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OPERATIONAL GUIDANCE NOTE

GHANA

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1. Introduction

- 1.1** This document summarises the general, political and human rights situation in Ghana and provides information on the nature and handling of claims frequently received from nationals/residents of that province. It must be read in conjunction with the RDS - COI Service Ghana Country of Origin Information Bulletin September 2005 at:

http://www.homeoffice.gov.uk/rds/country_reports.html

- 1.2** This document is intended to provide clear guidance on whether the main types of claim are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Caseworkers should refer to the following Asylum Policy Instructions for further details of the policy on these areas:

API on Assessing the Claim
 API on Humanitarian Protection
 API on Discretionary Leave
 API on the European Convention on Human Rights

- 1.3** Claims should be considered on an individual basis, but taking full account of the information set out below, in particular Part 3 on main categories of claims.
- 1.4** With effect from 2 December 2005, Ghana is a country listed in section 94 of the Nationality, Immigration and Asylum Act 2002 in respect of men only. Asylum and human rights claims must be considered on their individual merits. However, if, following consideration, a claim from a man who is entitled to reside in Ghana, made on or after 2 December 2005, is refused caseworkers must certify the claim as clearly unfounded unless satisfied that it is not. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail. Ghana is not listed in section 94 in respect of women. If, following consideration, a claim from a woman is refused, caseworkers may, however,

certify the claim as clearly unfounded on a case-by-case basis if they are satisfied that it is. The information set out below contains relevant country information, the most common types of claim and guidance from the courts, including guidance on whether cases are likely to be clearly unfounded.

Source documents

- 1.5** A full list of documents cited as footnotes is at the end of this note.

2. Country assessment

- 2.1** From the early 1950s, self-government was introduced with elections in 1951, 1954 and 1956 to the legislative assembly. Kwame Nkrumah's party, the Convention Peoples Party (CPP), won all three elections and led the country to independence, as Ghana, in March 1957. Ghana was the first sub-Saharan country in colonial Africa to gain its independence. Nkrumah was the first Prime Minister, and in 1960 became President with the change of Ghana's status to a Republic within the Commonwealth.¹
- 2.2** Nkrumah turned Ghana into a one-party state under African Socialism. A celebrated pan-Africanist, he also developed close ties with the Soviet Bloc. He was overthrown in Ghana's first military coup in 1966. For the next 26 years until 1992, Ghana had only short periods of civilian rule (1969-71, 1979-81) interrupted by longer periods of military rule (1966-69, 1972-79, 1981-1991). During the last period of military rule Flt Lt Jerry Rawlings brought in populist policies, and Cuban-style revolutionary institutions, including the Committees for the Defence of the Revolution (CDRs) and Peoples Defence Committees. However, under pressure internally and from the international community, in 1991 Rawlings conceded a return to constitutional rule and multi-party politics. A new constitution was approved in a referendum in April 1992.²
- 2.3** The 1992 constitution introduced an executive presidential system, a 2-term limit to presidential tenure and a 200-member unicameral legislature (since increased to 230 in 2004). Rawlings created his own party, the National Democratic Congress (NDC), out of the former revolutionary structures, and other parties were created or revived. In the subsequent presidential election of November 1992, Rawlings won with 58% of the vote. Although international observers gave their approval to the conduct of the election the opposition called fraud and boycotted the parliamentary election held in December 1992, giving Rawlings' NDC 189 of the 200 seats. 4 years later, in 1996, Rawlings again won the Presidency with 57% of the vote but the NDC was reduced to 133 seats following the opposition parties decision to take part in the legislative elections.³
- 2.4** Rawlings stepped down in 2000 and the current government of President Kufuor, of the opposition New Patriotic Party (NPP), was elected, first in December 2000 (with 57% of second round votes) and again in December 2004 (with 53% of second round votes). In both legislative elections, the NPP won a majority of the seats leaving the NDC with a greatly reduced presence in Parliament.⁴
- 2.5** The Rawlings military regime of the 1980s saw significant human rights abuses. President Kufuor's government set up a National Reconciliation Commission (NRC) in 2002 to hear cases of human rights abuses during the years of military rule. It heard 4000 petitions. It reported in 2004. The human rights situation has been transformed for

