



Home Office

OPERATIONAL GUIDANCE NOTE

GHANA

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1. Introduction

- 1.1** This document provides Home Office caseworkers 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. Caseworkers must refer to the relevant Asylum Instructions for further details of the policy on these areas.
- 1.2** Caseworkers 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.
- 1.3** The conclusions in this guidance are based on the totality of the available evidence, not just the brief extracts contained herein, and caseworkers 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.
- 1.4** COI is published by the [Country of Origin Information Service \(COIS\)](#) and is

available on the intranet.

- 1.5** Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. Where a claim for asylum or Humanitarian Protection is being considered, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Appendix FM (Family Life) and paragraphs 276 ADE to 276DH (Private Life) of the Immigration Rules.
- 1.6** Where a person is being considered for deportation, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Part 13 of the Immigration Rules. Caseworkers must also consider if the applicant qualifies for Discretionary Leave in accordance with the published policy.
- 1.7** With effect from 2 December 2005, Ghana is a country listed in section 94 of the Nationality, Immigration and Asylum Act 2002 in respect of men only and the prima face evidence is that the current underlying situation in the country remains the same or similar to that considered when the country was first designated. Asylum and human rights claims must be considered on their individual merits. However, if, following consideration, a claim from a man who is entitled to reside in Ghana is refused caseworkers must certify the claim as clearly unfounded unless satisfied that it is not. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail. Ghana is not listed in section 94 in respect of women. If, following consideration, a claim from a woman is refused, caseworkers may, however, certify the claim as clearly unfounded on a case-by-case basis if they are satisfied that it is.

2. Country assessment

- 2.1** Caseworkers should refer the relevant COI Service country of origin information material. 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://fcohrdreport.readandcomment.com/read-and-download-the-report/>

2.2 Actors of protection

- 2.2.1** Caseworkers must refer to section 7 of the Asylum Instruction - [Considering the asylum claim and assessing credibility](#). To qualify for asylum, an individual must have a fear of persecution for a Convention reason and be able to demonstrate that their fear of persecution is well founded and that they are unable, or unwilling because of their fear, to seek protection in their country of origin or habitual residence.
- 2.2.2** Caseworkers must 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. Effective 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.

- 2.2.3** The police, under the Ministry of Interior, were responsible for maintaining law and order. However, the military continued to participate in law enforcement activities. A separate entity, the Bureau of National Investigations (BNI), handled cases considered critical to state security and answered directly to the Ministry of National Security. Police maintained specialised units in Accra for homicide, forensics, domestic violence, trafficking in persons, visa fraud, narcotics, and cybercrimes. Such services were unavailable nationwide due to the lack of office space, vehicles, and other equipment outside the capital. In 2010 the police unveiled a five-year strategic plan to increase police personnel, housing, vehicles, equipment, and establish new training academies.¹
- 2.2.4** Police brutality, corruption, negligence, and impunity were problems.² Amnesty International stated in April 2012 that the “excessive use of force and unlawful killings by the police and security forces continue to be reported”.³ In June 2011, the UN Committee against Torture expressed concern about impunity for brutality and excessive use of force by the police.⁴ Delays in prosecuting suspects, rumours of police collaboration with criminals, and a widespread perception of police ineptitude contributed to vigilante violence during 2012. There were credible reports that 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. Low salaries, which were sometimes not paid on time, contributed to police corruption. In 2010 the government implemented the Single Spine Salary Structure, which increased the salaries of all police officers, partly in an effort to reduce corruption. However, its efficacy was unclear.⁵ The Center for Strategic and International Studies reported in June 2011 that “the combination of Ghana’s system of patronage politics and its weak institutions has a deleterious effect on public life, encouraging corruption, fuelling [sic] ethnic rivalries, and leading to bad governance”.⁶
- 2.2.5** The Police Intelligence and Professional Standards Unit (PIPS) investigated human rights abuses and police misconduct. During 2012 PIPS received 654 new cases; of those, 233 were closed, and 421 remained under investigation at year’s end. Among the 654 cases, 40 involved complaints of harassment, 24 of extortion, 113 of misconduct, 35 of unlawful arrest and detention, 133 of unprofessional handling of a case, 129 of unfair treatment, 87 of undue delay of investigation, and 49 of alleged police brutality with human rights violations.⁷
- 2.2.6** The Commission for Human Rights and Administrative Justice (CHRAJ)

¹ US State Department, Country Reports on Human Rights Practices 2012: Ghana, Section 1d, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

² US State Department, Country Reports on Human Rights Practices 2012: Ghana, Section 1d, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

³ Amnesty International, Ghana: Human rights shortcomings in law and in practice, Amnesty International Submission to the UN Universal Periodic Review, October-November 2012, Follow up to the previous review and Human Rights situation on the ground, Human Rights violations by the police and security forces, 1 April 2012, <http://www.amnesty.org/en/library/asset/AFR28/003/2012/en/26d6a941-7a50-4200-8147-d386cc0a8996/afr280032012en.pdf>

⁴ UN Committee Against Torture (CAT), Consideration of reports submitted by States parties under article 19 of the Convention - Ghana, Paragraph 19, 15 June 2011, <http://www.refworld.org/publisher/CAT/CONCOBSERVATIONS.GHA.4ef08eba2.0.html>

⁵ US State Department, Country Reports on Human Rights Practices 2012: Ghana, Section 1d, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

⁶ Center for Strategic and International Studies, Ghana: Assessing Risks to Stability, Country Assessment, June 2011, http://csis.org/files/publication/110623_Thrup_Ghana_Web.pdf

⁷ US State Department, Country Reports on Human Rights Practices 2012: Ghana, Section 1d, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

investigates human rights abuses, public corruption, abuse of power, and is empowered to recommend punishments for violators. The attorney general, the minister of justice, the EOCO, and the Public Prosecutor's Office are responsible for combating corruption. The parliamentary Public Accounts Committee is also responsible for auditing government spending. An auditor general reviews public sector accounts.⁸ Amnesty International stated in its April 2012 submission to the UN Universal Periodic Review that the "measures to combat human rights violations committed by the police remain limited".⁹

- 2.2.7** Court procedures were long and slow. Access to legal aid was limited or non-existent and some prisoners spent years waiting to be tried. Prisons were overcrowded and failed to provide inmates with basic services, including medical care. In March, 200 prisoners were transferred to the maximum security Ankaful prison in an attempt to address overcrowding.¹⁰
- 2.2.8** Ghanaian courts have acted with increased autonomy, but corruption remains a problem. Scarce resources compromise the judicial process, and poorly paid judges are tempted by bribes. The Accra Fast Track High Court is specifically tasked with hearing corruption cases involving former government officials, though some observers have raised doubts about its impartiality and respect for due process.¹¹
- 2.2.9** 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; however, the authority of traditional rulers has steadily eroded because of a commensurate increase in the power of civil institutions, including courts and district assemblies.¹²
- 2.2.10** A judicial complaints unit, headed by a retired Supreme Court justice, addressed public complaints, such as unfair treatment by a court or judge, unlawful arrest or detention, missing dockets, delayed trials and delivery of judgments, and alleged bribery of judges. During 2012 the unit received 158 complaints, of which 145 were resolved at the end of 2012.¹³
- 2.2.11 Conclusion** If the applicant's fear is of ill-treatment/persecution by the state authorities, or by agents acting on behalf of the state, then it is improbable that they can apply to those authorities for protection. If the ill-treatment/persecution is at the hands of non-state agents, then the provision of effective state protection is likely to be limited. Each case must be considered on its individual facts and the assessment of whether effective protection is available should be considered in relation to the particular circumstances and profile of the claimant and the latest country of origin information.

⁸ US State Department, Country Reports on Human Rights Practices 2012: Ghana, Section 4, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dldid=204126>

⁹ Amnesty International, Ghana: Human rights shortcomings in law and in practice, Amnesty International Submission to the UN Universal Periodic Review, October-November 2012, Follow up to the previous review, 1 April 2012, <http://www.amnesty.org/en/library/asset/AFR28/003/2012/en/26d6a941-7a50-4200-8147-d386cc0a8996/af280032012en.pdf>

¹⁰ Amnesty International, Annual Report 2013: Ghana, Justice System, 23 May 2013, <http://www.amnesty.org/en/region/ghana/report-2013>

¹¹ Freedom House, Freedom in the World 2013; Ghana, 20 May 2013, <http://www.freedomhouse.org/report/freedom-world/2013/ghana>

¹² US State Department, Country Reports on Human Rights Practices 2012: Ghana, Section 1e, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dldid=204126>

¹³ US State Department, Country Reports on Human Rights Practices 2012: Ghana, Section 1e, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dldid=204126>

2.3 Internal relocation.

- 2.3.1** Caseworkers must refer to the Asylum Instruction on [Internal Relocation](#) and in the case of a female applicant, the AI on [Gender Issues in the Asylum Claim](#), for guidance on the circumstances in which internal relocation would be a 'reasonable' option, so as to apply the test set out in paragraph 339O of the Immigration Rules.
- 2.3.2** 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 part of the country of return where the person would not have a well founded fear of being persecuted and the person can reasonably be expected to stay there, then they will not be eligible for a grant of asylum. Similarly, if there is a part of the country of return where the person would not face a real risk of suffering serious harm and they can reasonably be expected to stay there, then they will not be eligible for 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. Caseworkers must refer to the Gender Issues in the asylum claim where this is applicable. The fact that there may be technical obstacles to return, such as re-documentation problems, does not prevent internal relocation from being applied.
- 2.3.3** There are no reports that women in Ghana face any legal restrictions in relation to freedom of movement.¹⁴ However, it is reported that women lack the capacity to engage in viable economic activities to generate enough money and that they remain in the vicious circle of poverty, preventing them from having access to proper health, education, shelter and food. Many women, particularly in the rural areas, remain subject to traditional male dominance and hold fast to social norms that deny them their statutory entitlements to inheritance and property, a legally registered marriage and the maintenance and custody of children. Many widows, especially those childless, are thrown out of their late husbands' houses by relatives of the men because it is considered a taboo for women to own houses.¹⁵ Widows and unmarried women usually have weak social protection systems – lacking an influential person to support them.¹⁶
- 2.3.4** Where a category of applicants' fear is of ill-treatment/persecution by the state authorities, then internal relocation to escape that persecution will not generally be an option. Very careful consideration must be given to whether internal relocation would be a viable way to avoid a real risk of ill-treatment/persecution at the hands of, tolerated by, or with the connivance of, state agents. If an applicant who faces a real risk of ill-treatment/persecution in their home area would be able to relocate to a part of the country where they would not be at real risk, whether from state or non-state actors, and it would not be unreasonable to expect them to do so, then asylum or humanitarian protection should be refused.

