCRIMINATION – WOMEN AND CHILDREN  
***EQUALITY AND NON-DISCRIMINATION***

***INTRODUCTION***

1. This report considers the implementation of Ghana's international human rights obligations under Equality and Non-Discrimination with particular reference to the protection of women and children's rights.
2. The information presented in this submission is based on the shared experiences of the above mentioned network of civil society organizations (CSOs) working on women and children's rights in their daily interactions with their constituents within the communities they work as well as their engagements with state collaborating partners, discussed at a pre-UPR submission workshop organized by Ghana Human Rights NGOs Forum (POS Foundation-Secretariat), KASA Initiative and UPR-Info Africa Office, Kenya on March 21 - 22, 2017 in Accra, which was attended by over seventy (70) CSOs nationwide and validated by same on March 28, 2017.
3. The submission highlights specific developments and follow-up measures by Ghana in relation to thematic list recommendations of the 2<sup>nd</sup> cycle – 14<sup>th</sup> session of the UPR of Ghana by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution (16/21A/HRC/WG.6/14/GHA/3).
4. Ghana's domestic legal foundation is provided by the 1992 Constitution, Chapter 5 of which promotes and ensures the protection of the human rights of the citizenry, including women and children. Ghana has put in place a number of legal instruments and is a state party to a number of related regional and international treaties.
5. For the protection of the children's rights, Ghana has ratified the United Nations Convention on the Rights of the Child (UNCRC) domesticating same in the Children's Act, 1998 (Act 560); the African Charter on the Rights and Welfare of the Child (ACRWC); the Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflicts as well as the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. The Juvenile Justice Act, 2003 (Act 653) of Ghana also provides protection for children in the justice system.
6. For the protection of women's rights, Ghana has ratified the International Covenant on Civil and Political Rights (ICCPR), Second Optional Protocol to the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention against Torture (CAT), Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Protection from Torture, Ill-Treatment and Disappearance, Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, Convention on the Elimination of all forms

of Discrimination against Women and the African Charter on Human and Peoples' Rights (ACHPR) including the Protocol on the Rights of Women in Africa (Maputo Protocol).

7. Under domestic law, The Criminal Offences (Amendment) Act, 1998 (Act 554), Human Trafficking Act 2005, (Act 694) and the Domestic Violence Act, 2007 (Act 732) all give protection to women and children.
8. Although various stakeholders, both state and non-state actors, have worked assiduously to ensure that women and children enjoy their rights, there remain certain practices that infringe on these rights. Child Early and Forced Marriage (CEFM), Trafficking in Persons, relatively high incidence of domestic violence as well as low representation in public decision making processes remain a challenge to protecting the rights of women and children in Ghana.

#### ISSUES OF CONCERN FOR THE PROTECTION OF CHILDREN'S RIGHTS

##### ➤ CHILD EARLY AND FORCED MARRIAGE (CEFM)

9. During the 2012 UPR, Ghana per Recommendation 125.27 was required to “Abolish all discriminatory legal provisions towards women and increase its efforts in combating all forms of violence against women, including marital rape, child and other forced marriages, and female genital mutilation“. Although government has been taking steps to improve the situation, challenges still remain. According to UNICEF, in Ghana, about twenty-seven percent (27%) of girls between ages 15 and 18 years are entering into marriage, often against their will<sup>57</sup> endangering their personal development and wellbeing. In addition, Ghana has one of the highest child marriage prevalence rates in the world with an overall regional average of 25%<sup>58</sup> Child brides are also deprived of their fundamental rights to health, education, and safety.
10. In 2014, the Ministry of Gender, Children, and Social Protection (MoGCSP) created an “Ending Child Marriage Unit”, which intervenes in communities to address CEFM in Ghana and in 2016, launched the 2017-2026 National Strategic Framework for ending child marriage in Ghana<sup>59</sup>.
11. OBLIGATION: CEFM is a violation of human rights, contravening both the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) as well as the Children's Act, 1998 Act (560) and the 1992 Constitution.

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<sup>57</sup> UNICEF 2011 Multiple Indicator Cluster Survey (MICS)

<sup>58</sup> *ibid*

<sup>59</sup> Ministry of Gender, Children and Social Protection, “National Strategic Framework for Ending Child Marriage in Ghana, 2017-2026 (Third Draft) February, 2016.

## 12. RECOMMENDATION

### 13. *The State Party should:*

- I. *To, as a matter of urgency, allocate adequate resources to MoGCSP's Ending Child Marriage Unit and to implement the National Strategic Framework.*

#### ➤ TROKOSI

14. As per recommendation 125.32 of the 2012 UPR, Ghana was to “Continue its efforts in the field of women’s rights in order to, amongst other things, enforce the 2007 Domestic Violence Act and laws prohibiting harmful practices against women, including trokosi and female genital mutilation.”
15. Trokosi is a practice where young virgin girls, typically from age six (6) to ten (10) years, are sent to fetish shrines to live and atone for the crimes of their family members. There they suffer a lot of abuses including child labour and sexual violence.
16. Article 16 of Ghana’s 1992 Constitution provides that “no person shall be held in slavery or servitude or be required to perform slave labour”. Parliament in response to public outcry against the practice, enacted the Criminal Code (Amendment) Act, 1998, Act 554 and criminalized all customary practices of servitude and ritual enslavement such as Trokosi making it an offence punishable by a minimum of three (3) years in jail.
17. Since the recommendation was made in 2012, there has been an increase in governmental efforts to address the issue; however, Trokosi is still in practice<sup>60</sup>. Our group found that non governmental organizations (NGOs), including International Needs Ghana (ING)<sup>61</sup> are working with communities to provide development infrastructure such as schools and boreholes while encouraging shrine priests to accept livestock or monetary donations, instead of girls, from families seeking to appease the gods.
18. OBLIGATION: Trokosi is in direct contravention of Section 314 of the Criminal Code (Amendment) Act, 1998, Act 554, the Children’s Act, 1998 Act (560) and the 1992 Constitution, Convention on the Rights of the Child (CRC) and the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) Convention against Torture (CAT), Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Protection from Torture, Ill-Treatment and Disappearance.

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<sup>60</sup> <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Trokosi-cannot-be-wiped-away-easily-149077>

<sup>61</sup> <https://www.opendemocracy.net/5050/yakin-erturk/women-at-war-in-country-in-peace-ghana>

## **19. RECOMMENDATION**

20. The State Party should:

- I. Enforce legislation on Trokosi, arrest and prosecute offenders.

### **➤ CORPORAL PUNISHMENT**

21. **2012 UPR Ghana recommendation 123.20 states “Explicitly prohibit corporal punishment of children in all settings, including the home”. The Ghana Education Service (GES) has issued directives that only head-teachers should use the cane following a strict protocol but corporal punishment by other teachers still exists in government schools, especially in the remote areas.**<sup>62</sup> Suffice it to say some schools, orphanages and homes have consequently adopted their own regulations against caning the children<sup>63</sup>.
22. **OBLIGATION:** Ghana is obligated to respect its obligations under the Children’s Act, 1998 Act (560), Convention on the Rights of the Child (CRC), Convention on the Elimination of all forms of Discrimination against Women (CEDAW), Convention against Torture (CAT), Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and Protection from Torture, Ill-Treatment and Disappearance.

## **23. RECOMMENDATION**

24. *The State Party should:*

- I. *Adopt a law to explicitly prohibit the corporal punishment of children in all setting and find an alternative for the “Spare the rod and spoil the child” mantra to desist people from meting out corporal punishment to children.*

### **➤ CHILD TRAFFICKING**

25. During the 2012 UPR, Ghana received a number of recommendations on trafficking in persons<sup>64</sup>. Recommendation 125.49 called on Ghana to “Take all necessary measures for the prevention and combating of child trafficking, and for the provision of effective remedies for victims”
26. Ghana has been a country of origin, transit and destination for human trafficking and there have been concerted efforts by state and non state actors, to prevent and reduce human trafficking while punishing perpetrators as well as offering victims rehabilitation and

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<sup>62</sup> <https://www.ghanabusinessnews.com/2016/04/30/corporal-punishment-still-widely-used-in-ghana/>

<sup>63</sup> For instance, in June 2015, the Director of Education for Nsawam Adoagyiri Municipality banned caning; in August 2015, the Ga West Education Director followed suit in his District.

<sup>64</sup> Recommendations 125.46, 125.47, 125.48, 125.49 and 125.52.

reintegration services. Ghana enacted the Human Trafficking Act, 2005 (Act 694) to prevent, reduce and punish acts of human trafficking and ensure the rehabilitation and re-integration of victims.

27. Challenging Heights, an NGO collaborates with the Anti-Human Trafficking Unit (AHTU) of Ghana Police Service to rescue victims. In 2014, thirty-three (33) trafficked and at-risk children were rescued and forty-one (41) child slaves were rescued in the Lake Volta area in 2015.<sup>65</sup> Twenty one (21) minors who had been trafficked to South Africa were recently rescued by the Ministry of Gender, Children, and Social Protection (MoGCSP) in collaboration with the International Organisation of Migration (IOM) and the Anti-Human Trafficking Unit of the Ghana Police Service.
28. MoGCSP is in the process of developing a Human Trafficking National Plan of Action<sup>66</sup> and the State is currently implementing the Child Protection Compact Agreement to combat child trafficking. Though Ghana has nine (9) regional Anti-Human Trafficking Units, very few cases of trafficking are prosecuted each year.<sup>67</sup> The State's failure to investigate and prosecute the suspected 190,000 cases of trafficking in Ghana has been attributed to inadequate funding for AHTU, the DOVVSU and Social Welfare.<sup>68</sup>
29. The US State Department is concerned that trafficking in Ghana is actually on the rise as in 2016, Ghana was 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).
30. OBLIGATION: Ghana is obligated under Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and the Ghana Anti-Human Trafficking Act, 2005 (Act 694) to protect children from being trafficked.

### **31. RECOMMENDATIONS**

#### **32. The State Party should:**

- I. Publish and increase awareness of the Human Trafficking National Plan of Action from the MOGCSP.**
- II. Construct and furnish shelters for rescued trafficked children.**

#### **➤ VIOLENCE AGAINST WOMEN (VAW) INCLUDING DOMESTIC VIOLENCE (DV)**

33. During the 2012 UPR, Ghana received over twenty (20) recommendations to address the issue of Violence Against Women (VAW)<sup>69</sup>.

<sup>65</sup> <https://www.newsghana.com.gh/how-government-interventions-can-help-end-modern-slavery/>

<sup>66</sup> <http://pulse.com.gh/news/child-trafficking-gender-ministry-develops-human-trafficking-action-plan- id4735650.html>

<sup>67</sup> Ibid

<sup>68</sup> <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Public-advised-to-assist-to-combat-human-trafficking- 426294>

<sup>69</sup> recommendations

34. As per recommendation 125.23, Ghana was advised to “Continue the implementation of the strategic plan regarding domestic violence, in particular violence against women and girls”. Recommendation 125.26 required government to “Fully implement the Domestic Violence Act and ensure the effective functioning of DOVVSU”
35. Since the passage of the Domestic Violence Act, 2007 (Act 732) development partners have supported both state and non state actors in its implementation. The Domestic Violence and Victims Support Unit (DOVVSU) of the Ghana Police Service continues to receive thousands of reports of sexual and gender based violence nationwide. According to DOVVSU statistics, only 10.3% of reported cases of gender-based violence have resulted in successful convictions of perpetrators.<sup>70</sup>
36. Appropriate support to victims of violence against women remains a challenge. The DV Act established a Domestic Violence Fund to assist in the rehabilitation and re-integrations of victims of gender-based violence,<sup>71</sup> but allocation to this fund is woefully inadequate. The DV Act mandates the State to set up shelters for victims of gender-based violence<sup>72</sup> but there is no operational state-owned shelter for abused women. The only shelter for abused women is operated by an NGO.
37. In 2016, MoGCSP introduced the draft Legislative Instrument (LI) to the DV Act, 2007 (Act 732), to Parliament for discussion and passage but this unfortunately was not done. In the instance of a new Parliament and Executive, the Bills in accordance with regulation would have to be re-introduced into Parliament for deliberation before passage. MoGCSP will have to re-introduce it before the new Parliament.
38. OBLIGATION: VAW is a violation of human rights under the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), International Covenant on Civil and Political Rights (ICCPR), as well as the DV Act 2007, Act (732) and the 1992 Constitution.

### **39. RECOMMENDATIONS**

#### **40. The State Party should:**

- I. As a matter of urgency provide funds for the effective implementation of Section 8 (3) of the DV Act, 2007, (Act 732).**
- II. Take immediate steps to set up shelters for victims as stipulated by the DV Act.**

#### **➤ INTERSTATE SUCCESSION BILL**

<sup>70</sup> <http://www.graphic.com.gh/news/general-news/60892-ghana-lauds-uk-s-financial-support-to-deal-with-sexual-gender-based-violence.html>

<sup>71</sup> Section 31

<sup>72</sup> Ibid

41. As per recommendation 125.10 of the 2012 UPR, Ghana was required to “Accelerate the adoption of pending bills and intensify efforts in order to see more strengthened implementation of the measures decided and instruments created, including in terms of the difficult fight against harmful traditional practices, protection of children, inequality of rights between sexes, and access to justice and strengthening of its effectiveness”

Recommendation 123.18 states that Ghana must “Make efforts to achieve gender equality, including through adoption of the Property Rights of Spouses Bill and the Intestate Succession Bill”.

42. To protect the rights of women and children to inheritance upon the demise of the husbands / fathers who die intestate, Ghana enacted PNDC Law 111 but this law has been found to lack provisions for full protection. The Intestate Succession Bill, which would provide the needed relief was proposed, drafted and placed before Parliament for consideration and passage into law, but was not passed by the last Parliament. This bill will have to be re-introduced to Parliament.

43. OBLIGATION: Ghana is obligated under Elimination of all forms of Discrimination against Women (CEDAW), International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples’ Rights (ACHPR) including the Protocol on the Rights of Women in Africa (Maputo Protocol).

#### **44. RECOMMENDATION**

45. The State Party should:

I. *Pass the Interstate Succession Bill into law by December 2019.*

#### **➤ PROPERTY RIGHTS OF SPOUSES BILL**

46. As per recommendation 123.18 Ghana was advised to “Make efforts to achieve gender equality, including through adoption of the Property Rights of Spouses Bill and the Intestate Succession Bill”.

47. Often, women do not make direct financial contribution to property acquisition in a marriage and even where they do, there is hardly ever appropriate documentation to attest to it. Property is often registered in the name of the man and women are left with next to nothing upon the dissolution of the marriage. Because women face more barriers to property ownership, they also experience more limited access to formal credit.<sup>73</sup>

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<sup>73</sup><http://www.ghanaweb.com/GhanaHomePage/business/Focus-on-women-also-to-impact-food-security-Survey-426276><sup>11</sup><sub>SEP</sub>

48. The Property Rights of Spouses Bill which seeks to provide a more equitable distribution of property acquired during a marriage between spouses, was proposed, drafted and placed before Parliament for consideration and passage into law but was not passed before the closure of the last Parliament. This bill will have to be re-introduced to the new Parliament.
49. OBLIGATION: Ghana is obligated under Elimination of all forms of Discrimination against Women (CEDAW), International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights (ACHPR) including the Protocol on the Rights of Women in Africa (Maputo Protocol).

