



Criminal records and post-prison employment in Ghana: Formal and informal means of performing criminal background checks

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Abstract

This article contributes to the discussion on criminal record-keeping and post-prison employment from the perspective of a developing country. We present and discuss the results of a qualitative research based on interviews with 13 employers in Ghana about the use of criminal background checks in the hiring process. Data suggest a perceived lack of trust towards formerly incarcerated individuals primarily rooted in traditional cultural and moral values. Participants perceived that being associated with people with a criminal record is largely disapproved at the societal level. As a result, formerly incarcerated individuals are discriminated against in the employment setting. We also found that community dynamics and relations manage to overcome the lack of accuracy and reliability of state-provided criminal history information. Due to the absence of reliable access to criminal records through official channels, employers resort to informal means relying

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on community ties to get access to information about the past and character of job applicants. We conclude by discussing the implications of our findings for research, policy and practice.

Keywords

Criminal background checks, criminal records, employment discrimination, prisoner re-entry, qualitative research

Introduction

The widespread use of criminal background checks by employers to screen job applicants and the subsequent discrimination in the employment setting among formerly incarcerated individuals have raised, especially over the past two decades, scholarly concerns in the Global North (Myrick, 2013; Rovira, 2022; Selbin et al., 2018; Stoll and Bushway, 2008; Uggen et al., 2014). Through an experimental field study, Pager (2003: 690) demonstrated that ‘mere contact with the criminal justice system . . . severely limits subsequent employment opportunities’ for individuals with a criminal record. Background checks have now become a routine process in most Western jurisdictions, oftentimes even explicitly endorsed at the legislative level (Harris and Keller, 2005; Rovira, 2022). In contrast, literature in African countries has thus far remained for the most part silent on the effects of criminal background checks on hiring decisions. However, some evidence exists suggesting that formerly incarcerated people, in particular, are discriminated against in securing legal employment due to their status (Baffour et al., 2021; Dako-Gyeke and Baffour, 2016; Mujuzi and Tswelodi, 2014; Wiafe, 2021).

Mujuzi (2014) indicated that some constitutional provisions in South Africa impose limitations on individuals with criminal records to hold positions in the security sector or become financial advisors and disqualify those with traffic offence records from applying for or renewing their professional driver’s licence. In Mauritius, rules have been adopted that mandate the termination of employees’ contracts if their criminal record is revealed (Mujuzi, 2015). In Ghana, the Constitution states that a person shall not be eligible to hold positions of trust, such as a member of parliament if they have been incarcerated for ‘. . . fraud, dishonesty or moral turpitude . . .’ (Government of Ghana, 1993: 40). Moreover, the above-mentioned legal provisions (particularly the case of Ghana) seem to be over-inclusive since any act that results in a conviction could be interpreted as dishonesty and provide grounds for employers to discriminate against individuals with criminal records. Furthermore, unlike Mauritius, Ghana does not have designated legislation on collateral consequences and how people with a criminal history should be re-integrated into the job market. To this end, the decision to employ formerly incarcerated people is at the discretion of employers, which can be unfairly used.

This article focuses on this emergent non-criminal justice use of criminal records in a previously unexplored setting in the Global South: the West African country of Ghana. First, a description is provided of the issues relating to criminal record-keeping in Ghana by governmental institutions. Next, the methods for exploring the use of criminal background checks on hiring decisions in this under-researched jurisdiction are outlined,

namely qualitative interviews with employers. The empirical findings bring new perspectives that enhance and broaden the knowledge on criminal background checks and employment discrimination by shedding lights on the practices in a previously understudied context. In particular, in the Ghanaian setting, the lack of reliable access to state-provided criminal record information opens the door to informal means of performing criminal background checks revealing important practical, cultural and policy differences.

Criminal record-keeping in Ghana: The limitations of the bureaucratic state

In Ghana, criminal records are managed by the Criminal Data Service Bureau (CDSB) of the Ghana Police Service (GPS). The CDSB collects and manages the records of individuals who have come into contact with the criminal justice system. The Bureau is tasked with collecting the fingerprints and background information of suspects in police stations scattered across the country for criminal justice purposes and compiling criminal statistics (GPS, 2017). The CDSB discloses information about convictions in criminal background checks, but conceals information on arrests of mere suspects as well as prison sentences that have ended 10 years or more ago. The Bureau also expunges data on individuals whose records were taken but later not found guilty by the court. Other duties of the Bureau are to conduct, for a fee, police check of criminal histories for employers and individuals seeking to emigrate or immigrate. There is not any other way in which individuals can get access to this information than through the CDSB.

