

# **CHRAJ's monitoring visits to prisons: Protecting the fundamental human rights of people deprived of their liberty in Ghana**

## **Introduction**

The Commission on Human Rights and Administrative Justice (CHRAJ) has a constitutional mandate to promote, protect and enforce fundamental human rights and freedoms for all persons in Ghana including people who are deprived of their liberty. The Commission on account of this mandate, visited some selected prisons between the 28<sup>th</sup> of November and 5<sup>th</sup> of December, 2019. The general objective of the monitoring exercise was to promote and protect the fundamental human rights of people who are deprived of their liberty in Ghana by monitoring state's compliance with international human right obligations.

The Universal Declaration of Human rights (UDHR) and various human rights treaties that Ghana has ratified such as the International Covenant on Civic and Political rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional protocol (OPCAT), as well as the Standard Minimum Rules for the Treatment of Prisoners (The Mandela rules) provide a general framework for humane prison conditions and treatment of prisoners in keeping with the inherent dignity and inalienable rights of all human beings.

Regionally, the framework for the protection of fundamental human rights including rights of detainees is provided by African Charter on Human and Peoples' Rights (ACHPR), which Ghana has ratified. This Charter is complemented by various legal mechanisms including the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) and the African Charter on the Rights and Welfare of the Child (ACRWC).

The African Commission has also adopted several resolutions and guidelines specifically on the standards of prisons in Africa. These provisions include the Kampala Declaration on Prison Conditions in Africa, the Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (Robben Island Guidelines 2008), the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa ( Luanda Guidelines), the Ouagadougou Declaration and Plan of Action on

Accelerating Prisons and Penal Reforms in Africa, the Kadoma Declaration of Community Service and the Arusha Declaration on Good Prison Practice.

Additionally, the establishment of a Special Rapporteur on Prisons and Conditions of Detention is a useful initiative taken towards promoting a culture of respect for human rights abuses in prisons in Africa.

The Commission's monitoring activities have constituted an integral part of an overall system that has in the past, sought to protect the fundamental human rights of people who are deprived of their liberty. This is in keeping with the provisions of the 1992 Constitution of the Republic of Ghana, specifically Article 15. which provides that the dignity of all persons shall be inviolable and that no person, arrested, restricted or detained, shall be subjected to torture or condition that detracts or is likely to detract from his dignity and worth as a human being.

### **CHRAJ's monitoring visits in past years**

Since commencement of visits in 1995 by the CHRAJ, the findings and recommendations regarding conditions in Ghana's prisons as well as the human rights situation of detainees have resulted in increased visibility about conditions in Ghana's prisons. As a result, the CHRAJ's reports generated active debate by the media, civil society groups, state actors as well as the Ghanaian citizenry. The US Department of State<sup>1</sup> for instance stated in reference to the CHRAJ's Prisons report that:

*"The CHRAJ's findings and recommendations generated much positive press coverage and some changes; ..."*

The general activism of human rights NGOs as well as the Justice for all Programme in Ghana regarding prisoners rights, have drawn inspiration largely from the CHRAJ's system of regular visits since 1995.

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<sup>1</sup> "Ghana Country Report on Human Rights Practices" for 1998

## 2019 monitoring activity

The Commission, in spite of the achievements of the its monitoring visits, has been unable to sustain the regularity of visits in recent past. Since 2007, no independent report on prisons by the CHRAJ had been produced. Reports on prisons visits since 2007, were incorporated in the State of Human Rights report (SOHR). Since 2014, the Commission had not inspected and monitored Ghana's prisons nationwide as has been the practice.

The inability of the CHRAJ to sustain the regularity of visits in recent past was largely due to a number of factors including the lack of sustained trained team of monitors at the regional and district levels, as well as the lack of robust follow-up mechanism on recommendations. Another key factor that impeded CHRAJ's monitoring efforts was the inadequacy of budgetary support.

