

# Pilot implementation of Mental Health Review Tribunal in Ghana (2020-2023): Steps taken, lessons learnt and recommendations for scale-up

## Key messages

- A Mental Health Review Tribunal (Review Tribunal) is a critical structure for the promotion and protection of human rights of persons with mental health conditions. Legislation that creates a Review Tribunal and sets out its roles and functions is fundamental as this makes its operations mandatory
- Setting up a Review Tribunal requires significant effort and resources. The authority that establishes the Review Tribunal must take the leadership role and be at the forefront of matters related to establishment and ongoing functioning
- The Review Tribunal should be independent in determining its own procedures and in making decisions
- Immediate coverage across the country can be challenging, and a phasing in through pilots in some regions enables lessons to be learned and implemented, and necessary resources accessed
- A stepped approach, with clear and manageable objectives, is critical. The five steps that were found to be important and useful for Ghana were:
  1. Appointment of the Review Tribunal – there needs to be transparency and wide consultation
  2. Orientation and training – due to complexities involved, comprehensive orientation and training are necessary
  3. Review Tribunal Manual - important for growing knowledge, ensuring conformity in and between Review Tribunals and as a reference
  4. Implementation – this is a challenging step and ensuring implementation lies with the authority legally responsible for this – in the case of Ghana, the Mental Health Authority
  5. Monitoring and Evaluation - the experiences and information collected from and by the work of the Review Tribunal should be used to improve practices
- Sustainability of the Review Tribunal can be challenging where resources are scarce. Where all mental health needs, responsibilities and structures are paid from a single fund, finding a balance that ensures that all areas are adequately resourced and sustained can be difficult. In this context the human rights importance of the Review Tribunal may need ongoing reinforcement
- A robust monitoring, evaluation and learning system is essential to improve outcomes and protect human rights
- Lessons learned through the establishment of the Review Tribunal in Ghana will be useful for other countries intending to set up such bodies, especially in Low- and Middle-Income Countries

# Introduction

Mental Health Review Tribunals (Review Tribunals) exist in several countries<sup>1</sup>. They are quasi-judicial bodies established to ensure that peoples' rights, and particularly their rights to liberty and to refuse treatment, are protected. While holding people with severe mental health conditions without their consent is itself contentious and open to challenge in principle<sup>2</sup>, this practice is currently permitted and used in most countries when certain defined conditions are met. **The existence of an independent body that carefully considers cases in accordance with principles of human rights and justice for all, and that has powers of discharge, is critical to the well-being of many people with mental health conditions globally.** Most Review Tribunals, including in Ghana, have added important human rights functions that they are required to uphold and that provide further protection for people with mental health conditions.

The establishment of the Review Tribunal in three pilot regions in Ghana (Ashanti, Greater Accra and Central Regions) was a lengthy and complex process that provides important lessons for scaling up of the Review Tribunal within Ghana, as well as for improving their efficiency and effectiveness in the future. In addition, this experience is instructive for other countries planning to promote human rights through a Review Tribunal. For example, other countries that are part of the WHO Special Initiative in Mental Health and that may want to establish a Review Tribunal, can take valuable lessons from Ghana's experience.

This report seeks to outline the key steps taken regarding the setup, establishment and implementation of the pilot Mental Health Review Tribunal in Ghana; drawing out lessons learnt and recommendations for scale up based explicitly on the self-review and experience of the technical assistance provided by Ghana Somubi Dwumadie between 2020 and December 2023.

## The Mental Health Review Tribunal in Ghana

The protection and promotion of human rights is a central principle of the Mental Health Act of Ghana 2012. Fundamental to achieving these rights is the establishment and effective functioning of a Review Tribunal. The Mental Health Authority of Ghana (MHA) has the legal obligation to establish this body (through its Board) and to facilitate its smooth operations. However, the Review Tribunal is an independent body, and decisions taken are theirs alone.

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<sup>1</sup> Sometimes though, this is under a different name such as a Mental Health Review Board. Review Tribunals/Boards exist in both higher and low-middle income countries.

<sup>2</sup> Mental health, human rights and legislation: guidance and practice. Geneva: World Health Organization and the United Nations (represented by the Office of the United Nations High Commissioner for Human Rights); 2023. Licence: CC BY-NC-SA 3.0 IGO.

The Review Tribunal has several objectives and functions. One central purpose is to uphold the right of people with a mental health condition<sup>3</sup> to their liberty and their right to refuse treatment. The Review Tribunal assesses circumstances and timeframes in which these fundamental rights may be limited. It is only through a court of law or the Review Tribunal - depending on the situation - and only under exceptional and legally defined circumstances, that certain critical rights may be overridden. In addition, the Review Tribunal provides oversight over other important human rights concerns such as intrusive and irreversible treatments and receiving and acting on complaints from detained patients.

### Context and function of the Ghana Mental Health Review Tribunal

The Review Tribunal is a quasi-judicial body set up to ensure that peoples' rights, and particularly their liberty or freedom and right to refuse treatment except under exceptional and legally determined circumstances, is enabled. The Review Tribunal was also established to provide oversight over other important human rights concerns such as making decisions around intrusive and irreversible treatments, and receiving and acting on complaints from detained patients.

The Review Tribunal was enacted in line with recommendations outlined in the 2005 World Health Organization (WHO) Resource Book on Mental Health, Human Rights and Legislation<sup>4</sup>.

