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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>2</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

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<sup>1</sup> See the [Rome Statute](#) for the provisions of the international instrument that established the International Court of Justice.

<sup>2</sup>Ghana's delegation to the Diplomatic Conference for the adoption of the Rome Statute was led by Dr. Obed Yao Asamoah, then Attorney-General and Minister of Justice. Ghana signed the statute on 18 July, 1998; ratified it on 20 December, 1999; and the statute came into force on 1 July 2002. To date, 34 out of 54 African States have ratified the Rome Statute.

Rwanda (ICTR) to urge Ghana to state its position on the ICC at a roundtable discussion organized by ACILA on 8 March, 2017<sup>3</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>4</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.

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<sup>3</sup> In his comments reported by the media, including the influential Daily Graphic, available at <http://www.graphic.com.gh/news/general-news/govt-asked-to-state-position-on-icc-membership.html>, Justice Short urged Ghana to state its position on its membership of the ICC.

<sup>4</sup> The other recommendations were at 126.14. Ratify ICCPR-OP2, and formalize, in the meantime, the current de facto moratorium on the death penalty (Uruguay); 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); 125.3. Proceed swiftly with the ratification of OP-CAT (Estonia); 125.4. Ratify and implement OP-CAT at the earliest possible date (Czech Republic); 123.6. Consider ratifying IL O Convention 189(2011) concerning decent work for domestic workers (Philippines); 123.5. Consider ratifying the Palermo Protocol supplementing the United Nations Convention against Transnational Organized Crime (Philippines); 123.1. Expedite the ratification of the Optional Protocols to the Convention on the Rights of the child (CRC) (India); 123.4. Consider early ratification of the newest OP to CRC on a communications procedure (Slovakia); 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); 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); 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); 123.3. Ratify OP-CRC-AC and OP-CRC-SC (Greece); 125.2. Consider the ratification of CRPD, and OP-CRC-SC (Rwanda);

- a. **Ratification Status of OP-CAT:** According to information available on the United Nations Treaty Collection<sup>5</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>6</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>7</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>8</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>9</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>10</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.

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<sup>5</sup> See [https://treaties.un.org/Pages/TreatyParticipantSearch.aspx?clang=\\_en](https://treaties.un.org/Pages/TreatyParticipantSearch.aspx?clang=_en)

<sup>6</sup> See [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-12&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-12&chapter=4&clang=_en)

<sup>7</sup> See [https://treaties.un.org/Pages/TreatyParticipantSearch.aspx?clang=\\_en](https://treaties.un.org/Pages/TreatyParticipantSearch.aspx?clang=_en)

<sup>8</sup> See [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-11-c&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11-c&chapter=4&clang=_en)

<sup>9</sup> See [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-11-d&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11-d&chapter=4&clang=_en)

<sup>10</sup> See [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-3-a&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-3-a&chapter=4&clang=_en)