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**PROMOTION ET PROTECTION DE TOUS LES DROITS DE L'HOMME,  
CIVILS, POLITIQUES, ÉCONOMIQUES, SOCIAUX ET CULTURELS,  
Y COMPRIS LE DROIT AU DÉVELOPPEMENT**

**Rapport de la Rapporteuse spéciale sur la violence contre les femmes,  
ses causes et ses conséquences, M<sup>me</sup> Yakin Ertürk**

**Additif**

**MISSION AU GHANA<sup>\*</sup>, <sup>\*\*</sup>**

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\* Le résumé du présent rapport est distribué dans toutes les langues officielles. Le rapport proprement dit est joint en annexe au résumé, et il est distribué dans la langue originale seulement.

\*\* La soumission tardive de ce document s'explique par le souci d'y faire figurer des renseignements aussi à jour que possible.

## Résumé

Le présent rapport contient les conclusions de la Rapporteuse spéciale sur la violence contre les femmes, ses causes et ses conséquences suite à la mission officielle qu'elle a menée au Ghana (du 7 au 14 juillet 2007). Il a décrit les formes particulières de violences subies par les femmes et les filles de ce pays dans le contexte du double système de droit et de la situation d'infériorité des femmes dans la société en général.

Les institutions d'État coexistent avec un système coutumier d'autorités traditionnelles. Si les engagements internationaux contractés par le Ghana en ce qui concerne l'égalité des sexes s'imposent aux autorités traditionnelles dans la mesure où elles exercent un pouvoir public, celles-ci tendent à faire passer le respect des coutumes locales avant l'égalité des sexes. Le droit coutumier, constitutionnellement reconnu comme une source de droit, établit une discrimination à l'encontre des femmes, en particulier pour ce qui touche aux questions d'héritage et de patrimoine.

La violence contre les femmes reste répandue et certains groupes de femmes sont particulièrement vulnérables. Les filles peuvent être victimes d'atteintes sexuelles au sein de la famille, mariées adolescentes ou encore enfants ou exploitées en tant que *kayaye* (porteuses) ou domestiques. Les mutilations génitales et la servitude rituelle du *trokosi* subsistent aussi dans certaines régions du pays, bien que ces pratiques soient réprimées par le Code pénal et soient en régression. Il est fréquent que des femmes accusées de sorcellerie soient violemment rejetées de leur communauté et contraintes de trouver refuge dans des «camps de sorcières». De nombreuses veuves sont expulsées avec violence de chez elles et dépossédées de leur part d'héritage, ce qui les place dans le dénuement.

La police, les tribunaux, les services sociaux et le secteur de la santé ne sont pas suffisamment équipés ni formés pour protéger efficacement les femmes des violences. Le Département de soutien aux victimes de violence au foyer, qui est chargé d'enquêter sur les infractions liées à la violence domestique et à la violence contre les femmes, ne dispose ni de moyens ni de personnels suffisamment formés.

L'adoption en 2007 de la loi sur la violence domestique représente un grand progrès, mais doit être rapidement suivie par l'adoption d'un plan d'action sur les violences intrafamiliales axé sur la protection des femmes et un budget spécial doit être alloué à sa mise en œuvre.

Des niveaux de pauvreté élevés voire extrêmes et le fardeau de la dette extérieure limitent la capacité du Gouvernement qui ne peut pas consacrer des ressources suffisantes à l'enseignement élémentaire pour tous, à la parité des sexes dans l'éducation et au développement socioéconomique des régions et districts marginalisés. Il est du devoir de la communauté internationale de soutenir ce gouvernement par une aide ciblée, un allègement de la dette et des termes de l'échange plus justes.

À la lumière de ses conclusions, la Rapporteuse spéciale engage le Gouvernement à adopter une législation qui renforce la protection des femmes et l'égalité des sexes, à appuyer l'émancipation sociale, politique et économique des femmes, à veiller à ce que les autorités traditionnelles respectent les engagements nationaux et internationaux pris en faveur des droits des femmes, et à financer suffisamment et appliquer la loi sur les violences intrafamiliales et le plan d'action correspondant.

## Annex

### REPORT SUBMITTED BY THE SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN, ITS CAUSES AND CONSEQUENCES, YAKIN ERTÜRK, ON HER MISSION TO GHANA

(7-14 July 2007)

#### CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction .....	1 - 3	5
I. THE GOVERNANCE AND LEGAL STRUCTURE .....	4 - 16	5
A. Formal structure .....	5 - 7	5
B. The chieftaincy system .....	8 - 10	6
C. Customary law .....	11 - 16	7
II. STATUS OF WOMEN IN GHANA .....	17 - 34	9
A. The institutions of family and marriage .....	18 - 22	9
B. Education .....	23 - 28	10
C. Employment .....	29 - 31	12
D. Public decision-making .....	32 - 34	12
III. VIOLENCE AGAINST WOMEN .....	35 - 73	13
A. Physical and sexual abuse in the family .....	35 - 41	13
B. Ritual servitude and sexual abuse .....	42 - 50	14
C. Female genital mutilation .....	51 - 53	16
D. Girl domestic workers .....	54 - 55	17
E. <i>Kayaye</i> street girls .....	56 - 61	17
F. Women accused of witchcraft .....	62 - 70	18
G. Situation of widows .....	71 - 73	20

**CONTENTS (*continued*)**

	<i>Paragraphs</i>	<i>Page</i>
IV. STATE RESPONSE TO VIOLENCE AGAINST WOMEN .....	74 - 88	21
A. Domestic Violence Act .....	74 - 79	21
B. Capacity of the police and justice sector .....	80 - 84	22
C. Victim support and protection .....	85 - 88	22
V. CONCLUSIONS AND RECOMMENDATIONS .....	89 - 93	23

## **Introduction**

1. At the invitation of the Government, I carried out an official visit to Ghana from 7 to 14 July 2007. During the course of my mission, which took me to the Greater Accra Region, the Volta Region and the Northern Region, I held consultations with Members of Parliament, the Minister for Women and Children's Affairs, the Minister for Health, the Minister of Chieftaincy and Culture, the Deputy Minister for Foreign Affairs, the Chief Justice, and other senior government officials at the national and local level. I also visited the women's section of Nsawam Prison, the International Needs Vocational Training Centre in Adidome, the Gambaga Outcast Home (also referred to as the "Gambaga Witches Camp"), and the training centre for girls in Tamale and met with civil society organizations, traditional authorities and individual victims of violence. I would like to thank everyone for their support and cooperation in the preparation and conduct of the mission.
2. This report starts with a discussion of the dual governance and legal structure in Ghana and the challenges that traditional authorities and customary law pose for the advancement of women. The report then addresses the status of women and focuses on some of the major forms of violence women encounter in the family and community.
3. I look forward to a continued dialogue with the Government and other stakeholders on the implementation of recommendations made in this report.

## **I. THE GOVERNANCE AND LEGAL STRUCTURE**

4. Ghana is characterized by a dual structure, where formal State institutions coexist with a customary system built around chiefs, councils of elders and other traditional authorities. This duality is most apparent in rural areas, where close to two thirds of Ghanaians live.

