



CHILDREN'S RIGHTS LEGISLATION APPLICABLE IN GHANA REGARDING BIRTH REGISTRATION, CHILD, EARLY AND FORCED MARRIAGE AND CHILD TRAFFICKING

*Translated version exists in Bassari
Dagbani and Konkomba*

TABLE OF CONTENTS

Acknowledgements.....	4
About PAORP-VWC & KiRA	5
List of abbreviations.....	7
References	8
Introduction	9
Structure	10
Definitions.....	11
Children’s rights norms applicable in Ghana	12
Section 1: General Children’s rights norms.....	12
Section 2: Children’s rights norms related to birth registration	26
Section 3: Children’s rights norms related to child, early and forced marriage	37
Section 4: Children’s rights norms related to child trafficking	50

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About PAORP-VWC & KiRA

Pan African Organisation for Research and Protection of Violence on Women and Children (PAORP-VWC) is a non-governmental Human rights and development organisation that has been operating in Ghana since 2008 and in Cameroun since 2010. The organisation is officially registered in both countries as a non-profit organisation.

In Ghana, PAORP-VWC is currently active in five districts in the Northern Region: Tolon, Kumbungu, Gushegu, Tatale/Sanguli and Zabzugu. The organisation works in all domains where discrimination and violence against women's and children's rights is taking place. To combat this societal ill, PAORP-VWC indulges itself in a series of research and facts-finding missions to be able to identify principal causes of violence, abuses and discrimination militating against women and children.

Our main intervention areas include: promotion and protection of women's and children's rights, minimizing child trafficking, fighting to end child early and forced marriage, promoting child education, women empowerment and entrepreneurial skills development towards a more sustainable livelihood for our target beneficiaries.

PAORP-VWC collaborates with numerous stakeholders and State actors at all levels of intervention such as the Department of Social Welfare, Ghana Immigration Services, Ghana Police, Municipal Assemblies, religious leaders, traditional and opinion leaders and others.

Kinderrechte Afrika e. V. (KiRA) which means "Children's rights Africa" in German, was founded in 1995 in Lahr, Germany. This non-profit organization works in African countries (currently in Benin, Cameroon, Ghana, Mali and Togo) with and for children who are deprived of their basic rights and whose dignity is violated, following the principles of the UN Convention on the Rights of the Child and the African Charter of the Rights and Welfare of the Child. KiRA is managed by active members with long experience in Africa, as well as expertise in development cooperation and management.

KiRA's mission is to contribute to the development of a 'protective environment' that promotes and guarantees the basic rights of all children - particularly in Africa - to a full, decent and dignified life:

→ Children are protected from all forms of violence, abuse, exploitation, exclusion, neglect and arbitrariness.

→ Every child has equal rights, opportunities and prospects.

→ The dignity of children is respected, children grow up free and in peace (preferably within their families), integrated and active in community and social life.

Thus, KiRA aims at the holistic development of children and young people, at enabling them to deal with the challenges of the future and to take on responsibilities in their families, social communities and societies. In order to make an effective and sustainable contribution, KiRA acts in a credible way through actions that are concretely oriented towards children, political authorities and civil society.

List of abbreviations

ACRWC	African Charter on the Rights and Welfare of the Child
Art.	Article
BMZ	Federal Ministry for Economic Cooperation and Development of Germany
CCG	Criminal Code of Ghana
CEFM	Child, Early and Forced Marriage
CG	The Constitution of the Republic of Ghana
CRC	The United Nations Convention on the Rights of the Child
GCA	Ghana Children's Act
KiRA	Kinderrechte Afrika e. V.
PAORP- VWC	Pan-African Organisation for Research and Protection of Violence on Women and Children

References

The present document was created by exploring the following legal norms and policies that are listed in alphabetical order:

- African Charter on the Rights and Welfare of the Child
Adopted in 1990, entered into force in 1999, signed 1997 and ratified in 2005 by Ghana
- Child and Family Welfare Policy
Implemented since 2014, established in 2014 by the Ministry of Gender, Children and Social Protection
- Criminal Code of Ghana (Act 602)
Enacted in 1998, amended in 2001
- Ghana Children's Act (Act 560)
Enacted in 1998, amended in 2016 by Children's(Amendment) Act (Act 937)
- Human Trafficking Act (Act 694)
Enacted in 2005
- National Strategic Framework on Ending Child Marriage in Ghana 2017 – 2026
Launched in 2016 by the Ministry of Gender, Children and Social Protection
- Registration of Births and Deaths Act (Act 1027)
Enacted in 2020
- The Constitution of the Republic of Ghana
Enacted in 1993, amended in 1996

Introduction

The Government of Ghana ratified several international and regional children's rights norms, amongst them *the Convention on the Rights of the Child (CRC)* in 1990 and *the African Charter on the Rights and Welfare of the Child (ACRWC)* in 2005. By this, the commitment was made to optimize the realization of children's rights in Ghana.

