

**Refugee Review Tribunal
AUSTRALIA**

RRT RESEARCH RESPONSE

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Country: Ghana
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Keywords: Ghana – Sefwi Bekwai – Muslims – Female genital mutilation – Forced marriages – State protection – Police corruption – Judicial corruption – Internal relocation

This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

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RESPONSE

1. Is there any information on the village of Sefwi Bekwai?

Sefwi Bekwai is marked on the attached maps of Western Ghana and Ghana ('Sefwi Bekwai' 2000, *Microsoft Encarta Interactive Atlas* – Attachment 1; and 'Ghana' 2000, *Microsoft Encarta Interactive Atlas* – Attachment 2).

Sefwi Bekwai is a major town in the district of Bibiani/Anhwiaso/Bekwai in the Western Region of Ghana. Sefwi Bekwai has electricity, pipe-borne water, postal services and is one of three major market centres in the district. As of 17 November 2006, Odeno Gyapong Ababio was the Paramount Chief of Sefwi Bekwai Traditional Area ('Demographic Characteristics: Western Region – Bibiani/Anhwiaso/Bekwai' 2006, Ghana Districts website http://bawkumunicipal.ghanadistricts.com/districts/?r=5&_=135&sa=2797&PHPSESSID=82

38573f974725409cdedfb47b4fb57a – Accessed 16 April 2007 – Attachment 3; ‘Social infrastructure: Western Region – Bibiani/Anhwiaso/Bekwai’ 2006, Ghana Districts website http://bawkumunicipal.ghanadistricts.com/districts/?r=5&_id=135&sa=241&PHPSESSID=5d118aa20e9d56ad62ad8a7fafa7152e – Accessed 16 April 2007 – Attachment 4; and ‘Chief Cautions Former President Rawlings’ 2006, *Public Agenda*, 17 November, allAfrica.com website <http://allafrica.com/> – Accessed 16 April 2007 – Attachment 5).

2. How prevalent is female circumcision in Ghana?

Female circumcision is also known as female genital mutilation (FGM) and female genital cutting (FGC). The World Health Organisation (WHO) provides the following information on FGM:

Female genital mutilation (FGM), often referred to as ‘female circumcision’, comprises all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs whether for cultural, religious or other non-therapeutic reasons. There are different types of female genital mutilation known to be practised today. They include:

- Type I – excision of the prepuce, with or without excision of part or all of the clitoris;
- Type II – excision of the clitoris with partial or total excision of the labia minora;
- Type III – excision of part or all of the external genitalia and stitching/narrowing of the vaginal opening (infibulation);
- Type IV – pricking, piercing or incising of the clitoris and/or labia; stretching of the clitoris and/or labia; cauterization by burning of the clitoris and surrounding tissue;
- scraping of tissue surrounding the vaginal orifice (angurya cuts) or cutting of the vagina (gishiri cuts);
- introduction of corrosive substances or herbs into the vagina to cause bleeding or for the purpose of tightening or narrowing it; and any other procedure that falls under the definition given above (World Health Organisation 2000, ‘Female genital mutilation’, Fact sheet N°241, June – Attachment 6).

A number of sources dated 1995 to 2006 report on the prevalence of FGM in Ghana. All of the sources provide different statistics on the percentage of women who have undergone FGM in Ghana. The prevalence of FGM in Ghana ranges from 8% to 94% depending on the age group, region and/or tribe. The prevalence of FGM in Ghana may be under-reported as awareness campaigns drive the practice underground.

A 2005 study conducted by the Ghanaian Ministry of Health found that approximately 15% of women aged between 12 and 19 years in the three northern regions of Ghana had undergone FGM. The US Department of State reports that “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” (US Department of State 2007, *Country Reports on Human Rights Practices 2006*, 6 March, Section 5 Women – Attachment 7).

A survey of 3,047 Ghanaians conducted by the National Council on Women and Development found that 12% of female respondents were circumcised and 10% said their siblings were circumcised (Ardayfio-Schandorf, Elizabeth 2005, *Violence against women: The Ghanaian case*, Paper presented at the Expert Group Meeting organised by the UN Division for the Advancement of Women in collaboration with the Economic Commission

for Europe and the World Health Organisation held in Geneva, Switzerland from 11 to 14 April 2005, April, UN website <http://www.un.org/womenwatch/daw/egm/vaw-stat-2005/docs/expert-papers/Ardayfio.pdf> – Accessed 17 April 2007 – Attachment 8).

A study of 5,071 deliveries at Navrongo War Memorial Hospital between 1 January 1996 and 31 December 2003, found that about 29% of women had undergone FGM. The study found that women aged 40 years and above had the highest prevalence of FGM (61.5%) while women aged below 20 years had the lowest prevalence of FGM (14.4%). The study also found that the all-age prevalence of FGM declined from 35.2% in 1996 to 21.1% in 2003:

Though recent evidence indicates the practice is undergoing a major decline, accurate measurements of individuals' status, which is necessary for proper evaluation of intervention studies, poses practical and ethnical challenges. This is due to denial among respondents and also due to the criminalization of the practice in recent years (Oduro, A.R. et al 2006, 'Trends in the prevalence of female genital mutilation and its effect on delivery outcomes in the Kassena-Nankana district of Northern Ghana', *Ghana Medical Journal*, Vol. 40, No. 3, September, p.87 – Attachment 9).

A study of 3,094 deliveries at three Ghanaian obstetrics centres between November 2001 and March 2003, found that 40% of women had undergone FGM (11% Type I, 28% Type II & 1% Type III) (Banks, Emily et al 2006, 'Female genital mutilation and obstetric outcome: WHO collaborative prospective study in six African countries', *The Lancet*, Vol. 367, Issue 9525, 3-9 June, World Health Organisation website, p.3 <http://www.who.int/reproductive-health/fgm/lancetfgm.pdf> – Accessed 17 April 2007 – Attachment 10).

A 2003 paper by the Centre for Development and Population Activities (CEDPA) reports that "it is estimated that between 15-30 percent of women and girls have undergone one type of FGC/M" in Ghana (Owusu-Darku, Lucy 2003, *Towards the Abandonment of FGC in Our Communities: Initiatives in Ghana*, April, Centre for Development and Population Activities website – Attachment 11).

