



OPERATIONAL GUIDANCE NOTE

GHANA

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1. Introduction

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

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

<http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/>

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

2. Country assessment

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

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

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

<http://centralcontent.fco.gov.uk/resources/en/pdf/human-rights-reports/accessible-hrd-report-2010>

2.3 Actors of protection

2.3.1 Case owners must refer to the Asylum Policy Instruction on 'considering the protection (asylum) claim' and 'assessing credibility'. To qualify for asylum, an individual not only needs to have a fear of persecution for a Convention reason, they must also be able to demonstrate that their fear of persecution is well founded and that they are unable, or unwilling because of their fear, to avail themselves of the protection of their home country. Case owners should also take into account whether or not the applicant has sought the protection of the authorities or the organisation controlling all or a substantial part of the State, any outcome of doing so or the reason for not doing so. Effective protection is generally provided when the authorities (or other organisation controlling all or a substantial part of the State) take reasonable steps to prevent the persecution or suffering of serious harm by for example operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection.

2.3.2 The Ghana police service (GPS), under the Ministry of Interior, was responsible for maintaining law and order.¹ It is divided into twelve administrative regions namely: Accra, Tema, Ashanti, Brong Ahafo, Eastern, Volta, Western, Central, Northern, Railways, Ports and Harbour, Upper East and Upper West Regions. Below the regions, there are; 51 Police Divisions, Commanded by Divisional Commanders, 179 Police Districts Commanded by District Commanders, and 651 Police Stations and posts supervised by station officers. The service has manpower strength of a little 23,000 personnel with a male to female ratio of about 7:3 and police civilian ratio of about 1:1200.²

2.3.3 Police maintained specialised units in Accra for homicide, forensics, domestic violence, trafficking in persons, visa fraud, narcotics, and cybercrimes. Such services were unavailable nationwide, however, due to a lack of office space, vehicles, and other equipment outside of the capital. In May (2010) the GPS unveiled a five-year strategic plan to increase police personnel, housing, vehicles, and equipment, as well as to establish new training academies.³

2.3.4 The military continued to participate in law enforcement activities during the year (2010). A separate entity, the Bureau of National Investigations, handled cases considered critical to state security and answered directly to the Ministry of National Security.⁴

2.3.5 Police brutality, corruption, negligence, and impunity were problems. Delays in prosecuting suspects, rumours of police collaboration with criminals, and a widespread perception of police ineptitude contributed to vigilante violence during the year. There were also credible reports that police extorted money by acting as private debt collectors, setting up illegal checkpoints, and arresting citizens in exchange for bribes from disgruntled business

¹ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

² COIS Ghana Country Report September 2010 (para 8.06) www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/

³ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

⁴ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

associates of those detained. Low salaries, which were sometimes not paid on time, contributed to police corruption. On 1 July 2010, the government implemented the Single Spine Salary Structure, which increased the salaries of all police officers.⁵

- 2.3.6** The 33-person Police Intelligence and Professional Standards Unit (PIPS) investigated human rights abuses and police misconduct. During the year (2010) PIPS received 1034 new cases; of those, 430 cases were closed, and 604 remained under investigation at year's end. Among the 604 cases being investigated at year's end, 100 involved complaints of harassment, 37 involved unlawful arrests, and 46 involved alleged police brutality with human rights violations.⁶
- 2.3.7** The constitution and law provide for the right to a fair trial, and the judiciary generally enforced this right; however, the judiciary was sometimes inefficient and subject to influence and corruption. Defendants are presumed innocent, trials are public, and defendants have a right to be present, to be represented by an attorney (at public expense if necessary), and to cross-examine witnesses. Defendants and their attorneys have access to government-held evidence relevant to their cases and have a right to appeal. Defendants have the right also to present witnesses and evidence. Juries are used in murder trials. The law extends the above rights to all citizens. In practice, authorities generally respected these safeguards.⁷
- 2.3.8** There is an independent and impartial judiciary in civil matters, and citizens had access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. Fast-track courts and automated commercial courts continued efforts to streamline resolution of disputes, although delays were common. A growing number of automated courts, whose proceedings were expedited through electronic data management, were established across the country.⁸

