



OPERATIONAL GUIDANCE NOTE

GHANA

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1. Introduction

- 1.1** This document provides UKBA caseowners with guidance on the nature and handling of the most common types of claims received from nationals/residents of Ghana including whether claims are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Case owners must refer to the relevant Asylum Instructions for further details of the policy on these areas.
- 1.2** Caseowners *must not* base decisions on the country of origin information in this guidance; it is included to provide context only and does not purport to be comprehensive. The conclusions in this guidance are based on the totality of the available evidence, not just the brief extracts contained herein, and caseowners must likewise take into account all available evidence. It is therefore essential that this guidance is read in conjunction with the relevant COI Service country of origin information and any other relevant information.

COI Service information is published on Horizon and on the internet at:

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

- 1.3** Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. In considering claims where the main applicant has dependent family members who are a part of his/her claim, account must be taken of the situation of all the dependent family members included in the claim in accordance with the Asylum Instruction on Article 8 ECHR. If, following consideration, a claim is to be refused, case owners should consider whether it can be certified as clearly unfounded under the case by case certification power in section 94(2) of the Nationality Immigration and Asylum Act 2002. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.

2. Country assessment

- 2.1** Caseowners should refer the relevant COI Service country of origin information material. An overview of the country situation including headline facts and figures about the population, capital city, currency as well as geography, recent history and current politics can also be found in the relevant FCO country profile at:

<http://www.fco.gov.uk/en/travel-and-living-abroad/travel-advice-by-country/country-profile/>

- 2.2** An overview of the human rights situation in certain countries can also be found in the FCO Annual Report on Human Rights which examines developments in countries where human rights issues are of greatest concern:

<http://centralcontent.fco.gov.uk/resources/en/pdf/human-rights-reports/human-rights-report-2009>

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 Asylum Instructions 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 Asylum Instructions, 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 applicant 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 Asylum Policy Instruction on considering the protection (asylum) claim and assessing credibility).

- 3.3** If the applicant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the applicant 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** All Asylum Instructions can be accessed via the Horizon intranet site. The instructions are also published externally on the Home Office internet site at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumpolicyinstructions/>

3.5 Credibility

- 3.5.1** This guidance is **not** designed to cover issues of credibility. Case owners will need to consider credibility issues based on all the information available to them. For guidance on credibility see the Asylum Policy Instruction on considering the protection (asylum) claim and assessing credibility. Case owners must also ensure that each asylum application has been checked against previous UK visa applications. Where an asylum application has been biometrically matched to a previous visa application, details should already be in the Home Office file. In all other cases, the case owner should satisfy themselves through CRS database checks that there is no match to a non-biometric visa. Asylum applications matched to visas should be investigated prior to the asylum interview, including obtaining the Visa Application Form (VAF) from the visa post that processed the application.