Whereas the CHRAJ was not been able to monitor prisons regularly, there had been an increasing demand to do so on account of the following:

- The recommendations of the Concluding observations on the initial reports of Ghana on the International Covenant on Civil and Political Rights (CCPR/C/GHA/CO/1; No.30, 2016) pointed to the need for Ghana to take measures to improve the conditions and treatment of persons held in custody and take steps to address the problem of prison overcrowding, including by introducing a genuine policy on the use of non-custodial penalties.
- The inter-agency project supported by the UN Development Operations Coordination Office (UNDOCO) to assess human rights in Ghana by the UN Country Team (UNCT) in Ghana in 2016 documented challenges for prisoners in Ghana which included overcrowding, poor hygienic conditions, lack of access to health care, insufficient nutritious food, and personal safety issues among other challenges<sup>2</sup>.
- The ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in 2016 and its requirement to to establish a regular system of visits by means of a National Preventive Mechanism (NPM) so as to ensure that places of deprivation of liberty and similar settings are habitable and that conditions are humane.

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<sup>2</sup> <https://www.undp.org/content/dam/unct/ghana/docs/Human%20Rights/UNCT-GH-Leaving-no-one-behind-in-Ghana-Human-Rights-Assessment-2016-Final-Report-2017.pdf>

- The Special Rapporteur on extreme poverty<sup>3</sup> and human rights on his mission to Ghana in 2018 bemoaned the consequences of prolonged imprisonment particularly, in light of deplorable conditions of detention.

On the basis of the foregoing, there was a compelling need for the CHRAJ to rejuvenate its efforts in terms of monitoring detention institutions. The funding support made available to the CHRAJ at the tail end of the year by the United Nations Development Programme (UNDP) made it possible for the CHRAJ to embark on a preliminary small-scale exercise that would provide the basis for regular monitoring as well as the development of a sustained follow-up mechanism in coming years.

The overall objective of the 2019 exercise was to monitor Ghana's compliance with international human rights obligations in terms of the prevention of torture and inhuman treatment as well as the advancement of relevant sentencing policies that promote reformation, rehabilitation and reintegration.

Specifically, the 2019 monitoring exercise sought information pertaining to the following areas:

- Population size of prisoners disaggregated by age and sex
- Typology and frequency of crimes
- Material conditions such as overcrowding, feeding, health, sanitation etc.
- Rehabilitation and reintegration efforts
- Living conditions of staff

Specific prisons were purposively selected for the monitoring exercise on the basis of their peculiarities and also to ensure partial representation.

These institutions constituted the Ankafu Maximum security prison in the Central region, the Ho Female and Male prisons in the Volta region, the Nsawam Medium security for Males and Nsawam Female prisons in the Eastern region, as well as and Tamale prisons in the Northern region. The exercise employed various methods, including in-depth interviews and focus group discussion as well as observation of prison facilities to gather information. Participants included, officers in charge, prison officers, and inmates.

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<sup>3</sup> Human Rights Council (2018). Report of the Special Rapporteur on extreme poverty and human rights on his mission to Ghana. (No.48) A/HRC/38/33/Add.2

## **Brief summary of findings**

Modest improvements were observed in respect of the provision of health and educational programmes, sanitary conditions as well as the regular flow and supply of water. The conscious effort by the management and the staff of the prisons visited, to promote transparency, professionalism and efficiency in the face of increasing prisons populations with attendant difficult working situations is commendable.

Notwithstanding these observations, conditions pertaining to feeding and the accommodation of the inmates fell woefully short of the minimum standards required by relevant international, regional and domestic standards.