¹⁴ OECD, Social Institutions and Gender Index, Ghana, 2012

<http://genderindex.org/country/ghana>

¹⁵ Ghana Web, Discrimination, violence - bane of the Ghanaian Woman, 19 October 2010

<http://www.ghanaweb.com/GhanaHomePage/features/artikel.php?ID=195440>

¹⁶ Action Aid, Condemned without trial: women and witchcraft in Ghana, 30 August 2012

http://reliefweb.int/sites/reliefweb.int/files/resources/Full%20Report_953.pdf

2.3.5 The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.¹⁷

2.3.6 Conclusion Careful consideration must be given to the relevance and reasonableness of internal relocation on a case by case basis taking full account of the individual circumstances of the particular claimant. Caseworkers need to consider the ability of the persecutor to pursue the claimant in the proposed site of relocation, and whether effective protection is available in that area. Caseworkers will also need to consider the age, gender, health, ethnicity, religion, financial circumstances and support network of the claimant, as well as the security, human rights and socio-economic conditions in the proposed area of relocation, including the claimant's ability to sustain themselves.

2.4 Country guidance caselaw

Supreme Court. RT (Zimbabwe) & others v Secretary of State for the Home Department [2012] UKSC 38 (25 July 2012) The Supreme Court ruled that the rationale of the decision in HJ (Iran) applies to cases concerning imputed political opinion. Under both international and European human rights law, the right to freedom of thought, opinion and expression protects non-believers as well as believers and extends to the freedom not to hold and not to express opinions. Refugee law does not require a person to express false support for an oppressive regime, any more than it requires an agnostic to pretend to be a religious believer in order to avoid persecution. Consequently an individual cannot be expected to modify their political beliefs, deny their opinion (or lack thereof) or feign support for a regime in order to avoid persecution.

Supreme Court. HJ & HT v SSHD [2010] UKSC31 7 July 2010

The Supreme Court hereby established the test which should be applied when assessing a claim based on fear of persecution because of an applicant's sexual orientation which is as follows:

- (i) Is the applicant gay or someone who would be treated as gay by potential persecutors in the country of origin?
- (ii) If yes, would gay people who live openly be liable to persecution in that country of origin?
- (iii) How would the applicant behave on return? If the applicant would live openly and be exposed to a real risk of persecution, he has a well-founded fear of persecution even if he could avoid the risk by living discreetly.
- (iv) If the applicant would live discreetly, why would he live discreetly? If the applicant would live discreetly because he wanted to do so, or because of social pressures (e.g. not wanting to distress his parents or embarrass his friends) then he is not a refugee. But if a material reason for living discreetly would be the fear

¹⁷ US State Department, Country Reports on Human Rights Practices 2012: Ghana, Section 2d, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dld=204126>

of persecution that would follow if he lived openly, then he is a refugee [paragraph 35]

3. Main categories of claims

- 3.1** This Section sets out the main types of asylum claim, humanitarian protection claim and Discretionary Leave claim on human rights grounds (whether explicit or implied) made by those entitled to reside in Ghana. 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. 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/>

- 3.2** Each claim should be assessed to determine whether there is a reasonable likelihood 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 the Court of Appeal's judgment 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 Instruction '[Considering the asylum claim and assessing credibility](#)').
- 3.3** For any asylum cases which involve children either as dependants or as the main applicants, caseworkers must have due regard to Section 55 of the Borders, Citizenship and Immigration Act 2009. The Home Office instruction '[Every Child Matters; Change for Children](#)' sets out the key principles to take into account in all Agency activities.
- 3.4** If the applicant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. (See Asylum Instruction on [Humanitarian Protection](#)). Where an application for asylum and Humanitarian Protection falls to be refused, caseworkers must consider any elements of Article 8 of the ECHR in line with the provisions of Appendix FM (Family Life) and paragraphs 276 ADE to 276DH (Private Life) of the Immigration Rules. They must also consider whether there are any compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See Asylum Instruction on [Discretionary Leave](#)).

Consideration of Articles 15(a) and (b) of the Directive/Articles 2 and 3 ECHR

- 3.5** An assessment of protection needs under Article 15(c) of the Directive should only be required if an applicant does not qualify for refugee protection, and is ineligible for subsidiary protection under Articles 15(a) and (b) of the Directive (which broadly reflect Articles 2 and 3 of the ECHR). Caseworkers are reminded that an

applicant who fears a return to a situation of generalised violence may be entitled to a grant of asylum where a connection is made to a Refugee Convention reason or to a grant of Humanitarian Protection because the Article 3 threshold has been met.

Other severe humanitarian conditions and general levels of violence

- 3.6** There may come a point at which the general conditions in the country – for example, absence of water, food or basic shelter – are unacceptable to the point that return in itself could, in extreme cases, constitute inhuman and degrading treatment. Decision makers need to consider how conditions in the country and locality of return, as evidenced in the available country of origin information, would impact upon the individual if they were returned. Factors to be taken into account would include age, gender, health, effects on children, other family circumstances, and available support structures. It should be noted that if the State is withholding these resources it could constitute persecution for a Convention reason and a breach of Article 3 of the ECHR.
- 3.7** As a result of the [Sufi & Elmi v UK](#) judgment in the European Court of Human Rights (ECtHR), where a humanitarian crisis is predominantly due to the direct and indirect actions of the parties to a conflict, regard should be had to an applicant's ability to provide for his or her most basic needs, such as food, hygiene and shelter and his or her vulnerability to ill-treatment. Applicants meeting either of these tests would qualify for Humanitarian Protection.

Credibility

- 3.8** Caseworkers will need to assess credibility issues based on all the evidence available to them from the interview, documentary evidence and country of origin information. Caseworkers will need to consider credibility issues based on all the information available to them. For guidance on credibility see 'Section 4 – Making the Decision in the Asylum Instruction [‘Considering the asylum claim and assessing credibility’](#)’.
- 3.9** Caseworkers 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 caseworkers should satisfy themselves through CRS database checks that there is no match to a non-biometric visa. Asylum applications matches 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.
- 3.10 Inter-ethnic clashes, tribal disputes and Chieftain disputes**
- 3.10.1** 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 a chieftain or high priest of their particular ethnic group or tribe
- 3.10.2 Treatment.** Despite being a multiethnic country, there is relatively little

discrimination based solely on ethnicity in Ghana. However, local disputes over land use and chieftaincy sometimes lead to ethnically tinged violence, and the political exploitation of ethnicity has exacerbated some conflicts. This is particularly true in areas where tenant farmers occupy and develop land whose owners are from another ethnic group. It is considered a major honour and duty to become a Chief as the individual is embodying the well-being and reputation of the group. The "consequences" of refusing or misbehaving, then, increase with the greater level of chieftainship concerned.¹⁸

- 3.10.3** Chieftaincy disputes, which frequently resulted from a lack of clear succession, competing claims over lands and other natural resources, and internal rivalries and feuds, continued to result in deaths, injuries, and destruction of property.¹⁹
- 3.10.4** In 1 July 2012 correspondence with the Immigration and Refugee board of Canada Research Directorate, an Associate Professor of anthropology at York University in Toronto who has conducted field research in Ghana indicated that a person refusing/turning-down a chieftaincy position may be socially ostracised (they are putting their kin group and community at disadvantage and risk, and may also be costing them economic benefits, so life thereafter for that person may be quite unpleasant), perhaps driven away.²⁰
- 3.10.5** In a statement the Chieftaincy Ministry said government expects all those engaged in chieftaincy disputes to follow the laid down procedures for settling such disputes. Chieftaincy Minister Dr. Henry Seidu Daannaa told Joy News those in dispute should go to court and not take the law into their own hands. 'As a matter of law government cannot go in and say this person is a chief or this person is not. What we can do is to facilitate and ensure that this structure works. And so we expect that all royal stakeholders in the chieftaincy should go by the structures and those who are not happy with the decisions of these structures can appeal to the courts. 'They cannot operate outside the law,' he warned.²¹
- 3.10.6** The Ghanaian Government has warned it would not tolerate any breach of public peace by factions in chieftaincy disputes around the country. In June 2013 another chieftaincy clash in Teshie in Accra, claimed one life whilst several people sustained injuries.²²
- 3.10.7** In June 2012, one person was killed and others injured in a shooting incident at Tichiegu in Tamale in the Northern Region. The deceased was a bystander shot during an attempt to install a new chief. The police arrested 11 individuals. In August 2012 three people were killed during a shooting when two feuding chieftaincy factions argued over ritual activities. Police arrested nine suspects and were continuing their investigation.²³
- 3.10.8** In June 2013, one person was killed and several others injured in Teshie in

