



## GHANA PERMANENT MISSION

GENEVA

SC/GE/UN.7

The Permanent Mission of the Republic of Ghana to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR) and with reference to the latter's Note Verbale dated 16<sup>th</sup> January, 2015 has the honour to transmit, herewith, inputs from Ghana in respect of best practices, experiences, challenges and ways to overcome them relating to the right to participate in political and public affairs in the context of the existing Human Rights Law (Resolution 27/24 of the Human Rights Council).

The Permanent Mission of the Republic of Ghana further wishes to extend its apologies for the late submission of the said inputs.

The Permanent Mission of the Republic of Ghana to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights (OHCHR) the assurances of its highest consideration.



Geneva, 8 April 2015.

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## SCHEDULE A

1. The Universal Declaration of Human Rights
2. International Convention on the Elimination of all Forms of Racial Discrimination
3. International Covenant on Economic, Social and Cultural Rights
4. International Covenant on Civil and Political Rights
5. Optional Protocol to the International Covenant on Civil and Political Rights
6. Convention on the Elimination of All Forms of Discrimination Against Women
7. Optional Protocol to Convention on the Elimination of All Forms of Discrimination Against Women
8. Convention on the Rights of the Child
9. Optional Protocol to the Convention on the Rights of the Child on sale of Children, Child prostitution, and Child pornography
10. Optional Protocol to the Convention on the Rights of the Child on involvement of Children in armed conflict
11. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment, or Punishment
12. International Convention on the Protection of Rights of All Migrant Workers and members of their families
13. Convention on the Rights of Persons with Disabilities
14. Optional Protocol to Convention on the Rights of Persons with Disabilities
15. International Convention for the Protection of All Persons from Enforced Disappearance
16. Rome Statute on International Criminal Court
17. Convention on the Prevention and Punishment of the Crime of Genocide
18. Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity
19. Convention relating to the Status of Refugees
20. UN Convention against Transnational Organized Crime and its Supplemental Protocols, namely: the protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children; and the Protocol against the Smuggling of Migrants by Land, Sea and Air.

21. Geneva Conventions relating to the Protection of victims of international armed conflicts of 12 August 1949 and its additional Protocol relating to the Protection of victims of international armed conflicts (Additional Protocol I) and Protocol relating to the Protection of Victims of non-international armed conflicts (Protocol II)
22. African Charter on Human and Peoples Rights and its Optional Protocol on the Establishment of an African Court on Human and People's Rights
23. African Charter on the Rights and Welfare of the Child
24. ILO Convention 029 Forced labour Convention
25. ILO Convention 105 Abolition of Forced Labour
26. ILO Convention 182 Worst Form of Child Labour
27. ILO Convention 003 Maternity Protection, and revisions 103, and 183
28. ILO Convention 004 Night Work ( Women) and its Protocol of 1990
29. ILO Convention 021 Inspection of Emigrants
30. ILO Convention 189 Domestic Workers Convention

**GHANA: PROMOTION, PROTECTION AND IMPLEMENTATION OF THE RIGHT TO PARTICIPATE IN PUBLIC AFFAIRS IN THE CONTEXT OF EXISTING HUMAN RIGHTS LAW**

**(RESOLUTION 27/24 OF THE HUMAN RIGHTS COUNCIL): BEST PRACTICES, EXPERIENCES, CHALLENGES AND WAYS TO OVERCOME THEM.**

### **1. Introduction**

Since Ghana became a member of the United Nations and party to the UN Declaration on Human Rights, national Constitutions of the State have always made provision for the protection of fundamental human rights. Today, Ghana is a Constitutional Democracy with a track record of having held six (6) successive credible Presidential and Parliamentary elections in a free and peaceful atmosphere since 1992. Conscious of the link between the enjoyment of human rights and democratic development, the state of Ghana has enshrined Fundamental Human Rights and Freedoms in chapter five of the current national Constitution of the Republic. In accordance with Articles 74(1) and 75 of the current 1992 Constitution of the Republic, Ghana is party to most of the core international Human Rights Instruments (Please see Schedule A hereto).