Though the Convention on the Rights of Persons with Disability was adopted by the UN General Assembly in 2006, it was only ratified by Ghana in 2012. The establishment of the Review Tribunal captures a vital requirement of Section 12(4) of this key Convention, where it is stated that,

'States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and **are subject to regular review by a competent, independent and impartial authority or judicial body**. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests<sup>5</sup>.

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<sup>3</sup> The term used in the Ghana Mental Health Act is mental disorder, but in line with international good practice, unless a direct quote is used in this document, the term mental health condition is used.

<sup>4</sup> 2005 World Health Organization (WHO) Resource Book on Mental Health, Human Rights and Legislation. Freeman M & Pathare S. (Principle writers) WHO Resource Book on Mental Health, Human Rights and Legislation. Geneva WHO (2005).

<sup>5</sup> UN General Assembly, Convention on the Rights of Persons with Disabilities: resolution / adopted by the General Assembly, 24 January 2007, A/RES/61/106, available at: <https://www.refworld.org/docid/45f973632.html> [accessed 21 August 2023]

Ghana Somubi Dwumadie provided technical assistance to the MHA regarding their 2020-2023 priority to establish a Review Tribunal, in line with the Mental Health Act 2012, funded by UK Aid.

Technical assistance was provided by the programme from 2020 with support from a facilitator with extensive global experience in this area<sup>6</sup>, which enabled the MHA to realise an important part of its priorities. The assistance helped to review the legal framework for establishing the Review Tribunal, agree a nomination process, appoint and inaugurate the Review Tribunal members from three selected pilot regions, train the Review Tribunal, develop a guidance manual, develop a framework for monitoring and evaluation, and provided practical support for the Review Tribunal to begin its work.

At the point of establishing the three pilot regions it was envisaged that once lessons were learned, the whole country would eventually be covered by a Review Tribunal. It was also hoped that both the process and content of lessons learned could potentially assist other countries wishing to promote human rights through a Review Tribunal or similar structure. Lessons for other African countries, most of which do not have similar protections for people with mental health conditions, was seen as particularly important.

Given the complex nature of the Review Tribunal, as well as resource constraints, the establishment, training and functioning of the Review Tribunal took substantial time and the first hearing of the Tribunal took place 11 years after the law was passed. However, important lessons were learned in this process, as outlined in this paper.

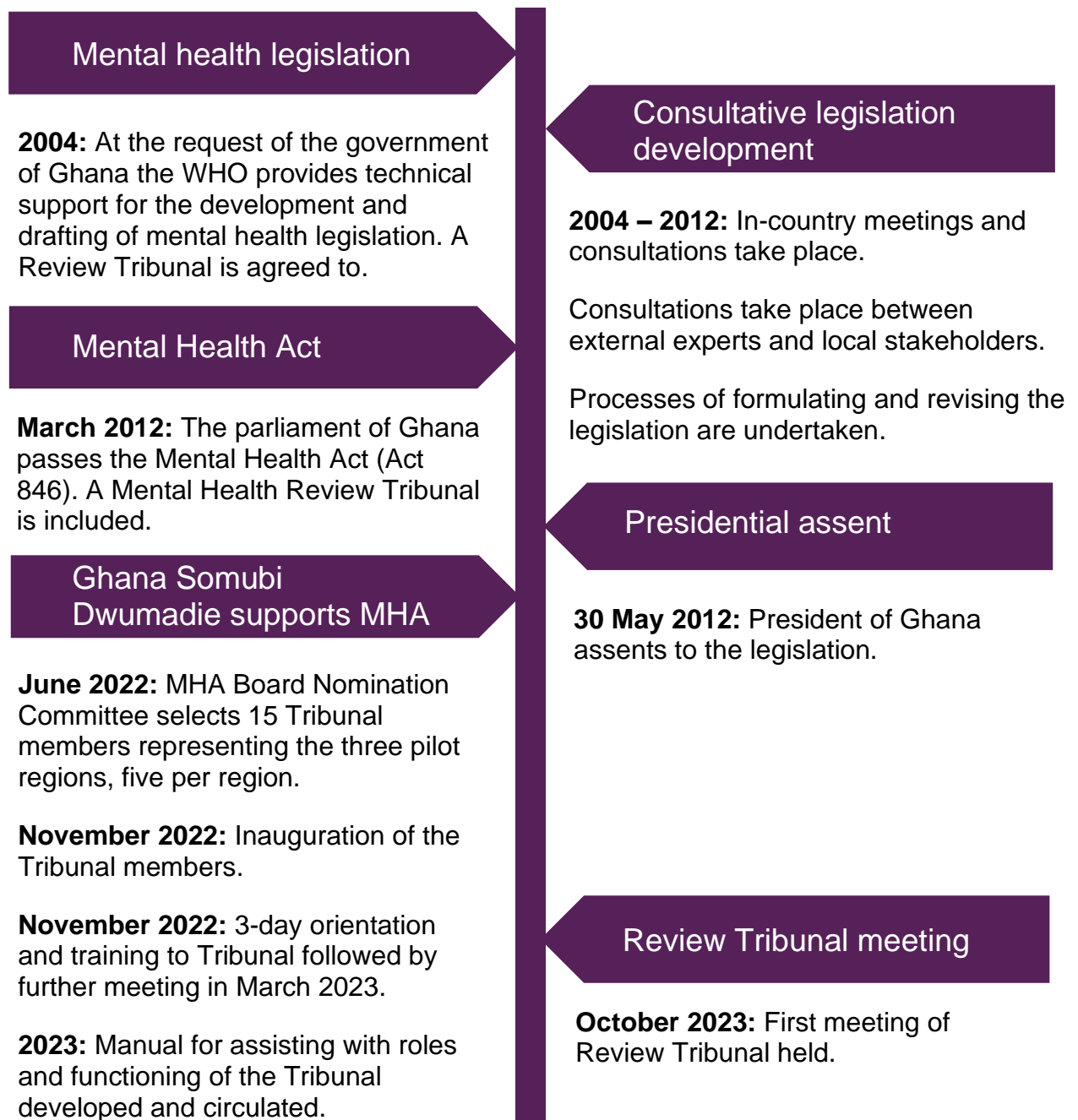
Experience has shown that the set-up, establishment and then enabling of effective operationalisation of a Review Tribunal can be challenging. Adequate resources, human and financial, as well as monitoring and evaluation are key. However, success can be seen via the establishment of a Review Tribunal in Ghana, the first of its kind in country, with the first sitting held by the end of December 2023.

