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OPERATIONAL GUIDANCE NOTE

GHANA

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1. Introduction

- 1.1** This document evaluates the general, political and human rights situation in Ghana and provides guidance on the nature and handling of the most common types of claims received from nationals/residents of that country, including whether claims are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Caseowners must refer to the relevant Asylum Instructions for further details of the policy on these areas.
- 1.2** This guidance must also be read in conjunction with any COI Service Ghana Country of Origin Information at: http://www.homeoffice.gov.uk/rds/country_reports.html
- 1.3** Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. In considering claims where the main applicant has dependent family members who are a part of his/her claim, account must be taken of the situation of all the dependent family members included in the claim in accordance with the Asylum Instructions on Article 8 ECHR. If, following consideration, a claim is to be refused, caseowners should consider whether it can be certified as clearly unfounded under the case by case certification power in section 94(2) of the Nationality Immigration and Asylum Act 2002. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.
- 1.4** With effect from 2 December 2005, Ghana is a country listed in section 94 of the Nationality Immigration and Asylum Act 2002 in respect of men only. Asylum and human rights claims must be considered on their individual merits. If, following consideration, a claim made on or after 2 December 2005 by a male who is entitled to reside in Ghana is refused, caseowners must certify it 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, however if a claim from a woman is refused,

caseowners may certify it as clearly unfounded on a case-by-case basis if they are satisfied that it is so clearly without substance that it is bound to fail. Guidance on whether certain types of claim are likely to be clearly unfounded is set out below.

Source documents

1.5 A full list of source documents cited in footnotes is at the end of this note.

2. Country assessment

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

¹ Home Office Country of Origin Information Key Documents: Ghana & Foreign and Commonwealth Office (FCO) Country Profile 2007: Ghana

² COI Key Documents: Ghana & FCO Country Profile 2007: Ghana

³ COI Key Documents: Ghana & FCO Country Profile 2007: Ghana

⁴ COI Key Documents: Ghana & FCO Country Profile 2007: Ghana

independent judiciary and free and active press. The new Government is keen to promote human rights and to move away from the abuses of the past. The death sentence remains on the statute books although the last execution took place in 1993. In October 2006, the Government on the recommendation of the NRC commenced reparations payments to 2,000 Ghanaians who suffered human rights abuses under the Rawlings regime.⁵

- 2.6** The Government generally respected human rights in 2006 and made significant improvements during the year. However, there were some incidents of vigilante justice, reports of excessive use of force by the police; corruption in the Government and the police; and infringement on citizens' privacy rights.⁶ Violence against women, including rape and domestic violence, also remained a problem in 2006. The law does not prohibit domestic violence, and the criminal code grants husbands 'spousal immunity' from any charges of assault against their wives. According to the International Federation of Women Lawyers (FIDA), one in three women experienced domestic violence during 2006, and most abuses went unreported. In 2006, the police service's Domestic Violence Victim Support Unit (DOVVSU) worked closely with the Department of Social Welfare, FIDA, the Legal Aid Board, and several human rights NGOs to combat domestic violence, investigating 5,835 cases.⁷
- 2.7** The law prohibits Female Genital Mutilation (FGM), but it remained a serious problem in the northern regions of the country during 2006. Type II FGM was more commonly performed than any other type. The typical age at which a girl is excised is 15, although in 2006 it was often performed on younger girls. According to a 2005 study conducted by the Ministry of Health, approximately 15 percent of women between 12 and 19 in the three northern regions had undergone FGM, although some observers believed that NGO- and government-sponsored awareness campaigns regarding the illegality of FGM had driven the practice underground and that the real rate in these regions was as high as 30 percent. In September 2006, the Government proposed stiffer penalties for those who practice FGM in order to end the practice permanently. Such intervention programmes have been somewhat successful in reducing the prevalence, although it is difficult to estimate their effectiveness precisely.⁸
- 2.8** Ghana is a source, transit, and destination country for children and women trafficked for forced labour and sexual exploitation. Children are trafficked within the country as domestic servants, street vendors, porters, for work in the fishing industry, and for use in sexual exploitation. Children and women are also trafficked for sexual exploitation from Ghana to Europe. The Human Trafficking Act, which President Kufuor signed in December 2005, prohibits trafficking in persons and provides for a minimum prison sentence of five years for convicted traffickers. Although four persons were arrested and charged under the new law in 2006, there were no prosecutions during the year.⁹

3. Main categories of claims

- 3.1** This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in Ghana. It also contains any common claims that may raise issues covered by the Asylum Instructions on Discretionary Leave. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state

⁵ COI Key Documents: Ghana & FCO Country Profile 2007: Ghana

⁶ COI Key Documents: Ghana

⁷ COI Key Documents: Ghana & U.S. Department of State report on Human Rights Practices (USSD) 2006: Ghana (Section 5)

⁸ COI Key Documents: Ghana, USSD 2006 (Section 5) & United Nations Integrated Regional Information Networks (IRIN) 'Ghana: Increased penalties for female genital cutting proposed' dated 5 September 2006

⁹ COI Key Documents: Ghana & USSD 2006 (Section 5)

actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal relocation are set out in the relevant Asylum Instructions, but how these affect particular categories of claim are set out in the instructions below.