¹⁸ Freedom House, *Countries at Crossroads 2012*; Ghana, 20 September 2012,

<http://www.freedomhouse.org/report/countries-crossroads/2012/ghana>

¹⁹ US State Department, *Country Reports on Human Rights Practices 2012*: Ghana, Section 6, 19 April 2013,

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dldid=204126>

²⁰ Immigration and Refugee Board of Canada, *Ghana: Consequences of refusing a fetish priest or chieftaincy position, and whether there is state protection available*, 16 August 2012, <http://www.refworld.org/docid/50b73d3d2.html>

²¹ Modern Ghana, *Gov't to crack down on factions in chieftaincy disputes*, 22 June 2013

<http://www.modernghana.com/news/470463/1/govt-to-crack-down-on-factions-in-chie.html>

²² Modern Ghana, *Gov't to crack down on factions in chieftaincy disputes*, 22 June 2013

<http://www.modernghana.com/news/470463/1/govt-to-crack-down-on-factions-in-chie.html>

²³ US State Department, *Country Reports on Human Rights Practices 2012*: Ghana, Section 6, 19 April 2013,

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dldid=204126>

clashes which erupted when a chief was allegedly installed.²⁴ In an August 2012 submission to the UN Human Rights Council, sources indicated that there have been some isolated conflicts which are mostly as a result of chieftaincy disputes. Notable among these conflicts is the spate of violence in the Bawku area of the Upper East Region. A considerable amount of resources have been spent to maintain security personnel in the area to keep peace. However, food production has suffered as a result of the conflicts.²⁵ In March 2011, two police officers were shot in a chieftaincy riot at Akwamufie, Akosombo District. One of the officers died from his injuries. In March 2010 in Tuobodom, Brong-Ahafo Region, three persons were killed and more than 500 displaced as a result of fighting between ethnic factions after the kidnapping of a rival chief. Eight persons were arrested in connection with the incident.²⁶

3.10.9 In March 2013, it was reported that there was simmering tension between the Bemobas and the Kokombas after an Independence Day violent clash over land left one person dead. It was reported that the Northern regional security high command is being cautioned against attempts to arrest the Kokomba chief in the Bumpurugu Yoyoo district following clashes there. The Member of Parliament for Bunpurugu, Solomon Boar Nanliit warns this may spark fresh fighting between the Bemobas and the Kokombas.²⁷

3.10.10 Despite its rich ethnic diversity, easy geographical and social mobility have scattered people from various ethnic groups throughout the country without destroying or weakening their ethnic bonds. Ethnic rivalries during the colonial era and the effect of colonialism on different groups and regions of the country, coupled with the uneven distribution of social and economic amenities in both the colonial and post independence Ghana have all contributed to the inequalities and to some extent some of the present day ethnic tensions within and among the various ethnic groups and the country in general.²⁸

3.10.11 Communal and ethnic violence occasionally flares in Ghana. In June 2012, violence erupted in the Hohoe area of Ghana's Volta region between residents of Hohoe and youth from the Muslim Zongo community in response to the exhumation of the body of a local Muslim imam. At least four people were killed and several thousand residents were displaced.²⁹

See also: [Actors of protection](#) (section 2.3 above)

[Internal relocation](#) (section 2.4 above)

²⁴ Joy News, Chieftaincy minister asked to play lead role in resolving Teshie clashes, 21 June 2013 <http://edition.myjoyonline.com/pages/news/201306/108270.php>

²⁵ UN Human Rights Council, Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, 13 August 2012 http://www.ecoi.net/file_upload/1930_1347462855_a-hrc-wg-6-14-gha-2-ghana-e.pdf

²⁶ U.S. State Department, Country Reports on Human Rights Practices for 2011, 24 May 2012 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dlid=186202>

²⁷ Joy News, Bunpurugu MP warns arrest of Kokomba Chief could spark fresh clashes, 13 March 2013 <http://edition.myjoyonline.com/pages/news/201303/102695.php>

²⁸ United Nations, Research Institute for Social Development, Ethnic Structure, Inequality and Governance of the Public Sector in Ghana, 2004 [http://www.unrisd.org/80256B3C005C2802/\(ViewPDF\)?OpenAgent&parentunitid=8509496C0F316AB1C1256ED900466964&parentdb=80256B3C005BCCF9&parentdoctype=paper&netitpath=80256B3C005BCCF9/\(httpAuxPages\)/8509496C0F316AB1C1256ED900466964/\\$file/Asante+\(small\).pdf](http://www.unrisd.org/80256B3C005C2802/(ViewPDF)?OpenAgent&parentunitid=8509496C0F316AB1C1256ED900466964&parentdb=80256B3C005BCCF9&parentdoctype=paper&netitpath=80256B3C005BCCF9/(httpAuxPages)/8509496C0F316AB1C1256ED900466964/$file/Asante+(small).pdf)

²⁹ Freedom House, Freedom in the World 2013; Ghana, 20 May 2013 <http://www.freedomhouse.org/report/freedom-world/2013/ghana>

Caselaw (section 2.5 above)

3.10.12 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 succession process. Chieftaincy disputes continue to result in deaths, injuries, and destruction of property. The availability of adequate state protection and a viable internal relocation alternative must be assessed on an individual basis.

3.10.13 Sporadic inter-ethnic clashes are also 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 also generally able to internally relocate to another part of the country to escape such conflict. However, each case must be considered on an individual basis, taking into account the personal circumstances of the applicant and whether it would be unduly harsh to expect them to internally relocate to another part of Ghana.

3.11 Trokosi system and idol worship

3.11.1 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, often for many years). More generally, female applicants may also allege that tribal leaders or fetish priests of their ethnic group will subject them to idol worship.

3.11.2 Treatment. The Trokosi custom is practised in south-eastern Ghana. A family must offer a daughter to the priest as a way of appeasing the gods for a relative's transgression, past or present. The tradition has been part of the Ewe culture for centuries, requiring a girl to spend the rest of her life as a 'wife of the gods'. Children as young as 18 months are sent to the shrine. When a Trokosi girl dies, her family is expected to replace her with another young girl, passing the problem down from generation to generation.³⁰

3.11.3 In addition to performing ritual duties and domestic chores at the shrine, a trokosi is usually also expected to work long hours on farmland belonging to the shrine. She does not receive anything in return for her labour and her family is required to provide her with food and all other necessities. Once a trokosi reaches puberty, the shrine's fetish priest (tronua) is entitled to sleep with the girl to consummate the marriage between her and the gods. Groomed from a very young age into accepting their servitude at the shrine, the girls are not in a position to refuse. Daughters born from such sexual relations also have certain obligations to the shrine. After serving several years at the shrine, a trokosi may be released from servitude if her family pays for a special ceremony, but she will retain a relationship with the shrine and continue to perform certain rituals there. Released trokosi are allowed to marry, but are often unable to find a husband. If a trokosi dies, her family is expected to replace her with another girl and the cycle of ritual servitude and exploitation recommences.³¹

³⁰ (BBC) News Online , Woman's Hour International Archive – Trokosi women in Ghana, 27 August 2009
http://www.bbc.co.uk/radio4/womanshour/04/2009_34_thu.shtml

³¹ UN Human Rights Council, Report of the Special Rapporteur on Violence against Women, Its Causes and

- 3.11.4** The practice of trokosi has been criminalized by the Criminal Offences Act. This is also a practice firmly rooted in the cultural beliefs of a few communities. Ghana is committed to continuing the extensive educational campaigns and consultations already in progress to change the mind-sets of persons who indulge in these practices.³²
- 3.11.5** Some children in the Volta region are involved in Trokosi, a form of religious servitude that often lasts for many years. This practice requires children to atone for their family members' sins by assisting with prayers and maintaining religious shrines for priests, elders or the owners of the shrines.³³
- 3.11.6** The BBC reports in 2009 that about 1,800 women have been released through the efforts of local charitable organisations, such as 'International Needs Ghana', but although it is now a criminal offence, it is estimated that there are still 5,000 women and girls in Trokosi shrines. As of 2008, not a single person had been convicted of Trokosi.³⁴ The Special Rapporteur on Violence against Women reports in 2008 that local authorities are reluctant to enforce the law against ritual servitude, fearing a popular backlash. Some also seem to fear adverse spiritual consequences for themselves.³⁵
- 3.11.7** Freedom House reports in September 2012 that there is little evidence that legal and constitutional protections against child labour are being enforced, including forms of ritual servitude such as trokosi, in which female children are sent to live in "voodoo" shrines to atone for the debts or spiritual and corporeal misdeeds of family members.³⁶ The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health notes in April 2012 with regards to trokosi that although it is pleased to note that this practice has been criminalized in Ghana, enforcement is lacking and the practice continues to occur in remote regions, particularly in the Volta. It also reports that the effectiveness of the law is largely dependent on significant cultural change, which likely cannot be made through criminalization alone.³⁷

See also: [Actors of protection](#) (section 2.3 above)

[Internal relocation](#) (section 2.4 above)

Consequences, Yakin Ertürk : addendum : mission to Ghana, 21 February 2008, paragraph 44-46

<http://www.refworld.org/docid/47ce68652.html>

³² UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review : Ghana*, 13 December 2012, A/HRC/22/6, <http://www.refworld.org/docid/50f91dec2.html>

³³ United States Department of Labour, *2011 Findings on the Worst Forms of Child Labour - Ghana*, 26 September 2012, <http://www.refworld.org/docid/506594140.html>

³⁴ UN Human Rights Council, Summary prepared by the Office of the High Commissioner for Human Rights, in accordance with paragraph 15(c) of the Annex to Human Rights Council Resolution 5/1 - Ghana, 2 April 2008, paragraph 21 <http://www.refworld.org/docid/48591f5b0.html>

³⁵ UN Human Rights Council, Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, Yakin Ertürk : addendum : mission to Ghana, 21 February 2008, paragraph 48 <http://www.refworld.org/docid/47ce68652.html>

³⁶ Freedom House, *Countries at Crossroads 2012*; Ghana, 20 September 2012 <http://www.freedomhouse.org/report/countries-crossroads/2012/ghana>

³⁷ UN Human Rights Council, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, 10 April 2012, paragraphs 41- 42, http://www.ecoi.net/file_upload/1930_1338997717_a-hrc-20-15-add1-en.pdf

Caselaw (section 2.5 above)

3.11.8 Conclusion. Although the practice of trokosi has been criminalized by the Criminal Offences Act, authorities are reluctant to enforce this law and there are no reports of persons being convicted of trokosi. Those subjected to the trokosi system, or at risk of being placed in it, are in general unable to seek and receive adequate state protection. Claimants may be able to internally relocate but the reasonableness of internal relocation must be assessed on a case by case basis taking full account of the individual circumstances of the particular claimant.