**50. RECOMMENDATION**

**51. The State Party should:**

**I. Pass the Property Rights of Spouses Bill into law by December 2018.**

➤ **AFFIRMATIVE ACTION BILL**

52. At the last UPR in 2012, Ghana received recommendations to “Take measures to ensure a proper legal framework for the Affirmative Action Policy”<sup>74</sup> as well as “Develop consequential strategies to fulfil the affirmative action policies of 40 per cent of women in public decision - making processes”<sup>75</sup>
53. Low participation in governance and public decision making processes continue to impede the full actualization of women’s rights as enshrined in Article 21 of the Universal Declaration of Human Rights. Women’s representation in the 4<sup>th</sup> Parliament of Ghana has been a little over ten percent (10%). The just ended Parliament had 10.9% women’s representation and the current Parliament has 12.72 %, unacceptably lower than the UN recommended rate of at least 30%.
54. An Affirmative Action Bill (AA Bill) developed in accordance with international instruments and ratified by Ghana to promote women’s participation in governance and public decision making was introduced to Parliament and was expected to have been passed before the end of the last Parliament in 2016. This bill will have to be re-introduced to the new Parliament.
55. There is no evidence to suggest any practical measures on the part of government to increase women’s representation in public office outside the provisions of the AA Bill.
56. OBLIGATION: As a signatory to CEDAW and other treaties, Ghana is obligated to take measures to ensure participation of women in public decision making.

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<sup>74</sup> Recommendation 125.11

<sup>75</sup> Recommendation 125.12



## **57. RECOMMENDATION**

58. The State Party should:

### **I. Pass the Affirmative Action Bill into law by March 8, 2018, International Women's Day.**

#### **➤ WITCH CAMPS**

59. As per recommendations 125.41 and 125.42, Ghana was expected to “Close as soon as possible the witch camps” and “Take all possible measures to abolish the practice of witch camps”, respectively.
60. Belief in supernatural forces is quite widespread and deeply rooted in Ghana. There are many cases, especially in rural areas, in which women—and occasionally men—are accused of practicing witchcraft to bring harm to members of their family or community.<sup>76</sup> Accused women are often violently driven from their homes and communities, physically assaulted and, in extreme cases, murdered. Most of these people tend to be poor and elderly, mostly in the northern regions of Ghana.<sup>77</sup>
61. This group found that some of those who are driven from their homes are forced to live in “witch camps”. It is estimated that about a one thousand (1,000) women in northern Ghana are inhabiting camps whose sole occupants are deemed to be witches. They are not allowed to return to their communities, as they are victims of stigmatisation.
62. In addition, 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 on opportunities to be educated or acquire any meaningful skills whilst in the camps.
63. 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>78</sup>

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<sup>76</sup> <https://www.opendemocracy.net/5050/yakin-erturk/women-at-war-in-country-in-peace-ghana>

<sup>77</sup> Ibid

<sup>78</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>11</sup>

64. In 2014, MoGCSP disbanded two (2) witch camps in the Northern region and is expected to close all existing camps by 2017. The closure is expected to be complimented with the provision of rehabilitation, reintegration into the communities, alternative housing and livelihood options to alleged witches.<sup>79</sup>
65. However, Government has made little progress in providing these services to the former inhabitants of the witch camps, thus leaving them without any place to live and little prospect for supporting themselves.
66. OBLIGATION: Ghana is obligated under the International Covenant on Civil and Political Rights (ICCPR), Second Optional Protocol to the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention against Torture (CAT), Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Elimination of all forms of Discrimination against Women and the African Charter on Human and Peoples' Rights (ACHPR) including the Protocol on the Rights of Women in Africa (Maputo Protocol).

## **67. RECOMMENDATION**

68. The State Party should:
- I. Implement its program of rehabilitation and reintegration for former inhabitants of witch camps.

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<sup>79</sup> <http://citifmonline.com/2015/11/27/closed-witches-camps-by-2017-cedaw/>

## 6. NATURAL/EXTRACTIVE RESOURCES SECTOR RIGHTS

### GHANA

The Kasa Platform / Natural Resource and Environment Sector – JOINT UPR SUBMISSION – 2017  
(Under the Ghana Human Rights NGOs Forum)

Joint Stateholders' Report  
United Nations  
Third Universal Periodic Review Ghana

webpage	email	postal address
<a href="https://www.kasaghana.org/">https://www.kasaghana.org/</a>	kasaghana@gmail.com	32 Christ Home Av., New Achimota Accra

Submitted by the members of the Kasa Platform in the Extractive Sector.

The kasa platform is a national NRE coalition of over 100 NRE organisations grouped under seven thematic areas and independent experts from Ghana. Kasa aims to ensure effective participation in responsible environment and natural resource governance for the realization of rights of people particularly the marginalised to maximize benefits in Ghana.

### Appendix 1

Organisation	Location
<b>NRE Networks And Coalitions</b>	
Forest Watch Ghana And Its Member	
Working Group On Mining Members	
Working Group On Environment And Climate Change Members	
Cso Coalition On Land Members	
Cso Coalition On Oil And Gas Members	

<b>Organisation</b>	<b>Location</b>
<b>NRE Networks And Coalitions</b>	
Fisheries Alliance Members	
Civil Society Coalition On Water And Sanitation Members	
National Union Of Environmental NGOs	
Asman-Artisanal Mining Network	Dodowa
Network Of Women In Growth	Volta
<b>Regional Network</b>	
Northern Region Development Network	Tamale
BrongAhafo Development Network	Sunyani
Western Region Development Network	Western
<b>Individual Cso And Ngos</b>	
Center For Environmental Impact Assessment	Cape Coast
Conservation Foundation	Takoradi
Amnesty International	Accra
Ngo's Forum	Eastern Region
Abibiman Foundation	Accra
Iucn	Accra
Social Support Foundation	Obuasi
Grass To Grace	Accra
Civic Response	Accra
Dals Consult	Tema
Community Youth Development Foundation	Kintampo
Strategic Youth Network For Development	Accra
Civic Response	Accra
Mind Freedom Ghana	Osu
Cafaf - Ghana	Accra
Ucsod	Axim

## **INTRODUCTION AND METHODOLOGY**

The compilation of this submission has been made possible through a series of engagement with over 150 CSOs, coalitions and Networks in the natural resource and environment sector. An initial 2 day capacity building workshop was organised for Coalitions and Network followed by at a two-day consultative workshop held on November 29 and 30, 2016 as a joint initiative between IUCN and KASA Initiative Ghana in collaboration with the Ghana Human Rights NGOs Forum. After the second engagement a third meeting was organised together with other CSOs outside the natural resource and environment sector to have a broader view on human right issues.

The report is based on field work, media publications and articles, NGO's reports/data and reports from previous civil society reports submitted to other UN bodies. This report has been widely circulated among NGOs other civil society organizations for their input. The membership of the Forum includes international organisations operating in Ghana and several local human rights NGOs. Subsequent meetings for the Working Committee were held at a pre-UPR submission workshop on 21st and 22nd March, 2017 which was attended by more than 70 civil society organizations in Accra, and validated by same on 27th March, 2017. The entire membership has finalised this joint UPR submission and confirmed their commitment and approval of the report.

The submission is prepared in line with Information and Guidelines for the Universal Periodic Review Mechanism [as of July 2012]. It covers the methodology for the preparation of the submission, background and framework, implementation of international human right obligations and measures undertaken by Ghana to entrench democracy, which have wide implications for the generality of human rights, constitutionalism, rule of law and the fight against corruption in the country. The submission subsequently highlights specific developments and follow-up measures by Ghana in relation to the summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution (16/21A/HRC/WG.6/14/GHA/3).

### **I. Background and framework**

#### **a) Scope of international obligations**

The principles of free, prior, and informed consultation and consent (FPIC) in the context of development projects that affect indigenous people's lives, livelihoods, and customary land rights are binding on Ghana due to their obligatory status under customary international law. These principles are also enshrined in the following instruments, which apply to Ghana even though it has not effectively domesticate them in the Ghanaian policies, Laws and Regulations:

- United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)
- United Nations treaty bodies, such as the Committee on the Elimination of Racial Discrimination and Committee on Economic, Social, and Cultural Rights,
- African Union's African Convention on the Conservation of Nature and Natural Resources

- The Africa Mining Vision (AMV, 2009)
- African Commission on Human and Peoples Rights (ACHPR).
- "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework", Human Rights Council

Moreover, Ghana is a party to the Convention on Biological Diversity (CBD). While Ghana's accession to the CBD is not new to this reporting period, we highlight it in this submission due to Ghana's violation of the CBD's protections for Globally Significant Biodiversity Areas such as Atiwa, Tano Offin, and Furi Forest Reserves for mining and logging in 2015. These actions by State party are in direct violation of commitments under the United Nation Framework Convention on Climate Change (UNFCCC).

Ghana has not signed the International Labor Organization Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries (Convention 169). This convention recognizes the need for the free informed consent of traditional communities.

Again there is an increasingly global expectation that businesses take responsibility for their adverse impacts on society - human right, social, environmental, ethical, and consumer concerns whether or not those impacts have been specifically addressed in national law. The UN Guiding principles on Business and Human rights are an authoritative global standard that sets out international expectation across a three pillar:

- States' duty to protect human right against abuse by third parties including business, through a mix of policies, regulation and adjudication,
  - Companies' responsible to respect human right, that is, to avoid infringing on the right of other and address any harm to right with which they are involved
  - The need for access to effective Remedy where people human right are harmed
- In most cases these three pillars are violated in the conduct of extractive companies in Ghana.

Recommendation

We recommend state party to

- To ratify the international Labour Organisation Convention No. 169 by september 2018
- To establish systems to implement the Food and Agriculture Organization of the United Nations (FAO) Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests<sup>i</sup> by the end of 2019
- Ensure investors comply with their obligations under World Bank's social safeguards<sup>ii</sup> and the performance standards of the International Finance Corporation (IFC)<sup>iii</sup> with respect to land acquisition, resettlement and compensation.
- Finalise the large scale land acquisition guideline framework by June 2018.
- Take immediate steps to domesticate FPIC provisions as stated in the various instruments in the extractive laws of Ghana ie mining, forest and oil and gas.
- Take immediate steps to internalise the ECOWAS Directives into domestic laws on mining, and oil and gas.
- Implement the three pillars of the UN guiding principles on Business and Human right

b) Constitutional, Legislative, Human rights and Policy Framework

In January 2010, Ghana set up a 9-member Constitution Review Commission (CRC) to consult Ghanaians to seek their input into the review of the constitution<sup>iv</sup>.

With respect to the human rights implications of land and natural resource exploitation, the Government's white paper on the CRC accepted several important. Extracts from the Recommendation on Land and Natural can be found on Appendix 2

Despite Government acquiescence, the process with the constitution reform has not progressed.

***Recommendation***

***We therefore call on State Party to***

- ***provide steps and guidelines for the completion of the constitutional review process and implementation of amendments by June 2018.***
- ***Immediately outline a roadmap for a legislative framework that clearly acknowledges and administers land as a natural resource, clarifying use rights and ownership rights as has already been done for other natural resources by December 2019.***

II. Implementation of international human rights obligations

A. Equality and non-discrimination

***Gender Disparities***

There is gender disparity in the access, ownership, and control of land and resources<sup>v</sup>. Even where women have access to the land, it is often men who have the authority/control and the tenure right to dispose it off without regard to women's concerns.

In addition, traditional tenants often have insecure tenure since land transactions are not documented<sup>vi</sup>. There are disparities in the sharing of proceeds from natural resources, negatively skewed against women.

Displacements and forced migrations of local communities particularly female headed households and tenant farmers with less secure land tenure is expected to rise with the pace of Ghana's industrialization.

In most part of the country where large scale land acquisitions happen, women in particular received woeful and inadequate compensation for loss of land, and didn't have alternative lands to work on for their livelihood. Compensation payments go for the male grown cash crops while food crops or communally owned tree crops which provide for women are not compensated for. This is a major threat to the achievement of SDGs:

- goals 4 Achieve gender equality and empower all women and girls
  - Goal 8 Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all
- Obligations

Elimination of all forms of discrimination against women [CEDAW arts. 1-5] and girls [CRC art. 2], particularly in legislation, political and public life (art. 7), economic and social life (arts. 11, 13), and family relations (art. 16)]

### ***Recommendation***

We call on State Party to:

- Review Environmental Assessment Regulations (1999), as well as other relevant regulations governing access to land and provide adequate compensation for deprivation of land and land use.
- To align them with the requirements set out in the Guiding Principles, and to strengthen the mandate of the Environmental Protection Agency to enable it to effectively monitor compliance.
- Enact NRE LI provisions that mainstream gender into benefit sharing with respect to the proceeds from natural resources.
- Review the impact of land acquisition on women as they might experience impacts of loss of access to land or settlement differently, and consult with all members of the affected community, including women. Food crops should be given the same attention as given cash crops and and economic trees.
- Ensure that community members are educated and sensitized on their right during compensation negotiation and payment. Government should also ensure that compensation rates are reviewed to reflect the current economic situation of the country or community.

### Mechanisms For Mining Communities To Seek Redress on Compensation

The Minerals and Mining Act 2006 (Act 703) empowers the Minister to resolve conflicts on compensation payment between mining communities and mining companies. Where communities are not satisfied, the high court can only invoke a supervisory jurisdiction, rather than an original jurisdiction to resolve the dispute. Furthermore, the process for resolving such disputes is at the discretion of the Minister, which from practice can run for up to 10 years. This requirement prejudices communities suffering from the abusive operations of mining companies and does not provide any relief from the community while issue is being handled. This goes against pillar three (3) of the UN Guiding Principle which calls for access to effective remedy where people's human rights are harmed.

### Recommendation

We call government to take appropriate steps to repeal section 75 of *the Minerals and Mining Act, 2006* (Act 703) which limits the right of affected persons to invoke the original jurisdiction of all compensation cases at the high court.

### Right to Clean Water, Environment and Air

Illegal mining has created an environment and natural resource crisis in Ghana. Illegal mining: including mechanized and artisanal mining is carried out by locals and foreign nationals from China, India and other countries. Illegal mining is carried out in forest landscapes, agricultural land and on river bodies. As a result water bodies have been silted, and heavily polluted with heavy metals such as cyanide and other toxins. Illegal mining is also associated with hazardous child labour. The police service have been largely corrupted in this process and have been ineffective in arresting and prosecuting offenders.



The continuous abuse of the environment will derail all efforts achieve of SDG 6<sup>vii</sup> on clear water, SDG goal 13<sup>viii</sup> on climate Change, SDG Goal 14 life below water<sup>ix</sup> and Goal 15 life on land<sup>x</sup>

#### Obligations

- Right to safe drinking water and sanitation [ICESCR art. 11]
- Right to health [UDHR art. 25; ICESCR art. 12]
- Equal access to water and sanitation for rural women [CEDAW art. 14(2)(h)]

#### Recommendation

In that context and with a view to addressing the negative impacts of the activity, the Working Group encourages the Government to;

- Clean up it's the law enforcement system is for now is collaborator in illegal mining.
- introduce a responsible and well regulated medium-scale mining regime to allow for responsible and well business between nationals and foreign nationals.
- develop the needed Act and Legalative Instrument for the implementation of the Environmental Sanitation Policy of Ghana 2010

#### ***Status of Affirmative Action Bill***

The Affirmative Action Bill is currently before Parliament as at December, 2016<sup>xi</sup>. This bill would ensure that a 40% quota of female representation is met. 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. As of December 2016, out of 275 Members of Parliament, only 29 women out of a total of 275 parliamentarians. On the NRE Parliamentary Committee such as Lands and Forestry committee<sup>xii</sup>, Environment, Science and Technology committee<sup>xiii</sup> and Committee on Mines and Energy<sup>xiv</sup> have limited women representative. 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:

- Pass the Affirmative Action Bill into law and ensure that necessary LI is also passed to ensure the implementation of the bill by June 2018

#### Excessive use of force

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 establish an independent police investigation mechanism. However, no action has been taken to deliver on this commitment<sup>xv</sup>. The investigations on occasional unprofessional killings and injuries inflicted by the police during their operations often lack transparency and fairness.

The state security apparatus has failed to effectively ensure that security personnel handle crowds in a professional and non-violent manner, and as a result there are numerous media reports of police using excessive force against crowds. For example, it was reported that two illegal miners lost their lives during an anti-illegal mining operation in Asamama near Anyinam in the Eastern Region to halt the activities of the miners in the area.