- 3.2** Each claim should be assessed to determine whether there are reasonable grounds for believing that the claimant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in *Karanakaran* should be followed when deciding how much weight to be given to the material provided in support of the claim (see the Asylum Instructions on Assessing Credibility in Asylum and Human Rights Claims).
- 3.3** If the claimant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the claimant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.
- 3.4** This guidance is **not** designed to cover issues of credibility. Caseowners will need to consider credibility issues based on all the information available to them. (For guidance on credibility see the Asylum Instructions on Assessing Credibility in Asylum and Human Rights Claims).
- 3.5** 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.ind.homeoffice.gov.uk/documents/asylumpolicyinstructions/>
- 3.6 Inter-ethnic clashes and tribal disputes**
 - 3.6.1** Many claimants make an asylum and/or human rights claim based on ill-treatment amounting to persecution at the hands of rival ethnic groups or tribes on account of their ethnicity.
 - 3.6.2 *Treatment.*** Although the Government plays down the relevance of ethnic differences, its opponents have complained that the Government is dominated by Ashantis and other Akans at the expense of Ewes and northerners. The President and some of his ministers and close advisors are Ashanti, but the Vice President and many ministers are of other ethnic origins.¹⁰
 - 3.6.3** In late 2001, violent confrontations took place between Mamprusis and Kusasis, leaving 50 dead. New clashes took place in March 2002, causing the death of King Ya-Na Yakubu Andani II, an Andani and 27 other people. The Government declared a state of emergency and deployed its troops in order to calm both groups. Historically, Mamprusi people tended to favour the NPP, while Kusasis tend to support the NDC. Dagbon's two clans, the Andani and the Abudu, have been vying for the chieftaincy for more than half a century. The Andani and Abudu were the sons of Dagbon king Ya Naa Yakubu I. After his death, the kingship rotated between their descendants. This arrangement worked smoothly until 1948 when a selection committee was established which led to accusations of favouritism and bias. Disputes ensued, with each clan aligning itself with alternate governments as they came to power.¹¹
 - 3.6.4** In August 2004, the Government lifted the state of emergency and night-time curfew in the northern Dagbon region. Residents in Tamale, the regional capital, and Yendi, the seat of the Dagbon tribal kingdom 100 km to the east, were no longer confined to their houses between the hours of 10pm and 5am. In April 2006, after four years of disputes, traditional

¹⁰ USSD 2006 (Section 5)

¹¹ Home Office COI Service Ghana Country of Origin Information Report 2005 (Human Rights: Ethnic groups) & USSD 2006 (Section 5)

leaders helped broker an agreement to bury Ya Na Yakubu Andani II and install a Regent in his place. The following month, the president and vice president visited Yendi for the first time in four years to encourage the peace process. Nonetheless, in August 2006, security forces resisted an attempt by youths from the Abudu "gate" (line of succession) to forcefully enter the Ya Na's former palace, resulting in the deaths of a number of youth. The Government announced that three deaths resulted, but credible local sources reported more.¹²

3.6.5 Efforts by NGOs to encourage reconciliation continued during 2005 and 2006, however, there were several violent confrontations within ethnic groups related to chieftaincy issues, particularly those involving succession and land. In 2005, a chieftaincy conflict between two factions at Tetegu, a suburb of Accra, left a number of persons with gunshot injuries, more than two thousand persons displaced, and approximately 120 houses belonging to members of the feuding factions destroyed. In April 2006, at Bortianor, near Kokrobite in Accra, two persons belonging to different chieftaincy factions were fatally shot, and eight others were seriously injured.¹³

3.6.6 ***Sufficiency of protection.*** The Government is made up primarily of Ashantis and Akans and was accused of masterminding the sudden death of the King and others perpetuating the Dagbon crisis, however, there is no evidence that the state authorities favour one ethnic group or tribe over another. Though the police service came under criticism following incidents of brutality, corruption, and negligence in 2006, the internal security and police forces include the 33-person Police Intelligence and Professional Standards Unit (PIPS), formerly known as the Monitoring and Inspection Unit (MIU), through which complaints lodged by the public against the police are investigated. By the end of 2006, PIPS had investigated 212 of the 522 complaints and petitions received during the year, including those related to harassment, unlawful arrest, and detention with human rights violations.¹⁴