**As a Review Tribunal had never previously existed in Ghana, its establishment in 2022 represented a historic and ground-breaking innovation for human rights work in the country.**

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<sup>6</sup> In this report we look we look specifically at progress made from January 2020 when Ghana Somubi Dwumadie was contracted to assist in the establishment of the Tribunal and to help facilitate the implementation of its functions, to December 2023.

**Figure 1: Timeline of key points in the development and implementation of the Mental Health Review Tribunal**



## Background

In March 2012 the parliament of Ghana passed the Mental Health Act (Act 846) and on the 30 May 2012 it was assented to by the President. Writing in the Ghana Medical Journal soon after, Doku et al commented that this was **‘a major milestone in addressing mental health as a public health issue and also in the protection of human rights of people with mental disorders in Ghana’**<sup>7</sup>. However, they also noted that many implementation challenges lay ahead.

The passing of the Act occurred more than forty years after the previous major revision of the law in the late 1960’s, that culminated in the Mental Health Decree in 1972. However, this decree was not implemented. Moreover, further revisions to legislation, including the Mental Health Law of 1990, were not enacted.

The development of the 2012 Act was itself a lengthy process and an almost 10-year period lapsed from the time the health authorities agreed that a new Act was required, until it was passed and assented to. In 2004 the World Health Organization (WHO) provided financial and technical support to the development and drafting of the legislation, including in-country meetings between external experts and local stakeholders, and over the next 8 years comprehensive processes of formulating and revising the legislation were undertaken. This included widespread consultation to ensure that the legislation reflected global good practice, as well as local conditions and circumstances.

**Mental health legislation is particularly important, because once passed by parliament it becomes mandatory to implement. In other words, it is a legal requirement to implement and could be subject to legal challenges in courts of law if it is not implemented.**

## Collaboration to deliver the establishment and implementation of the Review Tribunal

Ghana Somubi Dwumadie<sup>8</sup> worked with the MHA to jointly build a collaborative relationship to provide effective technical assistance to enable the establishment and implementation of the Review Tribunal. To support this, both parties agreed a Technical Assistance Plan for the period 2020-2023, which included a priority for technical assistance from the programme to establish the Review Tribunal. The establishment of the Review Tribunal is also indicated as an objective in the MHA’s Mental Health Strategic Plan 2019-2022 as well as the Mental Health Policy 2019 -

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<sup>7</sup> Doku VC, Wusu-Takyi A, Awakame J. Implementing the Mental Health Act in Ghana: any challenges ahead? Ghana Med J. 2012 Dec;46(4):241-50. PMID: 23661843; PMCID: PMC3645169.

<sup>8</sup> Referred to in this report as ‘the programme’

2030<sup>9</sup>. The implementation of the Mental Health Act is the responsibility of the country, and the MHA plays a central role in this. Therefore, the technical assistance provided by the programme has always acted in support of the MHA rather than leading or taking over responsibility<sup>10</sup>.

The five key steps followed for a functional Review Tribunal and where technical assistance was provided, were:

- **Step 1: Appointment of the Review Tribunal**
- **Step 2: Orientation and training**
- **Step 3: Review Tribunal Manual**
- **Step 4: Implementation**
- **Step 5: Monitoring and Evaluation**

The rest of this report addresses each of the five steps taken drawing out three key lessons learned for each step based on the programme's experience to help inform future work and scale up.

## **Step 1: Appointment of the Review Tribunal**

Support provided by the programme included assistance in setting-up of an initial Task Group within MHA to prepare for the establishment of the Review Tribunal; conducting a review of the legislative framework to identify the foundation and steps needed to establish it; developing criteria, process and tools to nominate, vet and appoint Review Tribunal members and providing support for their nomination, inauguration and induction.

### **Planning Phase**

A nine-member task group was inaugurated in November 2020 with the mandate to establish the Review Tribunal as well as Regional Mental Health Visiting Committees. The task group had representatives from MHA and Ghana Somubi Dwumadie. The task group reviewed the barriers to the establishment of the Review Tribunal such as lack of funding and lack of clarity on how to fund it..