The Ghana Navy has been accused of mishandling fishermen for allegedly fishing around petroleum installations. There are incidences of fishermen arrested by naval personnel and then forced to sit on hot platforms on the navy's petrol boats. During these encounters, navy personnel have seized and sometimes burnt fishing gear, devastating the livelihoods of fisherfolk.

Excessive force has also been used against farmers who expanded their farms into forest reserves. The security system also continues to be abusive to those who offend the law<sup>xvi</sup>

Police brutality in addressing conflict between a community and a mining company resulted in the death of a community protestor<sup>xvii</sup>  
These actions and inaction will draw Ghana's progress on the achievement of goal 17.<sup>xviii</sup>

Obligation

- Right to life, liberty and security of the person [UDHR art. 3; ICCPR arts. 6(1), 9(1); ICPED art. 1] including freedom from torture [UDHR art. 5; ICCPR art. 7; CAT art. 2; CRC art. 37(a)]
- Protection of children from all forms of violence, abuse or exploitation [CRC arts. 19, 37(a)], including trafficking (CRC arts. 34-36; CRC-OP1)]
- Right to access to justice and due process [UDHR arts. 8, 10; ICCPR arts. 2(3), 14-15; CEDAW art. 2(c)]
- Right to legal personality [UDHR art. 6; ICCPR art. 16; CRPD art. 12]

Recommendations

The State Party should:

- To integrate respect for human rights in the operating protocols of security forces in responding to cases of illegal logging, mining or social conflicts between investors and locals<sup>xix</sup>.
- Include appropriate human rights, social and environmental safeguards in proposed policies and legislation for the extractives sector while ensuring appropriate cross references with related legal and policy frameworks. These are the Mining Bill, the Petroleum (Exploration, Development and Production) Bill, the Energy Bill and their attendant policies and regulations that are currently in draft form.
- Institute very open and transparent systems with investigations of public killings involving the police or security agencies.
- Include adequate safeguards against forced evictions and improve the resettlement provisions in the Land Law (Amendment) Bill.

#### B. Administration and rule of law

##### *Access to effective remedy*

Communities' economic, social and cultural rights are difficult to enforce through the courts. Practical obstacles include the costs of pursuing a claim and the difficulty of obtaining affordable legal assistance, as well as the weak capacity of judges and local courts to adjudicate matters relating to business impacts on human rights. Lower courts at the local level, in particular, are often subject to political and business influence, which hamper the ability of victims to obtain effective remedy.

Recommendations from alternative dispute resolution mechanisms are usually not complied with.

##### Recommendation

We call on the State Party to ensure the enforcement of decisions from ADR.

##### *Access to Information*

Communities do not received any or adequate relevant information on planned mining activities prior to the start of operations. Natural Resource Contracts such as Mining concessions and logging permits are not easily accessible or even accessible. Local communities do not have the relevant information to meaningfully participate in environmental impact assessment processes.

In the industrial mining sector, communities are often not consulted on decisions that will affect their land and livelihoods, like the decision to grant concessions or give access to their land. In Dormaa-Kantinka in Brong Ahafo Region, their terms of resettlement with Newmont Mining has not been honoured<sup>xx</sup>.

##### **Recommendations**

The State Party should:

Immediately pass the RTI Bill 2016 with the amendments by end of 2017.

- ii. Systems should be developed to publicly make accessible, all natural resource contracts, particularly mining, logging and electromagnetic frequency contracts.
- iii. Provide access to an up to date mining cadastral of Ghana on the relevant state Ministry's website.
- iv. Provide access to O&G and other energy projects, with up to date information of the companies involved and their blocks.

### C. *Right to Health*

Ghana has failed to address irresponsible mining by both large and small-scale operator. This poses a threat to public health and human security. Mining waste and other toxic mining chemicals continue to spill into water bodies and streams of local communities poisoning fishes and crops. Studies by Center for Environmental Impact Analysis<sup>xxi</sup>, conclude that chemicals from mining activities are causing an increasing number of health problems in affected communities. These increasing health problems are not covered under the NHI scheme and this limits the access to quality health care thereby beadenning community members with high cost of health care.

Health and safety of logging companies, particularly mill operators also need to be addressed.

### **Recommendations**

The State Party should:

- Internalize the Minamatta convention as well as ensure the protection of our water bodies.
- Expand the diseases cover by the NHIS to take care of mining-related diseases.
- Conduct cost benefit analysis of the extractive sector. Quicken the pace of implementation of the FLEGT-VPA addressing issues of workers health and safety.

### D. Child labour in the Extractive Industry

Children are being exploited in *galamsey* (illegal small-scale mining) sector, because of their vulnerability. This problem is getting worse as *galamsey* activity in Ghana is growing explosively.<sup>xxii</sup>

The *galamsey* sector presents a broad range of human rights challenges, both for the miners themselves and for the host communities. The practice of illegal small-scale mining is changing and becoming more mechanized and destructive in Ghana, as the result of a flood of external financing. The poor regulation of illegal small-scale mining has led to widespread environmental damage, causing great harm to health and social cohesion of the local people and a loss of farmland fertility. In some cases, the indigenes are practically disenfranchised and lose control of the land in their own communities. In addition on the rare occasion that the Government does try to enforce rules against *galamsey*, poor law enforcement training often leads to the unnecessary deaths of miners who are defending their (admittedly illegal) operations.<sup>xxiii</sup>

The use of child labour is also rife in the cocoa production<sup>xxiv</sup> and fishing industry<sup>xxv</sup>. These children are sometimes slaves who have been sold to fishermen in the coastal areas. They explain that children are expected to dive into various waterbodies to disentangle fishing nets at risk to their lives.

The sector exposes children to economic activities at tender ages which results to teenage pregnancy and early marriages, which also disenfranchise girl education.

### **Recommendations**

The State Party should:

- i. expedite action on the review of the Minerals and mining act to ensure community rights are appreciated and heard during extractive sector concession acquisition and project contracting by december 2018
- ii. Provide needed resources and capacity for the Law enforcement agencies to properly manage issues from the extractive sector including illegal mining activities.
- iii. Fully implement the Ghana Child Labour Monitoring System
- iv. Develop programmes to promote remediation and ensure adequate resources for the Anti-Human Trafficking Unit for the pursuit of prosecutions
- v. Continue its combat against the use of child labour, especially in the mining industry and cocoa production, including implementation of measures on their rehabilitation, reintegration and education

## 7. FREEDOM OF EXPRESSION AND RIGHT TO INFORMATION



*Coalition on the Right to Information Ghana/[rticampaignghana.org/](http://rticampaignghana.org/) [chriafrika@humanrights.org](mailto:chriafrika@humanrights.org)*



*POS Foundation/[posfoundation.org/](http://posfoundation.org/) [posjonathan@gmail.com](mailto:posjonathan@gmail.com)*



Commonwealth Human Rights Initiative

*Commonwealth Human Rights Initiative Africa/[www.humanrightsinitiative.org/](http://www.humanrightsinitiative.org/) [mina@humanrightsinitiative.org](mailto:mina@humanrightsinitiative.org)*



*African Centre for International Law and Accountability/[www.acila.org/](http://www.acila.org/) [wnyarko@acilla.com](mailto:wnyarko@acilla.com)*



*Restoration of Hope Foundation/[www.facebook.com/Restoration-of-Hope-Foundation/](http://www.facebook.com/Restoration-of-Hope-Foundation/) [restorationofhope1@gmail.com](mailto:restorationofhope1@gmail.com)*



*KASA Initiative Ghana/ kasaghana.org/kasaghanna@gmail.com*

## GHANA

Coalition on the Right to Information Ghana/POS Foundation/Commonwealth Human Rights Initiative/Africa Centre for International Law and Accountability/ Restoration of Hope Foundation/ KASA Initiative Ghana – JOINT UPR SUBMISSION – 2017

(Under the Ghana Human Rights NGOs Forum)

Joint Stakeholders' Report

United Nations Third Universal Periodic Review Ghana

### ***INTRODUCTION AND METHODOLOGY***

58. This report considers the progress of Ghana to date on Freedom of Expression and Right to Information.
59. The submission is prepared in line with Information and Guidelines for Relevant Stakeholders on the Universal Periodic Review Mechanism [as of 2 August 2016]. It covers the methodology for the preparation of the submission and measures undertaken by Ghana to entrench democracy, which has implications for human rights, constitutionalism, rule of law and the fight against corruption in the country. The information was further discussed at a pre-UPR submission workshop organised by Ghana Human Rights NGOs Forum (POS Foundation-Secretariat), KASA Initiative and UPR-Info Africa Office, Kenya on 21<sup>st</sup> and 22<sup>nd</sup> March, 2017 which was attended by more than 70 civil society organizations in Accra, and validated by same on 28th March, 2017. The submission subsequently highlights specific developments and follow-up measures by Ghana in relation to the summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution (16/21A/HRC/WG.6/14/GHA/3).
60. Ghana has ratified several international instruments, including the International Covenant on Civil and Political Rights (ICCPR), the Second Optional Protocol to the International Covenant on Civil and Political Rights, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention against Torture (CAT), the African Charter on Human and Peoples' Rights (ACHPR). It has also incorporated the Universal Declaration of Human Rights (UDHR) into its 1992 Constitution.

61. Ghana's domestic legal foundation is provided by the 1992 Constitution. Chapter 5 of the Constitution promotes and ensures the protection of the human rights of the citizenry. The 1992 Constitution of Ghana guarantees freedom of speech and expression, including freedom of the press and other media<sup>80</sup>. In addition, the constitution provides that the media and the public shall hold the state accountable to the people. The latter responsibility necessarily entails the provision of information to enable the media and the public to play its watchdog role.

➤ *Freedom of Expression*

62. Even though there was no specific recommendation to Ghana in UPR 2012 on freedom of expression, the recommendation on Right to Information necessitates the creation of an environment that encourages freedom of expression without fear of reprisals from state or non-state actors. However, there have been reported cases of violations of freedom of speech by state and non-state actors without the state investigating the incidents or providing an effective remedy. For example, the Media foundation for West Africa reported that "Ghana recorded the highest cases of violations against freedom of expression in the West African sub-region between January and April, 2014"<sup>81</sup>. 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. The state actors' perpetrators have included security agencies (military and police), state officials like members of parliament and ministers of state while non-state actors have included political party affiliates, organized groups and individuals. The greatest concern remains the failure to address nearly all the violations recorded.

63. Violence perpetrated by State actors to repress freedom of opinion and expression is particularly disturbing. For example, on 19 August, 2015, this group found that 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. 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 did not communicate any step taken on the case until his government left power in January 7, 2017.

64. In addition to State-led violence, the State has also failed to intervene in crimes against freedom of expression perpetrated by non-State actors. In March 2016, there was a report of a reporter with Bohye FM who was 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>82</sup>

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<sup>80</sup> See Article 162(5) of the 1992 Constitution of Ghana

<sup>81</sup> <http://www.myjoyonline.com/news/2014/august-5th/ghana-leads-in-violation-of-free-expression-in-west-africa-report.php>

<sup>82</sup> <http://www.ghana-news.adomonline.com/politics/2016/march-3rd/journalist-assaulted-by-machomen-at-manhyia-north.php>



65. Obligations: Ghana is obligated to respect its obligations under article 162 (5) of the 1992 Constitution of the Republic of Ghana; Article 3(a) and Article 19(2) of The international Covenant on Civil and Political rights (ICCPR), and Article 9 of the African Charter on Human and Peoples Rights (ACHPR).

**66. Recommendations:**

*The State Party should:*

- I. Investigate, prosecute, and sanction all attacks on journalists.**
- II. Guarantee adequate protection and security for journalists, so they can effectively perform their duties without any fear of victimization**
- III. Build the capacity of security officials on freedom of expression/media rights and respect for human rights.**
- IV. Provide an effective remedy for the journalists who were attacked by state and non-state actors.**

➤ **Right to Information (RTI)**

67. Ghana's age-long Right to Information Bill was revised and, under the name "RTI Bill 2016," was referred to the 6th Parliament. As was recommended in 2012 from Recommendations 125.62<sup>83</sup> and 125.63<sup>84</sup> which were supported by Ghana, the State was to have passed the bill in 2016. Parliament considered the Bill in November 2016, but failed to pass it.

68. The failure to pass the RTI Bill 2016 by the 6th Parliament caused the Bill to lapse meaning that the new government and Parliament (7th Parliament) would have to initiate a fresh process to enable the passage of the Bill.

69. Obligations: Ghana is obligated to respect its obligations under article 162 (5) of the 1992 Constitution of the Republic of Ghana; Article 19(2) of The international Covenant on Civil and Political Rights (ICCPR) and Article 9 of the African Charter on Human and Peoples Rights (ACHPR)

**70. Recommendations:**

*The State Party should:*

- I. As soon as possible, pass the RTI Bill 2016 as revised.**

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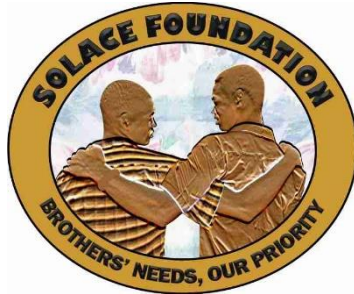
<sup>83</sup> 125.62. Amend the Right to Information Bill in line with the recommendations made by CHRAJ (Austria);

Source of position: A/HRC/22/6 - Para. 125

<sup>84</sup> 125.63. Take immediate steps toward the adoption of the freedom of information Bill, building on its efforts to improve good governance, accountability and transparency (Canada);

Source of position: A/HRC/22/6 - Para. 125

## 8. LGBTI RIGHTS



Human Rights Violations Against  
Lesbian, Gay, Bisexual, and Transgender Intersex and Queer (LGBTIQ)  
People in Ghana:

Joint Stakeholder Report by the Working Group of CSOs...

Submitted for consideration at the  
United Nations Third Universal Periodic Review (UPR) Cycle  
by

Solace Brothers Foundation (SBF)  
Perfector of Sentiments (POS) Foundation  
Priorities On Right and Sexual Health (PORSH)  
Amnesty International (Ghana)  
Human Rights Advocacy Centre (HRAC)  
Centre for Popular Education and Human Rights Ghana (CEPEHRG)  
Society and Youth Development  
Africa Centre for International Law and Accountability (ACILA) Ghana

## 1 Introduction

This report is submitted for the third cycle of the UPR by Solace Brothers Foundation (SBF)<sup>xxvi</sup>, Perfector of Sentiments (POS) Foundation<sup>xxvii</sup>, Priorities On Rights and Sexual Health (PORSH)<sup>xxviii</sup>, Amnesty International<sup>xxix</sup>, Ghana, Human Rights Advocacy Centre (HRAC)<sup>xxx</sup>, Center for Popular Education and Human Rights Ghana (CEPEHRG)<sup>xxxi</sup>, Society and Youth Development<sup>xxxii</sup> and The Africa Center for International Law and Accountability (ACILA)<sup>xxxiii</sup>. It is the result of a series of Ghana human rights NGO's fora.<sup>xxxiv</sup> The information contained in this document was further discussed at a pre-UPR submission workshop organised by Ghana Human Rights NGOs Forum (POS Foundation-Secretariat), KASA Initiative and UPR-Info Africa Office, Kenya on 21st and 22nd March, 2017 which was attended by more than 70 civil society organizations in Accra, and validated by same on 27th March, 2017. The submission subsequently highlights specific developments and follow-up measures by Ghana in relation to the summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution (16/21A/HRC/WG.6/14/GHA/3).