3.6 Inter-ethnic clashes, tribal disputes and Chieftain disputes

- 3.6.1** Some applicants will apply for asylum or make a human rights claim based on ill treatment amounting to persecution at the hands of rival ethnic groups or tribes on account of their ethnicity. Some applicants may apply for asylum or make a human rights claim based on ill-treatment amounting to persecution at the hands of family or senior community/tribal members due to them being unwilling to succeed to chieftain or high priest of their particular ethnic group or tribe.
- 3.6.2 *Treatment.*** There are numerous small-scale conflicts within ethnic groups, most of which are related to chieftaincy and land use issues. Efforts by NGOs to encourage reconciliation continue. There were several violent clashes between Kusasi and Mamprusi tribesmen in northern Ghana in 2008.¹ According to a Freedom House Report disputes over land use and chieftaincy sometimes lead to ethnically tinged violence. The Chieftaincy Act gives village and other traditional chiefs the power to mediate local matters and enforce customary tribal laws dealing with such matters as divorce, child custody, and property disputes. There were numerous small-scale conflicts within ethnic groups during the year, most of which related to chieftaincy and land use issues. Efforts by NGOs to encourage reconciliation continue.²
- 3.6.3** According to the 2000 Population Census, Ghana has more than 80 ethnic groups, each of whom constitutes a minority. There are six main ones and they consist of Akan (45 per cent), Mole Dagbon (15 percent), Ewe (12 percent), Guan (4 percent) and Gurma (4 percent). The Freedom House reported despite Ghana being a multi-ethnic country, Ghana features almost no instances of discrimination based solely on ethnicity. The government has de-emphasized the relevance of ethnic differences. President Mills and some of his Ministers and close advisors are Fanti, but the Vice President and many Ministers are of other ethnic origins.
- 3.6.4** The BBC News reported on 25 May 2010, in an article called '*Ghanaians Flee Violence for Northern Togo*' that around 3,500 refugees have crossed into northern Togo from Ghana, of which are victims of ethnic conflict and land disputes in the northern part of Ghana. Temporary shelter has been set up in Tandjourare in Northern Togo.³ According to the Integrated Reform Information Network (IRIN), in a report of 28 May 2010, stated: The Ghanaian government will set up shelters for 1,000 returning refugees who fled to neighbouring Togo to escape violence in Bawku in Upper East region following land disputes.⁴
- 3.6.5** As in previous years, chieftaincy disputes resulted in deaths, injuries, and destruction of property. In February 2009 two people were killed in the Northern Region in a land dispute between rival clans. In a separate incident in the same region, one person died and 69 houses were burned in the same month in a dispute over ownership of a parcel of land. In July 2009, the Anloga chieftaincy dispute in the Volta Region became violent when a mob broke into the chief's residence and burned his property. In Bawku, in the Upper East Region, an ongoing chieftaincy and ethnic dispute led to violent outbreaks in 2009 causing an estimated 15 deaths. The military and police were deployed to the region and the municipality was placed under curfew following the outbreaks.⁵
- 3.6.6** Apart from the general tribal or chieftaincy issues and incidents of conflict mentioned above, there is no specific evidence that individuals who claim they are pursued by family, community or tribal leaders to become the next chieftain or high priest in fact encounter mistreatment.
- 3.6.7 *Actors of protection.*** Caseowners must refer to the Asylum Policy Instruction on considering the protection (asylum) claim and assessing credibility. To qualify for asylum, an individual not only needs to have a fear of persecution for a Convention reason, they

¹ COIS Report 2010 Sec 3.

² COIS Report 2010 section 18

³ COIS Report 2010 Sec 18

⁴ COIS Report 2010 Sec 18

⁵ USSD 2010 Ghana (Section B) Human Rights Report

must also be able to demonstrate that their fear of persecution is well founded and that they are unable, or unwilling because of their fear, to avail themselves of the protection of their home country. Caseowners should also take into account whether or not the applicant has sought the protection of the authorities or the organisation controlling all or a substantial part of the State, any outcome of doing so or the reason for not doing so. Protection is generally provided when the authorities (or other organisation controlling all or a substantial part of the State) take reasonable steps to prevent the persecution or suffering of serious harm by for example operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection

- 3.6.8** The Ghana Police Service (GPS) is divided into twelve administrative regions namely: Accra, Tema, Ashanti, Brong Ahafo, Eastern, Volta, Western, Central, Northern, Railways, Ports and Harbour, Upper East and Upper West Regions. The service has manpower strength of a little over twenty-three thousand 23,000 personnel, with a male to female ratio of about 7:3 and police civilian ratio of about 1:1200⁶ The Ghana Police Service (GPS) has over 23,000 personnel and has undergone major transformation over the years, focusing on forming strategic partnership with the public in the fight against crime. Community Policing is now being encouraged to involve local communities in identifying potential crime problems and together with the police map out strategies to check them. Although the police service have in the past come under criticism following incidents of brutality, corruption, and negligence, complaints of police abuse and misconduct lodged by the public are investigated through the 33-person Police Intelligence and Professional Standards Unit (PIPS).⁷ The Ghana Police website gives details of the Investigation Service. PIPS is set up to receive and investigate complaints from the public.⁸ Individuals with allegations of human rights violations, or grievances against government agencies or public officials can also seek redress through the Commission on Human Rights and Justice (CHRAJ).⁹ There is therefore no evidence that ethnic group/tribal members would not be able to seek and receive adequate protection from the state authorities were they to face ill-treatment at the hands of rival ethnic groups or tribes.
- 3.6.9 *Internal relocation.*** Caseowners must refer to the Asylum Policy Instructions on both internal relocation and gender issues in the asylum claim and apply the test set out in paragraph 339O of the Immigration Rules. It is important to note that internal relocation can be relevant in both cases of state and non-state agents of persecution, but in the main it is likely to be most relevant in the context of acts of persecution by localised non-state agents. If there is a place in the country of return where the person would not face a real risk of serious harm and they can reasonably be expected to stay there, then they will not be eligible for a grant of asylum or humanitarian protection. Both the general circumstances prevailing in that part of the country and the personal circumstances of the person concerned including any gender issues should be taken into account, but the fact that there may be technical obstacles to return, such as re-documentation problems, does not prevent internal relocation from being applied.
- 3.6.10** The Constitution provides for freedom of movement within the country and the Government generally respects this right in practice.¹⁰ 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 generally feasible.
- 3.6.11 *Conclusion.*** Certain communities, tribes and ethnic groups maintain a hierarchical culture in which the leading roles, such as the chieftain and/or high priest, are subject to a successionist process. There is, however, no reported evidence to the effect that mistreatment occurs. Sporadic inter-ethnic clashes are reported, but they are usually short-lived or quickly subdued by the state authorities. Applicants citing conflict between or within any rival groups are generally able to seek and receive adequate state protection and are

