



Home Office

# **Country Policy and Information Note**

## **Ghana: Actors of Protection**

**Version 1.0**

**September 2020**

# Preface

## Purpose

This note provides country of origin information (COI) and analysis of COI for use by Home Office decision makers handling particular types of protection and human rights claims (as set out in the [Introduction](#) section). It is not intended to be an exhaustive survey of a particular subject or theme.

It is split into two main sections: (1) analysis and assessment of COI and other evidence; and (2) COI. These are explained in more detail below.

## Assessment

This section analyses the evidence relevant to this note – i.e. the COI section; refugee/human rights laws and policies; and applicable caselaw – by describing this and its inter-relationships, and provides an assessment of, in general, whether one or more of the following applies:

- A person is reasonably likely to face a real risk of persecution or serious harm
- The general humanitarian situation is so severe as to breach Article 15(b) of European Council Directive 2004/83/EC (the Qualification Directive) / Article 3 of the European Convention on Human Rights as transposed in paragraph 339C and 339CA(iii) of the Immigration Rules
- The security situation presents a real risk to a civilian's life or person such that it would breach Article 15(c) of the Qualification Directive as transposed in paragraph 339C and 339CA(iv) of the Immigration Rules
- A person is able to obtain protection from the state (or quasi state bodies)
- A person is reasonably able to relocate within a country or territory
- A claim is likely to justify granting asylum, humanitarian protection or other form of leave, and
- If a claim is refused, it is likely or unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case's specific facts.

## Country of origin information

The country information in this note has been carefully selected in accordance with the general principles of COI research as set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation's (ACCORD), [Researching Country Origin Information – Training Manual, 2013](#). Namely, taking into account the COI's relevance, reliability, accuracy, balance, currency, transparency and traceability.

The structure and content of the country information section follows a [terms of reference](#) which sets out the general and specific topics relevant to this note.

All information included in the note was published or made publicly available on or before the 'cut-off' date(s) in the country information section. Any event taking place or report/article published after these date(s) is not included.

All information is publicly accessible or can be made publicly available, and is from generally reliable sources. Sources and the information they provide are carefully considered before inclusion. Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information, and
- whether the COI is consistent with and/or corroborated by other sources.

Multiple sourcing is used to ensure that the information is accurate, balanced and corroborated, so that a comprehensive and up-to-date picture at the time of publication is provided of the issues relevant to this note.

Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source, however, is not an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a brief footnote; full details of all sources cited and consulted in compiling the note are listed alphabetically in the [bibliography](#).

## Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email the [Country Policy and Information Team](#).

## Independent Advisory Group on Country Information

The [Independent Advisory Group on Country Information](#) (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

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Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the [gov.uk website](#).

# Contents

|                                                           |           |
|-----------------------------------------------------------|-----------|
| <b>Assessment .....</b>                                   | <b>5</b>  |
| 1. Introduction .....                                     | 5         |
| 1.1 Scope of this note.....                               | 5         |
| 2. Consideration of issues .....                          | 5         |
| 2.1 Credibility.....                                      | 5         |
| 2.2 Exclusion .....                                       | 5         |
| 2.3 Protection .....                                      | 5         |
| <b>Country information.....</b>                           | <b>8</b>  |
| 3. Security apparatus.....                                | 8         |
| 3.1 Overview .....                                        | 8         |
| 3.2 Police forces.....                                    | 8         |
| 3.3 Intelligence agencies.....                            | 10        |
| 3.4 Armed forces .....                                    | 11        |
| 4. Legal rights .....                                     | 11        |
| 4.1 Penal code .....                                      | 11        |
| 4.2 Arrest and detention .....                            | 11        |
| 5. Capability of police.....                              | 13        |
| 5.1 Corruption and effectiveness.....                     | 13        |
| 5.2 Police response to gender based violence .....        | 15        |
| 5.3 Human rights abuses .....                             | 18        |
| 6. Rule of law and the judiciary .....                    | 22        |
| 6.1 Structure.....                                        | 22        |
| 6.2 Trial procedures .....                                | 22        |
| 6.3 Independence and effectiveness of the judiciary ..... | 24        |
| 6.4 Avenues of redress .....                              | 27        |
| <b>Terms of Reference.....</b>                            | <b>28</b> |
| <b>Bibliography .....</b>                                 | <b>29</b> |
| Sources cited .....                                       | 29        |
| Sources consulted but not cited.....                      | 31        |
| <b>Version control .....</b>                              | <b>32</b> |

# Assessment

Updated: 21 September 2020

## 1. Introduction

### 1.1 Scope of this note

- 1.1.1 Whether in general, those with a well-founded fear of persecution or serious harm from non-state actors can obtain effective state protection.
- 1.1.2 Where a claim is refused for male applicants, it must be considered for certification under section 94(3) of the Nationality, Immigration and Asylum Act 2002 as Ghana is listed as a designated state in respect of men only.
- 1.1.3 For guidance on certification see [Certification of protection and human rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

[Back to Contents](#)

## 2. Consideration of issues

### 2.1 Credibility

- 2.1.1 For information on assessing credibility, see the instruction on [Assessing Credibility and Refugee Status](#).
- 2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).
- 2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

[Back to Contents](#)

### 2.2 Exclusion

- 2.2.1 Decision makers must consider whether there are serious reasons for considering whether one (or more) of the exclusion clauses is applicable. Each case must be considered on its individual facts and merits.
- 2.2.2 If the person is excluded from the Refugee Convention, they will also be excluded from a grant of humanitarian protection.
- 2.2.3 For further guidance on the exclusion clauses and restricted leave, see the Asylum Instructions on [Exclusion under Articles 1F and 33\(2\) of the Refugee Convention](#), [Humanitarian Protection](#) and [Restricted Leave](#).

[Back to Contents](#)

### 2.3 Protection

- 2.3.1 Where the person has a well-founded fear of persecution from non-state actors, including 'rogue' state actors, decision makers must assess whether the state can provide effective protection.
- 2.3.2 Ghana has a framework of laws to penalise various forms of criminal activity and a functioning criminal justice system composed of the police, military,

intelligence services – and the judiciary, comprised of the Supreme Court sitting above various subordinate courts. The legal system is a mix of English common law and customary law. Civilian authorities generally maintain effective control over the security forces and, although limited and affected by a lack of resources, there are mechanisms in place to investigate and punish abuse and corruption (see [Security apparatus](#), [Penal code](#) and [Rule of law and the judiciary](#)).

- 2.3.3 The Ghana Police Service (GPS), the main agency responsible for the enforcement of the law, is under the Ministry of Interior and is a single unit organised on a national basis. The GPS is made up of 11 regions under the command of the Inspector General of Police (IGP). The Accra region is the largest and has a workforce of over 3,700. There is no information in the sources consulted with regard to the number or ratio of police officers to citizens (see [Security apparatus](#)).
- 2.3.4 Corruption and bribery are widespread, according to the Ghana Overseas Advisory Council, the police have a poor record of investigating and solving serious crimes, particularly local police in remote rural areas. Police seldom intervened in cases of domestic violence, returning victims to their families in cases deemed less severe, or were unwilling to prosecute and where the police do arrest suspects, few cases result in conviction. While there is no fully independent, specific police oversight body, the IGP and Police Professional Standards Bureau (PPSB) investigate claims of excessive force by security force members and the external police council has the power to recommend disciplinary action for police officers. Disciplinary actions are forwarded to the Inspector General of police via PPSB. The PPSB also investigates human rights abuses and police misconduct, however, while it is reported that some complaints progress to an investigation stage the overall effectiveness of PPSB is unclear (see [Corruption and effectiveness](#), [Police response to gender based violence](#) and [Oversight bodies and mechanisms](#)).
- 2.3.5 Oversight of human rights violations by public officials generally, which includes the GPS, is provided by the Commission on Human Rights and Administrative Justice. Additionally, the Office of the Special Prosecutor investigates and prosecutes corruption-related crimes involving public officers. In May 2019 the Right to Information law increasing accountability was adopted. However according to the UN General Assembly Summary of Stakeholders the adequacy or effectiveness of the measurements taken by the Government to combat violations by security forces was unclear (see [Corruption and effectiveness](#) and [Oversight bodies and mechanisms](#)).
- 2.3.6 Despite the steps taken to address corruption and abuse, sources indicate that the GPS continue to be responsible for a number of human rights violations such as arbitrary or unlawful killings and arbitrary arrest and detention. However, there is no information in the sources consulted with regard to the number of incidents. There is limited information indicating that police who commit human rights violations are punished or penalised for their actions despite the various oversight mechanisms. Prolonged and arbitrary pretrial detention is common while prison conditions generally are poor (see [Arrest and detention](#) and [Human rights abuses](#) as well as the

Country Policy and Information Note on [Ghana: Background information and internal relocation](#).