### **2. Overview of Participation in Political and Public Affairs**

- The concept of political and public affairs broadly refers to the political and policy decision making processes at all levels of governance including administrative decision making. The International Convention on Civil and Political Rights (Article 25) identifies three aspects of the right to participate in political and public affairs as follows: to directly take part in public affairs or indirectly through chosen representatives; to vote and to be elected at periodic credible elections, through equal suffrage and secret balloting; and to have access on an equal basis to public service in one's country. The Convention on the Elimination of All Forms of Discrimination Against Women (Article 7) also conceives of the right to political and public affairs to include the following three elements:
  - to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

- to participate in the formulation and implementation of government policy and to hold public office at all levels of government;
- to participate in non-governmental organizations concerned with public and political life of the country.

Broader views of the right to political and public affairs envisions the right of people to be fully involved in public decision making processes through consultations, making criticisms and the submission of proposals for improving the conduct of public affairs.

The Convention on the Rights of Persons with Disabilities for example, in Articles 4(3), 29 and 33(3) requires that persons with disabilities be consulted as individuals, and through their organizations. They should also be involved in monitoring processes.

Given the broad scope within which the right to political and public affairs has been conceived, it is clear that the enjoyment of some other human rights are necessary for the full exercise of the right to public and political participation. These include the right to education, the right to freedom of speech and expression, the right to freedom of thought, conscience and belief, the right to freedom of assembly (including freedom to take part in demonstrations), and the right to equality before the law and freedom from discrimination. Where ever gender disparities exist in the enjoyment of these other enabling rights, the effect is likely to be replicated in the right to political and public participation. Implementation efforts must pay attention to the enjoyment of the related enabling rights for better results.

### **3. Participation in the conduct of Public Affairs**

In Ghana, participation in political and public affairs is provided for under the current 1992 Constitution of the Republic, supplemented by various enabling statutes. Article 21(1) of the Constitution upholds freedom of speech and expression, freedom of thought and conscience, freedom of assembly, freedom of association, and the right to information. Article 21(3) provides that all citizens shall have the right to join or form political parties and to participate in political activities. Article 55(1-3) buttresses the right to engage in political activities, while Article 42 provides for the right to vote, an important pillar of the right to participate in political and public affairs.

The scope of the right to political and public participation within the context of national law is conceived of broadly as an essential part of the building of an inclusive democratic society in which citizens participate on an equal basis without discrimination on grounds of gender, race, social status, ethnic origin or religious background. To this end national law provides four aspects of the right to political and public participation including the three component aspects identified in Article 25 of the ICCPR. These are through direct participation in public affairs or indirectly by choosing representatives to act on one's behalf; voting in general elections and national referenda or presenting oneself to be elected; and through participation in the public services, including trade unions, professional associations and non-governmental organizations. The fourth component is participation in the work of international organizations and representation of Government at the international level. In terms of content, the right to political and public participation is provided for in national law first by a clearly spelt out framework and institutional arrangements for governance in the Constitution. Secondly, recognition is given to the implementation of other rights that enable the exercise of the right to public participation. In the preamble to the national constitution a commitment is made to "the principle that all powers of Government spring from the sovereign will of the people; the principle of universal adult suffrage; the rule of law; the protection and preservation of fundamental human rights and freedoms.

The sovereign will of the people and universal adult suffrage are provided for in Article 42 of the Constitution and further elaborated upon under Articles 49 and 50 which provide details of how voting will be carried out and candidates elected. In furtherance of political and public participation, Article 55 of the Constitution guarantees the formation and joining of political parties. It also provides for the sponsoring of candidates to any public office apart from the District Assemblies and its lower level bodies. Article 190 provides for the establishment of the Public Services of Ghana by Acts of Parliament, specifying the governing councils, functions and membership of each service. Equality and freedom from discrimination is guaranteed under Article 17(1-2), and clause 4(a, d) allow for special measures to be implemented to redress imbalances and make different provisions for different communities owing to their special circumstances.