⁶ COIS Report 2010 Section 8

⁷ COIS Report 2010

⁸ COIS Report 2010

⁹ COIS Report 2010 Section 8.

¹⁰ COIS Report 2010 Section 5.

also generally able to internally relocate to another part of the country to escape such conflict. The availability of adequate state protection and a viable internal relocation alternative means that those within a particular community who are unwilling to succeed to one of these roles are unlikely to encounter mistreatment in breach of the 1951 Convention or the ECHR. A grant of asylum or Humanitarian Protection is therefore not likely to be appropriate and such cases should be certified as clearly unfounded (see paragraph 1.4) unless in a particular case there are specific reasons not to do so.

3.7 Christians or converts to Christianity

- 3.7.1** Some applicants may make an asylum and/or human rights claim 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 population is Christian, 16% is Muslim, and 15% adheres to traditional indigenous religious beliefs or other religious groups. The Muslim community has disputed these figures, asserting that the Muslim population is closer to 30%.¹¹
- 3.7.3** The Constitution provides for freedom of religion, and other laws and policies contributed to the generally free practice of religion. The law at all levels protects this right in full against abuse, either by governmental or private actors.
- 3.7.4** The Freedom House report, *Freedom in the World 2010 Ghana*, published in May 2010, noted, "Religious freedom is protected by law and generally respected. While relations between Ghana's Christian majority and Muslim minority are generally peaceful, Muslims often report feeling politically and socially excluded, and there are few Muslims in the top levels of government. Both domestic and international human rights observers have reported a high incidence of exorcism-related physical abuse at Pentecostal prayer camps
- 3.7.5** The Government take steps to promote interfaith understanding. At government meetings and receptions Christian and Muslim prayers are used; occasionally there are indigenous invocations. The President and Vice-President have made public remarks about the importance of peaceful religious coexistence. President Mills received delegations of Christian and Muslim leaders soon after assuming office in January 2009 and called for the creation of national days of prayer for both Christians and Muslims.
- 3.7.6 *Actors of protection.*** Caseowners must refer to the Asylum Policy Instruction on considering the protection (asylum) claim and assessing credibility. To qualify for asylum, an individual not only needs to have a fear of persecution for a Convention reason, they must also be able to demonstrate that their fear of persecution is well founded and that they are unable, or unwilling because of their fear, to avail themselves of the protection of their home country. Caseowners should also take into account whether or not the applicant has sought the protection of the authorities or the organisation controlling all or a substantial part of the State, any outcome of doing so or the reason for not doing so. Protection is generally provided when the authorities (or other organisation controlling all or a substantial part of the State) take reasonable steps to prevent the persecution or suffering of serious harm by for example operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection.
- 3.7.7** The Ghana Police Service (GPS) has over 23,000 personnel and has undergone major transformation over the years. The focus is now on forming strategic partnership with the public in the fight against crime. Community Policing is now being encouraged to involve local communities in identifying potential crime problems and together with the police map out strategies to check them. Though the police service have in the past come under criticism following incidents of brutality, corruption, and negligence in 2007, complaints of police abuse and misconduct lodged by the public are investigated through the PIPS. Individuals with allegations of human rights violations, or grievances against government

¹¹ COIS Report 2010 Section 17

agencies or public officials can also seek redress through the Commission on Human Rights and Justice (CHRAJ).¹² There is no evidence that Christians or converts to Christianity would not be able to seek and receive adequate protection from the state authorities were they to face societal discrimination or ill-treatment at the hands of Muslims or members of other religious groups.