Since Ghana achieved independence in 1957, the management of government records, including criminal records, has been problematic. The overreliance on paper-based record-keeping, which dates back to colonial times, became obsolete over time, while limited funding, inadequate training and lack of modern equipment, as well as storage problems, created a high volume of inactive records as well as a growing number of active ones (Akotia, 1993). Even though most government institutions have recently improved by moving to digital storage, Adu and Ngulube (2017) suggested that the knowledge, skills and financial resources directed to sustain and maintain efficiency in state bureaucratic operations are still limited, thus posing a continuous threat to comprehensive, accurate and reliable record-keeping. Adjorlolo and Chan (2019) observed that in most prisons in Ghana, records about inmates are non-existent, which creates problems of ineffective risk assessment and design of programmes to meet the treatment needs of incarcerated individuals.

Similar challenges associated with criminal record-keeping have been documented in other African countries, such as Nigeria, where difficulties faced by authorities in criminal investigations and, more broadly, in criminal justice administration are partly attributed to problems in storing and accessing judicial and police records (Ladapo, 2011). Likewise, in Zimbabwe, the criminal justice system, and the court system, in particular, lacks professional record management which has implications for fair trials and due process (Dewah and Mutula, 2016). It can therefore be assumed that in most African countries criminal record-keeping is fairly unorganised, not guided by a structured policy, and not fully developed. The lack of adequate resources and expertise and, more

generally, the deficiencies of state bureaucracy ultimately affect not only the government's task of official record-keeping, but also the availability to third parties of accurate and up-to-date criminal history information to be released via formal background check mechanisms (Adu and Ngulube, 2017; Akotia, 1993; Dewah and Mutula, 2016; Ladapo, 2011). The aforementioned problems in record-keeping contrast with continental European jurisdictions that have historically strong and comprehensive bureaucratic systems, including in the criminal justice field (Corda, 2016).

Furthermore, in Ghana – unlike what happens in most Western countries stipulating conditions for expungement of criminal records (e.g. Herzog-Evans, 2011) – expungement has limited applicability and is regulated by unclear procedures. In its standard meaning of removing a certain event from a person's criminal history record, it only applies to juvenile offenders within a very limited scope (see s.37, Juvenile Justice Act, 2003 [Act 653]). In the Southwestern African region, little to no scholarly literature has been produced to date on the topic of collateral consequences of criminal records and the impact of background checks on the employment of formerly incarcerated individuals. The few studies on collateral consequences and criminal record-keeping that are present are conducted in countries in the South-eastern coast of Africa, such as Zambia, South Africa and Mauritius (Dewah and Mutula, 2016; Mugume, 2017; Mujuzi, 2014, 2015; Mujuzi and Tsweledi, 2014; van Zyl Smit, 2003). In Ghana, a few recent studies have reported the endemic stigmatisation by 'law-abiding citizens' against formerly incarcerated individuals and the challenges in their securing legal employment after release (Baffour, 2021; Baffour et al., 2021; Dako-Gyeke and Baffour, 2016; Schneider and Weber, 2020; Wiafe, 2021). No attention has been thus far paid to the dynamics of criminal background checks in hiring decisions.

Against this background, we developed the first study in the Ghanaian context directed towards understanding the motivations of employers for requesting a criminal record certificate. Furthermore, we explored the way in which these motivations, in light of the structural unreliability of state-provided criminal record checks, shape the efforts to obtain criminal history information via alternative ways.

Methodology

In order to research the motivations and strategies to conduct criminal background checks in Ghana, we conducted in-depth interviews with 13 employers. We employed a purposeful sampling technique to recruit research subjects who own businesses or were in the position to make hiring decisions in three different communities in Ghana where prison facilities are located. These communities (Nsawam, Kumasi and Ankaful) were selected because they house the country's most populous and high-security prisons, and it was believed businesses in such locations might have a keen understanding and interest in criminal background checks partly due to their exposure to a comparatively larger number of formerly incarcerated individuals looking for a job upon release from prison. Participation in the study was limited to sole traders and employers in mid- to large-scale organisations, individuals who had lived in the community for 5 years or more, and were at least 18 years of age. After the researcher conducted nine interviews, the topics covered in the next four were largely repetitive of information already collected, thus

reaching saturation. The age range of the participants was between 29 and 80 years, and they had lived in their communities for at least 7 years. Only 7 out of 13 participants had experience with conducting a formal criminal background check through the GPS.