- 2.3.7 Ghana has established a functioning judicial system underpinned by a criminal procedure code, which operates largely independently of government influence. Due process and defendants' rights are mostly upheld. However, there are reported cases that individuals have been held without charge for longer than the 48 hours allowed, and in some cases are detained for indefinite periods. Moreover, many people were unable to afford lawyers and the UN Special Rapporteur considered the criminal justice system to be under-resourced and the legal process was in practice only accessible to the wealthy. A judicial complaints' unit exists within the Ministry of Justice, however bribery and corruption continue to be a problem (see [Trial Procedures](#), [Independence and effectiveness of the judiciary](#), [Legal aid, lawyers and other assistance](#) and [Avenues of redress](#)).
- 2.3.8 The state has taken reasonable steps to establish and operate an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm and to which persons have access. This includes enacting criminal law and judicial procedural codes, and operating functioning law enforcement agencies and judiciary
- 2.3.9 Despite some weaknesses in the effectiveness of and barriers to accessing the criminal justice system, in general the state is willing and able to provide effective protection. Decision makers must consider each case on its facts, taking into account the person's background and profile, and whether they have previously sought protection and the outcome of this, or a person's reasons for not seeking protection – noting that a person's reluctance to seek protection does not necessarily mean that effective protection is not available. The onus is on the person to demonstrate why the state would not be willing and able to provide effective protection.
- 2.3.10 For an additional assessment of and information about particular groups see country policy and information note on [Ghana: Sexual orientation and gender identity / expression](#).
- 2.3.11 For further guidance on assessing the availability of state protection, see the instruction on [Assessing Credibility and Refugee Status](#).

[Back to Contents](#)

# Country information

Section 3 updated: 10 August 2020

## 3. Security apparatus

### 3.1 Overview

- 3.1.1 The US State Department (USSD) human rights report for 2019, published 11 March 2020, noted:

'The police, under the Ministry of the Interior, are responsible for maintaining law and order, but the military continued to participate in law enforcement activities in a support role, such as by protecting critical infrastructure. A separate entity, the Bureau of National Investigations, handles cases considered critical to state security and answers directly to the Ministry of National Security. Civilian authorities generally maintained effective control over the security forces.'<sup>1</sup>

[Back to Contents](#)

### 3.2 Police forces

- 3.2.1 The University of Pretoria Centre for Human Rights (UPCHR) Law on Use of Police Force Worldwide noted that: 'Legislation governing police use of force is contained in a series of longstanding laws and regulations, in particular the 1960 Criminal Procedure Code, the 1960 Criminal Code, and the 2012 Criminal Offences Act. Ghana also has separate regulations for police use of force: Police Force Regulations 1922 (No. 7).'

- 3.2.2 The Ghana Police Service (GPS) website provided a breakdown of information/statistics about regions, divisions within regions, police stations and personnel. The website stated:

'The Police Service is a single cohesive unit, organized on a national basis with a unified command under the leadership of the Inspector General of Police [IGP], who, subject to any direction/directives from the Police Council, is responsible for exercising general day-to-day supervision and control over the Administration and Operation of the Police Service.'

- 3.2.3 The Ministry of Interior gives key functions of the police service:

- 'Prevention and detection of crime,
- 'Apprehension and prosecution of offenders,
- 'Maintenance of law and order,
- 'Protection of life and property.'

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<sup>1</sup> USSD, '2019 Human Rights Practices Report, Ghana' (executive summary), 11 March 2020.

<sup>2</sup> UPCHR, 'The Law on Police Use of Force Worldwide, Ghana', updated June 2020.

<sup>3</sup> Ghana Police Service GPS, 'About GPS' undated.

<sup>4</sup> Republic of Ghana Ministry of the Interior, 'Ghana Police Service', undated.

3.2.4 The Ministry of Interior website sets out the Police service mandate as: 'To protect and preserve internal security of the country through law enforcement.' Its mission is: 'The mission of the Police Service is to ensure crime prevention and detection, apprehension and prosecution of offenders, consistent with the expectations of Ghanaians for safe, secure and peaceful communities.'<sup>5</sup>

3.2.5 The GPS is divided into police regions, as of August 2020 the regions listed on their website are<sup>6</sup>:

- 'Accra region
- 'Ashanti region
- 'Brong Ahafo
- 'Central region
- 'Eastern region
- 'Northern region
- 'Tema region
- 'Upper East region
- 'Upper West region
- 'Volta region
- 'Western north
- 'Western region
- Oti region'<sup>7</sup>

3.2.6 The largest is the Accra region which has a total manpower of 3,773 (2,644 men and approximately 1,129 women)<sup>8</sup>.

3.2.7 The GPS website provides details of HQ information and the various department within the GPS. These are made up of:

- ['Criminal Investigation Department \[CID\]](#)
- ['Motor Traffic and Transport Directorate \[MTTD\]](#)
- ['Domestic Violence and Victim Support Unit \[DOVVSU\]](#)
- ['The Police College](#)
- ['Other Training Institutions](#)
- ['Works & Housing Department](#)
- ['Public Relations Department](#)
- ['Medical – Hospital](#)

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<sup>5</sup> Republic of Ghana Ministry of the Interior, '[Ghana Police Service](#)', undated

<sup>6</sup> GPS, '[Accra Region](#)' undated.

<sup>7</sup> GPS, '[Ashanti](#)' undated.

<sup>8</sup> GPS, '[Accra Region](#)' undated

- [‘Marine Ports & Railways’](#)
- [‘Community Policing’](#).<sup>9</sup>

3.2.8 The Criminal Investigation Department (CID) is made up of several units and its officers, who are employed as specialists in various aspects of crime detection, work in plain clothes<sup>10</sup>.

3.2.9 For organograms of the police, see the [Ghana Police Service](#) website<sup>11</sup>.

[Back to Contents](#)

### 3.3 Intelligence agencies

3.3.1 Ghana Legal set out the Functions of the Intelligence Agencies laid down in 1996 legislation

(a) ‘collect, analyses retain and disseminate as appropriate information and intelligence respecting activities that may constitute threats to the security of the State and the government of Ghana;

(b) ‘safeguard the economic well-being of the State against threats posed by the acts or omissions of persons or organisations both inside and outside the country;

(c) ‘protect the State against threats of espionage, sabotage, terrorism, hijacking, piracy, drug trafficking and similar offences;

(d) ‘protect the State against the activities of persons, both nationals and non-nationals, intended to overthrow the government of Ghana or undermine the constitutional order through illegal political, military, industrial or other means or through any other unconstitutional method; and

(e) ‘perform such other functions as may be directed by the President or the Council.’<sup>12</sup>

3.3.2 The University of Glasgow’s website provides information on intelligence and security practices in African countries, it stated:

‘Ghana operates an elaborate intelligence system with both internal and external capabilities. At the apex of the intelligence machinery is the National Security Council (NSC), headed by the President and composed of the Vice President and the ministers with portfolios covering Defence, Interior, Finance, and Foreign Affairs.

