

Mandates of the Criminal Justice Sector Institutions



Institutional Mandates

THE JUDICIARY

1992 CONSTITUTION
ARTICLE 125

- (1) Justice emanates from the people and shall be administered in the name of the Republic by the Judiciary which shall be independent and subject only to this Constitution.
- (2) Citizens may exercise popular participation in the administration of justice through the institutions of public and customary tribunals and the jury and assessor systems.
- (3) The judicial power of Ghana shall be vested in the Judiciary; accordingly, neither the President nor Parliament nor any organ or agency of the President or Parliament shall have or be given final judicial power.
- (4) The Chief Justice shall, subject to this Constitution, be the Head of the Judiciary and shall be responsible for the administration and supervision of the Judiciary.
- (5) The Judiciary shall have jurisdiction in all matters civil and criminal, including matters relating to this Constitution, and such other jurisdiction as Parliament may, by law, confer on it.

(1) The Judiciary shall consist of -

(a) The Superior Courts of Judicature comprising -

(i) The Supreme Court;

(ii) The Court of Appeal; and

(iii) The High Court and Regional Tribunals.

(b) Such lower courts or tribunals as Parliament may by law establish.

From the above the judiciary derives its mandate to operate from the 1992 constitution.

THE GHANA POLICE SERVICE

1992 CONSTITUTION

ARTICLE 200

- (1) There shall be a Police Service of Ghana.
- (2) No person or authority shall raise any police service except by or under the authority of an Act of Parliament.
- (3) The Police Service shall be equipped and maintained to perform its traditional role of maintaining law and order.

POLICE SERVICE ACT, 1970 (ACT 350)

Section 1- Functions of the Service.

- (1) It shall be the duty of the Police Service to prevent and detect crime, to apprehend offenders, and to maintain public order and the safety of persons and property.
- (2) Every police officer shall perform such functions as are by law conferred upon a police officer and shall obey all lawful orders and directions in respect of the execution of his office which he may receive from his superiors in the Police Service.

LEGAL AID SCHEME

LEGAL AID ACT 1997 (ACT 542)

Section 2

(1) For the purposes of enforcing any provision of the Constitution, a person is entitled to legal aid in connection with any proceedings relating to the Constitution if he has reasonable grounds for taking, defending, prosecuting or being a party to the proceedings.

(2) A person shall also be entitled to legal aid

(a) if he earns the Government minimum wage or less and desires legal representation in any

(i) Criminal matter; or

(ii) civil matter relating to landlord and tenant, insurance, inheritance with particular reference to the Intestate Succession Law, 1985 (P. N. D. C. L. 111), maintenance of children and such other civil matters as may from time to time be prescribed by Parliament; or

(b) if in the opinion of the Board the person requires legal aid.

(3) For the purposes of this Act, legal aid shall consist of representation by a lawyer, including all such assistance as is given by a lawyer, in the steps preliminary or incidental to any proceedings or arriving at or giving effect to a compromise to avoid or to bring an end to any proceedings.

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ECONOMIC AND ORGANISED CRIME OFFICE

OFFICE ACT 2010 (ACT 804)

Section 2

Objects of the Office

The objects of the Office are to

- (a) Prevent and detect organized crime, and
- (b) Generally to facilitate the confiscation of the proceeds of crime.

Functions of the Office

3. The functions of the Office are to

- (a) Investigate and on the authority of the Attorney-General prosecute serious offences that involve
 - (i) Financial or economic loss to the Republic or any State entity or institution in which the State has financial interest,
 - (ii) Money laundering,
 - (iii) Human trafficking,
 - (iv) prohibited cyber activity,
 - (v) Tax fraud, and
 - (vi) Other serious offences;
- (b) Recover the proceeds of crime;

(c) monitor activities connected with the offences specified in paragraph

(a) to detect correlative crimes;

(d) take reasonable measures necessary to prevent the commission of crimes specified in paragraph (a) and their correlative offences;

(e) disseminate information gathered in the course of investigation to law enforcement agencies, other appropriate public agencies and other persons the Office considers appropriate in connection with the offences specified in paragraph (a);

(f) co-operate with relevant foreign or international agencies in furtherance of this Act; and

(g) perform any other functions connected with the objects of the Office.

PRISONS SERVICE DECREE 1972, NRCD 46

Section 1

(1) It shall be the duty of the Prisons Service to ensure the safe custody and welfare of prisoners and whenever practicable to undertake the reformation and rehabilitation of prisoners.

(2) Every prison officer shall perform such functions as are by law conferred upon a prison officer and shall obey all lawful orders and directions in respect of the execution of his office which he may receive from his superiors in the Prisons Service.