In-depth semi-structured interviews were conducted with the participants as this research method allows for flexibility to gather the data necessary to capture the motivations, strategies and experiences of employers on recruiting people with a criminal background (Kallio et al., 2016; Rabionet, 2011). We asked the participants (1) what kind of criminal background information they try to gather in the process of making hiring decisions, (2) whether they have specifically made use of criminal record checks in recruitment processes in the past and (3) what their attitudes are towards hiring ex-offenders. Interviews with each participant lasted between 1 hour and 1 hour and 35 minutes and were held at a location and in a language of the participant's preference. All 13 interviews were audio-recorded after the participants' consent had been given.

The familiarity of the first author, originally from Ghana, with the culture and language, allowed him to be introduced to local leaders who served as gatekeepers to the communities. Initially, this posed a limitation to the collection of information-rich data as the participants perceived the researcher already had answers to the questions they were being asked and made statements such as, 'You know this already, you know what I am talking about, and you are a Ghanaian and what I am saying is not new to you'. This limitation was overcome by further exploring their initial responses, which allowed them to complete unfinished statements and shed light on their assertions (Baffour et al., 2022).

The interviews, conducted in the Asante Twi language, were transcribed into English by the first author. Later, a professional translator also checked the consistency with the original data. After the transcription, all members of the research team familiarised themselves with the field data through repeated reading of the transcripts. The collected data were then analysed using a thematic data analysis approach. Following Braun and Clarke's (2006) thematic analysis, first initial codes were generated from the transcribed data, which were, second, assigned and grouped under potential themes and reviewed by the team to ensure consistency with the original data, after which a thematic map was generated. By this iterative process, three overarching themes were identified: (1) attitudes towards hiring ex-offenders and motivations for conducting criminal background checks, (2) access to criminal record information and concern about their reliability and (3) formal and informal means of performing criminal background checks. Results under each of the above-mentioned thematic headings are presented in the next section. Pseudonyms are used for protecting participants' privacy. The participants' pseudonyms, the size of their businesses and their familiarity with conducting criminal background checks are shown in Table 1.

Results

The six participants who were working in mid-to-large-size organisations (two with a multinational company, two in the banking sector and two within government organisations) indicated that it was a requirement to conduct a criminal background check on a person before offering them a job. An administrator of a patrol station was the

Table 1. Participant characteristics.

13 Participants		Pseudonyms
Small-sized business (less than 100 employees)	7 people	Maame Afi Mr Kwadwo Mr Sarkodie
Mid to large businesses (over 100 employees)	6 people	Mr Anan Maame Kramo Nana
Ever requested CBC	7 people	Mr Kusi Maame Eto
Never requested CBC	6 people	Sir Alfred Maame Akua Honourable Fiifi
Never employed people with CR	13 people	Teacher Ofori Mr Kwao

CBC: criminal background check; CR: criminal record.

only participant among the small-size businesses who had ever conducted a criminal background check of potential employees. The remaining six, who were sole traders (two restaurant operators, one beauty shop operator, two supermarket owners and owner of a guest house), had heard of criminal background checks but had never relied on them for recruitment purposes.

Attitudes towards hiring ex-offenders and motivations for conducting criminal background checks

Participants showed a need to know about the criminal background of job applicants for three main reasons: (1) to prevent customer loss due to perceived courtesy stigma – the process through which one’s identity is tainted or ‘socially contaminated’ by virtue of their association with a directly stigmatised individual (Goffman, 1963) – if they employ a person with criminal records; (2) to protect their organisation or business and other employees from possible risks connected to individuals with a criminal history; and (3) the lack of trust in formerly incarcerated individuals.

Preventing customer loss through courtesy stigma

Past studies conducted in Ghana have reported that formerly incarcerated individuals experience stigma in the community (Baffour, 2020, 2021; Baffour et al., 2021). In the present study, employers stated that their association with an individual who is socially labelled as ‘bad’, due to their prior incarceration, is likely to be interpreted by the community as if they are ‘condoning bad behaviour’ (Maame Kramo, Maame Akua and Nana) or ‘entertaining criminals’ (Mr Kwao, Maame Afi, Mr Kwadwo, Sir Alfred, Mr Sarkodie). To prevent the potential harm of being associated with individuals labelled as

criminals, employers feel the need to check the background of job applicants in order not to incur the wrath of community members and potential customers. Maame Akua, a supermarket owner, said,

In this community we do not condone ‘bad’ behaviours, so if you commit crime and end up in the prison, the message you are sending is that you should not be allowed in our presence. If I employ them, I am telling the whole community that I support what they did, and I do not want to put myself and the business in this situation.