Living up to this responsibility, Ghana set up a comprehensive framework consisting of laws, regulations and policies, aimed at promoting and protecting the rights of children in Ghana. However, this is still insufficiently implemented. Reasons include language barriers – most legal texts are only available in English – and difficulties in understanding their content due to bureaucratic and legal language. As a result, important needs and gaps remain within the country for children to exercise their rights.

The present document is intended to contribute to improve the implementation of the existing legal framework for the promotion and protection of children's rights in Ghana. Designed in form of a manual with citations of legal texts, comments and recommendations for action, it can serve as a guide and orientation to all those involved in implementing national children's rights legislation at different levels. It addresses state- as well as civil society actors.

The manual is also available in Bassari, Dagbani and Konkomba. These versions only contain a list of the relevant legal norms, not a citation of their wordings. The comments and recommendations for action are of course included.

Structure

The manual is a collection of legal provisions from selected regional and national children's rights standards. It is divided into four sections.

Section 1 presents provisions of general cross-thematic relevance for children's rights. The following sections focus on provisions more specifically related to birth registration (section 2), child, early and forced marriage (section 3) and child trafficking (section 4). These areas are particularly important for children, as upholding their rights in these contexts remains a major challenge.

Each section starts with the citation of individual articles of different children's rights legislation relevant to the topic. This citation per legal norm is not exhaustive, but limited to a few articles considered particularly important.

Then follows a commentary. The shared **comments*** intend to facilitate the understanding of the content of the quoted articles. In addition, they aim to inform the readers about current practices in implementing these norms as well as challenges still faced in this regard.

Below the commentary, **recommendations for action*** are provided. These are suggestions for possible measures on how individual actors can effectively contribute to improve the implementation of children's rights standards and thus, better protect and promote children and their rights.

** presented in the document as illustrated*

Definitions

Birth certificate: An official document established, signed and issued by the officer of the Registry, also called the Registrar, in which the name, family name, sex, date and place of birth, father's and mother's name as well as the nationality of the holder are inscribed.

(Section 20 and 21 Registration of Births and Deaths Act)

Child: Every human being between birth and the achievement of the 18th birthday.

(Art. 2 ACRWC, Art. 28 (5) Constitution, Section 1 Children's Act)

Child/Early marriage: Any formal or informal union with at least one partner who is under the age of 18, regardless whether or not the person was promised to the other from birth.

(Art. 21 ACRWC; Art. 26 (2), 29 (2) and 272 (c) Constitution; Art. 14 Ghana Children's Act; Sections 14, 101, 109 and 269 Criminal Code)

Child trafficking: When children are tricked, forced or persuaded to leave their homes and are moved or transported – with or without the consent of the child, parents or guardian of the child – and then exploited, forced to work or sold.

(Section 1 Human trafficking Act).

Forced marriage: A marriage in which one and/or both parties have not given their full, free and informed consent to the union, but have been pressured to marry against their will.
(Sections 100 and 109 Criminal Code, Sections 14 and 15 Children's Act)

Children's rights norms applicable in Ghana

Section 1: General children's rights norms

African Charter on the Rights and Welfare of the Child (ACRWC)

Article 2 – Definition of a Child

For the purposes of this Charter, a child means every human being below the age of 18 years.

Article 3 – Non-Discrimination

Every child shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in this Charter, irrespective of the child's or his/her parents' or legal guardians' race, ethnic group, colour, sex, language, religion, political or other opinion, national and social origin, fortune, birth or other status.

Article 4 – Best Interests of the Child

1. In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration.
2. In all judicial or administrative proceedings affecting a child who is capable of communicating his/her own views, and opportunity shall be provided for the views of the child to be heard

either directly or through an impartial representative as a party to the proceedings, and those views shall be taken into consideration by the relevant authority in accordance with the provisions of appropriate law.

Article 5 – Survival and Development

1. Every child has an inherent right to life. This right shall be protected by law.
2. States Parties to the present Charter shall ensure, to the maximum extent possible, the survival, protection and development of the child.
3. Death sentence shall not be pronounced for crimes committed by children.

