

WORLD FACTBOOK OF CRIMINAL JUSTICE SYSTEMS

Ghana

by

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GENERAL OVERVIEW

1. Political System.

Ghana has a multi-party parliamentary government with an elected President who is both Chief of the executive branch and the Head of State. Ghana has a centralized government with local divisions in eleven regions. There is a single legislature in the country, consisting of the President and the National Assembly. Regional leaders report to the central government in the capital of Accra.

The criminal justice system is centralized in that the government has control over the courts, prisons, judges, and police. The Chief Justice of the Supreme Court, the Inspector General of Police, and the Director of Prisons are all appointed by the government and serve the entire country.

Ghana is a member of the organization for African Unity (OAU) and a member of Economic Community of West African States (ECOWAS). It joined the British commonwealth in 1960.

2. Legal System.

The Republic of Ghana inherited the English common law tradition (For example, the principle of stare decisis was maintained so that judicial decisions would be based on legal precedent from the time when Ghana was a British dependent).

The court structure and general legal procedures reflect the English method of law. The Independence Constitution provides for writs of Habeas Corpus and the

independence of the judiciary.

Ghana has an adversarial system of criminal justice in which the offender is presumed innocent until proven guilty. However, most offenders brought to the attention of the police are accompanied by persons who caught them in the act, which tends to eliminate the element of suspicion.

The informal criminal justice system that has existed in the more rural towns and villages has survived both the colonial administration and post-independence administration. During the colonial era, the colonial governors allowed traditional chiefs and rulers to administer justice based on African customary laws, so long as the laws did not violate English laws and values (Danquah, 1928; Harvey, 1966; Daniels, 1964).

Today, traditional chiefs and elders are allowed to try criminal matters in the rural villages. These village courts may be used by a chief or elder to dispose of felony crimes (e.g. aggravated assault, robbery, burglary, stealing), without drawing a penalty from the government in Accra.

3. History of Criminal Justice System.

Ghana was originally known as Gold Coast, due to its gold resources. Ghana attained its current name in 1957 when it ceased to be a British Dependency. As a result of 207 years of British domination, from the British Royal African Company administration (1750-1842) to Britain's direct control of the territory (1843-1957), the English legal system permeated every aspect of the social, political, and economic life of the Ghanaian people. Between 1843 and 1925, a British governor and an all-European executive and legislative council made laws for the people of Ghana. During this period, all the laws of Ghana were based on the English legal system and English normative standards (Ellis, 1971; GoldSchmidt, 1981; Kaplan, McLaughlin, Marvin, Moeller, Nelson, and Whiteker, 1971).

In 1853, an ordinance created courts to handle criminal and civil issues. In 1892, a criminal code was introduced in Ghana. The Criminal Code had originally been drafted in 1877, and was based on the English criminal code and common law tradition (Ellis, 1971; Kaplan et al, 1971; Daniels, 1964; Rubin and Murray, 1966).

When Gold Coast became the independent state of Ghana on March 6, 1957, the Independence Constitution created a National Assembly to act as the main law-making body for Ghana. The National Assembly replaced the colonial legislative assembly.

For a bill to become law in Ghana, it is first introduced to the National Assembly. After the bill has passed three readings on the floor of the National Assembly, it is submitted to the President for his approval. For a bill to become an Act of Parliament, and therefore the law of Ghana, the President's approval is required. The President of Ghana also has a right to veto a bill. Over the years, the Ghana Independence Parliament has amended the colonial laws to suit the norms, beliefs, and standards of the Ghanaian people. These changes have included the revocation of English laws that were in opposition to the values of the Ghanaian people.

CRIME

1. Classification of Crimes.

* Legal classification.

Crimes are classified as serious and non-serious crimes or as felonies and misdemeanors with exception of the "all other offenses" category. The most serious felonies are murder, armed robbery, abortion, rape, stealing (grand larceny), unlawful entry (burglary), possession of dangerous drugs, possession of cocaine, possession of heroin, possession of marijuana (Indian hemp), abduction, extortion, forgery, smuggling contrabands, and counterfeiting. Misdemeanor offenses include tax evasion or violation of ordinances that can be disposed of by fines instead of imprisonment.

* Age of criminal responsibility. The age of criminal responsibility is 18 years-old.