3.6.7 As a result of PIPS investigations, the Inspector General of Police in 2005 warned police officials that incidents of misconduct would be punished and over the 18-month period between January 2005 and July 2006, 80 police officers of varying rank were dismissed for various offences, and 92 others were demoted. From January to May 2006, the Government also allowed 64 senior police officers to participate in two eight-week basic police skills courses, which included modules on appropriate use of force, international human rights standards, trafficking in persons, and domestic violence. In addition to PIPS, complaints may also be pursued through MPs, Ministers and the President's Office as well as the CHRAJ. There is therefore no evidence that rival ethnic group / tribal members would not be able to seek and receive adequate protection from the state authorities.¹⁵

3.6.8 ***Internal relocation.*** The Constitution provides for freedom of movement and the Government generally respects these rights in practice. In 2006, security officers manned checkpoints nationwide to prevent smuggling, seize illegal weapons, and catch criminals, although many were unmanned during daylight hours. In 2006, the police erected security checkpoints and conducted highway patrols in response to an upsurge in highway robberies, and police roadblocks and car searches were a normal part of night-time travel in larger cities. The police administration acknowledges that some officers occasionally erect illegal barriers to solicit bribes from motorists. During the year, the Regional Police Commanders monitored the activities of police personnel working at the checkpoints.¹⁶ As rival ethnic group or tribe disputes are sporadic and regionalised, safe relocation to a different area of the country to escape this threat is therefore feasible.

¹² COIS Ghana Country Report 2005 (Human Rights: Ethnic groups), USSD 2006 (Section 5) & British Broadcasting Corporation (BBC) News 'Ghana king's burial ends long feud' dated 13 April 2006

¹³ USSD 2006 (Section 5)

¹⁴ COIS Ghana Country Report 2005 (Human Rights: Ethnic groups) & USSD 2006 (Introduction & Section 1)

¹⁵ COIS Ghana Country Report 2005 (State structures: Internal security) & USSD 2006 (Introduction & Section 1)

¹⁶ USSD 2006 (Section 2)

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

3.7 Christians or converts to Christianity

3.7.1 Some claimants make an asylum and/or human rights claim based on societal discrimination amounting to persecution at the hands of Muslims due to them being Christians or converts to Christianity.

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

3.7.3 The Constitution provides for freedom of religion and the Government generally respects this right in practice. There was no change in the status of respect for religious freedom during 2006, and government policy continued to contribute to the generally free practice of religion. The generally amicable relationship among religions in society contributed to religious freedom in 2006, however, tensions sometimes occurred between different branches of the same faith, as well as between Christian and traditional faiths. There is also occasional tension between Christians and Muslims. During 2006, a number of governmental and non-governmental organisations (NGOs) promoted inter-faith and intra-faith understanding.¹⁸

3.7.4 Sufficiency of protection. The internal security and police forces operate effectively throughout the country. Though the police service came under criticism following incidents of brutality, corruption, and negligence in 2006, the internal security and police forces include the 33-person Police Intelligence and Professional Standards Unit (PIPS), formerly known as the Monitoring and Inspection Unit (MIU), through which complaints lodged by the public against the police are investigated. By the end of 2006, PIPS had investigated 212 of the 522 complaints and petitions received during the year, including those related to harassment, unlawful arrest, and detention with human rights violations.¹⁹

3.7.5 As a result of PIPS investigations, the Inspector General of Police in 2005 warned police officials that incidents of misconduct would be punished and over the 18-month period between January 2005 and July 2006, 80 police officers of varying rank were dismissed for various offences, and 92 others were demoted. From January to May 2006, the Government also allowed 64 senior police officers to participate in two eight-week basic police skills courses, which included modules on appropriate use of force, international human rights standards, trafficking in persons, and domestic violence. In addition to PIPS, complaints may also be pursued through MPs, Ministers and the President's Office as well as the CHRAJ. There is therefore no evidence that rival ethnic group / tribal members would not be able to seek and receive adequate protection from the state authorities.²⁰

3.7.6 Internal relocation. The Constitution provides for freedom of movement and the

¹⁷ U.S. Department of State International Religious Freedoms Report (USIRFR) 2006: Ghana (Section I)

¹⁸ USSD 2006 (Section 2) & USIRFR 2006 (Introduction, Section I & Section II)

¹⁹ COIS Ghana Country Report 2005 (Human Rights: Ethnic groups) & USSD 2006 (Introduction & Section 1)

²⁰ COIS Ghana Country Report 2005 (State structures: Internal security) & USSD 2006 (Introduction & Section 1)

Government generally respects these rights in practice. In 2006, security officers manned checkpoints nationwide to prevent smuggling, seize illegal weapons, and catch criminals, although many were unmanned during daylight hours. In 2006, the police erected security checkpoints and conducted highway patrols in response to an upsurge in highway robberies, and police roadblocks and car searches were a normal part of night-time travel in larger cities. The police administration acknowledges that some officers occasionally erect illegal barriers to solicit bribes from motorists. During the year, the Regional Police Commanders monitored the activities of police personnel working at the checkpoints.²¹ Safe relocation for Christians and converts to Christianity to a different area of the country to escape this threat is therefore feasible.