At the level of national legislation, the Representation of the Peoples Law, 1992 (PNDC 284), provides for dividing the country into smaller political units to facilitate public participation. Hence, Ghana has Constituencies, Polling Divisions, and Polling Stations. Provision is made for all aged 18 years and above to be registered as voters, and to vote in all elections.

In terms of political party activities, the Political Parties Law requires that the internal organization of parties conform to democratic principles (9a), and the national executive committee of a political party must have one member from each region of the country (9b). Offences and sanctions have been spelt out for various electoral laws and regulations. Most elections to leadership positions in the parties are supervised by the Electoral Commission, and grievance procedures exist for dealing with complaints.

Access to the Public Services is regulated by the Governing Boards of each service under the supervision of the Public Services Commission. Staff are recruited to various positions through open advertisements and competitive interviews. Professional associations regulate their own activities.

The Parliament of Ghana regulates its work by the Standing Orders of Parliament. To enhance political and public participation, when Bills or Policies and Projects are placed before Parliament, an open call for memoranda from individuals and groups is sent out through appropriate means of mass communication. Written presentations are received by relevant sub committees of Parliament and dealt with. Individuals can also send inputs to their Member of Parliament, or the MP may call a meeting with constituents to collate views and suggestions on a pending Bill or Project. The political and public engagements at the local government level are important to enhancing participation in public affairs. The District Level Elections are non-partisan but are marked by campaigning and platform debates to present contesting candidates and ideas to the voters. It is during these DLEs that the development and human rights issues close to the ordinary, vulnerable, and minority groups find expression for attention. Beyond the elections, the District Assembly through its development function prepares development plans under the guidance of the National Development Planning Commission to be included in the National Development Plan and Budget. The processes for producing the district level plans and budgets offer a lot

of scope for participation in public affairs. The local governance structures below the district Assemblies also provide representative structures for participation in policy and decision making at the basic community level. These eventually impact on national political and public participation. Other best practices in public participation relates to the role of Civil Society Organizations and Non-Governmental Organizations. Many of these organizations provide platforms for inclusive dialogues and debates on public policy, thereby increasing the space for public participation and giving voice to some voiceless groups.

A major constraint on the exercise of the right to participate in political and public affairs is illiteracy and lack of education. A large proportion of citizens is illiterate or have never had access to the kind of education that equips one with the necessary skills for effective public participation at all levels. While the Ministry of Education continues in its efforts at improving on school attendance for all citizens, civic education delivered by the National Commission for Civic Education (NCCE) is aimed at sustaining an appropriate level of awareness and providing public engagement skills needed by different segments of the society to enable them participate more effectively in political and public life, amongst others. The NCCE undertakes outreach activities every year in all the districts of Ghana in the local languages of the communities to enhance the participation of community members (especially women and persons with disabilities), in the various governance and administrative policy processes in their communities.

Through Social Auditing, community members are empowered to hold duty bearers accountable for their stewardship, while increasing their own participation as citizens in political and public affairs in their communities. This year, Community Focus Group Discussions on gender have been underway since February 1, 2015 to sensitize community members on the impending district level elections (slated for March 3) and to cultivate their support for female candidates to be elected to the District Assemblies. General information and messages on voting procedures and processes are also given along with printed materials. Through research into the various inequalities that militate against the full participation of sections of society in democratic development processes, the NCCE is also able to point to needed action for groups requiring special attention.



#### 4. The right to vote and to be elected

There's universal and equal suffrage in Ghana. Every citizen aged 18 years and above with a sound mind has the right to vote. To activate the right to vote, the eligible citizen must be registered as a voter for public elections and referenda (Article 42, 1992 Constitution).

The right of Article 25(b) of ICCPR, "to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors", are guaranteed by Ghana's Constitution and the enabling pieces of legislation (namely: C.I.15 Public Elections Regulations, 1996, (Articles 4, 5, 24(1), and 31); C.I.12 Registration of Voters' Public Elections Registration Regulations, 1995).

