

# GIMPA LAW & ETHICS POLICY PAPER

## COVID-19 AND NEW CRIME TRENDS

### Executive Summary

On Wednesday 20th May 2020, Dr. Isidore Kwadwo Tufuor, Lecturer and Head of the Private Law Department at the GIMPA Faculty of Law, delivered via Zoom, the third edition of the GIMPA Law and Ethics Web Series on the theme: 'COVID-19 and New Crime Trends'. This session was moderated by Mrs. Maame Yaa Akyiaa Barnes, a Law Lecturer at the Law Department of Lancaster University Ghana.

Ghana like many other countries has responded to COVID-19 by introducing measures such as self-isolation, quarantine, social distancing and a partial lockdown, which has caused a steady decline in violent crimes that occur in the public space. However, there has been a corresponding rise in crimes of a domestic nature, fraud and cyber-crimes, which may be easy to understand from a criminology perspective.

That notwithstanding, the obligation of States to protect their citizens during public health emergencies such as the present Coronavirus pandemic, has meant that many States, including Ghana, have invariably and as a matter of urgency interfered with the civil and political rights of their citizens and other nationals within their territorial jurisdiction. To add to this, there has been the criminalization of certain acts, to serve as a means of ensuring compliance with the measures aimed at halting the spread of COVID-19 in Ghana.

The punishment for these crimes is however not commensurate to the offences, since necessity may lead to infraction of such laws. It is therefore suggested that for the Criminal Law to serve its purpose under our current circumstances, it should be backed by socio-economic interventions i.e. the provision of basic amenities, to aid compliance.

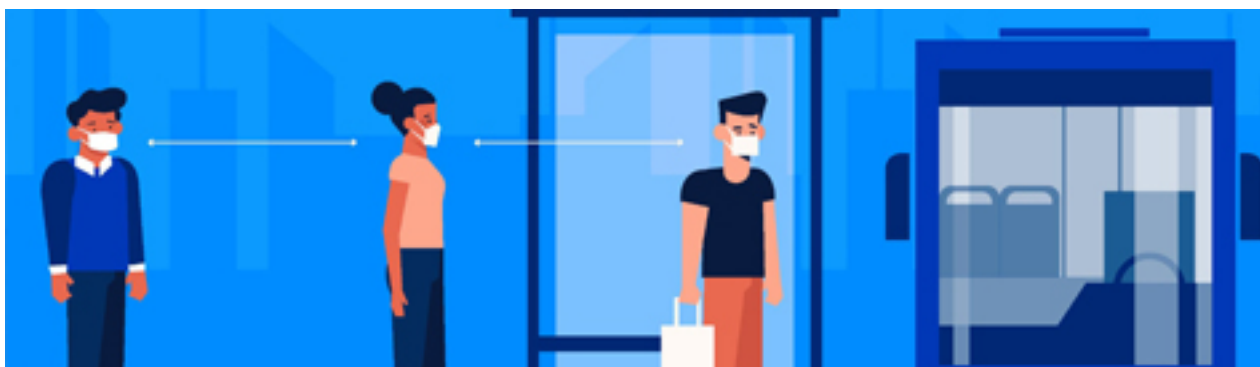
The COVID-19 era is also an opportune time to consider alternatives to custodial sentences such as community service and probation service. The threat of Bio-Terrorism as well as cyber-crimes also mean that the Criminal Justice System has to adapt to these new trends of criminality by being aware, better resourced and prepared to combat such crimes.



## I. Introduction

The harsh realities and impact of the Coronavirus pandemic on the socio-economic life of the global population, has resulted in States undertaking preventive and mitigating measures such as self-isolation, quarantine, social distancing, and a high use of technology. These measures have simultaneously reduced opportunities for traditional crimes to take place. Overall, violence has decreased steadily: specifically, violent crimes occurring in the public space have significantly reduced, but not without a corresponding rise in crimes of a domestic nature, fraud and cyber-crimes. The Coronavirus pandemic has also shown the interconnected nature of the world, with the fast-growing nature and transfer of the virus across the globe. Bio-terrorism for instance, where individuals who are carriers of the virus can weaponize it to cause harm, is a new crime trend to watch out for. The Criminal Justice System must be ready to deal effectively with these and

other facets of criminality in the COVID-19 era. This policy paper recommends that the imposition of restrictions and/or the criminalisation of certain acts by the State, to fight the pandemic, should be complemented by the State also undertaking socio-economic interventions. This will ensure that the people's right to the basic necessities of life are met, and also serve as a means of ensuring compliance with laws such as the Imposition of Restrictions Act, 2020 (Act 1012) and the Executive Instruments issued thereunder; although the punishment for infraction is unreasonable. COVID-19 also presents an opportunity for the Government of Ghana to adopt alternative sentencing regimes for certain misdemeanours and other petty offences. Thus, law enforcement agencies need to be proactive, rather than reactionary in these times; and this will require a deeper appreciation of the new dynamics of criminality ushered in by the pandemic.