A similar view was shared by Maame Kramo – an owner of a supermarket – who claimed that if she makes a mistake and employs a person with a criminal record, she will lose her customers as no one would want to purchase her products. For that reason, she felt urged to enquire about a job candidate’s criminal background. Also, Nana, a restaurant operator cautioned that

You will be mistaken if you think that this community is big; we are connected as a community and if you employ an ex-convict, thinking that nobody knows them you will be laughing at the wrong side of your mouth.

The responses above suggest that participants clearly perceive the strong disapproval of criminal activities within their communities. Therefore, if business owners want to continue and maintain their relationship with the community, they need to firmly dissociate themselves from individuals who have come into contact with the criminal justice system, just as any member of the community would do. Mr Kwao, a banker, explained the general view held towards people with the stigma of a criminal background:

The decision to go against the laws is personal . . . if you choose to engage in a crime you do not expect anyone to share the consequences of your actions. If I employ someone who has wronged the whole community, I have not been fair to the victims and individuals who have chosen to lead a good life.

These responses suggest that it is not considered morally right for people with prior criminal records to be offered legal employment in the participants’ respective communities. Hence, a strong imperative emerged for participants not to employ formerly incarcerated individuals to protect their organisation or business from courtesy stigma.

Protecting one’s organisation and employees

Some of the participants stressed that any serious organisation will insist on performing a criminal background check prior to offering employment. Maame Eto, a restaurant operator stated in this regard: ‘You do not want to put your business and those who work here in danger by employing an ex-convict’. Mr Sarkodie, a police officer, explained,

When you apply for a job, they take your fingerprint to the Criminal Investigation Department to crosscheck if you have no criminal records – we do this to ensure that a significant amount of caution is taken before a person is employed.

The participants revealed several underlying motives for conducting criminal background checks.

First of all, as Sir Alfred who works in a multinational company also noted, it is a matter of finding people you can trust:

There is no serious organisation that will employ you without doing a criminal background check, not even a Christian organisation . . . every organisation wants healthy and decent people that they can entrust their assets to. [. . .] There are some organisations that will not hire you even when you have been a suspect and the police have taken your fingerprint . . . let me tell you, if you are an ex-convict your own father will not employ you in his company.

In addition, participants perceived formerly incarcerated individuals' behaviours as inappropriate for organisational success. Mr Kusi, a civil servant explained,

People who have spent time in prison possess behaviours that do not support the progress of an organisation – they are susceptible to committing a crime at any time and they can drive your customers and other employers away with their actions.

Moreover, individuals with a history of incarceration are perceived by almost all participants to serve as a bad influence for others. Sir Alfred observed, 'I am not afraid of giving a job to an ex-convict – what puts me off is when I think about the possibility of them influencing other employees in a way that will bring my company down'. In addition, Nana perceived that

in ordinary settings you would not allow your children to associate with an ex-convict; that applies even more in your business where things can change overnight – these people are very smart and can influence the good ones in the blink of an eye.

On top of their personal responsibility to guarantee safety for and within their organisations, some employers are obliged to perform a criminal background check before offering an individual a job, as Mr Kusi, stated,

Before you will be offered a job, you have to go through a whole lot of processes and one is a clearance from the police investigative department . . . if you have a criminal history, I do not think you will be allowed to work here.

Mr Kwao, insisted,

I do not see it as discrimination, because we need to know the kind of people we are working with . . . if we do not check and something happens, we did not do due diligence . . . here is a financial sector and we have a lot to protect, if you do not do a criminal background check we may end up putting criminals in a position where they can collapse the business.

These quotes suggest that the participants perceive formerly incarcerated individuals' behaviour as potential risks to organisational success. They generally agree that keeping formerly incarcerated individuals away from their organisations was a step towards the

goals of maintaining their client base, protecting their businesses from crime and protecting their employees from both harm and negative influences.

Lack of trust in formerly incarcerated individuals

The importance of trust was mentioned in all the interviews. According to the participants, formerly incarcerated individuals are not trustworthy and cannot be relied upon: 'Trust is the major issue here – you will need to trust someone with your livelihood, and a lot of people think they cannot get that from ex-convicts' (Honourable Fiifi). In this regard, Maame Eto claimed,

I will never employ an ex-convict – I have to trust anybody I work with, but I cannot trust them, and I do not want somebody to go to the prison because of me – because of this I wouldn't want to hire them.

