



**COMMISSION ON HUMAN RIGHTS AND
ADMNISTRATIVE JUSTICE (CHRAJ) – GHANA
HUMAN RIGHTS NGOs FORUM – JOINT UPR
SUBMISSION – GHANA – MARCH 2012**

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A) INTRODUCTION

1. The compilation of this submission was made by Ghana's Commission on Human Rights and Administrative Justice (the CHRAJ)¹ jointly with the Ghana Human Rights NGOs Forum, a platform coordinated by the CHRAJ to bring together human rights NGOs in Ghana to deliberate on human rights issues in the country, build consensus on the issues and support each other's activities. The membership of the Forum includes international organisations operating in Ghana and several local human rights NGOs.²
2. The submission is prepared in line with Information and Guidelines for Relevant Stakeholders on the Universal Periodic Review Mechanism [as of July 2008]. It covers the methodology for the preparation of the submission, and two measures undertaken by Ghana to entrench democracy, and which have wide implications for the generality of human rights, constitutionalism, rule of law and the fight against corruption in the country. These measures are the review of Ghana's 1992 Constitution and the National Anti-Corruption Action Plan (NACAP). It also covers the National Human Rights Action Plan (NAHRAP), which Ghana is in the process of developing. The submission subsequently highlights specific developments and follow-up measures by Ghana in relation to conclusions and/or recommendations made by the Working Group on the review of Ghana in May, 2008 and contained in the report of the Working Group (A/HRC/8/36). For ease of reference, subtitles are provided to identify the specific issues contained in the conclusion(s) and/or recommendation(s).

B) METHODOLOGY

3. The compilation draws principally from annual human rights monitoring exercises carried out by the CHRAJ since the last review of Ghana in May, 2008. The CHRAJ annually monitors the state of corruption and the state of human rights in Ghana, and respectively issues statements thereon every 9th and 10th December to coincide with International Anti-Corruption and Human Rights Days. Activities which feed into the CHRAJ's statements on the state of human rights in Ghana include: field visits to various intuitions where individuals are most susceptible to human rights abuses; field interviews; media monitoring; investigations of complaints lodged with the CHRAJ; and interactions with a myriad of institutions concerned with human rights and the fight against corruption in Ghana. These institutions include the Executive, Parliament, the Judiciary, academia, multilateral partners, and civil society organisations including both international and local human rights NGOs.

¹ The CHRAJ was set up in July 1993 pursuant to the Ghanaian Constitution to serve as Ghana's national human rights institution, ombudsman and the main national anti-corruption agency.

² The NGOs that made direct contributions to this joint-submission are: Amnesty International, Ghana; the Concern Health; Education Project; Free World Foundation; Network of Women in Growth; Pos Foundation; Projects Abroad; and Save Mother and Child Foundation, Ghana.

For further elaboration on the current state of human rights in Ghana, abridged versions of the statements by the CHRAJ for 2010 and 2011 are respectively attached to this joint submission as **Annex I** and **Annex II**.

4. The preparation of this joint submission included a consultative process involving the members of the Ghana Human Rights NGOs Forum. A draft of the submission was initially prepared by the CHRAJ and widely circulated to members of the Forum and other civil society organisations for their inputs. A meeting of the Steering Committee of the Forum was held in March, 2012 to incorporate all contributions made and finalise the submission.

C) DEVELOPMENTS SINCE PREVIOUS REVIEW

Review of the 1992 Constitution

5. In January 2010, Ghana initiated an all-inclusive-process to review the 1992 Constitution with the establishment of a 9-member Constitution Review Commission (CRC) mandated to:
 - a. “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.”
6. The CRC operated on the cardinal principle that ownership of the review process belongs to the people of Ghana. Accordingly, a multi-faceted consultations strategy was rolled out to establish different avenues and opportunities to ensure that Ghanaians interact freely with the CRC on their own will, and also express their views freely without limitations. In this regard, the CRC, *inter alia*, conducted: grassroots consultations all across the country at the community, district, and regional levels. These took the form of door-to-door visits; quasi-formal and formal hearings (broadcast live on national television); town hall meetings; and syndicate and focus group discussions on various constitutional themes; and attending meetings of various groups including those of students associations, local government authorities, local development associations, and farmers. There were also consultations at the national level, focusing on specific constitutional themes including human rights. The CRC did not limit itself to interacting with Ghanaians at home; consultations were also held in countries in Africa, Europe and North America with large Ghanaian populations. The use of Short Messaging Service was deployed to launch a Text-In Campaign by securing a special code “1992”, to which subscribers to Ghana’s mobile telecommunications networks could text their views on the operation of the Constitution. The CRC also harnessed Web 2.0 technology to extend the scope and reach of its consultations with Ghanaians through the use of social networking sites such as Facebook and Twitter. A National Constitution Review

Conference, at which all issues and submissions were analyzed, synthesized and tabled for national discussion and consensus building, was held to climax all consultations.

