



International Covenant on Civil and Political Rights

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Human Rights Committee

Concluding observations on the initial reports of Ghana*

1. The Committee considered the initial reports of Ghana (CCPR/C/GHA/1) at its 3274th and 3275th meetings (see CCPR/C/SR.3274 and 3275), held on 24 June 2016. At its 3293rd meeting, held on 8 July 2016, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the initial report of Ghana, which was 13 years overdue, and the information presented therein. It expresses appreciation for the opportunity to engage in a constructive dialogue with the State party's high-level delegation on the measures taken by the State party since the entry into force of the Covenant to implement its provisions. The Committee is grateful to the State party for its written replies (CCPR/C/GHA/Q/1/Add.1) to the list of issues (CCPR/C/GHA/Q/1), which were supplemented by the oral responses provided by the delegation.

B. Positive aspects

3. The Committee welcomes the following institutional and policy measures taken by the State party:

- (a) National action plan to eradicate statelessness in Ghana, 2016;
- (b) Plan of action on domestic violence, 2009-2019.

4. The Committee welcomes the adoption by the State party of the following legislative measures:

- (a) Mental Health Act (Act 846), 2012;
- (b) Domestic Violence Act (Act 732), 2007;
- (c) Persons with Disability Act (Act 715), 2006;
- (d) Human Trafficking Act (Act 694), 2005.

* Adopted by the Committee at its 117th session (20 June-15 July 2016).



5. The Committee also welcomes the ratification of, or accession to, the following international instruments by the State party:

(a) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 24 September 2003;

(b) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 24 September 2003;

(c) Convention on the Rights of Persons with Disabilities, on 30 March 2007;

(d) Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, on 3 February 2011;

(e) Optional Protocol to the Convention on the Rights of Persons with Disabilities, on 31 July 2012.

6. The Committee welcomes the State party's declaration made on 7 September 2000, under article 41 of the Covenant, recognizing the competence of the Committee to receive and consider inter-State communications.

C. Principal matters of concern and recommendations

Applicability of the Covenant and implementation of the Views of the Committee

7. The Committee notes that, while chapter 5 of the Constitution establishes fundamental rights and freedoms, the Covenant has not been incorporated into the law of Ghana. The Committee regrets not having received examples of cases in which the provisions of the Covenant have been invoked before or applied by the courts. The Committee is also concerned that a mechanism for full implementation of the Views of the Committee does not yet exist (art. 2).

8. The State party should give full effect to the provisions of the Covenant in its domestic law and make more vigorous efforts to raise awareness about the Covenant to ensure that its provisions are taken into account by the courts. The State party should take all necessary measures to ensure the full implementation of the Views adopted by the Committee, in accordance with article 2 (3) of the Covenant.

Independent national human rights commission

9. Acknowledging that the Commission on Human Rights and Administrative Justice has been accredited with "A" status by the Global Alliance of National Human Rights Institutions (formerly the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights), the Committee notes reports that the selection of the membership of the Commission is based on presidential appointment and does not ensure a pluralistic composition. It is also concerned that the Commission is insufficiently resourced (art. 2).

10. The State party should increase resources allocated to the Commission on Human Rights and Administrative Justice to ensure that it can adequately fulfil its mandate. It should also review its procedures governing the appointment of commissioners to ensure a fair, inclusive and transparent selection process.

Equality between men and women

11. The Committee is concerned about the existence of provisions that discriminate against women in the State party's legislation on property ownership, access to formal

credit and inheritance. In particular, the Committee notes with concern the delays in adopting the Property Rights of Spouses Bill, which was published in the *Gazette* in 2013 (arts. 2, 3, 23 and 26).

12. The State party should step up its efforts to raise popular awareness of, and change, customary attitudes that are detrimental to women's rights. The State party should, in full compliance with the Covenant, expedite the adoption of the legislation to regulate intestate succession and the property rights of spouses, with a view to guaranteeing equality between men and women.

Non-discrimination against vulnerable groups

13. Despite the steps taken by the State party to train police officers to protect women in prostitution, the Committee is concerned about reports that police abuse of these women is widespread. The Committee is also concerned by the stigmatization of and discrimination against persons with albinism (arts. 2, 7 and 26).

14. The State party should continue its efforts to protect women in prostitution against all forms of discrimination, including attacks on their physical integrity. It should also ensure that persons with albinism are protected against discrimination and find lasting solutions that will give them access, without discrimination, to health care, social services, employment and education.