¹ Home Office COI Service Ghana Country of Origin Information Report September 2005 (paragraph 4.01) and Foreign and Commonwealth Office Ghana Country Profile 1 May 2005 (FCO 2005)

² COI Service Ghana Country Report (paras 4.01 – 4.02) and FCO 2005

³ COI Service Ghana Country Report (paras 4.02 – 4.03) and FCO 2005

⁴ COI Service Ghana Country Report (paras 4.03) and FCO 2005

the better since the return to constitutional rule. Protection of Human Rights were enshrined in the constitution and an independent National Commission on Human Rights and Administrative Justice (CHRAJ) established. The CHRAJ has substantial powers on paper but is still in need of further resources. Currently, Ghana's record on human rights is good. There is an independent judiciary and free and active press. The new Government is keen to promote human rights and to move away from the abuses of the past. The death sentence remains on the statute books although the last execution took place in 1993.⁵

- 2.6** In its annual reports for Ghana covering 2004, Amnesty International (AI) highlighted the NRC findings on past human rights abuses in the country's early post-independence period and the improvement in women's rights as the main human rights developments in 2004.⁶
- 2.7** Though the Government generally respected the human rights of its citizens in 2004, there were however problems in several areas. Police use of excessive force resulted in some unlawful killings and injuries. There continued to be credible reports that police beat suspects in custody, and that police arbitrarily arrested and detained persons. Prison conditions remained harsh and life threatening. Police corruption and impunity was a problem. Prolonged pre-trial detention remained a serious problem. Corruption in all branches of the Government remained a serious problem, although some initiatives were taken to correct this. At times the Government infringed on citizens' privacy rights.⁷
- 2.8** There were occasional reports in 2004 that government officials pressured government media outlets to minimise coverage of opposition politicians. Police set up barriers, ostensibly to patrol illegal smuggling, but motorists often complained that they used these barriers to demand bribes from motorists. A night-time curfew was set up in March 2002 in the north following violent confrontations within ethnic groups related to chieftancy issues. It was lifted in August 2004. Violence against women and children was a serious problem; however, the Government continued to prosecute sexual abuse against underage girls and courts gave lengthy sentences and remanded several individuals in custody for such abuse. The Ghana police force has set up a Women and Juvenile Unit to deal specifically with cases of abuse.⁸
- 2.9** Trokosi, a traditional form of ritual servitude that is prohibited by law, was practised on a limited scale in one region of the country in 2004. Female genital mutilation (FGM), although illegal since 1993, still was practised. Societal discrimination against women, persons with disabilities, homosexuals, and persons with HIV/AIDS is a problem. Traditional beliefs in witchcraft have led to physical attacks on some women. Trafficking in women and children was a problem. There were some incidents of politically and ethnically motivated violence, and some ethnic groups complained of discrimination. Child labour, including forced child labour, was a problem in the informal sector.⁹
- 2.10** Vigilante justice also was a problem in 2004. 'Machomen' (party thugs) and land guards, private security enforcers hired by citizens to settle private disputes and vendettas, caused injury and property damage during the year. The machomen were organised privately and operated outside the law. There were some allegations of police complicity with these extra-legal security agents.¹⁰

⁵ COI Service Ghana Country Report (para 6.01) and FCO 2005

⁶ Amnesty International Ghana Annual Report covering 2004

⁷ COI Service Ghana Country Report (para 6.02)

⁸ COI Service Ghana Country Report (paras 6.02) and FCO 2005

⁹ COI Service Ghana Country Report (para 6.02)

¹⁰ COI Service Ghana Country Report (paras 6.02 & 6.04)