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## II. Responses to COVID-19 & New Crime Trends

The responses of the Government of Ghana in the wake of COVID-19 have included the following:

- The enactment of the Impositions of Restrictions Act, 2020 (Act 1012) as well as subsequent Executive Instruments issued thereunder, which makes failure to comply with the restrictions imposed by the State an offence;
- The restrictions are deemed to be reasonably required in the interest of public health and safety, such as the restrictions on movement previously imposed in some parts of Ghana, the closure of all schools and places of worship, as well as the ban on all public gatherings;
- The State has therefore interfered with fundamental human rights of the people in a bid to maintain a delicate balance between protecting these rights on one hand, and securing the health and safety of the people during the pandemic, on the other hand.

The new crime trends that have emerged and the potential for the proliferation of other unconventional crimes include:

- Domestic violence: which has been occasioned by the confinement of abusers with their victims (due to lockdown etc.), thereby increasing the rate of abuse in these times;
- Cyber and technology related crimes: occasioned as a result of the increased use of and reliance on technology. There is therefore an upsurge of cyber-crimes, including Mobile Money (MoMo) fraud and other technology-based crimes;
- Fraud: the manufacture and sale of counterfeit medical items including substandard protective masks, so-called corona “sprays”, corona medicines and substandard hand sanitizers etc.; and
- Bio-Terrorism: the potential for one individual who is the carrier of the disease to become a human weapon, entering any country and infecting a number of persons.

## III. Challenges

- The punishment imposed by section 6 of Act 1012 (i.e. a fine of at least GHS 12,000 and maximum GHS 60,000, or a term of imprisonment - minimum 4 years and maximum 10 years, or to both the fine and imprisonment) for failure to comply with the restrictions stated therein, is totally disproportional to the offences;
- Most of the perpetrators of crimes in violation of Act 1012 do so as a result of an economic need and for self-preservation and survival purposes;
- The enforcement of Act 1012 is problematic due to the fact that the prisons are already choked, and there is the risk of exposure of investigative and law enforcement officials to the virus whilst carrying out their duties in the midst of the pandemic;
- Lack of disaggregated data on some vulnerable groups (migrants, women and children) means there is no information on the impact of COVID-19 on them and the measures taken to support them;
- Cyber-crime and technology-related crimes are generally difficult to combat due to, *inter alia*, jurisdictional issues relating to cyberspace;
- The Ghanaian populace is generally not well-versed with keeping information safe on the internet, and regularly discard and/or disregard security information;
- Our security agencies and law enforcement bodies are equally not adequately trained and are under-resourced in fighting cyber-crime;
- Poor sensitization of the Ghanaian populace on criminal legislation, and correspondent punishments i.e. publishing notices of laws in the Gazette alone is meaningless to the vast majority of the populace;
- The Domestic Violence Act is too lenient and perhaps not adequate to deal with the rise in domestic violence incidents in this COVID-19 era; and
- Charlatanic advertisements are on the rise, including, but not limited to, the commercialization of spiritual services through various media.



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## IV. Policy Recommendations

- Legislators and the Executive need to review the Ghana Legal System generally, and the Criminal Justice System in particular, to provide adequate responses to the new crime trends and be proactive in terms of the potential crimes on the horizon;
- The punishment regime for Act 1012 should be reconsidered. In a bid to curtail the pandemic, the government ought to ensure that the rights of citizens are not unnecessarily trampled upon;
- The solution to cyber-crime does not necessarily lie in its criminalisation alone, but rather finding measures to curtail it. This requires international co-operation (at the global, regional and sub-regional levels) to change the dynamics of policing cyber-crimes;
- Investigative agencies need to be properly trained in cyber-crime. There should be public education and sensitization of the Ghanaian populace on cyber security and data protection issues on a regular basis;
- State Institutions such as the National Communications Authority (NCA), Food and Drugs Authority (FDA) and the Ghana Standards Authority (GSA) should be proactive in preventing crimes and be accountable in creating a secure space for citizens in the COVID-19 era;
- Government should consider non-custodial sentences such as community service and probation service as an alternative to custodial sentences for regulatory offences generally; and
- There should be a public policy discussion on the commercialization of spiritual services in the COVID-19 era and beyond. This is a very critical area that needs to be checked due to the potential for exploitation of people's vulnerability. It is therefore time to have a framework for the regulation of spiritual services offered for sale.



## V. Conclusion

The impact of COVID-19 on the global population has meant that there is a migration from one model of life to another – what has been termed ‘*a new normal*’. It is apparent that some of the measures taken by governments have come to stay, hence the need to seriously think about how to effectively regulate this new normal in a humane way as much as possible.

Criminal trends have been impacted in Ghana, with a trade-off between ‘familiar’ crime trends and ‘unfamiliar’ ones, exacerbated by the fact there is little or no regulation in relation to the latter. Post COVID-19 Ghana and the world in general will never be the same. The challenge for every State therefore is to adapt to these trends, and not relent on the responsibilities it owes its citizens, in protecting their fundamental human rights and freedoms.

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