2.4 Internal relocation.

- 2.4.1** Caseowners must refer to the Asylum Policy Instructions on both internal relocation and Gender Issues in the asylum claim and apply the test set out in paragraph 339O of the Immigration Rules. It is important to note that internal relocation can be relevant in both cases of state and non-state agents of persecution, but in the main it is likely to be most relevant in the context of acts of persecution by localised non-state agents. If there is a part of the country of return where the person would not have a well founded fear of being persecuted and the person can reasonably be expected to stay there, then they will not be eligible for a grant of asylum. Similarly, if there is a part of the country of return where the person would not face a real risk of suffering serious harm and they can reasonably be expected to stay there, then they will not be eligible for humanitarian protection. Both the general circumstances prevailing in that part of the country and the personal circumstances of the person concerned including any gender issues should be taken into account, but the fact that there may be technical obstacles to return, such as re-documentation problems, does not prevent internal relocation from being applied.
- 2.4.2** Very careful consideration must be given to whether internal relocation would be an effective way to avoid a real risk of ill-treatment/persecution at the hands of, tolerated by, or with the connivance of, state agents. If an applicant who faces a real risk of ill-treatment/persecution in their home area would be able to relocate to a part of the country where they would not be at real risk, whether from state or non-state actors, and it would not be unduly harsh to expect them to do so, then asylum or humanitarian protection should be refused.
- 2.4.3** The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in

⁵ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

⁶ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

⁷ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

⁸ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organisations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.⁹

- 2.4.4** The law prohibits forced exile, and the government did not use it. In May 2010 approximately 1,000 persons left the Bunkpurugu/Yungoo District in the Northern Region for Togo to escape violence stemming from an ongoing chieftaincy dispute; however, most returned to their homes by year's end, according to the UNHCR.¹⁰
- 2.4.5** It may be practical for applicants in some categories who may have a well-founded fear of persecution in one area to relocate to other parts of Ghana where they would not have a well founded fear and, taking into account their personal circumstances, it would not be unduly harsh to expect them to do so.

3. Main categories of claims

- 3.1** This Section sets out the main types of asylum claim, humanitarian protection claim and discretionary leave claim on human rights grounds (whether explicit or implied) made by those entitled to reside in Ghana. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal relocation are set out in the relevant Asylum Instructions, but how these affect particular categories of claim are set out in the instructions below.
- 3.2** Each claim should be assessed to determine whether there are reasonable grounds for believing that the applicant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in Karanakaran should be followed when deciding how much weight to be given to the material provided in support of the claim (see the Asylum Instruction on 'considering the protection (Asylum) claim' and 'assessing credibility').
- 3.3** If the applicant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the applicant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.
- 3.4** All Asylum Instructions can be accessed via the on the Horizon intranet site. The instructions are also published externally on the Home Office internet site at:

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

3.5 Credibility

- 3.5.1** This guidance is **not** designed to cover issues of credibility. Case owners will need to consider credibility issues based on all the information available to them. For guidance on credibility see 'establishing the facts of the claim (material and non-material facts)' in the Asylum Instruction 'considering the protection (asylum) claim' and 'assessing credibility'. Case owners must also ensure that each asylum application has been checked against previous UK visa applications. Where an asylum application has been biometrically matched to a previous visa application, details should already be in the Home Office file. In

⁹ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

¹⁰ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

all other cases, the case owner should satisfy themselves through CRS database checks that there is no match to anon-biometric visa. Asylum applications matches to visas should be investigated prior to the asylum interview, including obtaining the Visa Application Form (VAF) from the visa post that processed the application.