3. Main categories of claims

- 3.1** This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in Ghana. It also contains any common claims that may raise issues covered by the API on Discretionary Leave. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal relocation are set out in the relevant API's, but how these affect particular categories of claim are set out in the instructions below.
- 3.2** Each claim should be assessed to determine whether there are reasonable grounds for believing that the claimant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in *Karanakaran* should be followed when deciding how much weight to be given to the material provided in support of the claim (see the API on Assessing the Claim).
- 3.3** If the claimant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the claimant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.
- 3.4** This guidance is **not** designed to cover issues of credibility. Caseworkers will need to consider credibility issues based on all the information available to them. (For guidance on credibility see para 11 of the API on Assessing the Claim)
- 3.5** Also, this guidance does not generally provide information on whether or not a person should be excluded from the Refugee Convention or from Humanitarian Protection or Discretionary Leave. (See API on Humanitarian Protection and API on Exclusion under Article 1F or 33(2) and API on DL)

All APIs can be accessed via the IND website at:

http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/policy_instructions/apis.html

3.6 Inter-ethnic clashes and tribal disputes

- 3.6.1** Many claimants will apply for asylum based on ill treatment amounting to persecution at the hands of rival ethnic groups or tribes on account of their ethnicity.
- 3.6.2 *Treatment.*** Although the Government plays down the importance of ethnic differences, its opponents have complained that the Government is dominated by Ashantis and other Akans at the expense of Ewes and northerners. The President and some of his ministers and close advisors were Ashanti, but the Vice President and many ministers are of other ethnic origins.¹¹
- 3.6.3** Following the national elections in December 2004, there were reports of some ethnically motivated taunting in the Central Region. Some NDC supporters allegedly harassed Fantes (an ethnic group prominent in the region) for not voting for the NDC's

¹¹ US Department of State Country Report on Human Rights Practices covering 2004: Ghana (Section 5)

candidate, who came from the Central Region and was himself a Fante. Efforts by NGOs to encourage reconciliation continued during 2004; however, there were several violent confrontations within ethnic groups related to chieftancy issues, particularly involving succession and land. The trial of four persons charged with rioting, conspiracy, attempted murder, and murder from an August 2003 clash in Brekusu, Eastern Region, was ongoing at the end of 2004.¹²

- 3.6.4** In late 2001, violent confrontations took place between Mamprusis and Kusasis, leaving 50 dead. New clashes took place in March 2002, causing the death of King Ya-Na Yakubu Andani II, an Andani and 27 other people. The Government declared a state of emergency and deployed its troops in order to calm both groups. Historically, Mamprusi people tended to favour the NPP, while Kusasis tend to support the NDC. Dagbon's two clans, the Andani and the Abudu, have been vying for the chieftancy for more than half a century. The Andani and Abudu were the sons of Dagbon king Ya Naa Yakubu I. After his death, the kingship rotated between their descendants. This arrangement worked smoothly until 1948 when a selection committee was established which led to accusations of favouritism and bias. Disputes ensued, with each clan aligning itself with alternate governments as they came to power.¹³
- 3.6.5** On 17 August 2004 the government had lifted the state of emergency and night-time curfew in the northern Dagbon region. Residents in Tamale, the regional capital, and Yendi, the seat of the Dagbon tribal kingdom 100 km to the east, would no longer be confined to their houses between the hours of 10pm and 5am. However, the body of King Ya-Na Yakubu Andani II still lies in a mortuary. Tradition dictates that the king cannot be buried until the palace, which was destroyed during the disturbances in 2002, has been rebuilt. However officials fear his burial could provide another flashpoint. So too could the subsequent process of naming the next Dagbon king. A three-person team of traditional leaders appointed by the President supported by NGOs continued to conduct various peace-building and reconciliation activities between the factions, which has led to progress in reducing tensions. On 12 April 2005 it was reported that the burial of the late Dagbon king had been indefinitely postponed creating stiff opposition and displeasure from many Ghanaians, particularly the natives of the Dagbon kingdom and some opposition members.¹⁴
- 3.6.6** **Sufficiency of protection.** Though the government is made up primarily of Ashantis and Akans and was accused of masterminding the sudden death of the King and others perpetuating the three year old Dagbon crisis, the internal security and police forces operate effectively throughout the country. There is also no evidence that the state authorities favour one ethnic group or tribe over another. Though the police service came under criticism following some incidents of brutality, corruption, and negligence in 2004, the internal security and police forces include the Monitoring and Inspection Unit (MIU) through which complaints lodged by the public against the police are investigated. Complaints may also be pursued through MPs, Ministers and the President's Office as well as the Commission on Human Rights and Administrative Justice (CHRAJ). There is therefore no evidence that rival ethnic group / tribal members would not be able to seek and receive adequate protection from the state authorities.¹⁵
- 3.6.7** **Internal relocation.** The Constitution provides for freedom of movement and the Government generally respects these rights in practice. Citizens and foreigners are free to move throughout the country. Security officers man checkpoints nationwide to prevent smuggling, seize illegal weapons, and catch criminals, although many are unmanned

