**RESPONSE TO THE CALL FOR SUBMISSION BY THE SPECIAL RAPPORTEUR ON**

**THE RIGHTS OF PERSONS WITH DISABILITIES**

**ON THE RIGHT TO LIBERTY AND SECURITY OF PERSONS WITH DISABILITY**

**AFRICA REPORT**

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**CENTRE FOR HUMAN RIGHTS**

**UNIVERSITY OF PRETORIA**

**ALUMNI OF THE DISABILITY RIGHTS SCHOLARSHIP PROGRAMME**

**THE RIGHT TO LIBERTY AND SECURITY OF PERSONS WITH DISABILITIES**

1. **Introduction**

The Centre for Human Rights, based at the Faculty of Law, University of Pretoria, is both an academic department and a non-governmental organisation. The Centre for Human Rights works towards human rights education in Africa, a greater awareness of human rights, the wide dissemination of publications on human rights in Africa, and the improvement of the rights of women, people living with HIV, indigenous peoples, sexual minorities, persons with disabilities and other disadvantaged or marginalised persons or groups across the continent.

The Disability Rights Unit at the Centre for Human Rights (CHR) is committed to finding evidence-based ways of addressing the rights of persons with disabilities on the African continent. This includes conducting research on international disability rights standards and instruments, building capacity among governments, national human rights institutions, academia, civil society and communities, and engaging with judicial, quasi-judicial and non-judicial redress mechanisms.

The Disability Rights Scholarship Programme provides awards for master’s degree study to disability rights advocates, lawyers, and educators to develop new legislation, jurisprudence, policy, research, and scholarship to harness the innovations and opportunities offered by the United Nations Convention on the Rights of Persons with Disabilities (CRPD).

In response to the call for submission on the global status of the right to liberty and security of persons with disabilities made by the Special Rapporteur on the rights of persons with disabilities in May 2017, the Centre for Human Rights at the University of Pretoria, through the Alumni of its Disability Rights Scholarship Programme compiled this report of selected African countries namely; Ghana, Kenya, Uganda, Zambia, Zimbabwe and Mozambique.

This submission examines and provides a picture of development made by the aforesaid countries on the protection of the right to liberty and security of persons with disabilities and various forms of deprivation of liberty experienced exclusively by persons with disabilities in these countries. An exposé was also made of the challenges faced by the governments of these countries in collating disintegrated statistical data of persons with disabilities which made it difficulty reporting of the true status of the limitation of the realization of the right to liberty and security of persons with disabilities as provided for in article 9 of the International Covenant on Civil and Political Rights, article 37(b) of the Convention on the Rights of the Child, and article 14 of the Convention on the Rights of Persons with Disabilities.

This submission is divided into six different sections with each section being country specific addressing and responding to questionnaire as provided for by the call for submission.

It will noted from some of the country reports some questions were left an answered as a result of unavailable data or bureaucratic barriers that made difficult securing available data or lack of legislation and policy in some of the key areas.

1. **The right to liberty and security of persons with disabilities: Ghana**

2.1 Overview

The beginning point of every discussion on human rights in general and disability human rights in particular starts with Chapters 5 of Ghana’s Constitution. Chapter 5 sets out the civil and political rights of that are enforceable in Ghana, generally. Particularly, Article 29 spells out several specific rights that persons with disabilities are entitled to. These specific rights touch on the rights to family, non-discrimination, institutionalisation, right to participate in judicial proceeding, reasonable accommodation and accessibility, and socioeconomic support. All these rights may be enforced in the High Courts of Ghana with the right of appeal to the Court of Appeal and, finally, to the Supreme Court. There are currently over 120 High Courts in Ghana. Quite apart from the fact that all High Courts may have jurisdiction to enforce these rights, there are specialised human rights divisions of the High Court in Accra, the capital city. In addition, there is also the Commission on Human Rights and Administrative Justice (CHRAJ) and the National Commission on Civic Education (NCCE) which, under the Constitution, have jurisdiction to promote and enforce human rights generally. The CHRAJ in particular uses for less formal and more flexible and accessible procedures than the courts. Finally, the Constitution under Article 33(5) also allows rights which are not expressly listed under Chapter 5 but “which are considered to be inherent in a democracy and intended to secure the freedom and dignity of man” to be read into the Constitution.

The Constitution aside, there are 2 principal legislations that deal with disability law in Ghana. They are the Persons with Disabilities Act of 2006 (Act 715), which deal generally with Persons with Disabilities and the Mental Health Act of 2012 (Act 846), which deals specifically with disabilities relating to mental health. There is also the common law of Ghana which may have a bearing on disability rights.

Ghana ratified the CRPD and its Optional Protocol in 2012. Since then, efforts have been made to revise Ghana’s laws to meet its obligations under the CRPD. For instance, Act 715 is undergoing review and amendment. Further, the Constitution Review Commission (CRC), which was charged by the government in 2010 to review the Constitution, has made some encouraging recommendations to the government for the amendment of the 1992 Constitution. These efforts have, however, not been pursued with the requisite level of commitment. For example, the effort at amending Act 715 has not seen any activity from government since 2015. Similarly, the CRC recommendations are still gathering dust almost 5 years after they were submitted to the government.

2.2 **Legislation and Policies on the Liberty and Security**

In respect of personal liberty of PWDs, Article 14(1) provides that “[e]very person shall be entitled to his personal liberty and no person shall be deprived of his personal liberty…” This provision is however subject to several grounds of limitations. Of relevance here is Article 14(1)(d), which permits that a law be made to limit liberty “in the case of a person suffering from an infectious or contagious disease, a person of unsound mind, a person addicted to drugs or alcohol or a vagrant, for the purpose of his care or treatment or the protection of the community…”

This constitutional framework is, however, too broad to sufficiently guarantee the rights of PWDs to liberty and persons security. Even though Act 715 and 846 seek to spell out the details of this framework, it is generally admitted that they are lagging behind the minimum international standards. Accordingly, the CRC has made some recommendations that are meant to bring these laws closer to the minimum requirements. For instance, the CRC recommended at pages 344 and 718 of its report that an office for a Deputy Commissioner for the aged, children and PWDs be created at the CHRAJ. The CRC also recommended at page 652 of its report that Article 14(2) of the Constitution, which spells out the Miranda rights of arrested persons, be revised, legislatively, to include sign-language. Other related recommendations of the CRC include a revision of the derogatory terms such as “unsound mind,” “disabled persons”, etc. to reflect international trends of referring to PWDs.

2.3 **Legislation and Policies on Legal Capacity, Criteria for Criminal Liability and Fitness to Stand Trial or to Plead**

No legal provision comprehensively or specifically deals with the legal capacity of PWDs in Ghana. However, according to Article 17(1) of the 1992 Constitution, “all persons shall be equal before the law.” The general assumption, therefore, may be that PWDs have the same legal capacity as persons without disability unless it is otherwise specifically provided by law. There are a couple of situations where the law specifically provides for the circumstances under which a PWD may lose capacity.