Section 2

In the performance of its duty the Prisons Service shall ensure that-

- (a) no person shall be subjected to
 - (i) torture or inhuman or degrading punishment; or
 - (ii) any other condition that detracts or is likely to detract from his dignity and worth as a human being;
- (b) a person who has not been convicted of a criminal offence if kept or confined in a prison, shall not be treated as a convicted person, and shall be kept away from convicted persons

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Section 31(custody of the prisoner)

A prisoner shall be in the legal custody of the officer in charge of the prison while he is confined in, or is being taken to or from, any prison and while he is working, or is for any other reason, outside the prison in the custody of a prison officer.

Section - 32 - Confinement and Removal of Prisoners

A person who is committed to prison in accordance with law may be lawfully confined in any prison, subject to section 30 (2), and shall be committed to such prison as the Commissioner may direct.

(2) A prisoner may, where a medical officer certifies that he is fit for transfer, by direction of the Commissioner be removed during the term of his imprisonment from the prison in which he is confined to any other prison.

(3) A prisoner may be brought up for trial, and may be removed by or under the direction of the officer in charge of the prison in which he is confined from that prison to another, for the purpose of being tried.

(4) Where a prisoner is charged with an offence before any court which, if he were not detained in a prison, might issue a warrant for his apprehension, the court may, instead of a warrant, issue an order directed to the officer in charge of the prison requiring him to bring that prisoner before the court in accordance with the order.

(5) The Commissioner may if he is satisfied that the attendance at any place, other than a prison, of a prisoner is desirable in the interest of justice or for the purpose of any public inquiry, direct him to be taken to that place.

(6) The Director of Prisons shall, if he is satisfied that a prisoner requires medical or mental treatment of any description which cannot readily be obtained within the prison, direct him to be taken to an approved hospital or other suitable place for the purpose of the treatment.

Section - 33 - Release of Prisoners

A prisoner shall be released from prison at nine o'clock in the morning of the day on which he is due for release, or, where such day falls on a Sunday or public holiday, he shall be released on the preceding day.

Section - 38 - Visits to Prisoners

- (1) Every prisoner under sentence of imprisonment shall be entitled, once in every two weeks, to receive a visit from friends or relatives in the presence of a prison officer.
- (2) A prisoner under sentence of imprisonment may, in exceptional circumstances, be granted permission by the officer in charge of the prison to receive a visit from friends or relatives in addition to the visit to which he is entitled under subsection (1)
- (3) Every prisoner not under sentence of imprisonment shall be allowed all reasonable opportunities daily of receiving visits from friends or relatives.
- (4) Every prisoner shall be allowed all reasonable opportunities of receiving visits from his legal advisers.
- (5) If a prisoner who is seriously ill wishes to be visited by any friends or relatives, a medical officer may give an order in writing for the admission of such friends or relatives if he considers it advisable.
- (6) Subsections (1) and (3) shall not apply during any period within which a prisoner is undergoing solitary confinement for any offence against prison discipline; but save as aforesaid this section shall apply notwithstanding that a prisoner is undergoing punishment for any offence against prison discipline.

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Section - 41 - Education of Prisoner

(1) With a view to encouraging prisoners to lead useful and responsible lives after their release, the Director of Prisons shall, after consultation with such Government, welfare and other bodies as he may think fit, establish in every prison courses of training and instruction designed to teach simple trades, skills and crafts to prisoners who may benefit from such training.

(2) The Director of Prisons shall, after consultation with the Ghana Library Board, establish libraries in every prison.

(3) The Director of Prisons shall, after consultation with the Commissioner responsible for education, establish in every prison classes in which illiterate prisoners may learn to read and write, and classes where prisoners desirous of doing so may further their elementary education.

(4) The Director of Prisons shall permit any prisoner to read or study for his self-improvement at all reasonable times when he is not required to work; and for that purpose shall make available to the prisoner such books as are available and such writing materials as may be reasonably required.

(5) The Director of Prisons shall, so far as practicable, encourage and assist any prisoner who wishes to study for and sit any educational examination; and for this purpose the Director may consult the Commissioner responsible for education

(4) Where a prisoner is charged with an offence before any court which, if he were not detained in a prison, might issue a warrant for his apprehension, the court may, instead of a warrant, issue an order directed to the officer in charge of the prison requiring him to bring that prisoner before the court in accordance with the order.

(5) The Commissioner may if he is satisfied that the attendance at any place, other than a prison, of a prisoner is desirable in the interest of justice or for the purpose of any public inquiry, direct him to be taken to that place.

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