¹² USSD 2004 (Section 5)

¹³ COI Service Ghana Country Report (paras 6.20 – 6.21)

¹⁴ COI Service Ghana Country Report (para 6.22) & USSD 2004 (Section 1)

¹⁵ COI Service Ghana Country Report (paras 5.34 – 5.37 & 6.20 – 6.22), USSD 2004 (Section 1) & Ghana Police Force website June 2005.

during daylight hours. The Police Administration continue to erect security checkpoints and conduct highway patrols in response to an upsurge in highway robberies, and police roadblocks and car searches are a normal part of night-time travel in larger cities. The police administration acknowledges that some officers occasionally erect illegal barriers to solicit bribes from motorists. The Regional Police Commanders monitor the activities of police personnel working at the checkpoints.¹⁶ As rival ethnic group or tribe disputes are sporadic and regionalised, safe relocation to a different area of the country to escape this threat is therefore feasible.

3.6.8 Conclusion. Sporadic inter-ethnic clashes are still reported in many parts of the country, however they are usually short-lived or are quickly subdued by the state authorities. Claimants citing conflict between or within any rival groups; the Ewes in the north, Fantes in central regions, the Mamprusis and Kusasis or the Andani and Abudu clans in the Dagbon kingdom are able to receive adequate state protection and are able to internally relocate to another part of the country. Such claims would not engage the UK's obligations under the 1951 Convention. The grant of asylum will not therefore be appropriate and any such claims are likely to be clearly unfounded (see para 1.4).

3.7 Christians or converts to Christianity

3.7.1 Some claimants will apply for asylum based on societal discrimination amounting to persecution at the hands of Muslims due to them being Christians or converts to Christianity.

3.7.2 Treatment. According to the 2000 government census, approximately 69% of the country's population is Christian, 15.6% is Muslim, and 15.4% adheres to traditional indigenous religions or other religions. The Muslim community has protested these figures, asserting that the Muslim population is closer to 30%.¹⁷

3.7.3 The Constitution provides for freedom of religion and the Government generally respects this right in practice. There was no change in the status of respect for religious freedom during 2004, and government policy continued to contribute to the generally free practice of religion. The generally amicable relationship among religions in society contributed to religious freedom; however, tensions sometimes occurred between different branches of the same faith, as well as between Christian and traditional faiths. There is occasional tension between Christians and Muslims and within the Muslim community itself. A number of governmental and non-governmental organisations (NGOs) promoted interfaith and intra-faith understanding.¹⁸

3.7.4 Sufficiency of protection. The internal security and police forces operate effectively throughout the country. Though the police service came under criticism following some incidents of brutality, corruption, and negligence in 2004, the internal security and police forces function include the Monitoring and Inspection Unit (MIU) through which complaints lodged by the public against the police are investigated. Complaints may also be pursued through MPs, Ministers and the President's Office as well as the Commission on Human Rights and Administrative Justice (CHRAJ). There is therefore no evidence that Christians and converts to Christianity are not able to seek and receive adequate protection from the state authorities.¹⁹

¹⁶ COI Service Ghana Country Report (para 6.19)

¹⁷ US Department of State International Religious Freedoms Report: Ghana November 2005 (Section I)

¹⁸ COI Service Ghana Country Report (paras 6.09 – 6.10), USSD 2004 (Section 2) & USIRF 2005 (Introduction, Section I & II)

¹⁹ COI Service Ghana Country Report (paras 5.34 – 5.37 & 6.20 – 6.22), USSD 2004 (Section 1) & Ghana Police 2005.

