



## UPR Submission Ghana April 2012

### Summary

This submission focuses on Human Rights Watch's current work in Ghana: the rights of persons with mental disabilities<sup>i</sup> in psychiatric hospitals and prayer camps.<sup>ii</sup> This information is based on interviews conducted by the Human Rights Watch Health and Human Rights division with over 150 people in Ghana's three state-run psychiatric hospitals and eight prayer camps (among hundreds) across the Greater Accra, Central, and Eastern Regions as well as with religious leaders, disability advocates and people with disabilities living the community.

Ghana's Parliament took the welcome step of ratifying the Convention on the Rights of Persons with Disabilities (CRPD), as committed during the previous UPR in 2008, but to date, it is yet to deposit its ratification instrument at the UN. Human Rights Watch is concerned about reports of human rights violations experienced by persons with disabilities in psychiatric hospitals, prayer camps, and within their respective communities. These include: cruel, inhumane and degrading treatment in psychiatric hospitals and prayer camps, mainly through prolonged seclusion and restraints, chaining, starvation or forced fasting for up to 21 days, and involuntary treatment through the use of force, coercion, and sedation; restrictions on the legal capacity, which denies them the right to free and informed consent to admission and treatment in these mental health facilities; involuntary institutionalization of people arrested and detained by police based only on suspicion of a mental disability, and the lack of proper procedures to challenge such detention; unsanitary conditions in both hospitals and prayer camps such as lack of running water and toilets; poor health conditions including poorly ventilated rooms, lack of shelter for sleeping and lack of access to appropriate health care for people living in prayer camps.

Ghana is a state party to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of all forms of Discrimination against Women, the Convention against Torture (CAT), the African Charter on Human and Peoples' Rights (ACHPR), including the Protocol on the Rights of Women in Africa (Maputo Protocol), and the African Charter on the Rights and Welfare of the Child (ACRWC).

### **1. Cruel, inhumane and degrading treatment**

Human Rights Watch found that a number of residents in psychiatric hospitals reported being subjected to prolonged seclusion and restraint. Nurses reported that some are secluded for up to 48 hours and they are injected before being locked up in seclusion rooms, which were littered with urine and defecation. Residents in both psychiatric hospitals and prayer camps reported that nurses and prayer camp staff beat and verbally abused them.

Human Rights Watch also found that a significant number of residents we interviewed in prayer camps were chained or reported being chained for long periods, even as long as

eight months. Residents and administrators from several prayer camps reported mandatory and forced fasting (including no food or water) for three days, followed by morning-to-dawn fasting up to 21 consecutive days. Serious health consequences from fasting were reported by majority of the residents.

The current Mental Health Bill, which was passed into law by Parliament in March 2012 and is, awaiting assent by the president, does not seem to provide a remedy to the fore-mentioned challenges. The bill does not provide for an overall regulatory framework to monitor the practices and of unorthodox mental health care providers.

**Obligations:** Ghana is obligated to respect its obligations under article 16 CAT,<sup>iii</sup> article 7 of the ICCPR<sup>iv</sup> and article 5 of the ACHPR.<sup>v</sup>

### **Recommendations:**

- Ghana should complete ratification of the Convention on the Rights of Persons with Disabilities, and domesticate it as part of its national legislations.
- Enact laws banning inhumane practices including chaining and prolonged restraint, mandatory fasting in prayer camps, and treatment without free and informed consent.
- Formulate a national policy on non-orthodox mental health service provision, which should contextualize and guide access to mental health services by persons with mental disabilities in prayer camps and in traditional healing places.
- Ensure an adequate redress mechanism for victims of cruel and degrading treatment in mental health facilities.
- In the short term, improve conditions in psychiatric hospitals and prayer camps. In the longer-term, progressively develop voluntary community-based mental health services.

## **2. Restrictions of legal capacity for some persons with mental disabilities**

Persons with mental disabilities in psychiatric institutions and prayer camps and hospital and camp staff reported that family members or staff routinely decided on a person's admission to, treatment within, and discharge from mental health facilities even when people voluntarily bring themselves to such facilities, effectively denying them their legal capacity to make their own decisions. No clear legal framework or structures exist to provide assistance to persons needing support in making decisions.<sup>vi</sup> The Mental Health Bill presumes the incapacity of persons with mental disability, limiting their ability to make decisions about where they live and what treatment they receive. The bill also offers no clear protections on the abuse of guardianship powers. These provisions contravene article 12 (2) of the Constitution of Ghana as well as international law to which Ghana is a state party.

**Obligations:** These restrictions violate article 3 of the ICCPR;<sup>vii</sup> article 3 of the ICESCR;<sup>viii</sup> and article 2 of the ACHPR.<sup>ix</sup>

### **Recommendations:**

- Amend/ repeal all domestic legislation with the CRPD, especially provisions on equal recognition before the law, legal capacity and supported decision making, as the alternative to guardianship.
- Develop a community awareness strategy, particularly for mental health professionals and prayer camp staff, on the right of persons with mental disabilities to make their own decisions and the need for support in making decisions.

