

Commonwealth in England Barristers Association

Ghana Internship 2019: Report

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In November 2019, I was lucky to be afforded the chance spend three weeks in Ghana and undertake an internship at the Supreme Court of Ghana, funded by the Commonwealth in England Barristers Association. The time I spent in Ghana was a fascinating, stimulating and thoroughly enjoyable experience, through which I was able to gain an insight into the day-to-day functioning of the Ghanaian judicial system. I also made use of this time to gain a further understanding of the work currently being carried out by both state and non-state actors to ensure the promotion and protection of the rights of women and girls in Ghana.

This report seeks to present a description of my activities whilst in Ghana, as well as a summary of my findings.



Figure 1: The Supreme Court of Ghana

The Supreme Court of Ghana

Throughout the internship, I was assigned to marshal Justice Nii Ashie Kotey of the Supreme Court. Previously the Dean of the Law Faculty of the University of Ghana and Acting Director of the Ghana School of Law, Justice Kotey was appointed to the Supreme Court in 2018 and currently serves as one of 14 Justices of the Supreme Court. The Supreme Court of Ghana has a very wide jurisdiction, being not only the final appellate body of the whole court system in the country, but also having original and exclusive jurisdiction in all matters relating to the enforcement or interpretation of the Constitution and all matters arising as to whether an enactment was made in excess of the powers conferred on Parliament or any other authority or person by law or under the Constitution. The Supreme Court also has a supervisory jurisdiction over all Courts in Ghana.



Figure 2: Memorial to the Martyrs of the Rule of Law in front of the Supreme Court of Ghana buildings.



Figure 3: With Justice Kotey

Through my time at the Supreme Court, I was able to observe a wide range of hearings. I was amazed by the number of matters that the Supreme Court hears on a daily basis; I had imagined that the Supreme Court would sit for several days hearing the same case, as does the Supreme Court of England and Wales. However, this was certainly not the case; the vast majority of the matters which I observed in court were administrative matters, including applications to vary, motions for appeals to be struck out and applications for adjournments. I was surprised that such matters were dealt with via oral hearing rather than via a paper application, and indeed I had to question whether this was a good use of time, both for counsel and for the judges. Justice Kotey explained to me that there is a strong tradition of oral advocacy in Ghana, and any suggestions of amending the system to increase the number of matters which could be dealt with on paper has been met with concern, as the vast majority of parties wish to “have their day in court” and see their case orally presented before the bench.

Justice Kotey expressed to me on multiple occasions a concern about the standard of legal education in Ghana and, in particular, the standard of oral advocacy which is seen before the Supreme Court; indeed, this is an issue which he has been vocal about in the national press.¹ I was struck by the wide range of advocacy styles which I saw in the Supreme Court; while it was clear that there were many advocates speaking before the Court who were very experienced and comfortable with speaking in such an arena, there were also some very junior advocates dealing with complicated matters who did not seem prepared to speak before the Supreme Court.

I was also struck by the way in which advocates and members of the public interact with the Court. In the Supreme Court in England and Wales, a very formal approach is adopted. However, in the Supreme Court of Ghana, while this is still clearly a very formal setting and everyone takes the proceedings very seriously, advocates and the public interact much more with the proceedings, commenting loudly on an



Figure 4: Entrance to the Supreme Court

advocate's presentation style, murmuring or even laughing when an advocate makes a mistake, laughing and chatting when one of the bench makes a joke. I found that this made the experience of being in court a lot more human and seemed to put the lay clients appearing in court at ease, as opposed to the extreme formalities which we see in the courts in England and Wales. This "interaction" with the court was even more noticeable on Tuesdays, which were the days on which the court would sit for the longest and hear the vast majority of the pending administrative hearings. I was particularly struck by the number of advocates who attended the Court for hearings. Even for simple matters, there were usually at least two lawyers present; as such, on Tuesdays, it would seem that the entire court room was filled with wigs² - even to the point that lay clients and their family members would be forced to stand at the back of the courtroom due to lack of space!

¹ <https://www.ghanaweb.com/GhanaHomePage/NewsArchive/Ghana-may-end-up-with-empty-Lawyers-Kotey-679021>; <https://www.ghananewsagency.org/politics/professor-ashie-kotey-raises-concern-on-legal-education-137587>

² On the first Tuesday of my internship, I was able to quickly count 40 lawyers present in court at the start of the day; even more subsequently arrived when the bench were sitting.