3.7.5 *Internal relocation.* The Constitution provides for freedom of movement and the Government generally respects these rights in practice. Citizens and foreigners are free to move throughout the country. Security officers man checkpoints nationwide to prevent smuggling, seize illegal weapons, and catch criminals, although many are unmanned during daylight hours. The Police Administration continue to erect security checkpoints and conduct highway patrols in response to an upsurge in highway robberies, and police roadblocks and car searches are a normal part of night-time travel in larger cities. The police administration acknowledges that some officers occasionally erect illegal barriers to solicit bribes from motorists. The Regional Police Commanders monitor the activities of police personnel working at the checkpoints.²⁰ Safe relocation for Christians and converts to Christianity to a different area of the country to escape this threat is therefore feasible.

3.7.6 *Conclusion.* Religious differences within the country are generally respected and while there maybe occasional tensions, these tend to be more within, rather than between, the various faiths. The availability of adequate state protection and a viable internal relocation option for Christians and converts to Christianity means that claims will not engage the UK's obligations under the 1951 Convention. The grant of asylum will not therefore be appropriate and any such claims are likely to be clearly unfounded (see para 1.4).

3.8 Trokosi system and idol worship

3.8.1 Some claimants will apply for asylum based on them having been victims of, or otherwise involved in, the Trokosi system (a religious practice involving a period of enforced domestic servitude lasting up to 3 years). More generally, female claimants may also allege that tribal leaders or fetish priests of their ethnic group will subject them to idol worship.

3.8.2 *Treatment.* Trokosi (also known as Fiashidi) is found primarily among the ethnic Ewe group in the Volta Region. A virgin girl, sometimes under the age of 10, but often in her teens, is given by her family to work and be trained in traditional religion at a fetish shrine for a period lasting between several weeks and 3 years as a means of atonement for an allegedly heinous crime committed by a member of the girl's family. In exceptional cases, when a girl of suitable age or status is unavailable, a boy can be offered. The girl, who is known as a Trokosi or a Fiashidi, then becomes the property of the shrine god and the charge of the shrine priest for the duration of her stay. The practice explicitly forbids a Trokosi or Fiashidi to engage in sexual activity or contact during her atonement period. In the past, there were reports that the priests subjected the girls to sexual abuse; however, while instances of abuse may occur on a case-by-case basis, there is no evidence that sexual or physical abuse is an ingrained or systematic part of the practice.²¹

3.8.3 During the girl's stay, her family must provide for the girl's needs, including food and clothing; however, in some cases families are unable to do so. After a Trokosi has completed her service to the shrine, the girl's family completes its obligation by providing items that may include drinks, cloth, money, and sometimes livestock to the shrine for a final release ritual. After the release ritual, the girl returns to her family and resumes her life, without, in the vast majority of cases, any particular stigma attaching to her status as a former Trokosi shrine participant. In very occasional cases, the family abandons the girl or cannot afford the cost of the final rites, in which case she may remain at the shrine indefinitely.²²

²⁰ COI Service Ghana Country Report (para 6.19)

²¹ COI Service Ghana Country Report (para 6.59)

²² COI Service Ghana Country Report (para 6.60)