Below is brief summary of findings:

- The state of overcrowding in the majority of the male facilities particularly in the remand cells and blocks were unacceptably high, hitting levels of 300% in some facilities
- The feeding rate was Ghc1.80 and had not seen an increase since 2011
- Generally, the material conditions of remand prisoners were worse than other categories of detainees. Whereas the situation of remand prisoners had improved slightly on account of the Justice For All Programme, a substantial number of remand prisoners continued to languish in prisons in Ghana and more urgent attention was required to expedite their trial processes
- Inmates who appeared to be juveniles were still being held in adult prisons
- Not much effort was committed to monitoring the reintegration of inmates discharged and released; this had the tendency to increase recidivism
- The 2019 monitoring exercise unearthed some novel findings in response to enquiries about inmates informal governance system, dispute resolution mechanisms as well as inmates informal and internal practices. Such enquiries drew on scholarly work on inmate governance practices as well as internal rituals and practices which had been established by prisons researchers (Akoensi, 2014; Ayete-Nyampong, 2013, 2014, 2015; Egelund, 2014; Jefferson, Feika, & Jalloh, 2014; Jefferson & Gaborit, 2015; Mapanje, 2014; Marcis, 2014; Martin, 2012, 2014; Morelle, 2014; Tertsakian, 2014 ) as playing a significant role in the governance of prisons in Africa.

## **Main findings**

### ***Institution visited and Lock-up data***

Five prisons were visited, namely, the Ankaful Main Camp and the Ankaful Maximum Security Prisons, the Nsawam Medium Security Prison (male and female), the Ho Central Prison (male and female) as well as the Tamale Central Prison (male and female).

The Ankaful Main Camp and Maximum-Security Prisons were the only male prison facilities. The rest of prisons had a facility for both male and female inmates. The expected and actual capacity of the prisons are summarized in Table 1.

**Table 1: Expected and Actual Capacity**

| Institution                     | Male     |        | Female   |        |
|---------------------------------|----------|--------|----------|--------|
|                                 | Expected | Actual | Expected | Actual |
| Ankaful Main Camp               | 600      | 149    | -        | -      |
| Ankaful Maximum Security Prison | 2000     | 736    | -        | -      |
| Nsawam Medium Security Prison   | 815      | 3508   | 200      | 89     |
| Ho Central Prison               | 150      | 492    | 24       | 9      |
| Tamale Central Prison           | 78       | 282    | 12       | 8      |

## **General Conditions**

### ***Accommodation***

All the prisons (both remand and convict cells) monitored were extremely and unacceptably overcrowded, with the exception of all the female prisons as well as the Ankaful Main Camp and Maximum-Security Prisons as well as the female prisons as shown in Table 1.

The Female Prisons as well as the Ankaful Main Camp and Maximum-Security prisons were the only facilities that had enough bunk beds with mattress and bedsheet for all inmates. The cells in all the remand blocks visited, were in deplorable states. The extreme situation of overcrowding generated an informal economy among the inmates. At the Nsawam prisons for instance, inmates alleged that those who had money bought beds as well as spaces between beds. According to the inmates, a bed cost as much as Ghc500 whereas a space between beds cost Ghc200.

### ***Feeding***

The feeding rate was Ghc1.80 and had not seen an increase since 2011. Meals were usually supplemented by donations from philanthropists as well as with produce from farms. The majority of the inmates interviewed expressed their dissatisfaction about the quality and quantity of food. They complained that their menu offered little variety and the lunch and dinner portions were usually served together. These combined meals were usually provided during lunch time and which reportedly resulted in inmates sometimes experiencing starvation at night.

### ***Sanitation***

The majority of prisons visited had a toilet facility for general use as well as toilet facility in each cell. Apart from the male remand cells of the Tamale Central Prison, there was regular water supply in all the institutions visited. The Male prisons were however rarely provided with detergents and toiletries like soap and t-roll. Inmates, attributed the frequency of skin infections on their bodies to such lack of detergents and toiletries

### ***Health and Medication***

Apart from the Tamale Central and the Ankafu Main Camp Prisons, all the prisons visited had an infirmary or clinic that was stocked with basic drugs.