Violence against women

15. The Committee is concerned about the persistence of violence against women, including domestic violence, sexual assault and rape. It notes the initiative to draft legislative instruments to support the implementation of the Domestic Violence Act of 2007, but regrets the delays in its adoption. The Committee is particularly concerned by the frequent withdrawal of complaints by women victims of domestic violence due to reprisals or social stigma. It is further concerned at reports of lack of investigation and prosecution, as well as lenient sentences imposed on perpetrators. Despite the establishment of the Domestic Violence and Victim Support Unit to assist in the rehabilitation and reintegration of victims of gender-based violence, the Committee is concerned at the lack of sufficient social services and shelters for victims of domestic violence (arts. 2, 3, 6 and 7).

16. The State party should strengthen its efforts to prevent and combat all forms of domestic violence, including by:

(a) Ensuring that the relevant provisions of the Domestic Violence Act of 2007 are effectively enforced, including through the adoption of legislative instruments to support its implementation;

(b) Encouraging the reporting of domestic violence cases, inter alia, by informing women of their rights and the existing legal avenues through which they can receive protection;

(c) Strengthening the Domestic Violence and Victim Support Unit and ensuring that victims have access to effective remedies and means of protection, including an adequate number of shelters, and that support services are available in all parts of the country;

(d) Ensuring that law enforcement authorities continue to receive appropriate training to deal with cases of domestic violence;

(e) Pursuing its awareness-raising efforts to widely sensitize the public at large to the adverse impact of domestic violence.

Non-discrimination and harmful traditional practices

17. The Committee is concerned about the persistence of certain harmful practices, notwithstanding their prohibition by law, such as female genital mutilation, *trokosi* (ritual servitude), forced early marriage and witchcraft accusations leading to confinement in witch camps. The Committee also expresses its concern about the practice of polygamy, which is still permitted through religious or customary norms and widely accepted in society. While, as explained by the delegation during the dialogue, the cultural background of these practices must be borne in mind when devising strategies to address them, the Committee recalls that a failure to comply with the obligations contained in the Covenant cannot be ultimately justified by reference to political, social, cultural or economic considerations within the State (general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant). The Committee regrets the lack of information on possible instances of prosecution of perpetrators and measures of redress granted to victims of harmful practices (arts. 2, 3, 7, 8, 24 and 26).

18. The State party should:

- (a) Strengthen its awareness-raising and education programmes in that regard, in particular in those communities where the practices remain widespread;**
- (b) Further enhance its efforts to prevent and eradicate harmful traditional practices;**
- (c) Proactively investigate cases of traditional harmful practices and ensure that victims have access to effective remedies and adequate protection, rehabilitation and reintegration mechanisms.**

Death penalty

19. While welcoming the de facto moratorium on executions in the State party, the Committee is concerned that death sentences are still imposed and that a high number of persons remain on death row for a long period. The Committee reiterates its Views in *Dexter Eddie Johnson v. Ghana* that mandatory death sentence is contrary to the Covenant. The Committee welcomes the information that the State party is planning to abolish the death penalty but is concerned by the delay in the adoption of the amendment to the Constitution (arts. 6, 7 and 10).

20. The State party should revise its criminal code so as to eliminate mandatory death sentence. It should also pursue its efforts to abolish the death penalty and, in the meantime, consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights.

Excessive use of force

21. The Committee is concerned about reports of excessive use of force and unlawful killings by law enforcement and security personnel. The Committee regrets that no statistics or information on prosecutions of perpetrators and compensation to victims has been provided. It also regrets the lack of information on measures taken to prevent those violations, including measures taken to bring the regulations on the use of lethal force into compliance with the State party's obligation under article 6 of the Covenant. It notes with concern that the mechanism to investigate police abuses is not fully independent, as complaints against police officers are investigated by fellow officers (arts. 6 and 7).

22. The State party should establish an independent mechanism to carry out investigations of alleged misconduct by police officers. The State party should also take measures to ensure that the law and practice are in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Voluntary termination of pregnancy

23. The Committee is concerned that, despite the legally available exceptions to the prohibition of abortion, safe abortion remains largely inaccessible due to the stigma associated with voluntary termination of pregnancy in the society, its relatively high cost and the fact that it is not covered by the national health insurance scheme. The Committee is concerned by the percentage of unsafe abortion-related maternal deaths (arts. 3, 6, 7 and 17).

24. The State party should increase its efforts to reduce maternal mortality resulting from unsafe abortions by adapting its regulations on pregnancy and abortion to ensure that women do not have to undertake unsafe abortions. It should also ensure that voluntary termination of pregnancy is available to individuals regardless of their means, for example by considering incorporation of abortion into the national health insurance scheme. It should further implement awareness-raising policies to combat stigmatization of women and girls who seek abortion, and ensure access to contraception and adequate and affordable reproductive health services for all women and adolescents.

