

Introduction

1. This report focuses on access to information, freedom of expression and access to justice recommendations as accepted by the state party at the last UPR. The report assesses progress made in those thematic areas based on stakeholders including CHRI's reports and publications on the issues, some of which were validated through various forums, including outreach and public education activities.
2. Ghana has ratified several international instruments including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the African Charter on Human and Peoples' Rights (ACHPR), the Protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on Human and Peoples' Rights, and the Optional Protocol to the ICCPR

RIGHT TO INFORMATION AND FREEDOM OF EXPRESSION

3. Ghana's 1992 Constitution provides for the right to information and freedom of expression in Article 21. Article 21(1)(f) provides that all persons shall have the right to information, subject to qualifications and laws that are necessary in a democratic society; and the right to freedom of speech and expression, which includes freedom of the press and other media.ⁱ

A. Right to Information (RTI)

4. In accordance with recommendations 146.41, 146.45, 146.47 and 146.91 of the 2017 UPR Process, Ghana is expected to report to the Working Group of the UPR on access to information and freedom of expression at her next review. The following information is an update on the recommendations and some suggestions for progress.
5. Ghana has complied with the aforementioned recommendations following civil society's consistent support to government under the leadership of CHRI Africa Officeⁱⁱ. In 2019, Ghana adopted the RTI Act, 2019 (Act 989)ⁱⁱⁱ. The implementation of the Act was deferred until January 2020 to ensure that the necessary structures were put in place. Act 989 is ranked high among RTI laws from other West African countries and 44th globally out of the 128 RTI laws currently assessed on the Global RTI Rating, an international assessment tool and database of RTI laws. Less than a week after passage, the Ministry of Information (MOI) engaged CSOs and other stakeholders to develop a roadmap for the implementation of the Act, an action commended by civil society. Government has so far put in place some of the basic infrastructure needed to ensure the effective

implementation of the law. Key among these is the establishment of an independent RTI Commission to promote, protect, enforce, and monitor people's right to information. The Commission has been commended for the enforcement of the RTI law through its progressive rulings on RTI cases.

6. Despite this progress, some major limitations have hindered the effective implementation of the law throughout the 3 years of its implementation. Key among them are:
7. Delay by Government to pass a fees regime provided for under section 75 of Act 989 that would guide the appropriate cost for the reproduction of information held by public institutions. This has resulted in some public institutions charging fees for RTI requests at their discretion - a situation that gravely violates the spirit and letter of Act 989^{iv}. Others have also cited the absence of the fees regime as a reason for denying requests for information.
8. Absence of a Legislative Instrument (LI) provided for under section 83 of the Act to provide adequate and precise framework for the law: Without an LI to clarify and expand the provisions of the Act, interpretation of the law becomes a challenge, leaving the provisions of the Act at the mercy of unguided authority. In lieu of action from the government on this, civil society under the leadership of CHRI has moved ahead to prepare a draft LI and submitted it to the RTI Commission in June 2021 as input to support the process. Government in its revised implementation roadmap on the Act committed to lay a draft LI before Parliament by June 2021. Sadly, this commitment is yet to become a reality.
9. Absence of a structure to guide the implementation of proactive disclosure provision in the Act, specifically section 2: Government's revised implementation roadmap is silent on the proactive disclosure component of the Act. The roadmap focuses on creating processes to respond to requests for information but nothing on processes for ensuring that information is proactively disclosed continuously. Again, civil society under the leadership of CHRI submitted suggestions for implementing section 2 to the RTI Commission in June 2021 as input to support the process. It is worthy to note that the Commission has published guidelines for the publication of information manuals as provided for in section 3 and 4 of the Act. However, nothing concrete has been done on section 2 that is an important fundamental principle of a good access to information regime.
10. **Obligations:** Ghana is Party to the ICCPR and the ACHPR.
11. **Recommendations**
The State Party should:
 - I. Fast track the passage of a LI to guide the implementation process

- II. Pass fees regime that would guide the appropriate cost for the reproduction of information held by public institutions
- III. Provide adequate budgetary support to the RTI Commission for fulfilment of its obligation to educate, monitor and ensure compliance of the law

