

RESPONSE TO JOINT QUESTIONNAIRE OF SPECIAL PROCEDURES BY THE COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE, GHANA

Common questions

Impact on human rights

In accordance with the powers conferred on the President of Ghana under article 21 (4) (c), (d) and (e) of the 1992 Constitution (the Constitution), the Parliament of Ghana enacted the Imposition of Restrictions Restriction Act, 2020 (Act 1012), which was gazetted on 21st March 2020.

In terms of its object and scope, Act 1012 seeks to restrict fundamental rights and freedoms in the event of imminence of an emergency or disaster to ensure public safety, public health and protection of running of essential services. The duration of the restriction imposed by the law is for a period of not more than three months.

Sanctions for breaching the law (Act 1012) attract a fine or imprisonment of not less than four years and not more than ten years or to both.

Pursuant to Act 1012, measures were taken, including a lockdown in March 2020. The measures introduced were deemed timely given the public health risk and safety that the pandemic poses. However, the implementation of the law has seen excesses on the part of the security officials charged with enforcing the law. This led to human rights bodies, for example, the Commission on Human Rights and Administrative Justice (CHRAJ) (**a national human rights institution accredited with ‘A’ status under the Paris Principles**) and Amnesty International (AI Ghana) issuing press statements to advise security officials to act proportionately (details of press statements discussed below)

The measures affected the vulnerable especially in the areas of health and education

On 9th April 2020, Parliament approved a stimulus package aimed at assisting small and medium scale business enterprises/entrepreneurs to reduce the socio-economic impact of the pandemic. This package has not been subjected to prior human rights impact assessment economic recovery even though, Government of Ghana, through the disbursing agency, the National Board for Small Scale Industries (NBSSI) has introduced guidelines and criteria for eligibility. At the time of reporting, selection of beneficiaries and disbursement of the stimulus package has not commenced.

Statistical information

***This information can be sourced from the Ministry of Health and the Ghana Health Service.**

Regarding social protection, the State has rolled out palliatives and the economic stimulus package referred to above. These include free distribution of food to deprived communities by the Ministry of Gender, Children and Social Protection (MOGCSP); provision of free utilities (water and electricity) supply to life-line consumers and 50% to all other consumers from April – June.¹

In Ghana, about 80 percent of employment is generated through the informal sector. The sector mainly comprises retail businesses (e.g. market traders, street vendors/hawkers, transport services (passenger/carrier services – i.e. taxi and ‘tro-tro’ drivers) agricultural workers and indigenous food chains/restaurants popularly called ‘chop bars’. The lock-down in March affected the livelihoods of workers/operators in this sector in that they could not access any form of income to adequately sustain themselves.

Apart from the economic stimulus package, no direct measures have been taken in the informal sector to mitigate the impact of the Covid-19 pandemic. This is so because the stimulus package has not targeted the informal sector, but rather small and medium scale businesses.

The Ministry of Tourism has been tasked by Government to provide information on the impact of COVID-19 on tourism and hospitality industry generally.²

Participation and consultation

Initial decision-making processes in response to the pandemic and the accompanying measures leading to a lock-down of certain regions of the country (**Greater Accra in the Greater Accra region and Greater Kumasi in the Ashanti region, as well as Kasoa, a community near Greater Accra, but located in the Central region of Ghana**) mainly involved the Office of the President through the Presidential Advisor on health, COVID-19

¹ See the announcement at <https://www.myjoyonline.com/news/national/akufo-addo-announces-3-months-free-electricity-amid-coronavirus-lockdown/>

²See generally

http://motac.gov.gh/index.php?Itemid=163&option=com_content&view=category&layout=blog&id=

Security Task Force (STF) comprising medical experts and security experts. The process is highly centralised and do not involve direct stakeholder participation and consultation despite regular briefings and updates given on television and radio stations (public and private) by the Ministries of Health and Information on the status and impact of the pandemic.