During my internship, I was asked to write an opinion on a case which the judge would hear in the upcoming weeks. The case was a complex land dispute which had been going on for around 15 years previously. The claimants in the case alleged that the defendants were unlawfully occupying their ancestral lands and that their claim to the land dated back to before the introduction of land registration in Ghana. While originally successful before the High Court, the decision in favour of the claimants was overturned by the Court of Appeal, who found in favour of the defendant. However, prior to the hearing in the High Court, the claimants demolished two valuable properties which had been constructed on the land in question. While the High Court awarded special damages to the defendants for the destruction of these properties, the Court of Appeal overturned this award, stating that the defendants had reacted slowly in this case and as such could not claim special damages.³ The claimants appealed to the Supreme Court, seeking that the Court overturn the judgment of the Court of Appeal and find in their favour. The defendants counter-appealed, arguing that they should be awarded special damages in relation to the destruction of the properties. It took me a long time to get to grips with this complex case and be able to write a coherent summary and opinion on the matter, given the length of time that this case has been going on, the in-depth nature of the facts and the amount of expert evidence which had been presented.⁴ Justice Kotey explained to me that, as the Supreme Court of Ghana does not currently have a system of Judicial Assistants (while a scheme was piloted in connection with a university in the USA, this was not continued) judges are expected to read, digest and where necessary, research every case by themselves; an incredibly time consuming task, given the sheer volume of cases which come before the Court. It seems that it would be very useful for the Court to put such a scheme in place, allowing not only judges to have assistance with the preparation of cases, but also allowing students to gain exposure to the courts.



Figure 5: The Supreme Court of Ghana, decorated for the carol concert

As an intern at the Supreme Court, I was honoured to be invited to attend the first annual Supreme Court carol concert, which was attended by the President of Ghana Nana Akufo-Addo, and the Chief Justice Sophie Akuffo.

³ Please note that this is a highly simplified summary of this case and there were multiple factors at play which influenced the Court of Appeal's decision to deny special damages, including allegations of fraud on behalf of the defendants.

⁴ Numerous reports had been presented over the years from the land registry, surveyors, building experts etc.

Circuit Court

The Circuit Court has jurisdiction over a wide range of civil claims⁵ and all criminal matters other than treason or offences punishable by death.⁶ I was very grateful to be able to spend some time at the Circuit Court, observing various cases being heard, and I was struck by the contrasts between this court and the Supreme Court, not only in terms of the advocacy styles and the presentation of cases, but even down to the decoration and presentation of the court rooms and the difference in resources available to those working in the two different courts.



Figure 6: Circuit Court of Accra

On one of the days I spend at the Circuit Court, I was able to observe a defendant giving his evidence and subsequently being cross examined by a police prosecutor. The defendant had been accused of fraudulently importing cars from Togo and would be facing a custodial sentence if found guilty. When the defendant was called to the stand, he stated that he wished to give his evidence in Twi; however, all the court documents had to be recorded in English. It was therefore necessary to secure an interpreter (even though it was clear that the judge, all the court staff and the lawyers also spoke Twi). The judge then asked the court usher to interpret; but continually corrected her translations as she “wasn’t doing a good job of translating what the defendant said”. I was amazed that all the court proceedings had to take place in English, as it is evident that the levels of spoken English among the vast majority of lay people are quite low; however, if this is the case, the court should ensure that there are trained translators on hand to be able to translate effectively what is being said by defendants to ensure that they are able to present their case. If efficient translation is not in place, then this has a significant impact on the ability of defendants to access justice.

I was also honoured to be able to spend an afternoon marshalling Justice Eva Bannerman-Williams of the Circuit Court as she heard several matters in her chambers. Her usher explained to me that she hears a mixture of family cases and criminal cases. While sitting with the judge, I

⁵ For more information, see <http://www.judicial.gov.gh/index.php/the-circuit-court>

⁶ These issues are heard directly by the High Court.

was able to listen to her judgements in two cases; firstly, in relation to an application for divorce and secondly in relation to a criminal matter involving an allegation of dangerous driving.