The purpose of this report is to direct the UPR Committee's attention to serious and ongoing violations of the human rights of lesbian, gay, bisexual, transgender, intersex and queer/questioning ("LGBTIQ") individuals by the Republic of Ghana. Ghana has signed and ratified the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic Social and Cultural Rights (ICESCR) the Convention on the Rights of the Child (CRC) and enacted Chapter five of the Constitution of The Republic of Ghana (Amendment) Act<sup>xxxv</sup>. This act protects rights of freedom of every person without discrimination. This report will highlight recent events that illustrate the following thematic issues relating to Sexual Orientation and Gender Identity (SOGI) as they relate to domestic laws as well as international treaties to which Ghana is a party:

- Laws criminalization of same-sex sexual conduct and the resulting arbitrary arrests and detentions, in violation of Articles 2(1), 9, 17, and 26 of the ICCPR; Section 14(1) and 17(2) of Chapter Five of the Constitution of Ghana;
- The climate of homophobia in violation resulting in the violation of Article 17 of the ICCPR and 25(1) of Chapter Five of the Constitution of Ghana;
- Violent attacks motivated by the victim's real or perceived sexual orientation and a pervasive climate of homophobia, in violation of Articles 2(1), 7, 9, 17, and 26 of the ICCPR and 17(2) Chapter Five of the Constitution of Ghana;
- Discrimination in education, in violation of Article 17 of the ICCPR, Article 13 of the ICESCR, Articles 2(1), 16, 29(1a), 29(1b) and 29(1d) of the CRC and articles 25(1) of Chapter Five of the Constitution of Ghana.

At the end of the report will be suggested questions to be asked during Ghana's upcoming review session.

## **2 Ghana, SOGI and the Universal Periodic Review**

For the second cycle, Ghana accepted two out of twelve recommendations compared to zero of the three recommendations that it received during its first review. Those accepted were to “prevent, and ensure accountability for, acts of violence perpetrated against individuals, including on the basis of their sexuality (124.8)” and to “bring those responsible to justice in conformity with the international standards” (124.9). In the first cycle, all recommendations received concerned amending laws, decriminalizing same-sex sexual activity.<sup>xxxvi</sup> For the second cycle,<sup>xxxvii</sup> though Ghana continued to receive a number of recommendations relating to decriminalization (126.16, 126.17, 126.18, 126.22) (all of which Ghana has rejected), it also received recommendations relating to justice (126.23, 126.25) combating violence (126.21, 126.23); awareness-raising to fight homophobia and stigma (126.19, 126.20, 126.22) and equal protection and access to justice conferred to LGBTIQ people by the law (124.8, 124.9, 126.23).

One positive development that should be noted is the establishment in 2013 of a “Discrimination Reporting System” by Ghana’s Commission on Human Rights & Administrative Justice (“CHRAJ”). This mechanism is charged with receiving complaints, investigating them, and attempting to resolve them. According to the Complaint Form, “[a]ny person who believes he/she has experienced discrimination on the basis of HIV status, gender identity or sexual orientation may report an incident through the CHRAJ stigma and discrimination reporting portal.” Complaints can be filed online, by text message, or in person at the CHRAJ offices. As of April 2016, 66 complaints had been filed, 27 of which were from LGBTIQ people. Of the 66 cases, 20 have been successfully resolved; it is not known whether any of the 27 LGBTIQ complaints are among the cases that have been successfully resolved.

Ghana has yet to make any recommendations regarding SOGI as compared to South Africa, Madagascar and Ethiopia. Ghana’s voice is therefore largely absent in advocacy for rights relating to SOGI, but it is not too late for it to take an active and pioneering role in discussion. From Ghana’s acceptance of two recommendations during the second cycle compared to none during the first, two conclusions can be drawn: the first suggests “there is an evolution of thinking” as stated by His Excellency Mr. Sammie Eddico, Ambassador to Ghana<sup>xxxviii</sup> during the 41st Meeting of the 32nd Regular Session of the Human Rights Council on June 30<sup>th</sup>, 2016. It is for this reason that he abstained from voting to establish an independent expert on protection against violence and discrimination based on SOGI.<sup>xxxix</sup> The second is that there is increased international attention paid to human rights abuses committed against people based on SOGI. This is reflected in the increased volume and diversity of recommendations made, providing Ghana with the room to make incremental changes to legal and customary norms as they relate to members of the LGBTIQ community.

## **3 Laws Criminalising Same-Sex Sexual Conduct, Leading to Arbitrary Arrests and Detention:**

Chapter 6 Section 104 of Ghana’s Criminal Code (1960) is used to threaten, arrest and punish individuals who do, have, or have been perceived to have engaged in same-sex sexual activity. It states the following:

“(1) Whoever has unnatural carnal knowledge—

- (a) of any person of the age of sixteen years or over without his consent shall be guilty of a first-degree felony and shall be liable on conviction to imprisonment for a term of not less than five years and not more than twenty-five years; or
- (b) of any person of sixteen years or over with his consent is guilty of a misdemeanor; or
- (c) of any animal is guilty of a misdemeanor.

(2) Unnatural carnal knowledge is sexual intercourse with a person in an unnatural manner or with an animal.”<sup>xl</sup>

Subsection (1)(b) of Section 104 of Ghana’s Criminal Code criminalizes consensual “unnatural carnal knowledge” but does not define what is and what is not natural. Ghanaian legal institutions and law enforcement often interpret “unnatural carnal knowledge” to mean same-sex sexual conduct. This targets and discriminates against individuals based on their perceived or self-identified SOGI while providing no avenue for legal recourse and protection.

### ***Obligations***

***Reviewing countries of the second cycle recommended that Ghana decriminalize same-sex sexual activities between consenting adults (A/HRC/22/6 126.16, 126.17, 126.18, 126.22). To date, Ghana has made few strides to take concrete action in the legislature to do so.***

Ghana has a legal obligation to respect and ensure non-discrimination and equality under the law as per Article 2(1) and 26 of the ICCPR in addition to 17(1) of its own constitution. As per the ICCPR which Ghana has both signed and ratified, any discrimination based upon attributes such as race, color, sex and “other status” is prohibited. Article 17 Section 1 of the ICCPR states that “[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.”<sup>xli</sup> Section 2 specifies that: “everyone has the right to the protection of the law against such interference or attacks<sup>xlii</sup>.” Article 9(1) of the ICCPR affirms that everyone has the right to liberty and that “[n]o one shall be subjected to arbitrary arrest or detention.”<sup>xliii</sup>

### ***Recommendations:***

***As Subsection (1)(b) of Section 104 of Ghana’s Criminal Code the is in violation of the articles of the ICCPR, we therefore recommend the following:***

- ***Accept recommendations 126.16, 126.17, 126.18, 126.22 to decriminalize same sex sexual conduct by repealing Chapter 6, Section 104, Subsection (1)(b) of the Ghana Criminal Code.***
- ***Produce laws that both protects people from sexual abuse equally regardless of sex, gender and SOGI***

- ***Remove any ambiguity from laws that allows state officials criminalize consensual same-sex activity through discriminatory interpretation.***

#### **4 Climate of Homophobia**

General prevalence of homophobia

Homophobia directed to lesbians, gays, bisexual, and queer/questioning people is highly prevalent in Ghana. For transgender, transsexual and intersex people, the social climate is such individuals keep their gender identity almost completely hidden. Additionally, those who speak out about Human Rights violations perpetrated against people that are LGBTIQ are also targets of homophobia. As per recommendation 124.8, Ghana has accepted to “take steps to prevent and ensure accountability for, acts of violence perpetrated against individuals, including on the basis of their sexuality.<sup>xliv</sup> This section will illustrate the social climate that normalizes homophobia and associated violent acts, due to the perceived notion of illegality of homosexuality caused by the ambiguous nature of the Criminal Code. Disdain and resentment against the LGBTIQ community have grown in recent years and often lead to the violence discussed in Section III.<sup>xlv</sup>

News reports in Ghana perpetuate the myth of homosexuality as a cult-like behaviour. For example, the October 2014 article *I Was Introduced into Gayism by My Class Teacher*, published by the online news publication *News Ghana*, warns of “an underworld of child recruitment into homosexuality,” in which homosexuals “are constantly on the prowl for somewhat unsuspecting minors that they can lure astray.”<sup>xlvi</sup> According to the author, “[o]ur children in secondary schools and everywhere are clearly massively exposed,” necessitating “a deliberate massive response.”<sup>xlvii</sup>

Due to fears about being ostracized and abused physically, verbally and emotionally, most LGBTIQ individuals in Ghana feel forced to hide their identities.<sup>xlviii</sup> “*I’m a lesbian and I have accepted myself. I have been abused a number of times, people have said a lot of hurtful words to me but that will not stop me from being who I am,*” said one anonymous interviewee quoted on December 11, 2015 in *News Ghana*.<sup>xlix</sup> However, she explained, “In this country we are not allowed the right to reveal our real identity.”<sup>1</sup>

Media sources in Ghana often condone abusive treatment of LGBTIQ persons in Ghana. For example, on March 23, 2016, George Sydney Abugri published a widely-circulated opinion piece in the Ghanaian news source, *Graphic Online*, that argued that “all humans must conform” to natural law.<sup>li</sup> In this way, Abugri promoted the biased, faith-based logic that the only way to deal with homosexuality is to eliminate it.<sup>lii</sup> He suggested that LGBTIQ persons be forced to receive “psychological help” to “conform” to heteronormative social structures.<sup>liii</sup>

#### **5 Homophobic Statements and Promotion of Criminalizing Same-Sex Sexual Conduct by Public Officials and Religious Leaders**

Homophobic statements and public support of the criminalization of same-sex sexual conduct by public officials and religious leaders perpetuate societal prejudices against LGBTIQ individuals. They further encourage more hate speech, hate crimes, and

discrimination by both state and non-state actors. Homophobia and the promotion of criminalising same-sex sexual conduct violate Articles 2(1) and 26 of the Covenant as they pertain to equality and non-discrimination.

2012 July	When Ghana's Constitution Review Commission recommended that Ghana's Supreme Court decide on "whether the country should legalize same-sex acts," <sup>liv</sup> tribal leaders, government officials and even members of the Commission openly criticized the suggestion, calling homosexuality "un-African" and "morally repugnant." <sup>lv</sup>
2013, February	The President of Ghana, John Dramani Mahama, stated, "Homosexual conduct which is unnatural carnal knowledge of one person or another is criminal and punishable by the laws of Ghana." <sup>lvi</sup>
2015, July	A Muslim Chief Imam of Takoradi, Alhaji Mohammed Awal, publicly condemned homosexuality "as dirty and abominable." <sup>lvii</sup> At the opening prayers of Eid-ul-Fitr at the end of Ramadan, he encouraged his Muslim followers to shun the "devilish acts" of homosexuality <sup>lviii</sup>
2016, February	Pastor Mensa Otabil, leader of one of Ghana's largest churches and the chancellor of a Central University College in Ghana gave a sermon associating same sex marriage "with darkness. [He] ...call[ed] on Christians to "overcome the darkness." In 2015, one news outlet ranked him as the most influential person in Ghana. <sup>lix</sup> Consequently news reports of his Valentine's Day sermon elicited a torrent of hateful comments directed at LGBTIQ persons. "HOMOSEXUALITY IS AN ABOMINATION," one comment began, "If they want to marry what they love then soon they will marry their pets (dogs, cats, horses.)" <sup>lx</sup>
2016, February	At a press conference in Accra about the Regional Episcopal Conference of West Africa, Conference President Cardinal Theodore Sarr urged Africans not to accept homosexuality. <sup>lxi</sup> He argued that to accept it is to allow the culture of the West to infringe upon Africa. <sup>lxii</sup>
2017, February	The speaker of the parliament of Ghana stated at the Royal House Chapel: "It is unfortunate that people have become so liberal that they will want to liberalise Christianity...even priests are approving of homosexuality and

allowing a man and a man [to] marry, a woman and a woman [to] marry and these are manifest abominations. The Parliament of Ghana will find its way clear in strengthening the laws to ban homosexuality as they exist. As for this, may God forbid that it becomes a Ghanaian culture (sic)...I trust that with your kind of insistence, the Parliament of Ghana...will find its way clear in strengthening the laws to ban homosexuality as they exist.”<sup>lxiii</sup>

### ***Obligations***

***As per the second cycle, Ghana accepted one recommendation to take measures to prevent acts of violence (124.8) and noted recommendations received to raise public awareness to fight homophobia (126.20) and social stigma (126.21).***

***Section 208(1) of Ghana’s Criminal Code prohibits any person from publishing or reproducing “any statement, ...which is likely to cause fear and alarm to the public or to disturb the public peace, [while] knowing or having reason to believe that the statement, rumour or report is false.”<sup>lxiv</sup>***

When influential religious and political figures call the right to equal access to state recognized unions “manifest abominations,” it wrongfully diabolifies members of the LGBTIQ community. In addition, the voices of LGBTIQ people are absent in the majority of public discourses that concern them because the hostile homophobic environment in which these discourses occur make it almost impossible to deliver counter narratives. Furthermore, it is distressing when even the Head of State falsely calls homosexuality (and thus sexual minorities themselves) criminal, and punishable by law because it transforms LGBTIQ citizens into enemies of the state. This therefore sends dangerous messages that make sexual and gender minorities susceptible to vigilante justice while placing them outside of the protection of the actual justice system.

### **Recommendations:**

We therefore recommend the following:

- Include members of the LGBTIQ community in the strategic implementation of recommendation 124.20 made during the second cycle of Ghana’s Periodic Review
  - Accept recommendation 126.20, 126.21 from the second cycle of Ghana’s Periodic Review, raising public awareness (126.20, combating violence and stigma and discrimination (126.21) .
  - Enforce Section 208(1) of Ghana’s Criminal Code to discourage false statements that cause fear and alarm towards people based on SOGI.
  - Produce state-endorsed media representations that allow sexual and gender minorities to depict themselves more accurately.
- 6 Violence Based on Real or Perceived Sexual Orientation and Gender Identity



The severe lack of protection from physical attacks against LGBTIQ individuals in Ghana violate rights protected by Articles 7 and 9 of the ICCPR. Article 7 protects against “torture and cruel, inhuman or degrading treatment” whereas Article 9 ensures “security of person.” Ghana’s obligation to the ICCPR is to ensure the protection of these rights by promoting compliance while preventing, investigating, prosecuting, punishing, and remedying any violation. Ghana has not complied with these obligations.