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

3.8 Trokosi system and idol worship

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

3.8.2 Treatment. Trokosi (also known as Fiashidi) is a religious practice indigenous to the southern Volta region, involves pledging family members, most commonly teenagers but sometimes children under the age of ten, to extended service at a shrine to atone for another family member's sins. Trokosis (the pledged family member) help with the upkeep of these shrines and pour libations during prayers. Trokosis sometimes live near shrines, often with extended family members, during their period of service, which lasts from a few months to three years.²²

3.8.3 Reports on the number of women and girls bound to various Trokosi shrines varied during 2006, however, a shrine rarely had more than four Trokosis serving their atonements at any one time. International observers and local leaders reported that there were no more than fifty girls serving at Trokosi shrines throughout the Volta Region in 2006. Reports in 2006 by local leaders, district authorities, shrine priests, elders, and human rights activists also indicated that the incidence of Trokosi was declining considerably. According to human rights groups, the practice has decreased in recent years because other belief systems have gained followers, and fetish priests who have died have not been replaced.²³

3.8.4 The practice explicitly forbids a Trokosi to engage in sexual activity or contact during the atonement period, and while instances of sexual abuse may occur, there was no evidence in 2006 that sexual or physical abuse was an ingrained or systematic part of the practice. Still, some NGOs maintain that Trokosis are subject to sexual exploitation and forced labour. Supporters of traditional African religions, such as the Afrikania Renaissance Mission, have said these NGOs misrepresent their beliefs and regard their campaigns against Trokosi as religious persecution.²⁴

3.8.5 Sufficiency of protection. The Government does not recognise Trokosi as a religion and government agencies such as CHRAJ have at times actively campaigned against the practice. The internal security and police forces operate effectively throughout the country.

²¹ USSD 2006 (Section 2)

²² USSD 2006 (Section 5) & USIRFR 2006 (Section III)

²³ USSD 2006 (Section 5) & USIRFR 2006 (Section III)

²⁴ USSD 2006 (Section 5) & USIRFR 2006 (Section III)

Though the police service came under criticism following incidents of brutality, corruption, and negligence in 2006, the internal security and police forces include the 33-person Police Intelligence and Professional Standards Unit (PIPS), formerly known as the Monitoring and Inspection Unit (MIU), through which complaints lodged by the public against the police are investigated. By the end of 2006, PIPS had investigated 212 of the 522 complaints and petitions received during the year, including those related to harassment, unlawful arrest, and detention with human rights violations.²⁵

3.8.6 As a result of PIPS investigations, the Inspector General of Police in 2005 warned police officials that incidents of misconduct would be punished and over the 18-month period between January 2005 and July 2006, 80 police officers of varying rank were dismissed for various offences, and 92 others were demoted. From January to May 2006, the Government also allowed 64 senior police officers to participate in two eight-week basic police skills courses, which included modules on appropriate use of force, international human rights standards, trafficking in persons, and domestic violence. In addition to PIPS, complaints may also be pursued through MPs, Ministers and the President's Office as well as the CHRAJ. There is therefore no evidence that those subjected to the Trokosi system or idol worship are not be able to seek and receive adequate protection from the state authorities.²⁶

3.8.7 *Internal relocation.* The Constitution provides for freedom of movement and the Government generally respects these rights in practice. In 2006, security officers manned checkpoints nationwide to prevent smuggling, seize illegal weapons, and catch criminals, although many were unmanned during daylight hours. In 2006, the police erected security checkpoints and conducted highway patrols in response to an upsurge in highway robberies, and police roadblocks and car searches were a normal part of night-time travel in larger cities. The police administration acknowledges that some officers occasionally erect illegal barriers to solicit bribes from motorists. During the year, the Regional Police Commanders monitored the activities of police personnel working at the checkpoints.²⁷ The Ewes and other ethnic groups who prescribe to such practises are regionalised, usually based in the north of the country. Safe relocation for those subjected to the Trokosi system or idol worship to a different area of the country to escape this threat is therefore feasible.

3.8.8 *Conclusion.* The Trokosi system and females' involvement in ritual idol worship of tribal chiefs and fetish priests have diminished considerably in recent years. The availability of adequate state protection and a safe internal relocation option to escape these regionalised and isolated practices means that claims will not engage the UK's obligations under the 1951 Convention. The grant of asylum will not therefore be appropriate and any such claims are likely to be clearly unfounded (see paragraph 1.4).