Circuit Court Registry

While at the Circuit Court, I was able to spend an afternoon in the Registry and learn about the assignment of cases. In contrast to cases in England and Wales, all cases are registered by hand, and citizens wishing to file a case must attend the court reception and file handwritten statements. These documents are then collected by an official working within the court registry, who records this process in a notebook. I was struck by the number of citizens who were filing cases without legal assistance; indeed, spending a short time watching people attempting to file cases, it became clear to me that this is a process which is far too complicated for the general public to understand, and there were very few attendants available to help litigants in person effectively navigate the system.

Corruption within the court system seems to be a real concern, with posters calling on court staff not to accept bribes placed all around the court building. I was particularly interested in the systems which the Circuit Court Registry have put in place to tackle corruption within the allocation of cases. The officials working in the registry explained to me that they have recently introduced a computer system for assigning cases to specific judges. Previously, there were concerns that court officials could be bribed to ensure that certain cases would be put before favourable judges; now, with this new computer system, this is not possible, as cases are assigned at random. The reaction to these measures has been very positive and court officials explained to me that they are hoping to increase the use of technology within the allocation system over the next few years.

Domestic Violence and Victim Support Unit (DOVVSU)

I was also able to spend a morning with members of the Domestic Violence and Victim Support Unit (DOVVSU). This is a unit of the police which deals with instance of gender-based and intimate partner violence, as well as sexual crimes. The unit was established in 1998 and aims to provide victims with a safe space within which they can report the violence they have endured. To this end, DOVVSU officers wear plain clothes, as opposed to uniforms, in an attempt to make complainants more relaxed. The DOVVSU offices in the centre of Accra have also been specifically designed to provide a safe space for reporting and have onsite counselling rooms and a small playroom and creche for child victims. I was also informed that, in the Circuit Court, there are now specific court rooms where cases of violence against children are heard. These court rooms are laid out in a manner which is designed to seem less intimidating to child witnesses, have an adjoining playroom attached to them where child victims can wait with their families, and proceedings within this court are not open to the public.⁷



Figure 7: Ghana Police Service: DOVVSU Head Office



Figure 8: Child-friendly waiting room in DOVVSU Head Office

The superintendent who showed me the facilities explained to me that trained DOVVSU officers are present in police stations all over Ghana, and there is a specific DOVVSU desk in almost every police station across the country. Under section 1 of Ghana's Domestic Violence Act 2007, the term "domestic violence" is construed broadly, including not only physical violence, but also sexual violence, economic abuse, emotional, verbal or psychological

⁷ I was subsequently able to see this court room and interview the court usher; however, I was of course not able to observe any hearings.

abuse, harassment and any other behaviour which harms or many harm another person, endangers the safety, health or wellbeing of another person, undermines another person's privacy, integrity or security or detracts from another person's dignity.⁸ To this end, officers receive a broad training and are expected to deal with a great variety of cases, ranging from sexual crimes through to child abuse matters. These cases are recorded and processed by police prosecutors, who prosecute almost all crimes in Ghana.



Figure 9: DOVVSU Poster

While DOVVSU is a police unit, due to the nature of the work that they carry out, the officers often work in close contact with local non-profit organisations and state bodies. In particular, the superintendent also explained that the vast majority of the women who come to DOVVSU to report that they have suffered abuse also state that they have not been receiving any financial assistance from their partners to allow them to maintain any children from the relationship; to this end, DOVVSU often works together with the social welfare office to assist these women. DOVVSU officers also work in coordination with the legal aid board in Accra, particularly in cases where women report having suffered economic abuse or have been prevented from accessing their property by an abusive partner.

The superintendent who I spoke to explained to me that the numbers of women and girls who report sexual- and gender-based violence in Ghana are still very low, despite the efforts of DOVVSU. To this end, they are currently conducting outreach activities in schools, churches and marketplaces, to raise awareness about the facilities and to encourage women who suffer gender-based violence to come forward and report this. They also told me that they are receiving a very high number of child abuses cases; while this may be evidence that child abuse cases are rising in Ghana, it could also indicate that, in relation to these specific matters at least, their outreach campaign is proving successful.

⁸ For further reference, see Domestic Violence Act, 2007 (Act 732) Section 1, available at [https://evaw-global-database.unwomen.org/-/media/files/un%20women/vaw/full%20text/africa/ghana%20-%20domestic%20violence%20act%20\(2007\).pdf?vs=3212](https://evaw-global-database.unwomen.org/-/media/files/un%20women/vaw/full%20text/africa/ghana%20-%20domestic%20violence%20act%20(2007).pdf?vs=3212)

Women in Law and Development in Africa (WILDAF)

WILDAF is a Pan Africa women's rights network which aims to promote and reinforce strategies that link law and development in order to increase women's participation and influence at local, national and international levels.