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| 2012<br>March    | A group of young men from the Ga-Mashie Youth for Change, armed with “canes, cutlasses, stones, and broken bottles,” attacked a birthday party in the Jamestown neighborhood of Accra. The attackers claimed that the party was really a wedding between two women. According to a witness, the attackers beat some of the women at the party, stripped them naked, and stole their phones and money. <sup>lxxv</sup> The attack was reported to the police but the only individuals arrested were some of those attending the party. <sup>lxxvi</sup> The Jamestown LGBTIQ community was under threat for several days and some community members had to go into hiding from the police. Not one of the attackers was ever arrested or investigated. <sup>lxxvii</sup> |
| 2014<br>August   | A mob in Walewale threatened to lynch a 21-year-old male student for wearing women’s clothes and having sex with men. The police responded by arresting him. <sup>lxxviii</sup> The mob threatened to kill him and his family if “released locally.” <sup>lxxix</sup>   |
| 2014<br>December | Residents of Libya Quarters at Madina Zongo in Accra conducted a manhunt targeting a young man accused of being homosexual. <sup>lxxx</sup> MalamShaibu, an Islamic cleric at Madina Zongo, stated, “We shall burn [him] to death” because “Islam abhors homosexuality.” <sup>lxxxi</sup> The leader of the manhunt, ShehuMunkailaIddrisu, told the Daily Guide in an interview, “[w]e shall burn or bury him alive to serve as a deterrent to others who may entertain any thoughts of engaging in homosexuality.” <sup>lxxxii</sup> The mob severely beat members of the young man’s family and set fire to a motorbike that they believed belonged to him. <sup>lxxxiii</sup>  |
| 2015<br>March    | A group of women suspected of being lesbians were “shit-bombed and pelted with stones” during a party in Teshie in the Greater Accra region. <sup>lxxxiv</sup> The attackers suspected the party was an engagement ceremony for two of the women present. One anonymous victim recalled: “They threw stones and [feces] at us, but I don’t understand their anger, isn’t [it] the right of the individual to decide what they want to do with themselves?” <sup>lxxxv</sup> Nevertheless, the attackers have vowed to continue the attacks “until homosexuality is completely eliminated from the area.” So far, “scores” of lesbians in the area have been attacked. <sup>lxxxvi</sup>   |
| 2015             | The LBGTIQ community in the Nima area of Accra was terrorized by a  |

homophobic vigilante gang called “Safety Empire,” whose stated aim is to “wage a crusade against homosexuality.”<sup>lxxvii</sup> The leader of this group, who goes by various names including SulleyFuseini and DoyaDundu,<sup>lxxviii</sup> referred to himself on one of his Facebook pages as “The Gay Slayer.”<sup>lxxix</sup> According to reports, Fuseini and his gang would attack their victims after Fuseini had lured them on Facebook under the guise of asking them on a date. Upon a victim’s arrival, Fuseini and his gang would strip, beat, and humiliate him. Videos of these attacks were posted on social media, further humiliating the victim and causing fear in the LGBTIQ community.<sup>lxxx</sup>

In one such incident, on August 14, 2015, SulleyFuseini led the “Safety Empire” mob to brutally attack a man they accused of being gay. The victim was stripped naked and whipped mercilessly with belts, sticks, and sharp metal. The attackers videotaped the attack.<sup>lxxxii</sup>

In another incident, on September 4, 2015, Fuseini and his gang attacked a victim with boiling water, causing burns to the victim’s face.<sup>lxxxiii</sup> Following this attack, Fuseini was apprehended.<sup>lxxxiii</sup> However, after three months in detention, Fuseini was released on bail and allowed to return to the Nima neighborhood where he and his gang had carried out their attacks.<sup>lxxxiv</sup>

January 2016 A mob of students at Opoku Ware Senior High School in Kumasi attempted to lynch three male students who were accused of having “engaged in homosexuality.”<sup>lxxxv</sup> The attackers, who were prevented from carrying out the attack by some of the teachers at the school, had been armed with clubs, machetes and stones.<sup>lxxxvi</sup> The school responded to this situation by expelling the three intended victims.<sup>lxxxvii</sup>

### **Obligations:**

Of relevant second cycle recommendations accepted, Ghana agreed to prevent and ensure accountability for violence perpetrated based on SOGI (124.8, ensure complete and impartial investigations and bring those found responsible for attacks to justice (124.9). Ghana noted recommendations to combat the climate of homophobia pervasive in Ghana (126.19, 126.20); combat violence (126.20), discrimination (126.21, 126.22) ensure equal protection under the law (126.23) and train police, first responders, members of the justice system and social service officials to protect the rights of LGBTIQ persons.

The highlighted stories of violence based on perceived or lived SOGI demonstrates Ghana's negligence to protect its LGGBTIQ citizens from a number of human rights violation. The asymmetrical distribution of adequate redress and justice due to prejudiced attitudes directed at LGBTIQ, held by law enforcement persons is in violation of ICCPR 2(1). The illegal arrest of survivors of violence themselves rather than the victimizers is in violation of article 26 of the ICCPR guaranteeing "equal protection of the law." This is also in violation of 17(1) and 17(2) of the ICCPR, which prohibits and provides equal protection against arbitrary arrests.

**Recommendations:**

We therefore recommend the following:

- Protect against violence and discrimination. Take measures to prevent further hate crimes, hate speech, and discrimination based on sexual orientation or gender identity. Ensure that any crimes motivated by sexual orientation or gender identity are promptly investigated, prosecuted, and punished, and that the victims are provided appropriate remedy
- Speed up the implementation of recommendation 124.8, in order to ensure accountability for, acts of violence perpetrated against individuals, including on the basis of their sexuality
- Implement recommendation 124.9 to ensure that complete and impartial investigations are fully conducted without prejudice into allegations of attacks and threats against persons based on their SOGI and bring those responsible to justice in conformity with local laws and international standards.
- Guarantee the speedy implementation of recommendation 126.3 to ensure that local law enforcement and auxiliary personnel comport themselves in accordance to human rights treaty obligations.

7 Discrimination in Education

Article 2(1) of the ICCPR states that each State Party to the it must "respect and ensure to all individuals" the rights recognized in the Covenant without any discrimination. Article 26 prohibits discrimination in every field and requires equality for all persons before the law.

Unfortunately, in Ghana, LGBTIQ students have been excluded from schools, and LGBTIQ rights advocates and educators who teach about sexual health have been subjected to violent attacks and hostility. The following incidents illustrate how discrimination in education is still an evident reality in Ghana:

In April 2013, 19 students at Opoku Ware Secondary High School in the Ashanti regional capital of Kumasi were expelled for "practicing homosexuality."<sup>lxxxviii</sup> The students were additionally accused of meeting secretly to plan ways to persuade other students to engage in homosexual acts.<sup>lxxxix</sup>

Not long before the 19 expulsions at Opoku Ware SHS, 34 female students were expelled from Wesley Girls Senior High School in Kumasi for “engaging in lesbianism.”<sup>xc</sup>

In January 2016, three male students at Opoku Ware Senior High School in Kumasi were expelled for having allegedly “engaged in homosexuality.”<sup>xci</sup> The headmaster of the school, Dr. Alexis FrimpongNimoh, defended the decision to expel the students on the grounds that “the students posed a threat to their colleagues,” in that they “would have convinced others to become gays if they had not been expelled.”<sup>xcii</sup> He also claimed that the students had help from the outside to influence others to join them: “We didn’t want them to pollute others into it. You see this is something that they initiate others into, and they are very powerful and when you trace you would see that they have influence from outside.”<sup>xciii</sup>

Expelling students who are suspected of being gay or lesbian can have a devastating impact on these young people. It prevents these students from achieving success in future careers that require higher education. It also subjects the students to potential abuse by outing them to parents who might punish them for their identification by the school as homosexual.

### **Obligations**

The wave of, and lack of recourse for, the expulsions that students face on the basis of SOGI is not only a direct violation of articles 2(1) and 26 of the ICCPR and Article 13 of the ICESCR, but also violates articles 1, 2, 16 and 29(b) of the Convention on the Right of the Child, to which Ghana was the first of 196 countries to sign (29 January, 1990) and ratify (5, February 1990). Furthermore it violates articles 25(1) protecting persons from discrimination as well as 25(1) indicating equal opportunity to education.

### **Recommendations**

We therefore recommend the following:

- Provide clear national guidelines to prevent discrimination directed towards students on any grounds, including sexual orientation and gender identity.
- Prohibit any discrimination by a school official towards students based on SOGI
- Provide mechanisms for effective redress whenever a student faces such discrimination, including legal action unhampered by limitations based on financial capacity of the child, nor the family.

### 8 Conclusion

The abuses of rights of LGBTIQ persons are in serious need of redress. Amnesty International and the NGO Freedom House reported in 2013, that “the persecution of sexual minorities has escalated.”<sup>xciiv</sup> In this report we have used media analyses as evidence that individuals in Ghana are often arrested based on conduct relating to their SOGI, compounding marginalization (hate speech educational discrimination and acts of violence), even though identities and majority of acts related to SOGI are not in direct violation of Ghanaian law. By criminalizing same sex sexual activity, section 104(1)(b) of Ghana’s Criminal Code violates the privacy, honour and reputation of individuals based on their (perceived) SOGI, which ought to be protected by the ICCPR. The discriminatory acts perpetrated by the police also violate the prohibitions against arbitrary arrests.<sup>xcv</sup>

The fact that Ghana is a party to the ICCPR, the ICESCR and the CPR and has allowed for the institutional and systematic disregard of its obligations to these international legal instruments (as well as its own constitution) when it pertains to LGBTIQ persons is deeply alarming. Incidents highlighted demonstrate the ways that laws foster the homophobic climate, which allows for arbitrary and unlawful arrests and violent physical attacks against LGBTIQ individuals in Ghana.

We therefor urge Ghana to respect its obligations to the international and local laws that govern it. Only then can it have legitimacy on the international stage.

9 Suggested Questions to be Asked at Ghana’s Review Session

1. On what basis, can the state justify the continued criminalization of same-sex conduct in the absence of any clear legal authority?
2. What measures is Ghana taking to decriminalize, in practice, same-sex sexual conduct?

What steps is Ghana taking to address violence, arbitrary arrest and discrimination against LGBTIQ people because of their sexual orientation or gender identity?

<b>CONTACTS</b>		
<b>Name</b>	<b>Email</b>	<b>Organization</b>
<b>AbubakarSadiqYussif</b>	yasjnr@gmail.com / solacebfoundation@gmail.com	Solace Brothers Foundation
<b>Robert AkotoAmofo</b>	Akoto.robert@gmail.com	Solace Brothers Foundation
<b>KwakuAdomako</b>	Kwakuadomako@gmail.com	Solace Brothers Foundation

<b>Jonathan Osei Owusu</b>	posjonathan@gmail.com	POS Foundation
<b>William Nyarko</b>	wnyarko@acilaa.com	ACILA, Ghana
<b>Frank Doyi</b>	frank@amnestyghana.org	Amnesty International, Ghana

## 9. RIGHT TO WORK



*Amnesty International/<https://www.amnesty.org/en/countries/africa/ghana/> /[frankamnestyghana.org](mailto:frankamnestyghana.org)*



*POS Foundation/ [posfoundation.org/](http://posfoundation.org/) [posjonathan@gmail.com](mailto:posjonathan@gmail.com)*



*Commonwealth Human Rights Initiative*

*Commonwealth Human Rights Initiative Africa/[www.humanrightsinitiative.org/](http://www.humanrightsinitiative.org/)[mina@humanrightsinitiative.org](mailto:mina@humanrightsinitiative.org)*



*African Centre for International Law and Accountability/ [www.acila.org/](http://www.acila.org/) [wnyarko@acilla.com](mailto:wnyarko@acilla.com)*



*KASA Initiative Ghana/ [kasaghana.org/](http://kasaghana.org/)[kasaghanna@gmail.com](mailto:kasaghanna@gmail.com)*

## **LABOUR RIGHTS**

### **Introduction**

This report considers the National Labour Rights of Ghana (Unemployment).

1. The information presented in this submission is based on interviews conducted by the above mentioned network of CSOs. Fact finding researches were embarked upon in consultation with The Trades Union Congress (Ghana), the media (who in executing their mandates as “watch dogs” brought to fore an accurate and tangible state of unemployment rates and its effect on indigenes (the youth)), as well as locally based civil society groups living and working in various communities. The information was further discussed at a pre-UPR submission workshop organised by Ghana Human Rights NGOs Forum (POS Foundation-Secretariat), KASA Initiative and UPR-Info Africa Office, Kenya on 21st and 22nd March, 2017 which was attended by more than 70 civil society organizations in Accra, and validated by same on 27th March, 2017. The submission subsequently highlights specific developments and follow-up measures by Ghana in relation to the summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution (16/21A/HRC/WG.6/14/GHA/3).

### **Unemployment:**

2. The greatest challenge facing the youth in Ghana has been the lack of employment opportunities. In the last three decades, government has often focused its attention on the stabilization of the economy and in particular the achievement of single digit inflation rather than employment. This policy direction has often been reflected in budget statements which usually has very little to say about how government will create or help create employment on the scale required for a significant poverty reduction.

3. Data from the Ghana Investment Promotion Council (GIPC) show that in the last quarter of 2012, 34 out of the 94 newly-registered projects were in the services sector and 20 projects were in the trade sector. Only 13 projects were registered in building/construction while 12 projects were registered in manufacturing. This has been the pattern over the last decade, there has been no direct investment into sectors and areas that will help create jobs and add value to the country's natural resources

4. Like previous post-election year budgets, Ghana started the year 2013 with another round of austerity and fiscal consolidation with single digit inflation as the main policy objective. Unproductive spending which has become a feature of economic management every election year has led to what analysts have termed unsustainable deficit.



5. After the 2016 elections, the NPP Government presented its first Budget Statement and Economic Policies to Parliament on March 2, 2017. A careful reading of the budget indicates that new government recognizes the employment challenge as such and has a clear intention to address it. Government has promised to initiate special programmes such as the one-district-one-factory, one-village-one-dam, small business development, planting for food and jobs, national entrepreneurship and innovation programme, one-million-dollar-one-constituency, among other initiatives aimed at creating jobs for Ghanaians. Government has also promised to undertake employment audit of government-funded projects

6. According to the TUC, the successful implementation of these initiatives will go a long way to alleviate the employment challenge, however, the TUC observes with concern that there is a need for clear targets for employment creation to serve as a guide for assessing performance, sector by sector, region by region and district by district. Since women and the youth have suffered discrimination in terms of decent jobs, it will be important to assess Ghana's performance in terms of the proportion of new jobs that benefit women and young people directly.

7. The 2017 budget emphasized on growth and jobs and clearly reveals that government has set clear targets to measure growth within a year. Regrettably, there is no such target for job creation.

**Obligations:**

1. International Labour Organisation (ILO)<sup>1</sup>

**Recommendations:**

***We recommend that state party should:***

- 1. Government must conduct in the nearest possible time, a comprehensive survey highlighting the high employment rate in Ghana and implement effective measures solve the problem.***
- 2. Set clear employment targets for each region and district.***
- 3. Review the Labour Act of which has been active for over 10 years without review.***
- 4. Ratification of remaining 11 out of 51 International Labour Organization Conventions***

## 10. GHANA'S OBLIGATIONS UNDER INTERNATIONAL LAW



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### GHANA

Africa Center for International Law and Accountability

United Nations Third Universal Periodic Review Ghana, March 2017 Submission

#### Contact information

Ghana Office:

Address: No. 20 Onyankle Street, near Accra Community School

Abelenkpe, Accra, Ghana

Tel: +233504681924

Contact e-mail: [wnyarko@acilaa.com](mailto:wnyarko@acilaa.com)

Contact name and designation: William Nyarko, Executive Director

ACILA was incorporated under Ghana law as a non-profit and non-partisan organization on 27<sup>th</sup> December, 2015. Prior to this, ACILA had been incorporated under US law as a 501 (c) (3) research and education non-profit on 20<sup>th</sup> October, 2015. ACILA's

focus areas are international criminal justice, international human rights, rule of law, democratic governance, and monitoring African states' compliance with regional and international instruments.

## **UPR Submission, Ghana, March 2017**

### **Introduction**

This submission focuses on the work of the Africa Center for International Law and Accountability (ACILA) on international criminal justice and monitoring of Ghana's compliance with international instruments, to which it is a party. In this submission, we focus, in particular, on the recommendations that were made to Ghana to domesticate the Rome Statute of the International Criminal Court (ICC) in 2012 along with several recommendations to ratify certain international instruments.

The information submitted was derived from ACILA's research and publications on the issues, some of which were validated through various forums, including outreach and public education activities undertaken by ACILA. In addition, the information was discussed and validated at a pre-UPR report submission workshop organized under the umbrella of the Ghana Human Rights NGOs Forum on 21<sup>st</sup> and 22<sup>nd</sup> March and 27<sup>th</sup> March, 2017 respectively. The workshop was attended by 70 civil society organizations working in the field of human rights in Ghana.

**1. Recommendation to Domesticate the Rome Statute of the International Criminal Court.** Per UPR 2012, a recommendation was made to Ghana at 123.11 to "intensify its efforts to complete the alignment of national legislation with the provisions of the Rome Statute...". Since then, although Ghana drafted the International Criminal Court Bill in 2016, the bill has not been passed to domesticate the Rome Statute and give effect to Ghana's obligations under the Statute.

It is pertinent to note that Ghana was among the early adopters of the Rome Statute<sup>1</sup>, having signed the Rome Statute on 18 July, 1998<sup>1</sup>, and ratified it on 20 December, 1999. However, 14 years after the Rome Statute came into force in 2002; Ghana has not domesticated the Rome Statute to demonstrate its commitment to providing justice for victims of international crimes, including crimes against humanity, genocide, and war crimes.

Domesticating the Rome Statute is especially important at a time that there has been a persistent call by majority of African leaders for mass withdrawal from the ICC. Although previous administrations in Ghana have not publicly denounced the ICC, the immediate past administration pursued a two-track approach: ensuring that Ghana did not withdraw from the ICC while supporting calls for the establishment of the African Court of Justice and Human Rights to prosecute international crimes. Indeed, Ghana was among the first eight countries to follow through with its support for the establishment of a chamber at the African Court to prosecute international crimes when it signed the agreement on the African court in February 2016.

