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GHANA

Coalition on the Right to Information Ghana/POS Foundation/Commonwealth Human Rights Initiative/Africa Centre for International Law and Accountability/ Restoration of Hope Foundation/ KASA Initiative Ghana – JOINT UPR SUBMISSION – 2017

(Under the Ghana Human Rights NGOs Forum)

Joint Stakeholders' Report

United Nations Third Universal Periodic Review Ghana

INTRODUCTION AND METHODOLOGY

1. This report considers the progress of Ghana to date on Freedom of Expression and Right to Information.
2. The submission is prepared in line with Information and Guidelines for Relevant Stakeholders on the Universal Periodic Review Mechanism [as of 2 August 2016]. It covers the methodology for the preparation of the submission and measures undertaken by Ghana to entrench democracy, which has implications for human rights, constitutionalism, rule of law and the fight against corruption in the country. The information was further discussed at a pre-UPR submission workshop organised by Ghana Human Rights NGOs Forum (POS Foundation-Secretariat), KASA Initiative and UPR-Info Africa Office, Kenya on 21st and 22nd March, 2017 which was attended by more than 70 civil society organizations in Accra, and validated by same on 28th March, 2017. The submission subsequently highlights specific developments and follow-up measures by Ghana in relation to the summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution (16/21A/HRC/WG.6/14/GHA/3).
3. Ghana has ratified several international instruments, including the International Covenant on Civil and Political Rights (ICCPR), the Second Optional Protocol to the International Covenant on Civil and Political Rights, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention against Torture (CAT), the African Charter on Human and Peoples' Rights (ACHPR). It has also incorporated the Universal Declaration of Human Rights (UDHR) into its 1992 Constitution.
4. Ghana's domestic legal foundation is provided by the 1992 Constitution. Chapter 5 of the Constitution promotes and ensures the protection of the human rights of the citizenry. The 1992 Constitution of Ghana guarantees freedom of speech and expression, including freedom of the press and other media¹. In addition, the constitution provides that the media and the public shall hold the state accountable to the people. The latter responsibility necessarily entails the provision of information to enable the media and the public to play its watchdog role.

¹ See Article 162(5) of the 1992 Constitution of Ghana

➤ **Freedom of Expression**

5. Even though there was no specific recommendation to Ghana in UPR 2012 on freedom of expression, the recommendation on Right to Information necessitates the creation of an environment that encourages freedom of expression without fear of reprisals from state or non-state actors. However, there have been reported cases of violations of freedom of speech by state and non-state actors without the state investigating the incidents or providing an effective remedy. For example, the Media foundation for West Africa reported that “Ghana recorded the highest cases of violations against freedom of expression in the West African sub-region between January and April, 2014”². These reported violations have mostly been in the form of physical attacks, arrests and detentions, threats, censorship, etc. These violations have been perpetuated by both state and non-state actors. The state actors’ perpetrators have included security agencies (military and police), state officials like members of parliament and ministers of state while non-state actors have included political party affiliates, organized groups and individuals. The greatest concern remains the failure to address nearly all the violations recorded.
6. Violence perpetrated by State actors to repress freedom of opinion and expression is particularly disturbing. For example, on 19 August, 2015, this group found that Stan Dogbe, a presidential staffer seized and smashed a voice recorder of the journalist who had gone to the 37 Military Hospital to follow up on an accident involving the presidential press corps. Subsequently, the Media Foundation for West Africa released a statement to condemn the action and a follow-up petition to the president to sanction the presidential staffer. The president formally acknowledged receipt of the petition but did not communicate any step taken on the case until his government left power in January 7, 2017.
7. In addition to State-led violence, the State has also failed to intervene in crimes against freedom of expression perpetrated by non-State actors. In March 2016, there was a report of a reporter with Bohye FM who was beaten by some men at Moshi-Zongo in Manhyia North Constituency, where elections for polling station executives of the New Patriotic Party (NPP) were being re-run.³
8. **Obligations:** Ghana is obligated to respect its obligations under article 162 (5) of the 1992 Constitution of the Republic of Ghana; Article 3(a) and Article 19(2) of The international Covenant on Civil and Political rights (ICCPR), and Article 9 of the African Charter on Human and Peoples Rights (ACHPR).

9. Recommendations:

The State Party should:

- I. Investigate, prosecute, and sanction all attacks on journalists.

² <http://www.myjoyonline.com/news/2014/august-5th/ghana-leads-in-violation-of-free-expression-in-west-africa-report.php>

³ <http://www.ghana-news.adomonline.com/politics/2016/march-3rd/journalist-assaulted-by-machomen-at-manhyia-north.php>

- II. Guarantee adequate protection and security for journalists, so they can effectively perform their duties without any fear of victimization
- III. Build the capacity of security officials on freedom of expression/media rights and respect for human rights.
- IV. Provide an effective remedy for the journalists who were attacked by state and non-state actors.

➤ **Right to Information (RTI)**

10. Ghana's age-long Right to Information Bill was revised and, under the name "RTI Bill 2016," was referred to the 6th Parliament. As was recommended in 2012 from Recommendations 125.62⁴ and 125.63⁵ which were supported by Ghana, the State was to have passed the bill in 2016. Parliament considered the Bill in November 2016, but failed to pass it.
11. The failure to pass the RTI Bill 2016 by the 6th Parliament caused the Bill to lapse meaning that the new government and Parliament (7th Parliament) would have to initiate a fresh process to enable the passage of the Bill.
12. **Obligations:** Ghana is obligated to respect its obligations under article 162 (5) of the 1992 Constitution of the Republic of Ghana; Article 19(2) of The international Covenant on Civil and Political Rights (ICCPR) and Article 9 of the African Charter on Human and Peoples Rights (ACHPR)

13. Recommendations:

The State Party should:

- I. As soon as possible, pass the RTI Bill 2016 as revised.

⁴ 125.62. Amend the Right to Information Bill in line with the recommendations made by CHRAJ (Austria);

Source of position: A/HRC/22/6 - Para. 125

⁵ 125.63. Take immediate steps toward the adoption of the freedom of information Bill, building on its efforts to improve good governance, accountability and transparency (Canada);

Source of position: A/HRC/22/6 - Para. 125