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Criminalization of Human Rights Defenders in the Volta Region of Ghana

Unrepresented Nations and Peoples Organization (UNPO)

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I. Executive summary

1. This submission is designed to provide additional information on the implementation of civil and political rights in Ghana, the International Covenant on Civil and Political Rights (ICCPR) in particular. This report focuses on the rights of the people in the Volta region, also called Western Togoland.
2. Western Togoland currently face many types of repression from the Ghanaian state, including discrimination, marginalization, arbitrary arrests and detentions, intimidation and the restriction of their political and civil rights.
3. The UNPO, therefore, urges the Government of Ghana, in coordination with international actors and civil society, to recognize the right to self-determination of the Western Togoland in order to ensure the realization of their fundamental rights. Repressive policies and activities must be stopped in the areas of speech, association, and assembly. Excessive force and arbitrary detention cannot be used to curtail freedom of peaceful expression. Policies infringing upon these rights of the Western Togoland people must end.

II. Background

4. In 1957, a referendum united Western Togoland with the Gold Coast also known today as Ghana. However, the unification of these two territories has never been fully accepted by all Western Togoland, some of whom challenge the lawfulness of the referendum.
5. In 1994 the Homeland Study Group Foundation (HSGF) was founded to further the rights of people of Western Togoland and seek self-determination through non-violent means¹. HSGF is the main organization that currently advocates for the self-determination of the people of the Volta Region of Ghana or Western Togoland. They solely advocate through non-violent means and its activities typically consist of dialogue, protest and other non-violent symbolic acts.
6. The HSGF has twice made symbolic declarations of independence of the people of Western Togoland, first on 9 May 2017 and then 17 November 2019. These declarations were purely symbolic, being made at peaceful public meetings, with no direct action being taken by the HSGF or its members to further the declaration other than through ordinary democratic means within the context of the democratic system of Ghana. However, as detailed below, these non-violent actions were followed by systemic repression on the part of the Ghanaian state.
7. Following these rounds of repression of the HSGF, in September 2020 a group called the Western Togoland Restoration Front (WTRF) unilaterally declared an independent state in the Volta region of Ghana using armed road blockades and, according to media reports,

¹ <https://unpo.org/members/20425>

attacking police stations and personnel. Immediately after, the WTRF issued a press release “emphatically stat[ing] that Homeland Study Group Foundation has no hand in the Road Blocks” in an apparent attempt to build the WTRF supporter base contrasting itself with HSGF’s non-violent approach. This follows a similar pattern that the UNPO observes in many states: where the repression of non-violent, democratic organizations working for self-determination leads to more dangerous groups emerging.

III. The criminalization of non-violent self-determination activists

8. Criminalization of HSGF activists takes several forms: the HSGF members are frequently charged with treason felony charges, they are regularly victims of arbitrary arrests and detentions, their peaceful protests seem to be systematically prohibited and many more.

a. Systemic use of arbitrary arrest and detention

9. A clear pattern has emerged in Ghana targeting non-violent human rights defenders in the Volta region with arbitrary arrests and detainment.
10. For example, in May 2019, in advance a meeting to discuss self-determination, a large group of approximately 80 supporters were arrested. Then, in November 2019 the HSGF made a second symbolic declaration of independence, which followed with the arrest of 30 people for either attending a gathering at a local radio station or planning a demonstration.²
11. Following the events of the 25 September 2020 perpetrated by the Western Togoland Restoration Front (WTRF) some 60 members of HSGF were arrested despite both HSGF and WTRF making clear that the organizations were separate and that HSGF did not support WTRF’s actions.³
12. The emblematic case related to Georges Nyakpo⁴, a leader in the self determination movement of Western Togoland, also illustrate the excessive use of arbitrary arrest and detainment by the Ghanaian authorities. George Nyakpo was arrested and detained for 212 days in total with no charges despite Ghanaian law requiring detainees to be told of their charge within 48 hours of arrest. Following his release, Mr. Nyakpo was told by the prosecutor that he would be immediately arrested and placed back in detention if he speaks publicly or attend any meetings related to “Western Togoland”.
13. These events shows a systemic willingness to use the criminal justice system to target free speech, using arrests as tool of intimidation.

b. Allegations of treason against HSGF members

2 “Western Togoland: Members of HSGF Systematically Persecuted by Ghanaian Authorities”, UNPO, 20 March 2020. Available at: <https://unpo.org/article/21783>.

3 “Western Togoland: 60 Members of Homeland Study Group Released”, UNPO, 22 October 2020. Available at: <https://unpo.org/article/22103>.

4 <https://unpo.org/article/22183>.