Although the Review Tribunal is a national level body, it requires members from each region of the country, structured in regional branches. In the Review Tribunal planning phase, the Task Group agreed to first focus on three pilot regions where psychiatric hospitals or departments are present, i.e. Ashanti, Central and Greater Accra regions.

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<sup>9</sup> Ministry of Health, Ghana. Mental Health Policy 2019 -2030 Ensuring A Mentally Healthy Population. December 2018.

<sup>10</sup> As such, under the programme's output 1 Ghana Somubi Dwumadie committed to providing technical assistance to the Mental Health Authority (MHA) regarding their priority to establish a well-functioning Mental Health Review Tribunal.

## Nomination

MHA identified seven groups of stakeholders, based on the membership requirements outlined in the Act, which they invited through letters to nominate suitable candidates for the various Review Tribunal positions, using some of the materials that were developed in 2021 with the support from the programme. MHA received a total of 35 nominations for positions on the Review Tribunal.

As part of this process, the MHA, through the board, called on interested service-user groups, Civil Society Organisations, and parties to nominate member/s to serve in the Review Tribunal. Interested individuals were also called to apply.

A proposal was put forward by the programme that a selection committee of the MHA Board, including a user representative, should review nominations, undertake due diligence on candidates, and make final recommendation to the MHA Board for appointment. This was a suggestion put forward, but the MHA Board made the final decision without a selection committee and due diligence.

The MHA Board Nomination Committee selected 15 Review Tribunal members representing the three pilot regions, five per region. Three are chairpersons (legal practitioners), four psychologists, three psychiatrists, two social workers and three service users. Nine Tribunal members (60%) are women. Individual letters were issued from MHA to appoint the 15 members to their respective Review Tribunal role and similar letters were sent to the seven organisations who had nominated candidates.

It is important to note that not all stakeholders readily nominated candidates to the Review Tribunal and needed to be prompted more than once to do so. In some cases, members of the Task Group needed to visit stakeholders in person to explain the request and secure their nominations.

The MHA appointed one person per role for each region. Consequently, should an individual from any region not be available at any point, members from another region would need to cover for them. On reflection it may have been preferable to appoint a pool of people, though only one person from each required category would need to attend each meeting or hearing.

## Appointment

The legal prerogative to appoint the Review Tribunal lies with the MHA Board. However, at the time that work was initiated, the term of office of the MHA Board had expired, and the new Board was waiting to be appointed by the State President in accordance with article 195 of the Constitution.

With advocacy assistance from the programme, its grantees and advocacy partners, the MHA Board members were appointed in June 2022, a major step that allowed Board members to proceed in turn with the establishment of the Review Tribunal and their other critical tasks.

Issues that needed to be clarified for the appointment of the Review Tribunal included the term of office, gender and lived experience balance. Also the time per



week or month that members would be expected to work on the Review Tribunal, the financial requirements and so forth.

It was also agreed that the Review Tribunal should work very closely with the Regional Visiting Committee members that were appointed and inaugurated at the same time as the Review Tribunal. Given that there are important synergies between the two bodies, and even some potential overlap, the two groups would need to work very closely together<sup>11 12</sup>.

The inauguration of the Review Tribunal members took place on 2 November 2022. It was organised with the full financial support of the programme. Close to 120 people were present at the inauguration from various constituencies including the Government of Ghana, District Assemblies, Academic institutions, Development Partners, including WHO, Embassies, Health Facilities, Religious Leaders, Civil Society Organisations, Private Sector companies and Media. The MHA Board Chair led the members to take their oath.

### **Step 1: Appointment of Review Tribunal Key Lessons Learned**

1. Appoint a task group consisting of a range of stakeholders to oversee the appointment of the Review Tribunal. The task group should consider the appropriateness of candidates and their commitment to promoting human rights, including conducting due diligence on each candidate.
2. Invite nominations from stakeholders including representatives of persons with lived experience, human rights groups and NGOs dealing with mental health. Follow-up where necessary to ensure good representation. Consider whether to appoint a 'pool' of people in each category to ensure the availability of the Review Tribunal members when required to meet, as well as long-term sustainability.
3. Examine and plan early on how the Review Tribunal will work with other structures, such as the Visiting Committees and the judicial system, to ensure clear lines of responsibility and collaboration to facilitate optimal outcomes and avoid duplication.

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<sup>11</sup> Visiting Committees also have a human rights function and are mandated to inspect any location where people are held, whether at formal (e.g. psychiatric hospitals) or informal (e.g. prayer camps) facilities. Ghana Somubi Dwumadie also provided technical support for the establishment of five pilot Regional Visiting Committees via a separate workstream.

<sup>12</sup> An internal co-ordination group was set up by the programme to help address the roles and responsibilities of the two structures, with representative from consortium partners working on the differing workstreams; which improved working relationships with external stakeholders.

## Step 2: Orientation and Training

### Orientation and training of Members

As this was the first structure of its kind in Ghana, it was necessary for Review Tribunal members to fully grasp the human rights intentions of the law makers in establishing it. They also needed to establish processes and procedures that would ensure that the duties given to it by the Act were carried out diligently and in a manner that ensures that abuses do not occur, and that every person, irrespective of whether they have a mental health condition or not, are afforded their constitutional rights as well as their rights under international laws and conventions. For these reasons it was agreed that there should be an in-depth orientation and training provided. It was agreed that a course that draws on experiences from Tribunals in other countries while taking the unique requirements of the Ghana Review Tribunal and the unique situation of Ghana into account.