The above notwithstanding, key stakeholders particularly civil society organisations (CSOs) namely the Ghana Medical Association (GMA)³, AI Ghana and CHRAJ⁴ have been involved in the process through press statements stating their expert positions/views emphasising the need to safeguard the right to health and life and the provision of the necessary personal protection equipment (PPE) for health workers.

Concerning the security services and enforcement of measures under the pandemic, CHRAJ⁵, AI Ghana and other CSOs⁶, have admonished both Government and the security Task Force

³ <https://www.myjoyonline.com/news/national/lockdown-nation-with-immediate-effect-ghana-medical-association-tells-akufo-addo/>

⁴ <https://www.graphic.com.gh/news/general-news/coronavirus-prez-akufo-addo-must-call-nia-ec-to-order-chraj.html>

⁵ <https://newsghana.com.gh/chraj-reacts-to-excesses-of-covid-19-security-task-force/>

to act proportionately in conformity with international and regional human rights standards in enforcement of Act 1012 so as to protect all persons from arbitrary arrests, use of force that may degenerate into torture and the need for the State and its agents not to derogate from fundamental rights (e.g. dignity of the individual, eschew acts of torture, degrading treatment or punishment, etc.) even under a state of emergency.

It is noteworthy to indicate that, prior to the easing of restrictions, which was announced by the President on 31st May 2020, which led to re-opening of places of mass assembly like schools and places of worship (churches and mosques), there was wide participation and consultations with the key stakeholders/groups, especially the leaderships of churches and Islamic faith, tertiary and secondary education providers, organised labour (represented by the Trades Union Congress), students' group (National Union of Ghana Students), market women, traditional rulers, the disability community, health workers (represented by the GMA). Again, the consultations did involve decentralised authorities (municipal and district assemblies).

Awareness raising and technology

The State, acting through local government authorities (metropolitan, municipal and district assemblies), has been raising awareness via television and radio advertisements, particularly in local languages targeted at the vulnerable and the less privileged in remote parts of the country. Other bodies notably the state-mandated body for public education, the National Commission on Civic Education (NCCE), as well as faith-based CSOs, traditional leaders, etc. also have been involved in nation-wide awareness raising on the pandemic.

In spite of the general and regular training for security officials on human rights in relation to law enforcement, there has not been targeted training for public officials and law enforcement

officials with regards to the overall human rights impact of the pandemic during and after the crisis. Simply put, human rights training in terms of mainstreaming of a rights-based approach in dealing with the impact of the pandemic has not been targeted by the State.

Internet

The internet has been among the most vigorous means of communication, education and awareness raising.

Access to internet services for on-line or distance learning, particularly to the most vulnerable students, who are financially deprived and cannot not afford the cost of data as well as those living in remote parts of the country where internet access is problematic affected and continue to affect their right to education.⁷

Questions – Special Rapporteur on extreme poverty and human rights

The right to basic social security guarantees for health and income security is guaranteed under the National Health Insurance Scheme (NHIS) and the Social Security and National Insurance Trust (SSNIT) legislations. The SSNIT law provides for secure state retirement benefits for contributors to the scheme by both public and private sector employees. In addition, the National Pension Act 2008, (Act 766) provides for a 3-tier pension scheme, which encompasses benefits and monthly pension payment (for retirees aged over 60 years or voluntary retirees over 55 years) under the SSNIT law; and also benefits enjoyed by retirees under a Tier-2 scheme provided by a fund manager, which is derived from contributions from an employee and his/her employer, as well as a Tier-3 pension scheme otherwise known as a Provident Fund, which operates as a voluntary scheme with sole contribution from an employee and supplemented by his/her employer.