* Drug offenses. The three types of dangerous drugs listed in Ghana police crime statistics are cocaine, heroin, and Indian hemp. While certain drugs, such as barbiturates are not illegal drugs, it is illegal to import them for commercial purposes without a license and can result in a criminal charge of smuggling and possessing dangerous drugs.

2. Crime Statistics.

The following crime statistics are provided and recorded by the 1989-1991 Annual Report of the Ghana Police Crime Data Services Bureau. The approximate population of Ghana in 1991 was 14 million.

* Murder. There were a total of 282 murder cases

recorded by Ghana Police in 1991, at a rate of 2.01 per 100,000 population (The number of murder cases recorded for previous years are as follows: 275 (1990) and 239 (1989)). Attempts are not included.

* Rape. There were a total of 408 cases of rape recorded by Ghana police in 1991, at a rate of 2.91 per 100,000 population. The number of recorded rape cases for previous years are as follows: 375 (1990) and 274 (1989).

* Theft. There were a total of 40,254 cases of theft recorded by Ghana Police in 1991, at a rate of 287.52 per 100,000 population. (The number of recorded theft cases for previous years are as follows: 38,532 (1990) and 41,056 (1989)).

* Drug offenses. There were a total of 770 drug offense cases recorded by Ghana police in 1991. (The number of recorded drug cases for previous years (including possession of dangerous drugs and marijuana) are as follows: 737 (1990) and 637 (1989)).

Drug offenses include the possession of dangerous drugs and marijuana. They were committed at a rate of 5.5 per 100,000 population.

* Crime regions. In the three year period between 1989 and 1991, the Ashanti and Accra regions had the highest incidence of murder, rape and armed robbery. They were also the regions with the highest population density and highest amount of commercial enterprise.

VICTIMS

1. Groups Most Victimized By Crime.

There are no systematic records of the number of victims or their personal characteristics in Ghana.

2. Victims' Assistance Agencies.

Ghana does not have victim assistance programs. Victim service agencies are regarded as unnecessary since the rate of criminal victimization is relatively low in Ghana.

3. Role of Victim in Prosecution and Sentencing.

If the victim observed the crime being

committed, s/he may appear as a crown witness in the prosecution. However, the victim has no role in the sentencing process.

4. Victims' Rights Legislation.

Information not Available.

POLICE

1. Administration.

Ghana has a centralized police system. The members of the force are recruited from all eleven regions of the country. The police districts report directly to the Ghana Police Regional Headquarters, who in turn report to the Ghana Police Services Headquarters in Accra.

The Republican Constitution of 1960 empowered the President of Ghana to appoint the Chief Executive Officer of the Ghana Police Services, who has the title of Inspector General of Police. Ghana Police Services fall under the authority of the Ministry of the Interior. The rank order of the Ghana Police Force (from highest to lowest) is as follows: Inspector General (The Chief Executive Officer), Deputy Inspector General of Police, Commissioner of Police, Deputy Commissioner of Police, Chief Superintendent, Superintendent, Deputy Superintendent, Assistant Superintendent, Inspector, Sub-Inspector, Sergeant, Corporal, Lance-Corporal, Constable (Private), and Recruit.

The senior officer category includes positions from the Inspector General to the Assistant Superintendent. The junior officers include the positions of Inspectors and Sub-inspector, while the positions of Sergeant and Lance-Corporal constitute the category of non-commissioned officers (NCO).

There are eleven police regions, including the Ghana Police Force Headquarters in Accra. Each police region is administered by an Assistant Commissioner of Police. Each region is divided into divisions, and each division is subdivided into police districts with many police stations and posts operating in each district.

Within Ghana Police Services, the Inspector General of Police (the Chief Executive Officer) and a Deputy Inspector General are in charge of the Criminal Investigation Department (CID). Another Deputy Inspector General is in charge of Administration. There are five other departments operating under the authority of a separate commissioner or a deputy commissioner. These five departments include the Training Department, Welfare Department, Services Department, Technical

Department, and Operations Department.

The Ghana police are responsible for the detection of crime, offender apprehension, law and order maintenance, protection of lives and property, motor vehicle licensing and driver licensing, the licensing of hunting guns, inspection of vehicles for road worthiness, escort and body-guard services for ministers and senior government officials, the prosecution of offenders, riot control, collection of certain rates and taxes for the government, traffic control, and the escort of convicted offenders to prisons.