3.6 Inter-ethnic clashes, tribal disputes and Chieftain disputes

- 3.6.1** Some applicants will apply for asylum or make a human rights claim based on ill treatment amounting to persecution at the hands of rival ethnic groups or tribes on account of their ethnicity. Some applicants may apply for asylum or make a human rights claim based on ill-treatment amounting to persecution at the hands of family or senior community/tribal members due to them being unwilling to succeed to chieftain or high priest of their particular ethnic group or tribe.
- 3.6.2 *Treatment.*** Despite being a multiethnic country, Ghana features almost no instances of discrimination based solely on ethnicity. However, as noted previously, local disputes over land use and chieftaincy sometimes lead to ethnically tinged violence, and the political exploitation of ethnicity has given some election-related clashes an ethnic character.¹¹
- 3.6.3** Throughout the year (2010) an ongoing chieftaincy and ethnic dispute in Bawku, Upper East Region, resulted in an estimated five deaths; a polling station chairman of the opposition New Patriotic Party (NPP) was among the dead. Military and police personnel were deployed to the region, and the municipality remained under a curfew that was imposed several years ago. The violence occurred despite the establishment in February of a military barracks in the Binduri constituency of Bawku to assist with peacekeeping efforts.¹²
- 3.6.4** There were no developments in the following 2009 societal or ethnic killings: the February killings of two persons in the Northern Region as a result of a land dispute between rival clans; the February killing of one person over ownership of a parcel of land; the July death of one arsonist in a chieftaincy dispute in the Volta Region; and the August deaths of two men and the September deaths of three other persons as a result of clashes between rival ethnic groups in the Agbogbloshie section of Accra.¹³
- 3.6.5** Vigilante and societal violence continued to result in deaths during the year (2010). Police took action in cases in which perpetrators were identified; however, witnesses were often reluctant to come forward, and many cases remained unsolved.¹⁴
- 3.6.6** In 2009 there were media reports that children participated in the ongoing ethnic and chieftaincy conflict in Bawku in the Upper West Region. Children were reported to have burned houses, and a group of Mamprusi children were alleged to have ambushed a Kusasi woman near Bawku hospital. However, unlike in 2009, there were no reports during 2010 that children participated in the ongoing ethnic and chieftaincy conflict in Bawku.¹⁵

See also: [Actors of protection](#) (section 2.3 above)
[Internal relocation](#) (section 2.4 above)

- 3.6.7 *Conclusion.*** Certain communities, tribes and ethnic groups maintain a hierarchical culture in which the leading roles, such as the chieftain and/or high priest, are subject to a successionist process. There is, however, no reported evidence to the effect that mistreatment occurs. Sporadic inter-ethnic clashes are reported, but they are usually short-

¹¹ Freedom House Report- Countries at crossroads 2010; Ghana

<http://www.freedomhouse.org/template.cfm?page=140&edition=9&ccrcountry=184§ion=93&ccrpage=43>

¹² US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

¹³ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

¹⁴ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

¹⁵ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

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

3.7 Christians or converts to Christianity

- 3.7.1** Some applicants may make an asylum and/or human rights claim based on societal discrimination amounting to persecution at the hands of Muslims due to them being Christians or converts to Christianity.
- 3.7.2** *Treatment.* According to the 2000 government census, approximately 69 percent of the population is Christian, 15.6 percent is Muslim, 8.5 percent adheres to indigenous religious beliefs, and 6.9 percent is classified as other religious groups, which includes those who profess no religious beliefs. Some members of the Muslim community disputed these figures, asserting that the Muslim population is substantially larger. Many persons who are nominally Christian or Muslim also practiced some aspects of indigenous beliefs.¹⁶
- 3.7.3** The constitution provides for freedom of religion, and other laws and policies contributed to the generally free practice of religion. There is no government body that regulates religious affairs, as all religious bodies are independent institutions; however, religious institutions must register with the Office of the Registrar General to receive formal government recognition. The registration requirement for religious bodies at the Office of the Registrar General is the same for nongovernmental organisations (NGOs). There were no reports that the government denied registration to any group.¹⁷
- 3.7.4** The government often took steps to promote interfaith understanding. At government meetings and receptions, Christian and Muslim prayers are recited; occasionally there are indigenous invocations. Throughout the reporting period, the president and vice president made public remarks about the importance of peaceful religious coexistence. In March 2010 President Mills declared a National Prayer and Thanksgiving Day for Muslims, Christians, and traditional believers.¹⁸
- 3.7.5** The government generally respected religious freedom in practice. There was no change in the status of respect for religious freedom by the government during the reporting period (2010). There were no reports of religious prisoners or detainees in the country. There were also no reports of forced religious conversion. There were however, some reports of societal abuses or discrimination based on religious affiliation, belief, or practice.¹⁹