3.9 Victims of witchcraft

3.9.1 Some claimants 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.

3.9.2 *Treatment.* Belief in witchcraft remained strong in many parts of Ghana in 2006. In a practice prevalent mainly in the Northern, Upper East, and Upper West regions of the country, rural women continued to be banished by traditional village authorities or their families for suspected witchcraft. Most accused witches were older women, often widows, who were identified by fellow villagers as the cause of difficulties, such as illness, crop failure, or financial misfortune. The banished women went to live in 'witch camps' villages in the north of the country populated by suspected witches. According to a local NGO in the

²⁵ COIS Ghana Country Report 2005 (Human Rights: Ethnic groups) & USSD 2006 (Introduction, Section 1 & Section 5) & USIRFR 2006 (Section III)

²⁶ COIS Ghana Country Report 2005 (State structures: Internal security) & USSD 2006 (Introduction & Section 1)

²⁷ USSD 2006 (Section 2)

Northern Region, the number of women in the witch camps in 2006 was close to 3,000. Despite the existence of 'witch camps', the Government refrained from charging anyone solely on the basis of witchcraft in 2006 and there is no evidence that any physical or other type of 'attack' on individuals by alleged witches have any basis in fact.²⁸

3.9.3 Sufficiency of protection. Although a strong belief in witchcraft continues in many parts of Ghana, there is no evidence that witches can inflict treatment amounting to persecution or which would breach Article 3 therefore the availability of adequate state protection is irrelevant.

3.9.4 Internal relocation. Although a strong belief in witchcraft continues in many parts of Ghana, there is no evidence that witches can inflict treatment amounting to persecution or which would breach Article 3 therefore the feasibility of an internal relocation option is irrelevant.

3.9.5 Conclusion. Though there remains a strong belief in witchcraft in some parts of the country, there is no evidence that alleged witches have cursed or physically attacked individuals. The absence of evidence of ill-treatment or persecution arising from witchcraft makes adequate state protection and an internal relocation option irrelevant and means that claims will not engage the UK's obligations under the 1951 Convention or ECHR. The grant of asylum will not therefore be appropriate and any such claims are likely to be clearly unfounded (see paragraph 1.4).

3.10 Chieftain or high priest succession

3.10.1 Some claimants will apply for asylum or make a human rights claim based on ill-treatment amounting to persecution at the hands of family or senior community/tribal members due to them being unwilling to succeed to chieftain or high priest of their particular ethnic group or tribe.

3.10.2 Treatment. During 2006, chieftaincy disputes continued to result in deaths, injuries, and destruction of property. 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, such as courts and district assemblies. In 2004 chiefs in Tema participated in an alternate dispute resolution (ADR) training programme, which resulted in the recommendation that traditional councils have their own constitutions, apart from the Chieftaincy Act, to help institutionalize the role of local leaders in settling cases. The recommendation had not been implemented by the end of 2006.²⁹

3.10.3 Efforts by NGOs to encourage reconciliation continued during 2005 and 2006, however, there were several violent confrontations within ethnic groups related to chieftaincy issues, particularly those involving succession and land. In 2005, a chieftaincy conflict between two factions at Tetegu, a suburb of Accra, left a number of persons with gunshot injuries, more than two thousand persons displaced, and approximately 120 houses belonging to members of the feuding factions destroyed. In April 2006, at Bortianor, near Kokrobite in Accra, two persons belonging to different chieftaincy factions were fatally shot, and eight others were seriously injured.³⁰

3.10.4 Apart from the general tribal or chieftaincy issues and incidents of conflict mentioned above, there is no specific evidence that individuals who claim they are pursued by family, community or tribal leaders to become the next chieftain or high priest in fact encounter mistreatment.

²⁸ USSD 2006 (Section 5) & USIRFR 2006 (Section III)

²⁹ USSD 2006 (Section 1 & Section 5)

³⁰ USSD 2006 (Section 5)