A study conducted on women between 15 and 49 years of age in Kassena-Nankana district, compared the self-reported circumcision status of women interviewed in 1995 with the status they reported when they were interviewed again in 2000. The study found that 13% of respondents who reported in 1995 that they had been circumcised denied that they were circumcised in 2000. The increasing awareness of the illegality of FGM in Ghana may explain the denials:

In 1995, a questionnaire module assessed self-reported female circumcision status. Findings showed that 77 percent of the respondents reported that they had undergone genital cutting, a clear indication that the practice persists in the district.

...In a 1995 panel survey of women aged 15 to 49, 94 percent of women aged 35 years and older reported that they had been circumcised. The prevalence of circumcision steadily decreased according to respondents' age. Among the youngest group interviewed, those 15 to 19 years old, only 26 percent reported that they had been circumcised (Mbacke et al. 1998). The 2000 panel survey showed that the prevalence of circumcision among women aged 35 years and older had decreased to 83 percent, whereas prevalence had reached a low of 8 percent among women aged 15 to 19. Our analysis, based on the 2000 survey, of women's denial of having experienced female genital cutting partially explains the decrease in reported prevalence of the practice.

... **Table 3** Percentage of 2,000 women aged 20-49 who denied that they were circumcised in 2000 and had previously reported in 1995 that they were circumcised, by age group, Kassena-Nankana District, Ghana

Age in 2000	Percent denying in 2000
20-24	50
25-29	24
30-34	14
35-39	13
40-44	8
45-49	7
Total	13

... The spreading awareness of the law banning female genital cutting in Ghana that was introduced in 1994 may have influenced circumcised women to conceal their status. The effects of this law were not likely to have been widespread at the time of the 1995 panel survey; however, most women were probably aware of the law after 1996, when a circumciser in the district was jailed for five years.

The effect of the law on survey may differ by age. Younger women may be more likely than older women to fear punishment under the law if they report being circumcised, because they have been more recently circumcised, and therefore their circumciser is still likely to reside in the community. Older women, almost universally circumcised, might fear the law less because they were circumcised before it was passed. This effect would be consistent with the finding that denial rates are much higher among younger women.

... Given the anticircumcision messages circulating in the district, women are likely to assume the NHRC opposes the practice. For this reason, a woman may tell an NHRC interviewer what she thinks the interviewer wants to hear, denying that she is circumcised (Jackson, Elizabeth F. 2003, 'Women's Denial of Having Experienced Female Genital Cutting in Northern Ghana: Explanatory Factors and Consequences for Analysis of Survey Data, Population Council website, pp.7, 11 & 16-17 <http://www.popcouncil.org/pdfs/wp/178.pdf> – Accessed 17 April 2007 – Attachment 12).

The US Department of State provides the following information on the prevalence of FGM in Ghana:

In 1998, the Gender Studies and Human Rights Documentation Center estimated that it had been performed on 15 percent of the Ghanaian female population. The United Nations Population Fund (UNFPA) recently funded a study conducted by Rural Help Integrated, an NGO providing reproductive health care services in the Upper East Region. The study found that FGM/FGC had been performed on 36 percent of the Upper East Region's female population and estimated that between 9 and 12 percent of Ghanaian women nationwide had undergone the procedure.

In 1996, Amnesty International Ghana, together with the Association of Church Development Projects, estimated that 76 percent of all women in the Upper East, Upper West and Northern regions had been excised (US Department of State 2001, *Ghana: Report on Female Genital Mutilation (FGM) or Female Genital Cutting*, 1 June – Attachment 13).

3. Please provide any relevant information on this practice.

An April 2003 report by CEDPA provides the following information on the practice of FGM in Ghana:

In Ghana it is estimated that between 15-30 percent of women and girls have undergone one type of FGC/M. Most circumcisions are performed on females between the ages of 14-29 years. The practice is most prevalent (75%) in the three northern regions, Northern, Upper East and Upper West, and the southern community of Zongos where there is a concentration of certain ethnic populations and immigrants from neighboring countries where FGC/M is also practiced (Navrongo Research Center) (Owusu-Darku, Lucy 2003, *Towards the Abandonment of FGC in Our Communities: Initiatives in Ghana*, April, Centre for Development and Population Activities website – Attachment 11).

A US Department of State report dated 1 June 2001 provides the following information on the practice of FGM in Ghana:

The form of female genital mutilation (FGM) or female genital cutting (FGC) most commonly practiced in Ghana is Type II (commonly referred to as excision). Other forms, such as Type I (commonly referred to as clitoridectomy) and Type III (commonly referred to as infibulation) are also practiced. The extent of the practice in Ghana as a whole is limited. These forms are generally practiced among a few groups in northern Ghana. There are also some migrants from neighbouring countries who now practice in southern Ghana.

...FGM/FGC is most prevalent in the Upper East Region. It is also practiced regularly in remote parts of the Northern Region, Upper West Region and northern Volta Region. In the southern part of Ghana it is practiced among migrants from the northeastern and northwestern parts of Ghana, from Mali, Togo, Niger, Burkina Faso and other neighboring countries.

Studies conducted in 1986 and 1987 showed the practice to exist mainly among the following ethnic groups in the far northern part of the country – Kussasi, Frafra, Kassena, Nankanne, Bussauri, Moshie, Manprusie, Kantansi, Walas, Sissala, Grunshie, Dargati and Lobi.

...In 1996, Amnesty International Ghana, together with the Association of Church Development Projects, estimated that 76 percent of all women in the Upper East, Upper West and Northern regions had been excised. They cited several cities in these regions where it is still widely practiced: Kasena-Nankana, Bolgatanga, Bawku East and Bawku West in the Upper East Region; Bole, Mamprusi, West Walewale and Zabaugu-Tatale Kotokoli in the Northern Region; Wa and Nandom in the Upper West Region; and Kodjebi, Worawora and Jasikan in the northern Volta Region.

...The procedure may be carried out during adolescence, at marriage, during a first pregnancy or on babies as young as seven days old.