See also: [Actors of protection](#) (section 2.3 above)
[Internal relocation](#) (section 2.4 above)

- 3.7.6** *Conclusion.* Religious differences within the country are generally respected. The availability of adequate state protection and a viable internal relocation option for Christians and converts to Christianity also mean that claims will not in general engage the UK's obligations under the 1951 Convention. The grant of asylum will therefore not be appropriate and any such claims are likely to be clearly unfounded.

¹⁶ US State Department Religious Freedom Report 2010: Ghana <http://www.state.gov/g/drl/rls/irf/2010/148693.htm>

¹⁷ US State Department Religious Freedom Report 2010: Ghana <http://www.state.gov/g/drl/rls/irf/2010/148693.htm>

¹⁸ US State Department Religious Freedom Report 2010: Ghana <http://www.state.gov/g/drl/rls/irf/2010/148693.htm>

¹⁹ US State Department Religious Freedom Report 2010: Ghana <http://www.state.gov/g/drl/rls/irf/2010/148693.htm>

3.8 Trokosi system and idol worship

- 3.8.1** Some applicants may make an asylum and/or human rights claim based on them having been victims of, or otherwise involved in, the trokosi system (a practice involving a period of enforced domestic servitude lasting up to three years). More generally, female applicants may also allege that tribal leaders or fetish priests of their ethnic group will subject them to idol worship.
- 3.8.2 *Treatment.*** The custom requires a family to offer a virgin daughter as a trokosi to a traditional fetish shrine to ward off the punishment of the gods for crimes or moral wrongdoings committed by a family member. The misdeeds for which atonement is sought may often date back generations. In addition to performing ritual duties and domestic chores at the shrine, a trokosi is usually also expected to work long hours on farmland belonging to the shrine. She does not receive anything in return for her labour and her family is required to provide her with food and all other necessities.²⁰
- 3.8.3** In 1998, the Government passed a law against ritual servitude (among other things), criminalising the practice of trokosi, although there have been no prosecutions under the law. Government officials were under the impression that the practice had since almost vanished. Information obtained from other sources indicates that the practice continues to thrive. Reportedly, in 2008, there were at least 23 shrines in the Volta Region and 3 in the Greater Accra Region which still accepted trokosi.²¹
- 3.8.4** International Needs Ghana (ING) and other non-governmental organisations have led efforts to liberate trokosi and put an end to the practice. According to ING's own estimates 3,500 girls have so far been liberated and 50 shrines have stopped accepting trokosi. ING seeks to liberate trokosi with the cooperation and consent of affected communities. Communities willing to cooperate are provided with much needed development infrastructure such as schools and boreholes. Fetish priests and shrine owners are encouraged to accept livestock or monetary donations, instead of girls, from families seeking to appease the gods.²²

See also: [Actors of protection](#) (section 2.3 above)
[Internal relocation](#) (section 2.4 above)

- 3.8.5 *Conclusion.*** Those subjected to the trokosi system are in general able to seek and receive adequate state protection. Furthermore the availability of a safe internal relocation option to escape such practices means that such claims will not in general engage the UK's obligations under the 1951 Convention. The grant of asylum will not be appropriate and any such claims are likely to be clearly unfounded

3.9 Victims of witchcraft

- 3.9.1** Some applicants may also make an asylum and/or human rights claim based on ill-treatment amounting to persecution due to them having been attacked by witches or the subject of a witches' curse or hex.
- 3.9.2 *Treatment*** There are many cases, in which women - and occasionally men - are accused of practising witchcraft to bring harm to members of their family or community. Belief in supernatural forces is deeply rooted in Ghanaian culture and still widely held, especially in rural areas and among the less educated. Being accused of practising witchcraft is therefore a very serious charge that can have grave consequences. Accused women are often driven violently from their homes and communities, physically assaulted and, in extreme cases,