- Strengthen existing structures to effectively address legal concerns of persons with mental disabilities. This should include continuous training for the judiciary, police, prisons, and the Commission for Human Rights and Administrative Justice; and improving accessibility to justice centers for persons with mental disabilities.
- Train persons with mental disabilities about their rights and the existing mechanisms through which they can challenge violations of such rights.

### **3. Restrictions on the rights to personal liberty and freedom of movement**

Human Rights Watch found that a number of residents in psychiatric hospitals and prayer camps were arrested and detained by police on mere suspicion of a mental disability, and some were detained for several days. While some but not all people in the psychiatric hospitals whom we interviewed had a mental disability, a number of residents in prayer camps were brought to the camp because of drug use; and many had not received a psychiatric evaluation to determine if they had a mental disability. Those admitted under court order often had to wait several weeks for the court to sanction their release after the hospital had discharged them. The Mental Health Bill allows for forced treatment or admission, which may lead to arbitrary and prolonged detention and deprivation of personal liberty.

People living in psychiatric hospitals are restricted in their movement even within their respective wards. In prayer camps, people were restrained in chains for the entire day and for long periods, one man up to eight months without pause. People were released from the chain and from the camp only when the camp leader received “a message from God,” rather than following a medical or psychiatric evaluation.

**Obligations:** The situation in Ghana violates articles 9(4) and 10(1) of the ICCPR.<sup>x</sup> The Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment observed that in certain cases, arbitrary or unlawful deprivation of liberty based on the existence of a disability might also inflict severe pain or suffering on the individual, thus falling under the scope of the Convention against Torture.<sup>xi</sup> When assessing the pain inflicted by deprivation of liberty, the length of institutionalization, the conditions of detention and the treatment inflicted must be taken into account.

Article 6 of the ACHPR avails every individual of the right to liberty and the security of their person, and thus prohibits arbitrary arrest or detention and deprivation of freedom except for reasons and conditions previously laid down by law. The African Commission on Human and Peoples’ Rights in *Prohit & Moore v. The Gambia*, held that “article 6 does not mean that any domestic law may justify the deprivation of such persons’ freedom and neither can a State party to the African Charter avoid its responsibilities by recourse to the limitations and claw back clauses in the African Charter.”<sup>xii</sup>

#### **Recommendations:**

- Reform all legislation that restricts personal liberty based on disability, specifically intellectual and mental disability.
- Establish an effective monitoring framework, including designating a special body to oversee conditions of persons with mental disabilities whose right to personal liberty is restricted. This body should have a special mandate to monitor compliance by community and alternative mental health services, including prayer camps and traditional healers.
- Ensure that reasonable accommodations are provided in all mental health facilities.

### **4. Lack of access to appropriate, quality health care**

Free and informed consent is a key component of the government's obligation to provide the highest attainable standard of physical and mental health, required under the ICESCR. Human Rights Watch found that doctors and nurses admitted using force to give patients their prescribed medication or hiding the medicines in their food. In most cases, family members or medical staff decided on admission into and treatment in a psychiatric hospital or prayer camp, without the free and informed consent of the individual.

Accra Psychiatric Hospital's children's ward lumped residents together with different disabilities: intellectual disabilities, blindness, and cerebral palsy. Some of the patients in this children's ward were 40 years old. Others did not have psychiatric illnesses, but still received psychotropic drugs, rather than other services. All three psychiatric hospitals are understaffed to such an extent that patients cannot reasonably expect to receive adequate health care.

In prayer camps, residents had limited access to professional mental health services. Psychiatric nurses visited such prayer camps only once a month. In one prayer camp with 135 residents, the visiting nurse also was one of two nurses serving the psychiatric unit of a general district hospital.

In the community, Human Rights Watch spoke with women who had suffered post-partum depression, but they did not receive adequate support.

**Obligations:** Ghana is obligated to respect Article 25.1 of the Universal Declaration of Human Rights; article 12 of the ICESCR; articles 11.1 (f) and 12 of CEDAW; article 24 of the CRC; and article 16 of the ACHPR. <sup>xiii</sup>

## **Recommendations**

- Train and recruit more mental health professionals to improve the doctor/nurse-patient ratio; as well as increasing the number of non-medical staff in psychiatric hospitals to help nurses with maintenance work such as cleaning of wards, preparing food for residents, among others.
- Develop a formal working relationship between prayer camps and psychiatric hospitals; and design measures through which persons with mental disabilities in prayer camps can access mental health services, including diagnosis, voluntary treatment, and regular monitoring by professional mental health service providers.
- Raise awareness about mental disabilities, its causes and disability rights, especially among alternative mental health service providers and the broader community, in partnership with organizations of persons with mental disabilities; and media.
- Provide services and treatment to women who have post-partum depression, and conduct a public relations campaign raising the awareness of this condition.