7. At the close of the National Constitution Review Conference, the CRC reported that it had received over 80,000 submissions from Ghanaians. The CRC met its timelines and submitted its final report and recommendation to the government in December, 2011. The government is constitutionally mandated to cause the publication of the report within 6 months of the submission. It is expected that it would address the generality of the conclusions and/or recommendations made by the Working Group on the review of Ghana in May, 2008. In particular, it would address defects in, and recommendations that implicated textual changes to the Constitution, as well as legislative and administrative changes necessary to give effect to, and improve the operation of various constitutional provisions relating to: National Development Planning; the Executive; the Legislature; the Judiciary and the Legal Sector; the Public Services; the Independent Constitutional Bodies; Decentralization and Local Government; Traditional Authority; Lands and Natural Resources; National Security; Human Rights; and Miscellaneous Matters (including Ghana's international relations and the constitutional transitional provisions).

National Anti-Corruption Action Plan (NACAP)

8. Ghana has drawn up a National Anti-Corruption Action Plan 2012–2021 (NACAP), to combat corruption in the country. The Parliament of Ghana is soon to adopt it as a bi-partisan policy document for implementation over the next 10 years by present and future governments of Ghana. The development of the NACAP has taken account of the limitations and shortcomings that characterized previous anti-corruption strategies and spelt their failure.
9. As formulated, the NACAP integrates anti-corruption measures into the programmes and activities of Ghana's public sector organizations, including Ministries, Departments, and Agencies; local government authorities (Metropolitan, Municipal, and District Assemblies), as well as key actors in the private sector. The strategic objectives of the NACAP are to:
 - a. build public capacity to condemn and fight corruption and make its practice a high-risk, low-gain activity;
 - b. institutionalize efficiency, accountability and transparency in the public, private and not-for profit sectors;
 - c. engage individuals, media and civil society organizations to report and facilitate the fight against corruption; and
 - d. conduct effective investigations and prosecution of corrupt conduct.
10. The National Anti-Corruption Action Plan is an unqualified contribution to the fight against corruption and the promotion of national development. It contains strategic action plans identified and agreed upon by stakeholders, including the private sector, during nationwide

consultations. The greatest strength of the NACAP is that it is to be directly integrated into national development planning, making the plan an integral part of the regular annual activities of public institutions including the Ministries, Departments and Agencies (MDAs). Ultimately, the effective implementation of the NACAP should result in enhanced levels of integrity, reduced corruption, improved economic performance, and accelerated development of Ghana.

National Human Rights Action Plan (NAHRAP) for Ghana

11. Ghana is in the process of drafting a National Human Rights Action Plan (NAHRAP). In accordance with the UN Guidelines for developing national human rights action plans, a baseline survey on the human rights situation in Ghana is being conducted to provide the basis for the formulation of the NAHRAP. The NAHRAP, when developed and implemented, would enable Ghana address human rights concerns in a comprehensive and holistic manner. The NAHRAP will cover five key priority areas, namely: economic, social and cultural rights; civil and political rights; vulnerable groups/minorities; international and national legal frameworks; and human rights education. These priority areas will make Ghana cover the different rights issues raised at the UPR, in 2008, in a more systematic and sustainable manner.

Follow-up Measures on Specific UPR Recommendations

Promotion of the rights of women and vulnerable groups (Recommendations 1 and 9)

12. The Property Rights of Spouses Bill and the Intestate Succession Bill have been laid before Parliament owing largely to civil society activism. The 1992 Constitution requires that legislation regulating the property rights of spouses would be enacted as soon as practicable after the coming into force of the Constitution. The two Bills still encounter stultifying delays in Parliament.

The CHRAJ and NGOs as well as government have implemented measures aimed towards advancing women's rights. These include sensitisation and awareness programmes in communities across the country; and development of a gender policy by the CHRAJ, which seeks to complement a national policy being developed by the Ministry of Women and Children Affairs.