²⁰ COIS Ghana Country Report September 2010 (para 17.07) www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/

²¹ COIS Ghana Country Report September 2010 (para 17.07) www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/

²² COIS Ghana Country Report September 2010 (para 17.07) www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/

also murdered.²³

- 3.9.3** Despite its serious ramifications, an accusation of witchcraft can be easily triggered. A community member may dream that a certain woman is a witch or an adverse event occurs in the community that cannot be explained, such as a suspicious or unexpected death of a community member. Negative human sentiments such as jealousy or the desire to find a scapegoat are also at the base of witchcraft allegations. In some cases, witchcraft allegations seem to be deliberately directed at women who are successful and are seen as a threat to the patriarchal order. Therefore, while any woman can potentially be accused of being a witch, the victims of those accusations who suffer the most serious consequences are almost always elderly women, who lack family protection and do not have the power to defend themselves against their accusers.²⁴
- 3.9.4** The Guardian reported, in December 2010, that because belief in witchcraft forms part of Ghanaian mythology, elderly women are often subjected to cruel treatment and mental torture. A lack of scientific knowledge of the natural physical and mental degenerations that can occur during old age – including Alzheimer's disease, but not excluding hysterical dissociation and schizophrenia – means that witchcraft is blamed for a lot of "strange" happenings.²⁵
- 3.9.5** The Guardian reported that as many as three "witches' camps" have been established in the northern region of Ghana – the Gambaga camp in the East Mamprusi district, Tindanzie camp in the Gushegu district and the Tindang camp in the Yendi district – where elderly women alleged to be witches have been dumped by members of their families. They would probably have lost their lives had they not been placed in the care of government officials and non-governmental organisations.²⁶ NGOs provided food, medical care, and other support to residents of the camps. During the year the Commission on Human Rights And Justice (CHRAJ) monitored three camps in the Northern Region and reported that the camps contained 175 females and eight males; media sources reported far higher numbers of men, women, and children in the camps.²⁷

See also: [Actors of protection](#) (section 2.3 above)
[Internal relocation](#) (section 2.4 above)

3.9.6 Conclusion There remains a strong belief in witchcraft in some parts of the country but there is no evidence that witches are responsible for inflicting treatment that would engage the UK's obligations under the Refugee Convention or ECHR (or of suffering such treatment, bearing in mind an accusation of being a witch is a hostile & negative event for the person accused). Sufficiency of protection and internal relocation are not therefore relevant considerations. The grant of asylum will not be appropriate and any such claims are likely to be clearly unfounded.

3.10 Gay men and lesbians

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

3.10.2 Treatment The law makes consenting homosexual acts a misdemeanour, and strong socio-cultural beliefs discriminated against and stigmatised same-gender sex.²⁸ The criminal code

²³ COIS Ghana Country Report September 2010 (para 21.29) www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/

²⁴ COIS Ghana Country Report September 2010 (para 21.29) www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/

²⁵ The Guardian, Why are 'witches' still being burned alive in Ghana? 31 December 2010
<http://www.guardian.co.uk/commentisfree/belief/2010/dec/31/ghana-witches-burned-alive-women>

²⁶ The Guardian, Why are 'witches' still being burned alive in Ghana? 31 December 2010
<http://www.guardian.co.uk/commentisfree/belief/2010/dec/31/ghana-witches-burned-alive-women>

²⁷ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

²⁸ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

offense carries a maximum prison sentence of six months.²⁹ Although the BBC reported that whilst gay acts are illegal in Ghana someone would have to be caught having sex to be prosecuted.³⁰