In respect of voting rights, for instance, Article 42 of the Constitution provides that a person who is not of “sound mind” may not be entitled to vote. Also, according to the common law of Ghana, mental illness may deprive a person of the capacity to enter into a marriage or simple commercial contract (unless such contract is entirely in her interest). This is on the reason that persons with unsound mind could not give valid consent. That notwithstanding, a person who becomes of unsound mind subsequent to giving valid consent may not be deprived of the benefits of such consent. Accordingly, Section 63 of Act 846 provides that “an employer shall not terminate the employment of a worker merely on the grounds of present or past mental disorder or while the worker is receiving treatment for mental disorder.”

Mental illness may deprive a person form testifying in judicial proceedings. Accordingly, Article 29(5) of the Constitution and Section 5 of Act 715 require judicial or adjudicating bodies to take the physical and mental condition of persons with disabilities into account during hearings or proceedings. Further, in respect of judicial proceedings, a person cannot be tried for an offence if he is found to be of unsound mind. Therefore, by Section 27 of the Criminal and Other Offences Act of 1960 (Act 29) a person is entitled to the Special Verdict if he, among others, “was prevented, by reason of idiocy, imbecility, or any mental derangement or disease affecting the mind, from knowing the nature or consequences of the act in respect of which he is accused.”

In all this, every person is presumed to be of a sound mind. Therefore, Section 15(3) of the Evidence Decree of 1975 (NRCD 323) provides, generally, that “the party claiming that any person, including himself, is or was insane or of unsound mind has the burden of persuasion on that issue.” Further, it appears that the threshold for determining the whether a person is of unsound mind for the purposes of legal capacity varies from subject matter to subject matter. This proposition finds support from the case of ***Acheampong v First Ghana Building Society & Others*** [1989-90] 2 GLR 461, 471, where the Court, in determining whether a psychiatric patient has lost the capacity to manage his property, stated that:

*“The fact that a person is lawfully detained in a psychiatric hospital cannot disenfranchise him from managing and administering his own affairs. Each case depends on the objective test of whether the court, after considering the medical evidence, is satisfied that the person in question is incapable, by reason of mental disorder, of managing and administering his property and affairs.”*

* 1. **Legislation and Policies on Institutionalisation and Deinstitutionalisation**

Article 29(2) of the Constitution provides that “a disabled person shall not be subjected to differential treatment in respect of his residence other than that required by his condition or by the improvement which he may derive from the treatment.” This position of the law is further stated in Section 2 of Act 715. The provision may be explained to mean that there are two reasons why a PWD may be institutionalised: (1) that her condition requires it; or (2) that she is kept for the purposes of treatment. Therefore, we may say that the law supports institutionalisation. That notwithstanding, Section 17 of Act 715 requires the Minister responsible for disabilities to “foster” integration of PWDs into the society.

Further, the Mental Health Act has provisions on institutionalisation. Under the Act, institutionalisation may result from voluntary or involuntary treatment. By Section 42 of the Act, a person may be kept in involuntary admission if (1) that person is at personal risk or a risk to other people, or (2) there is a substantial risk that the mental disorder will deteriorate seriously. Involuntary admission requires a court order or a certificate of urgency. A certificate of urgency expires after 72 hours while a court order for prolonged treatment does not exceed 12 months at a time. Under the Act, it is unlawful to institutionalise a person in a facility which is not certified in Accordance with Health Institutions and Facilities Act of 2011 (Act 829).

In respect of policies there exists an Education Strategy Policy for 2003 – 2015. This policy deals with educational institutions for PWDs. It however says almost nothing about institutionalisation. Similarly, we did not find any legislation or policy in respect of institutionalisation for non-mental or non-psychosocial disabilities. We however note that there are “witches’ camps,” in the northern part of Ghana. These camps serve as permanent homes where indigent older women, usually widows with psychosocial challenges are institutionalised. These camps are however informal customary institutions rather than formal State institutions. The camps have come under severe attack by civil society. For example, the Committee on the Elimination of Discrimination against Women (CEDAW) has asked the government to close down these camps by 2017.[[1]](#footnote-1)

* 1. **Most Recently Available Data**

This section discusses the availability of data, disaggregated by sex and age in Ghana, especially with regard to:

1. persons under guardianship;
2. cases where the state or an organisation has been appointed guardian;
3. institutions for persons with disabilities;
4. persons with disabilities placed in institutions;
5. persons in institutions under guardianship;
6. registers of the use of seclusion and restraints and its frequency;
7. involuntary admissions to mental health services or other social care facilities;
8. existing inpatient mental health facilities;

*Data Collection*

Article 186(2) and (3) of the 1992 Constitution mandate the Government Statistician under the supervision of the Statistical Service Board, to collect, compile, analyse and publish socio-economic data on Ghana. The Statistical Service Board also prescribes the manner in which data may be compiled and kept by any person or authority in Ghana.

Ghana is, however, yet to benefit from disaggregated statistical information of a centralized and comprehensive database covering all aspects of the country. This has created a database gap of reliable disaggregated statistical information to effectively analyse the peculiar situations of most Ghanaians.

The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families in the concluding observations[[2]](#footnote-2) on the initial report of Ghana, noted with regret the absence of disaggregated statistical information that would enable the committee on the Protection of the Rights of All Migrant Workers and Members of their Families to fully assess the extent and the manner to which the rights are promoted and protected in Ghana. This gap came to bear in the concluding observations[[3]](#footnote-3) on the combined sixth and seventh periodic reports of Ghana, where the Committee on the Elimination of Discrimination against Women expressed concern for the lack of some specific sex-disaggregated data in the report. On a similar note, the Committee on the Rights of the Child in its concluding observations[[4]](#footnote-4) on the combined third to fifth periodic reports of Ghana, reiterated its previous concern (CRC/C/GHA/CO/2, para.21) on the absence of disaggregated statistical information and urged Ghana to expeditiously improve its data collection system. In 2016, the Human Rights Committee in the concluding observations[[5]](#footnote-5) on the initial reports of Ghana, expressed concerns about the absence of data statistics to support the report.