Prohibition of torture and ill-treatment

25. The Committee welcomes the statement by the State party's delegation during the dialogue that it will enact comprehensive legislation to prohibit and punish torture in full compliance with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and article 7 of the Covenant. Despite the information provided by the State that coerced confessions are not admitted as evidence, in accordance with the 1975 Evidence Decree, the Committee notes with concern that, as of today, no official has been prosecuted or punished for extracting coerced confessions (arts. 7 and 14).

26. The State party should adopt criminal legislation that defines and criminalizes torture in accordance with international standards and provides for penalties commensurate with the gravity of the act. It should also ensure that confessions in violation of article 7 of the Covenant are not used or accepted by courts under any circumstances and that officials extracting confessions under torture are investigated and prosecuted.

Persons with disabilities and psychiatric treatment

27. The Committee notes with concern the stigmatization and discrimination faced by persons with disabilities, which strongly contributes to severe deficiencies in mental health care facilities in the State party. It is concerned at reports of prolonged and inadequate treatment of mental health patients in public psychiatric institutions. In particular, the Committee is concerned at the poor conditions, overcrowding and low levels of staffing in public psychiatric hospitals. It is also concerned at the existence of hundreds of unregistered private "prayer camps" to deal with illness, particularly mental illness, which operate with little oversight and no State regulation. It is concerned at reports regarding the use of torture and inhuman and degrading treatment in such camps, including cases of shackling and forced fasting, on persons with mental disabilities, and treatment without free and informed consent (arts. 2, 7, 9 and 10).

28. **The State party should:**

(a) Ensure the implementation of the Mental Health Act, including through the adoption of legislative instruments for its implementation and the recruitment of qualified mental health professionals;

(b) **Ensure registration, regulation and control of “prayer camps”, with a view to preventing ill-treatment, including inhumane practices involving shackling and mandatory fasting;**

(c) **Ensure an effective and independent monitoring and reporting system for mental health and social care institutions, and ensure that abuses are effectively investigated and prosecuted and that compensation is provided to the victims and their families;**

(d) **Prohibit non-consensual psychiatric treatment, such as forced medication and confinement;**

(e) **Ensure that persons with mental disabilities or their legal representatives are able to exercise the right to effective remedy against violations of their rights.**

Conditions of detention and violence among inmates

29. Despite the information provided by the State party’s delegation during the dialogue that inmates designated as “black coats” are not entitled to exercise authority over other prisoners in place of prison officers, the Committee expresses its concern over reports suggesting that they sometimes exercise de facto authority, including through resort to violence. It is also concerned at the very high rate of overcrowding and poor conditions in prisons, including the lack of segregation of detainees from convicted criminals and separation of juveniles from other prisoners and men from women, unsanitary conditions and inadequate provision of basic services and facilities, as well as the lack of a regular and independent system for monitoring places of detention (arts. 7, 9 and 10).

30. **The State party should take measures to improve the conditions and treatment of persons held in custody and take steps to address the problem of prison overcrowding, including by introducing a genuine policy on the use of non-custodial penalties, in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). It should take the necessary steps to separate prisoners by age, sex and custodial status. The State party should also ensure that inmates are not given any disciplinary authority over other inmates. Given the recent ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the State party should expedite its efforts to establish a national mechanism for the prevention of torture as soon as possible, as well as a mechanism for receiving and processing complaints lodged by detainees.**

Child labour

31. While noting the efforts undertaken by the State party to address the issue of child labour, in particular the worst forms of child labour, the Committee expresses its concern at the persisting prevalence of this phenomenon in the State party (arts. 8 and 24).

32. **The State party should intensify its efforts to eliminate child labour, in particular by strengthening its public awareness-raising campaign in this regard. The State party should also investigate cases of the worst forms of child labour, bring alleged perpetrators to justice and ensure that all victims are adequately protected, assisted, rehabilitated and compensated.**

Refugees and asylum seekers

33. While the Committee welcomes the initiative to reform the asylum system, including the Ghana Refugee Law of 1992, to bring it into line with international standards,

in particular articles 2 (3), 6 and 7 of the Covenant, it regrets the delay in the drafting process. The Committee welcomes the information provided by the State party's delegation that the State party is considering ratifying the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness by the end of 2016 (arts. 6, 7 and 13).