‘The Bureau of National Investigations (BNI), Ghana’s largest intelligence agency, is focused on domestic and counterintelligence, and can legally interrogate and indefinitely detain those deemed a threat to the security of the Ghanaian state. The BNI is a powerful institution, and often exercises overriding authority over Ghana’s other security bodies.’<sup>13</sup>

3.3.3 The Ghana Broadcasting Corporation (GBC) stated:

<sup>9</sup> GPS, [‘Marine Ports & Railways’](#) undated..

<sup>10</sup> GPS, [‘Criminal Investigation Department-CID’](#), undated.

<sup>11</sup> GPS, [‘Our Organogram’](#), undated..

<sup>12</sup> Ghana Legal, [‘Functions of The Intelligence Agencies’](#), undated.

<sup>13</sup> University of Glasgow, [‘Network on Intelligence and Security Structures, Ghana’](#), undated.

'The Bureau of National Investigations BNI, was previously known as the "Special Branch" '...It is composed of civilian personnel whose role is to establish close surveillance.

'Among the duties of the Bureau of National Investigations [BNI are dealing with organised crime and financial crime, and providing intelligence to counter threats to Ghana's national security.

'The BNI has power to interrogate and detain people whom they suspect of subversion.

'The BNI has undisclosed offices in all the [...] regions of Ghana.' <sup>14</sup>

- 3.3.4 Amnesty International in Human Rights in Africa: Review of 2019 stated: 'In June, the Bureau of National Investigations (BNI) arrested, detained, and allegedly tortured two journalists employed by the online news portal ModernGhana. The BNI claimed that the journalists had committed cybercrimes. Their arrests came after the publication of a ModernGhana article critical of Ghana's National Security Minister.'<sup>15</sup>

- 3.3.5 See also [National Communications Authority](#)

[Back to Contents](#)

## 3.4 Armed forces

- 3.4.1 Ghana's military comprises an army, a navy, and an air force. The army is the largest branch of the armed forces. Ghanaian troops have participated in several missions as United Nations Peacekeeping Forces<sup>16</sup>. The Ghana Armed Forces consists of approximately 13-15,500 personnel (9-11,500 Army; 2,000 Navy; 2,000 Air Force) (2019 est.)<sup>17</sup>.
- 3.4.2 The DefenceWeb website provided some basic information on [Ghana armed forces](#). The report from 2013 shows that the number of personnel in the Armed Forces has not changed<sup>18</sup>.

[Back to Contents](#)

Section 4 updated: 10 August 2020

## 4. Legal rights

### 4.1 Penal code

- 4.1.1 Ghana has established a code of criminal law through the [1960 Criminal Code \(Act 29\)](#) and the [2012 Criminal Offences Amendment Act](#).

[Back to Contents](#)

### 4.2 Arrest and detention

- 4.2.1 The UN Special Rapporteur, Philip Alston, on extreme poverty and human rights, in report of his mission to Ghana between 9 and 18 April 2018 (UN SR on extreme poverty and human rights report 2018) noted:

<sup>14</sup> GBC, 'BNI presents proposal to Parliament', 16 February 2017, [url](#).

<sup>15</sup> AI, '[Ghana 2019](#)', 8 April 2020.

<sup>16</sup> Encyclopædia Britannica, '[Ghana: Government and Society](#)', 1 April 2020.

<sup>17</sup> CIA Factbook, '[Ghana: Military and security](#)', last updated 17 June 2020.

<sup>18</sup> Defence Web, '[Ghana Armed Forces](#)', 2 July 2013.

'The incidence of excessively prolonged and arbitrary pretrial detention has been widely documented and criticized by human rights bodies and organizations at the national and international levels. Despite the existence of a number of constitutional and legal safeguards designed to prevent arbitrary pretrial detention, they appear to be routinely ignored and violated by the law enforcement and judicial authorities. There are reported cases of remand prisoners who have been detained for over 10 years [...] and in some cases, for longer than the maximum sentence that can be imposed for the crimes of which they are accused.' <sup>19</sup>

- 4.2.2 The Commonwealth Human Rights Initiative is an international organisation who describe themselves on their 'about us' page as 'an independent, non-profit, non-partisan, international non-governmental organisation working in the area of human rights'<sup>20</sup>, stated on their webpage:

'Access to justice in Ghana is enshrined in various provisions of the 1992 Constitution. Article 12 demands from all absolute respect to uphold the fundamental human rights and freedoms as enshrined in the supreme law of the land.

'The personal liberty of the individual is protected in Article 14(1) of the Constitution. "Every person shall be entitled to his personal liberty and no person shall be deprived of his personal liberty except in accordance with the procedure permitted by law."<sup>21</sup>

- 4.2.3 The USSD human rights report for 2019 stated:

'The constitution and law provide for protection against arbitrary arrest and detention, but the government frequently disregarded these protections. The law also provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, but lack of legal representation for detainees inhibited fulfillment of this right.

'...The law requires detainees be brought before a court within 48 hours of arrest in the absence of a judicial warrant, but authorities frequently detained individuals without charge or a valid arrest warrant for periods longer than 48 hours. Officials detained some prisoners for indefinite periods by renewing warrants or simply allowing them to lapse while an investigation took place. The constitution grants a detained individual the right to be informed immediately, in a language the person understands, of the reasons for detention and of his or her right to a lawyer...While the constitution grants the right to legal aid, the government often does not provide it... The law requires that any detainee not tried within a "reasonable time," as determined by the court, must be released either unconditionally or subject to conditions necessary to ensure the person's appearance at a later court date. The definition of "reasonable time," however, has never been legally determined or challenged in the courts. As a result, officials rarely observed this provision.

'Lengthy pretrial detention remained a serious problem. Ghana Prisons Service statistics available in September 2018 indicated 1,944 prisoners, just

<sup>19</sup> UNHRC, '[UNSR report](#)' (para 48), 10 October 2018.

<sup>20</sup> Commonwealth Human Rights Initiative CHRI, '[CHRI](#)' undated.

<sup>21</sup> CHRI, '[Access to Justice in Ghana...Police Perspective](#)', undated.

under 13 percent of all prisoners, were in pretrial status. The government kept prisoners in extended pretrial detention due to police failing to investigate or follow up on cases, slow trial proceedings marked by frequent adjournments, detainees' inability to meet bail conditions that were often set extremely high even for minor offenses, and inadequate legal representation for criminal defendants. The length of pretrial detention exceeded the maximum sentence for the alleged crime in numerous instances. Inadequate recordkeeping contributed to prisoners being held in egregiously excessive pretrial detention, some for up to 10 years.' <sup>22</sup>

- 4.2.4 The Ghanaian Times reported on 30 April 2020 that at least 1,326 persons were arrested by the police nationwide in connection with Coronavirus (COVID-19) related offences in breach of the Restriction of Imposition Law, such as unlawful public gathering, not abiding by social distancing laws and illegal entry through country borders. The Director of the Police Public Affairs, Superintendent of Police (Supt) Sheila Abayie-Buckman disclosed that of those arrested 306 were under investigations, 624 granted bail, 221 in court and 175 convicted<sup>23</sup>.