In order to redress the lack of reliable disaggregated data in the country and inform policies and legislations on the rights of persons with disabilities in Ghana, Section 42 subsection 2 (9) of Act 715 requires the National Council on Persons with Disability to maintain a register of; persons with disabilities, and institutions, organizations and associations which provide rehabilitation, services or support for persons with disabilities in Ghana. Additionally, The Board is required, under Section 50 of the Act 715, to maintain a register of the names, addresses and other personal particulars of persons with disabilities. The register is to document the names, addresses of offices and other particulars of institutions, organisations and associations which provide rehabilitation, services or support for persons with disabilities. In spite of the fact that the Board for the National Council for Persons with Disability was inaugurated[[6]](#footnote-6) on the November 26, 2013 in Accra, there continue to be dearth of information and data on persons with disabilities in Ghana, as affirmed by other disability rights commentators.[[7]](#footnote-7)

*Mental Health Services*

The final results of the 2010 Population and Housing Census (PHC)[[8]](#footnote-8) showed that the total population of Ghana as at 26th September, 2010 was 24,658,823. The results indicated that Ghana’s population increased by 30.4 percent over the 2000 population figure of 18,912,079.

The results revealed that there were 12,633,978 females and 12,024,845 males. This implied that females constituted 51.2 percent of the population and males 48.8 percent, resulting in sex ratio of 95 males to 100 females. According to Human Rights Watch, 2.8million Ghanaians are estimated to have mental disabilities, out of which 680,000 Ghanaians are estimated to have severe mental disabilities.[[9]](#footnote-9)

Reliably, Ghana has four public psychiatric hospitals: Accra Psychiatric Hospital, Pantang Psychiatric Hospital, and Ankaful Psychiatric hospital. Accra Psychiatric Hospital[[10]](#footnote-10) is responsible for the treatment, welfare, training and rehabilitation of the mentally ill. The outpatient department services includes clinical psychology services, electro convulsive therapy, twenty-four pharmacy, social work services, community psychiatry nursing and rehab alcoholicanous (Rehab for Alcohol Abuse). The hospital has the capacity to accommodate 600 patients at any given time. However, this has not been the case as the hospital continues to be over crowded with an increasing population and therefore a growing demand on the limited facilities. Research shows there are twelve (12) practicing psychiatrists, four (4) clinical psychologists, twelve thousand seven hundred (12,700) psychiatric nurses.[[11]](#footnote-11) Ghana also has four private psychiatric hospitals: two in Kumasi, one in Accra, and one in Tema. The private facilities have an estimated total inpatient capacity of 100 patients, as per their bed capacity. The high cost of care, estimated at about $150 per month per person in such institutions is beyond the reach of most Ghanaians.[[12]](#footnote-12)

*Guardianship under Ghanaian Legal System*

Ghana’s legal System does not make provision for situations where the state or an organisation can be appointed guardians for persons with mental disabilities. The absence of such arrangements ordained by the legal system was explained in the case of ***Acheampong v First Ghana Building Society & Others [1989-90] 2 GLR;*** in determining the legal capacity of a persons with mental disability to manage his property. The court made the following commentary at page 473:

*“… our Mental Health Decree, 1972 (NRCD 30) confers no jurisdiction on our courts to act as court of protection for the protection and management of the property of mentally disordered patients on the lines of the regime introduced in England by the Mental Health Act, 1959. Under the system the judge is given wide powers to make such orders and give such directions as he thinks fit in regard to the property and affairs of such patients. The judge may, in particular, make orders or give directions, inter alia, for the acquisition of any property in the name or on behalf of the patient; the carrying out by any suitable person of any profession, trade or business of the patient; the carrying out of any contract entered into by the patient.”*

Act 849 is an amendment to replace Mental Health Act 1972, (NRCD 30). Nonetheless, Ghana is yet to pass a legislative instrument to operationalise Act 849. Sections 68 and 69 of Act 846 regulates the application for the appointment of guardianship, limited guardianship, annual review of continuous guardianship, a right to contest the application and the right to appeal against the decision of the court.

*Seclusion and Restraint under Mental Health Act 2012, (Act 849)*

Section 58 subsections 1 and 2 of the Mental Health Act 2012, (Act 849) prescribes the situation under which a person may be put under seclusion and restraint. A person may be placed under involuntary seclusion or minimal mechanical restraints only when that person is seen to be an imminent danger to herself or himself or others; and tranquilisation is not appropriate or not readily available. Act 849 directs the seclusion or restraint to be authorised by the head of the facility or the senior nurse in charge of the ward acting on behalf of the head of the facility. Acts 849 obliges seclusions or restraints to be practiced under strict institutional guidelines and advises that, it must not be used as punishment or for the convenience of staff. Act 849 requires a proper documentation of the seclusion and restraint. Section 26 of Act 849 provides guidance on minimizing intrusive and irreversible treatments, seclusion or restraint.

The seclusion or intrusion is permitted under the laws of Ghana under certain conditions, but there is the absence of reliable data on registers of the use of seclusion and restraints and; involuntary admissions to mental health services.

Section 56 of Act 849 makes provisions for patients, their relatives or caregivers and staff to seek remedy when they are aggrieved during the period of the mental health treatment.

* 1. **Jurisprudence, Complaints or Investigations in Relation to Abuses and Violence**

There is a dearth of statistics on complaints and investigation by concerning the violence and abuse of the rights of PWDs in Ghana. In the limited cases where investigations are carried out on these factors, data from such investigation are hardly made available to the public. However, private individuals and organisations have however carried out investigations in respect of these factors. Information from these private researchers are usually made available in the media. Below are some of the findings:

1. In 2015, the BBC broadcasted a documentary dubbed ‘The World's Worst Place to Be Disabled?[[13]](#footnote-13) The documentary unearthed human rights abuse, human rights violence including deprivation of liberty and security of persons with disabilities in privately held institutions, spiritual prayer camps and supposed religious healers.
2. In 2010, an investigative journalist under **‘Ghana's Madhouse story’, unearthed human rights abuse and violence of rights of individuals with mental disabilities in Ghana’s biggest** public psychiatric hospital**.**
3. The Human Rights Watch, in series of its annual reports, releases reports about the abuse and ill treatment of PWDs such as deprivation of liberty in prayer camps.
4. In 2013, an undercover investigative journalist documented the practice in the northern part of Ghana where children with disabilities are poisoned to death under the concept of “spirit child.”[[14]](#footnote-14)
5. **The right to liberty and security of persons with disabilities: Zambia**

3.1 Legislation and Policies on the Liberty and Security

The Persons with Disability Act Part V paragraph 6(1) prohibits any form of discrimination on disability grounds. Paragraph 7(1) provides for the right to independent living for persons with disabilities and prohibits institutionalization except where it is necessary. However the grounds for need for institutionalisation are not specified which leaves room for possible arbitrary application of the law.

The Mental Health Bill (2015) provides for respect, autonomy, non-discrimination and the right to self-determination for people with psychosocial disabilities

Article 6, part II of the Mental Disorders Act 1951 states, ‘Subject to the exceptions expressly provided by this Act, no person shall be received or detained as a patient in an institution or other place except under the authority of a warrant or order of the Minister, a Judge or a magistrate in accordance with this Act the Criminal Procedure Code.’