The obstacles which may prevent an individual from exercising the right to vote include non-registration as a voter, difficulty in accessing one's polling station, name not found in voters' register, and vote not counted. Periodically, before national elections, the Electoral Commission (EC) re-opens the voters' register for first time voters to register. Before this happens the exercise is widely publicized through the mass media. This ensures that all qualified to vote are given a chance to register before the elections. From time to time the EC increases the number of polling stations as a means of bringing voting centres closer to the electorate to overcome the problem of voters not being able to access voting centres as a result of long distance. This increases the participation of electorates in the voting exercise. In situations where natural occurrences such as floods make voting centres inaccessible, the EC may postpone voting in the affected areas to another day.

The voters' register is exhibited for inspection before every national election. The aim is to get registered voters to verify that their names are in the register before Election Day. The exhibition also affords the electorate the opportunity to provide information on deceased relations for their names to be removed from the register. After voting some votes are not accepted for counting because the voting was not carried out correctly thereby causing the ballot to be rejected. This problem is being addressed through voter education, but the NCCE intends to carry out further research into the causes for high numbers of spoilt and rejected ballots.

Information on voter registration is equally widely publicized using published messages on leaflets, posters, handbills and stickers. Adverts are also made in newspapers, television and radio. Some TV animation series are aired for first time voters to understand the processes involved before going to the registration centres. Preceding national elections, specific educational messages are produced to target women, first time voters, persons with disabilities and the aged. Messages produced in braille are very few owing to limited resources and the high cost involved in producing materials in braille. On voting day, voters who are visually impaired use tactile ballot papers.

Public Elections Regulations, 1996, C.I.15 prescribes offences with sanctions covering registration period, campaign and voting day. There is also police protection and security to prevent any violations on the persons of candidates as well as disturbance of the peace before, during, and after the elections.

Elections are by secret ballot in Ghana. Influencing and campaigning on voting day are proscribed with sanctions. Candidates nominated to contest parliamentary elections make a statement accepting the nomination as candidate for the particular constituency. Candidates for Presidential elections sign a prescribed nomination form confirming their desire to contest for the position of President. If aggrieved with the outcome of an election, any voter can send a petition to the law Courts for redress. If a petition is with regard to a presidential election result, it is brought to the Supreme Court, and the Chief Justice acts swiftly on it. If the petition is filed on a public holiday, the President gives the permission required for the Court to act on the case. The executive does not interfere.

##### **5. Equal access to public service.**

Legally, citizens have equal access to public service in Ghana. Different levels of educational qualifications and competencies are required for various positions. Once you are a citizen and meet the educational and skill requirements you have equal access to compete in the selection processes. The requirements are met through the school system, including technical and vocational training institutions. Basic education is generally free in public schools, subsidized at the secondary level, and fee paying at the tertiary level. Nominally, most citizens have an equal chance of acquiring the necessary education that prepares one to join the public services.

Vacancies in the public sector are advertised in national papers at least three times for all who are interested to apply. Shortlisting based on the requirements in the advertisement is done, and competitive interviews held to select the best candidates. Political associations generally follow acceptable democratic processes for filling vacancies. They normally will advertise either internally or externally before filling vacancies. Legally, special measures are in place only for the recruitment of persons with disabilities. Employers of persons with disabilities get tax cuts and holidays. An affirmation action policy adopted in 1998 which required that forty percent of all appointments to political and public positions should be women has largely not been adhered to. Since there is no legal backing, breaches of the policy is widespread and unsanctionable.

#### 6. Others

The restrictions in Ghana to the rights contained in Article 25 of ICCPR relate mainly to age, state of mental health, citizenship, and history of criminal convictions. The minimum age for the right to vote is set at 18 years, and is verifiable. The minimum age for entry to Parliament is 21 years, and for becoming President is 40 years. No person of unsound mind is allowed to vote, stand for election or participate in policy formulation or debates. Any citizen of Ghana who is citizen of another country cannot be a Member of Parliament. To contest Parliamentary elections, she/he must renounce the citizenship of the other country. Only citizens by birth can contest elections to become President of Ghana.