[Back to Contents](#)

Section 5 updated: 21 September 2020

## 5. Capability of police

### 5.1 Corruption and effectiveness

- 5.1.1 The UN SR on extreme poverty and human rights report 2018 noted 'Petty corruption, a form of graft that has particularly negative implications for the poor, is also prevalent in Ghana. Opinion polls indicate that the police are seen as the most corrupt group, with 92 per cent of citizens opining that at least some police officials are corrupt and 59 per cent saying that most or "all are corrupt". Other studies have highlighted the role of bribery and corruption in the perversion of justice.' <sup>24</sup>
- 5.1.2 Freedom House in Freedom in the World 2019, Ghana stated: '..., police have been known to accept bribes, make arbitrary arrests, and hold people without charge for longer than the legally permitted limit of 48 hours.' <sup>25</sup>
- 5.1.3 Results published in December 2019 of an Afrobarometer survey of 2,400 adults noted that:
- 'The police is the institution that the largest number of citizens report bribing to access services...
  - 'Perceived corruption among the police has declined modestly compared to 2017...
  - 'More than half (53%) of Ghanaians say the level of corruption in the country has risen in the past year, a 17-percentage-point increase compared to 2017...

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<sup>22</sup> USSD, '[2019 Human Rights Practices Report, Ghana](#)' (section 1d), 11 March 2020.

<sup>23</sup> Ghanaian Times, '[Covid-19 offences: Police arrest 1326 nationwide...](#)', 30 April 2020.

<sup>24</sup> UNHRC, '[UNSR report](#)' (para 73), 10 October 2018.

<sup>25</sup> FH, '[2019 freedom in the World Report, Ghana](#)' (Section F2), February 2019.

- ‘Compared to 2017, there has been a 27-percentage-point decline in the approval rating of government’s performance in fighting corruption...
  - ‘Among key public officials, the police, judges and magistrates, Members of Parliament, civil servants, and tax officials are most widely perceived as corrupt...’<sup>26</sup>
- 5.1.4 The report also detailed with regards to bribes paid to access public services, that the most common reason was ‘to avoid problem with the police’ (42%), followed by ‘for police assistance’ (39%), then ‘for identity documents’ (28%), ‘for medical care’ (17%) and ‘for public school services’ (15%).<sup>27</sup>
- 5.1.5 The USSD human rights report for 2019 stated ‘Police brutality, corruption, negligence, and impunity were problems. There were delays in prosecuting suspects, reports of police collaboration with criminals, and a widespread public perception of police ineptitude. Police often failed to respond to reports of abuses and, in many instances, did not act unless complainants paid for police transportation and other operating expenses.’<sup>28</sup>
- 5.1.6 The same report stated:
- ‘There were credible reports police extorted money by acting as private debt collectors, setting up illegal checkpoints, and arresting citizens in exchange for bribes from disgruntled business associates of those detained. A study by the Ghana Integrity Initiative, conducted in 2016 and released in 2017, indicated that 61 percent of respondents had paid a bribe to police.
- ‘In 2017 the government established the OSP [Office of the Special Prosecutor] to investigate and prosecute corruption-related crimes. More than one year after being sworn into office the special prosecutor initiated some investigations but was criticized for lack of action. In the yearly budget the government allocated 180 million cedis (\$34.6 million) to the OSP, but only disbursed half. Lack of office space remained a serious constraint on staffing the OSP.’<sup>29</sup>
- 5.1.7 Bertelsmann Stiftung stated in their 2020 country report:
- ‘While crime remains a concern, especially in urban areas, the general atmosphere is one of overall security. Law enforcement agencies are not generally regarded as competent enough to tackle future challenges. Still, they have been able to instill a certain degree of law and order in most parts of the country, with challenges especially in remote rural areas. Border control is porous at best, leading to a weak migration regime, but there are no current border disputes with neighbors.’<sup>30</sup>
- 5.1.8 The 2020 Ghana Overseas Security Advisory Council (OSAC) Crime and Safety Report noted:

<sup>26</sup> Afrobarometer, [‘Corruption and public service delivery’](#) (sections At a glance...), 3 December 2019.

<sup>27</sup> Afrobarometer, [‘Corruption and public service delivery’](#) (sections ‘Paid bribes...’), 3 December 2019.

<sup>28</sup> USSD, [‘2019 Human Rights Practices Report, Ghana’](#) (section 1d), 11 March 2020.

<sup>29</sup> USSD, [‘2019 Human Rights Practices Report, Ghana’](#) (section 4), 11 March 2020

<sup>30</sup> BTI, [‘BTI Country Report 2020, Ghana’](#) (p6), 29 April 2020.

'The Ghana Police Service (GPS) is almost solely a reactive force and demonstrates only moderate proactive techniques and ability to deter crime. Police often lack the equipment, resources, training, and personnel to respond to calls for assistance or other emergencies. The police have a poor record of investigating and solving serious crimes. Local police may lack the resources to respond to serious crime throughout the country, including areas of Accra. There is a visible police presence in Accra...' <sup>31</sup>

5.1.9 A January 2020 article on the online media portal Modern Ghana, noted:

'The Inspector-General of Police, James Oppong-Boanuh, has warned that the service will deal ruthlessly with personnel who engage in any corrupt act.

'The Ghana Police Service consistently ranks at the top of corruption perception indices in the country.

'But speaking at a National Anti-Corruption Action Plan Sensitization Program for Senior Police Officers, the IGP said internal regulatory mechanisms have been put in place to reduce corruption within the service.' <sup>32</sup>

[Back to Contents](#)

5.2 Police response to gender based violence

5.2.1 The 2020 Ghana Overseas Security Advisory Council (OSAC) Crime and Safety Report noted:

'Rape, sexual assault, and domestic violence remain significantly underreported. Rape is punishable by 5-25 years in prison, though police often lack capacity to investigate and prosecute cases effectively. While domestic violence is a crime punishable by up to two years in prison and/or a fine, police rarely respond to reports of domestic violence. Avoid sharing itineraries with strangers, including on social media, and be alert to anyone following you to your accommodations. If someone is following you, proceed to a police station or other public venue and do not continue to your original destination. Police rarely respond to reports of domestic violence...

'GPS maintains a specialized Domestic Violence Victim Support Unit (DOVVSU) to assist victims of domestic violence, especially women and children. In addition to its law enforcement responsibilities, the Unit can refer victims to medical providers and counselors, as well as to community support services.' <sup>33</sup>

5.2.2 The Government of Ghana submitted the following information to the United Nations International Covenant on Civil and Political Rights (ICCPR) January 2020:

'The Domestic Violence and Victims Support Unit (DOVVSU) of Ghana Police Service has put in place a system to ensure that every case of domestic violence including female genital mutilation that is reported is effectively investigated. DOVVSU works closely with the Judiciary and the

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<sup>31</sup> OSAC, [Ghana 2020 Crime & Safety Report](#), 8 May 2020,.

<sup>32</sup> Modern Ghana, '[Police Officers Engaged in Corruption will be Punished...](#)', 8 January 2020.

<sup>33</sup> OSAC, [Ghana 2020 Crime & Safety Report](#), 8 May 2020,.

Attorney General's Office for the effective prosecution and adjudication of reported cases of Domestic Violence.

'DOVVSU has a "walk-in" system that allows victims and witnesses to directly report cases of abuse. The Unit also maintains a dedicated telephone line, which is part of the Ghana Police Service crisis response intervention and linked to police and hospital facilities nationwide.

'DOVVSU maintains a referral system for victims that include medical, legal and counseling services. Officers of DOVVSU have been trained to provide basic counseling to clients and traumatized victims.

'Family Tribunal and Gender- Based Violence Courts in Accra have been established to speedily resolve gender-based violence cases and more importantly to improve the administration of justice for gender-based violence.