- 3.8.4 Sufficiency of protection.** Comprehensive legislation protects women's and children's rights and includes a ban on ritual servitude, which many activists interpreted to include Trokosi and idol worship. According to human rights groups, these practices have decreased in recent years because other belief systems have gained followers, and fetish priests who died have not been replaced. Adherents of Trokosi describe it as a practice based on traditional African religious beliefs; however, the Government does not recognise it as a religion. The internal security and police forces operate effectively throughout the country. Though the police service came under criticism following some incidents of brutality, corruption, and negligence in 2004, the internal security and police forces include the Monitoring and Inspection Unit (MIU) through which complaints lodged by the public against the police are investigated. Complaints may also be pursued through MPs, Ministers and the President's Office as well as the Commission on Human Rights and Administrative Justice (CHRAJ) There is therefore no evidence that those subjected to the Trokosi system or idol worship are not able to seek and receive adequate protection from the state authorities.²³
- 3.8.5 Internal relocation.** The Constitution provides for freedom of movement and the Government generally respects these rights in practice. Citizens and foreigners are free to move throughout the country. Security officers man checkpoints nationwide to prevent smuggling, seize illegal weapons, and catch criminals, although many are unmanned during daylight hours. The Police Administration continue to erect security checkpoints and conduct highway patrols in response to an upsurge in highway robberies, and police roadblocks and car searches are a normal part of night-time travel in larger cities. The police administration acknowledges that some officers occasionally erect illegal barriers to solicit bribes from motorists. The Regional Police Commanders monitor the activities of police personnel working at the checkpoints. The Ewes and other ethnic groups who prescribe to such practises are regionalised, usually based in the north of the country. Safe relocation for those subjected to the Trokosi system or idol worship to a different area of the country to escape this threat is therefore feasible.²⁴
- 3.8.6 Conclusion.** The Trokosi system and females' involvement in ritual idol worship of tribal chiefs and fetish priests have diminished considerably in recent years. The availability of adequate state protection and a safe internal relocation option to escape these regionalised and isolated practices means that claims will not engage the UK's obligations under the 1951 Convention. The grant of asylum will not therefore be appropriate and any such claims are likely to be clearly unfounded (see para 1.4).

3.9 Victims of witchcraft

- 3.9.1** Some claimants will apply for asylum based on ill-treatment amounting to persecution due to them having been attacked by witches or the subject of a witches' curse or hex.
- 3.9.2 Treatment.** A strong belief in witchcraft continues in many parts of the country. Most accused witches were older women, often widows, who are identified by fellow villagers as the cause of difficulties, such as illness, crop failure, or financial misfortune. Many of these women are banished by traditional village authorities or their families and go to live in "witchcamps," villages in the north populated by suspected witches. The women did not face formal legal sanction if they returned home; however, most feared that they could be beaten or lynched if they returned to their villages. The law provides protection to alleged witches, and the specialist police Women and Juvenile Unit (WAJU) continued

²³ COI Service Ghana Country Report (paras 6.61 & 5.34 - 5.37) & USSD 2004 (Section 1) & Ghana Police 2005.

²⁴ COI Service Ghana Country Report (paras 6.19 & 6.61) & USSD 2004 (Section 5)

to prosecute violence and societal abuses related to allegations of witchcraft. There were several cases of lynching and assault of accused witches during 2004.²⁵

- 3.9.3** There is no specific evidence that individuals who claim they are the subject of a curse of hex in fact suffer harm. There is no evidence that any physical or other type of 'attack' on individuals by alleged witches have any basis in fact.
- 3.9.4** ***Sufficiency of protection.*** Although a strong belief in witchcraft continues in many parts of the country there is no evidence that witches can inflict treatment amounting to persecution or which would breach Article 3 therefore the availability of adequate state protection is therefore irrelevant.
- 3.9.5** ***Internal relocation.*** Although a strong belief in witchcraft continues in many parts of the country there is no evidence that witches can inflict treatment amounting to persecution or which would breach Article 3 therefore the feasibility of an internal relocation option is therefore irrelevant.
- 3.9.6** ***Conclusion.*** Though there remains a strong belief in witchcraft in some parts of the country, there is no corroborated evidence from within widely-recognised sources that alleged witches have cursed or physically attacked individuals. The absence of compelling evidence about ill-treatment or persecution arising from witchcraft makes adequate state protection and an internal relocation option irrelevant and means that claims will not engage the UK's obligations under the 1951 Convention or ECHR. The grant of asylum will not therefore be appropriate and any such claims are likely to be clearly unfounded.