B. Freedom of Expression

12. Recommendation 146.91 of the 2017 UPR Process, supported by Ghana, encouraged the state party to adopt a law guaranteeing media freedom.
13. Ghana has not fully complied. The state party has since 2019 initiated a process to improve media freedom. As part of it, government approved a framework for the safety of journalists in 2020. Following this, government commissioned the Office of the Coordinated Mechanism on the Safety of Journalists (CMSJ) under the National Media Commission (NMC) in 2021. The Office is to ensure the development of a framework for use by all stakeholders to create a safe and conducive environment for the practice of journalism, prevent violence against journalists, protect journalist in danger and prosecute perpetrators of violence against journalists. The state through the MOI organized training programs for stakeholders including journalists and judges. MOI also facilitated stakeholders' consultation on the Broadcasting Bill, which seeks to assist state institutions to regulate the broadcasting space in a manner consistent with the Constitution^v.
14. Despite this progress, the safety of journalists in Ghana keeps deteriorating. According to this year's (2022) first quarter report on freedom of expression covering West African countries by the MFWA, Ghana has recorded 11 violations, the highest in the sub-region. Ghana recorded 15, 21, 19, 18, 16 cases of media violations in 2021, 2020, 2019, 2018 and 2017 respectively^{vi}. These reported violations have mostly been in the form of physical attacks, arrests and detentions, threats, censorship, etc. Both state and non-state actors have perpetuated these violations. The greatest concern remains the failure by the state to address nearly all the violations recorded.
15. Violence perpetrated by State actors to repress freedom of opinion and expression is particularly disturbing. For example, in 2018, Latif Iddrisu, a journalist with JoyNews, a local radio station, was assaulted by police officers while operating in his official capacity as a journalist.^{vii} 2019 was marked by the killing of an investigative journalist, Ahmed Hussein-Suale, by two unidentified persons.^{viii} The two unidentified persons are yet to be arrested.
16. In 2020, police officers detained Caleb Kudah and his colleague Zoe Abu-Baidoo Addo, journalists with Citi FM, another local radio station. Kudah photographed vehicles on the National Security Ministry premises and shared the images with Addo. Kudah was beaten by officers while in custody. The photos were deleted, and both were released without charge.^{ix} COVID-19-related restrictions were also used to obstruct the work of some

journalists, which resulted in assaults.^x

17. The 2022 World Press Freedom Index saw Ghana drop 30 places from 30th in 2021^{xi} to 60th in 2022^{xii}, the lowest in 17 years after Ghana had placed 66th in 2005^{xiii}. According to the NMC, one of the reasons for the deterioration in the safety of journalists is that government stopped funding an initiative that was engineered to see to the safety of journalists in the country^{xiv}.

18. **Obligations:** Ghana is a Party to the ICCPR and the ACHPR.

19. **Recommendations**

The State Party should:

- I. Ensure adequate funding for the NMC and its CMSJ program to promote the safety of journalists
- II. Build the capacity of security officials on freedom of expression, media rights, and respect for human rights.
- III. Pass the Broadcasting Bill.

ACCESS TO JUSTICE

20. Ghana's 1992 Constitution contains an elaborate bill of rights in chapter 5, which provides for the right to speedy trial, respect for dignity, freedom from torture, cruel, inhuman or degrading treatment, right to legal aid.

21. In accordance with recommendations 146.86, 146.38, 146.88, 146.89, 146.90 and 147.21, Ghana is expected to report on access to justice at the next review. The following information is an update on the recommendations and some suggestions for progress.

A. RIGHT TO SPEEDY TRIAL

22. Recommendation 146.86, which was accepted by the state party, relates to reforms to protect the right to speedy trial. The state party has not fully complied. The judiciary issued a practice direction on Disclosures and Case Management in Criminal proceedings.^{xv} The practice direction provides for efficient resolution of criminal cases including referral, disclosures by the Prosecution ahead of trials and just resolution of criminal cases. Currently there is a gradual paradigm shift towards the adoption and harnessing of technological solutions in the administration of justice to phase out the manual procedures hindering the speedy delivery of justice.

23. One of such technological intervention is the establishment and launch of the Ghana Case Tracking System (CTS). The CTS, launched in 2018 by the Vice President of Ghana^{xvi}, is a system that tracks criminal cases from inception to the end of cases. Six key Justice Sector Institutions are currently using the CTS across 7 out of 16 regions of Ghana.