- 3.7.8 Internal relocation.** Caseowners must refer to the Asylum Policy Instructions on both internal relocation and gender issues in the asylum claim and apply the test set out in paragraph 339O of the Immigration Rules. It is important to note that internal relocation can be relevant in both cases of state and non-state agents of persecution, but in the main it is likely to be most relevant in the context of acts of persecution by localised non-state agents. If there is a place in the country of return where the person would not face a real risk of serious harm and they can reasonably be expected to stay there, then they will not be eligible for a grant of asylum or humanitarian protection. Both the general circumstances prevailing in that part of the country and the personal circumstances of the person concerned including any gender issues should be taken into account, but the fact that there may be technical obstacles to return, such as re-documentation problems, does not prevent internal relocation from being applied.
- 3.7.9** The Constitution provides for freedom of movement within the country and the Government generally respects this right in practice.¹³ Safe relocation for Christians and converts to Christianity to a different area of the country to escape this threat is generally feasible.
- 3.7.10 Conclusion.** Case owners must assess the credibility of the applicant and the evidence they submit in accordance with the relevant Asylum Instructions (see para 3.2 – 3.5 above).
- 3.7.11** Religious differences within the country are generally respected. The availability of adequate state protection and a viable internal relocation option for Christians and converts to Christianity also mean that claims will not in general engage the UK's obligations under the 1951 Convention. The grant of asylum will therefore not be appropriate and any such claims are likely to be clearly unfounded.

3.8 Trokosi system and idol worship

- 3.8.1** Some applicants may make an asylum and/or human rights claim based on them having been victims of, or otherwise involved in, the trokosi system (a practice involving a period of enforced domestic servitude lasting up to three years). More generally, female applicants may also allege that tribal leaders or fetish priests of their ethnic group will subject them to idol worship.
- 3.8.2 Treatment.** Trokosi, a practice indigenous to the southern Volta region, involves pledging family members, most commonly teenagers but sometimes children under the age of ten, to extended service at a shrine to atone for another family member's sins. Trokosis (the pledged family member) help with the upkeep of these shrines and pour libations during prayers. Trokosis sometimes live near shrines, often with extended family members, during their period of service, which lasts from a few months to three years.¹⁴
- 3.8.3** Government agencies, such as the Commission on Human Rights and Justice (CHRAJ), have at times actively campaigned against Trokosi, although local officials portray it as a traditional practice that is not abusive. Some NGOs maintain that Trokosis are subject to sexual exploitation and forced labour, while supporters of traditional African religions, such as the Afrikania Renaissance Mission, have said these NGOs misrepresent their beliefs and regard their campaigns against Trokosi as religious persecution.¹⁵ In 1998 The Government passed a law against ritual servitude criminalizing the practice of trokosi. International Needs Ghana (ING) and other non-governmental organizations have led

¹² COIS Report 2010 Section 8.

¹³ COIS Report 2010 Section 5.

¹⁴ COIS Report 2010 Section 17

¹⁵ COIS Report 2010 Section 17

efforts to liberate trokosi and put an end to the practice and have liberated 3,500 girls and 50 shrines have stopped accepting trokosi.¹⁶