### **A. Formal structure**

5. The administrative and legal structures are largely based on the institutions inherited from colonial rule.<sup>1</sup> The legal system follows the common law tradition and despite efforts to devolve State power to Ghana's 10 regions and 110 districts, the governance structure remains centralized. The capacity of the State to deliver basic services, combat poverty and implement the law is weak, especially in rural areas. The Government's options are further constrained by an external debt burden.<sup>2</sup>
6. The current Constitution that restored multiparty politics came into force in 1992. The principle of non-discrimination on the basis of sex is engrained in the Constitution. Ghana is a

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<sup>1</sup> On 6 March 2007, Ghana celebrated the 50th anniversary of its declaration of independence from colonial rule.

<sup>2</sup> The proportion of the population with an income of less than \$1 a day has fallen from about 51 per cent in the early 1990s to 35 per cent in 2004. Very high levels of extreme poverty remain most acute in rural areas (*Africa Research Bulletin*, August 2006, vol. 43). Over 30 per cent of the population lack access to safe water and 68 per cent lack sanitation services. Most diseases seen in clinics are water-related, J.O. Adésinà, ed., *Social Policy in Sub-Saharan African Context* (London, Palgrave, 2007) p. 233.

party to the Convention on the Elimination of All Forms of Discrimination against Women (ratified without reservations in 1986) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (ratified without reservations in 2007). It has consented to the 1993 Declaration on the Elimination of Violence against Women.<sup>3</sup>

7. The Constitution explicitly guarantees the institution of chieftaincy, together with its traditional councils, and precludes the State from interfering in the appointment of chiefs. In return, chiefs are barred from taking part in active party politics and may not stand for election to Parliament. To the extent that they exercise public power, traditional authorities are fully bound by Ghana's international obligations.

### **B. The chieftaincy system**

8. The chieftaincy system is hierarchically organized and composed of a diverse group of tribal kings, paramount chiefs, chiefs and sub-chiefs. Some traditional authorities are illiterate men operating entirely on the basis of experience and the teachings of oral tradition, others are university educated professionals. Although the customary system recognizes certain female authorities and grants them a limited degree of authority, virtually all chiefs in Ghana are men.<sup>4</sup> Deriving their legitimacy from a claim to tradition, traditional authorities tend to be socially conservative, putting respect for local custom before gender equality.

9. While the status of the customary system varies between localities, traditional authorities generally wield considerable influence. In many rural areas, tribal chiefs administer communal and tribal land rights. Chiefs and the council of elders also serve as arbitrators in disputes, including smaller criminal cases and family conflicts, since they are more easily accessible than the State courts, charge smaller fees and have the social clout to enforce decisions. In addition, traditional authorities deal with all matters supposedly involving supernatural interference (e.g. witchcraft). The State authorities are usually not in a position to resolve such matters.

10. Some chiefs may even get involved in serious crimes, such as rape or defilement of minors, and broker settlements between families. This illegal usurpation of State power may result in impunity for perpetrators and neglect of victim support. Nevertheless, local State officials are often unwilling to challenge these chiefs, since the balance of power is often tilted against the State. In some of the rural districts, for instance, local police officers explained to me that they would always seek the local chief's permission before launching an investigation into a reported crime.

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<sup>3</sup> General Assembly resolution 48/104.

<sup>4</sup> In matrilineal communities, queen mothers appoint new chiefs selected by customary councils. Female authorities referred to as *magazia* exist in the patrilineal communities of northern Ghana.

### C. Customary law

11. Custom is recognized by the Constitution as a source of law. It is applied by customary authorities as well as by State courts, unless it is found to violate the Constitution. Customary law is also subject to statute law. Therefore, while it discriminates against women, especially in areas of inheritance and property, where statute law provides for a particular matter, it cannot override that provision.<sup>5</sup>

#### 1. Inheritance

12. According to the traditional doctrine of customary law, the proceeds of the joint efforts of a man, his wife and children and any property acquired from these proceeds are considered to be the individual property of the man. Therefore, a woman was not entitled to a share in her husband's estate if he died intestate<sup>6</sup> until the enactment of the Intestate Succession Law of 1985 (PNDC Law 111), which legally overrides customary law. In practice, particularly rural families and traditional authorities intervening in inheritance disputes often do not know, or deliberately disregard the statutory law and apply the discriminatory customary norms instead. Even State officials are sometimes insufficiently informed about the contents of the Intestate Succession Law, which distributes estates on the basis of a very complex formula between the deceased man's wife/wives, his children, other family members and customary law heirs.<sup>7</sup>

#### 2. Consequences of divorce

13. Women who are going through a divorce find themselves in an even weaker legal position than widows, because of the discrepancy between customary law and statutory law. The Matrimonial Causes Act 1971 (Act 367) foresees a separation of property between the spouses. Since customary law presumes that all property acquired during marriage is the sole property of the husband, women are often deprived of an equitable share of the marital property, when they divorce. An exception applies if a woman can prove that she made a "substantial contribution" to the acquisition or maintenance of the property. However, the Government clarified in writing that the provisions of Act 367 apply to either party in the marriage. Accordingly, as per section 20 (1) of the Act, the Court "may order either party to the marriage to pay to the other party a sum of money or convey to the other party movable or immovable property as settlement of property rights or in lieu thereof or as part of financial provisions that the Court thinks just

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<sup>5</sup> Preliminary comments of the Government of Ghana on my report, 18 January 2008 (hereafter Preliminary comments of the GOG).

<sup>6</sup> This position was explicitly upheld by judgement of the High Court in *Quartey v. Martey* (1959) Ghana L. Rep. 377, which was handed down before the Intestate Succession Law was enacted. This doctrine is followed by both patrilineal and matrilineal communities. In patrilineal groups, the inheritance passes to the deceased man's own descendants. In the Akan-speaking matrilineal groups, where descent is determined through the mother, the inheritance passes from the deceased husband to the closest living male descendant of his mother, i.e. the deceased man's maternal brother, the son of his maternal sister or the son of the deceased mother's sister.

<sup>7</sup> Note that the Intestate Succession Law does not apply to distribution of business assets.

and equitable”.<sup>8</sup> The Government noted that the shortcoming of the Act is that it applies principally to monogamous marriages. Therefore, while section 41 (2) of the Act makes the Act applicable to non-monogamous marriages including customary law marriage, the Act allows customary law to be applied.<sup>9</sup>

14. The 1992 Constitution recognizes the shortcomings of the legal status quo and requires Parliament to enact, as soon as practicable, legislation on the property rights of spouses to ensure that spouses have equal access to property jointly acquired during marriage and that such property is equitably distributed between the spouses upon dissolution of the marriage. At the time of my visit - 15 years after the Constitution entered into force - no such law had been passed.

15. The property of spouses bill, prepared by the Minister of Justice, would substantially improve the legal status quo. According to the bill, divorce courts distributing marital property are to take into account the contributions “in cash or kind” made by each spouse. At a minimum, each spouse is to receive one third of the property acquired during the marriage. The bill would apply to all marriages, including polygamous customary marriages and de facto unions (common law marriages).

### **3. Review of customs**

16. In view of the shortcomings of customary law, the Constitution mandates the National House of Chiefs, a deliberative body bringing together paramount chiefs from all regions, to “undertake an evaluation of traditional customs and usages with a view to eliminating those customs and usages that are outmoded and socially harmful”.<sup>10</sup> So far, the House of Chiefs has failed to launch a genuine effort to bring the customary law in line with statutory law, the Constitution and Ghana’s international obligations.