'Domestic Violence/Sexual and Gender Based Violence (DV/SGBV) Response Centres have been established in the Greater Accra Region targeted at market women and head porters ("Kayaye") to enable them to report cases of violence to the Centres. These Centres are manned by officers from DOVVSU, the Commission on Human Rights and Administrative Justice (CHRAJ), the Social Welfare, the Ministry of Education and the Ministry of Health among others.'<sup>34</sup>

#### 5.2.3 The USSD human rights report for 2019 stated:

'The Domestic Violence and Victim Support Unit (DOVVSU) of the Police Service worked closely with the Department of Social Welfare, the Domestic Violence Secretariat, the CHRAJ, the Legal Aid Commission, the Ark Foundation, UNICEF, the UN Population Fund (UNFPA), the national chapter of the International Federation of Women Lawyers, and several other human rights NGOs to address rape and domestic violence. Inadequate logistical capacity in the DOVVSU and other agencies, however, including the absence of private rooms to speak with victims, hindered the full application of the Domestic Violence Act. Pervasive cultural beliefs in female roles, as well as sociocultural norms and stereotypes, posed additional challenges to combatting domestic violence.

'Unless specifically called upon by the DOVVSU, police seldom intervened in cases of domestic violence, in part due to a lack of counseling skills and shelter facilities to assist victims. Few of the cases wherein police identified and arrested suspects for rape or domestic abuse reached court or resulted in conviction due to witness unavailability, inadequate training on investigatory techniques, police prosecutor case mismanagement, and, according to the DOVVSU, lack of resources on the part of victims and their families to pursue cases. There was one NGO-operated designated shelter to which police could refer victims. In cases deemed less severe, victims were returned to their homes, otherwise, the DOVVSU contacted NGOs to identify temporary stays. Authorities reported officers occasionally had no alternative but to shelter victims in their own residences until other arrangements could be made.

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<sup>34</sup> UN - ICCPR, '[Concluding observations on the initial report of Ghana](#)', 14 January 2020.

'The DOVVSU continued to teach a course on domestic violence case management for police officers assigned to the unit. It had one clinical psychologist to assist domestic violence victims. The DOVVSU tried to reach the public through various social media accounts. The DOVVSU also addressed rape through public education efforts on radio and in communities, participation in efforts to prevent child marriage and SGBV, expansion of its online data management system to select police divisional headquarters, and data management training.

'In November DOVVSU commemorated the 20th anniversary of the unit's establishment through a four-day program of events and activities that emphasized their work to support victims and survivors of domestic violence. Key program participants and panelists included representatives from government institutions, NGOs, and international organizations; and the Second Lady of Ghana Samira Bawumia delivered the keynote address.' <sup>35</sup>

- 5.2.4 Freedom House in Freedom in the World 2019, Ghana stated: 'The government has worked to combat gender-based violence over the past decade, including by expanding the police's domestic violence and victim support units and creating special courts for gender-based violence, though such services reportedly suffer from insufficient resources.' <sup>36</sup>
- 5.2.5 A UN General Assembly Summary of Stakeholders' submissions on Ghana's Universal Periodic Review, which lists joint submission (JS) contributors in full on pages 10-11 noted that: 'JS10<sup>37</sup> reported that in relation to the persistence of discrimination, rape, sexual harassment at school, the workplace and the public sphere, early and forced marriages, domestic violence and female genital mutilation, the current legislation and policies were deemed insufficient. Likewise, impunity in these regards was still one of the major challenges to overcome, together with unwillingness to report and prosecute these cases. [...]'  
  
'JS14<sup>38</sup> noted with concern that although domestic violence and violence against women is prohibited by the Domestic Violence Act of 2007, it continues to be a problem. Police seldom intervened in cases of domestic violence, in part due to a lack of counselling skills, shelter facilities and other resources to assist victims. JS6<sup>39</sup> expressed similar concerns and also noted that appropriate support to victims remains a challenge.'<sup>40</sup>
- 5.2.6 A December 2017 State presentation to the United Nations Report of the Working Group on the Universal Periodic Review stated with regard police actions:  
  
'To ensure that every reported case of domestic violence, including female genital mutilation, was investigated and prosecuted, the Domestic Violence and Victims Support Unit of the Ghana Police Service had put in place a

<sup>35</sup> USSD, ['2019 Human Rights Practices Report, Ghana'](#) (section 6), 11 March 2020

<sup>36</sup> FH, ['2019 freedom in the World Report, Ghana'](#) (Section F2), February 2019.

<sup>37</sup> JS10: ['The Swedish Association for Sexuality Education and the Youth Harvest Foundation Ghana'](#).

<sup>38</sup> JS14: ['Sisters of the Heart; Centre for Popular Education Human Rights in Ghana'](#).

<sup>39</sup> JS6 submitted by: ['Women's Initiative for Self-Empowerment; Legal Resources Centre...'](#)

<sup>40</sup> UN General Assembly, ['Summary of stakeholder submissions on...'](#) (para 44/47), 8 August 2017.

number of systems, including a referral system that provided victims with counselling, medical and legal assistance...

'Regarding child labour, [...] special operations by the police were under way to rescue victims of child labour and to bring to justice persons who condoned that practice.'<sup>41</sup>

- 5.2.7 See also [CEDAW -Concluding observations on the combined sixth and seventh periodic reports of Ghana 2014](#)

[Back to Contents](#)

## 5.3 Human rights abuses

- 5.3.1 The USSD human rights report for 2016 noted:

'The Inspector General of Police, CHRAJ, and PIPS [The Police Intelligence and Professional Standards Bureau – PPSB since 2018] investigate claims security forces used excessive force. PIPS also investigates human rights abuses and police misconduct. As of August [2016] PIPS received more than 900 complaints; 25 of these cases were completed and 749 remained under investigation. Over this period PIPS investigated 200 reports of unprofessional handling of cases, 145 reports of undue delay of investigation, 109 reports of unfair treatment, 52 reports of police brutality, 50 reports of unlawful arrest and detention, 22 reports of extortion, and one report each of stealing, a shooting incident, and robbery. As of August, 66 officers had been dismissed as a result of PIPS investigations, but none had been criminally prosecuted.'<sup>42</sup>

- 5.3.2 The USSD human rights report for 2017 noted:

'... As of September [2017] PIPS received 642 complaints, of which 174 investigations were completed and 468 remained under investigation. Over this period PIPS investigated 131 reports of unprofessional handling of cases, 127 of misconduct, 93 of unfair treatment, 75 of undue delay of investigation, 39 of unlawful arrest and detention, 33 of police brutality, 19 of harassment, 19 of fraud, and 16 reports of extortion.'<sup>43</sup>

- 5.3.3 The USSD human rights report for 2018 noted:

'The Office of the Inspector General of Police and PPSB investigate claims of excessive force by security force members. The PPSB also investigates human rights abuses and police misconduct. Through August [2018] the PPSB had recorded 1,144 complaints, of which 210 investigations were completed and 934 remained under investigation. Over this period the PPSB investigated 233 reports of unprofessional handling of cases, 217 of misconduct, 201 of unfair treatment, 160 of undue delay of investigation, 59 of unlawful arrest and detention, 77 of police brutality, 34 of harassment, 14 of fraud, 37 of extortion, and one of rape. As of September the CHRAJ had not received any reports of police beating detainees.'<sup>44</sup>

- 5.3.4 The USSD human rights report for 2019 noted:

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<sup>41</sup> UN General Assembly, 'Report of the Working Group on the...' (para 19&26), 26 December 2017

<sup>42</sup> USSD, '2016 Human Rights Practices Report, Ghana' (p5-6), 3 March 2017

<sup>43</sup> USSD, '2017 Human Rights Practices Report, Ghana' (section 1d), 20 April 2018

<sup>44</sup> USSD, '2018 Human Rights Practices Report, Ghana' (section 1d), 13 March 2019

‘Significant human rights issues included: arbitrary or unlawful killings by the government or its agents; harsh and life-threatening prison conditions; violence against journalists including assaults, death threats and one journalist shot and killed; censorship of a free press including arrests and the closure of two radio stations for ostensible licensing irregularities; corruption in all branches of government; crimes of violence against women and girls, to which government negligence significantly contributed; infanticide of children with disabilities; criminalization of same-sex sexual conduct, although rarely enforced; and forced child labor.