- 3.10.3** LGBT persons faced widespread discrimination, as well as police harassment and extortion attempts.³¹ They have frequently been the victim of blackmail, with blackmailers threatening to "disclose" their status; they have faced direct threats, assault, rape and murder³². Gay men in prison often were subjected to sexual and other physical abuse.³³
- 3.10.4** There are no registered LGBT organisations in Ghana, and in 2006, the government banned an LGBT rights conference that was supposed to be held.³⁴ On 4 June 2010, more than one thousand protesters in Takoradi, Western Region, participated in a peaceful rally against reports of gay and lesbian activities in their city. This was reportedly the first antigay protest in the country.³⁵
- 3.10.5** Ghana's constitution clearly states that all citizens must be treated equally under the law and not face discrimination based on gender, race or religion, and have the right to privacy.³⁶ On 22 December 2010, the acting head of the CHRAJ spoke against discrimination during a radio interview on Accra-based CITI FM. She stressed that gays and lesbians should not be condemned based on societal attitudes and that the constitution provides for freedom from discrimination.³⁷
- 3.10.6** Human rights activists in Ghana warned on Friday 22 July of a hate campaign against gay men after a minister called for their arrest and local churches led anti-gay street protests. Paul Evans Aidoo, minister in charge of Ghana's oil-producing Western region, called this week for the arrest of anyone found practising gay sex following local media reports of a supposed increase of gay men and lesbians in the region. Aidoo's call prompted a confused reaction by local police authorities, who said they had made no such arrests since Monday and that it could be difficult to obtain evidence of suspects engaging in "unnatural carnal knowledge". "Arresting this type of person is not going to be easy because you must have proof of the offence -- either one person has come to lodge a complaint against the other, or they are caught in the act," Western Regional Police Commander Ransford Ninson said by telephone. Rights lawyer Kofi Abotsi said the vagueness of the law meant it was unlikely that Aidoo's call would lead to mass arrests and 'people should not be worried about it because it does not really mean anything within the context of the law'.³⁸
- 3.10.7** Daniel Asare Korang, the programs manager of Human Rights Advocacy Centre stated, in an article from July 2011, that it's quite difficult to get civil society to come out and say, 'We support homosexuals,' because the fear is they will be associated with them. Korang says the group has taken a number of gay men to a Constitutional Review Committee, where they succeeded in pressing for a recommendation to include sexual orientation in the forthcoming re-draft of the country's highest law. They've also brought gay men to the Register General, showing them how to sign on and get legal sanction to form non-governmental organizations. In addition, he says, they've sent a memo to the Bureau of

²⁹ Freedom House, Freedom Alert LGBT Population in Ghana Under Threat, 9 August 2011

<http://www.freedomhouse.org/template.cfm?page=581&alert=95>

³⁰ BBC News, Paul Evans Aidoo's Ghana gay spy call 'promotes hatred', 22 July 2011 <http://www.bbc.co.uk/news/world-africa-14250170>

³¹ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

³² Freedom House, Freedom Alert LGBT Population in Ghana Under Threat, 9 August 2011

<http://www.freedomhouse.org/template.cfm?page=581&alert=95>

³³ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

³⁴ Freedom House, Freedom Alert LGBT Population in Ghana Under Threat, 9 August 2011

<http://www.freedomhouse.org/template.cfm?page=581&alert=95>

³⁵ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

³⁶ Freedom House, Freedom Alert LGBT Population in Ghana Under Threat, 9 August 2011

<http://www.freedomhouse.org/template.cfm?page=581&alert=95>

³⁷ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

³⁸ Reuters Africa, Ghana rights groups warn of anti-gay hate campaign 22 July 2011

<http://af.reuters.com/article/topNews/idAFJJOE76L0KR20110722?pageNumber=1&virtualBrandChannel=0>

National Investigations outlining practices of fair treatment.³⁹

See also: [Actors of protection](#) (section 2.3 above)
[Internal relocation](#) (section 2.4 above)

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

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

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

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

3.10.12 If an individual chooses to live discreetly because he/she fears persecution if he/she were to live as openly gay, lesbian or bisexual then he/she will have a well founded fear and should be granted asylum. It is important that gay, lesbian and bisexual people enjoy the right to live openly without fear of persecution. They should not be asked or be expected to live discreetly because of their well founded fear of persecution due to their sexual orientation.