After the inauguration in November 2022, an intensive three-day training was delivered to Review Tribunal members. This was led by the programme's facilitator that had previously been part of the WHO team that assisted with the development of the legislation and was aware of the intentions of setting up the Tribunal in Ghana and challenges with implementation<sup>13</sup>.

The primary objectives of the training were to equip the members with the knowledge, confidence and ability to run a successful Review Tribunal. In addition, the training aimed to identify, discuss and, where possible, decide on practical issues involved in operations. An important clause in the Mental Health Act is that the Review Tribunal itself **'shall in the performance of its functions determine its own procedures'**. Given this, it was critical to give time and space in the training for the Review Tribunal to determine for itself how it would function and the procedures it would follow.

The training used a careful balance of different adult education methods to ensure knowledge transfer and full participation of members. Training methods included lectures, questions, small and large group discussions and tasks, role plays and videos. Members were also referred to specific websites where appropriate so that they could follow up on content after the training was completed. Every member was provided with a copy of the Mental Health Act 2012.

Prior to the training, all members were requested to take the WHO Quality Rights e-training on mental health<sup>14</sup>. Members took the course and expressed it was very helpful to set the scene for the human rights mandate of the Review Tribunal but with

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<sup>13</sup> The facilitator, Prof Melvyn Freeman, was also one of the writers of the WHO Resource Book on Mental Health, Human Rights and Law, where Tribunals were encouraged. He had also previously been the Chair of a Mental Health Review Board/Tribunal in his home country South Africa. In addition, he was part of the WHO team that provided technical support to Ghana for the drafting of legislation in 2004

<sup>14</sup> <https://www.who.int/teams/mental-health-and-substance-use/policy-law-rights/qr-e-training>

some concern that some content may not be feasible or practical in the Ghanaian setting.

Almost all the members are currently in full time employment, mostly in highly responsible positions; yet, they all attended for the full three-day training, which showed huge commitment and dedication to the objectives of the Review Tribunal and acknowledgement of its importance. They equally highly engaged with the issues raised in training, which bodes well for participation in operations in the future. Evaluation and assessment of the training suggests that this was very successful in building peoples' knowledge of what is required to run a Review Tribunal, as well as their confidence to do so.

At this training it became evident that although the Act and the regulations to the Act (LI 2385) lay out the functions, roles and responsibilities of the Review Tribunal, the 'how to' still needed to be developed. A very important decision was made at the training that a Review Tribunal Manual should be developed, including information to practically implement operations.

## **Orientation to MHA**

It was decided by MHA that there should be an in-depth orientation of the MHA Board and directors, and leaders within the regions, on the roles and responsibilities of the Review Tribunal. The Review Tribunal is appointed by the Mental Health Authority Board and is accountable to them for fulfilling its duties and legal mandate. As the resources to run it come from the MHA, it was considered imperative that the MHA fully understands the roles, objectives, importance, position and tasks of the Review Tribunal, and how it intends to run (remembering that the Review Tribunal determines its own procedures) in order to meet its legal obligations. The Review Tribunal is also inextricably linked with the mental health services provided in regions and districts and it is therefore important that all involved in mental health are aware of the purpose and objectives of the Review Tribunal, and how it intends to operate.

An orientation workshop was provided to the MHA and the regional leadership by the programme's facilitator. This orientation informed the MHA and mental health leadership in the regions of what the Review Tribunal is about, its legal obligations, and how it intends to operate, including the engagement it needs from mental health leadership to do this successfully.

The Review Tribunal requires substantial administrative support to be effective. At the orientation meetings it was agreed that this administration would be shared by administrator(s) at the MHA and in the offices of the Chairs of the Review Tribunal. However, persons would need to be appointed to these functions. Ensuring that funds are available for expenses, including the payment of members as well as administration, needs to be done early on in the process so this doesn't become an obstacle to the start of the work of the Review Tribunal and its ongoing functioning.

## Step 2: Orientation and Training: Key Lessons Learned

1. To secure early buy in and commitment to delivery, including required support to delivery and resources, involve all important stakeholders in an orientation of what the Review Tribunal is and what each of their roles might be in relation to it
2. Provide intensive training to the new Review Tribunal members as part of onboarding and induction. This training should cover understanding of the international and local human rights context, as well as the practicalities of running a Review Tribunal. The planning and management of future training updates and training refreshers for all members and new members should also be considered by the Review Tribunal and the MHA.
3. The MHA must give commitment to the funding and effective administration of the Review Tribunal. This needs to be agreed early on and not stand as an obstacle to the start and sustainability of the Review Tribunal.

## Step 3: Review Tribunal Manual for effective practice and protection of human rights

The training outlined in Step 2 highlighted the need for further information on the 'how to'. A manual was suggested by members to include information on how to practically implement the operations of the Review Tribunal.

It was discussed with members that the manual would:

- a) act as a standard guide to the existing Review Tribunal, and
- b) could be used in the future by Tribunals or members of Tribunals that were not involved in the initial training to orient themselves and understand the workflows.