...The 1998 Gender Studies and Human Rights Documentation Center's study reported that 51 percent of all women who have been subjected to this practice had it performed before the age of one. They reported that 10 to 14 year olds make up the second most targeted age group with more than 85 percent of all procedures performed on girls under the age of 15. The usual age for undergoing this procedure follows regional patterns. In the Upper East, it is most often performed during puberty as a rite of passage to womanhood. Communities in the Upper West and northern Volta regions more often perform this procedure on infant (US Department of State 2001, *Ghana: Report on Female Genital Mutilation (FGM) or Female Genital Cutting*, 1 June – Attachment 13).

An Amnesty International report dated 12 April 1996 provides the following information on the practice of FGM in Ghana:

Where does FGM occur in Ghana?

UPPER EAST REGION

Districts Ethnic Groups/Communities

- Kasena-Nankana i) Mirigu
- ii) Koloko
- iii) Dorba
- Bolgatanga i) Among Gurene speaking groups
- ii) Nabdam
- Bawku East i) Mamprusi
- ii) Mossi/Busanga
- iii) Kusasi
- Bawku West i) Mamprusi
- ii) Kusasi

NORTHERN REGION

Districts Ethnic Groups/Communities

- Bole i) Sawla
- ii) Tuna
- Mamprusi West Walewale (migrant settlers)
- Zabzugu-Tatale Kotokoli

UPPER WEST REGION

Districts Ethnic Groups/Communities

- Wa Among a section of Dagaabas
- Nandom areas Among a section of Dagaabas

The practice is common among some migrant northern as well as foreign settlers in many parts of the country especially in the cities and townships (commonly referred to as “zongos”).

In some of the communities listed, the practice might not be indigenous but may be as a result of cultural diffusion through long periods of association with immigrants...

When does FGM take place?

Age Groups

FGM is generally performed between the ages of 4 and 10 years but may be carried out during adolescence, at marriage, or during a first pregnancy. There are also reports of babies as young as seven days being operated on (Amnesty International 1996, *Working together for change: Stop female genital mutilation*, 12 April – Attachment 14).

According to Dr Augustine Ankoma, FGM is “ritually unknown among all Akan groups in Ghana” (Ankoma, Augustine 2004, ‘Ghana’, *The Continuum Complete International Encyclopedia of Sexuality*, The Kinsey Institute, p.470
<http://www.kinseyinstitute.org/ccies/pdf/ccies-ghana.pdf> – Accessed 18 April 2007 – Attachment 15).

4. Is there a Muslim population in Ghana? Where is this population geographically located?

According to the 2000 Ghanaian government census 15.6% of the population is Muslim. The US Department of State reports that the “Muslim community has protested these figures, asserting that the Muslim population is closer to 30 percent.” According to the US Department of State, the “majority of the Muslim population was concentrated in northern areas as well as in the urban centers of Accra, Kumasi, Sekondi-Takoradi, Tamale, and Wa” (US Department of State 2006, *International Religious Freedom Report 2006 – Ghana*, 15 September, Section 1 – Attachment 16).

5. Is there any information on arranged marriages between Muslim men and young non Muslim women from remote or rural areas of Ghana?

No information on arranged marriages between Muslim men and young non-Muslim women from remote or rural areas of Ghana was found amongst the sources consulted.

The US Department of State reports that forced child marriage “remained a problem” in Ghana during 2006. The Commission on Human Rights and Administrative Justice Ghana (CHRAJ) and NGOs reported that problem had “not improved” during 2006. In their December 2005 newsletter, the Foundation for Women’s Health, Research and Development (FORWARD) reports that they have completed a Comprehensive Baseline Survey on the incidence, causes, effects, and manifestation of selected gender and reproductive health issues in Northern Ghana. The survey found that “52% of women interviewed were victims of child/forced marriage” (Foundation for Women’s Health, Research and Development 2005, *Forward Newsletter*, Issue No. 6, December, p.3 <http://www.forwarduk.org.uk/reports/newsletters/FORWARD%20Newsletter%20Dec%202005.pdf> – Accessed 26 April 2007 – Attachment 17; and US Department of State 2007, *Country Reports on Human Rights Practices 2006*, 6 March, Section 5 Children – Attachment 7).

The combined third, fourth and fifth periodic report by Ghana to the UN Committee on the Elimination of Discrimination against Women reports that in patrilineal communities in Northern Ghana the husband “starts paying the bride price from when the girl is as young as five” and that in “such a situation she is in no position to refuse to marry him when she comes of age” (UN Committee on the Elimination of Discrimination against Women 2005, *Consideration of reports submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women – Combined third, fourth and fifth periodic reports of State parties: Ghana*, 18 April, CEDAW/C/GHA/3-5, Para 202 <http://www.un.org/womenwatch/daw/cedaw/36sess.htm> – Accessed 26 April 2007 – Attachment 18).

6. What protection would be available to women if they complain to state authorities about forced marriage and forced circumcision?

According to Section 69A of the *Criminal Code 1960* it is illegal to perform FGM in Ghana. Women’s organisations in Ghana have called for stiffer penalties, punishment for parents who consent to practitioners carrying out FGM and punishment for parents who send their children to neighbouring countries for FGM. Sources report that arrests and prosecutions

under the Code are scarce. Sources also report that there is little protection against FGM in rural areas.

Section 109 of the *Criminal Code 1960* criminalises forced marriage. Section 14 of *The Children's Act 1998* provides a child with the right to refuse betrothal and marriage and also sets the minimum age for marriage at 18 years. Sources report that there are problems with the enforcement of the laws. Since 2002 a number of girls have sought protection from local authorities.

Women and children in Ghana can complain to the Domestic Violence and Victim Support Unit (DOVVSU) of the Ghana Police Service if they are forced to marry or undergo FGM. Women's access to justice in Ghana is hindered by tradition, lack of knowledge of their rights, lack of enforcement of existing laws, cost, unavailability of legal aid, societal attitudes, lack of lawyers, delays and negative or unjust outcomes in similar cases.