14. In the recent years, the authorities in Ghana have begun prosecuting human rights defenders from the Volta region with treason and other serious crimes. For example:

- On 12 March 2017, HSGF leaders Kormi Kudzordi, Martin Asianu Agbenu, and Divine Odonkor were arrested for wearing t-shirts referring their declaration of independence. This act has cost them to be charged with treason.
- Similarly, in 2019, eight members of HSGF were arrested, detained and charged with conspiracy to commit treason felony, abetment of unlawful training, unlawful assembly and offensive conduct conducive to the breach of peace for meeting and discussing about Western Togoland self determination movement.
- On 14 July 2021, George Nyakpo, was arrested and charged with treason felony as he violated the “Prohibited Organization Act” of 1976.⁵ This act, unilaterally enacted by a military junta controlling Ghana in the mid-1970s, violates basic principles of international human rights law by establishing a blanket ban over any organizations working on or discussing the rights of the people of Western Togoland and criminalizes any persons engaged with such organizations. In so doing, it appears to contravene provisions of the Constitution of Ghana enshrining international human rights law. The Act does not appear to have been used at all since Ghana’s transition to democracy, and indeed had not been used against the HSGF at any point since its foundation in 1994, despite the organization openly advocating for the rights of Western Togoland since that time.

c. Right to fair trial

15. Following the arbitrary arrest and detention, HSGF are then held without charge for prolonged periods and subsequently released, with the releases often occurring before a court has had an opportunity to rule on the legality of the arrest or the length of the detention which infringed article 14 of the ICCPR which ensures the right to receive a fair and equal trial.

16. In 2018, Amnesty International raised concerns on the unfair trials in Ghana and the access to justice that “remained limited, especially for people from low income or marginalized backgrounds”⁶. Western Togoland, known to be the poorest people in Ghana, have inevitably limited access to justice and HSGF members are frequently prevented from ever

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<http://elibrary.jsg.gov.gh/fg/laws%20of%20Ghana/2%20REP/PROHIBITED%20ORGANISATIONS%20ACT,%201976%20S.M.C.D.%2020.htm#:~:text=AN%20ACT%20to%20provide%20for,organisations%20and%20for%20related%20matters.&text=of%20Togoland%20or%20part%20of,territory%20with%20a%20foreign%20territory.&text=an%20organisation%20so%20declared%20is%20an%20organisation%20to%20which%20that%20p aragraph%20applies.>

6 <https://www.refworld.org/docid/5a9938f94.html>

having a fair trial on the legality of their detention.

17. In January 2020, the leader of the HSGF, Charles Kormi Kudzordzi denounced the unlawfulness action of the Ghanaian authorities toward the HSGF members who has seen their right to equal protection under the law deprived. Many men and women advocating for the independence of Western Togoland were arrested and put in prison without any trials , some of them have also disappeared. Below few example:

- Agbenyega Akudzi arrested on 5 May 2019 in the HSGF offices. He was detained for 64 days after countless adjournments of the trial. On 19 November 2019 he was arrested for the second time, in Barracks Newton. Similarly, the violent arrest was conducted by the Ghanaian police which provided no warrant nor any reason for the arrest.
- Ibrahim Tofa was violently arrested on 19 November 2019 by the Ghana police in Ho Barracks Newton. He was arrested for belonging to the HSGF. He was held in detention for 6 months in poor conditions. Regarding trial, the judiciary kept adjourning the case.
- Euphemia Gborgbortsi was arrested on 19 November 2019 in her home in Wli town at midnight by the Ghanaian police. No warrant nor reasons for the arrest were given. She was detained for 6 months for belonging to a prohibited organization, and the trial kept being adjourned

IV. Restrictions on public participation rights

18. Ghana faces serious weaknesses in providing and protecting civil and political rights to its population living the Volta region.

a. Right to vote

19. In several occasions, the government of Ghana attempt restricting Western Togoland from the right to vote which is protected by article 25 of the ICCPR⁷ as well as the article 42 of the Ghanaian constitution⁸.

20. In June 2018, the national authority suspended the granting of birth and death certificates in Western Togoland⁹ which are required for enrolment in electoral rolls. In this regard, non-registered electors cannot obtain their voter registration card and cannot vote. This measure is thus deliberately used by the authorities to exclude Western Togoland's population from voting.

21. In June 2020, the Ghanaian government has also prevented Western Togoland to exercise their right to vote by deploying military personnel in the region prior to a voter registration

7 <https://www.ohchr.org/sites/default/files/ccpr.pdf>

8 <https://aceproject.org/ero-en/regions/africa/GH/Ghana-laws-on-voter-registration>

9 UNPO, "Western Togoland: Obstruction of Delivering of Birth and Death Certificates", 12 July 2018. Available at: <https://unpo.org/article/20952>.

exercise. According to the Ghanaian government, the military deployment was issued to secure the country's borders against Covid-19 infiltration, nonetheless the army was withdrawn following the registration exercise, conforming the pattern of targeting and marginalizing Western Togolanders from political participation in Ghana. The main political opposition in Ghana, National democratic congress, has also condemned the military deployment in the region prior the election registration¹⁰.