**3.2** Legislation and Policies on Legal Capacity, Criteria for Criminal Liability and Fitness to Stand Trial or to Plead

3.2.1Exercise of legal capacity;

In terms of the Disability Act;

* Part V paragraph 8(1) provides for the right to legal capacity of all PWDs
* Paragraph 8(3) demands subjection of lack of legal capacity to judicial proceedings and review to protect those perceived to lack legal capacity from abuse

3.2.2 The rights of persons with disabilities in institutions including processes of deinstitutionalisation;

- Part VI paragraph 32 (a) of the Disability Act provides for the right of PWDS to full inclusion and participation in all aspects of life as opposed institutionalization, There is no direct or implied mention of the process of deinstitutionalization.

3.2.3 involuntary admission to mental health services or other institutions;

* Part VI paragraph 28 (1) (e) of the Disability Act requires free/ affordable rehabilitation and medical services but is silent on prohibition of involuntary medical treatment for PWDS
* The Health Professions Act 2009 regulates the conduct of medical practitioners which includes respect for the rights of all patients (including persons with mental health conditions
* The Mental Disorders Act 1951 on the other hand empowers a law enforcement officer to arrest or restrict the liberty of a person with a mental health condition perceived to pose danger to the public[[15]](#footnote-15) or if such a person was found to be wandering at large and unable to take care of themselves[[16]](#footnote-16).
* Given the above circumstances, the law allows for such a person to be institutionalised without warrant in a prescribed hospital or prison whereupon an enquiry should be instituted for the detention.

3.2.4 Criteria to be found not criminally responsible (insanity defence, *inimputabilidad*, etc.);

* The Penal Code Act Chapter 87 Part IV 12 exoneratesa person whose mind is affected by disease from being criminally responsible for an act or omission.

3.2.5 Unfitness to stand trial or unfitness to plead;

* Part II paragraph 30 (3) of the Disability Act protects the right to access to justice by ensuring provision of reasonable accommodation to persons with disabilities who are subject to a legal process. However no mention is made on incapacity to plead or to stand trial on ground of disability
  + 1. Security measures and diversion programmes.

Not available

* 1. Most Recently Available Data

3.3.1 Persons under guardianship;

**-** Currently, Zambia does not have laws pertaining to guardianship systems for adults in any form. The laws on guardianship relate to the adoption and foster care of children.

**-** The total number of children in foster homes as at December 2015 were, 7812 of whom 3827 were female while 3985 were male

**3.**3.2 Institutions for persons with disabilities;

- 1 third level psychiatry/mental health referral and training institution (Chainama Hills Hospital)

- 2 mental health rehabilitation centres (deplorable state)

- 5 children with disabilities’ homes

- 16 farms

- 13 specialised boarding schools for learners with disabilities

- 5 specialised units for learners with disabilities

3.3.3 Persons in institutions under guardianship;

Not applicable as there is no law on guardianship.

3.3.4 Registers of the use of seclusion and restraints and its frequency;

- Chainama Hills Hospital has 10 seclusion rooms (5 in each of the acute wards)

- Ndola psychiatry unit has 4 closed seclusion rooms (2 in the female wards and 2 in the male wards), and 2 open seclusion rooms

- Other units and centres use handcuffs and chemical restraint in place of seclusion rooms.

* + 1. involuntary admissions to mental health services or other social care facilities;
* While some statistics are available on admission to medical institutions, there seems to be no data on voluntary and involuntary treatment.

3.3.6 Existing inpatient mental health facilities;

* 07 psychiatry units located in General Hospitals,
* 01 third level referral and tertiary mental health hospital
* 03 general psychiatry rehabilitation centres all in deplorable state
* 04 hospitals provide basic mental health care services

3.3.7 Beds for mental health inpatients in psychiatric hospitals and general hospitals;

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Hospital/psychiatry unit** | **Sex** | | **Age range** | | **Total bed capacity** |
|  | M | F | M | F |  |
| Ndola Unit | 22 | 15 | 15-50 | 15-40 | 37 |
| Kabwe Unit | 9 | 7 | 15-50 | 15-60 | 16 |
| Chipata Unit | 25 | 25 | 18-40 | 20-32 | 50 |
| Nsadzu | 80 | 48 | 25-50 | 20-65 | 136 |
| Chainama | 88 | 68 | 13-70 | 20-45 | 156 |
| Livingstone | 12 | 6 | 16-35 | 22-38 | 18 |

* A 2005 Mental Health Policy reported to have 560 psychiatric beds countrywide[[17]](#footnote-17)

3.3.8 Average days a person spends under involuntary admission at mental health facilities;

- 14 days and 32 months as the longest stay.

3.3.9 Persons who have been declared unfit to stand trial or unfit to plead;

There are currently no records available on number of persons declared unfit to stand trial or unfit to plead

3.3.10 persons who have been found not to be criminally responsible;

* Such people are detained indefinitely under the President’s Pleasure until such a time when the President may by order direct such release (Criminal Procedure Code Act, 163, subsection 1,2 and 3)
* Detention under the President’s Pleasure can sometimes be longer than a person who has been found to be criminally responsible

3.3.11 security or preventive measures applied in the criminal justice context.

- None existent in most cases

3.3.12 institutions where persons who have been declared unfit to plead, stand trial or found to be not criminally responsible are placed and number of inmates;

* Article 167 (3) allows for persons found not to be criminally responsible on account of insanity to be detained under His Excellence’s Pleasure[[18]](#footnote-18)
* 2 forensic psychiatry institutions exist where such persons found not to be criminally responsible on account of insanity are detained. These include 30 bed spaces in Livingstone and 23 at Chainama Hills Hospital (M/20, F/3)
  1. **Jurisprudence, Complaints or Investigations in Relation to Abuses and Violence**
* Violations of rights of persons with disabilities in their homes and communities was reported to be widespread with complaints mechanism almost non-existent. Persons with psychosocial disabilities are especially subjected to inhumane and degrading treatment within their communities by means of restraint, harmful traditional practices and physical violence.
* Most of such cases go unreported and unresolved as there is currently no legal complaint mechanism to provide protection from such violations.
  1. Other relevant information (including information from surveys, censuses, administrative data, reports, studies, and case law);
* A research done by the Mental Disability Advocacy Centre in collaboration with the Mental Health Users Network of Zambia reviewed that the right to liberty for persons with disabilities, and particularly those with psychosocial disabilities were practically non-existent
* Majority of cases involve involuntary admission in psychiatry institutions where such services are available while others are treated by traditional healers in deplorable conditions and subjected to all sorts of physical and sexual abuse
* There is no updated statistics on the situation of persons with disabilities and their services

1. **The right to liberty and security of persons with disabilities: Kenya**

**4.1 Legislation and Policies on Legal Capacity, Criteria for Criminal Liability and Fitness to Stand Trial or to Plead**

- The CRPD is recognised in Kenya as law thus Article 12 is applicable. Also 2010 Constitution, Article 27 (1), (2) and (3) recognise that all person are equal before the law. However Persons with Disabilities Act 2013 of Kenya does not recognise the right to legal capacity of person with disabilities. Further the Mental Health Act recognises the system of guardianship rather than supported decision making. Other laws that limit legal capacity for person with mental disabilities includes the Marriage Act, Criminal Procedure Code, Succession Act etc.