- 3.8.4 *Actors of protection.*** Caseowners must refer to the Asylum Policy Instruction on considering the protection (asylum) claim and assessing credibility. To qualify for asylum, an individual not only needs to have a fear of persecution for a Convention reason, they must also be able to demonstrate that their fear of persecution is well founded and that they are unable, or unwilling because of their fear, to avail themselves of the protection of their home country. Caseowners should also take into account whether or not the applicant has sought the protection of the authorities or the organisation controlling all or a substantial part of the State, any outcome of doing so or the reason for not doing so. Protection is generally provided when the authorities (or other organisation controlling all or a substantial part of the State) take reasonable steps to prevent the persecution or suffering of serious harm by for example operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection.
- 3.8.5** The Ghana Police Service (GPS) has over 23,000 personnel and has undergone major transformation over the years. The focus is now on forming strategic partnership with the public in the fight against crime. Community Policing is now being encouraged to involve local communities in identifying potential crime problems and together with the police map out strategies to check them. Though the police service have in the past come under criticism following incidents of brutality, corruption, and negligence in 2007, complaints of police abuse and misconduct lodged by the public are investigated through the PIPS. Individuals with allegations of human rights violations, or grievances against government agencies or public officials can also seek redress through the Commission on Human Rights and Justice (CHRAJ).¹⁷ 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.
- 3.8.6 *Internal relocation.*** Caseowners must refer to the Asylum Policy Instructions on both internal relocation and gender issues in the asylum claim and apply the test set out in paragraph 339O of the Immigration Rules. It is important to note that internal relocation can be relevant in both cases of state and non-state agents of persecution, but in the main it is likely to be most relevant in the context of acts of persecution by localised non-state agents. If there is a place in the country of return where the person would not face a real risk of serious harm and they can reasonably be expected to stay there, then they will not be eligible for a grant of asylum or humanitarian protection. Both the general circumstances prevailing in that part of the country and the personal circumstances of the person concerned including any gender issues should be taken into account, but the fact that there may be technical obstacles to return, such as re-documentation problems, does not prevent internal relocation from being applied.
- 3.8.7** The Constitution provides for freedom of movement within the country and the Government generally respects this right in practice.¹⁸ The Ewes and other ethnic groups who prescribe to such practices 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.
- 3.8.8 *Conclusion.*** Case owners must assess the credibility of the applicant and the evidence they submit in accordance with the relevant Asylum Instructions (see para 3.2 – 3.5 above).
- 3.8.9** Those subjected to the trokosi system are in general able to seek and receive adequate state protection. Furthermore the availability of a safe internal relocation option to escape such practices means that such claims will not in general engage the UK's obligations under the 1951 Convention. The grant of asylum will not be appropriate and any such claims are likely to be clearly unfounded.

¹⁶ COIS Report 2010 Section 17

¹⁷ COIS Report 2010 Section 8

¹⁸ COIS Report 2010 Section 5.

3.9 Victims of witchcraft

- 3.9.1** Some applicants may make an asylum and/or human rights claim based on ill-treatment amounting to persecution due to them being accused of being a witch.
- 3.9.2 *Treatment.*** Belief in supernatural forces is deeply rooted in Ghanaian culture and still widely held, especially in rural areas and among the less educated. In a practice prevalent mainly in the Northern, Upper East, and Upper West regions of the country, rural women continued to be banished by traditional village authorities or their families for suspected witchcraft. Most accused witches were older women, often widows, who were identified by fellow villagers as the cause of difficulties, such as illness, crop failure, or financial misfortune. The banished women went to live in 'witch camps' villages in the north of the country populated by suspected witches. Government officials and the regional office of the Commission on Human Rights and Justice (CHRAJ) have claimed that the number of women in the witch camps in the northern region has decreased slowly in recent years. The women [those believed to be witches] did not face formal legal sanction if they returned home; however, most feared that they would be beaten or killed if they returned to their village or attempted to pursue legal action to challenge the charges against them.¹⁹
- 3.9.3 *Actors of protection.*** Caseowners must refer to the Asylum Policy Instruction on considering the protection (asylum) claim and assessing credibility. To qualify for asylum, an individual not only needs to have a fear of persecution for a Convention reason, they must also be able to demonstrate that their fear of persecution is well founded and that they are unable, or unwilling because of their fear, to avail themselves of the protection of their home country. Caseowners should also take into account whether or not the applicant has sought the protection of the authorities or the organisation controlling all or a substantial part of the State, any outcome of doing so or the reason for not doing so. Protection is generally provided when the authorities (or other organisation controlling all or a substantial part of the State) take reasonable steps to prevent the persecution or suffering of serious harm by for example operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection.
- 3.9.4** The Ghana Police Service (GPS) has over 23,000 personnel and has undergone major transformation over the years. The focus is now on forming strategic partnership with the public in the fight against crime. Community Policing is now being encouraged to involve local communities in identifying potential crime problems and together with the police map out strategies to check them. Though the police service have in the past come under criticism following incidents of brutality, corruption, and negligence in 2007, complaints of police abuse and misconduct lodged by the public are investigated through the PIPS. Individuals with allegations of human rights violations, or grievances against government agencies or public officials can also seek redress through the Commission on Human Rights and Justice (CHRAJ)
- 3.9.5** Although a strong belief in witchcraft continues in many parts of Ghana, there is no evidence that witches are responsible for inflicting treatment amounting to persecution or which would breach Article 3, therefore the availability of adequate state protection is not relevant.
- 3.9.6 *Internal relocation.*** Caseowners must refer to the Asylum Policy Instructions on both internal relocation and gender issues in the asylum claim and apply the test set out in paragraph 339O of the Immigration Rules. It is important to note that internal relocation can be relevant in both cases of state and non-state agents of persecution, but in the main it is likely to be most relevant in the context of acts of persecution by localised non-state agents. If there is a place in the country of return where the person would not face a real risk of serious harm and they can reasonably be expected to stay there, then they will not be eligible for a grant of asylum or humanitarian protection. Both the general circumstances prevailing in that part of the country and the personal circumstances of the person

¹⁹ COIS Report 2010 Section 21

concerned including any gender issues should be taken into account, but the fact that there may be technical obstacles to return, such as re-documentation problems, does not prevent internal relocation from being applied.