- 3.10.5 Sufficiency of protection.** The internal security and police forces operate effectively throughout the country. Though the police service came under criticism following incidents of brutality, corruption, and negligence in 2006, the internal security and police forces include the 33-person Police Intelligence and Professional Standards Unit (PIPS), formerly known as the Monitoring and Inspection Unit (MIU), through which complaints lodged by the public against the police are investigated. By the end of 2006, PIPS had investigated 212 of the 522 complaints and petitions received during the year, including those related to harassment, unlawful arrest, and detention with human rights violations.³¹
- 3.10.6** As a result of PIPS investigations, the Inspector General of Police in 2005 warned police officials that incidents of misconduct would be punished and over the 18-month period between January 2005 and July 2006, 80 police officers of varying rank were dismissed for various offences, and 92 others were demoted. From January to May 2006, the Government also allowed 64 senior police officers to participate in two eight-week basic police skills courses, which included modules on appropriate use of force, international human rights standards, trafficking in persons, and domestic violence. In addition to PIPS, complaints may also be pursued through MPs, Ministers and the President's Office as well as the CHRAJ. There is therefore no evidence that those in fear of being targeted as their community's next chieftain or high priest are not able to seek and receive adequate protection from the state authorities.³²
- 3.10.7 Internal relocation.** The Constitution provides for freedom of movement and the Government generally respects these rights in practice. In 2006, security officers manned checkpoints nationwide to prevent smuggling, seize illegal weapons, and catch criminals, although many were unmanned during daylight hours. In 2006, the police erected security checkpoints and conducted highway patrols in response to an upsurge in highway robberies, and police roadblocks and car searches were a normal part of night-time travel in larger cities. The police administration acknowledges that some officers occasionally erect illegal barriers to solicit bribes from motorists. During the year, the Regional Police Commanders monitored the activities of police personnel working at the checkpoints. The culture and traditions of particular ethnic groups and tribes who prescribe to such practices are regionalised, usually based in the north of the country.³³ Safe relocation for those in fear of being targeted as their community's next chieftain or high priest to a different area of the country to escape this threat is therefore feasible.
- 3.10.8 Conclusion.** Certain communities, tribes and ethnic groups maintain a hierarchical culture in which the leading roles, such as the chieftain and/or high priest, are subject to a successionist process. There is, however, no reported evidence to the effect that mistreatment occurs. Moreover the availability of adequate state protection and a viable internal relocation alternative means that those within a particular community who are unwilling to succeed to one of these roles are unlikely to encounter mistreatment in breach of the 1951 Convention or the ECHR. A grant of asylum or Humanitarian Protection cases is therefore not likely to be appropriate and such cases should be certified as clearly unfounded (see paragraph 1.4).
- 3.11 Gay men**
- 3.11.1** Some claimants will apply for asylum and/or make a human rights claim based on ill-treatment amounting to persecution at the hands of non-state agents of persecution, usually societal discrimination, due to them being a gay or bisexual man.
- 3.11.2 Treatment.** There is no legislation in Ghana explicitly prohibiting homosexuality. However, section 104 of the Ghanaian Criminal Code, last amended in 2003, states that 'whoever

³¹ COIS Ghana Country Report 2005 (Human Rights: Ethnic groups) & USSD 2006 (Introduction, Section 1 & Section 5) & USIRFR 2006 (Section III)

³² COIS Ghana Country Report 2005 (State structures: Internal security) & USSD 2006 (Introduction & Section 1)

³³ USSD 2006 (Sections 1, 2 & 5)

has unnatural carnal knowledge - (a) of any person of the age of sixteen years or over without his consent shall be guilty of a first degree felony and shall be liable on conviction to imprisonment for a term of not less than five years and not more than twenty-five years; or (b) of any person of sixteen years or over with his consent is guilty of a misdemeanour.’ Few have been prosecuted in Ghana for homosexual acts, but a pastor was scheduled to stand trial in 2005 having been charged with having sex with a male student aged eighteen and in March 2006, media sources reported that an Austrian man was facing deportation after having been arrested for participating in homosexual activities.³⁴

3.11.3 Ghana is a deeply religious country in which homosexuality is often seen as an imported foreign lifestyle choice and a moral aberration. A gay social life exists, mostly in the form of house parties and a few gay-friendly clubs in Accra, but gay men face widespread discrimination, as well as extortion attempts and police harassment. For example, there was widespread public outcry during 2006 against an international lesbian and gay conference scheduled to take place in Accra in September 2006. Strong public opposition to the event and to gay men and lesbians more generally was reflected in vehement letters to the editor, radio call-in shows, comments posted on the Internet, and in public speeches given by government officials. The Government banned the conference after local religious leaders united to protest the planned event.³⁵

3.11.4 Sufficiency of protection. Gay men encounter police harassment in Ghana and it has been reported that those who have sought the assistance of the police have been threatened with imprisonment. In the light of this and section 104 of the Ghanaian Criminal Code, it is unlikely that gay or bisexual men would be able to seek and receive adequate protection from the state authorities.

3.11.5 Internal relocation. The Constitution provides for freedom of movement and the Government generally respects these rights in practice. In 2006, security officers manned checkpoints nationwide to prevent smuggling, seize illegal weapons, and catch criminals, although many were unmanned during daylight hours. In 2006, the police erected security checkpoints and conducted highway patrols in response to an upsurge in highway robberies, and police roadblocks and car searches were a normal part of night-time travel in larger cities. The police administration acknowledges that some officers occasionally erect illegal barriers to solicit bribes from motorists. During the year, the Regional Police Commanders monitored the activities of police personnel working at the checkpoints.³⁶ It is therefore practicable for claimants who have a localised well-founded fear of mistreatment from non-state agents to relocate to other parts of Ghana. Whether it is unduly harsh to expect them to do so depends on the individual circumstances of the case.