3.11 Prison conditions

3.11.1 Applicants may claim that they cannot return to Ghana due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in Ghana are so poor as to amount to torture or inhuman treatment or punishment.

3.11.2 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 asylum claim should be considered first before going on to consider whether prison conditions breach Article 3 if the asylum claim is refused.

3.11.3 Consideration. Prison conditions generally were harsh and sometimes life threatening. Police beat suspects in custody. Much of the prison population was held in buildings that were originally colonial forts or abandoned public or military buildings with poor ventilation and sanitation, substandard construction, and limited space and light. Many prisoners slept

³⁹ The Star, Ghana rights groups warn of anti-gay hate campaign, 22 July 2011
<http://www.thestar.com/news/world/article/1029152--ghana-rights-groups-warn-of-anti-gay-hate-campaign>

on bare floors or took turns using beds. As many as 55 inmates commonly shared a cell intended for 12.⁴⁰

- 3.11.4** According to the 2009 Prisons Service Annual Report, 13,778 prisoners (average daily lockup) were held in prisons designed to hold approximately one-third that number. The CHRAJ noted that the most common ailments affecting prisoners stemmed from overcrowding, poor nutrition, and a lack of ventilation. Medical facilities were inadequate, and the prisons supplied only the most basic medicines. Prisoners relied on families or outside organisations for additional food, medicine, and other necessities. According to the CHRAJ, the daily food stipend for prisoners was 60 pesewas (£25), which the CHRAJ deemed too low. Shortages of food, bedding, clean water, and clothing for prisoners persisted.⁴¹
- 3.11.5** There were 189 female and 121 juvenile inmates in the country's 42 prisons. Juvenile detainees were not housed separately from adults, and pretrial detainees were held with convicted prisoners.⁴²
- 3.11.6** Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions and treatment; however, submission of complaints by prisoners was not common practice. Authorities investigated credible allegations of inhumane conditions and treatment and documented the results. Whenever allegations of inhumane treatment are made, the accused officer is asked to respond. If prison authorities are unsatisfied with the response of the officer, an internal inquiry is launched and recommendations for disciplinary action are submitted to the director general of the Prisons Service.⁴³
- 3.11.7** The government permitted independent monitoring of prison conditions by the CHRAJ, which served as the official ombudsman, and the Welfare Unit of the Prisons Service. During the year the CHRAJ monitored 28 of the total 42 prisons and prison camps in the country. The CHRAJ and other NGOs worked on behalf of prisoners and detainees to help alleviate inhumane overcrowding; to address the status and circumstances of confinement of juvenile offenders; and to improve pretrial detention, bail, and recordkeeping procedures to ensure prisoners did not serve beyond the maximum sentence for charged offenses.⁴⁴
- 3.11.8** The government also permitted independent monitoring of prison conditions by international human rights groups, including the International Committee of the Red Cross; however, no such visits were conducted during the year.⁴⁵
- 3.11.9 *Conclusion*** Prison conditions in Ghana are harsh and sometimes life threatening and taking into account overcrowding, unsanitary conditions and a lack of health and medical care, are likely to reach the article 3 threshold in some cases. Where an individual applicant is able to demonstrate a real risk of significant period of detention or imprisonment on return to Ghana, and exclusion under Article 1F is not justified, a grant of Humanitarian Protection will be appropriate.

4. 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.

⁴⁰ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

⁴¹ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

⁴² US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

⁴³ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

⁴⁴ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

⁴⁵ US State Department Human Rights Report 2010: Ghana <http://www.state.gov/g/drl/rls/hrrpt/2010/af/154349.htm>

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 (a) they have family to return to; or (b) there are adequate reception and care arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, support and care arrangements in place for minors with no family in Ghana. Those who cannot be returned should, if they do not qualify for leave on any more favourable grounds, be granted Discretionary Leave for a period as set out in the relevant Asylum Instructions.