As the Review Tribunal is responsible for determining its own procedures, the training facilitator developed a draft manual for operationalisation for members to comment and improve on. In early 2023 a draft document was completed and distributed to Review Tribunal members and MHA. This document provided detailed guidance through flow-charts, narratives, and Standard Operational Procedures (SOPs).

Implementation of the Review Tribunal is complex, and the manual breaks down these broad functions, roles and responsibilities into practical steps and activities. The intention of the manual has been to take the human rights principles, structures and directives that are contained in the Act and translate them into applied practice that will make a real and positive tangible difference to people's lives. The manual aims to help provide a 'how to' for the Review Tribunal.

An important principle in developing the manual was that it must be owned and used by members to inform future practice. The manual is a working document and seeks to support the sustainability of effective working practices. Changes to the manual can be made as experience and practice indicate changes are needed.

A second meeting of the Review Tribunal was necessary to ensure ‘ownership’ of the manual by Review Tribunal members as well as allow the opportunity to finalise the draft. This meeting was held on 10 March 2023. Detailed discussion took place in which members were able to identify gaps in the manual, input on the accuracy of interpretations of the law and comment of the user-friendliness and clarity of the document. The modified manual following the in-person meeting was then again sent to all Review Tribunal members, and MHA, for their comments and inputs.

A foreword by the Chairperson of the MHA Board was written and included, an important step in endorsing the commitment and buy-in from the MHA to the workings and future of the Review Tribunal. The draft manual was then sent for copy editing, proofreading and lay-out. This was an important process in ensuring that the document was clear, easy to understand and accessible to readers that would need to implement it. Every Review Tribunal member was sent an electronic and print version of the manual by MHA.

An area that was identified as requiring further follow-up was the need for additional Forms and standard letters. While some Forms that are required by the Review Tribunal are part of current Regulations (Legislative Instrument), the need for additional Forms as well as standard letters was identified. Such Forms and letters are required for standardisation of information and reporting, but also because having standardised Forms and letters makes the work of the Review Tribunal simpler and quicker. For example, having a standard letter that can be sent to applicants regarding the decision of the Review Tribunal is far more efficient and effective than having to draft a new letter each time a decision is made.

Following the production of the manual it became incumbent of the MHA to draw up Standard forms and letters that can be used in the places identified in the manual and to draw up and implement a full process for MEL based on the outline provided in the manual.

### **Step 3: Review Tribunal: Key Lessons Learned**

1. A manual that outlines and clarifies the roles and responsibilities of the Review Tribunal is extremely helpful for the appointed members, but also for new members and Tribunals in the future. The involvement of the members in the drafting of the manual is fundamental.
2. Forms and standard letters that complement the Forms in the Regulations are essential for the effective and efficient running of the Review Tribunal.
3. The manual should be updated by the MHA in collaboration with the Review Tribunal on a regular basis to remain up to date and relevant.

### **Step 4: Implementation**

The Accra branch of the Review Tribunal held its first meeting in October 2023. In effect this was a ‘pilot within a pilot’ as the lessons from this first meeting were intended to inform further engagements of this region as well as the other two regions. It was anticipated that there would be many issues that would arise once the Review Tribunal met that would require further discussion and debate and hence

'debriefing' sessions were planned where both practical and more theoretical issues related to operations could be discussed. Due to practicalities at the time of writing, no debriefing sessions have yet occurred.

It is intended that MHA will organise a full 'debriefing session' with the Review Tribunal, programme and training facilitator early in 2024. This debriefing will examine the initial meeting and interrogate progress in implementation. Lessons from the initial meeting will be analysed. This will provide detailed information of successes, difficulties and challenges faced in implementation, what can be learned for future meetings and hearings, and how the Tribunal can be improved to make it fully effective and efficient. In the interim, information obtained by the programme provides important information and lessons.

Details below have been provided anecdotally from some members involved in the first meeting in terms of some of the key challenges; these can be further validated and analysed as part of the debrief in 2024 to help inform required future actions and learnings to be disseminated across all Review Tribunal members.

- The original planned meeting of the Review Tribunal needed to be delayed as one of the quorum was ill. When they were eventually able to form the quorum determined in the legislation, not all the categories were represented. While this is legally permissible, it is always best to ensure that all categories are represented as each has a specific role in coming to a just outcome. In this case, for example, there was no-one representing persons with lived experience
- Where it is not possible for a member from a particular category to attend, then using a person from another region – even electronically – is usually a better option than not having that category represented at all
- It is suggested in the manual that it is probably most efficient to hold hearings where a person with a mental health condition is to be interviewed as close to where they reside as possible, most often a psychiatric or other hospital. In this case, the initial venue was not the place where the person that was making the appeal was being held, and this meant that members of the Review Tribunal needed to change venue in order to interview the person, and this took time: the lesson of choosing the venue carefully each time was learned
- The Review Tribunal may call the treating doctor to give information and evidence at the sitting. If the role and purpose of the Review Tribunal has not been well understood there may be a risk that a different doctor who knows less about the patient attends in their place. This would delay the Review Tribunal's work on the day. Therefore, the Review Tribunal needs to be very clear who they need to speak with and to ensure that the correct persons attend and understand the importance of the process. If for any reason the treating doctor or nurse is not available, then the person that is sent must be very well briefed before appearing
- Convening the Review Tribunal was hampered by the availability of members as their work on the Review Tribunal is mostly not taken into account in their expected 'normal' work outputs, and Review Tribunal work hence usually involves extra work and extra time to their usual work. Time available for Review Tribunal work and remuneration needs to be worked out properly for the members to do their work efficiently and effectively