The male prison at Nsawam had a hospital with a pharmacy, standard laboratory, operating theatre, a medical store and a 50-bed capacity ward. The hospital was managed by a medical doctor, assisted by Physician assistants, Nurses and other staff. The majority of inmates at the Nsawam and Ho Central Prison were registered under the NHIS.

Notwithstanding the observation that health provision had modestly improved, most inmates of the prisons complained during focus group discussions that their ailments were not properly treated and that they were usually provided with only basic medication such as analgesics. According to inmates at the Nsawam prisons, patients who paid cash were provided with '*proper medicine*' whereas inmates on National health Insurance were accorded less attention. A diabetic Patient at the Nsawam male prison lamented that he purchased his own drugs amounting to thousands of Ghana cedi.

### ***Inmates under observation***

On the basis of scholarly work on the period of observation in Ghana's prisons (Ayete-Nyampong, 2013, 2015, 2018, 2019), enquiries were made on the subject. According to officers, fresh inmates were observed for a period of time, lasting

sometimes between two to four weeks before they were made to join other inmates at the main blocks. Inmates with low sentences like few months were sometimes kept under lock throughout their period of confinement. Due to the high levels of overcrowding, inmates under observation were separated for only short periods.

Inmates under observation were usually screened for infectious diseases like tuberculosis among others.

### ***Inmates with special needs***

There were inmates with physical (e.g. visual and hearing impaired) and mental disabilities in some of the prisons visited and some inmates were also above 60 years. Youngsters who appeared to be juveniles were held in the various institutions. There were no pregnant and nursing inmates at the time of visit.

The longest period an inmate had spent in remand was 8 years. According to the officers, all deaths recorded at the prison were reported to relatives and where bodies were abandoned or not claimed by relatives, the prison assumed the responsibility for burial.

### ***Complaints resolution system***

The Prison Service's regulations and standing orders provided the code of conduct for officers and inmates (CI 92 and CI 93) which outlined various rules corresponding sanctions. Offences by officers sometimes warranted extra duty, demotion or dismissal. Inmates who committed offences were required to weed, scrub, wash, sweep, and clean. Some inmates stated that sometimes they emptied a toilet manhole with a bucket, whipped with a rubber tie and locked up in a room known as punishment. According to some inmates, the worst punishment constituted emptying of the toilet manhole or being assigned large portions to weed with a short and blunt cutlass.

All the prisons visited indicated some form of inmates' governance system characterized by their own hierarchical levels. In response to enquiries about informal ways by which disputes and complaints were resolved by inmates, some officers responded that the inmate governance system complemented the formal governance structure given the sheer numbers of inmates, or extreme levels of overcrowding, that they had to contend with.



Discussions with the inmates about their informal governance system revealed that inmates had established their own informal code of conduct that was recognized by the prison officers. Inmate executives that oversaw the affairs in the cells The inmate comprised executives that run the affairs of each cell such as porch leaders (in charge of the porch in front of the cell), cell boys (in charge of food), marshals (in charge of water closet), checkers (assisting in taking attendance), policemen (in charge of arrest), inspectors, judges, advisors, cell fathers, and cell leaders.

The cells usually run a court system where cases were handled in the event of a breach of a code of conduct and the option of appeal existed. If there was a case beyond the court system within the cell, it was usually reported to the cell leader. If it was beyond him, the case was handed over to the star class<sup>4</sup> who in turn handed it over to the yard master. A case beyond the yard master was sent to the chief officer.

Interactions with inmates and officers revealed that this informal inmate governance system was an age-old practice that usefully complemented the formal governance system. Both inmates and officers admitted that despite the usefulness of inmates governance system, it had its own excesses and sometimes lent itself to inter-inmate violence. At the Ankaful prisons for instance, inmates shared that Senior inmates or those with higher positions meted punishment to other inmates when inmate rules were breached. Such senior inmates beat inmates who did not comply with instructions or set rules. For instance, when a fresh inmate was brought into a cell, he would be asked by the cell leader to salute him continuously, for a number of times, say 200 times. Any inmate who did not comply would be beaten up. Again, an inmate who made a complaint to an officer concerning the actions of an inmate leader or star class<sup>5</sup> was often victimized. Complaints were dealt with, sometimes in favor of the inmate leaders. Complaints were therefore seldom lodged for fear of victimization.