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<sup>8</sup> The Government noted that the effectiveness of the provisions in Act 367 ensuring fairness to a female spouse has been proven in a number of cases; in particular, it referred to the case of *Ribeiro v. Ribeiro* (No. 2) (1989-90), GLR SC 130 (Preliminary comments of the GOG).

<sup>9</sup> Preliminary comments of the GOG.

<sup>10</sup> Chapter 22, article 272 (c).



## II. STATUS OF WOMEN IN GHANA

17. Ghana is an ethnically, linguistically, culturally and religiously heterogeneous society, resulting in variations of social convention.<sup>11</sup> There are also considerable economic disparities between the coastal regions and the marginalized northern parts of the country. However, the strong patriarchal normative framework, discussed above, and the family structure favour men over women in both matrilineal and patrilineal communities. Although social attitudes are gradually changing, especially in urban settings, women continue to occupy a subordinate position to men in virtually every domain of life.

### A. The institutions of family and marriage

18. The male head of household model prevails, which makes all domestic chores the exclusive responsibility of women and girls. Although women are more often than not the family's main source of income, men are perceived as the "provider".<sup>12</sup> This sexual division of labour corresponds to the obedience of women to male authority and their conformity to differential sexual norms upheld in society. In this respect, infidelity is tolerated for men, but constitutes a social taboo for women. Children - girls and boys - are groomed from an early age to internalize these stereotypical gender roles.

19. Unequal gender relations are sustained by discriminatory marriage practices and marital relations. Marriage entailing the transfer of the bride from one family to the other is perceived as a contract binding two families. In all ethnic groups, the groom's family pays a dowry (money, goods or livestock) to the bride's family, which leads some men to believe that they own their wife.

20. In some cases, particularly in the three northern regions, young women and girls are exchanged between families to offset dowry payments. Almost by definition, this practice involves a forced marriage for both the bride and the groom; therefore, from the start, seeds of conflict and potential violence are sown into the matrimonial union.

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<sup>11</sup> According to the Ghana Living Standards Survey (Fourth Round 2000) heads of households are: 52.6 per cent Akan-speakers (including Asante and Fanti); 12.4 per cent Ewe; 10.2 per cent Ga-Adangbe; 3.8 per cent Dagomba; 3.2 per cent Guan; 2.7 per cent Dagarti; 1.9 per cent Grussi/Frafra; 1.3 per cent Hausa; and 11.9 per cent other groups. Of heads of households, 72.8 per cent belong to a Christian denomination and a minority are Muslims (11.8 per cent), although they account for nearly 60 per cent of households in the Northern Region. Only 7.8 per cent of all persons surveyed indicated that they profess a traditional African religion, but many Ghanaians who identify with the Christian or Muslim faith also follow traditional belief systems.

<sup>12</sup> The Ghana Demographic and Health Survey 2003 indicated that 51.4 per cent of all married/cohabiting women had cash earnings that met over half of all household expenditures. At the same time, 40.9 per cent of all married/cohabiting women reported that their husband decided on large household purchases.

21. Polygamy is another practice that entrenches women's subordinate position.<sup>13</sup> According to the 2006 Ghana Multiple Indicator Cluster Survey (MICS Survey), more than one in five women (21.6 per cent) aged 15-49 years lived in a polygamous union. Polygamy is particularly prevalent in the three northern regions, where close to 40 per cent of women live in polygamy.<sup>14</sup>

22. The Children's Act of 1998 sets 18 as the minimum age for marriage and criminalizes child marriages. However, child and early marriages continue to be performed, because the law is not adequately enforced. This compromises girls' development and undermines their ability to negotiate unequal power relations to their advantage. Girls married at younger ages are more likely to drop out of school, are socially more isolated and less assertive in pursuing their sexual, reproductive and other rights. According to the 2006 MICS Survey, more than one in four married women (25.9 per cent) were under 18 when they married and 4.4 per cent were under 15. The same survey showed that 2.1 per cent of married women aged 15-19 years (i.e. the age group that should have enjoyed the protection of the 1998 Act) entered into marriage before they were 15. Since these marriages are unregistered, the women also lack access to non-penal forms of legal redress.

### **B. Education**

23. Ghana still has a considerable way to go to fulfil the second and third Millennium Development Goals, which call for the achievement of universal primary education and gender equality, including at all levels of education. In 2005, the net enrolment in primary education stood at only 65 per cent for boys and girls alike. A wide gender gap emerges from the early stages of the schooling cycle, because far more girls than boys drop out of primary school. In 2005, only 69 per cent of girls who enrolled completed the full course of primary education (compared to 75 per cent of boys). The trend continues in secondary school, where the 2005 net enrolment rate was 37 per cent for boys and 30 per cent for girls.<sup>15</sup>

24. High levels of extreme poverty continue to be a major obstacle to achieving universal education for all children, but particularly for girls. It is not surprising that the country's poorest districts in northern Ghana tend to have the lowest school enrolment and retention rates. The Government has invested considerable funds into a capitation grant programme. This programme

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<sup>13</sup> Ghanaian Family Law recognizes three distinct forms of marriage: civil marriage, marriage under customary law and Islamic marriage registered under the Marriage of Mohammedans Ordinance. Customary law entitles a man to have several wives, but a woman may not have multiple husbands. The Marriage of Mohammedans Ordinance allows Muslim men to have up to four wives. In practice, many polygamous marriages are never formally registered and spouses live in de facto unions (common law marriages). The Government, however, has indicated that registration is not a prerequisite of legality; once all the required customary rites are performed a marriage is considered legal (Preliminary comments of the GOG).

<sup>14</sup> 2006 MICS Survey figures: Upper West Region: 44.4 per cent; Northern Region: 39.5 per cent, Upper East Region: 39.3 per cent.

<sup>15</sup> Figures for 2005, UNESCO Institute for Statistics, Education in Ghana, available at <http://stats.uis.unesco.org>.

aims at freeing families from the burden of school levies imposed at the district level, while providing schools with a much-needed inflow of funds.<sup>16</sup>

25. The World Food Programme (WFP) supports these laudable Government efforts through an on-site school feeding programme, which targets impoverished districts in the north and will provide 290,000 primary school children with one cooked meal a day to encourage increased attendance and enhance the capacity of malnourished pupils to follow the lessons.

26. These initiatives seem to have contributed to a substantial increase in enrolment. The Ministry of Education estimates that enrolment at the primary level in 2006/2007 has increased by 7.8 per cent in comparison to 2005/2006. At the junior secondary school level an 8.8 per cent increase was noted. In particular, the increase in the enrolment of girls in basic education was slightly higher than that for boys.

27. Poverty is only one aspect of the problem. High dropout rates among girls are also rooted in differential values attached to the education of girls and boys. Many families take their daughters out of school, because they see education as a mere distraction from a girl's domestic responsibilities. Donors have launched innovative programmes to create incentives for families to keep girls in school. The WFP launched a pilot project in 2006, which provides girls in the late stages of primary school and in junior secondary school (i.e. girls with a high dropout risk) with take-home food rations if they achieve at least 85 per cent attendance. The United Nations Children's Fund (UNICEF) has provided girls in remote areas with bicycles so that they can complete their morning household chores and still get to school in time. Such programmes are helpful, but cannot replace sustained efforts on the part of the Government, civil society and the international community to change the underlying discriminatory mentalities themselves.

