

FACTSHEET – UPR 2017, GHANA

3rd CYCLE UNIVERSAL PERIODIC REVIEW

RIGHT TO LIFE—DEATH PENALTY



SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES AND RECOMMENDATIONS MADE

During the 2012 UPR cycle, Ghana received recommendations, which it noted, to ratify among other things, the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty and formalize, in the meantime, the current de facto moratorium on the death penalty, while taking the necessary measures to remove the death penalty from the existing laws of Ghana. (Recommendations 123.8,126.1,126.2,126.12,126.14 and 126.15).

NATIONAL FRAMEWORK

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, particularly rights to life.

It was in 1993, the year of Ghana's return to civilian rule, when the country's last executions of 12 prisoners convicted of armed robbery or murder, were carried out

No official moratorium on executions is in place, but Amnesty International considers Ghana to be "abolitionist in practice" since it retains the death penalty in law for ordinary crimes, but has not executed anyone during the past 10 years and is believed to have an established practice of not carrying out executions.

The Ghanaian government has made various symbolic moves in recent years that indicate a lack of enthusiasm for the death penalty. During 2013, then President John Dramani Mahama commuted 33 death sentences to life imprisonment, and, in commemoration of Ghana's 54th Republic Day Anniversary, in 2014, he commuted 21 more. President Mahama commuted 14 death sentences in 2015.

As of August 2015, 129 people were under sentence of death. The Constitutional Review Commission's (CRC) December 2011 report recommended the replacement of the death penalty with life imprisonment without parole, which is a stiffer penalty than the current practice.

In 2014, Government rejected the recommendation of the Constitutional Review Implementation Committee to abolish the death penalty, or to adopt a formal interim moratorium on executions, or to ratify the ICCPR-OP2. Government agreed, however, to put to a referendum all recommendations of the CRC requiring amendment of the Constitution, including death penalty abolition, which is an entrenched provision in the Constitution, and requires a referendum. However, although the CRIC submitted a draft bill for the required constitutional amendments, the bill was not approved by the Cabinet, Parliament, or Council of State, as required before a referendum could be held.

In 2001, then Attorney General and Minister of Justice and current president, Nana Addo Dankwa Akufo-Addo was quoted as saying that he was personally against the death penalty.

CHALLENGES

IMPACT

1. Ratify ICCPR-OP2

As per UPR2012 recommendation 126.15, Ghana was to 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. Even though Ghana was identified as one of the 168 states that have ratified the ICCPR, Ghana is required to submit reports on how it is giving effect to these rights.

Non implementation of CRC Recommendations
During UPR 2012, it was recommended to Ghana (123.8) put to an early referendum, all the recommendations of the Constitutional Review Commission approved by the Government that require changes to

1. Ghana's failure to ratify ICCPR-OP2 has created anxiety and uncertainty for inmates under sentence of death. They do not know if and when a new administration could begin executions because of the lack of a moratorium on the death penalty.



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the Constitution, including the removal of the death penalty. Though government accepted the CRC’s recommendation to put the issue of the abolition of the death penalty to a referendum, it has not been implemented. In the meantime, Ghanaian courts continue to hand out mandatory death sentences for the crime of murder.

2. No official moratorium on execution. Even though there have been no executions since 1993, Ghana has not made any attempts to formalize the de facto moratorium on the death penalty, pending the ratification of ICCPR OP2

RECOMMENDATIONS

Government of Ghana as matter of urgency:

1. Ratify, without reservations, the ICCPR-OP2, aiming at the abolition of the death penalty.
2. Unconditionally remove all unspecified delays in the constitutional amendment process for the abolition of death penalty
3. Establish an official moratorium on executions and commute the death sentences of all death row prisoners to terms of imprisonment



2. Delays in putting the issue of the abolition of the death penalty to a referendum as recommended by the CRC is denying citizens the right to validate or reject the CRC’s findings on the death penalty and seemingly justifying government’s continued non compliance with international obligations.

3. Ghanaian courts continue to hand out mandatory death sentences for the crime of murder, even though the UN Human Rights Committee in 2014 determined that such mandatory sentencing violates Ghana’s international human rights obligations.⁷

For those on death row, a delay in the reform process has left them trapped in grim circumstances. The UN Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment noted in 2014 that several inmates on death row “show[ed] signs of severe mental and physical trauma”. Many of the death row prisoners whom Amnesty International met in 2016 and 2017 showed deep distress at their plight; one man on death row described it as a “prison within a prison” and another said, “If I were to be killed, it would be better than being here.”

These concerns were re-echoed by all 107 prisoners - 104 men and three women on death row that Amnesty International (AI) interviewed in August 2016 and March 2017. In August 2016, Researchers visited Nsawam Maximum Security Prison (Nsawam Prison) and interviewed 98 men and three women prisoners out of 137 people on death row at the time. The organization visited Nsawam Prison again in March 2017 and interviewed a further six men

ABOUT THIS FACT SHEET

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REFERENCES:

See <https://www.ghanaweb.com/GhanaHomePage/NewsArchive/Death-Penalty-In-Ghana-The-Facts-44443>
1992 Ghana Constitution.