13. In spite of these measures, gender disparities and inequalities still persist. Harmful and discriminatory social and cultural practices against women and girls are justified in the name of culture. The Draft Affirmative Action policy (1994) initiated by the government calls for 40 percent representation of women in public decision making but women are still under-represented in policy and decision making in Ghana. Women for instance account for less than 10% of Parliamentarians in Ghana. However, an encouraging feature of the 2012

electioneering process is that some political parties reduced filing fees for prospective female parliamentary candidates.

14. The National Council on Disability was eventually inaugurated on November 7, 2009 to oversee the implementation of the national Disability Act.
15. The Mental Health Bill was passed by Parliament on March 2, 2012. Key rights and principles under the Act include equality and non-discrimination, the right to privacy and individual autonomy and freedom from inhuman and degrading treatment. Others are the principle of the least restrictive environment and the right to information and participation.
16. Hitherto, the mentally ill suffer stigmatisation largely because of the deeply held beliefs and superstitions. Families continue to resort to shrines and prayer camps instead of orthodox medicine for medical treatment for the mentally ill. Monitoring exercises by the CHRAJ and NGOs have revealed human rights abuses at these shrines and camps. Such abuses include chaining and deprivation of food with the belief that fasting would cure the mentally ill.
17. The CHRAJ receives in excess of 1,000 women's-rights-related cases annually. These are resolved mostly through mediation which expands access to justice for women. In its promotional work, the CHRAJ emphasises women's rights as well as the rights of children and other vulnerable groups.

Implementation of the Domestic Violence Act (Recommendations 2 and 3)

18. Capacity building of the staff the Domestic Violence and Victims Support Unit (DOVSU) of the Ghana Police Service has been one of the challenges to the implementation of the Act. In the period under review, a number of personnel of DOVSU have benefited from capacity enhancement programmes to make them more effective and efficient in protecting victims of domestic violence.
19. Furthermore, the Victims of Domestic Violence Support Fund was launched in the last quarter of 2011, but it is yet to attract much needed support. So far, only one partner has made a contribution to the Fund. The government of Ghana is yet to contribute to the Fund. With respect to shelter for victims, none exists, except one which is run by an NGO. In the meantime, a large number of women continue to suffer domestic violence in one form or the other.

Combating harmful cultural practices (Recommendations 5)

20. There have been several interventions by the Ministry of Women and Children Affairs, CHRAJ and NGOs in the affected areas to address banishment of women into witch camps. Aside public education, the Livelihood Empowerment Against Poverty (LEAP), a

programme introduced by the government in 2008 to support extremely poor households with cash, has been extended to vulnerable women in the witch camps on the recommendation of the CHRAJ. The Presbyterian Go Home Project in Ganbaaga in the Northern Region of Ghana continues to work towards the liberation of women banished in witch camps.

21. In spite of these measures, practices of dehumanizing widowhood rites are still prevalent in Ghana today. These rites involve rituals, ranging from seclusion and general isolation of the widow to actual causing of physical harm to the widow. Women alleged to be witches also suffer the fury of their communities, ranging from seclusion, banishment into witch camps, physical molestation, to outright lynching sometimes. (See Annex 1, pages 24 to 29). A lot more still needs to be done to combat these practices especially in terms of law enforcement.

Protecting children's rights (Recommendations 6)

22. The CHRAJ has observed increasing efforts by the courts and DOVSU to protect children. The courts and DOVSU has on a few occasions rescued children from abusive homes. Measures put in place to protect victims of child abuse include prosecution of perpetrators, protection of the identity of victims, public education and counselling of victims. These measures somewhat protect victim from stigmatization.
23. Promotional efforts by DOVSU, CHRAJ and NGOs continue to enlighten Ghanaians on the adverse effects on child sexual abuse. In spite all these measures, there is a high incidence of abuse of children, including sexual abuse.
24. Child labour also seems to be prevalent in Ghana owing largely to widespread poverty and lack of appreciation of children's rights. The CHRAJ, however, observes that NGOs as well as the Ministry of Women and Children Affairs have redoubled their efforts at dealing with the issue of child labour on cocoa farms. However, in the urban and peri-urban areas, increasing number of children are seen to be street hawking and working as female-porters due to the migration of children from the rural to urban areas.