3.11.6 Conclusion. A man who is perceived to be gay may encounter societal discrimination and harassment in Ghana. However, there is no evidence that gay or bisexual men generally will be at real risk of treatment that would cross the threshold of persecution or Article 3 treatment. A person is not a refugee solely because section 104 of the Ghanaian Criminal Code prohibits certain homosexual acts. The claimant would need to demonstrate that there are strong grounds for believing that they personally would be at risk of treatment that would pass the threshold for persecution or Article 3 ill-treatment.

3.11.7 Considerations will include the extent to which an individual would be perceived to be gay, for example through dress, behaviour or demeanour. A further important consideration will be whether the claimant has been subject to persecution in the past. Although this is not

³⁴ Canadian Immigration and Refugee Board (IRB), 2 October 2006, GHA101616.E: Treatment of homosexuals by society and authorities and availability of state protection; names and activities of groups or associations promoting homosexual rights

³⁵ COI Key Documents: Ghana, USSD 2006 (Section 5), BBC News ‘Ghana’s secret gay community’ dated 14 March 2007 & Canadian (IRB), 2 October 2006, GHA101616.E: Treatment of homosexuals by society and authorities and availability of state protection; names and activities of groups or associations promoting homosexual rights

³⁶ USSD 2006 (Section 2)

determinative, in the absence of a material change in circumstances, such a history will be strongly indicative of a well-founded fear of future persecution. The absence of such a history does not of itself mean that there will not be a well-founded fear in the future, but it is clearly an important consideration.

- 3.11.8** Where a gay or bisexual man is able to establish a real risk of persecution or Article 3 treatment in their home area, the lack of evidence that there is a sufficiency of protection for gay and bisexual men means that sufficiency of protection should not be relied upon to refuse such claims. However, serious ill-treatment of gay men in Ghana does not appear to be a widespread issue and in most cases a gay man who encounters difficulties in one area is likely to be able to relocate elsewhere in Ghana, for example to Accra, which has a gay social scene and gay friendly clubs. If however a gay or bisexual man does establish that they personally have a well-founded fear of mistreatment and that there are reasons why they could not avoid the threat by internal relocation or it would be unreasonable for them to do so, a grant of asylum or humanitarian protection may be appropriate.
- 3.11.9** The fact of being a gay or bisexual Ghanaian man will not of itself mean that a claimant would be persecuted, or that the claim may not be certified as clearly unfounded. However, claims from gay or bisexual Ghanaian men should not be certified on the basis of sufficiency of protection. A claim may be certified on the basis of internal relocation where it is clear that it would not be unduly harsh for him to relocate. Advice should always be sought from a Senior Caseworker before certifying such cases.

3.12 Prison conditions

- 3.12.1** Claimants may claim that they cannot return to Ghana due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in Ghana are so poor as to amount to torture or inhuman treatment or punishment.
- 3.12.2** The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of Humanitarian Protection. If imprisonment would be for a Refugee Convention reason, or in cases where for a Convention reason a prison sentence is extended above the norm, the claim should be considered as a whole but it is not necessary for prison conditions to breach Article 3 in order to justify a grant of asylum.
- 3.12.3 *Consideration.*** Prison conditions in most cases were harsh and sometimes life threatening in 2006, despite government efforts to improve them. Much of the prison population was held in buildings that were originally old colonial forts or abandoned public or military buildings, with poor ventilation and sanitation, dilapidated construction, and limited space. According to the 2004 Prisons Service Annual Report, approximately 11,700 prisoners were held in prisons designed to hold 6,500.³⁷
- 3.12.4** During a visit to Winneba Central Prison during 2005, the CHRAJ found 45 prisoners occupying a room designed for 3. Medical facilities were inadequate in 2006, and the prisons supplied only the most basic medicines. Prisoners relied on families or outside organisations for additional food, medicine, and other necessities. A shortage of bedding and clothing for prisoners continued during the year. Overcrowding contributed to a high prevalence of communicable diseases. Some detainees facing short sentences in 2006 allegedly pled guilty in order to be sent to prison where conditions were somewhat better than in the overcrowded and unsanitary police detention centres.³⁸
- 3.12.5** In 2006, female prisoners in police cells were only separated by a few feet and were within the reach of male prisoners in certain facilities. In the Accra Central police cells, female prisoners were kept in a small vestibule, only separated from men by a gate. The law stipulates that regardless of the offence, female convicts should be tested for pregnancy

³⁷ USSD 2006 (Section 1)

³⁸ USSD 2006 (Section 1)

upon incarceration, and that pregnant convicts should be held in a facility where their health needs could be met. However, in 2006 a NGO that worked with prisoners reported that many female convicts were not tested unless they began to show signs of pregnancy. During 2006, some juveniles inflated their ages to avoid lengthy rehabilitation sentences in the Borstal Institute. In response, the Department of Social Welfare and Prison Services collaborated to transfer any known juveniles in adult cells to juvenile correction centres.³⁹

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

4. Discretionary Leave

4.1 Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See Asylum Instructions on Discretionary Leave) Where the claim includes dependent family members consideration must also be given to the particular situation of those dependants in accordance with the Asylum Instructions on Article 8 ECHR.