24. Despite this development, there are still issues of undue delays in justice delivery system. The usage of the CTS by user agencies has been very slow, ineffective and with minimal motivation regardless of the various advocacy actions by CSOs including CHRI under the USAID Justice Sector Support Activity^{xvii}

25. Recommendations

The State Party should:

- I. Enact a legislation to bind the user agencies to route all criminal cases through the CTS to ensure efficiency and enhance processing and adjudication of cases
- II. Prioritize the CTS under the ongoing Ghana Government e-Transformation agenda
- III. Provide adequate financial resources to JSIs to support the CTS initiative

B. ACCESS TO LEGAL AID

26. Ghana accepted recommendation 146.86. The state party has not complied. The Legal Aid Commission (LAC), the state institution charged with the mandate to ensure that citizens especially the poor, vulnerable and marginalized have equal access to justice and equal treatment before the law by providing legal aid services is fraught with many challenges which affects its performance. These include unavailability of lawyers to provide legal services and infrastructure deficits and inadequate financing. The LAC is unable to accommodate increase in number of cases reported due to inadequate staffing and administrative structures including offices^{xviii}.

27. The Government has made pledges to resource the LAC^{xix}. However, very little has been done to redeem such pledges. Ghana currently has a total of 4,199 lawyers in good standing as at June 17, 2022^{xx}. The LAC has only 35 lawyers as at June 19, 2021^{xxi} working for it across the Country to serve Ghana's population of over 30 million^{xxii}.

28. The Courts Act 1993, (Act 459) also makes provision for legal aid. Section 114 provides for court-assisted legal aid scheme. However, this provision is not being enforced due to the lack of LI to operationalize the provision.

29. Recommendations

The State Party should:

- IV. Provide adequate infrastructure, logistical, financial and human resource to make its services accessible, available and affordable to persons who require same as constitutionally mandated
- V. Establish Legal Aid offices in all districts across the country.
- VI. Provide the LAC with adequate lawyers to meet with the legal demands of Ghana's growing population
- VII. Enact the required LI to operationalise Section 114 of the Courts Act (Court-assisted legal aid scheme).

C. INDEPENDENT POLICE COMPLAINT AUTHORITY

30. Recommendation 146.38 as accepted by Ghana was to establish an Independent Police Complaint Commission (IPCC) to carry out investigations of alleged police misconducts. The state has not complied. Incidents of police brutalities against civilians without victims receiving justice continues to increase in Ghana. The public is completely dissatisfied with the current internal police accountability mechanism and continuously calls on the state to establish an independent oversight body to carry out impartial investigations into alleged police brutalities and make the outcome of investigations public to help strengthen public trust in the police administration. ^{xxiii}
31. CHRI published a research report on Establishing an Independent Police Complaint Body in Ghana^{xxiv} and shared with key stakeholders including the Ministry of Interior, the Police and Attorney-General's Office to aid the process. In addition, CHRI has provided the state with a draft framework for an IPCC^{xxv} which has inputs from key stakeholders. Despite civil society support to government on the process, the state party has not made any progress to establish an IPCC to ensure proper accountability of police brutalities against civilians.

32. Recommendations

The State Party should:

- VIII. Establish an IPCC/Body to deal with police brutality cases and provide effective remedy to the victims of the police brutality

D. CONDITIONS OF DETENTION IN PRISONS AND CENTRES OF DETENTION

33. Ghana accepted recommendations: 146.90, 146.88, 146.89, 147.21 and 146.34.
34. Ghana has not fully complied. The state has made some efforts to reduce prison overcrowding but failed to make progress on introducing alternative punishments for minor crimes, which could be a lasting solution to prison overcrowding. The state has also not made much progress to improve conditions of detention in prison facilities over the years.
35. The state party continued to implement the Justice For All Programme (JFAP) which started in 2007 and has seen a total of 4,512 inmates as at January 2020 appear before court and out of which 839 were discharged, 1,596 granted bail, 180 convicted and 28 referred to psychiatric hospitals^{xxvi}. The 2021 edition of the JFAP was held virtually because of the challenges associated with the COVID-19 pandemic.