3.12 Alleged victims of witchcraft and those accused of witchcraft

3.12.1 Some applicants may also make an asylum and/or human rights claim based on ill-treatment amounting to persecution due to them having been attacked by witches or the subject of a witches' curse or hex. Some applicants may also claim that they have been accused of being a witch.

3.12.2 Treatment. In the Northern, Upper East, and Upper West regions, where belief in witchcraft remained strong, rural women and men suspected of witchcraft were banished to "witch camps" (villages in the north populated by suspected witches, some of whom were accompanied by their families) by their families or traditional village authorities. (Such camps were distinct from "prayer camps," to which persons with mental illness were sometimes sent by their families.) Most accused witches were older women, often widows, who were accused by fellow villagers of being the cause of difficulties, such as illness, crop failure, or financial misfortune. Persons suspected of witchcraft were also killed in recent years.³⁸

3.12.3 Ghana is rather widely known for its 'witch camps', where mainly old women who are accused of occult crimes are subsequently banished from their communities. They seek refuge in these 'camps' to avoid being killed by their family and community members.³⁹ In an August 2012 report, Action Aid reports that women who do not fulfil expected gender stereotypes, for example if they are widows, unmarried or cannot have children, are vulnerable to being branded as witches. Witchcraft accusations also stem from a lack of recognition or treatment for mental health issues. There is also a high correlation between the perceived non-contribution of women to the economic needs of the household and witchcraft allegation.⁴⁰

3.12.4 Action Aid further reports that once a woman is accused of witchcraft she is often banished from her village by a mob which sometimes includes her relatives or children. Women living in witch camps fled discrimination, threats or even mob justice after being accused of witchcraft and blamed for 'crimes' such as causing sickness, droughts or fires, cursing a neighbour or even just appearing in someone's dream. Women have been murdered after accusations of witchcraft. Recently a mother of three was beaten and set on fire after being blamed for making a child sick through witchcraft. In 2010, the case of a 72-year-old woman

³⁸ US State Department, Country Report on Human Rights Practices 2012: Ghana, Section 6, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dlid=204126>

³⁹ Modern Ghana, Child Witches in Ghana, 19 January 2013, <http://www.modernghana.com/news/440447/1/child-witches-in-ghana.html>

⁴⁰ Action Aid, Condemned without trial: women and witchcraft in Ghana, 30 August 2012 http://reliefweb.int/sites/reliefweb.int/files/resources/Full%20Report_953.pdf

who was set on fire and killed made headlines around the world.⁴¹ The UN Committee Against Torture expressed concern in June 2011 at reports that some women have been accused of practicing witchcraft, and subjected to severe violence, including mob violence, burning and lynching, and forced to leave their communities.⁴²

- 3.12.5** In Ghana, there are six camps which are fundamentally an arrangement where women suspected of being witches can flee for safety. Most of the women in these camps are widows whose relatives accused them of witchcraft in order to take control of their husband's possessions. Also, there is no real understanding of mental disorders like depression and dementia in Ghana. Thus, many women suffering from some sort of mental illness are deemed to be possessed by spirits and are brought to these camps. Some reports claim that normally older women are accused of being witches because they are no longer useful to the society. Moreover, the people of Ghana expect women to be subservient and dutiful. So, if one is outspoken or successful in her job, then she is considered a witch; because her conduct is unlike other typical women.⁴³
- 3.12.6** In one camp in Gambaga, these women are given protection by the local chieftain and in return they pay him and work for him in his fields. Around 700 women and 800 children live in the Gambaga camp and five other camps across northern Ghana and they are virtually cut off from the outer world.⁴⁴ UNICEF reports that in northern Ghana, women accused of witchcraft are banished and forced to live in dehumanizing conditions.⁴⁵ Action Aid reports that witch camps are effectively women's prisons where inmates have been given no trial, have no right of appeal but have received a life sentence. It notes that the camps offer poor living conditions and little hope of a normal life. Food supplies are inadequate and, in some camps, women have to walk several miles to collect water. Virtually no regular services are provided by the government or its agencies and there are few basic health or education facilities. Even if these are available, the women cannot afford them. The women do not have a voice or representation in deciding matters affecting their lives. They are not allowed to attend village meetings (or prefer not to because of discrimination) and have little or no access to justice.⁴⁶
- 3.12.7** Often women who are banished to the camps are 'given' a young child – perhaps a grandchild and almost always a girl – to help look after them. This happens in cases where the families of the accused still want to support them but cannot protect them in their own community. In other cases, where the accused woman is living with a child in her village – for example an orphaned grandchild – the child is also banished to the camp. The girls in the camps have limited access to food, shelter and education. Most do not attend school because school facilities are limited and remote from the camps, and because they suffer stigmatisation and discrimination by their peers and sometimes their teachers. Most of their time is

⁴¹ Action Aid, Condemned without trial: women and witchcraft in Ghana, 30 August 2012

http://reliefweb.int/sites/reliefweb.int/files/resources/Full%20Report_953.pdf

⁴² UN Committee Against Torture, Consideration of reports submitted by States parties under article 19 of the Convention, Concluding observations of the Committee against Torture, 15 June 2011, paragraph 23

http://www.ecoi.net/file_upload/1788_1310999438_cat-c-gha-co-1.pdf

⁴³ WE Magazine for Women, The Witch Camps of Ghana, 12 August 2013, <http://wemagazineforwomen.com/the-witch-camps-of-ghana/>

⁴⁴ WE Magazine for Women, The Witch Camps of Ghana, 12 August 2013, <http://wemagazineforwomen.com/the-witch-camps-of-ghana/>

⁴⁵ UNICEF, Children Accused of Witchcraft: An anthropological study of contemporary practices in Africa, April 2010 p.13 http://www.ecoi.net/file_upload/1930_1279627028_unicef-apr2010.pdf

⁴⁶ Action Aid, Condemned without trial: women and witchcraft in Ghana, 30 August 2012 http://reliefweb.int/sites/reliefweb.int/files/resources/Full%20Report_953.pdf

spent doing household chores and, when they are older, some take paid labour selling wood or carrying loads in order to support their grandmothers.⁴⁷

- 3.12.8** The German delegation of the Working Group on the Universal Periodic Review in Ghana, stated that the issue of violence against persons suspected of practising witchcraft is a challenge, given that it deals with entrenched beliefs, which makes it difficult to eradicate through legislation. Although the Ghanaian Criminal Offences Act criminalizes lynching, maltreatment and other human rights abuses, extensive education in these areas is needed and is ongoing. There is also the need to protect those who have been forced to flee their homes, as well as make life more comfortable for them in refugee camps.⁴⁸
- 3.12.9** NGOs provided food, medical care, and other support to residents of the camps. Government officials and the regional office of the Commission for Human Rights and Administrative Justice (CHRAJ) claimed the number of women in witch camps in the Northern Region decreased slightly in recent years.⁴⁹
- 3.12.10** In May 2012 an intellectually gifted 17-year-old high school girl was sent to the Gambaga Witch Camp in the Northern Region after being accused of “stealing the intelligence” of other students. The Ministry of Women and Children (MOWAC) and a local NGO intervened and assisted the student with leaving the camp and returning to her studies.⁵⁰
- 3.12.11** In December 2012, First Lady Lordina Mahama visited the Gambaga Witch Camp in the Northern Region. On her visit, she donated food and clothing to the elderly women living in the camp. The visit brought some media attention to the camp.
- 3.12.12** MOWAC monitors witch camps. The CHRAJ has an office in Tamale in the Northern Region, which supports efforts to protect the rights of those accused of being witches and monitors three camps. In 2010, during its most recent survey of the camps, the CHRAJ reported that they contained 175 female and eight male residents; however, media sources reported far higher numbers of men, women, and children in the camps.⁵¹
- 3.12.13** The Ghanaian Government has announced that they intend to close these camps taking into account the fact that witches don't exist. The witch camps are tarnish on the reputation of the country and the leaders want to educate the population. The idea of disbanding the camps has been received with mixed responses. The apprehension is that sending the women back to their villages might not solve the problem, after all. They might be re-accused and beaten. The witch-camp inmates are also not yet ready to go back as they believe they will be killed.⁵² Action Aid's 2008 survey found that 40% of women who were reintegrated returned to the camps within a year, because they had been accused again. High levels of stigma

⁴⁷ Action Aid, Condemned without trial: women and witchcraft in Ghana, 30 August 2012

http://reliefweb.int/sites/reliefweb.int/files/resources/Full%20Report_953.pdf

⁴⁸ UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review : Ghana*, Paragraph 66,13 December 2012, <http://www.refworld.org/docid/50f91dec2.html>

⁴⁹ US State Department, Country Reports on Human Rights Practices 2012: Ghana, Section 6, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

⁵⁰ US State Department, Country Reports on Human Rights Practices 2012: Ghana, Section 6, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

⁵¹ US State Department, Country Reports on Human Rights Practices 2012: Ghana, Section 6, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

⁵² WE Magazine for Women, The Witch Camps of Ghana, 12 August 2013, <http://wemagazineforwomen.com/the-witch-camps-of-ghana/>

continue to exist long after the accusations are made.⁵³ The UN Committee Against Torture reports in June 2011 that women are sent to “witch camps” through a system that lacks minimal due legal process, and from which the possibility of returning to society is uncertain.⁵⁴

See also: [Actors of protection](#) (section 2.3 above)

[Internal relocation](#) (section 2.4 above)

[Caselaw](#) (section 2.5 above)

3.12.14 Conclusion. There remains a strong belief in witchcraft in some parts of the Country but a subjective fear of witchcraft without evidence of plausible threats of harm will not engage the UK’s obligations under the Refugee Convention or ECHR. Sufficiency of protection and internal relocation will be available in the event of a genuine threat to the individual. The grant of asylum will not be appropriate and any such claims are likely to be clearly unfounded.