WILDAF is active in a number of countries across Africa and, during my time in Accra, I was fortunate to be able to spend some time with Gabriel Awoody, Project Officer of WILDAF Ghana's Women's Access to Justice Project.



In Ghana, WILDAF concentrate their efforts on four major projects: Access to Justice, Participation in Governance, Agricultural Rights and Reproductive Rights. The bulk of their current work is focused on their work promoting access to justice.

Through the Access to Justice Project, WILDAF works mainly with women in rural areas, as they have identified that these women face significant barriers when attempting to access justice in Ghana due to the fact that they are physically far away from the courts. To counter this, WILDAF runs projects to mobilize communities through the training of Legal Literacy Volunteers (LLVs) and seeks to build their agency through training on issues which may affect members of the community, including the laws on marriage, divorce, child protection and land disputes. WILDAF also place a significant emphasis on gender issues, encouraging LLV's to gain an understanding of gender and human rights, and empowering them with the skills to be able to offer information and counseling to victims of gender based violence, help victims to preserve evidence following instances of sexual- or gender-based violence, and support victims through referrals to state and non-state agencies.

I was also particularly interested in the "Court Watch" activity which WILDAF have been carrying out as part of their Access to Justice project. As a leading member of the coalition of organisations which advocated for the introduction of the Domestic Violence Act, WILDAF has been tracking the practical implementation of this legislation by attending court proceedings in the Circuit Court and watching to see whether judges and prosecutors were using this legislation effectively. Observations from this activity were compiled into a report, which was subsequently presented to the Chief Justice for her consideration, along with recommendations. While I was

interested to hear whether WILDAF thought that the Domestic Violence Act was being used effectively in practice (the overall conclusion being that it is not), I feel that it would be useful for local organisations to make use of this information and perhaps consider offering training sessions to advocates on the Domestic Violence Act, or, working in conjunction with the court, extend this training to also include judges to ensure that this legislation is effective in practice.

Gabriel also informed me about the work that they are doing to promote reproductive rights in Ghana; in particular, the work that they have been doing through outreach programmes in schools and colleges to train young people about sexual health. However, he told me that this project has faced significant barriers, as they have received significant resistance from anti-rights organisations in Ghana who have attempted to stop WILDAF from offering sexual health information to young people.

Legal Aid Scheme

My day at Accra's busy Legal Aid Scheme was fascinating and was undoubtedly a highlight of my time in Ghana.

When I arrived at the Legal Aid Board, the corridor was already filled with clients waiting either to see a solicitor or one of the in-house mediators. During the morning, I was able to spend some time observing the work of one of the in-house mediators. She dealt with two cases, both involving couples who stated that they wished to get divorced; in both cases, the wife alleged that her husband had behaved in such a way which they could not reasonably be expected to live with them anymore.⁹ While the mediator did an effective job of encouraging the couple to speak together and try to find a solution to their problems, this process was significantly hindered by the fact that, due to lack of space in the offices, the mediation was taking place in a waiting room, where other people who were waiting for the lawyers to attend them could freely hear everything being discussed. Unsurprisingly, both processes ended without agreement and the couples agreed to proceed to the next stage in the divorce proceedings.

I was also asked to take statements from two clients and complete the initial draft of their evidence for presentation before the circuit court. In both cases, the women had been referred to the Legal Aid Board following non-payment of maintenance payments by their former

⁹ Under the Matrimonial Causes Act 1971 (Act 367), the petitioner for the divorce must be able to provide evidence to the effect that the marriage has broken down beyond reconciliation. In both of the cases I observed, unreasonable behavior was being alleged, under s.2(1)(a) of the Act, available at <https://www.refworld.org/docid/548edc3d17.html>