* 1. **Legislation and Policies on Institutionalisation and Deinstitutionalisation**
* There are no laws or policies that expressly provide for deinstitutionalization. Most persons with mental disabilities in Kenya are under informal guardianship thus no laws. The Mental Health Act makes provisions for involuntary admissions to hospitals but no provisions on discharge of such persons from hospitals.

The Criminal Procedure Code Sections 166-167 make provisions for persons with mental disabilities being sentenced to serve at the president’s pleasure in mental health institutions but no procedures on how they can be released form such sentences.

The Judiciary Sentencing Policy 2016 addresses this challenge to some extent, that such person shall be referred to the Mercies and Pardons Board for review and release.

4.3.1 Involuntary admission to mental health services or other institutions;

- The Mental Health Act 1953 makes provisions for involuntary admissions by family members or police officers.

4.3.2Criteria to be found not criminally responsible (insanity defence, *inimputabilidad*, etc.);.

- Criminal Procedure Code Sections 166-169

* + 1. Unfitness to stand trial or unfitness to plead;
* Criminal Procedure Code 166-169
  + 1. Security measures and diversion programmes;
* There are no laws or policies in Kenya on the above matters. However the Children’s Act provides for diversion measures for children in conflict with the law. This may apply to children with disabilities in conflict with the law.
  1. **Most Recently Available Data**

4.4.1. Persons under guardianship;

- Not available. Informal guardianship is more common.

4.4.2. Cases where the state or an organisation has been appointed guardian;

- Not available

4.4.3. Institutions for persons with disabilities;

- In Kenya, there are no large scale institutions for persons with mental disabilities. Most families abandon their relatives with disabilities in Schools or hospitals. Thus there is no data on the number of institutions as most institutions are informal thus not recognised.

4.4.4 Persons with disabilities placed in institutions;

- Not available

4.4.5. Persons in institutions under guardianship;

- Not available

4.4.6. Registers of the use of seclusion and restraints and its frequency;

- Not available

4.4.7. Involuntary admissions to mental health services or other social care facilities;

- Not available

4.4.8. Existing inpatient mental health facilities;

- Information on this is issue is scattered. There is one national referral hospital for mental health, Mathari Mental Hospital. However every regional level 5 hospital in Kenya is supposed to have a mental health unit, of particular mention is Port Reitz Hospital in Mombasa which has an active mental health inpatient unit. There are 11 Level 5 Hospitals in Kenya. Further each district hospital is supposed to have an outpatient unit for mental health matters managed by a psychiatric nurse. There are only 21 active outpatient units in Kenya which due to families abandoning their relatives have now become in patient facilities.

- In addition, every prison in Kenya is expected to have a mental health forensic unit for persons serving under the president’s pleasure. These are only found at Mathari Mental, Port Reitz in Mombasa, Kamiti Maximum, Naivasha, Industrial Area remand and Kodiaga Prison.

4.4.9. Beds for mental health inpatients in psychiatric hospitals and general hospitals;

- According to a report done by MDAC in 2014, there were about 1114 beds nationally with Mathare are having the highest bed capacity at 950 beds.

4.4.10. Average days a person spends under involuntary admission at mental health facilities;

- Information is not available

4.4.11. Persons who have been declared unfit to stand trial or unfit to plead;

- Information is not available

4.4.12. Persons who have been found not to be criminally responsible;

- Information is not available

4.4.13. institutions where persons who have been declared unfit to plead, stand trial or found to be not criminally responsible are placed and number of inmates;

- These are only found at Mathari Mental, Port Reitz in Mombasa, Kamiti Maximum, Naivasha, Industrial Area remand and Kodiaga Prison. Mathari Mental as at April 2017 had 71 inmates serving at the President’s pleasure.

4.4.14. Security or preventive measures applied in the criminal justice context.

- Information is not available.

* 1. **Jurisprudence, Complaints or Investigations in Relation to Abuses and Violence**
* **-** Information not available.
  1. **Other relevant information (including information from surveys, censuses, administrative data, reports, studies, and case law);**
* Case of William Morara Siringi v. Republic was the first case to openly challenge legal capacity for persons with mental disabilities in Kenya.
* Case of Hassan Hussein v. republic also challenged the provisions of sentencing at the president’s pleasure for person with mental disabilities. This provision was found to be unconstitutional.

1. **The right to liberty and security of persons with disabilities: Uganda**

5.1 **Legislation and Policies on the Liberty and Security**

**The Constitution of the Republic of Uganda, 1995- provisions include:-**

- Article 21(1) states that “All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law.”

- Article 21(2) states “Without prejudice to clause (1) of this article, a person shall not be discriminated against on the ground of sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability.”

- Protection of personal liberty: Article 23(1) provides that no person shall be deprived of personal liberty except in any of the following cases: - (f) in the case of a person who is, or is reasonably suspected to be, of unsound mind or addicted to drugs or alcohol, for the purpose of the care or treatment of that person or the protection of the community;

- Respect for human dignity and protection from inhuman treatment: Article 24 states that, “No person shall be subjected to any form of torture or cruel, inhuman or degrading treatment or punishment”.

- Article 32 (1) “the State shall take affirmative action in favour of groups marginalized on the basis of gender, age, disability or any other reasons created by history, tradition or custom for the purpose of addressing imbalances which exist against them;

- Article 35 (1) Persons with disabilities have a “right to respect and human dignity” and the State and society shall take appropriate measures to ensure they realize their full mental and physical potential;

• **Persons with Disabilities Act, 2006**

Although the Act does not expressly provide for the above rights, it makes a general reference to the rights enshrined in the Constitution (section 32 of the Act). It states that the fundamental rights and freedoms enshrined in Chapter Four of the Constitution shall be respected, upheld and promoted by all organs and agencies of government and by all persons in respect to persons with disabilities.

• **The Mental Treatment Act, 1938 (revised 1964)**

The Mental Treatment Act still provides for involuntary institutionalization of persons with disabilities in institutions. There is no clear appeal mechanism apparent in the Act.

**Proposed legislation**

**• The Mental Health Bill, 2014**

The Bill seeks to repeal the Mental Treatment Act and to establish a more progressive legislative regime. Unfortunately, it still provides for involuntary institutionalization of persons with disabilities. The Bill contains a right to appeal to the high court from decisions of the Board or a mental health tribunal.