Mr Sarkodie perceived that the growth of any organisation is dependent on how honest employees are and, based on his personal experience, he perceived that ex-prisoners cannot be trusted:

I have gotten the opportunity to meet many people who have served terms in the prison due to my job – I will say they are not honest people; they say this today, the next day they are saying a whole different thing . . . you cannot build a business with such people.

All except one of the participants would for that reason simply not offer an ex-offender a job and trust them with their assets. Maame Afi, administrator of a patrol station, expanded on this theme:

I would not want to employ an ex-convict because they are liars and you cannot trust them . . . when they were living with us as good people, we were living with them as good people, so now if they have become bad people, we have to live with them as bad people.

Some of the participants' answers also suggested an entrenched perception against the redeemability of formerly incarcerated individuals. Teacher Ofori, who works in a multinational company explained, 'They do not get job in the community because we do not trust their full reformation – the government do not believe in their reformation, that is why they are exempted from certain jobs'. However, Honourable Fiifi, an assembly member and guest house owner, held a different view than the other 12 participants and would employ a formerly incarcerated person, provided that their background does not pose a risk to the particular tasks:

Because of my job I visit the prisons and I have also come into contact with a few ex-cons . . . I do believe some change along the line. However, if you employ them, given their history, you should be mindful not to give them roles that are tempting, like entrusting them with money and other valuable business assets – you should make sure they are given roles where they can be supervised and managed.

The other participants, however, hold the perception that people with a criminal history cannot change. Mr Kwao, in particular, believes,

Employing an ex-convict will be difficult, let's be realistic, who will want to employ a thief as his accountant, the thinking is that one day this person will pull the knife and take all that you have gained with the sweat of your brow.

Maame Akua shares a similar sentiment,

It will be difficult to employ a thief who has been to the prison before . . . the theft is in him, so if you employ him, he will end up stealing your money and if you are not careful, he will collapse your business.

Maame Kramo shares her fear about employing ex-inmates: 'If you employ them they will turn against you and steal all your money and products – I will not feel secured to trust them with my store; that will be the last thing I will think of'. Sir Alfred adds the following:

If you give a job to somebody who has been to the prison before, then you have chosen not to have your peace of mind . . . you are always thinking about what that person can do to bring down your business . . . if the person is a teacher and we give him a job after his sentence . . . what if he comes and do harm to the children . . . what will be the public's response . . . at the end the school will collapse because of just one person.

The statements above stress the importance the participants attach to criminal background checks. To most of them, knowing about the background of the job applicant will influence their hiring decision. This will prevent them from employing a formerly incarcerated individual, who they generally perceive to be untrustworthy, unreliable, a bad influence and likely to cause customer apathy, particularly because their association with formerly incarcerated persons could be perceived as being supportive of 'bad' behaviours by the community and subsequently lead to 'stigma by association'.

Access to criminal records and concerns about their reliability. The formal options of having access to reliable information about the possible criminal background of job applicants before they are offered employment did not meet the expectations of most participants: 'Here, knowing the criminal background of job applicants cannot be overlooked, however, it is very difficult to get it' (Mr Kwao). Mr Sarkodie explained,

I have been in the position to check records of offenders and I can tell you that the needed technology to keep these records for future use is difficult to come by – sometimes you have to record them in paper file, and they can get lost at any time without proper care.

Another accessibility issue raised by the participants was the lack of a remotely accessible centralised repository of criminal record data. Mr Kwao shared his experience:

It should not be difficult to access the records of an applicant, but what we experience is very frustrating – if I am in the North and I want to conduct a police check on an applicant, I will have to transport the person to Accra [*Ghana's capital city*] for it to be done at the Criminal Investigation Department headquarters.

In this same respect, Honourable Fiifi added,

What I know is there is no [remotely accessible] centralised database that contains all the records of offenders in Ghana . . . background information taken in, say a town in the Central Region must be transported to the Criminal Investigation Department head office in Accra to be added to the national criminal record database.

This claim was supported by Mr Sarkodie who had worked with the GPS for over 20 years; he said,

If we collect the records of an offender, they stay with us and only we will have access to these records – the only way for it to be on the national database and counted is when we transport the records to Accra.

Mr Kwadwo shared his experience:

I had to travel to Accra to do my police check – that was the only way I could get it done because you had to be there in person and the head office is the only place where they do this.

Mr Kwao noted, 'Unlike the application for a passport, request for a police check is not digitalised so you cannot do it from your office or home; you have to travel'. It is therefore not a coincidence when some of the participants describe the process of getting a police check as particularly costly and burdensome. Maame Afi, explained,

To get access to a police check on a job applicant comes down to your ability to pay and the pain to travel . . . the last time I did one, the price was ridiculous and the amount you pay translates to how long the request will take – if you cannot pay the highest amount it takes ages before you hear from them.