Information provided in response to this question has been organised under the following three headings:

- [FGM](#);
- [Forced Marriage](#); and
- [General](#)

FGM: Legality

In 1994 the Ghanaian Parliament criminalised the performance of FGM in Ghana:

In 1994, Parliament amended the Criminal Code of 1960 to include the offense of FGM/FGC. This Act inserted Section 69A that states:

“(1) Whoever excises, infibulates or otherwise mutilates the whole or any part of the labia minora, labia majora and the clitoris of another person commits an offense and shall be guilty of a second degree felony and liable on conviction to imprisonment of not less than three years.

1. For the purposes of this section ‘excise’ means to remove the prepuce, the clitoris and all or part of the labia minora; ‘infibulate’ includes excision (Type II) and the additional removal of the labia majora” (US Department of State 2001, *Ghana: Report on Female Genital Mutilation (FGM) or Female Genital Cutting*, 1 June – Attachment 13).

An article dated 5 September 2006 by *IRIN* reports that proposed revisions to the 1994 law aim to punish anyone who gives their consent to practitioners to carry out FGM on young girls. The amendment was due to be debated when parliament reconvened in October 2006. No recent information on this amendment was found amongst the sources consulted (‘Increased penalties for female genital cutting proposed’ 2006, *IRIN*, 5 September <http://www.irinnews.org/report.aspx?reportid=60812> – Accessed 18 April 2007 – Attachment 19).

An article dated 2 February 2004 by *IRIN* reports that women's organisations in Ghana have called for stronger laws against FGM. The Ghanaian Association for Women's Welfare (GAWW) wants parents to be liable for punishment as well as those who actually perform FGM. GAWW also wants the law to deal with cross-border FGM offenders. The Ghana

chapter of the International Federation of Women Lawyers (FIDA) has called for stiffer penalties to be imposed on those who carry out FGM ('Ghana: Women Call for Stiffer Female Circumcision Laws' 2004, *IRIN*, 2 February, allafrica.com website – Attachment 20).

FGM: Arrests and Prosecutions

According to the US Department of State, there were no prosecutions for FGM during 2006 (US Department of State 2007, *Country Reports on Human Rights Practices 2006*, 6 March, Section 5 Women – Attachment 7).

A report dated June 2006 by Women in Law and Development in Africa, Ghana reports that despite the criminalisation of FGM, "few cases have been brought before the courts for prosecution." One case of FGM in Wenchi resulted in a caution and a fine:

One case of female genital mutilation which has come before CHRAJ [Commission on Human Rights and Administrative Justice Ghana] was lodged by the catechist of a Presbyterian Church who complained that the Respondents had carried out female circumcision on some young girls in the town and that the young girls ran to seek refuge with him at the mission house. The Commission conducted investigations into the matter. After the investigations the Respondents were arrested and put before court at Wenchi, charged with female circumcision contrary to s.69 of Act 29, 1960 as amended. However, they were cautioned and discharged and ordered to pay ₵ 600,000.00 each as fine. The court should have taken a hard stance on this and given the minimum sentence to serve a strong deterrence to the general public (Women in Law and Development in Africa, Ghana 2006, *Shadow Report to Ghana's Third, Fourth & Fifth Reports on the Implementation of the CEDAW in Ghana*, June, International Women's Rights Action Watch, Asia Pacific website, p.11 (footnote 3) http://www.iwraw-ap.org/resources/pdf/Ghana_SR.pdf – Accessed 18 April 2007 – Attachment 21).

An article dated 2 February 2004 by *IRIN* reports that a court in the Upper East Region sentenced a 70 year old woman to five years in prison for circumcising seven girls. The article also reports that in November 2003 a court in the Upper West Region sentenced a 45 year old woman to five years in prison for circumcising three girls including a three week old baby ('Ghana: Women Call for Stiffer Female Circumcision Laws' 2004, *IRIN*, 2 February, allafrica.com website – Attachment 20).

An article dated 19 November 2003 in the *Ghanaian Chronicle* reports that less than 10 people have been arrested since FGM became illegal in 1994. The article reports that in September 2003 a 47 year old woman was sentenced to five years in prison for circumcising three girls (Stephens-Davidowitz, Lauren 2003, 'Traditions Die Hard: Can Arrests Stop Female Genital Mutilation?', *Ghanaian Chronicle*, 19 November, allafrica.com website – Attachment 22).

The US Department of State reports that on 6 September 2001 two women were arrested in Kpatia, Upper East District for assisting another woman in the circumcision of five of their teenage grandchildren. The US Department of State reports that the "women cooperated with police; however, the woman who performed the circumcision was not found by year's end" (US Department of State 2002, *Country Reports on Human Rights Practices for 2001 – Ghana*, 31 March, Section 5 Women – Attachment 23).

A US Department of State report dated 1 June 2001 reports that there have been seven arrests for FGM since 1994 with at least two convictions (US Department of State 2001, *Ghana: Report on Female Genital Mutilation (FGM) or Female Genital Cutting*, 1 June – Attachment 13).

FGM: Protection

A report dated May 2005 by the Ghana NGO Coalition on the Rights of the Child reports that laws that prohibit FGM exist “but these laws are not been enforced.” The Coalition reports that there “seems to be lack of political will to enforce such laws” (Ghana NGO Coalition on the Rights of the Child 2005, *The Ghana NGO Report to the UN Committee on the Rights of the Child on Implementation of the Convention of the Rights of the Child by the Republic of Ghana*, May, Child Rights Information Network website, p.14 http://www.crin.org/docs/Ghana_GNCRRC_ngo_report.doc – Accessed 26 April 2007 – Attachment 24).

A report dated 1 June 2001 by the US Department of State acknowledges that there is little protection available in rural areas and often police are willing but unable to respond effectively in such areas:

The law in Ghana protects an unwilling woman or girl against the practice, but there is little real protection to turn to in many rural areas. All levels of government have come out strongly against this practice. Advocacy groups work to eradicate it. There is a history of enforcement against those who practice or threaten to practice FGM/FGC. There are indigenous NGOs and watchdog committees throughout the country who are prepared to intervene and have stopped practitioners by going to the police when necessary. However, their reach does not extend to many remote communities. The police are willing to and have cooperated to stop this practice from happening, but the ability of police to respond to remote communities in a timely or effective manner is severely limited (US Department of State 2001, *Ghana: Report on Female Genital Mutilation (FGM) or Female Genital Cutting*, 1 June – Attachment 13).