Article 12 – Leisure, Recreation and Cultural Activities

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the right of the child to fully participate in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 20 (1) – Parental Responsibilities

Parents or other persons responsible for the child, shall have the primary responsibility of the upbringing and development the child and shall have the duty:

- (a) to ensure that the best interests of the child are their basic concern at all times;

- (b) to secure, within their abilities and financial capacities, conditions of living necessary to the child's development; and
- (c) to ensure that domestic discipline is administered with humanity and in a manner consistent with the inherent dignity of the child.

The Constitution of the Republic of Ghana (CG)

Article 13 (1) – Protection of right to life

No person shall be deprived of his life intentionally except in the exercise of the execution of a sentence of a court in respect of a criminal offence under the laws of Ghana of which he has been convicted.

Article 15 (1) – Respect for human dignity

The dignity of all persons shall be inviolable.

Article 17 (1) and (2) – Equality and freedom from discrimination

All persons shall be equal before the law.

A person shall not be discriminated against on grounds of gender, race, colour, ethnic origin, religion, creed or social or economic status.

Article 28 – Children’s rights

(1) Parliament shall enact such laws as are necessary to ensure that -

- (a) every child has the right to the same measure of special care, assistance and maintenance as is necessary for its development from its natural parents, except where those parents have effectively surrendered their rights and responsibilities in respect of the child in accordance with law;
 - (b) every child, whether or not born in wedlock, shall be entitled to reasonable provision out of the estate of its parents;
 - (c) parents undertake their natural right and obligation of care, maintenance and upbringing of their children in co-operation with such institutions as Parliament may, by law, prescribe in such manner that in all cases the interest of the children are paramount;
 - (d) children and young persons receive special protection against exposure to physical and moral hazards; and
 - (e) the protection and advancement of the family as the unit of society are safeguarded in promotion of the interest of children.
- (2) Every child has the right to be protected from engaging in work that constitutes a threat to his health, education or development.
 - (3) A child shall not be subjected to torture or other cruel, inhuman or degrading treatment or punishment.
 - (4) No child shall be deprived by any other person of medical treatment, education or any other social or economic benefit by reason only of religious or other beliefs.
 - (5) For the purposes of this article, "child" means a person below the age of eighteen years.

Ghana Children's Act (GCA)

Section 1 – Definition of child

For purposes of this Act, a child is a person below the age of eighteen years.

Section 2 – Welfare principle

- (1) The best interest of the child shall be paramount in any matter concerning a child.
- (2) The best interest of the child shall be the primary consideration by any court, person, institution or other body in any matter concerned with a child.

Section 3 – Non-discrimination

No person shall discriminate against a child on the grounds of gender, race, age, religion, disability, health status, custom, ethnic origin, rural or urban background, birth or other status, socio-economic status or because the child is a refugee.

Section 6 (2) – Parental duty and responsibility

Every child has the right to life, dignity, respect, leisure, liberty, health, education and shelter from his parents.

Section 8 (1) – Right to education and well-being

No person shall deprive a child access to education, immunisation, adequate diet, clothing, shelter, medical attention or any other thing required for his development.

Section 9 – Right to social activity

No person shall deprive a child the right to participate in sports, or in positive cultural and artistic activities or other leisure activities.

Section 11 – Right of opinion

No person shall deprive a child capable of forming views the right to express an opinion, to be listened to and to participate in decisions which affect his well-being, the opinion of the child being given due weight in accordance with the age and maturity of the child.

Section 13 – Protection from torture and degrading treatment

- (1) No person shall subject a child to torture or other cruel, inhuman or degrading treatment or punishment including any cultural practice which dehumanises or is injurious to the physical and mental well-being of a child.
- (2) No correction of a child is justifiable which is unreasonable in kind or in degree according to the age, physical and mental condition of the child and no correction is justifiable if the child by reason of tender age or otherwise is incapable of understanding the purpose of the correction.

Section 16 (1) – District Assembly to protect children

A District Assembly shall protect the welfare and promote the rights of children within its area of authority and shall ensure that within the district, governmental agencies liaise with each other in matters concerning children.

COMMENTS

All statements in this document concern **the rights of children**. These are enshrined in international standards, such as the UN Convention on the Rights of the Child (CRC). It can also be found in regional and national norms, including the African Charter on the Rights and Welfare of the Child (ACRWC), the Constitution of the Republic of Ghana (CG) and the Ghana Children's Act (GCA). Relevant articles of these regional and national norms are cited in this document.

But what is a child?