Irrespective of the fee one needs to pay and the temporal and monetary costs of the application, some of the participants cast doubt on their accuracy, citing the lack of a centralised database and the manualised nature of the records; Sir Alfred shared his concerns in quite a detailed way:

From my understanding, this important information is taken by individual police stations and there is no proper monitoring in place to ensure that they deliver these records to the CID head office, so you sometimes question the accuracy of the whole process.

Maame Eto suggested that 'there should be a digitalised system that allows individual police station's records to be synchronised and automatically updated into the national database immediately they are collected to minimise human errors'. However, Honourable

Fiifi claimed that ‘most of the police stations, especially those in the smaller towns do not have modern technology to do this’.

The lack of digitalisation and the circumstances under which criminal records are collected, managed and distributed do not only make participants complain about the cost associated with the process, but also make them largely question the ultimate reliability of police background checks. For instance, Mr Sarkodie noted,

I am aware that the criminal records do not represent the background information of all offenders across the country – they are limited to a few police stations that have the right technology to do so – data from police stations in the hinterlands are hardly included.

These findings express the frustration of employers for the lack of accessible and reliable criminal record information. Critiques, as noted, focus, in particular, on the outdated technologies employed for collection and indexing of criminal record data as well as on the lack of a comprehensive and updated national database that can be consulted from anywhere.

Informal methods of performing criminal background checks. Considering the above, it is not surprising to find that some of the participants indicated that they have been using other means than formal police background checks to know about the possible criminal backgrounds of job applicants. These are what we term ‘informal means’ of performing criminal background checks, mostly based on ‘referees’ and word of mouth within the community. In this section, we present data on informal as opposed to formal means utilised by business owners and employers to enquire about the background of job applicants.

Mr Kwao shares his experience and how this has influenced his company’s approach over time. He noted,

In my organisation, it is a policy that we conduct police background checks on all applicants who go through interviews successfully – this has always been our practice, however, recently, we have changed our referee check approach due to an employee who was initially cleared by the police, but we later found that he was previously involved in a fraud case and the case was pending judgment.

Indeed, some business owners resort to informal means to know about the criminal backgrounds of job applicants. For instance, Nana stated,

I have never consulted any agency to know about the background of my employees – I have my own trusted way of doing it. I ask people, like the assembly man and other guys. I trust them to provide me with such information about an applicant’.

Eight of the participants suggested that relying on word of mouth to get information about an applicant was a convenient way deemed reliable to gather information on an individual’s possible criminal history. For example, Teacher Ofori, who was working with a relatively big organisation, said his company relies on referees for information about job applicants. He explained,

We have done police checks on applicants before, but now we largely rely on reference checks – we contact the referees the applicants listed on their application to find out their behaviours and if they have past criminal records. In instances when we are not certain about information provided by a referee, we ask them to provide us with other people we can contact for their view about the job applicant and make decisions based on their recommendations.

Mr Kusi added that ‘sometimes the information we get after doing a police check is not much convincing and we have to rely on referees to provide us with a more accurate information about the applicant’. According to Maame Eto, ‘during the interview, we make it clear to applicants that we are going to call their referees because that is how we will know if we are employing the right person’. Maame Kramo indicated that she mostly employs people from her township or neighbouring towns and sometimes visits potential employees’ communities to get information. She explained her approach and reasoning:

My shop is all I have, and I do not just accept people . . . in most cases I get to know about applicants by visiting their towns to know more about them before I offer them the job . . . my elder son used to go to the towns of people who inquire for job and we find them suitable for the business – now my daughter does it. Because of the cost and stress in this, we turn to favour community members over people from other communities.

Maame Akua uses the same approach detailed by Maame Kramo:

My sister does the recruitment and contact referees – she sometimes takes the pain to go to the homes of an applicant we want to employ to get more details about them. We are serious about this process because some of our employees handle money and other valuable things for the organisation and sometimes customers, and we want to get our recruitment right.

Maame Afi, who uses a similar strategy, appraised the process:

I have 90 per cent trust in this approach – the guys we have employed have demonstrated good behaviour and we were right not to employ some guys who did well in the interviews but later found out their involvement in criminal activities from a local confidant.

The use of informal criminal background checks outlined by the participants resulted from the lack of trust they expressed in the criminal record-keeping system of Ghana. The participants’ responses suggest an improvised method of gathering information about a jobseeker, which they seemingly trust to produce reliable and unbiased outcomes.