FORCED MARRIAGE: Legality

Section 109 of the *Criminal Code 1960* criminalises forced marriage:

Section 109 – Compulsion of Marriage.

Whoever by duress causes a person to marry against his or her will, shall be guilty of a misdemeanour (*Criminal Code 1960*, UNHCR website <http://www.unhcr.org/cgi-bin/texis/vtx/home/openssl.pdf?tbl=RSDLEGAL&id=44bf823a4> – Accessed 19 April 2007 – Attachment 25).

Section 14 of *The Children’s Act 1998* provides a child with the right to refuse betrothal and marriage and also sets the minimum age for marriage at 18 years:

Section 14. Right to refuse betrothal and marriage.

(1) No person shall force a child:

- (a) to be betrothed;
- (b) to be the subject of a dowry transaction; or
- (c) to be married.

(2) The minimum age of marriage of whatever kind shall be eighteen years (*The Children's Act 1998*, Yale Law School website
http://www.law.yale.edu/rcw/rcw/jurisdictions/afw/ghana/Ghana_Childrens_Act.htm – Accessed 19 April 2007 – Attachment 26).

FORCED MARRIAGE: Cases

According to the Eric Nancha, Krachi West District Director of the CHRAJ, his office dealt with 15 cases of forced marriage in the district in 2005. Nancha stressed “that there were obviously many of such cases that would have gone unreported.” Nancha reports that the CHRAJ successfully settled all the complaints brought before it in 2005 but “complained that in some cases, the offending parents agree, while they are before the commission, to abandon the idea of forcing daughters into marriage only for them to get home and drive the daughters away from home and bar them from their families” (Brammah, Sulemana 2006, ‘Settler Farmers Plunge Schooling Daughters Into Forced Marriages’, *Ghanaian Chronicle*, 31 January, allAfrica.com website <http://allafrica.com/> – Accessed 19 April – Attachment 27).

Three cases of compulsion of marriage were reported to the Accra Domestic Violence and Victim Support Unit of the Ghana Police Service (DOVVSU) between January and July 2005 (‘Statistics’ (undated), Ghana Police Service website <http://www.ghanapolice.org/waju/statistics.htm> – Accessed 26 April 2007 – Attachment 28).

An article dated 16 April in *GNA* reports that 16 year old Zinabu Musah was rescued from a forced marriage by a team of personnel from Tapa police, Ahafo-Ano North district office of the CHRAJ and the District Education Unit. The article reports that the father and grandmother of Zinabu “have signed an undertaking to be of good behaviour and to ensure that the girl completed her education” (‘Team rescue girl from forced marriage’ 2004, *GNA*, 9 April, Ghana HomePage website – Attachment 29).

An article dated 26 February 2004 in *GNA* reports that a 14 year old girl from Tema was being forced to marry a man in his late thirties in Lome, Togo. The girl complained to police who interrogated the girl’s grandmothers who came to Ghana allegedly to abduct the girl for the marriage (‘14-year-old escapes from Forced Marriage’ 2004, *GNA*, 26 February, Ghana HomePage website – Attachment 30).

An article dated 24 September 2002 in *The Spectator* reports that the Komenda Police and officials of the Department of Social Welfare at Elima saved a 16 year old girl from a forced marriage. The girl heard about the plan and wrote to inform the Girls’ Education Unit of the Ghana Education Service. The Elmina Community Tribunal granted an order preventing her parents from giving their daughter away in early marriage as well as compelling the couple to allow their daughter to continue her education (‘Forced marriage aborted’ 2002, *The Spectator*, 24 September, Ghana HomePage website – Attachment 31).

The US Department of State reports that forced childhood marriage remained a problem in 2003:

On August 15, a Circuit Court in Wa, Upper West Region, convicted and sentenced a farmer to prison for 14 years for sexually assaulting and marrying a 14-year-old girl.

In 2002, the Ghana National Commission on Children (GNCC) was working with the CHRAJ to effect the prosecution of the chief of Mpeasem-Easuakyir, in the Central Region, who

coerced a 14-year-old girl into marrying him after he abused and impregnated her.

Investigations into the August 2002 case of a 15-year-old girl forced to marry a 60-year-old man and the August 2002 kidnapping of a 5-year-old girl for ritual purposes were ongoing at year's end (US Department of State 2004, *Country Reports on Human Rights Practices for 2003 – Ghana*, 25 February, Section 5 Children – Attachment 32).

FORCED MARRIAGE: Protection

A report dated May 2005 by the Ghana NGO Coalition on the Rights of the Child reports that laws that prohibit forced marriage exist “but these laws are not been enforced.” The Coalition reports that there “seems to be lack of political will to enforce such laws” (Ghana NGO Coalition on the Rights of the Child 2005, *The Ghana NGO Report to the UN Committee on the Rights of the Child on Implementation of the Convention of the Rights of the Child by the Republic of Ghana*, May, Child Rights Information Network website, p.14 http://www.crin.org/docs/Ghana_GNCRRC_ngo_report.doc – Accessed 26 April 2007 – Attachment 24).

According to Mr Gyamfi of the Ghana National Commission on Children (GNCC) and reported in *The Ghanaian Chronicle* on 4 August 2004, laws against forced marriage are in place in Ghana, the problem is with enforcement and advocacy:

“It is important that people go to remote areas to let people know the consequences of pushing their children into early marriages, he said. “They must be made aware that there is a price to pay when they do that, but the personnel is simply not there to do that.”

He adds that institutions like the Police Service, the Commission on Human Rights and Administrative Justice, GNCC, DSW [Department of Social Welfare] and other bodies, need to be strengthened to educate people about the rights of the child (Baidoo, Patrick & Ratner, Jonathan 2004, ‘Rights of the Girlchild Still Not Respected’, *Ghanaian Chronicle*, 4 August, allAfrica.com website <http://allafrica.com/> – Accessed 19 April 2007 – Attachment 33).