Implementation of measures contained in the ICCPR and CAT (Recommendation 7)

25. In the view of the CHRAJ, achievements in the area of enjoyment of civil and political rights have far outpaced advancement of economic, social, and cultural rights. It was not until July, 2008 that the Supreme Court of Ghana (in the case of **Ghana Lotto Operators Association v. National Lottery Authority** [2007-2008] SCGLR 1089) held that economic, social, and cultural rights mainly spelt out in Chapter 6 of the Ghanaian Constitution on the Directive Principles of State Policy are of themselves presumed to be justiciable. The previous position of the Court in the case of **New Patriotic Party v. Attorney-General** [1997-98] 1 GLR 378 was that the economic, social, and cultural rights were enforceable only when there was a

direct relation between these rights and Chapter 5 of the Ghanaian Constitution which broadly encapsulates civil and political rights.

26. Monitoring exercise by the CHRAJ during the reporting period revealed people still fall victim to torture, cruel, inhuman and degrading treatment, particularly at the hands of the police in Ghana. (See **Annex 1**, pages 19 to 22)

***Improving literacy rate and bridging gender gap between boys and girls in education
(Recommendation 10)***

27. Implementation of the Free Compulsory Universal Basic Education (FCUBE) mandatory under the Constitution; the introduction of the Capitation Grant; the School Feeding Programme; and the distribution of free school uniform to children especially in deprived rural communities have increased school enrolment in the country. Efforts by the government to eliminate schools under trees have also been significant.
28. Ghanaian society today, however, questions the quality of education as functionally illiterate children continue to pass out of the basic schools, especially the public schools. Employers also complain about the products from tertiary institutions, who do not possess the necessary skills and expertise which should make them readily employable.
29. Deeply held cultural beliefs and practices still manifest in the discrimination against the girl child, resulting in families not supporting girl child education, and in certain instances, not affordable, thereby impeding access to quality treatment.

HIV/AIDS prevention (Recommendation 11)

30. Monitoring exercises by the CHRAJ and NGOs reveal discrimination against, and stigmatisation of people living with HIV/AIDS in Ghanaian society.
31. Ghana has been successful in keeping the prevalence rate of HIV/AIDS low, largely through promotional efforts spearheaded by the Ghana AIDS Commission. The CHRAJ's monitoring, however, also reveal that anti-retroviral drugs are inadequate.

***Ratification of the Convention on the Protection of Persons with Disabilities
(Recommendation 12)***

32. Ghana has very recently ratified this Convention and the Optional Protocol. Even though the Persons with Disability Act, 2006 (Act 715) was passed by Parliament on June, 2006, the relevant Regulations to give effect to the Act are yet to be promulgated in spite of strong advocacy campaign by the Ghana Federation for the Disabled..

33. There continue to be flagrant violations of the provisions of the Persons with Disability Act, including the obligation on owners and occupiers of public places to provide appropriate facilities which make these places accessible to and available for use by persons with disabilities. Persons with disabilities, accordingly, continue to publicly complain about discrimination against them. Recently, members of the Ghana Federation for the Disabled complained, upon the commissioning of the “George Walker Bush Highway”, of the lack of facilities available to them to cross the highway.

***Ratification of the Optional Protocol on the Convention Against Torture (OP-CAT)
(Recommendation 13)***

34. This is yet to be ratified. The government has taken a decision to ratify this Optional Protocol. Administrative bottle-necks have caused the delay in ratification.

Improving economic, social and cultural rights (Recommendation 14)

35. Progress in advancing human rights, especially economic, social, and cultural rights has been slow. The CHRAJ and its partners still have the task of ensuring that recommendations arising out from their monitoring activities are effectively implemented by the State and its agencies. CHRAJ has not done particularly well in holding government accountable in meeting its international human rights obligations. It is, however, in the process of restructuring. In this regard, monitoring government’s international obligations is to have a priority focus in the CHRAJ. A Monitoring Unit within a new Human Rights Division to be set up will be responsible for this.
36. Even though Ghana joined the middle income bracket countries in December 2010, poverty is practically still endemic in the country. There is still a vast amount of work to be done in achieving the MDGs in view of the country’s increasing youth population who are faced with difficulty in finding productive employment. In terms of the right to health, there an extremely poor sanitation situation in Ghana. These are in spite of government interventions in these areas.