3.12.15 Women accused of witchcraft are subject to discrimination, threats and severe violence, including mob violence, burning and lynching, and in some cases, murder. Women accused of witchcraft are banished and forced to live in ‘witch camps’ for their own safety in dehumanizing conditions. Young girls may also be forced to live in ‘witch camps’ with their relatives. Some women who have left these camps have been forced to return due to being re-accused of witchcraft.

3.12.16 Applicants who claim to be accused of being a witch may be able to avoid the threat of persecution by relocating. This is unlikely to be the case for widows, unmarried mothers or persons with mental health issues who will continue to be vulnerable to being branded as witches. Very careful consideration must be given as to whether internal relocation would be an effective way to avoid such ill-treatment and whether, taking into account their personal circumstances, it would be unduly harsh to expect the applicant to internally relocate to another part of Ghana.

3.13 Gay men and lesbians

3.13.1 Some applicants may make an asylum and/or human rights claim based on ill-treatment amounting to persecution as gay men or lesbians in Ghana.

3.13.2 Sexual activity between consenting adults of the same sex remained a crime under Ghana's Criminal Code.⁵⁵ Same-sex sexual activity between men is illegal in Ghana with those found guilty facing up to 3 years in prison.⁵⁶ According to the Ghanaian criminal code, “unnatural carnal knowledge” is defined as “sexual

⁵³ Action Aid, Condemned without trial: women and witchcraft in Ghana, 30 August 2012

http://reliefweb.int/sites/reliefweb.int/files/resources/Full%20Report_953.pdf

⁵⁴ UN Committee Against Torture, Consideration of reports submitted by States parties under article 19 of the Convention, Concluding observations of the Committee against Torture, 15 June 2011, paragraph 23

http://www.ecoi.net/file_upload/1788_1310999438_cat-c-gha-co-1.pdf

⁵⁵ Amnesty International, Annual Report 2013; Ghana, 23 May 2013

<http://www.amnesty.org/en/region/ghana/report-2013>

⁵⁶ Pink news, The 41 Commonwealth Nations where being gay can land you in prison, 20 August 2013,

<http://www.pinknews.co.uk/2013/08/20/the-41-commonwealth-nations-where-it-is-illegal-to-be-gay/>

intercourse with a person in an unnatural manner or with an animal.” It states that individuals who have unnatural carnal knowledge “of any person of 16 years or over with his consent” is guilty of a misdemeanour. There has been considerable debate over whether this legislation could be used to prosecute consenting gay adults, and there were no reports that it had ever been used.⁵⁷ The Constitutional Review Commission’s (CRC) final report recommended that the country’s Supreme Court should rule on whether Ghana should legalise same-sex acts. The government “took note” of the recommendation.⁵⁸

- 3.13.3** Individuals suspected of homosexual relations face discrimination and abuse.⁵⁹ In September 2012 Freedom House noted that “The persecution of sexual minorities has escalated”.⁶⁰ Amnesty International reported in 2013 that violence against people suspected of same-sex relationships continued.⁶¹ A newspaper in the country made a claim in 2012 that over 82% of the population abhorred homosexuality.⁶² Whilst conducting research on sexual minorities in Ghana, the Research Directorate of the Canadian Immigration and Refugee Board found that both religious leaders and the media have condemned homosexuality.⁶³ A representative of the Ghanaian Centre for Popular Education and Human Rights (CEPEHRG) stressed that if sexual minorities disclose their sexual orientation, they may face eviction, extortion and forced marriage, among other problems.⁶⁴ The Executive Director for CEPEHRG also stated that “Homosexuals in Ghana lead a precarious existence [...] homosexuals are regularly subject to harassment, gay bashing, physical violence, and extortion. Often, these crimes occur at the hands of, or with the collusion of, the police or other agents of the state”.⁶⁵ In March 2012, “a gang of men assaulted nine people they believed to be LGBT individuals in Jamestown, a neighborhood of Accra, forcing them from their homes and attacking them with canes and sticks. The victims filed a complaint with a legal human rights organization. They said their homes were burgled while they were chased out. No arrests had been made in the case by year’s end”.⁶⁶
- 3.13.4** LGBT persons faced widespread discrimination, as well as police harassment and extortion attempts. Gay men in prison were often subjected to sexual and other physical abuse.⁶⁷ In July 2011, the Western Region Minister ordered the security forces to arrest all gay men and lesbians in the west of the country, and called on

⁵⁷ US State Department, Country Reports on Human Rights Practices 2012: Ghana, Section 6, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

⁵⁸ Amnesty International, Annual Report 2013; Ghana, Rights of lesbian, gay, bisexual, transgender and intersex people, 23 May 2013 <http://www.amnesty.org/en/region/ghana/report-2013>

⁵⁹ Freedom House, Freedom in the world 2013: Ghana, 20 May 2013, <http://www.freedomhouse.org/report/freedom-world/2013/ghana>

⁶⁰ Freedom House, Countries at the crossroads: Ghana, 20 September 2012, http://www.freedomhouse.org/report/countries-crossroads/2012/ghana#_edn2

⁶¹ Amnesty International, Annual Report 2013; Ghana, 23 May 2013 <http://www.amnesty.org/en/region/ghana/report-2013>

⁶² Pink news, The 41 Commonwealth Nations where being gay can land you in prison, 20 August 2013, <http://www.pinknews.co.uk/2013/08/20/the-41-commonwealth-nations-where-it-is-illegal-to-be-gay/>

⁶³ Immigration and Refugee Board of Canada, Ghana: Treatment of sexual minorities by society and governmental authorities, including legislation, state protection, and support services, 16 August 2012, <http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=454127>

⁶⁴ Immigration and Refugee Board of Canada, Ghana: Treatment of sexual minorities by society and governmental authorities, including legislation, state protection, and support services, 16 August 2012, <http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=454127>

⁶⁵ Mac-Darling Cobbinah, “Because of you”: Blackmail and extortion of gay and bisexual men in Ghana, in International Gay and Human Rights Commission, Nowhere to Turn: Blackmail and Extortion of LGBT People in Sub-Saharan Africa, 15 February 2011, <http://www.ighrc.org/sites/default/files/484-1.pdf>

⁶⁶ US State Department, Country Reports on Human Rights Practices 2012: Ghana, Section 6, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

⁶⁷ US State Department, Country Reports on Human Rights Practices 2012: Ghana, Section 6, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

landlords and tenants to report anyone they suspected of being gay or lesbian.⁶⁸ In March 2012, young people in Accra's James Town community disrupted a planned wedding ceremony between two women, and assaulted them and their guests. The women were later arrested and detained at the James Town Police station for "engaging in illegal practice". They were released after their relatives intervened.⁶⁹

- 3.13.5** In May 2012 a peer educator employed by an NGO to instruct sexual health education workshops was assaulted by a group of boys at a school in the Volta Region. The assault occurred after they discovered he was carrying safe-sex presentation materials such as condoms, wooden sex organ replicas, lubricant, and pamphlets. The peer educator was detained by police but later released. The boys were not charged.⁷⁰ In June 2013, a church minister was reportedly suspended over claims of engaging in "homosexual acts" with seven young men aged between 20 and 28.⁷¹
- 3.13.6** The former and current commissioners of the Commission for Human Rights and Administrative Justice (CHRAJ) spoke out against discrimination and advocated the need to protect the human rights of every citizen as provided for in the constitution. In November 2011 media accounts reported British Prime Minister Cameron was considering suspending direct aid to countries with poor records on LGBT rights. In response the late President Mills commented that Ghana was committed to upholding human rights as provided by the constitution, but he would not initiate a change to the law.⁷² According to reporting by Pink News in February 2013 "The Ghanaian President himself is said to oppose gay rights. According to a statement made earlier this month by Information Minister Mahama Ayariga: "The President is to execute the laws of Ghana. And the laws of Ghana are very clear on homosexuality. The laws of Ghana appall [sic] and criminalise homosexuality. There is no dispute about that. Homosexual conduct which is unnatural canal knowledge of one person or another is criminal and punishable by the laws of Ghana."⁷³
- 3.13.7** The Ghanaian Justice Minister-designate Marietta Appiah Oppong has stated categorically that she believes Ghana's constitution does not protect the rights of gay people to have legal same-sex relations. While being vetted for the role of Justice Minister on Thursday 7 February Ms Oppong said that "unnatural carnal knowledge is a criminal offence" in Ghanaian law, and said that people who believe that the constitution would protect gay rights would have to take the matter to the Supreme Court. Prompted for her personal views on homosexuality she added: "I disapprove of it." Ms Oppong's words are a stark contrast to statements made by the Minister for Gender, Children and Social Protection-designate, Nana Oye Lithur, who caused controversy in February 2013 by asserting her belief that