partners. The first woman was seeking maintenance payments from her former partner in relation to her young son. As she had not received any payments during the previous year, she had been unable to pay for childcare and she had been forced to move back in with her parents, so that she would have assistance caring for her son. She was concerned that her son would soon be starting school and she would be unable to afford the fees and uniform. After taking her proof of evidence, I drafted a statement of claim which would be presented before the Circuit Court by one of the lawyers from the Board. I also took a statement and drafted a statement of claim for another client, who stated that she had been in an abusive relationship and was afraid to approach her former partner to demand the payment of maintenance. She told me that she had suffered physical and sexual violence at the hands of her former partner, and she was afraid that, if he knew where she is, he would inflict further harm on her, or harm her two young daughters. The client was not able to work, as she suffers a physical disability which hinders her ability to walk, and heavily relies on the money that her partner provides in order to support her two daughters. After speaking to this client, I was able to discuss this case with one of the lawyers working at the Board, who told me that they deal with a high number of cases of women who have suffered violence at the hands of their partners; many of whom have reported this violence of DOVVSU and are subsequently referred to the Social Welfare office and the Legal Aid Board for assistance with maintenance issues and land disputes.

Commonwealth Human Rights Initiative

I was also able to spend a morning with members of the team from the Ghana office of the Commonwealth Human Rights Initiative (CHRI). This is an independent, non-profit, non-partisan international NGO working on human rights issues. While the head office of the organisation is in India, CHRI has a regional office based in Accra, from which they coordinate the efforts of the organisation across Africa.



CHRI focuses on three main areas of work: access to justice, access to information and strategic initiative planning. I was especially interested in their work promoting access to justice, as this is related to police and prison reforms. One of the lawyers explained to me that the police in Ghana are generally viewed by the general public in a negative manner; citizens see the police

more as a force of oppression than a body which should assist in protecting their rights; as such, people are reluctant to report crimes. CHRI are currently undertaking outreach activities with the aim of changing these perceptions and increasing public confidence in the police. CHRI have also identified that citizens have little understanding of their civil rights, particularly their right to have access to a lawyer in the case that they are arrested. Again, CHRI are undertaking public sensitization activities to ensure that citizens have knowledge of their rights, and they have recently published several leaflets laying out key human rights provisions in an accessible manner for distribution in schools. At the same time, CHRI have also established a paralegal programme, whereby they train young lawyers to be able to offer legal assistance at the police station to citizens who have been arrested.

One of the lawyers also explained to me that, while the situation is improving slowly, they still hear reports of instances of abuses of power by the police, particularly against those in pre-trial detention. CHRI have been advocating for the establishment of an independent police complaints body to ensure the accountability of the police and to encourage citizens to report instances of police abuse.

Conclusions and Thanks

I would like to thank CEBA for providing me with this unique chance to gain an insight into a different legal system; I gained so much from this experience both professionally and personally. I would especially like to thank Michel Aslangul for his invaluable assistance in planning my time in Accra (and for answering my many emails!), and HHJ Barbara Mensah, for her incredible generosity and constant assistance and support. Particular thanks also go to Rega Amegatcher, who was an invaluable source of guidance as I sought out placements and arranged meeting with local organisations. Without your help, I would not have been able to gain such a broad view of the amazing work being done in Accra to promote human rights and the rule of law; thank you. I am also grateful for the help and assistance of previous bursary winner Tessa Buchanan; your kind email and words of wisdom helped to still any last-minute nerves before I set off to Accra.

Special thanks also go to all the wonderful people who I met through my work at the Court. Justice Kotey, thank you very much for allowing me the opportunity to work alongside you and learn about the Supreme Court of Ghana. Rita and Daniel, thank you for brightening up my mornings, telling me where I should be at what time, and teaching me some Twi (or at least

attempting to!). At the Circuit Court, I cannot send enough thanks to Hubert, who, finding me wandering around looking lost in my first week at the court, taught me all about the Circuit Court. I am very grateful to you. I also send thanks to Richard, Comfort and Helena of the Circuit Court Registry, and all the ushers in the Circuit Court (particularly the ushers in Court 6) for welcoming me so warmly; following all your advice, I observed some really interesting cases and learnt so much.

My time in Ghana was made particularly wonderful thanks to the warm welcome that I received in Accra. Particular thanks must go to “Grandma” Victoria and Odette, for all your kindness and hospitality. From the moment I walked into the house, I felt truly welcomed, thank you so much for allowing me to stay, for taking such wonderful care of me and for all the delicious food I got to try. Thanks also go to Ben, for helping me navigate life in Accra and generally solving any problems in a flash, and particularly Collins, for driving me everywhere and being the best possible tour guide and photographer. I am very grateful to you all for making my time in Ghana an experience I will never forget.



Figure 10: Standing outside the Supreme Court