28. Child marriage, early marriage and teenage pregnancy also contribute to high dropout rates among girls. Girls who become pregnant are often ridiculed by their peers and shamed into dropping out. Some districts also seem to have adopted a policy to suspend pregnant girls from schools to deter pregnancy among other girls. Officials at the central Government level assured me that the suspension of pregnant girls, which constitutes a blatant violation of their human right to education, is contrary to official education policy.<sup>17</sup>

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<sup>16</sup> According to reports, the grant unfortunately does not always cover indirect school expenses such as the cost of a school uniform.

<sup>17</sup> There have been other instances of blatant gender discrimination by local officials. During my visit, reports emerged that the authorities at the St. Louis Training College in Kumasi had lined up 630 female teacher trainees and subjected them to an intimate search, due to a suspicion that one of them might have recently had an abortion.

### **C. Employment**

29. The labour market participation among Ghanaian women, including married women and women with children, is very high and practically at the same level as that of men. According to the 2003 Demographic and Health Survey, 75.1 per cent of women and 75.6 per cent of men in Ghana were employed. It is also noteworthy that women seem to have considerable autonomy over the use of their earnings. Nearly three in four women surveyed (73 per cent) stated that they are solely responsible for decisions on the use of their earnings, which they generally contribute to family sustenance and the care of their children. Remarkably, more rural women than urban women reported to have full control over their earnings.

30. The labour market, however, remains strongly segregated by gender. Whereas women work mainly in sales and services, including as self-employed traders, men are primarily employed in agriculture and public sector jobs. The gender segregation also works vertically; women are underrepresented in better paying skilled posts. Three times as many men as women work as professional, technical or managerial staff (10 per cent v. 3 per cent), while 23 per cent of employed men and 16 per cent of employed women undertake skilled manual labour.

31. All of the above results in a large wage gap, where women earn about 29 per cent less than men.<sup>18</sup>

### **D. Public decision-making**

32. Women are heavily underrepresented among public decision-makers. Ghana, with 10.9 per cent female parliamentarians, ranks 89th of 189 in the Inter-Parliamentary Union's ranking of women in national Parliaments.<sup>19</sup> Female parliamentarians I spoke with highlighted difficulties in accessing campaign funding and made the criticism that female candidates were rarely fielded in voting districts where their own political party was likely to win. At the district level, women's representation also stands at only about 10 per cent, despite the fact that a third of district assembly members are directly appointed by the President.

33. The situation is slightly better in the executive and in the judiciary. Six out of 40 members of Cabinet (15 per cent) and about 17 per cent of judges are women. In June 2007, for the first time in the country's history, a woman was appointed as Chief Justice.

34. The Cabinet has approved Affirmative Action Policy Guidelines which call for an increase to 40 per cent in the representation of women in key positions in public service, in the national executive and in policymaking institutions. These guidelines are not binding and there is little concerted effort to implement the 40 per cent target.

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<sup>18</sup> Human Development Report 2006, United Nations Development Programme, p. 369.

<sup>19</sup> Available at <http://www.ipu.org/wmn-e/classif.htm>.

### III. VIOLENCE AGAINST WOMEN

#### A. Physical and sexual abuse in the family

35. Physical abuse by the husband or other intimate partner is widespread. While there is a lack of up-to-date data, 72 per cent of respondents to a 1998 survey reported that wife beating was a common practice in their community.<sup>20</sup> Results of another survey published the following year indicated that one third (33 per cent) of all women were experiencing physical violence at the hands of current or previous partners at the time of the survey.<sup>21</sup>

36. The use of violence to enforce patriarchal control over women enjoys widespread social acceptance. According to the 2003 Demographic and Health Survey, 19.8 per cent of men and an even more astonishing 34 per cent of women consider it acceptable for a husband to beat his wife, if she goes out without telling him. Women are often expected to silently endure abuse “to protect their family”. Women who report their husbands or other family members to the authorities may be ostracized.

37. There is also a widespread belief that a husband is entitled to sexual intercourse from his wife at his behest and may enforce this entitlement by force. According to the 2003 Survey, 10.1 per cent of men and 19.9 per cent of women considered it justified if a husband beat his wife for refusing to have sex with him. Ghanaian law, which for so long explicitly protected this male prerogative, has been amended. The Statute Law Revision Commissioner, in exercise of his powers under the laws of Ghana to remove unconstitutional provisions, removed section 42 (g) from the Criminal Offences Act, 1960, (Act 29), whereby a married woman was deemed to have given her blanket consent to her husband using force in sexual relations, thereby preventing the prosecution of marital rape.<sup>22</sup> According to the Government, current laws in Ghana do not support rape in marriage.<sup>23</sup>

38. Harmful attitudes towards women are reinforced by certain religious and other community leaders, who exhort women to stand by their husband under all circumstances, while at the same time failing to take a clear stand against wife battery and marital rape.

39. Reports also indicate that rape of underage girls committed by men within the family circle, including brothers, fathers, stepfathers and other “fatherly figures”, is a big problem, although there is no reliable data on the exact size of the problem.

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<sup>20</sup> M. Pappoe and E. Ardayfio-Schandorf, *The Dimensions and Consequences of Violence against Women in Ghana*, National Council for Women and Development (1998).

<sup>21</sup> K. Cusack and D. Coker-Appiah, *Breaking the Silence and Challenging the Myths of Violence against Women and Children in Ghana: Report of a National Study on Violence* (1998).

<sup>22</sup> Preliminary comments of the GOG.

<sup>23</sup> Ibid.

40. Unlike wife beating and marital rape, society does not condone incest. Yet, families will often try to cover up the crime to avoid shame, rather than ensure that the perpetrator is punished and the child protected from further harm. Tanya, a girl from the Eastern Region, for instance, was 14 years old when her father raped her on repeated occasions and injured her severely.<sup>24</sup> Tanya's stepmother refused to help her, but she was able to report the assault to the police with the help of a neighbour. Tanya's family pressured her to drop the complaint, telling her that she was possessed by demons that would turn her into an adult woman at night and make her seduce her own father. When she refused, she was ejected from the home.

41. A practice known as *tazaba* (direct translation: sister in bed) is reportedly still practised in some communities in Bongo District, Upper East Region. A daughter of a man without any sons is given to a paternal cousin to produce a male heir for the family name. The girl does not marry her cousin (who may already have a wife) and any son born from that relationship is considered to belong to the family of the girl's father. After giving birth to a son, the girl is freed and may get married, but due to the stigma of single motherhood it is unlikely that she will find a husband.<sup>25</sup>

## **B. Ritual servitude and sexual abuse**

42. Some communities in the southern Volta Region and certain districts of the Greater Accra Region still practise an outlawed custom, which involves ritual servitude and sexual exploitation of girls. The custom requires a family to offer a virgin daughter as a *trokosi*<sup>26</sup> 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. One former *trokosi*, for instance, told me that her family gave her to a fetish shrine when she was 8 years old, because her great-grandfather had failed to repay a debt and subsequently family members had started to die from seemingly mysterious causes.

43. A girl designated to become a *trokosi* is usually committed at a very young age (6 to 10 years old) to the shrine, where an initiation ritual betrothing the girl to the gods is performed. The ritual establishes a relationship of spiritual bondage between the girl and the shrine. From the moment of her betrothal, the *trokosi* must wear special insignia indicating her status and outsiders are prohibited from having any sexual contact with the girl. If a man sleeps with a *trokosi*, his family is believed to have incurred the wrath of the gods, therefore, must also offer a virgin daughter to the shrine. Meanwhile, the girl with whom the man had sexual relations is ritually "purified" and remains a *trokosi* at the shrine.