Inter-inmate violence was reported in the majority of the prisons visited and some inmates reported incidents of torture and ill treatment by staff.

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<sup>4</sup> This is a special category of inmates appointed by warders

<sup>5</sup> These leaders occupied various positions, such as National leader, black coat leader, cell leader etc.

## **Rehabilitation and integration**

The majority of the prisons visited run formal, non-formal education as well as a number of vocational training skills including carpentry, masonry, beads making, ICT, auto mechanic tailoring, shoe making, barbering and soap making.

The formal training programmes were in line with national structures/syllabi and qualifications of the National Vocational Training Institute (NVTI). However, the training centers in some of the prisons such as the Ho prisons, were situated outside the premises of the prison facility and inmates had to be escorted to these centers.

According to officers, the enrollment of inmates into training programmes depended on the term of sentence, inmates qualifications and previous experience, inmates' interest etc. Thus those who had long sentences had the opportunity to acquire skills based on their interest. The officers were of the view that one could not adequately learn a skill within a couple of months. Those that got the opportunity were inmates that had more than one year of sentence. Focus group discussions with inmates confirmed that sometimes one was expected to serve half of one's sentence in order to qualify to partake of a training programme.

It was observed at the Ho prisons that employment opportunities were available for some inmates who were qualified to do so while in custody and such inmates were paid for work done.

A discharge board comprising a counselor, the OIC, a welfare officer, a representative from some religious organizations met inmates prior to their discharge. The discharge board held periodic sessions with inmates and other board members to discuss, plan and prepare them towards discharge. Family and relatives of inmates were sometimes involved in the discharge process.

### ***Maintaining contact with family***

According to the officers, family, relatives and friends were allowed to visit the inmates regularly though staff and inmates admitted that family and relative did not visit regularly. The commitment of families to the welfare of the inmates depended on the inmates' relationship with the family. Focus group discussions and with officers and inmates revealed that some inmates who were well off and had thriving business prior to confinement continued to assumed responsibility for the upkeep of their families. In such cases, family members contacted such inmates frequently.

According to officers, inmates were also allowed to contact families and other relatives through phone calls. Monitors observed that telephones were sited at vantage points for this purpose. According to inmates, calls were supervised by

officers and this afforded inmates little privacy. Inmates usually bore the cost for calls made.

The preliminary monitoring exercise was successful and relevant as it provided the basis for full- scale monitoring of prison institutions in coming years. Specifically, the exercise afforded an assessment of the following:

- The general population size of prisons visited
- The types of crimes committed
- Material conditions such as overcrowding, feeding, health, sanitation etc.
- Rehabilitation and reintegration efforts
- Living conditions of staff

Generally, the activity rejuvenated CHRAJ's efforts in instituting measures to promote the human rights of detainees.

## **Recommendations**

The following are recommended on the basis on the above findings:

- Nationwide monitoring excises should be undertaken on a biennial basis so as assess material conditions pertaining to overcrowding and feeding as well as accord attention to trial processes of remand prisoners and the presence of juveniles in adult prisons
- Monitoring reports must be published regularly, and a well-structured follow-up mechanism must be instituted to ensure that various stakeholders and actors implement recommendations of the CHRAJ's prisons monitoring reports
- Appropriate methodologies and approaches must be employed to understand better the phenomenon of informal governance practices and their contribution to the governance system in prisons

Regular stakeholder / research seminars and consultations (national, regional and international) must address the following through the exchange of local practices, approaches and local knowledge:

- Reintegration of inmates into society
- Alternative sentencing policies
- Dispute resolution mechanisms of officers and inmates

- Informal governance practices of inmates as well as the incidence of inter-inmate violence