

1. Introduction

1.0. This submission focuses on the work of the POS Foundation, Reformation of Hope Foundation and Center for Security Policy and Research (CSPR) on international criminal justice and monitoring Ghana's compliance with international instruments to which it is a party. This report is also an add-on and situational report from the earlier submission made by ACILA

1.1. In this submission, we focus on the recommendations made during the 2nd and 3rd UPR Cycle to Ghana to domesticate the Rome Statute of the International Criminal Court (ICC) in 2012 and 2017, respectively, along with several recommendations to ratify specific international instruments.

2. Methodology

2.1. The information submitted in this report was derived from POS Foundation, Reformation of Hope Foundation and Center for Security Policy and Research (CSPR) study and publications on the issues, some of which were validated through various forums, including outreach and public education activities undertaken by the aforementioned organizations.

2.2. In addition, the information was further discussed at a pre-UPR submission workshop organised by the Ghana Human Rights NGOs Forum (POS Foundation-Secretariat) which was attended by over 60 CSOs in Ghana on the 29th & 30th of June, 2022 and validated by same on the 12th and 13th July, 2022.

3. Context/Issues

3.1. Recommendation to Domesticate the Rome Statute of the International Criminal Court

- I. 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, Ghana has only drafted the International Criminal Court Bill in 2016.
- II. Also, according to the UPR 2017, recommendations were made to Ghana at 146.22 and 146.58 to take all the necessary measures to align its legislation with all the obligations under the Rome Statute of the International Criminal Court. This is because the Bill has not been passed since it was drafted in 2016 to domesticate the Rome Statute and give effect to Ghana's obligations under the Statute.
- III. It is pertinent to note that Ghana was among the early adopters of the Rome Statute, having signed the Rome Statute on 18 July 1998 and ratified it on 20 December 1999. However, 20 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.
- IV. Domesticating the Rome Statute is especially important at a time when there has been a persistent call by a majority of African leaders for mass withdrawal from the ICC. Although Ghana has not publicly denounced the ICC, Ghana has 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.
- V. Indeed, Ghana was among the first eight countries to follow through with its support for establishing a chamber at the African Court to prosecute international crimes when it

signed the agreement on the African court in February 2016.

- VI. 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 Africa Center for International Law and Accountability (ACILA) and CDD on 9th August, 2018.

- A. Obligation:** Ghana is obligated to respect its obligations under the Rome Statute to pass the Ghana International Criminal Court Bill, 2016, into law.¹

B. Recommendation

The State Party should:

- Pass the International Criminal Court Bill, 2016 into law by December 2023.

3.2. Ratification of International Instruments

1. 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.
2. Some of the recommendations asked Ghana to “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
3. 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.
 - i) 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 7 July 2022, 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.
 - ii) 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 7 July 2022, Ghana has signed but has not

¹ <https://www.graphic.com.gh/news/general-news/pass-ghana-int-l-criminal-court-bill-justice-short.html>

- ratified this treaty.
- iii) 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 7 July 2022, Ghana signed this instrument on 24 September 2003, but has not ratified it.
 - iv) 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 7 July 2022, Ghana signed this instrument on 24 September 2013 but has not ratified it.
 - v) 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 7 July 2022, Ghana signed this instrument on 24 September 2009 but has not ratified it².

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

A. Obligation: Ghana is obligated under the recommendations it supported at the 2012 and 2017 Universal Periodic Review to, at the very least, ratify the international instruments which it has signed.

B. Recommendation

The State Party should:

- Ratify the international instruments which it has signed by December, 2023.

² <https://www.graphic.com.gh/news/general-news/pass-ghana-int-l-criminal-court-bill-justice-short.html>