In addition, Ghana was not among the minority of countries that voted against the non-binding resolution adopted by the African Union on 31 January, 2017, in Addis Ababa for mass withdrawal from the ICC. Ghana's support for mass withdrawal from the ICC

prompted Justice Emile Short, a former Judge of the United Nations International Criminal Tribunal for Rwanda (ICTR) to urge Ghana to state its position on the ICC at a roundtable discussion organized by ACILA on 8 March, 2017<sup>1</sup>.

**Obligation:** Ghana is obligated to respect its obligations under the Rome Statute to pass the Ghana International Criminal Court Bill, 2016, into law.

### **Recommendation**

The State Party should:

- Pass the International Criminal Court Bill, 2016 into law by December 2017.

## **2. Ratification of International Instruments**

Per UPR 2012, about 20 recommendations were made to Ghana to ratify, implement or bring its domestic laws in compliance with its international law obligations. Some of the recommendations asked Ghana to “Ratify before the end of the third UPR cycle those Conventions to which Ghana is a signatory (Hungary, 123.7.)”; Ratify without delay OP-CAT and, in this context, establish a national mechanism for the prevention of torture as provided by this instrument (Luxembourg, 125.16.);” “Ratify OP-CAT, and introduce human rights education for police and security forces (Australia, 125.5.)”; “Intensify its efforts to complete the alignment of national legislation with the provisions of the Rome Statute and to expedite the process of ratification of OP-CAT (Tunisia, 123.11.);” “Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (ICCPR-OP2) (Australia, Spain, Rwanda, 126.1.);” “Ratify ICCPR-OP2, aiming at the abolition of the death penalty (Switzerland, 126.2.);” ‘Abolish by law the death penalty and consider ratifying ICCPR-OP2 (France, 126.12.), among other recommendations<sup>1</sup>.

We highlight the status of ratifications by Ghana of some of the core international human rights instruments, including OP-CAT, Second Optional Protocol to the International Covenant on Civil and Political Rights Aiming at or Abolishing the Death Penalty; International Convention for the Protection of All Persons from Enforced Disappearance; Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography; and Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure, and Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

- a. **Ratification Status of OP-CAT:** According to information available on the United Nations Treaty Collection<sup>1</sup> database, Ghana ratified OP-CAT on 23/09/2016.
- b. **Ratification Status of the Second Optional Protocol to the International Covenant on Civil and Political Rights Aiming at or Abolishing the Death Penalty** - According to information available on the United Nations Treaty Collection database

on 20 March, 2017 Ghana has not taken any action (not signed or ratified) the Second Optional Protocol to the International Covenant on Civil and Political Rights Aimed at or Abolish the Death Penalty<sup>1</sup>.

- c. **Ratification Status of the International Convention for the Protection of All Persons from Enforced Disappearance** - According to information available on the United Nations Treaty Collection database on 20 March, 2017, Ghana has signed<sup>1</sup> but has not ratified this treaty.
- d. **Ratification Status of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography** - According to information available on the United Nations Treaty Collection database on 20 March, 2017, Ghana signed this instrument on 24 September 2003<sup>1</sup>, but has not ratified it.
- e. **Ratification Status of the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure** - According to information available on the United Nations Treaty Collection database on 20 March, 2017, Ghana signed this instrument on 24 September 2013<sup>1</sup>, but has not ratified it.
- f. **Ratification Status of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights** - According to information available on the United Nations Treaty Collection database on 20 March, 2017, Ghana signed this instrument on 24 September 2009<sup>1</sup>, but has not ratified it.

Ghana has made progress in ratifying some of the international human rights-based instruments; however, much still remains to be done.

**Obligation:** Ghana is obligated under the recommendations it supported at the 2012 Universal Periodic Review to, at the very least, ratify the international instruments which it has signed.

### **Recommendation**

The State Party should:

- Ratify the international instruments which it has signed by June 2018.

## APPENDIX

### 1 : LGBTIQ

<sup>i</sup> FAO, Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (2012), available from <http://www.fao.org/docrep/016/i2801e/i2801e.pdf>.

<sup>ii</sup> World Bank, Operational Policy 4.12 - Involuntary Resettlement, available from <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:20064610~menuPK:4564185~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html>.

<sup>iii</sup> See World Bank, Operational Policy 4.12 - Involuntary Resettlement, available from <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:20064610~menuPK:4564185~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html>.

- a. <sup>iv</sup>“ascertain from the people of Ghana, their views on the operation of the 1992 Fourth Republican and, in particular, the strengths and weaknesses of the Constitution;
- b. articulate the concerns of the people of Ghana on amendments that may be required for a comprehensive review of the 1992 Constitution; and
- c. make recommendations to the Government for consideration and provide a draft Bill for possible amendments to the 1992 Constitution.”

<sup>v</sup> <http://www.fao.org/docrep/007/ae501e/ae501e04.htm>

<sup>vi</sup> <https://www.tighana.org/assets/Uploads/Land-Laws-and-Policies.pdf>

<sup>vii</sup> Ensure availability and sustainable management of water and sanitation for all

<sup>viii</sup> Take urgent action to combat climate change and its impacts

<sup>ix</sup> Conserve and sustainably use the oceans, seas and marine resources for sustainable development

<sup>x</sup> Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss

<sup>xi</sup> <http://www.peacefonline.com/pages/local/social/201603/273381.php>

<sup>xii</sup> 1 woman out of 18 members

<sup>xiii</sup> 3 women out of 18 members

<sup>xiv</sup> 2 women out of 18 members

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

<sup>xvi</sup> <https://yen.com.gh/88127-video-two-thieves-slap-caught.html>

<sup>xvii</sup> <http://www.myjoyonline.com/news/2017/March-16th/protest-against-salt-mining-company-at-adina-leads-to-one-death.php>

<sup>xviii</sup> Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels

<sup>xix</sup> See the Voluntary Principles on Security and Human Rights, available from <http://www.voluntaryprinciples.org/>.

<sup>xx</sup> <http://www.ghananewsagency.org/social/dormaa-kantinka-residents-want-newmont-to-fulfill-re-settlement-agreement-91471>

<sup>xxi</sup> CEIA (2011) Human Health Risk Assessment and Epidemiological studies from exposure to toxic chemicals from Mining operations in Tarkwa-Nsuaem Municipality and PresteaHuni-Valley Districts.

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- <sup>xxii</sup> <http://www.pdaghana.com/index.php/component/jdownloads/send/4-working-papers/3-child-rights-in-the-informal-mining-sector-persistent-issues-in-ghana.html>
- <sup>xxiii</sup> <https://www.ghanabusinessnews.com/2014/01/04/illegal-mining-how-ghanas-forgotten-scourge-a-nation-for-gold/>
- <sup>xxiv</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1497785/>
- <sup>xxv</sup> [http://internationalneedsgh.org/gh/?page\\_id=2316](http://internationalneedsgh.org/gh/?page_id=2316)

## **Appendix 2: Land and Natural Resource recommendations from the Constitutional Review Committee Report includes;**

- Vesting all of Ghana’s natural resources in the people of Ghana to be held in trust for them by the President,
- Review of the various Acts of Parliament dealing with sharing benefits derived from lands and natural resources to ensure greater transparency and accountability in the use of the resources
- A new legislative framework on environmental crime
- A review of the tax regime on natural resources to achieve better financial returns to the State,
- A periodic review of the stabilization clauses in Natural Resource Agreements.

<sup>xxvi</sup> Solace Brothers Foundation is an organization committed to working for the protection of human rights of sexual minorities in Ghana.

<sup>xxvii</sup> POS Foundation promotes youth development human rights and social accountability.

<sup>xxviii</sup> PORSH is an NGO with the sole aim of attaining equal rights and privileges in life for vulnerable sectors of society..

<sup>xxix</sup> Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all.

<sup>xxx</sup> HRAC is a not-for-profit, independent, non-partisan, research and advocacy organization set up to advance and protect human rights in Ghana.

<sup>xxxi</sup> CEPEHRG is an organization working to provide sexual health and human rights services for sexual minorities through information sharing, education and empowerment.

<sup>xxxii</sup> Society and Youth Development is a human rights advocacy organization based in the Zongo slum community, which focuses on the abuse of human rights and advocates for the rights of women and youth.

<sup>xxxiii</sup> ACILA is a research, education, independent, non-partisan and non-profit think tank incorporated under US law as a 501(c) (3) and also under Ghanaian law. Focusing on human rights, anti-corruption, good governance, rule of law, international criminal justice, its aim is to contribute to African scholarship through enhanced understanding of international law and democratic governance.

<sup>xxxiv</sup> Dennis Agyei Boateng (March 2017) “Civil Society Organizations must demand accountability.” *Available at* <http://www.graphic.com.gh/news/politics/civil-society-organisations-must-demand-accountability.html>

<sup>xxxv</sup> *Available at* <http://www.wipo.int/edocs/lexdocs/laws/en/gh/gh014en.pdf>

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- <sup>xxxvi</sup> See paragraphs 16, 24 and 50 of A/HRC/8/36 available at [http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/GH/A\\_HRC\\_8\\_36\\_Ghana\\_E.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/GH/A_HRC_8_36_Ghana_E.pdf)
- <sup>xxxvii</sup> See A/HRC/22/6 <http://www.refworld.org/docid/50f91dec2.html>
- <sup>xxxviii</sup> ILGA and ARC International 2016 pp.98 [http://ilga.org/downloads/SOGI\\_Resolution\\_Vote\\_compilation.pdf](http://ilga.org/downloads/SOGI_Resolution_Vote_compilation.pdf)
- <sup>xxxix</sup> *Ibid*
- <sup>xl</sup> CRIMINAL CODE Act 29, Ch. (6), § 104 (Ghana).
- <sup>xli</sup> *ICCPR*, *supra* note 3, art. 17(1).
- <sup>xlii</sup> *Ibid.* at art. 17(2).
- <sup>xliii</sup> *Ibid.* at art. 9(1).
- <sup>xliv</sup>
- <sup>xlvi</sup> UK Operational Guidance Note: Ghana, *supra* note 13, at p. 19.
- <sup>xlvi</sup> *I Was Introduced into Gayism by My Class Teacher*, NEWS GHANA (Oct. 31, 2014), *available at* <http://www.newsghana.com.gh/introduced-gayism-class-teacher/>.
- <sup>xlvi</sup> *Ibid.*
- <sup>xlvi</sup> *Gay Community in Ghana Speak Out*, NEWS GHANA (Dec. 11, 2015), *available at* <http://www.newsghana.com.gh/gay-community-in-ghana-speak-out/>.
- <sup>xlix</sup> *Ibid.*
- <sup>l</sup> *Ibid.*
- <sup>li</sup> *Gays in Ghana: Taking the Noisy Quarrel to the Scottish Parliament*, GRAPHIC ONLINE (March 23, 2016), *available at* <http://www.graphic.com.gh/features/opinion/60702-gays-in-ghana-taking-the-noisy-quarrel-to-the-scottish-parliament.html#sthash.KclO9WC8.xiqq>.
- <sup>lii</sup> *Ibid.*
- <sup>liii</sup> *Ibid.*
- <sup>liv</sup> Littauer, *supra* note 73.
- <sup>lv</sup> *Ibid.*
- <sup>lvi</sup> *Socio-Political Situation*, *supra* note 30; *President Mahama speaks: Homosexuality is Criminal*, GHANA WEB (Feb. 1, 2013), *available at* <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=263862>.
- <sup>lvii</sup> *GNA, Homosexuality is dirty and abominable-Chief Imam*, MODERN GHANA, (July 18, 2015), *available at* <https://www.modernghana.com/news/630606/homosexuality-is-dirty-and-abominable-chief-imam.html>.
- <sup>lviii</sup> *Ibid.*
- <sup>lix</sup> *Otabil Is Most Influential Ghanaian*, STARRFM (Feb. 16, 2015), *available at* <http://www.starrfmonline.com/1.1998160>.
- <sup>lx</sup> *Same-sex Marriage 'Doesn't Make Sense'*, *supra* note 81.
- <sup>lxi</sup> *Africa Won't Accept Homosexuality – Catholic Bishops*, MODERN GHANA (Feb. 22, 2016), *available at* <https://www.modernghana.com/news/676425/africa-wont-accept-homosexuality-catholic-bishops.html>.
- <sup>lxii</sup> *Ibid.*



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<sup>lxiii</sup> Kobina, Welsing. “Amend Ghana’s laws to ban homosexuality – Oquaye. StarrFM Online (Feb. 20, 2017) *available at* <http://starrfmonline.com/2017/02/20/amend-ghanas-laws-ban-homosexuality-oquaye/>

<sup>lxiv</sup> Ghana Criminal Code, Act 29. 208(1) Publication of False News. *Available at* <http://www.wipo.int/edocs/lexdocs/laws/en/gh/gh010en.pdf>

<sup>lxv</sup> Jonathan Migneault, *Clash Over Gay Rights in Accra*, JOURNALISTS FOR HUMAN RIGHTS (Mar. 26, 2012), <http://www.jhr.ca/blog/2012/03/clash-over-gay-rights-in-accra/>. *See also* Prince Kweku, *Report: Socio-Political Situation of LGBTIQ People in Ghana, 2013* (Mar. 14, 2014), *available at* <http://www.amsher.org/report-socio-political-situation-LGBTIQ-people-ghana-2013/> [hereinafter *Socio-Political Situation*].

<sup>lxvi</sup> *Clash Over Gay Rights in Accra, supra* note 30; *Report: Socio-Political Situation of LGBTIQ people, supra* note 30; Interviews with participants by Stefano Fabeni, Executive Director, Global Initiatives for Human Rights of Heartland Alliance.

<sup>lxvii</sup> Interviews, *supra* note 31.

<sup>lxviii</sup> Colin Stewart, *Ghana student faces anti-gay threats, so police arrest him*, 76 CRIMES (Aug. 27, 2014), *available at* <http://76crimes.com/2014/08/27/ghana-student-faces-anti-gay-threats-so-police-arrest-him/>; *see also* Zoure Stephen, *Gay Man Arrested*, PEACE FM (Aug. 25, 2014), *available at* <http://news.peacefmonline.com/pages/social/201408/212045.php>.

<sup>lxix</sup> *Ghana student faces anti-gay threats, supra* note 17.

<sup>lxx</sup> *Manhunt for Gay Muslim*, DAILY GUIDE (Dec. 18, 2014) [hereinafter *Daily Guide*]; Finish Immigration Service, *Status of LGBTIQI People in Cameroon, Gambia, Ghana and Uganda*, at p. 57 n. 350 (Dec. 3, 2015), *available at* [http://www.migri.fi/download/64428\\_Status\\_of\\_LGBTIQI\\_people\\_in\\_Cameroon\\_Gambia\\_Ghana\\_and\\_Uganda\\_3.12.2015.pdf?e3a49d609249d388](http://www.migri.fi/download/64428_Status_of_LGBTIQI_people_in_Cameroon_Gambia_Ghana_and_Uganda_3.12.2015.pdf?e3a49d609249d388) [hereinafter *Finish Immigration Service*]. Libya Quarters is an apartment complex at the junction in Madina. Accra is commonly referred to as “Zongo.”

<sup>lxxi</sup> *Manhunt for Gay Muslim, supra* note 34; Finish Immigration Service, *supra* note 34, at p. 57.

<sup>lxxii</sup> *Manhunt for Gay Muslim, supra* note 34; Finish Immigration Service, *supra* note 34, at p. 57.

<sup>lxxiii</sup> *Manhunt for Gay Muslim, supra* note 34.

<sup>lxxiv</sup> Emmanuel Torny, *Lesbians Shit-Bombed and Stoned*, PULSE (Mar. 4, 2015), *available at* <http://pulse.com.gh/news/cruelty-lesbians-shit-bombed-and-stoned-id3538287.html>.