A child is defined as any person who has been born but has not yet reached the age of 18. This definition can be found, among others, in art. 2 ACRWC, art. 28 (5) CG and section 1 GCA.

Four particular children's rights

All children's rights are equally important. However, there are four particular rights, that are interlinked fundamental principles, enabling children to exercise their rights in the first place. These principles are:

1. Principle of non-discrimination

This principle is laid down in art. 3 ACRWC, art. 17 (1) and (2) as well as in art. 28 (4) CG and in section 3 GCA. It guarantees that all children – without exception – can enjoy their rights, no matter where they were born, who their parents are and in which societal context they are living.

Unfortunately, the reality in Ghana – as in probably most other countries in the world – is still different. It does make a difference, e.g. regarding educational opportunities and chances for the

future, whether one is born as a boy or a girl, into a rich or a poor family, with or without a mental and/or physical impairment. Concrete examples for discriminations in Ghana include children of Fulani ethnic groups and children with Albinism, also called 'Albino' children. In some areas of northern Ghana they are excluded from social activities or even from school by local communities because of their origin or skin colour. Furthermore, children with physical challenges are mostly neglected.

2. Welfare principle

This principle, that is also known as 'the best interest of the child', is laid down in art. 4 (1) ACRWC, art. 28 (1c) CG and in section 2 GCA. It ensures that the child's well-being is put first in all actions affecting it. So the focus must lie on determining what will be best for the individual child in the particular circumstance.

In practice, however, this is often not the case. Parents, family or community members who are forcing children to observe a 'culture of silence' after having experienced (sexual) violence and/or abuse, instead of reporting the perpetrator to the police and seeking support for the affected children, are only one example. Harmful traditional practices such as child, early and forced marriages still being enforced in local communities across Ghana are another.

3. Survival and development

This principle is laid down in art. 5 ACRWC, art. 13 (1) CG as well as in section 6 (2) and 8 (1) GCA. It grants children the right not to be killed. It also ensures that their basic needs, such as food,

clothing, shelter and health care are met as much as possible. Thus, this principle gives children the opportunity to grow and become adults.

Nevertheless, nowadays there are still situations in Ghana, in which the killing of children is intended or deliberately accepted. For example, children suspected of being witches are subjected to rituals that sometimes result in death. There are also so-called 'honor killings' of children, e.g. when they try to convert from one religion to another or lead a certain lifestyle (related to "indecent" clothing, gender transition, etc.). Furthermore, the development of many children coming from difficult or poor family backgrounds, or children working/living on the streets, is at risk. Their basic needs (shelter, food, clothing, medical care, etc.) are inadequately or not met at all. Some of them even struggle to survive.

4. Respect of the view of the child

This principle is laid down in art. 4 (2) ACRWC and in section 11 GCA. It guarantees that all children can express their views and get heard. It also ensures that the views are taken seriously and are considered when it comes to take a decision affecting them.

In many families in Ghana, parents are so busy with their daily activities to secure the family income, that they pay little attention to their children. They do not have or do not take time to listen to them and their concerns. Children are rarely asked for their opinion on a specific issue, whether it concerns them or not. It is not rare for parents to make decisions on behalf of their children, without considering what they think or wish. This can be explained, among other things, by the fact that children are traditionally not perceived as full and equal members of the family, although they are highly valued in African societies and families in general.

The right to be a child

In addition to the fundamental principles mentioned above, numerous other provisions aim to protect children and their rights. However, one children's right often goes unnoticed or is not taken seriously enough. It's the right to rest and leisure, enshrined in art. 12 ACRWC and art. 9 GCA. It ensures that all children can play and have fun. Both are important to regenerate and gather new strength – essential conditions for the health, well-being and growth of all children.

Unfortunately, playing is often seen as useless or a privilege of rich people's children. Many adults are not aware that participation in social and cultural activities enables children to develop their identity and to identify with their community. Lots of children, especially girls in remote communities in Ghana, are overloaded by their parents with housework, farming activities and/or looking after smaller siblings. Already at a young age, most of them take on great responsibility. Especially in cities, children are also used as carriers and burdened with loads exceeding their strength. All these children hardly find time to play with friends. A part from that, there are few playgrounds or other recreational facilities in most parts of Northern Ghana. And the ones that do exist are rarely child friendly, means adapted to children's needs. Therefore, many children are reduced to play in dangerous and unfriendly places.