## **5. Poor infrastructure, shelter and health conditions**

Human Rights Watch found that the three public psychiatric hospitals it visited were in poor condition and in need of repairs. Some hospitals had insufficient running water and electricity in bathrooms, forcing patients to defecate in the courtyard or rooms. Residents slept on thin mats on the ground and only a few had a sheet or blanket. General hygiene was very poor, with toilets in some hospitals filled with feces and cockroaches. All hospitals reported lack of enough food to feed residents, many of whom complained of poor food quality, including rotten fish.

Conditions in prayer camps were even worse than in psychiatric hospitals. Food shortage was a major problem, especially for residents without family support. Some camps lacked any physical shelter; residents were chained to trees with only small plastic bags to cover

their heads when it rained. In prayer camps with semi-built structures, they were poorly ventilated, overcrowded, and lacked mosquito nets.

Residents in prayer camps were not released from chains to use a toilet, and defecated in the open in small bags or a bucket. Bags with feces lay strewn nearby. In one prayer camp, residents reported that buckets for human waste were emptied only once daily, early in the morning, forcing them to endure noxious smells for the rest of the day.

**Obligations:** Ghana is obligated to respect Article 25.1 of the Universal Declaration of Human Rights; article 12 of the ICESCR; articles 11.1 (f) and 12 of CEDAW; article 24 of the CRC; and article 16 of the ACHPR.<sup>xiv</sup>

### **Recommendations:**

- In the short term, improve the infrastructure in psychiatric hospitals, including repairing dilapidated buildings, broken water and electricity supply system, and establishing a framework through which supplies such as gloves and detergents can be obtained.
- Maintain a register of prayer camps which house or interact with persons with mental disabilities.
- Establish a framework to monitor and regulate prayer camps—particularly with regard to health and hygiene standards—and minimum standards for admitting persons with mental disabilities as residents.

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### Endnotes:

<sup>i</sup> Mental disability for purposes of this submission refers to mental health problems such as depression, bipolar disorder, and schizophrenia.

<sup>ii</sup> These are centers, mainly managed by religious and traditional healers, where persons with mental disabilities are taken for spiritual “recovery” in Ghana. Prayer camps are widespread in Ghana, with an estimated 70 prayer camps in just one district in the Greater Accra region. See, *The Chronicle*, <http://ghanaian-chronicle.com/prayer-camps-and-mental-illness/>, accessed on March 28, 2012.

<sup>iii</sup> In interpreting article 16 of the Convention Against Torture, the special rapporteur on torture, and other cruel, inhumane and degrading punishment (A/63/175/July2008) noted that “for an act against or an omission with respect to persons with disabilities to constitute torture, the four elements of the Convention definition — severe pain or suffering, intent, purpose and State involvement — need to be present. Acts falling short of this definition may constitute cruel, inhuman or degrading treatment or punishment under article 16 of the CAT”

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/440/75/PDF/N0844075.pdf?OpenElement>

<sup>iv</sup> Article 7 of the ICCPR prohibits subjecting anyone to torture, cruel and degrading treatment or punishment—including medical and scientific experimentation—without free consent.

<sup>v</sup> Article 5 of the ACHPR accords every individual the right to the respect of the dignity inherent in a human being and to the recognition of his legal status; and thus prohibits all forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment.

<sup>vi</sup> See article 94 of the Constitution of Ghana.

<sup>vii</sup> Article 3 of the ICCPR provides that “States Parties to the present Covenant undertake to ensure the equal right of men and women to the *enjoyment of all civil and political rights* set forth in the present Covenant.”

<sup>viii</sup> Article 3 of the ICESCR provides that “States Parties to the present Covenant undertake to ensure the *equal right* of men and women *to the enjoyment of all economic, social and cultural rights* set forth in the present Covenant.”

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<sup>ix</sup> Article 2 of the Charter provides that “*every individual* shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.”

<sup>x</sup> The ICCPR under article 9 (4) provides that anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful; and art. 10 (1) calls for humane treatment with respect of inherent dignity to all persons deprived of their liberty.

<sup>xi</sup> Interim Report of the Special Rapporteur on Torture, and other Cruel, Inhumane and Degrading Punishment (A/63/175/July2008)

<sup>xii</sup> Prohit & Moore v. The Gambia, Comm. No. 241/2001, May 2003. See paragraph 64 of the decision.

<sup>xiii</sup> The right to health has been proclaimed by the Commission on Human Rights, as well as in the Vienna Declaration and Programme of Action of 1993 and other international instruments.

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