<sup>lxxv</sup> *Ibid.*

<sup>lxxvi</sup> *Ibid.*

<sup>lxxvii</sup> *Gay Gets 100 Lashes for Attempting Recruit Another Man Over*, NEWS GHANA (Aug. 16, 2015), <http://www.newsghana.com.gh/gay-gets-100-lashes-for-attempting-recruit-another-man-over/>; Linda TenyahAyetey, *Nima Gay Attacker Arrested*, DAILYGUIDE (Sept. 18, 2015), *available at* <http://dailyguideafrica.com/nima-gay-attacker-arrested/>.

<sup>lxxviii</sup> Colin Stewart, *Ghana arrests reputed leader of violent anti-gay gang*, 76 CRIMES (Sept. 18, 2015), *available at* <http://76crimes.com/2015/09/18/ghana-arrests-reputed-leader-of-violent-anti-gay-gang/>.

<sup>lxxix</sup> Colin Stewart, *Warning: Violent homophobe active in Ghana*, ERASING 76 CRIMES (Aug. 15, 2015), *available at* <http://76crimes.com/2015/08/15/warning-violent-homophobe-active-in-ghana/>.

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<sup>lxxx</sup> *Ghana arrests reputed leader of violent anti-gay gang, supra note 42; Warning: Violent homophobe active in Ghana, supra note 43.*

<sup>lxxxi</sup> *Nima Gay Attacker Arrested, supra note 41; Ghana arrests reputed leader of violent anti-gay gang, supra note 42; Gay Gets 100 Lashes, supra note 41.*

<sup>lxxxii</sup> *Nima Gay Attacker Arrested, supra note 41.*

<sup>lxxxiii</sup> *Ibid.*

<sup>lxxxiv</sup> *Ibid.*

<sup>lxxxv</sup> *Three Opoku Ware SHS Students Suspended for Alleged Homosexuality*, GRAPHIC ONLINE (Jan. 19, 2016), available at <http://www.graphic.com.gh/news/general-news/56588-three-opoku-ware-shs-students-suspended.html>.

<sup>lxxxvi</sup> *Ibid.*

<sup>lxxxvii</sup> *Three Opoku Ware SHS Students Suspended, supra note 50; Gay Students Would Have Polluted Others – Owass Headmaster*, GHANA WEB (Jan. 20, 2016), available at <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Gay-students-would-have-polluted-others-Owass-Headmaster-409262?ref=ghanacelebrities.com>.

<sup>lxxxviii</sup> *19 ‘homosexual’ students of Opoku Ware SHS sacked*, GHANA WEB (April 16, 2013), available at <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/19-homosexual-students-of-Opoku-Ware-SHS-sacked-271155>.

<sup>lxxxix</sup> *Ibid.*

<sup>xc</sup> *h Ibid.*

<sup>xc</sup> *Three Opoku Ware SHS Students Suspended for Alleged Homosexuality*, GRAPHIC ONLINE (Jan. 19, 2016), available at <http://www.graphic.com.gh/news/general-news/56588-three-opoku-ware-shs-students-suspended.html>; *Gay Students Would Have Polluted Others, supra note 52*. As noted in Section III, above, prior to being removed from the school, these students were the target of a mob of students that wanted to lynch them.

<sup>xcii</sup> *Gay Students Would Have Polluted Others, supra note 52.*

<sup>xciii</sup> *Ibid.*

<sup>xciv</sup> Freedom House, *Countries at Crossroads: Ghana* (Sept. 20, 2012), available at [http://www.freedomhouse.org/report/countries-crossroads/2012/ghana#\\_edn2](http://www.freedomhouse.org/report/countries-crossroads/2012/ghana#_edn2); see also UK Operational Guidance Note: Ghana, *supra note 13*, at p. 17.

<sup>xcv</sup> Freedom House, *Freedom in the World 2013: Ghana* (May 23, 2013), available at <http://freedomhouse.org/report/freedom-world/2013/ghana>; see also United Kingdom Home Office, Operational Guidance Note: Ghana, at p. 19 (Nov. 12, 2013) (guidance for purposes of asylum decisions), available at <http://www.refworld.org/pdfid/528370ed4.pdf> [hereinafter *UK Operational Guidance Note: Ghana*].

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**APPENDIX:**

**Themes and Recommendations (2<sup>nd</sup> UPR Cycle)**

Theme: A12 Acceptance of international norms

123.7. Ratify before the end of the third UPR cycle those Conventions to which Ghana is a signatory (Hungary);

Source of position: A/HRC/22/6 - Para. 123

125.16. Ratify without delay OP-CAT and, in this context, establish a national mechanism for the prevention of torture as provided by this instrument (Luxembourg);

Source of position: A/HRC/22/6 - Para. 125

125.5. Ratify OP-CAT, and introduce human rights education for police and security forces (Australia);

Source of position: A/HRC/22/6 - Para. 125

123.11. Intensify its efforts to complete the alignment of national legislation with the provisions of the Rome Statute and to expedite the process of ratification of OP-CAT (Tunisia);

Source of position: A/HRC/22/6 - Para. 123

126.1. Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (ICCPR-OP2) (Australia, Spain, Rwanda);

Source of position: A/HRC/22/6 - Para. 126, 127

126.2. Ratify ICCPR-OP2, aiming at the abolition of the death penalty (Switzerland);

Source of position: A/HRC/22/6 - Para. 126, 127

126.12. Abolish by law the death penalty and consider ratifying ICCPR-OP2 (France);

Source of position: A/HRC/22/6 - Para. 126, 127

126.14. Ratify ICCPR-OP2, and formalize, in the meantime, the current de facto moratorium on the death penalty (Uruguay);

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Source of position: A/HRC/22/6 - Para. 126, 127

126.15. Take the necessary measures to remove the death penalty from existing laws and sign and ratify ICCPR-OP2 aiming at the abolition of the death penalty (Norway);

Source of position: A/HRC/22/6 - Para. 126, 127

125.3. Proceed swiftly with the ratification of OP-CAT (Estonia);

Source of position: A/HRC/22/6 - Para. 125

125.4. Ratify and implement OP-CAT at the earliest possible date (Czech Republic);

Source of position: A/HRC/22/6 - Para. 125

123.6. Consider ratifying IL O Convention 189 (2011) concerning decent work for domestic workers (Philippines);

Source of position: A/HRC/22/6 - Para. 123

123.5. Consider ratifying the Palermo Protocol supplementing the United Nations Convention against Transnational Organized Crime (Philippines);

Source of position: A/HRC/22/6 - Para. 123

123.1. Expedite the ratification of the Optional Protocols to the Convention on the Rights of the child (CRC) (India);

Source of position: A/HRC/22/6 - Para. 123

123.4. Consider early ratification of the newest OP to CRC on a communications procedure (Slovakia);

Source of position: A/HRC/22/6 - Para. 123

125.1. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance (CED), OP-CAT, OP-CRC-AC and OP-CRC-SC (Spain);

Source of position: A/HRC/22/6 - Para. 125

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123.2. Ratify the two Optional Protocols to the Convention on the Rights of the Child, on the involvement of children in armed conflict (OP-CRC-AC), and on the sale of children, child prostitution and child pornography (OP-CRC-SC) (Sudan);  
Source of position: A/HRC/22/6 - Para. 123

125.50. Prohibit all forms of corporal punishment of children and ratify the three Optional Protocols to the Convention on the Rights of the Child (Portugal);  
Source of position: A/HRC/22/6 - Para. 125

123.3. Ratify OP-CRC-AC and OP-CRC-SC (Greece);  
Source of position: A/HRC/22/6 - Para. 123

125.2. Consider the ratification of CRPD, and OP-CRC-SC (Rwanda);  
Source of position: A/HRC/22/6 - Para. 125

Theme: A3 Inter-State cooperation & development assistance

125.91. Continue its constructive engagement with the international community, particularly its development partners, allowing Ghana to pursue other measures to improve the welfare of its people and advance human rights (Philippines);

Source of position: A/HRC/22/6 - Para. 125

Theme: A41 Constitutional and legislative framework

123.9. Integrate into its domestic law the various international human rights instruments to which it is a party (Chad);

Source of position: A/HRC/22/6 - Para. 123

123.10. Implement the recommendations of the Committee on the Elimination of Discrimination against Women from 2006 to bring article 7 of the Constitution and section 10 of the Citizenship Act in line with article 9 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (Slovenia);

Source of position: A/HRC/22/6 - Para. 123

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125.6. Complete the process of full alignment of its national legislation with all obligations under the Rome Statute of the International Criminal Court and ratify the Agreement on Privileges and Immunities of the Court (Slovakia);

Source of position: A/HRC/22/6 - Para. 125

123.8. Put to an early referendum all recommendations of the Constitutional Review Commission approved by the Government that require changes to the Constitution, including the removal of the death penalty (United Kingdom of Great Britain and Northern Ireland);

Source of position: A/HRC/22/6 - Para. 123

125.44. Monitor the customary law to ensure that traditional practices be aligned with its obligations in the area of human rights, especially with the provisions of international instruments to which Ghana is a State party (Uruguay);

Source of position: A/HRC/22/6 - Para. 125

125.10. Accelerate the adoption of pending bills and intensify efforts in order to see more strengthened implementation of the measures decided and instruments created, including in terms of the difficult fight against harmful traditional practices, protection of children, inequality of rights between sexes, and access to justice and strengthening of its effectiveness (Cape Verde);

Source of position: A/HRC/22/6 - Para. 125

Theme: A45 National Human Rights Institution (NHRI)

125.8. Further strengthen CHRAJ for its compliance with the Paris Principles (Tunisia);

Source of position: A/HRC/22/6 - Para. 125

125.9. Effectuate the expansion of the mandate of the CHRAJ mandate (Denmark);

Source of position: A/HRC/22/6 - Para. 125

125.7. Strengthen the Commission on Human Rights and Administrative Justice (CHRAJ) through financial and human resources (Switzerland);

Source of position: A/HRC/22/6 - Para. 125

Theme: A46 National Plans of Action on Human Rights (or specific areas)

123.12. Develop and implement a National Action Plan for human rights, in order to framework a systematic approach to the promotion and the protection of human rights in the country (Indonesia);

Source of position: A/HRC/22/6 - Para. 123

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123.13. Give momentum to the process of completing the drafting of a National Human Rights Action Plan (NAHRAP) which would enable the country to address all human rights concerns in a comprehensive and holistic manner (Kenya);

Source of position: A/HRC/22/6 - Para. 123

Theme: B31 Equality & non-discrimination

126.21. Adopt proactive measures at all levels to combat violence, stigmatization and discrimination towards persons on the basis of their sexual orientation (Portugal);

Source of position: A/HRC/22/6 - Para. 126

126.23. Ensure that the provisions in the Constitution that guarantee equality and dignity are equally applied to members of the lesbian, gay, bisexual and transgender (LGBT) community and ensure thorough and impartial investigation into all allegations of attacks and threats against individuals targeted because of their sexual orientation or gender identity (Norway);

Source of position: A/HRC/22/6 - Para. 126

126.16. Decriminalize same-sex relations between consenting adults (France);

Source of position: A/HRC/22/6 - Para. 126

126.17. Decriminalize sexual activity between consenting adults of the same sex (Slovenia);

Source of position: A/HRC/22/6 - Para. 126

126.22. Eliminate the type of crime of “unnatural sexual relations”, and adopt measures to eradicate discrimination motivated by sexual orientation and gender identity (Spain);

Source of position: A/HRC/22/6 - Para. 126

126.18. Decriminalize sexual activities between consenting adults and raise further awareness to promote tolerance in this area (Czech Republic);

Source of position: A/HRC/22/6 - Para. 126

126.19. Consider taking effective measures to combat the climate of homophobia (Slovenia);

Source of position: A/HRC/22/6 - Para. 126

126.24. Consider the report of the High Commissioner on sexual orientation and gender identity and determine which of the recommendations can be taken into account in the further detailing of government policies (Netherlands);

Source of position: A/HRC/22/6 - Para. 126

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126.20. Adopt measures and take steps aimed at raising public awareness to fight against the climate of homophobia that prevails in the country (Belgium);

Source of position: A/HRC/22/6 - Para. 126

124.8. Take steps to prevent, and ensure accountability for, acts of violence perpetrated against individuals, including on the basis of their sexuality (Canada);

Source of position: A/HRC/22/6 - Para. 124

124.9. Ensure that complete and impartial investigations are conducted into allegations of attacks and threats against persons based on their sexual orientation or gender identity and bring those responsible to justice in conformity with the international standards (Belgium);

Source of position: A/HRC/22/6 - Para. 124

125.61. Continue the efforts to improve the birth registration figures, having in mind that considerable improvement has already been achieved, as birth registration increased from around 30 per cent in 2000 to over 60 per cent in 2010 (Brazil);

Source of position: A/HRC/22/6 - Para. 125

125.60. Intensify its efforts to address the problem of birth registration since lack of birth registration makes children born in poor families vulnerable to other human rights violations, including human trafficking (Botswana);

Source of position: A/HRC/22/6 - Para. 125

123.23. Carry out awareness - raising campaigns to promote the birth registration of all children, particularly those living in poverty, and adopt necessary measures to guarantee effective access to free birth registrations for new-borns (Mexico);

Source of position: A/HRC/22/6 - Para. 123

126.25. Train police, first responders, justice system and social services officials to respect and fully protect all human rights of every Ghanaian, including those who are lesbian, gay, bisexual and transgender (United States of America);

Source of position: A/HRC/22/6 - Para. 126

124.2. Combat discrimination, in particular against minorities and immigrants (Romania);

Source of position: A/HRC/22/6 - Para. 124

Theme: B32 Racial discrimination

124.1. Criminalize and punish the practice of acts of racial discrimination (Portugal);



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Source of position: A/HRC/22/6 - Para. 124

Theme: B41 Right to development

125.83. Continue to implement socio-economic development strategies, particularly policies to try and guarantee quality education and health services for all the population (Cuba);

Source of position: A/HRC/22/6 - Para. 125

125.66. Continue redistributing income from petroleum exports to improve the well-being of its population, including construction of basic infrastructure and housing for low-income population as well as public health programmes (Thailand);

Source of position: A/HRC/22/6 - Para. 125

125.64. Continue to promote its socio-economic development by reducing poverty, and increasing inputs into health care and education (China);

Source of position: A/HRC/22/6 - Para. 125

Theme: B51 Right to an effective remedy

123.21. Report back to the Working Group of the UPR on the subject of access to justice, at the next review of Ghana for the UPR (Netherlands);

Source of position: A/HRC/22/6 - Para. 123

Theme: D23 Death penalty

126.3. Impose an immediate official moratorium on the death penalty with a view to abolishing capital punishment entirely as recommended by the Constitution Review Commission, while commuting the existing sentences to life imprisonment terms (Slovakia);

Source of position: A/HRC/22/6 - Para. 126, 127

126.4. Abolish the death penalty (Greece);

Source of position: A/HRC/22/6 - Para. 126, 127

126.5. Abolish de jure the death penalty (Spain);

Source of position: A/HRC/22/6 - Para. 126, 127

126.6. Consider abolishing the death penalty (Slovenia);

Source of position: A/HRC/22/6 - Para. 126, 127

126.7. Consider abolishing the death penalty or formalize the current de facto moratorium (Chile);

Source of position: A/HRC/22/6 - Para. 126, 127

126.8. Consider abolishing the death penalty or formalizing the current de facto moratorium (Mexico);

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Source of position: A/HRC/22/6 - Para. 126, 127

126.9. Consider abolishing the death penalty or establish an official moratorium on its use (Namibia);

Source of position: A/HRC/22/6 - Para. 126, 127

126.10. Take the necessary steps with a view to formally abolishing the death penalty (Turkey);

Source of position: A/HRC/22/6 - Para. 126, 127

126.11. Continue the current practice of granting clemency and commuting death sentences, and establish a moratorium on the death penalty with a view to its final abolition (Germany);