36. During the period (2020-2021) of the COVID 19 pandemic, the President pardoned 1,589 prisoners to mitigate the dangers caused by overcrowding in prison. Out of this number 1,555 were first-time offenders who had served half their sentences, 15 were seriously ill prisoners, and 19 were elderly prisoners. The report also indicated that the Chief Justice directed Judges to reduce sentences for a range of offenses to reduce the prison population and directed the judiciary to pursue alternatives to incarceration including fines and noncustodial punishment, especially for minor crimes as part of the COVID-19 mitigation strategy. The Ghana Prisons Service periodically fumigated and disinfected prisons to prevent the spread of infectious diseases^{xxvii}.
37. Despite these interventions, prison overcrowding as at June 6, 2022 is still high (45.24%) with a prison population of 14,444 instead of the 9,945 that the prisons are capable of holding^{xxviii}. The U.S. Department of State's 2021 Annual Country Reports on Human Rights Practices in Ghana described Ghana's prison conditions as not only harsh, but also life-threatening due to overcrowding, inadequate sanitary conditions, lack of medical care and food shortages^{xxix}. The government provides GHC1.80 a day, which is less than \$0.25 towards feeding for each prisoner.^{xxx}
38. On alternative punishments for minor crimes, the state has been on an unending journey to enact a law for community service sentencing since 2014. The Executive has not given the draft Community Service Bill the needed attention despite support from CSOs including the CHRI. The Bill has already gone through several stakeholder consultations and the citizenry have made several calls on government to expedite action to finalize the process and present it to Parliament for passage^{xxxi}.
39. **Obligations:** Ghana ratified the UN Minimum Standard Rules for the Treatment of Prisoners, CAT, ICCPR, OP-CAT, and the ACHPR.
40. **Recommendations**
The State Party should:
- I. Expedite action on the Community Service Bill and forward it to Parliament for passage to decongest the prisons
 - II. Increase the feeding allocation for prisoners to ensure proper nutrition in accordance with the Nelson Mandela Rules

ⁱ Act 21 (1)(a) & (f) of the 1992 Constitution of Ghana

ⁱⁱ The journey available at:

[https://www.humanrightsinitiative.org/download/1570075247RTI%20GHANAs%20JOURNEY%20\(1992%20-%202019\).pdf](https://www.humanrightsinitiative.org/download/1570075247RTI%20GHANAs%20JOURNEY%20(1992%20-%202019).pdf)

ⁱⁱⁱ Available at: <https://www.rti-rating.org/wp-content/uploads/2020/07/Ghana.RTI-2019.pdf>.

^{iv} <https://www.myjoyonline.com/rti-coalition-expresses-disappointment-in-public-institution-responses-to-rti-requests/>

^v <https://www.gna.org.gh/1.21506749>

^{vi} https://www.mfwa.org/wp-content/uploads/2022/06/FoE-Monitor-Jan-March-2022-final_Updated-1.pdf pg 7 (last accessed July 7, 2022)

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<https://www.mfwa.org/wp-content/uploads/2022/02/FoE-Monitor-Q3-July-Sept-2021-1.pdf> pg 4
<https://www.mfwa.org/wp-content/uploads/2022/04/FoE-Monitor-Oct-Dec-2021-MS.pdf> pg 5 (last accessed July 7, 2022)

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^{vii} Committee to Protect Journalists 'Ghanaian journalist beaten by police' 25 July 2018
<https://cpj.org/2018/07/ghanaian-journalist-beaten-by-police/> (accessed 01 June 2022)

^{viii} Freedom House *Freedom in the world 2020 country report: Ghana*
<https://freedomhouse.org/country/ghana/freedom-world/2020> (accessed 01 June 2022)

^{ix} Committee to Protect Journalists 'Ghana police detain 2 Citi FM journalists, beat 1 in custody' 25 May 2021
<https://cpj.org/2021/05/ghana-police-detain-2-citi-fm-journalists-beat-1-in-custody/> (accessed 01 June 2022)

^x Freedom House *Freedom in the world 2021 country report: Ghana*
<https://freedomhouse.org/country/ghana/freedom-world/2021> (accessed 01 June 2022)

^{xi} <https://rsf.org/en/index?year=2021> (accessed 07 July, 2022)

^{xii} <https://rsf.org/en/index?year=2022> (accessed July 7, 2022)

^{xiii} <https://rsf.org/en/index?year=2005> (accessed July 7, 2022)

^{xiv} <https://www.myjoyonline.com/nmc-bemoans-lack-of-funding-for-initiative-to-ensure-safety-of-journalists/>

^{xv} Practice Direction on Disclosures and Case Management in Criminal Proceedings 2018

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- xvi <https://presidency.gov.gh/index.php/briefing-room/news-style-2/671-vice-president-bawumia-launches-ghana-s-first-criminal-justice-case-tracking-system>
- xvii <https://www.gna.org.gh/1.21032052>
- xviii <https://www.graphic.com.gh/news/general-news/ghana-news-legal-aid-to-beef-up-staff.html>
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- xxxi <https://www.theghanareport.com/expedite-community-service-sentencing-bill-csos-charge-govt/>