Discussion

This study has explored employers’ motivations and strategies when dealing with the possible criminal past of job applicants. In particular, our data suggest a perceived lack of accessibility and reliable criminal history information in Ghana. Given the shared distrust towards the quality of the data of the official criminal record checks performed by state authorities, employers may use informal means such as referee checks and word of mouth to secure information on job applicants’ criminal records. These alternatives to

police checks, in a country where criminal record-keeping is still developing and not entirely reliable, emerge as a distinctive facet of the Ghanaian case from a comparative perspective.

More generally, irrespective of the means used to find out the criminal history of a job applicant, the findings support the extant literature that incarceration is associated with collateral consequences stemming from a criminal record such as limited opportunities for employment (Brown, 2021; Leasure and Kaminski, 2021; Logan, 2013; Uggen et al., 2014). Our study contributes to this area of research by showing the extra adverse effects that a previous conviction may have in countries without structured rules and reliable repositories governing access to criminal record information for non-criminal justice purposes.

The main problems highlighted by participants with regard to performing formal criminal record checks were the large monetary and temporal costs required for accessing this information, poor record-keeping policies and practices and concerns about the reliability of police checks. In contrast, scholars from the Global North, especially Anglosphere countries, stress how criminal records have become 'easily accessible' and 'more readily available than ever before' (e.g. Ispa-Landa and Loeffler, 2016; Jacobs, 2015; Uggen et al., 2014). Nevertheless, the situation might be very different depending on the level of available technology and development of a structured criminal justice bureaucracy (Adu and Ngulube, 2017). In jurisdictions like Ghana and other African countries (Akotia, 1993; Dewah and Mutula, 2016; Ladapo, 2011), which lack specific legislation and operations regarding criminal record-keeping and dissemination as well as sophisticated technology and human resources to manage this information, narratives and practices appear to be rather different. In Ghana, to get a police background check, the applicant will have to be physically present at the police criminal investigations headquarters in the capital city of Accra for their fingerprints to be taken and the request to be processed. This process often discourages people from using the system formally in place.

Furthermore, the lack of trust in criminal record data's reliability and the difficulties to get access to an official criminal record certificate seem to encourage people to adopt other means that may perpetuate long-lasting discrimination against formerly incarcerated individuals. The informal strategies used to get information on a person's criminal history by some of the participants are concerning since the approach is unstructured and knows no time limit, that is, it does not matter how old a certain conviction received by a given individual is. Considering the lack of (ad hoc) legislation on expungement and the fact that access to this information partly depends on 'word of mouth checks', there is a clear and present danger of formerly incarcerated individuals experiencing lifelong collateral consequences linked to a criminal history that will never go away. Furthermore, given that stigmatisation perpetrated by 'law-abiding citizens' against formerly incarcerated individuals is entrenched in Ghana (Baffour, 2021; Baffour et al., 2021), the over-reliance on word of mouth from referees and other community members may exacerbate the discrimination against individuals who have come into contact with the criminal justice system.

An interesting finding of this study is the fact that criminal background checks in various forms are widely performed not only for employment purposes in a narrow sense

(i.e. hiring decision-making) but also with the purpose of avoiding courtesy stigma and maintaining a business' customer base. This is consistent with other findings in Ghanaian-focused literature suggesting that formerly incarcerated individuals were denied the opportunity to establish or maintain friendship and intimate relationships due to the fear of stigma by association in their peers (Baffour et al., 2021). Similar findings have been reported in jurisdictions outside Ghana (see Scheyett and Pettus-Davis, 2012). Furthermore, this finding aligns with Goffman's (1963) argument that individuals or groups are likely to experience stigma due to their relationship with members of stigmatised groups such as formerly incarcerated individuals. Participants perceived the employment of a formerly incarcerated person as morally inappropriate which could lead to public disapproval and may have negative consequences for their customer base and, ultimately, put their business in jeopardy. Participants perceived formerly incarcerated individuals as 'bad', 'unreliable' 'unpredictable', 'a bad influence' and as people who do not possess the right behavioural attitudes needed to grow or even only participate in a business. Criminal background checks were conducted to limit the opportunity of employing individuals with a history of incarceration, whose attitudes and past are perceived to be inappropriate for the organisations' image and long-term sustainability.