3.10 Prison conditions

- 3.10.1** Claimants may claim that they cannot return to Ghana due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in the Ghana are so poor as to amount to torture or inhuman treatment or punishment.
- 3.10.2** ***Consideration.*** Prison conditions in most cases were harsh and sometimes life threatening in 2004, despite government efforts during the year to improve them. The 2003 Prisons Service Annual Report revealed that prisons remained overcrowded and under-financed. According to the report, there was a monthly average of 11,038 prisoners serving in prisons meant for a total population of 6,500. The report also noted that the President granted amnesty in 2003 to 1,823 prisoners to help relieve the congestion in prisons.²⁶
- 3.10.3** Overcrowding in some prisons had reached levels of around 300% in 2004. The Prisons Service also established eight prison camps for those convicted of minor offences, providing conditions similar to house arrest. The Government also sought to address the unsafe and unsanitary conditions of the prisons during 2004. Much of the prison population was held in buildings that were originally old colonial forts or abandoned public or military buildings, with poor ventilation and sanitation, dilapidated construction, and limited space. In April, the Government committed \$25 million to transform the Prisons Service to construct a new prison complex in the Greater Accra region. Additionally, the Government secured a \$19.2 million loan from the South African Government to procure training materials and vehicles for Prisons Service officers.²⁷

²⁵ COI Service Ghana Country Report (paras 6.33 – 6.36), USSD 2004 (Section 5) & USIRF 2005 (Section III)

²⁶ COI Service Ghana Country Report (para 5.40)

²⁷ COI Service Ghana Country Report (paras 5.40 – 5.41)

3.10.4 Overcrowding contributed to a high prevalence of communicable diseases in 2004.

According to the Ghanaian Prison Service, 115 prisoners died from diseases such as tuberculosis, HIV/AIDS, and anaemia during 2003. However, according to the Institute for Security Studies, the President, in an attempt to relieve overcrowding authorised the release of over 2000 first time offenders in 2003, who had less than one year of their sentences remaining. Prison camps also existed for offenders who had been convicted of committing minor offences, although conditions at these camps were akin to house arrest. According to the ISS, prisoners depended on family for food and medicine. Medical facilities were inadequate, and the prisons supplied only the most basic medicines.²⁸

3.10.5 Female prisoners are held separately from male prisoners. The Criminal Code stipulates that, regardless of the offense, all women convicts should be tested for pregnancy upon incarceration. If a convict is pregnant, the convict should be kept at a place where her health needs can be met. In spite of this directive, there were 42 pregnant convicts and 20 babies serving time with their convict mothers in 2003, according to the Prisons Service Annual Report. Juvenile offenders are held separately in the Borstal Institute, a juvenile correction centre. Juveniles who inflated their ages to avoid lengthy rehabilitation sentences in the Borstal Institute made the problem of overcrowding worse. During 2004, the Department of Social Welfare and Prison Services collaborated to transfer any known juveniles in adult cells to juvenile correction centres.²⁹

3.10.6 Conclusion. Whilst prison conditions in Ghana are poor with severe overcrowding, unsanitary conditions, a lack of health and medical care throughout the prison system being particular problems, conditions are unlikely to reach the Article 3 threshold. Therefore even where claimants can demonstrate a real risk of imprisonment on return to Ghana a grant of Humanitarian Protection will not generally be appropriate. However, the individual factors of each case should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3, relevant factors being the likely length of detention the likely type of detention facility and the individual's age and state of health. Only where it clearly cannot be argued that an individual will face treatment which reaches the Article 3 threshold, should a claim of this kind be certified.

4. Discretionary Leave

4.1 Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See API on Discretionary Leave)

4.2 With particular reference to Ghana the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should *not* imply an automatic grant of DL. There may be other specific circumstances not covered by the categories below which warrant a grant of DL - see the API on Discretionary Leave.