## Step 4: Implementation: Key Lessons Learned

1. Remuneration not only needs to be determined (which it was) but needs to be available at the point that the work of the Review Tribunal is due to begin. If the MHA intends to limit the number of hours that members can work, then this number needs to be predetermined. Given the potential number of hours that could be worked if, for example, every case was seen through an in-person hearing, and if the MHA needed to limit these hours due to financial constraints, then this would need to be decided before the work began so that the Tribunal could choose how best to use the time available to them.
2. Planning for each Review Tribunal session needs to be meticulous. This needs to include decisions around for example, the appropriate venue, who to call, and the inclusion of as many Review Tribunal members as possible.
3. How the work of the Review Tribunal members that have full-time employment is woven into their existing work, or how much additional work they are expected to do must be determined with members and possibly in some instances with their employers from the outset, so that roles and responsibilities are clear and can be realistically achieved.

## Step 5: Monitoring and evaluation

MEL (monitoring, evaluation and learning) was initially discussed at the training meeting in March 2023. The meeting agreed that this was a critical area that needed more discussion and more work. Having information would assist in the short term with knowing requirements of the Review Tribunal, but also in the longer term where trends can be observed, and lessons learned from this. However, it was agreed that it is important that the MHA leads on MEL.

Monitoring and evaluation proposals and guidance was provided in the Review Tribunal manual. The programme worked with the MHA to draft a data collection form. This initial data collection form provides a quick and easy initial data capture of the key essential fields related to the date of receipt and decision made.

It is proposed that further data collection tools and process should be developed to capture information regarding the actions taken, change, and impact. This will be done by the MHA based on available infrastructures and resources.

Having 'debriefing' sessions following meetings of the Review Tribunal is critically important to improve practical management and administration. Equally importantly, debriefing allows the members to reflect on cases and decisions together with experts outside the Review Tribunal and people with experience in tribunal work. This can be done without breaching confidentiality. In-depth reflection can assist in ensuring that every person considered by the Review Tribunal is being fairly assessed in line with human rights principles. Debriefing sessions are likely to be required more regularly in the initial stages of the work of the Review Tribunal, but periodic sessions later can also be enormously helpful.

The lessons learned through debriefing sessions can be extremely useful to the Review Tribunal in communicating and reporting to the MHA, as they are required by legislation to do.

## Step 5: Monitoring and Evaluation: Key Lessons Learned

1. MEL needs to be thought about and planned with members of the Review Tribunal and the MHA from the point at which the Review Tribunal is established. The lack of a MEL framework should not though be a reason for not beginning the work of the Review Tribunal, it should be an integrated part of planning, establishment and implementation.
2. The information collected through the MEL system must protect the confidentiality of individuals, however collated information is critical to ensuring optimal outcomes and needs to be made available to all that can benefit from this information, including the public. MEL systems and existing monitoring and reporting policies and infrastructures should be reviewed by the MHA with Review Tribunal members to inform credible and robust MEL procedures that are then piloted and tested from the outset of operation; these can then be reviewed and adapted as needed.
3. Debriefing sessions with people with experience and expertise in running tribunals can be extremely useful in unpacking the complexities of cases to ensure human rights are respected and the law upheld. Such sessions are also important to improve the practical management and administration of the Review Tribunal. These are especially critical at the start of operations but should then form part of a regular management and oversight practice by the both the Review Tribunal and MHA.

## Overview of key lessons learned

Much has been achieved towards the promotion of human rights through the legal establishment and operationalisation of the Review Tribunal. Key amongst these is that branches of the Review Tribunal have been appointed in three regions. All Review Tribunal members have had intensive training, and a guiding manual has been developed to assist current members as well as orient new members in the future.

The processes to get to this point were at times challenging and required extensive commitment from the MHA. Ensuring that the MHA, the mental health leadership and all stakeholders understood the importance of the Review Tribunal, how it operates and why, was fundamental to inspiring the required commitment. Holding an orientation session with the MHA and ensuring open and consistent communication with senior leaders within the MHA was critical to ensuring this.

Orientation and training sessions with the Review Tribunal was essential to getting members to fully understand what was required of them. Importantly, following training the Review Tribunal members expressed a readiness and sufficient knowledge and confidence to begin their work.

Taking legislation to implementation is often a complex process that requires fully grasping the intentions of the Act and at times 'interpreting' the text should gaps or ambiguities arise when planning for implementation. Interactions and discussions between Review Tribunal members, the MHA and the training facilitator clarified many issues that were not clear, and decisions were made around them. These decisions were incorporated into the manual for effective practice. It was noted that the manual is a working document and that as practice progresses it may be



necessary to make changes and adaptations – as long as this still stays within the letter and the spirit of the legislation. It is also vital that in implementing the legislation, that the different parts fall into place and form a single whole. For example, in this legislation both a Review Tribunal and Visiting Committees are established. As part of the implementation process it has been necessary for the two bodies to meet and to align and synergise their work to ensure that they do not overlap in their functions or allow anything to fall between the gaps of the two bodies.