4.2 With particular reference to Ghana the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should *not* imply an automatic grant of DL. There may be other specific circumstances related to the applicant, or dependent family members who are part of the claim, not covered by the categories below which warrant a grant of DL - see the Asylum Instructions on Discretionary Leave and the Asylum Instructions on Article 8 ECHR.

4.3 Minors claiming in their own right

4.3.1 Minors claiming in their own right who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate reception, care and support arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, care and support arrangements in place.

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

4.4 Medical treatment

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

4.4.2 In March 2004, the Institute of Statistical Social and Economic Research (ISSER) at University of Ghana noted that the country has an extensive network of public health care facilities, including hospitals, clinics and health centres. ISSER noted that there were 215 hospitals and 1758 health centres (1999 figures). In March 2004, the ISSER also reported that the new National Health Insurance Bill NHIS system had replaced the 'Cash and Carry'

³⁹ USSD 2006 (Section 1)

system introduced in 1985, whereby the Government levied user charges for health care services and the full cost recovery for drugs. The system, widely reported to have priced many out of receiving treatment, had increased the dependence of the poor on more traditional non-orthodox medicine and treatment.⁴⁰ In September 2006, however, it was reported that the overall provision of healthcare in Ghana remains in need of improving with over-expensive treatment, long waiting lists and unavailable drugs cited as particular criticisms.⁴¹ In November 2006, IRIN reported further on the decaying state of Ghana's health infrastructure.⁴²

- 4.4.3** There are an estimated 320,000 people living with HIV/AIDS in Ghana and the HIV prevalence rate for adults aged 15 to 49 is estimated at 2.3 percent. According to estimates, only 7 percent of HIV-infected men and women are receiving antiretroviral therapy. However, in October 2006 an increase in the provision of HIV/AIDS treatment was announced after the Ghana's health service received a financial boost from the Global Fund, the World Bank, and other donor agencies to increase the number of treatment centres.⁴³
- 4.4.4** The Government's mental health policy, initially formulated in 1994 and revised in 2000, is based on advocacy, promotion, prevention, and treatment and rehabilitation. Mental health is a part of the primary health care system and treatment of severe mental disorders is available at the primary level. Trained community psychiatric nurses have been posted to regions and most districts, and regular training of primary care professionals is taking place. There are community care facilities for patients with mental disorders, but there are a limited number of psychiatric beds available in hospitals. The following therapeutic drugs are generally available at the primary health care level of the country: carbamazepine, phenobarbital, phenytoin sodium, amitriptyline, chlorpromazine, diazepam, fluphenazine, haloperidol, Benztropine and benzhexol.⁴⁴
- 4.4.5** Where a caseowner considers that the circumstances of the individual claimant and the situation in Ghana reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 or 8 a grant of Discretionary Leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

5. Returns

- 5.1** Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Where the claim includes dependent family members their situation on return should however be considered in line with the Immigration Rules, in particular paragraph 395C requires the consideration of all relevant factors known to the Secretary of State, and with regard to family members refers also to the factors listed in paragraphs 365-368 of the Immigration Rules.
- 5.2** Ghanaian nationals may return voluntarily to any region of Ghana at any time by way of the Voluntary Assisted Return and Reintegration Programme (VARRP) implemented on behalf of the Border and Immigration Agency by the International Organization for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining travel documents and booking flights, as well as organising reintegration assistance in Ghana. The programme was established in 1999, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers.

⁴⁰ Institute of Statistical Social and Economic Research (ISSER) at University of Ghana: Health Care Provision and Self-Medication in Ghana dated March 2004

⁴¹ IRIN 'Ghana: Quality healthcare still a dream' dated 21 September 2006

⁴² IRIN 'Ghan: Hospitals symbolic of the ill who visit' dated 16 November 2006

⁴³ UNAIDS - Joint United Nations Programme on HIV/AIDS: Ghana & IRIN 'Ghana: Increase in HIV/AIDS treatment and care centres' dated 13 October 2006

⁴⁴ World Health Organization (WHO) Mental Health Atlas 2005: Ghana

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

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