‘The government took some steps to address corruption and abuse by officials, whether in the security forces or elsewhere in the government. This included the passage and signing into law in May of the Right to Information Bill that seeks to improve governmental accountability and transparency. Impunity remained a problem, however.

‘There were a few reports that the government or its agents committed arbitrary or unlawful killings. In some cases authorities claimed the victims were suspected robbers.

‘In January the Ghana Police Service (GPS) shot and killed a 25-year-old suspected armed robber while he attempted to flee. While law enforcement officials stated the suspect committed the crime, the suspect’s family believed police killed him in a case of mistaken identity.

‘There were no reports of disappearances by or on behalf of government authorities.

‘While the constitution and law prohibit such practices, there were credible reports police beat and otherwise abused detained suspects and other citizens. Victims were often reluctant to file formal complaints. Police generally denied allegations or claimed the level of force used was justified. By September [2019] the Police Professional Standards Bureau (PPSB) had received 77 cases of police brutality and investigated 14 of those reports.

‘In July prosecutors charged a police officer with assault for allegedly beating a customer on the premises of a bank while she was trying to withdraw her money. Authorities initially suspended the police officer while an investigation took place, but then dismissed the case. Media reports speculated that the parties reached an out-of-court settlement involving compensation.’<sup>45</sup>

#### 5.3.5 The 2020 Bertelsmann Stiftung Transformation Index Ghana Country Report noted:

‘The government and state agencies are closely monitored by the media regarding violations of civil rights. Basic human rights are respected and there is no systematic policy of denying individuals’ constitutional rights. Single instances of police abuse are more connected to poor training and challenging work conditions. In areas without a significant or permanent presence of public security officers, civil rights are often determined and protected based on traditional law, which does not necessarily follow the

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<sup>45</sup> USSD, [‘2019 Human Rights Practices Report, Ghana’](#) (section 1), 11 March 2020.

letter of public law. This specifically refers to individuals and groups who display socially unacceptable behavior or are accused of such (e. g. “witches”).’<sup>46</sup>

- 5.3.6 See also CPIN: [Ghana – Background note](#) and [Ghana – Sexual orientation and gender identity or expression](#)

[Back to Contents](#)

## 5.4 Oversight bodies and mechanisms

- 5.4.1 The UN SR on extreme poverty and human rights report 2018 noted:

‘In 2017, a Special Prosecutor was appointed to “investigate specific cases of corruption involving public officers, and politically exposed persons in the performance of their functions as well as individuals in the private sector implicated in the commission of corruption and prosecute these offences on the authority of the Attorney-General”. The Special Rapporteur was, however, informed of slow progress in terms of funding, physical office space and staffing for the Office of the Special Prosecutor. There were also concerns that the Office might be used to focus primarily on officials of the previous Government rather than on continuing problems of corruption.’<sup>47</sup>

- 5.4.2 For more details see the website for [Office of the Special Prosecutor](#).

- 5.4.3 A Commission on Human Rights and Administrative Justice (CHRAJ) news report from December 2019 and Graphic online noted:

‘Ghana’s Ambassador to France, Ms Anna Bossman, has urged independent state prosecuting and investigative agencies to focus more on the implementation and enforcement of anti-corruption laws to root out corruption in the country.

‘She said the focus on creating awareness and capacity building was not enough to win the battle against corruption, stating: “We do not enforce, neither do we sanction very often, and that normalises bad behaviour.”

‘Ms Bossman, a former acting Commissioner of the Commission on Human Rights and Administrative Justice (CHRAJ), was speaking at the launch of the Anti-Corruption Transparency (ACT) Week and the National Anti-Corruption Action Plan (NACAP) Conference which took place in Accra on Monday, December 2.

‘Delivering the keynote address, Ms Bossman emphasised the need to deepen the fight against corruption to realise the Ghana Beyond Aid agenda.’<sup>48 49</sup>

- 5.4.4 A UN General Assembly Summary of Stakeholders’ submissions on Ghana’s Universal Periodic Review of August 2017 noted that:

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<sup>46</sup> BTI, [‘BTI Country Report 2020, Ghana’](#) (p.11), 29 April 2020.

<sup>47</sup> UNHRC, [‘UNSR report’](#) (para 75), 10 October 2018.

<sup>48</sup> CHRAJ, [‘Enforce anti-corruption laws Anna Bossman tells prosecuting...’](#), 3 December 2019

<sup>49</sup> Graphic Online, [‘Enforce anti-corruption laws - Anna Bossman tells...’](#), 3 December 2019

‘JS5<sup>50</sup> noted with concern that Article 13 of Ghana’s Constitution, which guarantees the right to life, also provides for much wider grounds for the use of lethal force than is permissible under international standards and that there is no independent mechanism to investigate police abuses. JS1<sup>51</sup> made a similar statement.

‘MFWA [Media Foundation for West Africa] noted that given the number of incidents of violations perpetrated by security forces, it remained unclear if measures taken by the Government to combat police violations, including brutality against journalists and others exercising their free expression rights had been effective or even adequate. Noting that Police brutality in addressing conflict between a community and a mining company resulted in the death of a community protestor, JS5 recommended that the Government integrate respect for human rights in the operating protocols of security forces in responding to cases of illegal logging, mining or social conflicts between investors and locals.’<sup>52</sup>

#### 5.4.5 The USSD human rights report for 2019 noted:

‘A variety of domestic and international human rights groups generally operated without government restriction [although not organisations with power or remit to oversee the police], investigating and publishing their findings on human rights cases. Government officials were often cooperative and responsive to the views of such groups. The government actively engaged civil society and the United Nations in preparation for the country’s third Universal Periodic Review in 2017.

‘...The CHRAJ [the Commission on Human Rights and Administrative Justice], which mediated and settled cases brought by individuals against government agencies or private companies, operated with no overt interference from the government; however, since it is itself a government institution, some critics questioned its ability independently to investigate high-level corruption. Its biggest obstacle was lack of adequate funding, which resulted in low salaries, poor working conditions, and the loss of many of its staff to other governmental organizations and NGOs. As of October the CHRAJ had 111 offices across the country, with a total of 696 staff members. Public confidence in the CHRAJ was high, resulting in an increased workload for its staff.

‘The Office of the IGP [Inspector General of Police] and PPSB [Police Professional Standards Bureau] investigate claims of excessive force by security force members. The PPSB also investigates human rights abuses and police misconduct. As of September [2019] the CHRAJ had not received any reports of police beating detainees.’<sup>53</sup>

#### 5.4.6 A UN General Assembly Summary of Stakeholders’ submissions on Ghana’s Universal Periodic Review of August 2017 noted in respect of the police that: ‘JS1<sup>54</sup> was concerned that there was no independent mechanism to

<sup>50</sup> JS5: [‘Kasa Initiative Ghana; Wacam; Forest Watch Ghana; Coalition of CSO in Water...’](#)

<sup>51</sup> JS1: [‘POS Foundation; Amnesty International; Legal Resources Centre; Commonwealth...’](#)

<sup>52</sup> UN General Assembly, [‘Summary of stakeholder submissions on Ghana’](#) (para 18), 8 August 2017

<sup>53</sup> USSD, [‘2019 Human Rights Practices Report, Ghana’](#) (section 1), 11 March 2020.