3.9.7 Although a strong belief in witchcraft continues in many parts of Ghana, there is no evidence that witches are responsible for inflicting treatment amounting to persecution or which would breach Article 3, therefore the availability of an internal relocation option is not relevant.

3.9.8 *Conclusion.* Case owners must assess the credibility of the applicant and the evidence they submit in accordance with the relevant Asylum Instructions (see para 3.2 – 3.5 above). There remains a strong belief in witchcraft in some parts of the country but there is no evidence that witches are responsible for inflicting treatment that would engage the UK's obligations under the Refugee Convention or ECHR (or of suffering such treatment, bearing in mind an accusation of being a witch is a hostile & negative event for the person accused). Sufficiency of protection and internal relocation are not therefore relevant considerations. The grant of asylum will not be appropriate and any such claims are likely to be clearly unfounded (see paragraph 1.4).

3.10 Prison Conditions

3.10.1 Applicants 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 Ghana are so poor as to amount to torture or inhuman treatment or punishment.

3.10.2 The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of Humanitarian Protection. If imprisonment would be for a Refugee Convention reason or in cases where for a Convention reason a prison sentence is extended above the norm, the claim should be considered as a whole but it is not necessary for prison conditions to breach Article 3 in order to justify a grant of asylum.

3.10.3 *Consideration.* According to the U.S. Department of State, prison conditions in most cases were harsh and sometimes life threatening in 2010, despite government efforts to improve them. Much of the prison population was reportedly 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.²⁰

3.10.4 According to the 2008 Prisons Service Annual Report, 14,128 prisoners were held in prisons designed to hold approximately one-third of that number. Overcrowding contributed to a prevalence of communicable diseases, medical facilities were inadequate, and the prisons supplied only the most basic medicines. Prisoners relied on families or outside organisations for additional food, medicine, and other necessities. Shortages of food, bedding, and clothing for prisoners persisted.²¹ A report published in 2010 states that few steps have been taken to address the overcrowding issued beyond occasional blanket pardons; one of the last acts of the Kufuor government was to grant pardons to 500 inmates. The sentencing of juvenile offenders to long prison sentences is commonplace, and while judges often have the option of imposing noncustodial sentences, they rarely do so. Another reason for the overcrowding is the large number of pre-trial detainees, who often remain in remand for several years.²²

3.10.5 A project to build a maximum security prison in Ankafu which could conveniently accommodate 2,000 inmates is underway. The maximum security prison, which would be the first of its kind in the country, would surpass the Nsawam medium security prison that was built initially to accommodate 717 inmates but now has 2,913 prisoners in it.²³ The prison has not yet been opened and no completion date has been provided.

²⁰ USSD 2010 Ghana (Section C) Human Rights Report

²¹ USSD 2010 Ghana (Section C) Human Rights Report

²² Freedom House Report, April 2010

²³ Ghanadistricts.com - Awutu Effutu Senya- Prison to be ready in December, (dated 27 June 2010)

3.10.6 Conclusion. Prison conditions in Ghana are poor with overcrowding, unsanitary conditions and a lack of health and medical care throughout the prison system being particular problems. Conditions are at times life threatening and therefore there is the possibility that applicants who can show that they would face a real risk of imprisonment on return to Ghana may reach the Article 3 threshold. It is apparent that the authorities are willing to tackle the issue of the poor state of the prisons as the new prison is being built in Ankafu, however we cannot verify as yet what the impact of the new prison would be on the overall prison population. The individual factors of each case should be considered to determine whether detention will cause a particular individual in his or her 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. Where in an individual case treatment does reach the Article 3 threshold a grant of Humanitarian Protection will be appropriate.

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 Asylum Instructions on Discretionary Leave) Where the claim includes dependent family members consideration must also be given to the particular situation of those dependants in accordance with the Asylum Instructions on Article 8 ECHR.