Parental responsibility

In normal circumstances, the family is the best place for a child to grow up. This conviction is reflected in art. 28 (1e) CG as well as in the preamble of the ACRWC. The last states that *'... the child occupies a unique and privileged position in the African society and ... for the full and harmonious development of his personality, the child should grow up in a family environment in*

an atmosphere of happiness, love and understanding'. Consequently and according to art. 20 (1) ACRWC and section 6 (2) GCA, parents are the first responsible to ensure their children's well-being and protection. This includes the satisfaction of their basic needs as well as their emotional well-being, in other words the protection of their children's rights.

Regrettably, even today, not all parents know their parental duties. A low level of education and illiteracy, especially in rural communities, or simply ignorance, are amongst the reasons for it. A lack of information available in local languages to inform parents about the rights and duties concerning their children contributes significantly to this situation.

Apart from that, some parents neglect their parental responsibilities, especially when coping with difficult situations. This is the case, for instance, during a separation or after a divorce. Parents affected by this often are so busy with themselves and their arguments, that they forget about their children's needs. It is not even rare for one parent to break off contact to their children in such circumstances, leaving it to the other parent to take care of them. Parents struggling with their children's challenging behaviour (e.g. not respecting any rules, getting in conflict with community members or the law, etc.) are another example. They completely turn away from their children, letting them alone and denying any of their parental responsibilities.

Finally, there are also parents who are unemployed and thus have no income. They quite naturally leave it to their children to take care of their basic needs themselves. Some children even raise the money for their school education, having to accept partly dangerous works.

Unfortunately, harmful traditional norms and cultural practices that violate children's rights still exist in Ghana (e.g. assigning domestic work only to girls, marrying off girls at very young age).

These, together with the associated social pressures, sometimes make it even more difficult for parents to fulfil their parental responsibilities. Apart from that, most parents are not aware of the consequences (including legal ones) they face if they don't.

State responsibility

The state with its services and employees has a special responsibility regarding the protection of children and their rights. This results from several articles of the ACRWC, e.g. art. 5 (2) and 12 (2), as well as from art. 28 (1) GC. It's up to the State to take all necessary measures to create a protective environment for children, in which they can grow-up and develop safely. This includes enacting laws as well as establishing child protection institutions and providing concrete support. At district level, it's the role of the District Assembly to ensure the protection of children and their rights, according to section 16 (1) GCA. This includes cooperation between state agencies and with civil society organizations in the field of child protection.

Reality shows that children and their rights are rarely a priority at government level. Even though good policies and laws exist in Ghana to protect children and to promote their rights, children have no lobby to promote them. Thus, application and enforcement are still low. As a consequence, most children's rights violations, such as child abuse, exploitation or trafficking, are not adequately investigated or followed-up for prosecution at district level. In such cases political interferences and chieftaincy issues are common, hindering legal prosecution and rehabilitation measures for the child concerned.

Another major obstacle to effective child protection is an inadequate allocation of financial and human resources for child rights issues at district and municipal levels. So even if the will is there, the necessary means are often lacking.

RECOMMENDATIONS FOR ACTION

- Simplify existing children's rights norms and translate them into widely spoken local Ghanaian languages.
- Raise awareness for the African Charter on the Rights and Welfare of the Child and valid national children's rights norms amongst key institutions working to promote the rights of children and their protection.
- Set up child friendly playgrounds and recreational facilities for children, especially in remote areas.
- Use media, especially radios, to sensitize the public concerning the rights of children in local languages for better understanding of existing laws and policies.
- Inform parents about their parental responsibilities and the consequences of non-respect for them and their children.
- Remind the Districts Assemblies of their role and responsibility in the field of child protection.
- Strengthen collaboration between state agencies as well as with civil society organizations on children's rights issues.

- Promote the application/implementation of Ghanaian children's rights laws and policies by judiciary and enforcement agencies.
- Advocate with decision-makers for adequate allocation of budgetary and human resources for child protection.

Section 2: Children’s rights norms related to birth registration

African Charter on the Rights and Welfare of the Child (ACRWC)

Article 6 – Name and Nationality

1. Every child shall have the right from his birth to a name.
2. Every child shall be registered immediately after birth.
3. Every child has the right to acquire a nationality.
4. States Parties to the present Charter shall undertake to ensure that their Constitutional legislation recognize the principles according to which a child shall acquire the nationality of the State in the territory of which he has been born if, at the time of the child’s birth, he is not granted nationality by any other State in accordance with its laws.