2. Resources.

* Expenditures. The annual expenditure of the Ghana police was not available for this report. The Inspector General, however, presents his department's annual budget to the Minister of the Interior who in turn, presents it to the Cabinet and to the Parliament for debate.

* Number of police. Statistics on the number and personal characteristics of the police are not available to the public.

3. Technology.

* Availability of police automobiles. The police are equipped with patrol vehicles.

* Electronic equipment. The police are equipped with radio communication devices, computer recording devices, and riot control devices.

* Weapons. The mobile police unit is a para-military division which is heavily armed with automatic rifles for controlling syndicated criminals, highway robbers, and land-based, armed international smugglers. General duty police officers do not carry firearms, except in emergencies or when they are involved in assignments that carry a high likelihood of deadly violence.

4. Training and Qualifications.

The Ghana Police Training Center (PTC) in Accra trains recruits for a six month duration. Individuals aspiring to enter the Police Training Center must be at least 18 but no more than 35 years-old and be at least five feet, eight inches tall. The minimum educational requirement for recruits is an elementary school diploma (First School Learning Certificate). The individual must be free from sight, vocal, and physical

impairments (Kaplan, et al., 1971; Quaye, 1993).

The Ghana Police College in Accra trains cadets who become police officers. Before being admitted into the Ghana Police College, cadets are required to have a High School diploma or School Certificate of the West Africa Examinations Council. Cadets spend a year at the Police College in order to become commissioned Assistant Superintendents. Today, individuals with a university degree in the social sciences and other sciences have started joining the Ghana police. However, these individuals must also undergo the one-year training at the Ghana Police College. Some non-commissioned officers with the rank of Inspector can be promoted to the rank of Assistant Superintendent without undergoing any training at the Police College (Agyapong, 1993).

5. Discretion.

* Use of force. The Ghana police use deadly force only when an offender resists an arrest or is armed and refuses to surrender.

* Stop/apprehend a suspect. Ghana police have wide discretionary powers in the areas of arrest, search and seizure, and determining the cases they will bring to court. An offender reaches a district court or a magistrates court only if the police decide to take the matter to court.

* Decision to arrest.
Information not available.

* Searches and seizures. The Ghana police are required to obtain a warrant from the District Magistrate before any search and seizure may take place. However, in practice, a warrant is not always obtained. Even if the police engage in a warrantless search and seizure, the case can still be brought to court.

* Confessions. Any statement made by a suspect in the absence of a defense attorney can be admitted into evidence.

6. Accountability.

The Ghana Police is a political force and strong ally to the Head of State and top government officials. In effect, the Police Service Commission is powerless to discipline police officers. There is no agency or person responsible for monitoring the police in Ghana.

PROSECUTORIAL AND JUDICIAL PROCESS

1. Rights of the Accused.

* Rights of the accused at trial. The defendant has a right to plead guilty before the prosecution presents the case to the court. However, a guilty plea does not automatically result in the magistrate or judge imposing a lesser sentence. The defendant also has the right to introduce witnesses in his/her defense, as well as a right to confront opposing witnesses.

* Assistance to the accused. If the accused is indigent, the state will provide a public defender for legal representation.

2. Procedures.

* Preparatory procedures for bringing a suspect to trial. After police arrest the suspect, criminal proceedings are initiated in a District Court or a Circuit Court, with the exception of offenses that require a death sentence or life imprisonment as the maximum penalty. All crimes requiring death penalty or a life sentence are first initiated in a High Court. A crime may be tried summarily or by indictment depending on whether the crime is a misdemeanor or a felony (Twumasi, 1985).

Generally, most misdemeanors are tried summarily, which does not require going to the high court. All serious offenses are tried by indictment in a Circuit Court or a High Court. Offenders are tried by a Magistrate in the District Court and by a Circuit Judge in a Circuit Court. There are neither jury trials nor grand juries. Jury trials in Ghana ceased with the end of the colonial administration of justice in 1957.

* Official who conducts prosecution. The police prosecute criminal cases in Ghana. Police officers who investigate a crime may also appear as crown witnesses.

* Alternatives to going to trial. There is no plea bargaining in Ghana. In certain cases when the offender and victim live in the same locality, the judge may refer the case to the local chief who attempts to settle the matter informally.

* Proportion of prosecuted cases going to trial. Information not available.

* Pre-trial incarceration conditions. Information not available.