• **The Persons with Disabilities Amendment Bill, 2015**

The proposed Bill seeks to repeal the Persons with Disabilities Act 2006; to amend the National Council for Disabilities Act 2003, the Trial on Indictment Act Cap 23 and the Magistrates Court Act Cap 116. The Bill also seeks to operationalize Article 35 of the Constitution of the Republic of Uganda by providing for the respect of fundamental human rights and non-discrimination of Persons with Disabilities in the health, education and employment sectors. Further, the Bill seeks to regulate the accessibility of public buildings and provision of transport for Persons with Disabilities. In addition to this, the Bill aims to clarify some ambiguous terms and provisions and to reform the tone and language used in the 2006 Act to reflect an appropriate legal tone and language.

**Policies**

• **The National Policy on disability, 2006**

The Policy was enacted to put in place and/or operationalise Article 35(2) of the Constitution leading to the enactment of Persons with Disabilities Act, 2006. The Policy thus makes general provision for the protection and promotion of the rights of persons with disabilities. To further guide planning and budgeting, the Government also developed the **National Programme and Plan of Action on Disability**.

**5.2 Legislation and Policies on Legal Capacity, Criteria for Criminal Liability and Fitness to Stand Trial or to Plead**

In general persons adjudged to be of ‘unsound mind’ in Uganda have no legal capacity before courts of law, and in all other legal related processes- including undertaking contractual arrangements.

* **Civil Procedure Rules**, Statutory Instrument 71-1 of Laws of Uganda, Order 32 Rule 1-15 and the **Judicature (Fundamental Rights and Freedoms) (Enforcement) Procedure) Rules**, SI No. 55 of 2008, Rule 7

In civil cases, persons adjudged to be of unsound mind cannot personally institute a suit and/or be sued. As a matter of law, civil claims can only be instituted and defended in courts of law by a “person of unsound mind” through a next friend or guardian ad litem respectively. The Civil Procedure Rules provide that rules of court applicable to suits involving minors “shall extend to persons adjudged to be of unsound mind, and to persons who though not so adjudged are found by the court on inquiry, by reason of unsoundness of mind or mental infirmity, to be incapable of protecting their interest when suing or being sued.

Equally, under the **Contract Act, 2010** (sections 11 and 12) persons of unsound mind cannot enter into contractual arrangements. Although section 12 (2) makes exception that a person *usually of unsound mind* may enter into contracts during periods when he or she is of sound mind, in practice realization of this provision is subject to already prejudiced legal opinion and the provision still maintains the need for soundness of mind.

Specific to property ownership and control, the guardianship provisions contained in the **Mental Treatment Act** (stated above) stipulates that such rights are vested, or exercised by a guardian on behalf of the person adjudged to be of unsound mind. Effectively, a person adjudged to be of sound mind *may* own property, but shall not have powers over the control of such property.

* **The Penal Code Act Cap 120 (sections 10 and 11), the Trial and Indictment Act Cap 23- Part VI (sections 45-49- on proceedings in the High Court), the Magistrate Court Act Cap 16- Part XIII (sections 113- 118- on proceedings in the Magistrates Courts)**

The above principle is applicable in criminal procedure, where on proof of insanity, the Court may, subject to its discretion, release such person into safe custody i.e- where the person shall be taken good care of, and in other cases, “order the accused to be detained in safe custody in such place and manner as it may think fit and shall transmit the court record or a certified copy of it to the Minister in charge”. The accused, if later adjudged, with the help of a medical officer to be fit for trial, may be brought back to face trial, and in other cases be released.

* 1. **Legislation and Policies on Institutionalisation and Deinstitutionalisation**

As an observation, Ugandan law attaches great significance to the right to physical accessibility for persons with disabilities. As such, despite poor enforcement trends, detention facilities and other facilities of a public nature are *mandated* to ensure accessibility. This narrow prioritization (by law enforcement and government agencies), results in limited recognition and hence enjoyment of other rights guaranteed under the law.

Specific to institutionalization due to ‘unsoundness of mind’ and/or ‘insanity’, the only guaranteed right under the **Mental Treatment Act** (i.e- sections 31 and 32) is the right to protection against *strikes, ill treatment and neglect* by a person employed at the mental hospital. The Act does not however define what constitutes ‘strikes, ill treatment and neglect’. Also, under the current Act, discharge is only possible in two instances i.e- one, on recommendation of fitness by a medical superintendent or chief medical officer, and secondly, by a magistrate on the request of a relative or guardian.

The above rights are in addition to general provisions contained in Chapter four of the 1995, **Constitution** which fundamentally includes freedom and protection from any form of torture, cruel, inhuman or degrading treatment and punishment (Art. 24).

* + 1. involuntary admission to mental health services or other institutions;

Article 23(1) provides that no person shall be deprived of personal liberty except in any of the following cases: - (f) in the case of a person who is, or is reasonably suspected to be, of unsound mind or addicted to drugs or alcohol, for the purpose of the care or treatment of that person or the protection of the community,

Also see question 1 (above) and the provisions of the Mental Treatment Act and the proposed legislation.

* + 1. criteria to be found not criminally responsible (insanity defence, *inimputabilidad*, etc.);

Special procedures are provided for in cases involving accused persons perceived to be of “unsound mind”. These can be found in Part VI of the Trial on Indictments Act and Part XIII of the Magistrate Courts Act as well as section 215 of the Uganda Peoples Defence Forces Act.

In brief, when it comes to the attention of court that the accused may be a “person of unsound mind” and is incapable of making his or her defence, proceedings are halted and an inquiry is carried out into whether they are of “unsound mind”. The accused may either be released on bail pending the determination or detained pending a Minister’s order requiring the accused to be confined as a “criminal lunatic” in a mental hospital or other place of custody. The use of Ministers orders was recently ruled by a Uganda Court in Fort Portal as constituting an infringement to the principle of judicial independence and should be stopped.

When it is found that the accused is capable of making his or her defence, proceedings are resumed. If it is proved that the accused was “insane” at the time of commission of the act constituting the offence (defence of insanity), the court makes a “special finding” to the effect that the accused is not guilty of the act or omission charged by reason of insanity. The court shall report the case to the Minister who is required to order that the person concerned be kept in custody as a “criminal lunatic.”

* + 1. unfitness to stand trial or unfitness to plead;

In criminal cases, refer to question 2.1 and 2.4 above. In civil matters, the position is as indicated in the Civil Procedure Rules see question 2.1

Generally, the section 117 of the **Evidence Act, Cap 6 (enactment year 1906)** sums up Uganda’s position on this issue. It states;

*All persons shall be competent to testify unless the court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease, whether of body or mind, or any other cause of the same kind.*

* 1. **Most Recently Available Data**
     1. persons under guardianship;
* The research could not find available aggregated data.
  + 1. cases where the state or an organisation has been appointed guardian;
* The research could not find available aggregated data.
  + 1. institutions for persons with disabilities;
* Uganda has only one specialized public national referral mental health institution ie- Butabika Hospital, in Kampala.