GENERAL: DOVVSU

The Domestic Violence and Victim Support Unit (DOVVSU), formerly the Women and Juvenile Unit (WJU), was established in 1998. The DOVVSU fulfils a number of roles including protecting the rights of the vulnerable against all forms of abuse, investigating all cases of domestic violence and child abuse, arresting and prosecuting perpetrators where necessary and collaborating with organisations that may be able to offer assistance or specialised help to victims such as psychologists, Department of Social Welfare, FIDA, Legal Aid, counselors etc. Attachment 35 provides information on how the DOVVSU handles cases. The DOVVSU handle FGM and forced marriage cases. The DOVSSU has 52 branches including four in Accra and nine in the Western Region (‘The establishment of WAJU now DOVVSU’ (undated), Ghana Police Service website <http://www.ghanapolice.org/waju/establishment.htm> – Accessed 26 April 2007 – Attachment 34; ‘Role of the DOVVSU in the Ghana Police Service’ (undated), Ghana Police Service website <http://www.ghanapolice.org/waju/function.htm> – Accessed 26 April 2007 – Attachment 35; and ‘Some Useful Information’ (undated), Ghana Police Service website <http://www.ghanapolice.org/waju/information.htm> – Accessed 28 April 2007 – Attachment 36).

The US Department of State reports that the Ghanaian police maintained a specialised unit for domestic violence in Accra but “there were significant barriers to extending such services nationwide, including a lack of office accommodation, police vehicles, and equipment outside of Accra (US Department of State 2007, *Country Reports on Human Rights Practices 2006*, 6 March, Section 1d – Attachment 7).

General: Access to Justice

The NGO CUSO organised a workshop in December 2006 that brought together stakeholders in the justice system in order to ascertain the current situation of women’s access to justice in Ghana. Participants identified tradition, lack of knowledge of rights, lack of enforcement of existing laws, cost, unavailability of legal aid, societal attitudes and negative or unjust outcomes in similar cases as challenges to women’s access to justice in Ghana (Osabutey, Phyllis D. 2006, ‘Women & Children Need Better Access to Justice’, *Ghanaian Chronicle*, 20 December, allAfrica.com website <http://allafrica.com/> – Accessed 26 April 2007 – Attachment 37).

The UN Committee on the Elimination of Discrimination against Women “is concerned that, although women’s access to justice is provided for by the law, women’s ability in practice to exercise this right...is limited by factors such as limited information on their rights, lack of assistance in pursuing these rights, and legal costs” (UN Committee on the Elimination of Discrimination against Women 2006, *Concluding comments of the Committee on the Elimination of Discrimination against Women: Ghana*, 25 August, Para 15 <http://www.un.org/womenwatch/daw/cedaw/cedaw36/cc/Ghana/0648072E.pdf> – Accessed 28 April 2007 – Attachment 38).

A report dated June 2006 by Women in Law and Development in Africa, Ghana provides the following information on problems associated with women’s access to justice in Ghana:

Problems however associated with women’s access to justice are related to the limited scope of legal aid services, lack of resources for the state-run legal aid system, inadequate number of lawyers outside of the cities to assist needy women and a general apathy by women to the court system because of delays and high costs.

The closest courts to women are the district courts. District courts make up the largest number of courts in Ghana and statistically handle the largest number of cases. There are 131 district courts in Ghana but with only 50 magistrates at post. This is as a result of a lack of resources. The District Court has jurisdiction to hear and determine any action arising under the Children’s Act, 1998 (Act 560) and in that respect shall serve as the Family Tribunal (Women in Law and Development in Africa, Ghana 2006, *Shadow Report to Ghana’s Third, Fourth & Fifth Reports on the Implementation of the CEDAW in Ghana*, June, International Women’s Rights Action Watch, Asia Pacific website, pp.29-30 http://www.iwraw-ap.org/resources/pdf/Ghana_SR.pdf – Accessed 18 April 2007 – Attachment 21).

The combined third, fourth and fifth periodic report by Ghana to the UN Committee on the Elimination of Discrimination against Women provides the following information on women’s access to justice in Ghana:

196. The legal processes themselves are unnecessarily complex, slow and sometimes expensive. Other major constraints of women in seeking legal redress include their lack of education on their legal rights. There are also many cases before the courts which have not

been disposed of. This discourages and intimidates women, especially rural women, from seeking redress in court. Many people, including rural women, who have grievances therefore may not seek redress at all and would rather resort to the use of unorthodox means like employing militia or 'Macho' men (strongmen) to claim the justice which they think is being denied them by the formal legal system.

197. The free legal aid offered to women both by the Government and the Ghana branch of the International Federation of Female Lawyers and various programs on Gender advocacy by Non- Governmental Organisations like the African Women Lawyers Association, and others, has to some extent addressed the problem of accessibility to legal services. It is, however, limited in scope and sometimes some of these women are so indigent that even transport fares to and from these legal aid clinics is difficult to come by and they just give up.

198. Other parallel legal systems such as the Commission on Human Rights and Administrative Justice, Alternative Dispute Resolution, the Fast Track Court system and Family Tribunals have also in some way eased the case load in the formal courts. Additionally, legal educational programmes mounted by the Ministry of Women and Children's Affairs through the National Council of Women and Development, outreach programmes organised by organizations such as FIDA (International Fund for Agricultural Development), Trades Union Congress, and Women in Law and Development in Africa, have all made many women aware of their legal rights and responsibilities. Yet there is still a lot of work to be done especially in the light of the cultural and family pressures on these women. These slow down and sometimes eliminate the urge to seek justice through the court system altogether (UN Committee on the Elimination of Discrimination against Women 2005, *Consideration of reports submitted by State parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women – Combined third, fourth and fifth periodic reports of State parties: Ghana*, 18 April, CEDAW/C/GHA/3-5 <http://www.un.org/womenwatch/daw/cedaw/36sess.htm> – Accessed 26 April 2007 – Attachment 18).

7. What is the level of corruption in the police?

Reports suggest that members of the Ghana Police Service are corrupt; however, information on the level of corruption was not found amongst the sources consulted. There are a number of police oversight mechanisms in place in Ghana; however, their effectiveness is hindered by problems including a lack of political will.