The five Steps constructed as the building blocks towards the Review Tribunal becoming a key instrument and structure for the promotion of critical rights seem to be logical and rational phases. As such they are recommended for others setting up Review Tribunals, including in other countries, as well as scaling up the existing Review Tribunal in Ghana.

### Overview of the 5 Key steps recommended to establish a Review Tribunal

**Appointment.** Given the important and responsible role that Review Tribunal members will play, the process of their appointment needs to be transparent, accountable and with wide consultation. This applies to both the first Review Tribunal and to new members that are appointed over time. Processes used in Ghana may also be helpful for establishing Review Tribunals in other countries.

**Orientation and training.** Following their appointment by the MHA the Review Tribunal needed detailed orientation and training. In the context of no similar body ever having operated in the country previously, it was necessary to contextualise the Review Tribunal within a human rights framework and to also understand how similar bodies worked internationally. It was also critical that members were able to place the Review Tribunal within the constraints in which they work in Ghana and to shape its work into the local context. Given the complexities involved in running a Review Tribunal, comprehensive orientation and training are strongly recommended.

**A contextualised guidance manual.** The idea of having a manual, including Standard Operating Procedures that can guide the work of the Review Tribunal on an ongoing basis, and that can also be used to guide future Tribunals or members of Tribunals, appears to have been an innovative step that will prove extremely useful once the Review Tribunal becomes fully operational. This is an important step for growing knowledge, ensuring conformity in and between Review Tribunals and as a reference for the members when unsure about matters.

**Implementation.** Moving into full implementation is a challenging step. This **must** come from the MHA itself; it remains their own prerogative as to when and how the Review Tribunal begins its work. There is much 'behind the scenes' work that must be done. There are some clear lessons gleaned as to what is required in order for the Review Tribunal to function effectively. Issues such as finances, administrative support, having the correct forms and so forth are critical.

**Monitoring and Evaluation.** It is important to do thorough monitoring and evaluation and to learn from the experiences and information collected from the work of the Review Tribunal. Practices can be substantially improved on the basis of analysis of such data. This cannot be an 'outside' function and must be fully integrated and incorporated into the work of the MHA.

## Conclusions and recommendations

As Doku et al predicted when the Mental Health Act was passed, this Act has indeed been a major milestone in addressing mental health as a public health issue and in the protection of human rights of people with mental disorders in Ghana. But as they also predicted, there have been a number of implementation challenges.

The period from 2020 to 2023 was a highly intensive one and much was achieved and learned. However, for all the work that has been done, to truly translate into real rights for people on the ground and changes in peoples' personal lives, additional efforts are needed around implementation. At the time of writing, one meeting of one branch of the Review Tribunal had been held and the lessons from this meeting need to be learned and incorporated into an extensive roll-out process of all the designated functions of all the existing Review Tribunal branches, and then extended to the whole country. **Implementation of the law is not an option; it is a legal mandate and hence further delays should be avoided. The MHA has a particularly important role and responsibility in this regard.**

Unquestionably, there have also been important lessons that scaling up the Review Tribunal in Ghana and other countries setting up Review Tribunals or similar structures can learn from. However, it is recognised that at the time of writing only one sitting of the Review Tribunal has taken place and that further technical support is envisaged to help validate the learning and recommendations outlined in this review.

In most LMICs, resources for the Review Tribunal is likely to be an issue, but the protection of human rights is not negotiable, and all efforts should be made to protect and promote these rights through a well-functioning Review Tribunal or similar structure.

In addition to the lessons outlined for each of the five steps outlined in this report to conclude the report has provided a summary of key learnings and recommendations based on Ghana Somubi Dwumadie experience below. It is hoped that these are useful for similar future work across other countries and continuation and potential future scale up in Ghana.

**Figure 2: Key learnings and recommendations**

Summary of Key Learnings	Recommendation
1. Having legislation that creates a mandatory Review Tribunal is fundamental. Without being included in law, it is unlikely that the human rights protection offered by this body will be realised	Establish the Review Tribunal through legislation.
2. The process of establishing a functional Review Tribunal is complex and requires commitment, effort and resources. External support and expertise can be extremely helpful, but the country and the authority that establishes the Review Tribunal must take the leadership role	The structure authorised to establish the Review Tribunal must take a strong leadership role.
3. Phasing in through pilots in some districts assists with not being too overwhelmed.	Start small, learn lessons in the process and then scale to the whole country.
4. A stepped methodology, with clear and manageable objectives, is critical to the establishment and effective functioning of the Review Tribunal.	Carefully plan the establishment of the Review Tribunal. Breaking this into logical consecutive steps is extremely useful.
5. In drawing up a manual for operation for a Review Tribunal, it is necessary to fully involve Tribunal members and the MHA in its design and development to ensure that it is fit for purpose and accessible.	Involve the Review Tribunal members and the MHA in the process of writing a manual.
6. A monitoring, evaluation and learning system is essential for improving functioning and to make changes that improve human rights.	Set up a user-friendly MEL system to coincide with the beginning of the work of the Review Tribunal, ensure this is reviewed with members and adapted in alignment with the evolution of the Tribunal. Regular monitoring, reporting and learning opportunities should be an integrated into the set up and implementation of Tribunal operation. Learnings can be incorporated into further recommendations for scale-up

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