Source of position: A/HRC/22/6 - Para. 126, 127

126.13. Adopt a formal moratorium on the application of the death penalty, while it awaits de jure abolition (Belgium);

Source of position: A/HRC/22/6 - Para. 126, 127

Theme: D25 Prohibition of torture and cruel, inhuman or degrading treatment

125.15. Designate a national mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment (Poland);

Source of position: A/HRC/22/6 - Para. 125

124.4. Take measures in order to fight against impunity in torture and ill-treatment, especially in cases of police brutality and excessive use of force (France);

Source of position: A/HRC/22/6 - Para. 124

123.19. Enforce the prohibition of torture while reflecting on the condition of detention centres (Turkey);

Source of position: A/HRC/22/6 - Para. 123

124.3. Build on its achievement and redouble its efforts to combat police brutality through administrative and judicial sanctions against perpetrators, training and education for serving police officers, and consider including relevant human rights education materials in the cadets' training curriculum (Timor-Leste);

Source of position: A/HRC/22/6 - Para. 124

Theme: D26 Conditions of detention

124.6. Adopt and apply legislation that effectively improves detention conditions in prison centres and ensure the respect of judicial guarantees offered to detainees (Spain);

Source of position: A/HRC/22/6 - Para. 124

125.17. Improve, as a matter of urgency, conditions in prisons and detention centres, in particular inmates' access to food, medical care and overcrowding (Slovakia);

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Source of position: A/HRC/22/6 - Para. 125

125.18. Continue efforts to reduce overcrowding in the prison system and ensure that the Standard Minimum Rules for the Treatment of Prisoners are observed (Austria) ;

Source of position: A/HRC/22/6 - Para. 125

123.22. Accelerate necessary measures for training police personnel on the principles of human rights and the minimum treatment of prisoners and detainees according to a clear curriculum (Iraq);

Source of position: A/HRC/22/6 - Para. 123

124.5. Ensure that the fundamental legal safeguards for persons detained by the police are respected (Poland);

Source of position: A/HRC/22/6 - Para. 124

Theme: D27 Prohibition of slavery, trafficking

125.46. Step up its efforts to prevent and combat trafficking in persons and protect and assist trafficked victims (Philippines);

Source of position: A/HRC/22/6 - Para. 125

125.47. Prevent and combat trafficking in human beings, by protecting victims and ensuring their access to medical, social, legal and counselling services; by ensuring adequate conditions for the victims to make complaints; and by conducting investigations and punishing those responsible (Kyrgyzstan);

Source of position: A/HRC/22/6 - Para. 125

125.48. Enhance the prevention of and combat trafficking in human beings, including internal and cross-border trafficking of women and children for the purpose of sexual exploitation or forced labour, by inter alia implementing anti-trafficking legislation, protecting victims and offering necessary help and assistance (Poland);

Source of position: A/HRC/22/6 - Para. 125

Theme: D31 Liberty and security – general

125.30. Further strengthen the system, including through adequate funding, to allow all victims of violence to receive protection, services including coverage of the costs of their medical examination and to eliminate long delays in court proceedings (Czech Republic);

Source of position: A/HRC/22/6 - Para. 125

125.40. Intensify measures to prevent and combat harmful traditional practices, including female genital mutilation, which occur especially in rural areas, and to investigate such acts in order to prosecute and punish the perpetrators (Uruguay);

Source of position: A/HRC/22/6 - Para. 125

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Theme: D43 Freedom of opinion and expression

125.62. Amend the Right to Information Bill in line with the recommendations made by CHRAJ (Austria);

Source of position: A/HRC/22/6 - Para. 125

125.63. Take immediate steps toward the adoption of the freedom of information Bill, building on its efforts to improve good governance, accountability and transparency (Canada);

Source of position: A/HRC/22/6 - Para. 125

Theme: D51 Administration of justice & fair trial

125.57. Strengthen legal advice and assistance for people in need (Germany) ;

Source of position: A/HRC/22/6 - Para. 125

125.58. Continue ensuring that all detainees have access to a lawyer of their choice, including through the implementation of an enhanced legal aid system that reaches all regions (Palestine);

Source of position: A/HRC/22/6 - Para. 125

125.31. Ensure that effective and prompt investigations are carried out into all allegations of domestic violence and female genital mutilation, and that those responsible are brought to justice (Norway);

Source of position: A/HRC/22/6 - Para. 125

Theme: E21 Right to an adequate standard of living – general

125.82. Consolidate its efforts in the implementation of its national priorities, including in the spheres of education, health and social services (Zimbabwe);

Source of position: A/HRC/22/6 - Para. 125

Theme: E25 Human rights & poverty

125.65. Redouble its efforts to reduce unemployment and poverty, thereby ensuring that each and every Ghanaian can benefit from the fruits of the country's impressive economic growth (Trinidad and Tobago);

Source of position: A/HRC/22/6 - Para. 125

Theme: E41 Right to health – General

125.69. Continue to implement programmes and measures to prevent and combat HIV/AIDS (Cuba);

Source of position: A/HRC/22/6 - Para. 125

125.70. Continue to implement the HIV/AIDS prevention, care and treatment programmes to further reduce the prevalence (Singapore);

Source of position: A/HRC/22/6 - Para. 125

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125.73. Avail itself of additional funds for HIV/AIDS programmes, thereby encouraging the international community to match the funds in the fight against the HIV/AIDS epidemic (South Sudan);

Source of position: A/HRC/22/6 - Para. 125

125.74. Continue, in assistance with development partners and civil society, its fight against HIV and AIDS through advocacy, joint planning, monitoring and evaluation, for the eventual elimination of the disease (Bangladesh);

Source of position: A/HRC/22/6 - Para. 125

125.72. Prioritize the expansion of the successful HIV/AIDS Technical Support Units to all regions which do not have them in place (South Africa);

Source of position: A/HRC/22/6 - Para. 125

125.71. Further increase efforts to reduce infections and to combat discrimination against persons infected with HIV/AIDS (Greece);

Source of position: A/HRC/22/6 - Para. 125

125.68. Continue efforts to provide access to health care to all the population under a health insurance system at the national level (Djibouti);

Source of position: A/HRC/22/6 - Para. 125

125.67. Continue efforts to improve the mental health sector and combat maternal mortality (Djibouti);

Source of position: A/HRC/22/6 - Para. 125

Theme: E51 Right to education – General

125.76. Continue to place emphasis on promoting universal access to education and improving the quality of its education system (Singapore);

Source of position: A/HRC/22/6 - Para. 125

125.77. Take the necessary steps to more effectively enforce compulsory education regulations, thus ensuring that equal access to education is a reality in all parts of the country (Hungary);

Source of position: A/HRC/22/6 - Para. 125

125.75. Ensure the realization, without discrimination, of the right to education for all (Portugal);

Source of position: A/HRC/22/6 - Para. 125

125.78. Continue with its efforts in enhancing girls' access to primary, secondary and tertiary education (Sri Lanka);

Source of position: A/HRC/22/6 - Para. 125

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125.79. Make further efforts to increase girls' enrolment in school, as well as awareness-raising in society regarding the importance of girls' education (Sudan);

Source of position: A/HRC/22/6 - Para. 125

125.80. Protect the rights of its most vulnerable children and ensure their full participation in education (Estonia);

Source of position: A/HRC/22/6 - Para. 125

Theme: E52 primary education

125.81. Continue its efforts to increase the national net enrolment rate for compulsory and free basic education and to further improve the quality of education being received by Ghanaian children in school, in line with the observations made by the United Nations Children's Fund (UNICEF) (Bulgaria);

Source of position: A/HRC/22/6 - Para. 125

Theme: F12 Discrimination against women

125.11. Take measures to ensure a proper legal framework for the Affirmative Action Policy (Bulgaria);

Source of position: A/HRC/22/6 - Para. 125

125.14. Take immediate action against discrimination of women by effectively enforcing women's right to equal treatment as it is guaranteed in the Ghanaian constitution, for example, by ensuring and promoting access to education (Germany);

Source of position: A/HRC/22/6 - Para. 125

123.18. Make efforts to achieve gender equality, including through adoption of the Property Rights of Spouses Bill and the Intestate Succession Bill (Iraq);

Source of position: A/HRC/22/6 - Para. 123

123.14. Continue its fight to promote and protect women's rights (Bangladesh);

Source of position: A/HRC/22/6 - Para. 124

123.15. Continue its current efforts in the field of promotion and protection of women's rights (Egypt);

Source of position: A/HRC/22/6 - Para. 124

123.16. Continue to prioritize the promotion and the protection of the rights of women (South Africa);

Source of position: A/HRC/22/6 - Para. 123

123.17. Redouble its efforts to ensure the protection of the rights of women and children (Luxembourg);

Source of position: A/HRC/22/6 - Para. 123

125.13. Remain steadfast in pursuing its impressive policies towards gender equality, particularly by strengthening measures to eradicate gender-based violence (Lesotho);

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Source of position: A/HRC/22/6 - Para. 125

Theme: F13 Violence against women

125.34. Continue to fight against female genital mutilation (Italy);

Source of position: A/HRC/22/6 - Para. 125

125.35. Continue efforts to fight against female genital mutilation (Senegal);

Source of position: A/HRC/22/6 - Para. 125

125.36. Step up efforts to fight female genital mutilation (Uganda);

Source of position: A/HRC/22/6 - Para. 125

125.38. Adopt all measures, as a matter of priority, to eliminate female genital mutilation (Greece);

Source of position: A/HRC/22/6 - Para. 125

125.41. Close as soon as possible the  
witch camps (Switzerland);

Source of position: A/HRC/22/6 - Para. 125

125.42. Take all possible measures to abolish the practice of witch camps (Denmark);

Source of position: A/HRC/22/6 - Para. 125

125.43. Exert all efforts to ensure traditional practices are compatible with human rights obligations, including female genital mutilation, through enhancing the enforceability of relevant laws in a proper way (Republic of Korea);

Source of position: A/HRC/22/6 - Para. 125

125.24. Take all necessary legislative and practical measures to eradicate violence against women, in all its forms, and to promote gender equality (Romania);

Source of position: A/HRC/22/6 - Para. 125

125.39. Establish awareness campaigns on the prohibition of harmful traditional practices such as female genital mutilation and Trokosi (Switzerland);

Source of position: A/HRC/22/6 - Para. 125

125.20. Continue to adopt measures to investigate, prosecute and punish the perpetrators of acts of violence against women (Chile);

Source of position: A/HRC/22/6 - Para. 125

125.37. Effectively prevent and prosecute female genital mutilation (Germany);

Source of position: A/HRC/22/6 - Para. 125

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125.21. Strengthen awareness-raising campaigns on the issue of violence against women, bringing perpetrators of such crimes to justice (Italy);

Source of position: A/HRC/22/6 - Para. 125

125.25. Continue to give full attention to this most important issue (domestic violence) and to fully implement the Domestic Violence Act and its roadmap (Indonesia);

Source of position: A/HRC/22/6 - Para. 125

125.23. Continue the implementation of the strategic plan regarding domestic violence, in particular violence against women and girls (Algeria);

Source of position: A/HRC/22/6 - Para. 125

125.26. Fully implement the Domestic Violence Act and ensure the effective functioning of DOVVSU (Austria);

Source of position: A/HRC/22/6 - Para. 125

125.22. Undertake concrete steps in order to prevent violence against women, including domestic violence, also through awareness-raising and educational efforts (Poland);

Source of position: A/HRC/22/6 - Para. 125

125.29. Intensify efforts to address gender disparities and combat violence against women including through the strengthening of law enforcement in accordance with its Domestic Violence Act as well as media and education programmes aimed at increasing public awareness and sensitivities on the rights of women (Malaysia);

Source of position: A/HRC/22/6 - Para. 125

125.32. Continue its efforts in the field of women's rights in order to, amongst other things, enforce the 2007 Domestic Violence Act and laws prohibiting harmful practices against women, including trokosi and female genital mutilation (Brazil);

Source of position: A/HRC/22/6 - Para. 125

125.33. Take steps to fully implement the 2007 Domestic Violence Act, inter alia by ensuring that effective and prompt investigations are carried out for any allegations of domestic violence and female genital mutilation, and that those responsible are brought to justice (Canada);

Source of position: A/HRC/22/6 - Para. 125

125.28. Allocate more resources for establishing shelters for women subject to domestic violence and provide accommodation services for girls deprived of access to education (Turkey);

Source of position: A/HRC/22/6 - Para. 125



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125.45. Intensify its efforts against harmful traditional practices and in favour of living conditions in prisons and psychiatric hospitals (Tunisia);

Source of position: A/HRC/22/6 - Para. 125

125.19. Redouble its efforts to promote and protect women's rights, including dealing with the widespread violence against women (Trinidad and Tobago);

Source of position: A/HRC/22/6 - Para. 125

125.12. Develop consequential strategies to fulfil the affirmative action policies of 40 per cent of women in public decision-making processes (South Sudan);

Source of position: A/HRC/22/6 - Para. 125

Theme: F32 Children: family environment and alternative care

123.20. Explicitly prohibit corporal punishment of children in all settings, including the home (Austria);

Source of position: A/HRC/22/6 - Para. 123

Theme: F33 Children: protection against exploitation

125.53. Implement more effectively the legal framework prohibiting child labour (Italy);

Source of position: A/HRC/22/6 - Para. 125

125.54. Take necessary measures that would reduce, at the first stage, the widespread use of child labour (Turkey);

Source of position: A/HRC/22/6 - Para. 125

125.56. Identify and implement best practices to combat child labour in violation of international standards in the fishing industry on Lake Volta (United States of America);

Source of position: A/HRC/22/6 - Para. 125

125.51. Take urgent measures to eradicate child labour and child trafficking (Spain);

Source of position: A/HRC/22/6 - Para. 125

125.49. Take all necessary measures for the prevention and combating of child trafficking, and for the provision of effective remedies for victims (Republic of Korea);

Source of position: A/HRC/22/6 - Para. 125

125.52. Fully implement the Ghana Child Labour Monitoring System and link these efforts with programmes to promote remediation and ensure adequate resources for the Anti-Human Trafficking Unit for the pursuit of prosecutions (United States of America);

Source of position: A/HRC/22/6 - Para. 125

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125.55. Continue its combat against the use of child labour, especially in the mining industry and cocoa production, including implementation of measures on their rehabilitation, reintegration and education (Thailand);

Source of position: A/HRC/22/6 - Para. 125

Theme: F34 Children: Juvenile justice

125.59. Fully implement the 2003 law on juvenile justice (Algeria);

Source of position: A/HRC/22/6 - Para. 125

124.7. Ensure the separation of juveniles and adults in prison cells, through, inter alia, establishing juvenile detention centres (Namibia);

Source of position: A/HRC/22/6 - Para. 124

Theme: F41 Persons with disabilities: definition, general principles

125.84. Speed up its implementation of the 2006 Persons with Disability Act (United Kingdom of Great Britain and Northern Ireland);

Source of position: A/HRC/22/6 - Para. 125

125.85. Strengthen the promotion and the protection of the rights of persons with disabilities (Senegal);

Source of position: A/HRC/22/6 - Para. 125

125.88. Urgently strengthen efforts to reform policy so as to improve the lives of Ghanaians with disabilities in practice (Australia);

Source of position: A/HRC/22/6 - Para. 125

125.89. Undertake effectively policy measures and develop the necessary infrastructure to address issues concerning the rights of persons with disabilities (Malaysia);

Source of position: A/HRC/22/6 - Para. 125

125.87. Improve its domestic legal framework on the rights of persons with disabilities in line with the provisions of the relevant international convention (Italy);

Source of position: A/HRC/22/6 - Para. 125

125.86. Adopt programmes to sensitize and encourage the community for positive engagement with persons with disabilities, and ratify the Convention on the Rights of Persons with Disabilities (CRPD) (Sudan);

Source of position: A/HRC/22/6 - Para. 125

125.90. Roll out the necessary measures for the oversight of activities of psychiatric hospitals and prayer camps in conformity with CRPD (Mexico);

Source of position: A/HRC/22/6 - Para. 125