The Constitution of the Republic of Ghana (CG)

Article 6 (2) – Citizenship of Ghana

Subject to the provisions of this Constitution, a person born in or outside Ghana after the coming into force of this Constitution, shall become a citizen of Ghana at the date of his birth if either of his parents or grandparents is or was a citizen of Ghana.

Ghana Children’s Act (GCA)

Section 4 – Right to name and nationality

No person shall deprive a child of the right from birth to a name, the right to acquire a nationality or the right as far as possible to know his natural parents and extended family [...].

Section 6 (4) – Parental duty and responsibility

Each parent shall be responsible for the registration of the birth of their child and the names of both parents shall appear on the birth certificate except if the father of the child is unknown to the mother.

Registration of Births and Deaths Act (RBDA)

Section 10 – Registration Assistant

- (1) The Registrar shall designate a Registration Assistant in each zone in a district.
- (2) A Registration Assistant shall
 - (a) inspect every household within the zone of each district to ascertain births, fetal deaths and deaths; and
 - (b) assist in the completion of forms on notification of births, fatal deaths and deaths.

Section 16 – Notification of birth

- (1) A person of charge of a health facility shall notify the District Registrar or a representative of the District Registrar in the district within which the health facility is located, of each birth recorded in the facility within seven days of occurrence of the birth in the facility.
- (2) A traditional birth attendant shall notify the District Registrar or a representative of the District Registrar in the district within which the birth occurs within seven days of occurrence of the birth.
- (3) A manager of a basic school or pre-school shall notify the District Registrar or a representative of the District Registrar in the district in which the school is located of the enrolment of a child without a birth certificate within seven days of the enrolment of the child.
- (4) The production of a birth certificate shall, after five years of the coming into force of this Act, be a pre-condition for the enrolment of a child at a basic school or pre-school.

Section 17 (1), (3), (7) to (9) – Registration of birth

- (1) A parent or a person responsible for a child shall register the birth of that child in the district in which the child is born.
- (3) A person responsible for a child is not required to pay a fee for the registration of the birth of that child if the registration is made within twelve months from the date of birth of that child.

- (7) Despite subsection (3), a person responsible for a child may register the birth of the child after twelve months of the date of birth but not more than five years of the date of birth upon application to the District Registrar for late registration
- (8) A person who applies to the Registrar in respect of a late registration shall include in the application, reasons for the late registration.
- (9) A birth shall not be registered after the expiration of twelve months from the date of birth, unless
 - (a) a District Registrar receives a written authority of the Registrar directed at the particular District Registrar; and
 - (b) a person responsible for the child has paid the prescribed fee for late registration

Section 18 (2) and (3) – Doubtful paternity

- (2) The District Registrar shall not enter the name of a person as father of the child, unless at the joint request of the mother and the person claiming to be the father of the child.
- (3) The person claiming to be the father of the child shall sign the register together with the mother or make a declaration in the prescribed form as the father of the child.

Section 20 – Signing of birth certificate

The Registrar or a designated officer by the Registrar is responsible for signing a birth certificate issued under this Act.

Section 21 – Issue of birth certificate

The District Registrar shall, on registration of the name, issue a birth certificate free of charge to the father, mother, a person authorized by a court of competent jurisdiction or a person authorized in writing by the father or mother or next of kin of the child

COMMENTS

The right to an identity

This children’s right is enshrined in art. 6 ACRWC and in section 4 GCA. It includes obtaining a name and a nationality.

Naming a child differs in the different cultures in Ghana. In the southern part, some parents agree on a name to be given to their child before its birth. In the northern part, the naming is the responsibility of men. However, most parents in Ghana, as elsewhere in the world, choose their child’s name very carefully. Factors such as the meaning and origin of the name, but also the naming of grandparents often play an important role. Unfortunately, the practice of naming a child after the circumstances of its birth still persists. As a result, there are names such as *Gurondoo* (signifying a child picked up from a refuse dump after being abandoned by his biological parents) or *Damba* (signifying a child born on the Damba – a cultural dance festival held annually by the Dagombas in the Northern Region of Ghana). Children with such names are often teased or even bullied by other children. Social exclusion and low self-esteem can be consequences, having a negative impact on their further life and future chances.

According to art. 6 (2) GC, the Ghanaian citizenship is acquired at birth by all children if at least one of their parents or grandparents are or were a citizen of Ghana. In practice, however, some minority ethnic groups, e.g. Fulanis in the Northern Region, are discriminated and not considered Ghanaians. Therefore, many do not bother to get their children officially registered at birth. Consequently, these children have no proof of their nationality.