34. The State party should expedite the drafting process of the revised legal refugee framework and enact legislation in line with the obligations under the Covenant. The State party should also take concrete legal and administrative steps to prevent statelessness and guarantee the fundamental rights of stateless persons and persons at risk of statelessness through law and practice.

Corporal punishment

35. While noting the efforts taken by the State party, the Committee notes that corporal punishment is still widely practised in society and accepted as a form of discipline, in particular within the family, schools and alternative care settings (arts. 7 and 24).

36. The State party should step up its efforts to put an end to corporal punishment in all settings. It should encourage the use of non-violent forms of discipline instead of corporal punishment and should conduct public information campaigns to raise awareness about its harmful effects.

Birth registration

37. The Committee is concerned about the large number of children who remain unregistered in the State party, especially in rural areas. It is also concerned at barriers encountered by recognized refugee children who were born outside Ghana and do not have birth certificates with regard to the issuance of identity documents by Ghanaian authorities (arts. 13, 16 and 24).

38. The State party should step up measures to expedite the registration of children who remain unregistered. It should take all measures to facilitate access to identification documentation by refugee children born outside Ghana.

Freedom of opinion and expression

39. The Committee is concerned about reports of journalists being harassed, subjected to physical attacks and/or arrested by police. It is also concerned about delays in the adoption of the Right to Information Bill (arts. 9 and 19).

40. The State party should protect journalists from harassment, attacks and arbitrary arrest, prosecute those responsible and compensate the victims. It should expedite the adoption of the Right to Information Bill and ensure that its provisions are in conformity with the Covenant.

Police custody, pretrial detention and basic legal guarantees

41. The Committee is concerned at reports that suspects are not always brought before a judge within 48 hours and at the practice of arresting suspects during the weekend to avoid respecting the 48-hour period, as there are no courts operating during the weekend. While noting the Justice for All Programme, which is aimed at relieving overcrowding in the prisons, the Committee is concerned about the persistence of excessive and abusive periods of pretrial detention, exceeding the national legal limit by as much as several years, for a very large number of people. The Committee is further concerned at the severe shortage of legal aid, despite the existence of the Legal Aid Scheme (arts. 9, 10 and 14).

42. **In the light of the Committee’s general comment No. 35 (2014) on liberty and security of person, the State party should, in compliance with the Covenant, take the steps necessary to ensure respect for the prescribed periods of police custody and pretrial detention in order to prevent abusive and excessive periods of detention. In this regard, the State party should ensure that persons are brought before a judge within 48 hours, including when arrested during the weekend. Furthermore, the State party should take appropriate measures to ensure access to courts and provide adequate funding to the Legal Aid Scheme.**

Discrimination based on sexual orientation

43. The Committee is concerned about reports that lesbian, gay, bisexual and transgender persons are subjected to discrimination, intimidation and harassment and about the impunity enjoyed by the perpetrators of such acts. The Committee notes with concern the explanation provided by the State party that same-sex sexual activity falls within the definition of “unnatural carnal knowledge, under section 104 of the Criminal Offences Act, 1960, and is considered a misdemeanour if it is between two consenting adults”.

44. **The State party should take the steps necessary to protect lesbian, gay, bisexual and transgender persons against all forms of discrimination, intimidation and violence. Furthermore, the State party should amend section 104 of the Criminal Offences Act, 1960, to ensure that sexual relations between consenting adults of the same sex are not considered a misdemeanour and not punishable by law.**

D. Dissemination of information relating to the Covenant

45. The State party should widely disseminate the Covenant, its first Optional Protocol, its initial reports, the written replies to the Committee’s list of issues and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public. The State party should ensure that the report and the present concluding observations are translated into the official languages of the State party.

46. In accordance with rule 71, paragraph 5, of the Committee’s rules of procedure, the State party is requested to provide, within one year of the adoption of the present concluding observations, information on the implementation of the recommendations made by the Committee in paragraphs 18 (non-discrimination and harmful traditional practices), 28 (persons with disabilities and psychiatric treatment) and 30 (conditions of detention and violence among inmates) above.

47. The Committee requests the State party to submit its next periodic report by 15 July 2020 and to include in that report specific up-to-date information on the implementation of the recommendations made in the present concluding observations and of the Covenant as a whole. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country, as well as minority and marginalized groups. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. Alternatively, the Committee invites the State party to agree, by one year after the adoption of the present concluding observations, to use its simplified reporting procedure, whereby the Committee transmits a list of issues to the State party prior to the submission of its periodic report. The State party’s response to this list of issues will then constitute the next periodic report to be submitted under article 40 of the Covenant.