There are no legislative or policy measures in place that provide for unemployment benefits for those lost their jobs and livelihoods on account of subsistence of the pandemic, especially workers in the private sector, including the informal sector and the hospitality industry (mostly private sector-driven). Unfortunately, the SSNIT pension scheme as a social protection scheme for retirees, has no legal protection regime for payment of unemployment

⁷See more at <https://www.aljazeera.com/indepth/features/covid-19-reveals-educational-inequality-ghana-200407100729985.html>

benefits. In other words, there is no state guaranteed scheme for protection of the unemployed.

As stated earlier, apart from the consultative processes with key stakeholders/groups prior to the easing of restrictions/re-opening, the measures taken by the State and its agencies largely are not informed by the rights-based approach. Consequently, these measures do not take into account the principles of participation, transparency and accountability that enable individuals and groups to participate, contribute and meaningful feedback regarding measures being taken towards economic recovery. Therefore, it can be said that there are no established mechanisms for participation in the design, implementation and assessment (monitoring and evaluation) of policy measures for economic recovery. Most often these policy measures are deemed government's 'magnanimity' or 'messianic' intervention rather than an obligation to fulfil human rights and targeted at lifting the very poor from poverty. In other words, rather than being tackled as human rights interventions to address endemic poverty, economic recovery programmes have become the preserve of technocrats at the Ministry of Finance and the Minister of Finance with tacit 'participation' (parliamentary debates) and approval of the Parliament as the people's.

Meanwhile, before the outbreak of the pandemic, there has been a long standing key policy initiative by the State commonly known as livelihood empowerment against poverty (LEAP), which aims to protect the most vulnerable through the provision of cash transfers to the very poor in society.

Questions – Special Rapporteur on the right to food

The Government, as part of measures to mitigate the economic impact of the pandemic and associated hunger, on 6th April 2020, announced the provision of food, which was distributed under the auspices of the MOGCSP to individuals and vulnerable groups such as older persons, women (including porters or 'kayayei'), children, etc. The Buffer Stock Company of the Ministry of Food and Agriculture provided the necessary stock of food items for this exercise⁸. The exercise was short-lived and therefore could not be sustained. No reason has been assigned for the suspension.

⁸ <https://citinewsroom.com/2020/04/covid-19-lockdown-government-announces-free-food-for-over-400000-ghanaians/>

Questions – Special Rapporteur on the right to adequate housing

The Accra Metropolitan Authority (AMA), a local government authority for the city of Accra, embarked on evictions affecting people and IDPs living in informal settlements at Agbogbloshie (commonly called ‘Sodom and Gomorrah’) and James Town, a landing beach, all suburbs of Accra. In the course of the evictions, women and children were displaced and rendered the affected persons homeless. The eviction rendered persons affected homeless. At the time of reporting, the affected persons have not been offered alternative housing by the State.

In addition to the provision of free water to vulnerable individuals and groups, the Government announced a moratorium on payment of outstanding water bills. Therefore, there has not been disconnection of water supply during this period. This has helped in easing the burden and cost of accessing water for the poor and contributed to availability of water as one of the protective measures in controlling the pandemic.⁹

Ghana is faced with a huge housing deficit. According to the Centre for Affordable Housing Finance in Africa, Ghana’s housing deficit stands at about 1.7 million¹⁰. Housing is predominantly dominated by private ownership without adequate mechanism for social housing. Even though, there has not been an issue hinging on people facing evictions due to their inability to pay their rents, tackling the housing deficit in Ghana remains a major challenge yet to be addressed by the State.

Questions – Independent Expert on the human rights of older persons

***Information regarding this part can best be provided by MOGCSP.**

As stated earlier, older persons like other segments of society, have not participated in the decision-making processes to ensure that policies designed and implemented by the State are more inclusive and age friendly.

⁹ See the announcement at <https://www.myjoyonline.com/news/national/akufo-addo-announces-3-months-free-electricity-amid-coronavirus-lockdown/>

¹⁰ <http://housingfinanceafrica.org/countries/ghana/#:~:text=Housing%20affordability%20is%20a%20key,in%20Ghana%20is%20built%20incrementally.>