22. The deprivation of the political participation in Western Togoland emphasizing the lack of Western Togolanders' representation in the Ghanaian Government and creates a vulnerable region to nationalist groups to irredentism.

b. Freedom of assembly

23. The right to freedom of assembly protected by the article 21 of the ICCPR, the article 21 of Ghana's 1992 constitution as well as the national legislation under section of the 1994 public order act is under active attack. The Ghanaian government consistently restrict Western Togolanders the freedom to peaceful assembly as a method of suppressing dissent and critical voices in the region. There is a evident increase of police repression, intimidation, targeted arrest and detention since the declaration of independence of Western Togolanders during public protest in Ghana.
24. Moreover, the Prohibited organizations Act makes the HSGF as well as its activities illegal, enabling Ghanaian authorities to conduct countless of arbitrary arrest and detention during public events organized by the HSGF or any other self determination organization. It also gives the opportunity to the authorities to suppress any different opinion against the state. In November 2019, the HSGF made a public declaration of Western Togoland's independence, following this event, the police had arrested 31 people from the HSGF either gathering at a local radio station in the regional capital Ho and/or for planning to embark on a demonstration against the arrest of their leaders.
25. Since 2017, HSGF public activities and particularly public gathering are systematic prohibited. Several public events from the HSGF were repressed by the Ghana authorities through violent arbitrary arrest and detention as a way to discourage them for pursuing.
26. In May 2019 in advance of a meeting to discuss self-determination, eight members of HSGF were arrested. Later, the UNPO recorded of a large group of approximately 80 additional supporters were subsequently arrested for gathering. The authorities seem to apply it in a discretionary repression to Western Togolanders to suppress the implementation of their peaceful movement of self determination.

c. Freedom of association

¹⁰ <https://unpo.org/article/21957>

27. The right to association protected by the article 22 of the ICCPR¹¹ and by the Ghanaian constitutions is also under active attack. Ghanaian authorities persecute members and leaders who uses their constitutional right of association with any self determination movement.
28. Moreover, prohibiting the existence HSGF by making it unlawful is a violation of the right of association. Therefore, the prohibited organization act impedes the HSGF from conducting their legitimate activities, as protected under article 22 of the ICCPR.
29. Over the last few years, Western Togoland has seen their right to freedom of association violated for wearing a tee-shirt. The Ghanaian authorities have conducted countless arbitrary arrests and detentions of members wearing T-Shirts with the inscription “9 May 2017 is OUR DAY Western Togoland” in support of independence of Western Togoland, or for participating in demonstrations. A repressive pattern has emerged by the Ghanaian authorities, targeting and persecuting HSGF members for solely exhibit their association with the peaceful movement of self determination.
30. The case of Nathaniel Acolatse illustrates the violation of article 22 of the ICCPR by the Ghanaian government. Nathaniel Acolatse is a 47 year old male who was detained on 29 September 2020 in his residence by the Ghana National security and the New Patriotic party vigilantes in Ghana. Although no warrant was provided, the authorities arrested Nathaniel because he allegedly financed Western Togoland activities against the NPP government, donating 600/700 aid boxes to Western Togoland and supporting it with an amount of 1.000.000.00 which was equivalent in US \$181.818.18 at the time. In this case, the criminalization of foreign funding deprive the HSGF organization from receiving funding, which would enable the self determination movement to develop its activities and its journey toward the independence of the Volta region.
31. Ghanaian authority systematic repressed and persecute HSGF members but also its supporters as way a clear attempt to the debilitate the movement and dissuade people to join the peaceful movement. This set a environment of fear, depriving them to freely enjoy their right to freedom of association through fear.

d. Freedom of Expression and Opinion

32. To target divergent opinion, the Ghanaian authorities has been practicing intimidation, arbitrary arrest and detention of Western Togoland as tool to silence freedom of opinion and speech. Examples of this conduct includes all the arbitrary arrests and detentions of our member cited above as well as:
 - In 2017, seven HSGF members were arrested for wearing T-shirts which referred to 9 May 2017, on which day an entirely symbolic declaration of independence was made. These members were peacefully

11 <https://www.ohchr.org/sites/default/files/ccpr.pdf>

- On 8 January 2020, Volta Regional minister, Dr. Archibald Letsa served notice to media houses propagating the agenda of the Western Togoland secessionist movements in the region that they would not be spared by the state security apparatus, all in the name of national security.
- In January 2020, the leader of the movement Charles Kormi Kudzordzi accused the Ghanaian authorities for being the reason why HSGF members are in exile, he also accused them for the disappearance of many of its members.

V. Recommendations

33. In view of the above mentioned human rights situation the UNPO along with HSGF urge the Government of Ghana to:
- Affirmatively repeal the “Prohibited Organizations Act” of 1976, or otherwise bring the Act into conformity with their international obligations, in particular, with Article 1, 9(3), 19, 21 and 22 of the International Covenant on Civil and Political Rights.
 - Cease the prosecution of George Nyakpo and other members of the Homeland Study Group Foundation under charges related to the Prohibited Organizations Act.
 - Cease the practice of conducting mass arrests and arbitrary detentions of human rights defenders representing Western Togoland, permitting them to continue to openly operate within the democratic system in Ghana.
 - Guarantee the political participation rights of the Western Togoland people, upholding their right to vote and freedoms of expression and opinion, assembly, and association.
 - Open a dialogue with the people of Western Togoland on their rights to self-determination.