The US Department of State reports that the Ghana Police Service came under “repeated criticism” following incidents of corruption in 2006:

The police service came under repeated criticism following incidents of police brutality, corruption, and negligence. Impunity remained a problem. Delays in prosecuting suspects, rumors of police collaboration with criminals, and the widespread perception of police ineptitude contributed to a continued increase in vigilante justice during the year. There were also credible reports that police extorted money by acting as private debt collectors, by setting up illegal checkpoints, and by arresting citizens in exchange for bribes from the detainees' disgruntled business associates (US Department of State 2007, *Country Reports on Human Rights Practices 2006*, 6 March, Section 1d – Attachment 7).

A 2006 article by Nick Fobih of the Journalists for Human Rights reports that corruption and abuse of power by police “continue to adversely affect the promotion of civil liberties and the rule of law in Ghana.” Fobih continues:

According to reports by some journalists, the pervasive corrupt practices that have permeated the police service is seen in the fact that the police continue to accept bribes from both complainants and suspects, and sometimes keep suspects for more than the stipulated 48 hours without charges, bail or trial. Very often, one who is able to pay the highest price decides whether the case will be sabotaged at the police station or prosecuted in court. Journalists who attended Journalists for Human Rights workshops narrated stories about people who have been in remand for periods ranging from several days, months and years. This action contravenes Article 17 of Ghana's 1992 Constitution, which guarantees equality before the law and non-discrimination. While the Habeas Corpus Act of 1215 gave people detained by the authorities the right to apply to the courts for immediate release from custody, torture and detention without trial for longer than 48 hours, failure to obtain warrants for arrest by the police are some of the dents in the respect for civil liberties and rule of law being promoted by the NPP government. It is also common practice that before taking a complainant's statement, some police personnel demand money for pen and paper, and for transportation before arresting suspects (Fobih, Nick 2006, 'Strengthening human rights in Ghana', Journalists for Human Rights website <http://www.jhr.ca/fieldnotes/view.php?aid=328> – Accessed 27 April 2007 – Attachment 39).

The Ghana Integrity Initiative (GII), the local chapter of Transparency International conducted an urban household corruption perception survey in Kumasi, Sekondi-Takoradi and Accra-Tema, Southern Ghana from 10 to 26 March 2005. The survey captured the perceptions of respondents on institutions highly affected by corruption in Ghana. The top institution mentioned was the Ghana Police Force (76.8%):

Some of the institutions perceived to be highly corrupt, such as the **Police Service**..., are paradoxically also the ones expected to help control corruption. This clearly indicates that there is a serious need for institutional renewal and reforms that will reinvigorate these oversight institutions and enable them play their expected roles to help address the canker of corruption in the society (Ghana Integrity Initiative 2005, "Voice of the People" survey (Southern Ghana) – Project Completion Report, July, p.12 http://www.tighana.org/Project_Completion_Report.pdf – Accessed 27 April 2007 – Attachment 40).

An article dated 9 February 2007 in *The Ghanaian Chronicle* reports that the Ghana Police Service has attempted to discourage corrupt behaviour by implementing oversight mechanisms and by promoting their Code of Conduct. The article notes that "unless there is a real commitment to put these regulations into action, they will simply continue to be nothing more than words on a piece of paper." The article continues:

Oversight mechanisms are necessary in order to monitor the actions of the GPS. Without these mechanisms, there would be no way to determine whether the Service is performing efficiently and obeying human rights regulations. In fact, internal and external oversight procedures are already in place to observe the Police Service.

...However, the problem with all the existing oversight mechanisms is that their success is hindered in one way or another. For example, the Service Instructions neither contain any references to the accountability of Superior Officers nor does it include any provisions which will allow the public to make a complaint against the police.

Further, although the Police Intelligence and Professional Standards Bureau (PIPS) was recently created in order to enforce international human rights regulations, the success of PIPS has been hindered by the lack of available resources. Therefore, if the government is serious about enforcing these existing oversight mechanisms, it should at least consider providing additional resources to the GPS. In addition, it should also create a fully

independent external mechanism, such as Ombudsmen, to provide for a more accountable police service.

The GPS is not an entity, which can escape the influence of the political and civil environment which surrounds it. Internal and external mechanisms already exist in order to ensure an efficient and just Police Service and plenty of recommendations have already been made for improvements to the Service. All the government has to do now is to implement the necessary reforms (Stickney, Shyamala 2007, 'What Reforms Should the President Implement in the Police Service?', *Ghanaian Chronicle*, 9 February, allAfrica.com website <http://allafrica.com/> – Accessed 27 April 2007 – Attachment 41).

The US Department of State provides the following statistics on the number of PIPS investigations into human rights abuses and police misconduct in 2005 and 2006:

The 33-person Police Intelligence and Professional Standards Unit (PIPS) investigated human rights abuses and police misconduct. During the year PIPS received 522 complaints and petitions, compared with 247 in 2005. There were 70 complaints related to harassment, unlawful arrest, and detention with human rights violations, compared with 48 in 2005 and 79 in 2004. Of the 522 complaints received, 212 had been investigated by year's end.

As a result of PIPS investigations, the Inspector General of Police in 2005 warned police officials that incidents of misconduct would be punished, and he took steps to punish some offenders. Over the 18-month period between January 2005 and July, 80 police officers of varying rank were dismissed for various offenses, and 92 others were demoted. No disciplinary action was taken against police officers between July and year's end (US Department of State 2007, *Country Reports on Human Rights Practices 2006*, 6 March, Section 1d – Attachment 7).

8. What is the level of corruption in the judicial system?

Reports suggest that members of Ghana's judicial system are corrupt. However, information on the level of corruption was not found amongst the sources consulted.

The US Department of State reports that the Ghanaian "constitution and law provide for an independent judiciary; however, the judiciary was inefficient and subject to influence and corruption" (US Department of State 2007, *Country Reports on Human Rights Practices 2006*, 6 March, Section 1e – Attachment 7).