Importance of birth registration

In Ghana, birth registration is mandatory. In this process, newborns receive a paper called birth certificate. This first legal document gives children an identity officially recognized by the state and the society. The birth certificate also enables children to later obtain any other national document such as an identity card or a passport. Moreover, it gives them the ability to enjoy all their rights, for example an education and healthcare, and to get protection, also judicially.

Too many parents in Ghana, especially in rural areas, are still unaware of the importance of birth registration. Only when they enroll their children at school do they usually realize that a birth certificate is required for this procedure (see section 16 (4) Registration of Births and Deaths Act (RBDA)). Children who nevertheless started school without a birth certificate encounter difficulties during examination at the latest, as they are not admitted to it.

From the parents obtaining birth certificates for their child at birth, not all do have the knowledge of the importance of a safe storage from the latter. Placing them in a unsecured place, it happened that these documents got lost, have been destroyed or became unusable, e.g. through exposure to water or insects.

After all, without a birth certificate, children cannot prove their age, and therefore that they are minors. However, this is important when it comes to child protection, for example from being married off at a very young age – often against their will (child marriage). This also applies to children in conflict with the law. As minors, they enjoy special procedural and protective rights in this situation (the so-called juvenile justice system). However, their application usually requires proof of age.

The Ghanaian state has obviously recognized the enormous importance of a birth certificate and thus of birth registration. Through art. 16 (1) to (3) RBDA, it requires that several state actors report the birth of a child or the non-existence of a birth certificate within 7 days from the date of knowledge to the authorities responsible for birth registration. This applies to directors of basic- and pre-schools and specifically to managers of health facilities and traditional birth attendants. The question is, however, to what extent these people actually comply with this request in practice.

Birth registration process

According to section 6 (4) GCA and section 17 (1) RBDA, parents are responsible to register the birth of their child. They must do this at an office within the district in which the child was born which is called the Births and Deaths Registry. Registration assistants are supposed to help parents with the necessary formalities. They should exist in all districts, according to section 10 RBDA. The information required for birth registration includes: name, sex, date and place of birth of the child as well as name, contact details and nationality of the mother and the father (if known).

According to section 17 (3) and section 21 RBDA, a birth certificate is issued free of charges by the District Registrar as long as the registration took place within twelve months after the child's birth. After this period, a 'late registration' is still possible, but only up to five years after the birth of the child (see section 17 (3) RBDA). Such a registration additionally requires the approval of the Registrar, an explanation of the reasons for the late registration and involves fees, according to section 17 (8) and (9) RBDA. Birth registration at an even later date is not excluded. However, this will then follow a different procedure and involves even higher requirements (e.g. providing witnesses).

In practice, the distance to births and deaths offices at district level often is a factor hindering parents, especially in remote rural areas, to register the birth of their child. Some parents simply cannot afford neither the time nor the money for the travel involved. In addition, administration fees, e. g. for copies, usually are requested during registration, making it even more difficult. Other parents are afraid of the bureaucracy related to the registration process, in particular illiterate parents.

To address these difficulties, birth registration volunteers exist to assist with this procedure in some communities. Unfortunately, they usually lack necessary resources to move around in their respective community. Therefore, some births still pass unnoticed and are not registered. Another common practice is the establishment of temporary birth certificates. They are valid for 1 year and cost only 5 GHS. It gives parents more time to get a permanent birth certificate for their child.

However, other challenges related to birth registration persist in Ghana. These include cases of occasional extortion by births and deaths registration officers as well as certificates paid for but never issued. The centralization of the verification of all births in the country at the Births and Deaths Registry in Accra and the issuance and signing of permanent birth certificates only by this authority are also among them. Finally, the (relatively high) costs associated with birth registration remain a main issue.

Acknowledgement of paternity

According to section 18 (2) RBDA, a man can only be registered as the father on a child's birth certificate if he applies for this jointly with the child's mother. The person can also declare being the child's father by using a corresponding form that shall be provided by the Births and Deaths Registry.

In practice, it unfortunately still happens too often that men deny being the biological father of their child. Generally, they did not intend the pregnancy and do not want to or are not able to take on parental responsibility. Reasons for this can be fear, immaturity, negative influence from their environment or lack of financial means to support mother and child.

With the non-recognition of paternity, these men lose the possibility to name their child or to participate in the naming process (see explanations on naming above). Moreover, and more importantly, they also deprive the child of knowing a part of its origin. Yet this knowledge plays an important role in a child's later development, enabling it to develop its own personality.