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 related to the applicant, or dependent family members who are part of the claim, not covered by the categories below which warrant a grant of DL - see the Asylum Instructions on Discretionary Leave and the Asylum Instructions on Article 8 ECHR.

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 reception, care and support arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, care and support arrangements in place for minors with no family in Ghana.

4.3.2 Minors claiming in their own right without a family to return to, or where there are no adequate reception, care and support arrangements, should if they do not qualify for leave on any more favorable grounds be granted Discretionary Leave for a period as set out in the relevant Asylum Instructions.

4.4 Medical treatment

4.4.1 Applicants 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 The IOM report stated that Ghana has 1433 state owned hospitals and other medical institutions. In addition Ghana has 1,299 private and quasi-government facilities. The private and the NGO sectors including the Christian Health Association of Ghana provide over 40 percent of health care in Ghana, especially in the rural areas. In 2005, Ghana introduced the National Health Insurance Scheme (NHIS) to improve financial accessibility to healthcare. The NHIS is administered peripherally through District Wide Health Mutual Insurance Schemes (DWHIS). The Scheme is tax-based and covers most services offered at the district hospital level. Despite a number of constraints, it has registered over 50% of

Ghana's population. In 2008 free maternal care was included in the range of services covered by the NHIS.²⁴

- 4.4.3** In spite of the medical infrastructure and personnel that has been established in Ghana, access to health services in geographical and financial terms continues to be a major hurdle for a large part of the population. Most of the medical facilities are located in the urban centres and district capitals. Many of the medical facilities are located in the urban centres and district capitals. Many health workers refuse appointments to the few facilities that are in the rural areas. Another factor contributing to the inadequate and unbalanced access to health care is the exodus of doctors and nurses to developed countries.²⁵
- 4.4.4** There are an estimated 260,000 people living with HIV/AIDS in Ghana and the HIV prevalence rate for adults aged 15 to 49 is estimated at 1.9%. The second Annual Programme of Work of the National Strategic Framework II (2006-2010) was implemented in 2007. Women and young people were among the priorities for the year. The number of sites that provided Anti Retroviral Treatment (ART) increased from 46 in 2006 to 91 in 2007.²⁶
- 4.4.5** Mental health is a part of the primary health care system and treatment of severe mental disorders is available at the primary level. Trained community psychiatric nurses have been posted to regions and most districts, and regular training of primary care professionals is taking place. There are community care facilities for patients with mental disorders, but there are a limited number of psychiatric beds available in hospitals. Therapeutic drugs are generally available.²⁷
- 4.4.6** Where a case owner considers that the circumstances of the individual applicant and the situation in Ghana 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** There is no policy which precludes the enforced return to Ghana of failed asylum seekers who have no legal basis of stay in the United Kingdom.
- 5.2** 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. Where the claim includes dependent family members their situation on return should however be considered in line with the Immigration Rules, in particular paragraph 395C requires the consideration of all relevant factors known to the Secretary of State, and with regard to family members refers also to the factors listed in paragraphs 365-368 of the Immigration Rules.
- 5.3** Ghanaian nationals may return voluntarily to any region of Ghana at any time in one of three ways: (a) leaving the UK by themselves, where the applicant makes their own arrangements to leave the UK, (b) leaving the UK through the voluntary departure procedure, arranged through the UK Immigration service, or (c) leaving the UK under one of the Assisted Voluntary Return (AVR) schemes.
- 5.4** Until 31 March 2011 the AVR scheme is implemented on behalf of the UK Border Agency by the International Organization for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining any travel documents and booking flights, as well as organising reintegration assistance in Ghana. The programme was established in 1999, 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

²⁴ Ghanadistricts.com Awutu Effutu Senya- Prison to be ready in December(dated 27 June 2010)

²⁵ COIS Report Section 24

²⁶ COIS Report Section 24

²⁷ WHO Mental Health Atlas 2005: Ghana

themselves of this opportunity for assisted return to Ghana should be put in contact with the IOM offices in London 0800 783 2332 or www.iomlondon.org.

- 5.5** From 1 April 2011, Refugee Action replaces IOM as the service provider for the delivery of AVR programmes. The AVR Programmes remain the same. Details can be found on Refugee Action's web site at www.refugee-action.org/ourwork/assistedvoluntaryreturn.aspx

6. List of source documents

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March 2011