<sup>54</sup> JS1: [‘POS Foundation; Amnesty International; Legal Resources Centre; Commonwealth...’](#)

investigate police abuses and recommended establishing an independent Police Complaint Commission to deal with police brutality cases and provide an effective remedy to victims.’<sup>55</sup>

5.4.7 The Law on Use of Police Force Worldwide in an undated entry noted that:

‘In Ghana, there is no fully independent, specific police oversight body. The Inspector-General of Police as the head of the Police Service is directly responsible for the operational control and administration of the national police. Referrals for disciplinary action are forwarded to him by the Police Intelligence and Professional Standards Bureau.

‘The external Police Council also has the power to recommend disciplinary action for police officers. Regional Police Committees advise the Police Council on any matter relating to the administration of the Police Service in a specific region.

‘Ghana’s Commission for Human Rights and Administrative Justice is mandated to consider complaints of human rights violations by a public official, including a police officer.’<sup>56</sup>

[Back to Contents](#)

Section 6 updated: 10 August 2020

## 6. Rule of law and the judiciary

### 6.1 Structure

6.1.1 The CIA factbook describes the legal system in Ghana as a ‘mixed legal system of English common law and customary law’<sup>57</sup>.

6.1.2 The Republic of Ghana Judiciary website stated:

‘The equality of all persons before the law and their freedom to enforce their rights and liberties in a Court of Law is guaranteed under the Constitution. The independence of the Judiciary from the Executive and the Legislature is entrenched in the Constitution.

‘The Judiciary is the branch of government given authority to interpret, apply and enforce the laws of Ghana.

‘The Judiciary shall be made up of the Supreme Court, the Court of Appeal, High Court and Regional Tribunals and such Lower Courts and Tribunals as Parliament may establish and shall have the Chief Justice as the Head, who shall be responsible for its administration and supervision. The amendment of the Courts Act (Act 620) 2002 abolishes community and Circuit Tribunals and re-establish the Circuit and Magistrate Courts.’<sup>58</sup>

[Back to Contents](#)

### 6.2 Trial procedures

6.2.1 The [Criminal Procedure Code, 1960, sets out the procedures for processing individuals, groups and organisations through the court system.](#)

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<sup>55</sup> UN General Assembly, ‘[Summary of stakeholder submissions on Ghana](#)’ (para 18), 8 August 2017

<sup>56</sup> UPCHR, ‘[The Law on Police Use of Force Worldwide, Ghana](#)’, updated June 2020

<sup>57</sup> CIA Factbook, ‘[Ghana: Government](#)’, last updated 17 June 2020

<sup>58</sup> The Republic of Ghana Judiciary, ‘[Summary](#)’, undated

6.2.2 The Republic of Ghana Judiciary website stated:

‘The Supreme Court is given power as the highest authority to interpret the Constitution and shall have final authority to say what the law is including determining whether any acts of Parliament or the President is in violation with the Constitution. The High Court shall also have the power to enforce the Fundamental Human Rights and Freedoms under the Constitution.

‘All citizens as guardians of the Constitution have the right and unimpeded access to the Courts to challenge any acts of the President, Parliament or any other body public or private which are inconsistent with the provisions of the Constitution.

‘In furtherance of the principle of Independence of the Judiciary, the administration of Judiciary shall be independent of executive control and the institution of public and customary tribunal approved by Parliament.’<sup>59</sup>

6.2.3 Freedom House in its report covering events in 2018 stated: ‘Constitutional protections for due process and defendants’ rights are mostly upheld... The government is not obliged to provide the accused with legal counsel, and many people unable to afford lawyers are forced to represent themselves in court.’<sup>60</sup>

6.2.4 The USSD human rights report for 2019 noted:

‘The constitution and law provide for the right to a fair hearing, and an independent judiciary generally enforced this right. Criminal hearings must be public unless the court orders them closed in the interest of public morality, public safety, public order, defense, welfare of persons younger than 18, protection of the private lives of persons concerned in the proceedings, and as necessary or expedient where publicity would prejudice the interests of justice.

‘Defendants are presumed innocent and have the right to be informed promptly and in detail of charges against them, with free assistance of an interpreter as necessary. Defendants have the right to a fair and public trial without undue delay, but trials were often delayed. Defendants have the right to be present at their trials, be represented by an attorney, have adequate time and facilities to prepare their defense, present witnesses and evidence, and confront prosecution or plaintiff witnesses. In his statement following his visit in April 2018, however, UN Special Rapporteur on Extreme Poverty and Human Rights Philip Alston wrote, “Ghana’s constitutional right to legal aid is meaningless in the great majority of cases because of a lack of resources and institutional will to introduce the needed far-reaching reforms”.

Defendants have the right not to be compelled to testify or confess guilt, although generally defendants are expected to testify if the government presents sufficient preliminary evidence of guilt. Defendants have the right to appeal. Authorities generally respected these safeguards, and the law extends these rights to all citizens.

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<sup>59</sup> The Republic of Ghana Judiciary, [‘Summary’](#), undated

<sup>60</sup> FH, [‘2019 freedom in the World Report, Ghana’](#) (Section F2), February 2019

‘Military personnel are tried separately under the criminal code in a military court. Military courts, which provide the same rights as civilian courts, are not permitted to try civilians.

‘Village and other traditional chiefs can mediate local matters and enforce customary tribal laws dealing with such matters as divorce, child custody, and property disputes. Their authority continued to erode, however, because of the growing power of civil institutions, including courts and district assemblies.’<sup>61</sup>

[Back to Contents](#)

### 6.3 Independence and effectiveness of the judiciary

#### 6.3.1 The UN SR on extreme poverty and human rights report 2018 noted:

‘The President has acknowledged that justice is perceived to be “expensive and slow” in Ghana, and information presented to me by various stakeholders confirmed that the costs of the system fall overwhelmingly on the poor. They are the ones who cannot afford the lawyer guaranteed to them by the Constitution and by Ghana’s international human rights obligations. They are the ones who cannot pay the petty bribes so often demanded in this context, and thus end up in prison....

‘The lack of effective legal representation is especially problematic in death penalty cases. Some prisoners have reportedly been sentenced to death without being represented by a lawyer. The prisoners affected are overwhelmingly poor. While an initiative such as the “Justice for All Programme” has significantly contributed to reducing the remand prison population since its inception in 2007, it has not addressed and is not designed to address the systemic causes of the problem, including the lack of capacity on the part of the law enforcement and judicial authorities to efficiently and effectively investigate, prosecute, process and manage cases. Moreover, the withdrawal of funding by the donors puts this programme at risk of being terminated.’<sup>62</sup>

#### 6.3.2 Freedom House in its report covering events in 2018 stated: ‘Judicial independence in Ghana is constitutionally and legally enshrined. While the judiciary has demonstrated greater levels of impartiality in recent years, corruption and bribery continue to pose challenges. In May 2018, President Akufo-Addo suspended four High Court judges based on allegations of bribe taking that dated back to 2015.’<sup>63</sup>

#### 6.3.3 Bertelsmann Stiftung stated in their 2020 country report ‘Corruption and limited administrative capacity continue to pose the biggest challenges, exemplified in unduly long legal procedures and sometimes incomprehensible verdicts. Going to court is too expensive for the average citizen. Only those with means can afford legal proceedings. Informal procedures of arbitration (e.g., through traditional rulers or elders) are more easily accessible and still play an important role, especially in rural areas.’<sup>64</sup>

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<sup>61</sup> USSD, [‘2019 Human Rights Practices Report, Ghana’](#) (section 1), 11 March 2020

<sup>62</sup> UNHRC, [‘UNSR report’](#) (para 48), 10 October 2018.

<sup>63</sup> FH, [‘2019 Freedom in the World Report, Ghana’](#) (Section F2), February 2019.