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<sup>24</sup> All names of individual victims have been changed.

<sup>25</sup> Association of Church Development Projects (ACDEP), *Gender and Reproductive Health: a Case Study in four Communities of the Bongo District and Bolgatanga Municipality of the Upper East Region of Ghana* (2007), available at <http://www.acdep.org>.

<sup>26</sup> The Ewe word *trokosi* can be translated as "slave to the gods" or alternatively as "wife to the gods". The practice is thought to have originated in the seventeenth century as a means to attract the support of the gods, especially in times of crisis and war.

44. 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.

45. Once a *trokosi* reaches puberty, the shrine's fetish priest (*tronua*) is entitled to sleep with the girl to consummate the marriage between her and the gods. Groomed from a very young age into accepting their servitude at the shrine, the girls are not in a position to refuse. Daughters born from such sexual relations also have certain obligations to the shrine.

46. After serving several years at the shrine, a *trokosi* may be released from servitude if her family pays for a special ceremony, but she will retain a relationship with the shrine and continue to perform certain rituals there. Released *trokosi* are allowed to marry, but are often unable to find a husband. If a *trokosi* dies, her family is expected to replace her with another girl and the cycle of ritual servitude and exploitation recommences.

47. In 1998, the Government passed a law against ritual servitude (among other things), criminalizing 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, there are at least 23 shrines in the Volta Region and 3 in the Greater Accra Region which still accept *trokosi*.<sup>27</sup>

48. In many districts, the local authorities are reluctant to enforce the law against ritual servitude, fearing a popular backlash. Some also seem to fear adverse spiritual consequences for themselves. While a number of national authorities, including the Commission on Human Rights and Administrative Justice and the Ministry for Women and Children's Affairs have taken a strong stance against the practice of *trokosi*, there are many other elected politicians who fail to publicly denounce it in order not to alienate key constituencies.

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<sup>27</sup> Greater Accra Region: Ablao Shrine, Kemana Shrine (both in Osuwem, Dangbe West) and the Dasuma Shrine (Big Ada, Dangbe West). Volta Region: Gava Shrine, Axava Shrine (Torgorme/Fodzoku, North Tongu), Venor Shrine (Old Bakpa, North Tongu), Avakpei Shrine (Mafi Avakpedome, North Tongu), Korlie Shrine (Mafidugame, North Tongu), Korlie Shrine (Dovekpogadzi, North Tongu), Me Shrine (Bator, North Tongu), Adzemu Shrine, Dzaadza Shrine, Adevor Shrine (all three in Agave, South Tongu), Dalive Shrine dedicated to the Kyaoli Deity (Dalive, South Tongu), Sui Shrine, Nyigbla Shrine, Tormi Shrine (all three in Anloga, Keta), Adzima Vena Shrines I and II (Klikor, Ketu), Nyigbla Glaku Shrine (Afife, Ketu), Adzima Shrine (Kunyorwu, Ketu), Adzima Shrine (Aklasukorpe, Ketu), Adzime Shrine (Gbevekope, Ketu), Adzima Shrine (Ave-Adzigo, Ketu), Bame Shrine (Ave-Zomayi, Ketu), Dzoli Shrine (Avenorfeme, Akatsi) and Hodzo-Korpe Shrine dedicated to the Amata Deity (Alavanyo, Ho Municipal District). In addition, the Gava Shrine and the Axava Shrine (both Torgorme/Fodzoku, North Tongu) are currently awaiting the appointment of new fetish priests, after which they might continue the practice.

49. Certain intellectuals defend *trokosi* as an indigenous religious tradition that provides girls with a form of apprenticeship. None of the former *trokosi*, with whom I have spoken, shared this view. One 17-year-old girl, the daughter of a *trokosi* and a fetish priest who had herself served in a shrine, asked me why only girls and not boys had to suffer to atone for the misdeeds of their families.

50. International Needs Ghana (ING) and other non-governmental organizations 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. Once liberation is agreed, a ritual will be performed to break the spiritual bondage tying the *trokosi* to the shrine. Liberated *trokosi* are provided with the skills to reintegrate into ordinary life at the ING Vocational Training Centre, which is also open to other girls and women from affected communities.

### **C. Female genital mutilation**

51. Female genital mutilation (FGM) has been traditionally practised by several ethnic groups from northern Ghana. Victims can also be found among immigrants from neighbouring countries, where FGM is highly prevalent. UNICEF has estimated that 5.4 per cent of all women in Ghana aged 15-49 have been subjected to FGM.<sup>28</sup>

52. In 1994, Ghana criminalized the practice. Since then, successful prosecutions of those performing FGM have been reported from the Upper West and Upper East Regions. In 2007, Parliament further strengthened the law against FGM by increasing the maximum penalty to 10 years of imprisonment and extending the range of persons who can be prosecuted for involvement in an act of FGM. Officials at all levels of Government, including the President, have also publicly condemned FGM.

53. While there are indications that the practice of FGM in Ghana may be declining, new cases continue to be reported. Civil society organizations and medical practitioners note that FGM is increasingly performed on younger girls, who are less likely to resist or report the crime. Some families apparently also send their daughters abroad to have the procedure carried out. The fact that in some neighbouring countries FGM is not criminalized or the legislation against it is not enforced, and since Ghanaian law does not apply extraterritorially, makes it difficult for the Ghanaian authorities to take action, even if they find out about such cases.

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<sup>28</sup> UNICEF, *Female Genital Mutilation/Cutting: A Statistical Exploration* (2005), available at [http://www.unicef.org/publications/files/FGM-C\\_final\\_10\\_October.pdf](http://www.unicef.org/publications/files/FGM-C_final_10_October.pdf). Any procedure involving partial or total removal or other injury of the external female genital organ for cultural, religious or other non-therapeutic reasons and causing physical and/or psychological harm must be regarded as FGM, regardless of the methods used and conditions under which it is carried out.



#### **D. Girl domestic workers**

54. Ghanaian law sets the minimum age for formal and informal employment at 15, although children are permitted to engage in “light work” from the age of 13, provided that it does not harm their health or development, or school attendance and the capacity to benefit from schoolwork. Children under 18 are not allowed to undertake certain types of hazardous labour and are prohibited from working at night. Yet harmful child labour remains a problem. A 2004 International Labour Office (ILO) study estimated that about 11 per cent of school-age children in Ghana and 56.5 per cent of rural school-age children in northern Ghana are engaged in some form of labour.<sup>29</sup> A World Bank paper on child labour in Ghana found that girls were more likely than boys to engage in harmful forms of labour.<sup>30</sup>

55. Many rural families living in extreme poverty send their daughters to urban areas to live with more affluent families, where they serve as domestic workers in exchange for shelter, food and sometimes a minimal income. The ILO found that most child domestic workers started their work between the ages of 11 and 16 and worked 8 to 12 hours per day without sufficient rest, which would imply that they are engaged in one of the worst forms of child labour as defined by ILO Convention No. 182.<sup>31</sup>

#### **E. *Kayaye* street girls**

56. Girls also migrate on their own from impoverished areas in the north to the big urban centres in the south, where they work in the markets and streets as head load carriers (*kayaye*), informal petty traders or in other menial jobs. Most of the girls are only 10-14 years old when they first migrate and some are even younger. The girls, an estimated 90 per cent of whom are illiterate, typically migrate to escape extreme poverty and a lack of opportunities. Many girls also see the *kayaye* experience as an opportunity to acquire the items they will need in order to get married later on in life.