4.4 Medical treatment

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

4.4.2 The private and the NGO sectors including the Christian Health Association of Ghana provide over 40 percent of health care in Ghana, especially in the rural areas. In 2005, Ghana introduced the National Health Insurance Scheme (NHIS) to improve financial accessibility to healthcare. The NHIS is administered peripherally through District Wide Health Mutual Insurance Schemes (DWHIS). The Scheme is tax-based and covers most services offered at the district hospital level. Despite a number of constraints, it has registered over 50% of Ghana's population. In 2008 free maternal care was included in the range of service covered by the NHIS.⁴⁶

4.4.3 Ghana has 1,433 state-owned hospitals and other medical institutions. In addition there are 1,299 private and quasi-government facilities. Private hospitals range from general hospitals to specialised facilities, offering services like assisted reproductive techniques and general obstetrics and gynaecology. Public and private medical facilities have a total bed capacity of 20,126.⁴⁷

4.4.4 In spite of the medical infrastructure and personnel that has been established in Ghana, access to health services in geographical and financial terms continues to be a major hurdle for a large part of the population. Most of the medical facilities are located in the urban centres and district capitals. Many health workers refuse appointments to the few facilities that are in the rural areas. Another factor contributing to the inadequate and unbalanced access to health care is the exodus of doctors and nurses to developed countries.⁴⁸

4.4.5 The national HIV prevalence of Ghana in 2007 was 1.9% and there were approximately 260 000 men, women and children living with HIV in Ghana. The second Annual Programme of Work of the National Strategic Framework II (2006-2010) was implemented in 2007. Women and young people were among the priorities for the year. In 2007, the number of sites that provided Anti Retroviral Treatment (ART) increased from 46 to 91.⁴⁹

4.4.6 Mental health services in Ghana are available at most levels of care. However, the majority of care is provided through specialized psychiatric hospitals (close to the capital and servicing only small proportion of the population), with relatively less government provision

⁴⁶ COIS Ghana Country Report September 2010 (para 24.01) www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/

⁴⁷ COIS Ghana Country Report September 2010 (para 24.02) www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/

⁴⁸ COIS Ghana Country Report September 2010 (para 24.02) www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/

⁴⁹ COIS Ghana Country Report September 2010 (para 24.05) www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/

and funding for general hospital and primary health care based services. The few community based services being provided are private.⁵⁰

4.4.7 The Article 3 threshold will not be reached in the majority of medical cases and a grant of Discretionary Leave will not usually be appropriate. Where a case owner considers that the circumstances of the individual applicant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 or 8 a grant of Discretionary Leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

5. Returns

5.1 There is no policy which precludes the enforced return to Ghana of failed asylum seekers who have no legal basis of stay in the United Kingdom.

5.2 Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Where the claim includes dependent family members their situation on return should however be considered in line with the Immigration Rules, in particular paragraph 395C requires the consideration of all relevant factors known to the Secretary of State, and with regard to family members refers also to the factors listed in paragraphs 365-368 of the Immigration Rules.

5.3 Ghanaian nationals may return voluntarily to any region of Ghana at any time in one of three ways: (a) leaving the UK by themselves, where the applicant makes their own arrangements to leave the UK, (b) leaving the UK through the voluntary departure procedure, arranged through the UK Immigration service, or (c) leaving the UK under one of the Assisted Voluntary Return (AVR) schemes.

5.4 The AVR scheme is implemented on behalf of the UK Border Agency by Refugee Action which will provide advice and help with obtaining any travel documents and booking flights, as well as organising reintegration assistance in Ghana. The programme was established in 1999, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Ghanaian nationals wishing to avail themselves of this opportunity for assisted return to Ghana should be put in contact with Refugee Action Details can be found on Refugee Action's web site at:

www.refugee-action.org/ourwork/assistedvoluntaryreturn.aspx

Country Specific Litigation Team
Immigration Group
UK Border Agency
December 2011

⁵⁰ COIS Ghana Country Report September 2010 (para 24.11) www.ukba.homeoffice.gov.uk/policyandlaw/guidance/coi/