According to *The Wall Street Journal* and the Heritage Centre, an American public policy research organisation, "Ghana's judicial system suffers from corruption, albeit less than those of some other African countries". They also note that at times the courts "face challenges in enforcing decisions, largely because of resource constraints and institutional inefficiencies" (Heritage Foundation & *Wall Street Journal* 2006, *Index of Economic Freedom – Ghana*, November <http://www.heritage.org/research/features/index/countryFiles/pdfs/Ghana.pdf> – Accessed 27 April 2007 – Attachment 42).

According to Freedom House, "corruption remains a problem" within Ghanaian courts:

A parliamentary committee on judicial corruption has recommended establishing and enforcing codes of conduct, disciplinary mechanisms, and transparent complaint procedures. Traditional courts often handle minor cases according to local customs that fail to meet constitutional standards. Scarce judicial resources compromise the judicial process, leading to

long periods of pretrial detention under harsh conditions (Freedom House 2006, *Freedom in the World – Ghana (2006)*, 28 September <http://www.freedomhouse.org/template.cfm?page=22&year=2006&country=6969> – Accessed 27 April 2007 – Attachment 43).

A 2006 article by Nick Fobih of the Journalists for Human Rights reports that corruption and abuse of power by judicial institutions “continue to adversely affect the promotion of civil liberties and the rule of law in Ghana.” Fobih notes that corruption is pervasive in the Ghanaian judicial system:

Due to the pervasive corruption in the judicial system, judges and magistrates’ decision on cases brought to the courts are often based on monetary interest rather than the rule of law. Another major setback in Ghana’s justice system is the undue adjournment of cases. While adjournment is sometimes necessary to enable the courts to obtain important facts in cases, judges and prosecutors often abuse this system indirectly to punish suspects who are unable to pay their way by unduly prolonging the duration of cases. Cases are often delayed unnecessarily through adjournment and remanding suspects without any reasonable cause. The Judicial Service/CUSO report on cases in Ghanaian courts shows that there were adjournments in 70 percent of cases in Accra in 2003 year (Fobih, Nick 2006, ‘Strengthening human rights in Ghana’, Journalists for Human Rights website <http://www.jhr.ca/fieldnotes/view.php?aid=328> – Accessed 27 April 2007 – Attachment 39).

A report dated July 2005 by the GII captured the perceptions of respondents on institutions highly affected by corruption in Ghana. The Ghana Judicial Services was the fifth institution mentioned (16.4%):

Some of the institutions perceived to be highly corrupt, such as...the **Judicial Service**, are paradoxically also the ones expected to help control corruption. This clearly indicates that there is a serious need for institutional renewal and reforms that will reinvigorate these oversight institutions and enable them play their expected roles to help address the canker of corruption in the society (Ghana Integrity Initiative 2005, “*Voice of the People*” survey (*Southern Ghana*) – *Project Completion Report*, July, p.12 http://www.tighana.org/Project_Completion_Report.pdf – Accessed 27 April 2007 – Attachment 40).

9. Is it feasible for a young girl to relocate to Accra or any large town area without the support of family members?

10. Are there any services available to assist young women in these circumstances?

A young woman who relocates to Accra without the support of family members may end up living on the street. The Department of Social Welfare (DSW) and Catholic Action for Street Children (CAS) may be able to assist young women in these circumstances.

An article dated 6 March 2007 by *IRIN* reports that DSW and local NGOs in Ghana believe there are 21,000 street children in Accra and as many as 50,000 nationwide. According to CAS forced marriage was one of the reasons under-sixteen’s working the streets of Ghana left home. Stephen Adongo, Deputy Director of DSW “said the departments’ social workers have too much work and too little resources to adequately respond to the needs of street children, much less stop the problem from continuing.” Adongo “said his Child Rights Protective Division, which is one of three in the department, has a nationwide operating budget of about \$US1,700 for the first quarter of 2007, which parses down to \$170 for each of the country’s ten regions.” CAS assists street children in Accra at their House of Refuge

where children can bathe, wash their clothes, rest and play games. The children can also participate in formal classes such as literacy and mathematics and workshops like weaving and pottery. The refuge has a modest library and computer centre. CAS assists about 80 children per day ('Ghana: What hope for thousands of street children?' 2007, *IRIN*, 6 March <http://www.alertnet.org/thenews/newsdesk/IRIN/8deea1ffe792e7026d985388e7a2927d.htm> – Accessed 27 April 2007 – Attachment 44).

An article dated 28 September 2006 by Afua Twum-Danso, Child Rights Programme Manager at the Centre for Community Development Initiatives, reports that Ghana's *Children's Act* covers the protection of children below 18 years of age in all aspects of their life. The article notes that "despite the comprehensive nature of the Act, the reality of children's lives eight years after its passage remain in stark opposition to the picture the legislation sought to draw." The article reports that the reasons behind the limited implementation of the Act "are a mixture of lack of political will, lack of awareness and public dissemination and lack of resources." The article provides the following information street children:

Although the Act stipulates that the Department of Social Welfare (DSW) is to be responsible for children 'in need of care and protection', thousands of children who are neglected, ill-treated, abandoned, orphaned and resort to begging on the streets remain outside the reach of DSW, mainly because people – be it children or adults – are still not reporting cases sufficiently and DSW does not have the resources or capacity to go in search of cases. Although in some cases, people rely on the extended family support system to look after such children, many people do not know to whom they must report cases. As a social worker based in one of the local DSW offices in Accra told me, 'many people go to WAJU [DOVVSU] to report cases and then have to be referred back to us' (Twum-Danso, Afua 2006, 'Protecting Children's Rights', *Fahamu*, 28 September, allAfrica.com website <http://allafrica.com/> – Accessed 27 April 2007 – Attachment 45).

UNICEF provides the following information on child protection in Ghana:

In the area of child protection, urban protection programmes are facilitated through continued collaboration with non-governmental organization partners within the Greater Accra Region. Through their collective efforts, adolescent girls have been placed in vocational training, street girls and poor urban women received antenatal care and shelter services, while others received street-based social counselling and access to family planning services (UNICEF (undated), 'At a glance: Ghana' <http://www.unicef.org/infobycountry/ghana.html> - Accessed 27 April 2007 – Attachment 46).

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Centre for Reproductive Rights <http://www.reproductiverights.org/>

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