With limited data trends, coupled with other specific factors, it is hard to discern the actual number of hospitals and health centres providing institutionalized care, for persons with disabilities, countrywide. Following the decentralization of health service provision, from the central government to individual districts in 1990, health service provision including mental health is now much more localized. However, as a result of the unprecedented rate of creation of new districts in Uganda (now at 111), it is hard to keep up with data collection. Furthermore, mental health services at district general hospitals and at Health Centres are practically absent, with very little reliable data.

The only private hospital that provides inpatient and outpatient mental health service is Kisiizi Hospital in South West, Uganda.

In terms of criminal detention, there are no specialized detention facilities for persons with disabilities.

* + 1. persons with disabilities placed in institutions;
* The research could not find available aggregated data.
  + 1. persons in institutions under guardianship;
* The research could not find available aggregated data.
  + 1. registers of the use of seclusion and restraints and its frequency;
* The research could not find available aggregated data.
  + 1. involuntary admissions to mental health services or other social care facilities;
* The research could not find available aggregated data.
  + 1. existing inpatient mental health facilities;
* See question 5.3.3 above.
  + 1. beds for mental health inpatients in psychiatric hospitals and general hospitals;
* Once again, nationwide aggregated data in this case is hard to come by. However, Butabika Hospital i.e- the main national mental referral Hospital has a bed capacity of about 550. Furthermore, according to a 2014 study by Mental Disability Advocacy Centre (MDAC) and Mental Health Uganda (MHU) on the state of psychiatric facilities in Uganda’s 7 regional referral hospitals; - Mulago Hospital had 50 beds in its psychiatric unit, Kabale Hospital had 26, Mbarara Hospital had 20, Arua Hospital had 20, Gulu Hospital had 30, Soroti Hospital had 35 and Mbale Hospital had 22. There is no readily available data on the same in the smaller hospitals and health centres.
  + 1. average days a person spends under involuntary admission at mental health facilities;
* No available nationwide aggregated data. However, according to the above MDAC and MHU 2014 Study, the combined average period of stay admission in Butabika Hospital, Kisiizi Hopsital and in the 7 regional referral hospitals is 17 days. However, the average for long stays in the above 9 hospitals is 9 months.
  + 1. persons who have been declared unfit to stand trial or unfit to plead;
* The research could not find available aggregated data.
  + 1. persons who have been found not to be criminally responsible;
* The research could not find available aggregated data.
  + 1. institutions where persons who have been declared unfit to plead, stand trial or found to be not criminally responsible are placed and number of inmates;
* The research could not find available aggregated data.
  + 1. Security or preventive measures applied in the criminal justice context.
* The research could not find available aggregated data
  1. **Jurisprudence, Complaints or Investigations in Relation to Abuses and Violence;**
* Once again, due to very limited data and poor data keeping, it is hard to tell the existence of specific jurisprudence. Also, generally, cases regarding the above are only recent in Uganda. Nevertheless, there is an ongoing case **Kabale Benon V Attorney General** (High Court Civil Division Case No. 94/2015) filed on 27th March, 2015. This case is a strategic litigation case that basically challenges the practice of seclusion as torture, inhuman and degrading treatment widely popular in Butabika Hospital and other mental health institutions in Uganda. It is yet to be decided.

**5.6 Other relevant information (including information from surveys, censuses, administrative data, reports, studies, and case law);**

- The above mentioned 2014 study (question 3.9) by MDAC and MHU highlights a salient challenges in regard to the right to liberty and freedom of torture by persons with disabilities. Key among these are; availability of limited data, limited resources in terms of, human resource and facilities e.g number qualified personnel, and the number of beds vis-à-vis persons in need of them. Importantly, the study also notes the huge gap between available law and policy, on the one hand and what is actually on the ground. The existence of literally obsolete legal provisions e.g the Mental Treatment Act- initially enacted in 1937 and later amended in 1967, highlight the need for overhaul of the current legal regime. All these factors embolden the already historical prejudice and negative perception of persons with disabilities in Uganda, making it difficult for persons with disabilities to realize their rights on an equal basis with all others.

1. **The right to liberty and security of persons with disabilities: Mozambique**

**6.1 Legislation and Policies on Legal Capacity, Criteria for Criminal Liability and Fitness to Stand Trial or to Plead**

Persons with psychosocial, speaking/hearing, and visual disabilities can have their legal capacity substituted if they appear to be unable to rule themselves. (Art. 138 Civil Code).

If there incapacity to rule themselves is not that serious, there will be set specific issues on which they will need an authorization to decide (art. 152 Civil Code).

The court decision to substitute the legal capacity of a person with psychosocial disability is mainly based on a medical opinion which is carried out through mental exams (art. 944 to 952 of the Civil Procedure Code).

Persons who suffer from a mental disease with no lucidity breaks are absolutely can never be charged. (art. 46 b), Penal Code). Those who enjoy some lucidity breaks will not be charged if the criminal offence is executed at an insanity state (art.47, b) Penal Code).

If there is already a court decision substituting the legal capacity of a person then that person cannot stand trial or plead. (Art. 5 – 2, Civil Procedure Code).

If it is found that someone suffers from a psychic anomaly and so is not able to stand trial the court will designate a person to represent their interests in the specific plead (art. 14, Civil Procedure Code).

If the person is not “danger criminally” he will be placed in an institution of care. No. of inmates, not available. The information was requested to the relevant institution. (Art. 124 of Criminal Procedure Code).

If not criminally responsible - they are taken to psychiatric hospital and when they are healed and have no family or ways to support themselves, they are placed in a beneficiary institution. (Art. 135 of Criminal Procedure Code).

At any stage of the criminal procedure, if there is any suspicion of mental insanity the defendant must be submitted to medical exams. There is not a specific institution designed to receive criminals who have been diagnosed with mental health disease. (Art. 125 to 137, Criminal Procedure Code).

* 1. **Most Recently Available Data**

- No aggregated data available

**6.5 Jurisprudence, Complaints or Investigations in Relation to Abuses and Violence**

- Couldn’t find records of jurisprudence/complaints.