57. Family problems, including exploitation and abuse, are often additional factors pushing girls to leave their homes. In accordance with local culture, some children are sent to live with paternal or maternal relatives, who were traditionally meant to foster family solidarity and kinship ties. However, with the erosion of social convention, today these children are often exploited and abused by their relatives. Amina from Tamale, for instance, was 6 years old when she was sent to live with an aunt, who made her sell food in the local market. If she sold well, she would receive food, if not she would be beaten. When she was 8 years old, she stole a small amount of money from her aunt and took the bus to Kumasi (Ashanti Region) to work as a *kayaye*. Disappointed by the little money she made in Kumasi, she returned to Tamale only to head south again to Accra when she was 10 years old.

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<sup>29</sup> International Labour Office (ILO), *Girl Child Labour in Agriculture, Domestic Work and Sexual Exploitation: Rapid assessments on the cases of the Philippines, Ghana and Ecuador* (2004).

<sup>30</sup> See Niels-Hugo Blunch and Dorte Verner, *Revisiting the Link between Poverty and Child Labor: The Ghanaian Experience*, World Bank Policy Research Working Paper No. 2488 (2000), available at <http://www.worldbank.org>.

<sup>31</sup> See footnote 29 above.

58. The girls seem mostly to migrate on their own, encouraged by their peers and often with the knowledge of their family. Some reports indicate that organized networks increasingly approach impoverished families to recruit girls.

59. Once they arrive in the urban centres, the *kayaye* work and live under dangerous and miserable conditions. They usually live on the streets, having to pay owners of wooden market stalls for a place with a roof to spend the night. Being vulnerable to exploitation and abuse, they often have to seek the “protection” of older street boys in exchange for sex. As a result many end up getting pregnant outside marriage and are often ostracized when they return to the north as single mothers. Some girls occasionally prostitute themselves to add to their earnings, which increases the prejudices they encounter once they return home.

60. Girls Growth and Development (GIGDEV) in Tamale is a civil society organization that helps former *kayaye* integrate back into society, by providing them with vocational training and basic education. Fatima, 18 years old, is one of the girls taking part in GIGDEV’s programme. She told me that she had to live with her aunt after her mother and grandmother had died, because her father was unwilling to take responsibility for her. The aunt exploited and abused Fatima, and at the age of 10 she migrated to Accra to work as a *kayaye* in the Agbogboloshie wholesale market. When she was 14, her boyfriend, a fellow street boy, raped her and she became pregnant. She gave birth and returned to the north. Fatima is learning to sew at GIGDEV and wants to buy a sewing machine with a microcredit loan.

61. Some girls abandon *kayaye* work altogether and are fully drawn into Ghana’s growing child prostitution sector, which increasingly also seems to cater to foreign child sex tourists. Girls have reportedly also been trafficked and subjected to commercial sexual exploitation in other West African countries and Western Europe. While the Government has reacted by adopting a comprehensive Human Trafficking Act in 2005, still more needs to be done to enforce the Act and strengthen Ghana’s anti-trafficking cooperation with other countries.

#### **F. Women accused of witchcraft**

62. 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.

63. 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, also murdered.

64. 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.

65. 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.

66. Violence against women branded as witches is reported from all regions, but the issue is more visible in the north due to the existence of so-called “witches’ camps”. This misleading term refers to settlements established with the consent of the local community, where women accused of witchcraft can seek refuge and protection from persecution by their own community or family. In that sense, a witches’ camp is a protection mechanism comparable to a women’s shelter. In some cases, family members may also join the accused at the witches’ camp.

67. During the course of my visit, I visited the settlement in Gambaga (East Mamprusi District, Northern Region), which is officially called the Gambaga Outcast Home.<sup>32</sup> Its origins are said to date back to around 1900, when a local Imam took pity on women accused of witchcraft and provided them with refuge. Eventually, the local chief (the *Gambarana*) assumed this protective role. The *Gambarana* is thought to be vested with the special spiritual power to determine whether a woman is a witch or not. It is also believed that he can purify witches and extinguish their supernatural powers.

68. Around 80 women, aged between 40 and 70, live at the Gambaga Outcast Home, which is a compound of thatched huts situated adjacent to the village. Some women have lived in Gambaga for more than 20 years, because their community or family steadfastly refused their return. The local population in Gambaga is not afraid to live and interact with these women, since tradition holds that the local gods neutralize a witch’s power to practise her craft once she comes to Gambaga. Nevertheless, a certain stigma remains and women accused of witchcraft can usually only engage in certain limited income-generating activities such as firewood collection. Since they also lack the support of their own family, the women are completely destitute.

69. The Gambaga Outcast Home Project, an exemplary initiative, provides support to women and facilitates their reintegration into their home communities. Since the convictions of the local population about witchcraft are very strong, the project does not question the very notion of witchcraft, but tries to address the social and the spiritual dimensions of each individual case. Aisha, 47, is one of the women supported by the project. She had to flee to Gambaga, when a woman from her community dreamt that she was a witch and subsequently died from a seemingly inexplicable cause. Community members severely beat her and her husband, when he tried to protect her. They burned her house and threatened to kill her. When she came to Gambaga, the *Gambarana* determined that she was indeed a witch and should, at least for the moment, not return to her community.

70. After intense negotiations, the project staff managed to convince Aisha’s home community to rebuild Aisha’s house and allow her to occasionally visit her husband. The *Gambarana* has supported the reintegration process by performing a ritual to free the bewitched soul of the

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<sup>32</sup> In the Northern Region, “witches’ camps” have also been established with the consent of the local community in Gnaani (Yendi District), Gushiegu Town, Kpatinga, Naboli (all Gushiegu District) and Kukuo (Bimbilla District). Women accused of witchcraft often also flee to urban areas, where the allegations levelled against them are not known.

woman who supposedly died from Aisha's alleged witchcraft. At the time of my visit, another ritual was being planned to fully remove Aisha's supposed witchcraft powers and reconcile her with her community.

### **G. Situation of widows**

71. While the customary law denies women a right to inherit, it obliges the heirs of the deceased to maintain his widow and children. In many cases, however, not even this obligation is respected and widows are evicted from their homes by those invoking customary inheritance rights. The Intestate Succession Law seeks to protect widows against eviction by making it a criminal offense to evict a widow or her children from the family home within the first six months of the husband's death. Unfortunately, this protective norm is often wrongly interpreted as permitting evictions after six months have passed.

72. Several communities also still practise levirate marriage/widow inheritance, requiring the widow to marry (formally or informally) her late husband's brother. In other communities, the woman is "inherited" by one of the sons born to another wife of the deceased husband. These marriages are more than a social support arrangement for the widow, since the man is permitted to have sexual relations with the widow.<sup>33</sup> Nevertheless, women are in no position to refuse. If they do they may be violently ejected from their homes and left destitute.

73. Reports also indicate that some communities still practise humiliating and sometimes outright cruel widowhood rites. These rites often seek to determine whether the woman had been faithful to her late husband. The Widows and Orphans Ministry in Bolgatanga (Upper East Region) has documented a number of these practices and successfully engaged communities in awareness-raising initiatives to abolish humiliating and violent rites.