4.3 Minors claiming in their own right

4.3.1 Minors claiming in their own right who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate care and support

²⁸ COI Service Ghana Country Report (paras 5.42 – 5.43)

²⁹ COI Service Ghana Country Report (paras 5.44 – 5.45)

arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate care and support arrangements in place.

- 4.3.2** Minors claiming in their own right without a family to return to, or where there are no adequate care and support arrangements, should if they do not qualify for leave on any more favourable grounds be granted Discretionary Leave for a period of three years or until their 18th birthday, whichever is the shorter period.

4.4 Medical treatment

- 4.4.1** Claimants may claim they cannot return to Ghana due to a lack of specific medical treatment. See the IDI on Medical Treatment which sets out in detail the requirements for Article 3 and/or 8 to be engaged.

- 4.4.2** Ghana has an extensive network of public health care facilities, including hospitals, clinics and health centres, it noted that there were 215 hospitals and 1758 health centres (1999 figures). In October 2003, Ghanaweb.com reported that the Government's flagship National Health Insurance Bill (NHIS) had passed into law. It was reported that the NHIS would enable residents in Ghana to obtain basic healthcare services without payment at the point of delivery. The new NHIS system replaces the 'Cash and Carry' system introduced in 1985, whereby the Government levied user charges for health care services and the full cost recovery for drugs. The system, widely reported to have priced many out of receiving treatment, had increased the dependence of the poor on more traditional non-orthodox medicine and treatment. The NHIS system came into force in late 2004, early 2005.³⁰

- 4.4.3** In January 2005, the Government boosted its spending on tuberculosis, malaria and pneumonia treatments. The National HIV/AIDS/STI Policy published by the Ghana AIDS Commission in January 2005 noted that "Comprehensive, cost-effective and affordable care shall be made accessible to all people with HIV and related illnesses. The Government of Ghana shall explore all available means both internally and externally through its links with the International community and donors, to make sufficient anti-retroviral drugs available and affordable at all levels." The Government has introduced numerous measures to prevent and protect against HIV/AIDS infections including legislation against societal discrimination and directing over US\$20 million into increasing the distribution, availability and affordability of anti-retroviral (ARV) treatment in 2004 and 2005.³¹

- 4.4.4** Where a caseworker considers that the circumstances of the individual claimant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 or 8 a grant of discretionary leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

5. Returns

- 5.1** Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Returns are to the capital Accra.
- 5.2** Ghanaian nationals may return voluntarily to any region of Ghana at any time by way of the Voluntary Assisted Return and Reintegration Programme run by the International Organisation for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining travel documents and booking flights, as well

³⁰ COI Service Ghana Country Report (paras 5.48 – 5.49)

³¹ COI Service Ghana Country Report (paras 5.50 – 5.58)

as organising reintegration assistance in Ghana. The programme was established in 2001, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Ghanaian nationals wishing to avail themselves of this opportunity for assisted return to Ghana should be put in contact with the IOM offices in London on 020 7233 0001 or www.iomlondon.org.

6. List of source documents

- UK Home Office COI Service Ghana Country of Origin Information Report September 2005 at http://www.homeoffice.gov.uk/rds/country_reports.html
- UK Foreign and Commonwealth Office Country profile: Ghana 1 May 2005 at: <http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029394365&a=KCountryProfile&aid=1019672601848>
- Amnesty International Ghana Annual Report covering events in 2004 at <http://web.amnesty.org/report2005/gha-summary-eng>
- US Department of State: Bureau of Democracy, Human Rights and Labor: Country Report on Human Rights Practices 2004: Ghana. Released 28 February 2005 at <http://www.state.gov/g/drl/rls/hrrpt/2004/41606.htm>
- US Department of State: Bureau of Democracy, Human Rights and Labor: International Religious Freedoms Report 2005: Ghana. Released 8 November 2005 at <http://www.state.gov/g/drl/rls/irf/2005/51475.htm>
- Ghana Police Force: Monitoring and Inspection Unit (MIU): Investigation Section. Website information current as of June 2005 http://www.ghanapolice.org/miu/investigation_unit.htm

**Asylum and Appeals Policy Directorate
2 December 2005**