⁶⁸ Amnesty International, Ghana: Human rights shortcomings in law and in practice, Amnesty International Submission to the UN Universal Periodic Review, October-November 2012, Human Rights situation on the ground, Human Rights of lesbian, gay, bisexual and transgender people, 1 April 2012, <http://www.amnesty.org/en/library/asset/AFR28/003/2012/en/26d6a941-7a50-4200-8147-d386cc0a8996/afr280032012en.pdf>

⁶⁹ Amnesty International, Annual Report 2013; Ghana, Rights of lesbian, gay, bisexual, transgender and intersex people, 23 May 2013 <http://www.amnesty.org/en/region/ghana/report-2013>

⁷⁰ US State Department, Country Reports on Human Rights Practices 2012: Ghana, Section 6, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

⁷¹ Pink News, Ghana: Church minister suspended over gay sex claims, 24 June 2013, <http://www.pinknews.co.uk/2013/06/24/ghana-church-minister-suspended-over-gay-sex-claims/>

⁷² US State Department, Country Reports on Human Rights Practices 2012: Ghana, Section 6, 19 April 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

⁷³ Pink news, Ghana: Justice Minister-designate opposes gay rights, 8 February 2013, <http://www.pinknews.co.uk/2013/02/08/ghana-justice-minister-designate-opposes-gay-rights/>

gay people have rights under Ghanaian law. Ms Lithur went on to clarify that she did not want to promote homosexuality.⁷⁴ In April 2012, the Ghanaian newspaper, the Daily Graphic, reported that a retired Supreme Court judge has filed an application asking the Ghana Supreme Court to disregard homosexuality as a human rights issue.⁷⁵

See also: [Actors of protection](#) (section 2.3 above)

[Internal relocation](#) (section 2.4 above)

[Caselaw](#) (section 2.5 above)

3.13.8 Conclusion Homosexual acts are illegal in Ghana and can carry a prison sentence. Despite Ghana's constitution which states that all citizens must be treated equally under the law and not face discrimination based on gender, race or religion, and have the right to privacy, LGBT persons continue to be subject to societal harassment, discrimination, intimidation, violence and abuse and threats to their wellbeing, as well as arrests, extortion and violence from the police. This can in individual cases amount to persecution and in general the Ghanaian authorities do not provide gay men, lesbians and bisexuals or those perceived as such with effective protection.

3.13.9 Where gay men and lesbians do encounter social hostility they are unlikely to be able to avoid this by moving elsewhere in Ghana. This is because homophobic attitudes are prevalent across the country. The Supreme Court in the case of HJ (Iran) made the point that internal relocation is not the answer if it depends on the person concealing their sexual orientation in the proposed new location for fear of persecution.

3.13.10 Each case must however be examined on its own merits. Where caseowners conclude that a claimant is at real risk of persecution in Ghana on account of their sexual orientation then they should be granted asylum because gay men, lesbians and bisexuals in Ghana may be considered to be members of a particular social group.

3.13.11 If an individual chooses to live discreetly because he/she wants to avoid embarrassment or distress to her or his family and friends he/she will not be deemed to have a well founded fear of persecution and will not qualify for asylum. This is because he/she has adopted a lifestyle to cope with social pressures and not because he/she fears persecution due to her or his sexual orientation.

3.13.12 If an individual chooses to live discreetly because he/she fears persecution if he/she were to live as openly gay, lesbian or bisexual then he/she will have a well founded fear and should be granted asylum. It is important that gay, lesbian and bisexual people enjoy the right to live openly without fear of persecution. They

⁷⁴ Pink news, Ghana: Justice Minister-designate opposes gay rights, 8 February 2013, <http://www.pinknews.co.uk/2013/02/08/ghana-justice-minister-designate-opposes-gay-rights/>

⁷⁵ International Lesbian, Gay, Bisexual, Trans and Intersex Association, Retired Ghana Judge asks court to disregard homosexuality as a human rights issue, 2 April 2012, <http://ilga.org/ilga/en/article/ntrGD251Et>

should not be asked or be expected to live discreetly because of their well founded fear of persecution due to their sexual orientation.

3.14 Women

3.14.1 Some applicants may make an asylum and/or a human rights claim based on sexual or gender based violence.

Sexual and Domestic violence

3.14.2 Treatment The US Department of State reports that the law criminalises rape but not marital rape. It also noted that while domestic violence is prohibited by law, there are “inadequate resources and logistical capacity in DOVVSU [Domestic Violence and Victim Support Unit] and other agencies, as well as only partial implementation of the Domestic Violence Act, hindered the full application of the law during 2012”.⁷⁶ Amnesty International also stated in April 2012 that the DOVVSU “remains under-resourced and seriously inadequate in ensuring protection and services to victims of violence.”⁷⁷

3.14.3 The U.S. Department of State reported on the following issues affecting the reporting of domestic violence cases: Unless specifically called upon by DOVVSU, 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. In many cases victims were discouraged from reporting abuse and from cooperating with prosecutors because they were aware of long delays in bringing such cases to trial. Victims frequently did not complete their formal complaints because they could not afford the fees that doctors charged to document the abuse in police medical forms. Victims also did not report domestic violence (or rape) because of fear of retaliation.⁷⁸

3.14.4 Moreover, a study published in November 2011 focusing on service users’ perception of the DOVVSU in Accra found amongst others issues that:

- Information relating to rights, services and procedures is poorly provided and this significantly undermines service users’ ability to navigate the justice system and make decisions.
- There is a striking lack of the provision of privacy, counselling, shelter, legal advice and medical services.
- Services are not integrated and there is no adequate budgetary provision by government.
- Few cases are fully investigated, there are few prosecutions and few perpetrators get punished. The law is not consistently applied and the police and justice process is very slow.⁷⁹

⁷⁶ US State Department, Country Reports on Human Rights Practices 2012; Ghana, Section 6, 19 April 2013
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

⁷⁷ Amnesty International, Ghana: Human rights shortcomings in law and in practice, Amnesty International Submission to the UN Universal Periodic Review, October-November 2012, Follow up to the previous review, 1 April 2012,
<http://www.amnesty.org/en/library/asset/AFR28/003/2012/en/26d6a941-7a50-4200-8147-d386cc0a8996/af280032012en.pdf>

⁷⁸ US State Department, Country Reports on Human Rights Practices 2012; Ghana, Section 6, 19 April 2013
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

⁷⁹ Voluntary Service Overseas (VSO), Service Users’ Perceptions of the Domestic Violence and Victims’ Support Unit, Ghana Police Service, Executive Summary, November 2011,
<http://www.gadnetwork.org.uk/storage/Perceptions%20of%20the%20Domestic%20Violence%20and%20Victim's%20Support%20Unit%20Ghana%20Police%20Service%202012%20Laura%20Mitchell%20June%202012.pdf>

- 3.14.5** Research conducted by the Canadian Research Directorate of the Immigration and Refugee Board found that “traditionally people view domestic violence as a family matter, therefore they tend to resolve family issues within their home and not seek help from the police or any other third party.”⁸⁰ Similarly, in February 2008, the Special Rapporteur on violence against women, its causes and consequences, following her mission to Ghana found that “Women are often expected to silently endure abuse ‘to protect their family’. Women who report their husbands or other family members to the authorities may be ostracized [...] Harmful attitudes towards women are reinforced by certain religious and other community leaders, who exhort women to stand by their husband under all circumstances, while at the same time failing to take a clear stand against wife battery and marital rape”.⁸¹
- 3.14.6** The U.S. Department of State notes that “rape was significantly underreported and remained a serious problem”.⁸² Amnesty International also reported that “Violence against women and girls remained rife, with nearly 10,000 cases reported to the Ghana police Domestic Violence Support Unit in 2012. Violence against women was thought to be under-reported and not adequately addressed by the authorities”.⁸³ Amnesty International also stated that “High levels of violence against women and girls continue to be reported throughout the country, with violence in the family thought to affect one in three women”.⁸⁴
- 3.14.7** Discrimination was experienced by women in accessing employment and women were subjected to traditional male dominance and traditional practices and societal norms, which often “denied women their statutory entitlements to inheritance and property, a legally registered marriage with the associated legal rights, and the maintenance and custody of children”.⁸⁵

Female Genital Mutilation (FGM)

- 3.14.8** The U.S. Department of State states that female genital mutilation (FGM) is prohibited by the law, but that it remained a “serious problem in the Upper West Region of the country and, to a lesser extent, in the Upper East and Northern regions”.⁸⁶ It further reported that “Type II FGM--defined by the World Health Organization as the excision of the clitoris with partial or total excision of the labia minora--was more commonly perpetrated than any other type” and that “A girl was typically excised between four and 14 years of age”.⁸⁷ According to a July 2013 study by UNICEF, “In the highest prevalence region (Upper West), 60% of women

⁸⁰ Immigration and Refugee Board of Canada, Domestic violence, including protection, services and resource available to victims [GHA103468.E], 10 June 2010, http://www.ecoi.net/local_link/144825/245692_en.html

⁸¹ UN Special Rapporteur on violence against women, its causes and consequences, Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural including the right to Development: Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk, Addendum, MISSION TO GHANA, Paragraphs 36 and 38, 21 February 2008, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/106/90/PDF/G0810690.pdf?OpenElement>

⁸² US State Department, Country Reports on Human Rights Practices 2012; Ghana, Section 6, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

⁸³ Amnesty International, Annual Report 2013: Ghana, Violence against women and girls, 23 May 2013, <http://www.amnesty.org/en/region/ghana/report-2013#section-55-6>