Combating Corruption (Recommendation 15)

37. Since the UPR in 2008, substantial financial management reforms have been undertaken in Ghana. New elements have been added to the country’s anti-corruption legal framework, including the Anti Money Laundering Act, 2008 (Act 749) and its implementation. Also, the Economic and Organised Crime Office (EOCO) is now the leading agency in investigating organised and economic crimes in Ghana. These are in addition to the National Anti-Corruption Action Plan. The EOCO Act 2010, (Act 804) establishing the Economic and Organised Crime Office was passed to replace the Serious Fraud Office in 2010. EOCO is mandated to monitor, investigate and on the authority and direction of the Attorney- General, prosecute offences that involve serious financial or economic loss to Ghana, money

laundering, human trafficking, cyber crime, tax fraud and terrorism. The office is also mandated to recover the proceeds of crime and provide for related matters.

38. Prior to the development of the National Anti-Corruption Action Plan, a generic Code of Conduct for Public Officers of Ghana, the CHRAJ facilitated, was developed. This complements the Guidelines on Conflict of Interest developed in 2006. Furthermore, a Public Officers (Code of Conduct) Bill is being considered by Cabinet.

Measures to combat and sanction police brutalities (Recommendation 17)

39. The CHRAJ notes that internal disciplinary measures introduced by the Ghana Police Service as well as the establishment of the Police Intelligence and Professional Standards (PIPS) Bureau to help change the image of the Police has led to increasing number of reported dismissals of police officers who misconduct themselves.
40. During the reporting period, the CHRAJ has undertaken human rights and integrity training for station officers for the Ghana Police Service. A module on human rights education has been included in the curriculum for training police officers. After a training of trainers programme on human rights education for police instructors; the police trainers now team up with human rights educators from CHRAJ to give lectures on human rights at police training colleges in the country. More professionals, including lawyers have also been recruited into the Ghana Police Service to enhance effective performance.
41. In spite of these measures, police brutalities persist. Encounters between the CHRAJ, human rights NGOs and the police appear not to have manifested in healthy police-civilian relations. (See Annex 1, pages 19 to 22).

Strengthening the capacity of the CHRAJ (Recommendation 21)

42. Although still not adequate, the CHRAJ has received increasing resources from the government and especially from its multilateral partners in executing its functions. The increased funding has allowed CHRAJ to undertake training programmes to improve staff capacity to better promote and protect human rights and investigate cases involving violations.

Right to housing (Recommendation 22)

43. The CHRAJ notes that there is a large housing deficit in the country. Monitoring exercises revealed that there is little improvement in providing adequate housing for people living in deprived communities especially the slums. An upsurge in rural-urban migration results in increasing slum populations.

44. A major planned intervention by the government to meet the housing need of Ghanaians has stalled recently owing to funding problems. There have also been demolitions, by local government authorities, of houses apparently built in water-ways and in unauthorised locations leading to increasing public protests about inadequate notice amidst the general lack of housing.

Decriminalisation of sexual activity between consenting adults (Recommendations 23 and 30)

45. The Constitution does not expressly provide for sexual orientation as a prohibited ground of discrimination but the penal laws of Ghana prohibit sodomy. In recent times, there have been an increasing numbers of gays and lesbians who have publicly expressed their sexual preference and called for their recognition. They have been supported by a cross section of civil society. This has led to a strong public outcry, particularly by segments of Ghanaian religious community, against any such rights. There appears to be no coherent national position on the issue, even though the government appears to support the position of the religious authorities.

Corporal Punishment (Recommendation 24)

46. CHRAJ's monitoring exercise revealed that violations of the Ghana Education Service Corporal Punishment Policy and bullying continue to occur in Ghanaian basic schools, leading to injuries to some pupils. According to the GES, physical abuse includes caning, yet, in most Ghanaian public schools, teachers openly wield canes and arbitrarily cane pupils for the slightest breach of school regulations.

The death penalty (Recommendations 26, 27, 28, 29, and 31)

47. The death penalty remains on the penal laws of Ghana. Statistics from the Ghana Prisons Service to the CHRAJ reveal that as of 10th November, 2011, there were 141 prisoners sentenced to death in Ghana. The last time a prisoner on death row was executed by hanging was 7th May, 1968. The last time a prisoner on death row was executed by firing squad was 17th July, 1993. The last time the Ghana Prisons Service received a convict sentenced to death by the courts was 7th October, 2011.

Freedom of Information Law (Recommendation 27)

48. The Freedom of Information Bill has been laid before Parliament. The CHRAJ note a few provisions in the Bill, particularly exemption clauses, which seek to limit access to information to a large extent. The CHRAJ and NGOs observe that the commitment of successive governments to the passage of the Bill appears to be "lip service" as the law making processes have unduly delayed.