Given that, as a result of these attitudes and practices, formerly incarcerated individuals may be vulnerable in their respective communities and experience discrimination and stigmatisation based on their past, they need to be protected by laws and policies. We believe that there is the need for the establishment of a structured criminal record-keeping system in Ghana carefully regulating how criminal history information is collected, managed, disseminated and also, ultimately, expunged or sealed. This would allow individuals who have been stigmatised and subjected to collateral consequences to apply for their criminal record information to be removed after a fixed period of time, thus enabling them to live a normal life and enjoy social benefits and opportunities. This approach, which is found in many other jurisdictions, Ghana can adopt and modify to meet its cultural and societal needs. For example, in many jurisdictions around the world, individuals have the right to file a request to the court to have their criminal record expunged or sealed upon the passage of certain waiting periods or when certain other conditions are met. This is the case of several US as well as continental European jurisdictions (Corda, 2018; Henley, 2019; Segerblom and Anthony, 2018). Similarly, in Australia, the Spent Conviction Legislation allows the criminal records of a formerly incarcerated person to be sealed after 10 years since the release from prison with evidence of good behaviour (Australian Federal Police, n.d.).

Additionally, there is the need for legislation that prohibits the discrimination of persons based on their criminal records and policies that promote the incentivisation of employing formerly incarcerated individuals. We believe that a political will to bridge the employment gap between 'law-abiding' and 'formerly incarcerated' individuals is vital for the economic independence of individuals whose desistance from crime is partly dependant on their ability to secure legal employment and receive love and compassion from their respective communities. This has implications for economic development and just treatment of individuals who have served terms for crimes committed.

We furthermore believe that accessibility of criminal records will be improved if they are made available online, which will also likely minimise the use of informal alternative means.

The perceived overreliance on informal relations and word of mouth for criminal background checks suggests the risk of a chaotic dissemination of inaccurate and biased information. It gives unregulated powers to ‘law-abiding’ individuals who might use it to disempower those with past criminal justice system contact. Unlike formal criminal background checks, the unregulated nature of the informal method puts individuals who were found not guilty by the court at risk of unfair and discriminatory treatment. Furthermore, a robust, structured regulatory criminal record system that is easily accessible will gain public confidence in criminal record data collected, managed and disclosed by state authorities.

The present study must be interpreted with care due to some limitations. For example, the study collected data from 13 community members who own businesses or in position to hire in their organisations. While they provided information-rich data for the study, it is still one-sided and may not reflect the views of other groups such as employees and formerly incarcerated individuals. We suggest that the findings are interpreted through the lenses of transferability rather than generalisation. This said, the credibility of the findings is reinforced by their consistency with previous studies conducted in Ghana and jurisdictions outside of the country regarding the operationalisation of criminal record-related stigma in the labour market and other social contexts. Nevertheless, we encourage future studies to expand the enquiry to include the perspectives and experiences of formerly incarcerated individuals and employees. There is certainly a pressing need for studies to give a voice to formerly incarcerated individuals to better understand the challenges they face in their pursuit of legal employment opportunities.

Conclusion

The study has presented original data on the importance attached to criminal background checks for hiring decisions in a country where stigma against formerly incarcerated individuals is endemic and criminal record-keeping and management is by and large unstructured and unreliable. Through the analysis of in-depth qualitative interviews with employers, we found that, due to poor state record-keeping policies and practices in Ghana and employers’ quest to know the (potential) criminal history of job applicants to make decisions in the interests of their businesses and customers alike, other informal means to perform criminal background checks are widely utilised and relied upon, such as referee checks and word of mouth from community members. Although this practice meets employers’ demand and needs, and is deemed reliable to some extent, it can perpetuate discrimination and disempowerment of individuals with a criminal history and may push formerly incarcerated individuals to the periphery of society. This situation calls for Ghana’s government, and similarly situated countries in Africa, to establish a structured criminal record-keeping system that regulates the collection, management and dissemination as well as conditions for expungement and sealing of records with the ultimate goal of building public trust and confidence in such a system.

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Nonie Harris has taught social work practice and research methods. Nonie's research and publications focus on feminist methodologies, feminist theory, work integrated learning, teaching research and childcare policy in cross-national contexts. This practice-focused research has drawn on Nonie's social work practice experience, engagement with women's services and a commitment to research-informed teaching. Her research on hospital social work practice, childcare policy, teaching research and international social work student exchange has been funded by competitive internal and external research grants. Nonie values her prolonged engagement with Townsville's women's services, particularly as President and Vice President of the NQCWS (the Women's Centre) Management Committee, as invited Chair of the Sexual Assault Strategic Group (NQ) and, most recently, as President of the Management Committee of the North Queensland Domestic Violence Resource Service.