⁸⁴ Amnesty International, Ghana: Human rights shortcomings in law and in practice, Amnesty International Submission to the UN Universal Periodic Review, October-November 2012, Follow up to the previous review, 1 April 2012, <http://www.amnesty.org/en/library/asset/AFR28/003/2012/en/26d6a941-7a50-4200-8147-d386cc0a8996/af280032012en.pdf>

⁸⁵ US State Department, Country Reports on Human Rights Practices 2012; Ghana, Section 6, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

⁸⁶ US State Department, Country Reports on Human Rights Practices 2012; Ghana, Section 6, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

⁸⁷ US State Department, Country Reports on Human Rights Practices 2012; Ghana, Section 6, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

aged 45 to 49 have undergone FGM/C compared to 16% of girls aged 15 to 19”.⁸⁸ In February 2008, the Special Rapporteur on violence against women, its causes and consequences, found that “While there are indications that the practice of FGM in Ghana may be declining, new cases continue to be reported. Civil society organizations and medical practitioners note that FGM is increasingly performed on younger girls, who are less likely to resist or report the crime. Some families apparently also send their daughters abroad to have the procedure carried out”.⁸⁹

3.14.9 The U.S. Department of State further noted that “Intervention programs were somewhat successful in reducing the prevalence of FGM/C, particularly in the northern regions. Officials at all levels, including traditional chiefs, continued to speak out against the practice, and local NGOs continued educational campaigns to encourage abandonment of FGM/C and to train practitioners in new skills so they could seek alternate sources of income”.⁹⁰ However, according to the Head of the Social Service Unit of the Police Hospital, “the police are unable to enforce the laws against female genital circumcisers effectively because most of the personnel do not have sufficient knowledge of the policies guiding Female Genital Mutilation (FGM) in Ghana”.⁹¹

Trafficking

3.14.10 The U.S. Department of State in its annual report on trafficking finds that; Ghana is a country of origin, transit, and destination for men, women, and children subjected to forced labour and sex trafficking. The trafficking of Ghanaians, particularly children, within the country is more prevalent than the transnational trafficking of foreign migrants. Ghanaian boys and girls are subjected to conditions of forced labour within the country in fishing, domestic service, street hawking, begging, portering, artisanal gold mining, and agriculture. Ghanaian girls, and to a lesser extent boys, are subjected to prostitution within Ghana. Child prostitution, and possibly child sex tourism, are prevalent in the Volta region and are growing in the oil-producing Western regions. Ghanaian women and children are recruited and transported to Nigeria, Cote d’Ivoire, Burkina Faso, The Gambia, South Africa, Israel, Syria, Lebanon, the United Arab Emirates, Saudi Arabia, Kuwait, Russia, France, the United Kingdom, Germany, and the United States for forced labor and forced prostitution.⁹²

3.14.11 With regards to prosecution and services for trafficking victims, the same report found that; The Government of Ghana does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. During 2012, the government initiated 75 investigations, conducted five prosecutions, and secured three convictions of trafficking offenders. However, the government failed to provide any specialized anti-trafficking training to law enforcement officials and did not provide sufficient funding to properly maintain

⁸⁸ UNICEF, Female Genital Mutilation/Cutting: A statistical overview and exploration of the dynamics of change, 22 July 2013, http://www.unicef.org.uk/Documents/Publications/UNICEF_FGM_report_July_2013_Hi_res.pdf

⁸⁹ UN Special Rapporteur on violence against women, its causes and consequences, Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural including the right to Development: Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk, Addendum, MISSION TO GHANA, Paragraph 53, 21 February 2008, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/106/90/PDF/G0810690.pdf?OpenElement>

⁹⁰ US State Department, Country Reports on Human Rights Practices 2012; Ghana, Section 6, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dlid=204126>

⁹¹ Public Agenda, Ghana: Police lack capacity to combat FGM, 10 February 2012, <http://allafrica.com/stories/201202101003.html>

⁹² United States Department of State, 2013 Trafficking in Persons Report - Ghana, 19 June 2013, <http://www.state.gov/j/tip/rls/tiprpt/2013/210550.htm>

government-operated shelters.⁹³

3.14.12 In September 2010, The Guardian reported that “Local agencies in Ghana struggle with poor funding and complex social systems to re-integrate trafficking victims”.⁹⁴ Dr. Raymond A. Atuguba, Faculty of Law, University of Ghana noted in March 2008 that “anyone cooperating with the police in order to facilitate prosecution in Ghana is at some risk of retaliation from the alleged perpetrator. This is a fact that transmits to all crimes”.⁹⁵ An IOM representative interviewed for the fact finding mission report stated that “IOM considered that victims of trafficking from Ghana should be protected and granted asylum in Europe, as they would be very vulnerable to re-trafficking should they be forced to return to Ghana”.⁹⁶

See also: [Actors of protection](#) (section 2.3 above)

[Internal relocation](#) (section 2.4 above)

[Caselaw](#) (section 2.5 above)

3.14.13 Conclusion There is discrimination against women in Ghana, and sexual and gender based violence is widespread, especially domestic violence. As it is regarded as a domestic matter, the crime is underreported and the police seldom intervene in such cases. Women are subjected to internal and international human trafficking and whilst the government conducts prosecutions it does not provide sufficient funding to government-operated shelters.

3.14.14 The unwillingness of the police to act on reports of domestic violence suggests that some women may not be able to obtain effective state protection. Applicants may be able to escape such violence by internally relocating to another area of Ghana, but it should be noted that women, and especially single women, with no support network are likely to be vulnerable and may be subjected to destitution. The reasonableness of internal relocation must be assessed on a case by case basis taking full account of the individual circumstances of the particular claimant

3.14 Prison conditions

3.14.1 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.

3.14.2 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

⁹³ United States Department of State, 2013 Trafficking in Persons Report - Ghana, 19 June 2013, <http://www.state.gov/j/tip/rls/tiprpt/2013/210550.htm>

⁹⁴ The Guardian, Ghana trafficking victims find care and comfort in numbers, 22 September 2010, <http://www.theguardian.com/world/2010/sep/22/ghana>

⁹⁵ Danish Immigration Service, Protection of victims of trafficking in Ghana Report from Danish Immigration Service's fact-finding mission to Accra, Ghana February 25 to March 6 2008, 3 Risk and evidence of reprisals against victims of trafficking, June 2008, <http://www.nyidanmark.dk/NR/ronlyres/EB5BAEDA-0D96-46C2-B2D2-E48BA8911B2C/0/Ghanaffrapport2008.pdf>

⁹⁶ Danish Immigration Service, Protection of victims of trafficking in Ghana Report from Danish Immigration Service's fact-finding mission to Accra, Ghana February 25 to March 6 2008, 6. Return of victims of trafficking, June 2008, <http://www.nyidanmark.dk/NR/ronlyres/EB5BAEDA-0D96-46C2-B2D2-E48BA8911B2C/0/Ghanaffrapport2008.pdf>

where for a Convention reason a prison sentence is extended above the norm, the asylum claim should be considered first before going on to consider whether prison conditions breach Article 3 if the asylum claim is refused.

- 3.14.3 Consideration.** According to media and expert reports, prison conditions generally were harsh and sometimes life-threatening. Amnesty International noted in April 2012 that “The Ghanaian government is failing to provide prisoners with the minimum standards for humane conditions of detention because of its failure to reduce overcrowding and to provide adequate levels of food, health care, and sanitation to prisoners, in violation of its obligations under the ICCPR, ICESCR and the African Charter”.⁹⁷
- 3.14.4** Police were known to beat suspects in custody. Amnesty International stated its concern that “Corporal punishment remains legal in the prison system. Section 44 of the Prisons Service Decree permits “fifteen strokes of a light cane” for male prisoners over the ‘apparent age’ of eighteen years”.⁹⁸ In June 2011, the UN Committee against Torture expressed concern about the authorities’ admission that torture was likely to be taking place in detention centres.⁹⁹
- 3.14.5** Officials held much of the prison population in buildings that were originally colonial forts or abandoned public or military buildings, with poor ventilation and sanitation, substandard construction, and limited space and light. Many prisoners slept on bare floors or took turns using beds.¹⁰⁰ Amnesty International further reported that “Skin diseases, tuberculosis, malaria, hepatitis and HIV are prevalent; however, the prison health system is overstretched, under-equipped and unable to provide adequate medical care”.¹⁰¹ In another report that specifically looked at prison conditions in Ghana, Amnesty International concluded that “Many of the preventable illnesses that affect prisoners are a result of the harsh conditions in the cells. In some cases, the conditions are so poor that they constitute cruel, inhuman and degrading treatment”.¹⁰²
- 3.14.6** According to the 2011 Prisons Service statistics (the most recent available), 13,467 prisoners (average daily lockup) were held in prisons designed to hold approximately one-third that number. On average there were 170 female and 148 juvenile inmates in the 42 prisons and prison camps. Authorities did not house juvenile detainees separately from adults, nor pretrial detainees from convicted

⁹⁷ Amnesty International, “Prisoners are bottom of the pile”: The human rights of inmates in Ghana, 5. Conclusion, April 2012, <http://www.amnesty.org/en/library/asset/AFR28/002/2012/en/d5616444-cfd1-482d-bcc5-2a338bb68456/af280022012en.pdf>

⁹⁸ Amnesty International, Ghana: Human rights shortcomings in law and in practice, Amnesty International Submission to the UN Universal Periodic Review, October-November 2012, National Human Rights framework, protection of human rights in the constitution and national legislation, 1 April 2012, <http://www.amnesty.org/en/library/asset/AFR28/003/2012/en/26d6a941-7a50-4200-8147-d386cc0a8996/af280032012en.pdf>