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<sup>33</sup> Children born from such relationships are considered to belong to the dead husband and are therefore often neglected by the natural father.

#### IV. STATE RESPONSE TO VIOLENCE AGAINST WOMEN

##### A. Domestic Violence Act

74. The Domestic Violence Act was adopted by the Ghanaian Parliament in May 2007,<sup>34</sup> after three years of extensive consultations with stakeholders and sometimes heated public debate. Following a broad and gender-neutral definition of domestic violence, the Act criminalizes physical, sexual and psychological abuse, intimidation, threats and harassment between spouses and other intimate partners, former partners, family members and co-tenants.

75. In section 1 (b) (iii) the Act also criminalizes “economic abuse” in the domestic relationship, which is defined as the “deprivation or threatened deprivation of economic or financial resources which a person is entitled to by law, the disposition or threatened disposition of moveable or immovable property in which another person has a material interest and hiding or hindering the use of property or damaging or destroying property in which another person has a material interest”. In the context of the extreme poverty prevailing in Ghana, practices such as property grabbing can have serious consequences beyond physical and sexual violence and it is appropriate to specifically criminalize such acts.

76. Furthermore, the Act stipulates that the use of violence in the domestic setting is not justified on the basis of consent, thereby ensuring that the crime of marital rape can now be prosecuted in Ghanaian courts.

77. Courts now also have the power to issue protection orders. Among other things, courts may order a perpetrator of domestic violence to seek counselling or treatment, pay his victim’s medical expenses, and relocate from the common domicile, while continuing to pay rent. If a protection order is breached, courts are to impose fines and/or imprisonment of up to two years.

78. Criminal sanctions - monetary fines or imprisonment - against a perpetrator of domestic violence may have a negative impact on the entire family (to the extent that the perpetrator had actually assumed his maintenance and support duties). Therefore, the Act allows courts to refer cases of non-aggravated domestic violence to settlement by an alternative dispute resolution method. The Act stipulates several safeguards seeking to ensure that “settlement” does not equate to impunity and revictimization. Both perpetrator and victim must attend counselling and, where necessary, the accused must seek psychiatric help. In addition, the courts are to appoint a probation officer.

79. I welcome the plans of the Ministry for Women and Children’s Affairs to develop a comprehensive domestic violence action plan in consultation with other stakeholders. In order to ensure its effectiveness, the action plan must be guided by empirical facts and gender analysis and prioritize the two most prevalent forms of domestic violence: violence against women and violence against children, particularly the girl child. In addition, an adequate budget must be earmarked for the implementation of the Domestic Violence Act and its action plan.

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<sup>34</sup> Act 732.

## **B. Capacity of the police and justice sector**

80. In 2005, the Ghana police service transformed its Women and Juvenile Unit (WAJU) into a Domestic Violence Victims Support Unit (DoVVSU) tasked to investigate all crimes involving domestic and gender-based violence.

81. DoVVSU is seriously under-resourced. At the time of my visit, it had only 66 desks and offices and 320 staff. Large parts of rural Ghana were not adequately covered. Moreover, it lacked the basic equipment to effectively investigate crimes; for instance, it only had 5 cars and 10 motor bikes at its disposal in the entire country. In practice, this often meant that a victim of domestic violence has to hire a taxi, at her own expense, to take police to arrest an alleged perpetrator.

82. Police also require more training to fully understand the dynamics and gender dimensions of domestic violence and the needs of the traumatized victim. Many police officers are said to attempt on-the-spot settlements between perpetrator and victim, even though the Domestic Violence Act gives such powers only to courts, subject to specific safeguards.

83. Many of my interlocutors also criticized the length of judicial proceedings. Domestic violence cases are often adjourned several times, until victims run out of courage or funds to pursue their case. In our discussions, the Chief Justice acknowledged this problem. Apart from additional efforts to reform the overburdened justice system, she suggested that courts reserve special days to swiftly deal with cases involving domestic violence in a comprehensive manner.

84. There are also problems with the data compiled by law enforcement authorities. For instance, statistics kept by DoVVSU reflect only the types of reported crimes, without indicating the victim's sex and her/his relationship to the perpetrator. Such data is virtually meaningless, especially considering the gender neutral definition of domestic violence in the Domestic Violence Act.<sup>35</sup>

## **C. Victim support and protection**

85. Section 7 of the Domestic Violence Act requires the police to provide victims of domestic violence with the protection the circumstances of each case requires. Yet, there are almost no facilities to physically protect women at risk of violence. In the whole country, there is only one women's shelter, which is operated by the non-governmental Ark Foundation and relies exclusively on donor funds. Police often have no choice but to keep women, who have to flee from their home but have nowhere else to go, overnight in the police station, before sending them back to the abusive environment the next day.

86. Under section 8 (4) of the Act, victims are legally entitled to free medical treatment provided by the State in case of emergency or a life-threatening situation, but this norm is not implemented. Instead, State hospitals and doctors charge a fee of 15-30 new cedis (about US\$ 15-30) to issue a medical certificate confirming the abuse. Victims, who are not covered by the Ghana National Health Insurance, have to pay this fee themselves. Unless they find a

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<sup>35</sup> See my thematic report on indicators on violence against women and State response (A/HRC/7/6).

sympathetic medical doctor who provides the certificate free of charge, poor, uninsured women have to drop their criminal complaint, because they cannot afford to obtain the medical evidence necessary to secure a successful prosecution.

87. Many of my interlocutors also made the criticism that victims do not receive enough follow-up and counselling, because the Ministry of Manpower, Youth and Employment, which is the responsible body, employs too few social workers to deal with domestic violence cases. Such assistance is often left to dedicated non-governmental organizations.

88. The case of 16-year-old Catherine from Accra illustrates how the combination of the existing shortcomings can place women at a serious risk. At the age of 14, Catherine's father sexually molested her with his hand and pressured her to have intercourse with him. She refused and went to the police station which referred her to DoVVSU, where her statement was taken and an arrest warrant was given for her to take back to the police station. There, she was told that no cars were available and she would have to hire a taxi for the arrest warrant to be executed. Not being able to afford the taxi fare, Catherine dropped the case. She returned home after a non-governmental organization obtained assurances from the father that he would not harm her. Since her return, the father has physically abused her on a regular basis and has refused to pay for her schooling. None of her relatives, including her own mother who lives in a new relationship, is willing to provide her with shelter. Catherine lives under serious risk of violence, including rape by her father.

## V. CONCLUSIONS AND RECOMMENDATIONS

89. **The realization of commitments to gender equality made under the Constitution, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Declaration on the Elimination of Violence against Women (DEVAW) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa remains a challenge to the Ghanaian Government and society at large, as women and girls continue to hold a subordinate status. The Domestic Violence Act of 2007 marks an important step forward, which needs to be swiftly followed by the adoption of a domestic violence action plan and an earmarked budget to implement the Act.**

90. **Violence against women is widespread and some groups of women are particularly vulnerable. The girl child may be sexually abused in the family, subjected to early or child marriage or exploited as a *kayeye* or domestic worker. Female genital mutilation (FGM) and ritual servitude of *trokosi* also remain prevalent in some parts of the country, even though these practices have been criminalized and are on the decrease. Some women are accused of practising witchcraft and driven violently from their communities. Widows are often deprived of their inheritance and in some places subjected to humiliating and abusive widowhood rites. The police, courts, social services and the health sector are not sufficiently equipped and trained to effectively protect women facing violence.**

91. **Constitutionally recognized traditional authorities and the customary law, which wield considerable influence in rural areas, often pose additional challenges for the advancement of women. The State authorities, civil society and the international community need to engage and, where necessary, compel the customary system to fully**

respect the rights women and girls are entitled to under the Constitution and international law.