1. **The right to liberty and security of persons with disabilities: Zimbabwe**

7.1 **Legislation and Policies on the Liberty and Security**

* Constitution of Zimbabwe, ss 22, 44, 48, 49, 52, 56 and 83
* Criminal Law (Codification and Reform) Act (Cap 9:23) crimes against the person, though this is a fishing.
* DPA (Cap 17:01), does not concern itself with above. Talks about employment issues
* Not much in terms of policy framework

**7.2 Legislation and Policies on Legal Capacity, Criteria for Criminal Liability and Fitness to Stand Trial or to Plead**

* + 1. exercise of legal capacity;
* **no policy on PWDs in Zimbabwe for the time being**
* **Mental Health Act, Insolvency Act; limit legal capacity coz of the medical model** 
  + 1. the rights of persons with disabilities in institutions[[19]](#footnote-19) including processes of deinstitutionalisation;
* **We do not have** 
  + 1. involuntary admission to mental health services or other institutions;
* **Mental Health Act (Cap 15:12) (MHA)**
* **Criminal Procedure and Evidence Act (9:07) (CPEA)**
* **Criminal Code (Cap 9:23)**
  + 1. Criteria to be found not criminally responsible (insanity defence, *inimputabilidad*, etc.);.
* **MHA**
* **CPEA**
* **Criminal Code, ss 225, 227, 228**
  + 1. unfitness to stand trial or unfitness to plead;
* **MHA and the Criminal Code** 
  + 1. Security measures and diversion programmes.
* **No specific security measures**
* **National Action Plan for Orphans and Vulnerable Children Programme**
* **Pre Trial Diversion Programme** 
  1. **Most Recently Available Data**
     1. persons under guardianship;
* **not available in Zimbabwe** 
  + 1. cases where the state or an organisation has been appointed guardian;
* **requires more time** 
  + 1. institutions for persons with disabilities;
* **requires more time** 
  + 1. persons with disabilities placed in institutions;
* **requires more time** 
  + 1. persons in institutions under guardianship;
* **not data immediately available** 
  + 1. registers of the use of seclusion and restraints and its frequency;
* **not available in Zimbabwe** 
  + 1. involuntary admissions to mental health services or other social care facilities;
* **not immediately available** 
  + 1. existing inpatient mental health facilities;
* **Ingutsheni Hospital**
* **Parirenyatwa Annex Hospital**
* **Mlondolozi Prison Hospital**
* **Ngomahuru Hospital** 
  + 1. beds for mental health inpatients in psychiatric hospitals and general hospitals;
* **requires more time**
  + 1. average days a person spends under involuntary admission at mental health facilities;
* **no data immediately available** 
  + 1. persons who have been declared unfit to stand trial or unfit to plead;
* **requires more time** 
  + 1. persons who have been found not to be criminally responsible;
* **requires more time** 
  + 1. institutions where persons who have been declared unfit to plead, stand trial or found to be not criminally responsible are placed and number of inmates;
* **requires more time**
  + 1. security or preventive measures applied in the criminal justice context.
* **Requires more time** 
  1. **Jurisprudence, Complaints or Investigations in Relation to Abuses and Violence**
* Very little developments of the jurisprudence on disability in general and specified areas in particular
  1. **Other relevant information (including information from surveys, censuses, administrative data, reports, studies, and case law);**
* Zimbabwe National Association for Mental Health
* Zimcare Trust

1. See more at: http://citifmonline.com/2015/11/27/closed-witches-camps-by-2017-cedaw/#sthash.jCqUvjQk.dpuf [↑](#footnote-ref-1)
2. Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, *Concluding observations*: *Ghana*, U.N. Doc. CMW/C/GHA/CO/1 (2014). [↑](#footnote-ref-2)
3. Committee on the Elimination of Discrimination against Women, *concluding observations on the combined third to fifth periodic reports: Ghana,* CEDAW/C/GHA/CO/6-7 (2014). [↑](#footnote-ref-3)
4. Committee on the Rights of the Child, *Concluding observations on the combined third to fifth periodic reports: Ghana,* U.N. Doc. CRC/C/GHA/CO/3-5 (2015). [↑](#footnote-ref-4)
5. Human Rights Committee, *Concluding observations on the initial reports:* *Ghana,* U.N. Doc. CCPR/C/GHA/CO/1(2016) [↑](#footnote-ref-5)
6. Ghanaweb Minister inaugurated Disability Board (2016) <http://www.ghanaweb.com/GhanaHomePage/economy/artikel.php?ID=293241> (Date accessed 13 May 2017). [↑](#footnote-ref-6)
7. Ellis Owusu-Dabo , Anthony Edusei, Gyikua Plange-Rhule, Nicholas Addofoh, Sandra Baffour-Awuah, Osei Sarfo-Kantanka, Charles Hammond and Michael Owusu “Assessment of prison life of persons with disability in Ghana” (8 August 2016) *BMC International Health and Human Rights* <https://bmcinthealthhumrights.biomedcentral.com/articles/10.1186/s12914-016-0094-y> (Date accessed 12 May 2017). [↑](#footnote-ref-7)
8. See Ghana Statistical Service, “2010 Population and Housing Census (2012)” <http://www.statsghana.gov.gh/docfiles/2010phc/2010_POPULATION_AND_HOUSING_CENSUS_FINAL_RESULTS.pdf> (Date accessed 16 May 2017). [↑](#footnote-ref-8)
9. See Human Rights Watch, “Like a Death Sentence” Abuses against Persons with Mental Disabilities in Ghana (2012) <http://www.hrw.org> (Date accessed 10 May 2017). [↑](#footnote-ref-9)
10. See Taking care of your mental health - Accra Psychiatric Hospital <http://accrapsychiatrichospital.org/> (Date accessed 15 May 2017). [↑](#footnote-ref-10)
11. see Justice Ghana, *The Breakdown of Ghana’s Mental HealthCare* <http://justiceghana.com/blog/research/the-breakdown-of-ghanas-mental-healthcare/> (Date accessed 13 May 2017). [↑](#footnote-ref-11)
12. Human Rights Watch, “Like a Death Sentence” Abuses against Persons with Mental Disabilities in Ghana (2012) <http://www.hrw.org> (Date accessed 10 May 2017). [↑](#footnote-ref-12)
13. Available here: http://www.bbc.co.uk/programmes/b064449w [↑](#footnote-ref-13)
14. Available here: http://www.aljazeera.com/programmes/peopleandpower/2013/01/201319121124284358.html; Also see: https://www.theguardian.com/world/2007/dec/18/ghana-international-aid-and-development. [↑](#footnote-ref-14)
15. Mental Disorders Act (1951) art 8 (a ) [↑](#footnote-ref-15)
16. Ibid, art 8 (b) [↑](#footnote-ref-16)
17. MDAC and MHUNZA, ‘Human Rights and Mental Health in Zambia’ (2014) [↑](#footnote-ref-17)
18. The Criminal Procedure Code Act <http://www.parliament.gov.zm/sites/default/files/documents/acts/Criminal%20Procedure%20Code%20Act.pdf> [↑](#footnote-ref-18)
19. For the purposes of this questionnaire, institutions include all facilities that are aimed to provide shelter, care or a living arrangement **for persons with disabilities** such as residences, nursing homes, orphanages, homes for the elderly, community homes, tutorised homes, farms, faith based institutions, boarding schools, prayer camps, or others. [↑](#footnote-ref-19)