* Bail procedure. Cases involving the possibility of a trial often require suspects to be kept in police custody until they are bailed out by a

relative, an acceptable friend, or a defense attorney. Only well known property owners are ever released on their own recognizance. Suspects charged with serious offenses may be granted bail if there is reason to believe they will not abscond. If the offense carries a maximum penalty of life imprisonment or death, suspects are not granted bail.

* Proportion of pre-trial offenders incarcerated. For the years 1989, 1990, and 1991, not more than 36.5% of the cases that were sent to court had suspects incarcerated while awaiting trial.

JUDICIAL SYSTEM

1. Administration.

The judiciary is independent of the executive branch and the National Assembly. The Republican Constitution and the Court Act of 1960 established a dual system of courts, which modified the older colonial judicial system. This dual system of courts consist of superior and inferior courts (Harvey, 1966; GoldSchmidt, 1981; Twumasi, 1985).

The superior courts handle English laws that are still operative in Ghana, as well as statutory law, common law, ordinances, and laws that have been promulgated by Ghana post-independence legislatures. Inferior courts decide less serious felonies, misdemeanors, and cases involving customary law violations (Kaplan et al., GoldSchmidt, 1981).

There are three levels of superior courts: The Supreme Court, the Court of Appeal, and the High Court. The Supreme Court and the Court of Appeal do not sentence offenders in criminal cases. They review the legal principles applied and direct the lower court from where the appeal came to deliver an appropriate judgment and sentence the offender accordingly. Inferior courts consist of the Circuit Court, the District Court, and all customary courts.

The Supreme Court. The Supreme Court of Ghana is the highest court of the land. The Court is composed of the Chief Justice (the president of the court) and six other justices. The Court hears all criminal cases referred to it. Supreme Court decisions are final. Appeals from this court to the Privy Council in London are not allowed.

Court of Appeal. The Court of Appeal has appellate jurisdiction over all High Court decisions, except in cases where appeals must be brought to the Supreme Court or where appeals are derived from a criminal conviction arising from a summary trial in a Circuit Court (Twumasi, 1985; Kaplan et al., 1971).

High Court. The High Court hears appeals from Circuit Courts, District Magistrate's Courts, or Juvenile Courts. One to three judges of the Supreme Court or Circuit Court can be requested to hear a case at the High Court. There is a High Court in each of the eleven regions of Ghana and a twelfth in the capital city of Accra (GoldSchmidt, 1981; Twumasi, 1985).

Circuit Courts. Circuit Courts have original jurisdiction in less serious criminal cases. Appeals from a Circuit Court are brought to the High Court, while indictment decisions made at the trial are specifically brought to the Supreme Court (Kaplan et al., 1971; Twumasi, 1985; GoldSchmidt, 1981).

District Courts. District Courts are divided into Grades I and II. A Grade I District Court has greater power than a Grade II District Court. Both have original jurisdiction in criminal matters. District Court judges cannot impose more than one year's imprisonment and fines cannot exceed 65,000 Cedis. Appeals from the District Courts are brought to the High Court that has jurisdiction over the district. The High Court also has authority over all District Court Magistrates in its jurisdiction (Kaplan et al., GoldSchmidt, 1981; and Twumasi, 1985).

Customary Courts. Customary courts are located in rural towns and are loosely regulated. Case decisions are made by a chief or a council of elders. Appeals can be made to the District Court.

2. Special Courts.

Juvenile Court. The Juvenile Court in Ghana is made up of four members: a laywoman, a layman and two magistrates. They hear cases involving juveniles who are 17 years-old or under. The court itself is not permanent. It operates on an ad hoc basis because there are long periods of time without juvenile cases to hear. Juvenile court sessions are usually held only in large city districts. Because most juvenile offenses are handled informally, there are usually a maximum of ten juvenile court sessions held during the year for the entire country.

3. Judges.

* Number of judges. Information not available.

* Appointments and qualifications. The Chief Justice is the head of the judiciary. The Chief Justice of the Supreme Court and other justices are appointed by the President of the Republic, with the recommendation of the Ghana Judicial Council. The justices of the Supreme Court serve the Court until the age of 65. The justices of the Court of Appeal, the Circuit Court Judges, and the High Court Judges, and District Magistrates are all appointed by the President of the

Republic.