The 1992 Constitution of Ghana guarantees the Freedom and Independence of the Media in Article 162 (1-5). There are no licences required for the establishment of private newspapers, journals or other media for mass communication. Editors of newspapers and media houses are not subject to control or interference by Government. The criminal libel law which used to be in our law books has been repealed. A Bill on right to information is currently before parliament for consideration. When passed into law, it will further strengthen the independent and pluralistic media in Ghana. There are no restrictions to freedom of association. The Ghana Journalist Association is very vibrant in its operations. There is also the Ghana Independent Broadcasters Association. The others include Private News Papers Association of Ghana, and Women in Broadcasting. The rights guaranteed in Articles 19, 21, and 22 of ICCPR are restricted only by Article 164 of the 1992 Constitution.

Such a restriction is necessary and proportionate in the interest of the rights of others, national security and public order.

The Constitution is the fundamental law of Ghana and contains the main provisions on Human Rights, including the right to participate in political and public affairs. It is available in both print and electronic format to citizens and is affordable.

The National Commission for Civic Education (NCCE) set up as an independent constitutional commission, is mandated to raise awareness on these rights among the citizenry in their local communities. Preceding periodic national elections, educational materials on participation in political and public affairs are developed and produced in English and the major local languages and disseminated amongst the electorates. Both electronic and print mass communication channels are used to disseminate such messages for wider impact.

In terms of accountability for policies on public and political participation, the executive holds annual town hall meetings to report on performance and answer questions from the people directly. Parliament also summons Ministers to answer questions on specific issues of concern in their sectors. All Ministers report on their performance contracts to the President annually. Independent constitutional bodies such as the National Commission for Civic Education (NCCE), the Electoral Commission (EC), the Commission on Human Rights and Administrative Justice (CHRAJ) report on their performance annually to Parliament. The Auditor General also undertakes a value for money audit of the activities of all public institutions and reports to Parliament. Periodically, various state institutions also report on the implementation of International instruments on Human Rights that Ghana is party to. Civil Society Organizations often present alternative reports alongside the official reports from the state.

### 7. Conclusion

In Ghana, best practices in promoting and protecting the right to participate in political and public affairs is seen firstly in the legal and institutional framework that is in place for the implementation of the right to public participation. The Constitution of Ghana has adequate provisions for protecting participation in political and public affairs. It also sets out the

framework for governance in such a manner as to ensure adequate mechanisms for the promotion and implementation of the right to participate in public affairs.

The Constitution also provides for a decentralized system of governance to the local level, with adequate institutional arrangements for popular participation. The provision for the National Development Planning Commission ensures the integration of local government policy formulation into national policies and programs.

The enabling environment also allows the thriving of Civil Society Organizations and professional associations that mediate politics and public affairs at various levels in such a manner as to give voice to the voiceless in decision - making. An efficient and independent judicial system then ensures that the rule of law is upheld by giving redress to violations that are brought before the law Courts.

The Freedom and Independence of the Media in Ghana also ensures that advocacy and information in aid of public participation is further enhanced. The roles of the NCCE and CHRAJ in promoting the exercise of the right to political and public affairs is an important aspect of the best practices at implementation.

The major challenge to political and public participation is in the area of gender inequality. In spite of the great strides that Ghana has made in the empowerment of women, increasing female participation in politics and public affairs remains a challenge, especially in winning elections to Parliament and the District Assemblies. Measures being pursued to redress the situation include: an affirmative action law, reforms in the electoral system, reforming political party internal structures, and economic empowerment of women.

Ghana remains committed to all her international obligations, in particular those relating to the promotion and protection of Human Rights. She will continue to pursue best practices for the effective exercise of the rights of Article 25 of the ICCPR, and other Human rights linked to them.