92. High levels of poverty and the external debt burden limit the Government's margin of operation to prioritize the allocation of sufficient resources for universal basic education, gender parity in education and the economic and social development of marginalized regions and districts. The international community has a responsibility to support the Government's efforts to promote gender equality and eliminate violence against women through targeted funding and technical cooperation, further debt relief and, perhaps most importantly, fairer terms of trade.

93. In the light of my findings, I would like to make the following recommendations to the Government and other relevant actors:

#### **Political leadership and policy development**

- Denounce publicly and unequivocally all forms of violence against women and girls including marital rape, wife beating, child and other forced marriages, *trokosi*, FGM, humiliating widowhood rites and inheritance/property grabbing. Elected politicians, officials, traditional authorities and other persons vested with public authority must not invoke any custom, tradition or religious consideration to justify or condone such violence. They should also discourage the practice of dowry and polygamy and publicly question the existence of harmful witchcraft;
- Engage traditional authorities at all levels in a frank and public dialogue, about how traditions and customary laws can be reformed to respect the rights of women guaranteed under the Constitution and international law;
- Ensure the compliance of the House of Chiefs with the constitutional mandate to evaluate traditional customs and practices, with a view to eliminating those that are outmoded and harmful, including customs that discriminate against women; publish and widely disseminate an annual report documenting progress made in this regard;
- Ensure that at least 50 per cent of district assembly members appointed by the President are women. Political parties should adopt special temporary measures to enhance women's access to leadership positions within the party and field at least 30 per cent female candidates in "safe" voting districts that their political party is likely to win.

#### **Legislative reform**

- Enact, within this parliamentary term, the bill on the property rights of spouses. Parliament should consider amending the existing bill, so that all property acquired by any of the spouses during marriage (other than bequests, third party gifts or damages for personal suffering) is equally divided between the spouses;



- Review and simplify the Intestate Succession Law, to strengthen women and children's protection under the Law;
- Enact a gender parity law based on the 1998 Affirmative Action Policy Guidelines as binding law and implement the 40 per cent quota for women in decision-making foreseen by the Guidelines;
- Ensure the full extraterritorial application of section 69A of the Criminal Offence Act<sup>36</sup> and penalize Ghanaian nationals or permanent residents, who instigate or participate in acts of FGM carried out in another country, regardless of whether these acts are criminalized in that country;
- Demystify the beliefs around witchcraft and sorcery and criminalize acts of undue accusations of persons of causing harm through the use of supernatural powers.

#### **Budgetary allocations**

- Earmark adequate funds in future budgets to implement the Domestic Violence Act and the corresponding domestic violence action plan;
- Continue to prioritize free and universal basic education for girls and boys. Expand the school capitation programme to ensure that all direct and indirect costs of schooling are covered. Continue, with the support of the international community, the school feeding programmes for marginalized districts launched by the World Food Programme;
- Prioritize the socio-economic development of marginalized regions and districts, especially in the northern part of the country;
- The international community should promote these priorities through a targeted funding programme, the Multi Donor Direct Budget Support, the Highly Indebted Poor Country (HIPC) Initiative, further debt relief and the implementation of fair terms of trade in relation to agricultural products.

#### **Law enforcement and policy implementation**

- Educate judges, police officers and district chief executives and other relevant authorities about the Domestic Violence Act;
- Carry out a needs assessment, in cooperation with United Nations agencies and civil society groups, on how to implement section 7 of the Domestic Violence Act; develop and adopt by the end of 2008, in consultation with concerned Ministries, civil society and the international community, a comprehensive domestic violence action plan focusing on violence against women and children;

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<sup>36</sup> Act 29 of 1960, amended by Act 484 of 1994.

- **Support civil society in setting up and running shelters to protect women and children at risk of violence. Provide victims of domestic violence, in accordance with section 8 of the Domestic Violence Act, with free medical treatment, including a free medical certificate documenting injuries suffered;**
- **Educate traditional authorities, religious leaders, and other local opinion leaders about the rights of women and children under the Constitution, the Domestic Violence Act, the laws against FGM and ritual servitude, the Intestate Succession Act, the Children's Act, the Protocol on the Rights of Women in Africa, CEDAW and DEVAW;**
- **Enforce the law against ritual servitude, publicly support civil society organizations working towards its implementation and prosecute anyone who continues to organize the ritual servitude of *trokosi* or other harmful practices;**
- **Take special measures, in collaboration with the Commission on Human Rights and Administrative Justice, to enhance women's awareness of their rights and legal literacy to enable them to claim their rights;**
- **Call to order traditional authorities who illegally usurp State powers and prosecute anyone who "settles" serious crimes such as rape or sexual abuse of minors, instead of reporting them to the State authorities;**
- **Allow and encourage pregnant girls to stay in school.**

#### **Awareness-raising**

- **Discourage early marriages and promote the value of girls' education; sensitize parents and the public in this regard;**
- **Promote, through media, school and public campaigns, gender roles and relations that are compatible with human rights and equality norms, including masculine images that are de-linked from domination and violent expressions of power, and challenge prejudices underlying the abuse of girls and women, including the notion of witchcraft;**
- **Remove from school books and curricula any references promoting gender stereotyping, discrimination and violence;**
- **Promote gender-sensitive media reporting to avoid stereotypes and discriminatory attitudes towards women, and ensure respect for victims and their families when covering incidents of violence against women;**
- **Support researchers and statisticians to improve research and data collection on violence against women and gender issues, including gender dimensions of HIV and AIDS. Include in the 2008 Demographic and Health Survey and the 2010 census modules to measure the prevalence, incidence and severity of domestic violence against women, men and children. Compile crime statistics that reflect the**

**relationship between perpetrator and victim and disaggregate all official statistics on the basis of sex.**

#### **International cooperation**

- **Initiate and foster regional and international cooperation against all forms of violence with transnational links, including trafficking in persons, FGM and ritual servitude. Encourage neighbouring countries, which have not done so, to pass comprehensive criminal legislation against these acts;**
- **Consider signing and ratifying the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;**
- **Invite the Special Rapporteur on the sale of children, child prostitution and child pornography to carry out an official visit;**
- **Issue a standing invitation to all special procedures of the Human Rights Council and monitoring mechanisms of the African Commission on Human and Peoples Rights;**
- **The international donor community should prioritize targeted funding for local civil society initiatives that support those women who are most at risk of violence, including elderly women, widows, *trokosi*, women and girls in prostitution, refugee women, *kayaye*, domestic workers and other girls engaged in harmful child labour; and collaborate with the United Nations Country Team to promote and support women's empowerment programmes in Ghana;**
- **The United Nations Country Team should integrate gender analysis into all its activities, including the more seemingly technical areas such as agricultural support programmes, assist the Government and civil society in their effort to develop a sound database on violence against women, its causes and consequences, and promote and disseminate the recommendations contained in this report.**

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