<sup>64</sup> BTI, [‘BTI Country Report 2020, Ghana’](#) (p.6), 29 April 2020

#### 6.3.4 The USSD human rights report for 2019 noted:

'While the constitution and law provide for an independent judiciary, it was subject to unlawful influence and corruption. Judicial officials reportedly accepted bribes to expedite or postpone cases, "lose" records, or issue favorable rulings for the payer.

'Following a 2015 report by an investigative journalist into corruption in the judiciary, the chief justice constituted a five-member committee headed by a Supreme Court judge to investigate the allegations, resulting in the dismissal later that year of 12 high court judges, 22 lower court judges, and 19 judicial service staff. In May 2018 the president suspended four additional high court judges who were implicated in the report. In December 2018 the president fired those four judges, three of whom had cases pending before the Economic Community of West Africa court. An administrative process of information-gathering was underway for eventual prosecution.'

[Back to Contents](#)

Legal aid, lawyers and other assistance

#### 6.3.5 A UN General Assembly Summary of Stakeholders' submissions on Ghana's Universal Periodic Review noted that: 'JS1<sup>66</sup> was also concerned about the existing lack of awareness about legal rights, long delays in proceedings, and woeful underrepresentation of lawyers at the Legal Aid Scheme.'

#### 6.3.6 The Ghana Legal Aid website noted:

'The Scheme is tasked under the Legal Aid Scheme Act 1997 (Act 542) to provide legal assistance to the poor and indigent, as well as other persons in the prosecution and defence of their rights under the Constitution of Ghana

'The Legal Aid Scheme is Ghana's effort at ensuring that constitutional democracy, rule of law and access to justice extends to the poor and vulnerable who would otherwise be excluded from the formal justice delivery system. It provides legal assistance for all who seek to defend or enforce the Constitution in accordance with Article 294 of the Constitution.'

#### 6.3.7 The Human Rights Advocacy Centre Ghana [HRAC] provided 'free legal support to the public to promote equal access to justice for all Ghanaians...[a] Human Rights Clinic serves as a walk-in centre for persons who have suffered human rights and other abuses. HRAC will take up public interest cases... [They] advocate for increased respect and protection of rights of marginalized groups through diverse projects and programmes to improve their participation and access to services. The target groups include persons with disabilities including mental disabilities, women and girls, prisoners and members of the LGBT community.'

#### 6.3.8 The UN SR on extreme poverty and human rights report 2018 noted:

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<sup>65</sup> USSD, '2019 Human Rights Practices Report, Ghana' (section 1e), 11 March 2020

<sup>66</sup> JS1: 'POS Foundation; Amnesty International; Legal Resources Centre; Commonwealth...'

<sup>67</sup> UN General Assembly, 'Summary of stakeholder submissions on Ghana' (para 18), 8 August 2017

<sup>68</sup> Legal Aid Scheme, 'Ghana', undated.

<sup>69</sup> HRACG, 'Scope-of-Work...', undated..

'The constitutional right to legal aid is meaningless in the great majority of cases because of a lack of resources and the institutional will to introduce the necessary far reaching reforms. The legal aid scheme reportedly has 23 lawyers for the entire country, a ratio of less than 1 lawyer per 1 million of the population. What little aid does exist is concentrated in large cities such as Accra and Kumasi and the limited budget of the scheme of 6.7 million cedis (\$1.5 million) in 2017 has reportedly been further reduced to 5.9 million cedis (\$1.3 million) in 2018.'<sup>70</sup>

6.3.9 The State responded to this aspect of the report as follows:

'It is a fair observation to make, that the Legal Aid Scheme in Ghana has been quite ineffective in the majority of cases because of a lack of resources and institutional will to introduce the needed far-reaching reforms. The General Legal Council is making efforts to address this problem. The Ghana Bar Association has been strongly urged to consider as one of its criteria for determining members of good standing, the handling of pro bono cases. Lawyers should be asked to do a certain number of pro bono cases (Legal Aid cases) in a given year. If this proposal is accepted and implemented, it will go a long way to improve the Legal Aid Scheme in Ghana. There are also measures afoot to encourage Judges and Magistrates to make use of their power to assign lawyers from the Bar to provide pro bono services to indigent persons on trial on felony charges. The Judicial Service of Ghana understands that the Legal Aid Scheme need to be better resourced and provided adequate funding by the Government to enable it carry out its mandate.'<sup>71</sup>

6.3.10 A Graphic Online 2019 article noted:

'The Legal Aid Commission has called for an increase in the number of lawyers operating in all parts of the country to effectively and efficiently provide legal services to applicants who intend to access justice under the scheme.

'According to the commission, Ghana needed about 160 lawyers out of which 10 should be allocated to each region in the country to help serve the needs of the public, especially those who could not afford legal representation in court.

'Currently, the Legal Aid System of Ghana has 21 lawyers working under the scheme across the country coupled with lack of equipment and infrastructure, thereby preventing many from accessing justice in the country.

'The Northern, Savannah, North East and Upper West regions have only one lawyer serving the public under the scheme, while the Upper East Region has two lawyers.'<sup>72</sup>

6.3.11 The USSD human rights report for 2019 noted:

'Most detainees, however, could not afford a lawyer. While the constitution grants the right to legal aid, the government often does not provide it. The

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<sup>70</sup> UNHRC, '[UNSR report](#)' (para 47), 10 October 2018.

<sup>71</sup> UN General Assembly, '[Report of the Special Rapporteur...Comments by the...](#)' (p5), 20 June 2018

<sup>72</sup> Graphic Online, '[Legal Aid Commission needs more lawyers](#)', 27 March 2019.

government has set up a Legal Aid Commission that provides defense attorneys to those in need, but it is under-resourced. The government employed 19 full-time legal aid lawyers nationwide, who handled criminal and civil cases, and 45 paralegals, who handled civil matters. Defendants in criminal cases who could not afford a lawyer typically represented themselves.’<sup>73</sup>

[Back to Contents](#)

#### 6.4 Avenues of redress

- 6.4.1 The USSD human rights report for 2019 noted: ‘A judicial complaints unit within the Ministry of Justice headed by a retired Supreme Court justice addressed complaints from the public, such as unfair treatment by a court or judge, unlawful arrest or detention, missing trial dockets, delayed trials and rendering of judgments, and bribery of judges. The government generally respected court orders.’<sup>74</sup>
- 6.4.2 The [Judicial Service Public relations and complaints unit](#) provides details and forms of how to lodge a complain

[Back to Contents](#)

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<sup>73</sup> USSD, [‘2019 Human Rights Practices Report, Ghana’](#) (section 1c), 11 March 2020

<sup>74</sup> USSD, [‘2019 Human Rights Practices Report, Ghana’](#) (section 1e), 11 March 2020

# Terms of Reference

A 'Terms of Reference' (ToR) is a broad outline of what the CPIN seeks to cover. They form the basis for the [country information section](#). The Home Office's Country Policy and Information Team uses some standardised ToRs, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- Security apparatus
  - Police forces
  - Intelligence agencies
  - Armed Forces
  - Security forces
- Arrest and detention
  - Legal rights
  - Conditions of detention
- Capability of security forces
  - Resources
  - Effectiveness
  - Corruption
  - Human rights abuses
  - Avenues of redress
- Rule of law and the judiciary
  - Trial procedures
  - Independence and effectiveness of the judiciary
  - Legal aid and other assistance
  - Lawyers
  - Avenues of redress

[Back to Contents](#)

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[Back to Contents](#)

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[Back to Contents](#)

# Version control

## Clearance

Below is information on when this note was cleared:

- version **v1.0**
- valid from **21 September 2020**

## Changes from last version of this note

First version of CPIN

[Back to Contents](#)