⁹⁹ Amnesty International, Ghana: Human rights shortcomings in law and in practice, Amnesty International Submission to the UN Universal Periodic Review, October-November 2012, Human Rights Situation on the ground, Human Rights violations by the police and security forces, 1 April 2012, <http://www.amnesty.org/en/library/asset/AFR28/003/2012/en/26d6a941-7a50-4200-8147-d386cc0a8996/af280032012en.pdf>

¹⁰⁰ US State Department, Country Reports on Human Rights Practices 2012; Ghana, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dld=204126>

¹⁰¹ Amnesty International, Ghana: Human rights shortcomings in law and in practice, Amnesty International Submission to the UN Universal Periodic Review, October-November 2012, Human Rights Situation on the ground, access to Justice and prison conditions, 1 April 2012, <http://www.amnesty.org/en/library/asset/AFR28/003/2012/en/26d6a941-7a50-4200-8147-d386cc0a8996/af280032012en.pdf>

¹⁰² Amnesty International, “Prisoners are bottom of the pile”: The human rights of inmates in Ghana, 1. Introduction, April 2012, <http://www.amnesty.org/en/library/asset/AFR28/002/2012/en/d5616444-cfd1-482d-bcc5-2a338bb68456/af280022012en.pdf>

prisoners, but officials did house women separately. Prisoners had access to potable water.¹⁰³

- 3.14.7** There were reports that inadequate recordkeeping led some pretrial detainees to spend excessive time in jail awaiting trial. There were no reports of inadequate recordkeeping for sentenced prisoners. Prisoners and detainees had reasonable access to visitors and religious observance. In 2011 Amnesty International reported that access to legal aid was inadequate, which resulted in some detainees spending more than 10 years awaiting trial.¹⁰⁴
- 3.14.8** Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions and treatment; however, submission of complaints by prisoners was not common practice. There were no prison ombudsmen to respond to complaints. Authorities investigated credible allegations of inhumane conditions and treatment and documented the results. Whenever allegations of inhumane treatment were made, the accused officer was asked to respond. If prison authorities were unsatisfied with the response of the officer, an internal inquiry was launched, and recommendations for disciplinary action were submitted to the director general of the prisons service.¹⁰⁵
- 3.14.9** The government permitted independent monitoring of prison conditions by the Commission for Human Rights and Administrative Justice (CHRAJ), which served as the official ombudsman, and the Welfare Unit of the Prisons Service. During 2011 the CHRAJ monitored 28 of the 42 prisons and prison camps. The CHRAJ and other NGOs worked on behalf of prisoners and detainees to help alleviate inhumane overcrowding, address the status and circumstances of confinement of juvenile offenders, and improve pretrial detention, bail, and recordkeeping procedures to ensure prisoners did not serve beyond the maximum sentence for the charged offenses.¹⁰⁶
- 3.14.10** The government permits independent monitoring of prison conditions by local and international human rights groups, including the International Committee of the Red Cross; however, no such visits were conducted during 2012.¹⁰⁷
- 3.14.11** In 2011, authorities discharged 125 inmates under the “Justice for All” program, begun in 2008 to ease prison overcrowding and to accelerate judicial processes; another 117 inmates were released on bail during 2012.¹⁰⁸
- 3.14.12** According to government information, 27 death sentences were imposed in Ghana, all on men, convicted of murder; 162 men and four women were under sentence of death at the end of 2012. In June 2012, the government accepted the recommendation of the Constitution Review Commission to abolish the death penalty in the new Constitution and to replace it with life imprisonment. During its

¹⁰³ US State Department, Country Reports on Human Rights Practices 2012; Ghana, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

¹⁰⁴ US State Department, Country Reports on Human Rights Practices 2012; Ghana, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

¹⁰⁵ US State Department, Country Reports on Human Rights Practices 2012; Ghana, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

¹⁰⁶ US State Department, Country Reports on Human Rights Practices 2012; Ghana, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

¹⁰⁷ US State Department, Country Reports on Human Rights Practices 2012; Ghana, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

¹⁰⁸ US State Department, Country Reports on Human Rights Practices 2012; Ghana, Section 1c, 19 April 2013 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204126>

Universal Periodic Review (UPR) at the UN Human Rights Council in October 2012, Ghana pointed out that this change would have to be put to a popular referendum. Also in October, the nominee for appointment as a Supreme Court Judge Anthony Alfred Benneh called for the abolition of the death penalty, citing specifically the risk of executing an innocent person.¹⁰⁹

3.14.13 Conclusion Prison conditions in Ghana are harsh and sometimes life threatening and taking into account overcrowding, the risk of ill-treatment and torture, unsanitary conditions and a lack of health and medical care, are likely to reach the article 3 threshold. Where an individual applicant is able to demonstrate a real risk of significant period of detention or imprisonment on return to Ghana, and exclusion under Article 1F is not justified, a grant of Humanitarian Protection will be appropriate.

4. Unaccompanied minors claiming in their own right

- 4.1** Unaccompanied minors claiming in their own right who have not been granted asylum or HP can only be returned where the Secretary of State is satisfied that safe and adequate reception arrangements are in place in the country to which the child is to be returned.
- 4.2** At present the Home Office does not have pre-approved arrangements in place with NGOs or other organisations in Ghana to provide alternative adequate reception arrangements in cases where the minor cannot be returned to their family. Those who cannot be returned should be considered for leave as a Unaccompanied Asylum Seeking Children (UASC).
- 4.3** Regulation 6 of the Asylum Seekers (Reception Conditions) Regulations 2005 imposes a duty on the Secretary of State to endeavour to trace the families of UASC as soon as possible after the claim for asylum is made, while ensuring that those endeavours do not jeopardise the child's and/or their family's safety.
- 4.4** Information on the infrastructure within Ghana which may potentially be utilised to assist in endeavouring to trace the families of UASC, can be obtained from the Country of Origin Information Service (COIS).
- 4.5** Caseworkers should refer to the Asylum Instruction: [Processing an Asylum Application from a Child](#), for further information on assessing the availability of safe and adequate reception arrangements, UASC Leave and family tracing. Additional information on family tracing can be obtained from the [interim guidance](#) on Court of Appeal judgment in [KA \(Afghanistan\) & Others \[2012\] EWCA civ1014](#).

5. Medical treatment

- 5.1** Individuals whose asylum claims have been refused and who seek to remain on the grounds that they require medical treatment which is either unavailable or difficult to access in their countries of origin, will not be removed to those countries if this would be inconsistent with our obligations under the ECHR.

¹⁰⁹ Amnesty International, Death Sentences and Executions in 2012, Regional overviews, Sub-Saharan Africa, 10 April 2013, <http://www.amnesty.org/en/library/asset/ACT50/001/2013/en/bbfea0d6-39b2-4e5f-a1ad-885a8eb5c607/act500012013en.pdf>

- 5.2** Caseworkers should give due consideration to the individual factors of each case and refer to the latest available country of origin information concerning the availability of medical treatment in the country concerned. If the information is not readily available, an information request should be submitted to the COI Service (COIS).
- 5.3** The threshold set by Article 3 ECHR is a high one. It is not simply a question of whether the treatment required is unavailable or not easily accessible in the country of origin. According to the House of Lords' judgment in the case of [N \(FC\) v SSHD \[2005\] UKHL31](#), it is "whether the applicant's illness has reached such a critical stage (i.e. he is dying) that it would be inhuman treatment to deprive him of the care which he is currently receiving and send him home to an early death unless there is care available there to enable him to meet that fate with dignity". That judgment was upheld in May 2008 by the European Court of Human Rights.
- 5.4** That standard continues to be followed in the Upper Tribunal (UT) where, in the case of [GS and EO \(Article 3 – health cases\) India \[2012\] UKUT 00397\(IAC\)](#) the UT held that a dramatic shortening of life expectancy by the withdrawal of medical treatment as a result of removal cannot amount to the highly exceptional case that engages the Article 3 duty. But the UT also accepted that there are recognised departures from the high threshold approach in cases concerning children, discriminatory denial of treatment, and the absence of resources through civil war or similar human agency.
- 5.5** The improvement or stabilisation in an applicant's medical condition resulting from treatment in the UK and the prospect of serious or fatal relapse on expulsion will therefore not in itself render expulsion inhuman treatment contrary to Article 3 ECHR.
- 5.6** All cases must be considered individually, in the light of the conditions in the country of origin, but an applicant will normally need to show exceptional circumstances that prevent return, namely that there are compelling humanitarian considerations, such as the applicant being in the final stages of a terminal illness without prospect of medical care or family support on return.
- 5.7** Where a caseworker considers that the circumstances of the individual applicant and the situation in the country would make 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. Caseworkers must refer to the Asylum Instruction on [Discretionary Leave](#) for the appropriate period of leave to grant.
- 6. Returns**
- 6.1** 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.
- 6.2** 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.
- 6.3** Any medical conditions put forward by the person as a reason not to remove them

and which have not previously been considered, must be fully investigated against the background of the latest available country of origin information and the specific facts of the case. A decision should then be made as to whether removal remains the correct course of action, in accordance with [chapter 53.8 of the Enforcement Instructions and Guidance](#).

- 6.4** Individuals can return voluntarily to their country of origin / place of habitual residence at any time in one of three ways:
- leaving the UK by themselves, where the applicant makes their own arrangements to leave the UK
 - leaving the UK through the voluntary departure procedure, arranged through the UK Immigration service, or
 - leaving the UK under one of the [Assisted Voluntary Return \(AVR\) schemes](#).

**Country Specific Litigation Team
Immigration and Border Policy Directorate
Home Office**

November 2013