All the judges and magistrates of the courts have law degrees either from British universities or Ghanaian universities. In order to practice law in Ghana, each judge, magistrate, and lawyer must become members of the Ghana Bar Association, by passing the Ghana Bar Examinations. Customary court judges are laymen without formal legal training. They are appointed by the government either by inherited traditional leadership or other qualifications (Agyapong, 1993).

PENALTIES AND SENTENCING

1. Sentencing Process.

* Who determines the sentence? A District Magistrate, or the judge of a High Court or Circuit Court can sentence an offender. When a panel of judges hear a case in a High Court, conviction and sentencing decisions must be unanimous.

* Is there a special sentencing hearing? There is no special sentencing hearing.

* Which persons have input into the sentencing process? Psychiatrists may be consulted if insanity is being used as a defense. Social workers acting as probation officers and medical experts may be consulted in sentencing, as well.

2. Types of Penalties.

* Range of penalties. Fines, compensation, community service, or probation may be imposed for less serious offenses (e.g. petty larceny, aggravated assault, strong-arm robbery). Prison sentences range from one year to life without parole. Life sentences are imposed for murder and treason, and can be imposed for armed robbery and counterfeiting or currency offenses.

* Death penalty. Death sentences are carried out by firing-squad. The number of persons executed over the past five to ten years has not been made public. Most offenders that have been executed since 1975 were convicted of felony treason and conspiracy to overthrow the government of Ghana.

PRISON

1. Description.

* Number of prisons and type. As of September 31,

1993 there were 33 correctional facilities, including one maximum security prison. Most of the correctional facilities are used for short-term incarceration. Open prisons are also used for less dangerous offenders. Medium security prisons are used for persons serving a one to two-year prison sentence (Anson, 1990).

There are a number of facilities which house delinquent juveniles who have committed non-serious crimes. These facilities are managed by the Salvation Army Church, which helps to avoid the labeling of the juveniles as criminals or as persons in prison. Although the juveniles do receive a criminal record, it is erased after a period of three years (Seidman, 1969; Kaplan, et al., 1971). These facilities also provide educational programs.

There are also five "Industrial Schools" that are used for juvenile offenders 15-17 years-old. They are managed by the Ghana Ministry of Social Welfare and Community Development and provide vocational and educational programs. Juveniles in these schools generally attain permanent criminal records.

There are two Borstal Institutions used for offenders 17-20 years of age who have committed more serious crimes and cannot be handled effectively at industrial schools. Borstal homes are categorized between a minimum and maximum security prison. Most offenders in these homes are young and have not committed very serious offenses.

Juveniles appear before a juvenile court only if they have committed a crime. Activities resembling "status offenses" are resolved as family matters.

* Number of prison beds. Because of the few number of prisons and the fact that each prison is capable of holding only up to 500 inmates, there is a tremendous over-crowding problem (Seidman, 1969).

* Average daily population/number of prisoners. The actual number of inmates in all prisons in Ghana is not available.

* Number of annual admissions. Information not available.

* Actual or estimated proportions of inmates incarcerated. Information not available.

2. Administration.

* Administration. The Ghana penal system is governed by the Prison Ordinance of 1960. The

system is a national, centralized system, operating under the authority of the Director of Prisons.

* Prison guards. Information not available.

* Training and qualifications. Most of the prison officers are trained in Ghana; some are trained in Europe. Some officers also hold university degrees. Depending on the qualifications at the point of entry into the prisons service, training can last from six months to one year. Warden recruits are required to have a First School Learning Certificate (Elementary School diploma) or a high school diploma. These recruits must complete six months training before becoming certified wardens and can be assigned to any correctional facility in the country.

* Expenditure on the prison system. Information not available.

3. Prison Conditions.

* Remissions. Inmates in both maximum and medium security prisons can get time off for good behavior. Similarly, inmates at the minimum security prisons may also be granted early release for good conduct.

* Work/education. Each prison has vocational and education programs. It should be noted that the offender's prior criminal record does not affect employment opportunities after release because potential employers are not allowed to inquire about prior criminal convictions.

* Amenities/privileges. Maximum and medium security prisons allow visitors on the weekends. Open prisons have visiting hours available on certain weekdays. All of the prisons provide recreational facilities.

EXTRADITION AND TREATIES

* Extradition. All member states of the Economic Community of West African States (ECOWAS) have reciprocal extradition treaties. Under this arrangement, citizens of each country can visit a member country without a visa.

* Exchange of prisoners. Information not available.

* Specified conditions. Information not available.

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