Not only is the mother left alone with the obligations to raise a child by the refusal of the biological father to officially accept the child as his. She also does often not receive any financial support from the father either, which significantly increases the risk of poverty for both mother and child.

Unfortunately, few mothers are aware that in such a situation they can get support from their community, especially traditional and religious leaders, as well as from state authorities (e. g. social welfare) to obtain an acknowledgement of paternity and thus financial child support. However, social exclusion, as well as false shame which these mothers and their children often still experience, are among the reasons why mothers usually do not seek support.

RECOMMENDATIONS

- Inform parents about the negative effects of children's names that may lead to stigmatization.
- Integrate civic education into schools to spread knowledge about birth registration and non-discrimination of minor ethnic groups.
- Promote birth registration amongst parents (e.g. by educating them about its importance).
- Remind parents to safely store the birth certificates of their children.
- Encourage school and health facility staff to notify children without a birth certificate.
- Raise awareness among registration assistants of their duty to help parents complete birth registration documents.

- Encourage parents to ask for the help of registration assistants if they have difficulties completing birth registration papers.
- Advocate with decision-makers to ensure that administrative fees are not charged for birth registration, or at least that they are kept low enough to be affordable for everyone.
- Provide necessary (human/financial) resources to the births and deaths registration services.
- Decentralize the responsibility for signing permanent birth certificates.
- Raise awareness among young people and adults, especially community members and parents, about the importance of parental responsibility.
- Educate young people about how to avoid unwanted pregnancies and on family planning.

Section 3: Children's rights norms related to child, early and forced marriage

African Charter on the Rights and Welfare of the Child (ACRWC)

Article 21 – Protection against Harmful Social and Cultural Practices

1. States Parties to the present Charter shall take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and in particular:
 - (a) those customs and practices prejudicial to the health or life of the child; and
 - (b) those customs and practices discriminatory to the child on the grounds of sex or other status.
2. Child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years and make registration of all marriages in an official registry compulsory.

The Constitution of the Republic of Ghana (CG)

Article 26 (2) – Cultural rights and practices

All customary practices which dehumanize or are injurious to the physical and mental well-being of a person are prohibited.

Article 39 (2) – Cultural objectives

The State shall ensure that appropriate customary and cultural values are adapted and developed as an integral part of the growing needs of the society as a whole; and in particular that traditional practices which are injurious to the health and well-being of the person are abolished.

Article 272 (c) – Functions of the National House of Chiefs

The National House of Chiefs shall [...]

- (c) undertake an evaluation of traditional customs and usages with a view to eliminating those customs and usages that are outmoded and socially harmful;

Ghana Children’s Act (GCA)

Section 14 – Right to refuse betrothal and marriage

- (1) No person shall force a child --
 - (a) to be betrothed;
 - (b) to be the subject of a dowry transaction; or
 - (c) to be married.
- (2) The minimum age of marriage of whatever kind shall be eighteen years.

Criminal Code of Ghana (CC)

Section 14 – Provisions relating to consent

In construing any provision of this Code by which it is required for a criminal act or criminal intent that an act should be done or intended to be done without a person's consent, [...], the following rules shall be observed, namely—

- (a) a consent is void if the person giving it is under twelve years of age, or in the case of an act involving a sexual offence, sixteen years, [...].
- (b) a consent is void if it is obtained by means of deceit or of duress;
- (c) a consent is void if it is obtained by the undue exercise of any official, parental, or any other authority; [...];

[...]

Section 100 – Effect of void or voidable marriage with respect to consent

If a female is compelled to marry another person by duress as to make the marriage void or voidable, the marriage is of no effect for the purpose of Part I of this Code with respect to consent.

Section 101 – Defilement of child under sixteen years of age

- (1) For purposes of this Act defilement is the natural or unnatural carnal knowledge of any child under sixteen years of age.
- (2) Whoever naturally or unnaturally carnally knows any child under sixteen years of age, whether with or without his or her consent commits an offence and shall be liable on

summary conviction to imprisonment for a term of not less than seven years and not more than twenty-five years.

Section 109 – Compulsion of marriage

Whoever by duress causes a person to marry against his or her will, shall be guilty of a misdemeanor.

Section 269 – Making false Declaration, etc., for Marriage

Whoever in any declaration, certificate, licence, document, or statement required by law to be made or issued for the purposes of a marriage, declares, enters, certifies, or states any material matter which he knows to be false, shall be guilty of a misdemeanour.

National Strategic Framework on Ending Child Marriage in Ghana

Excerpt of page 15

1. Overall Goal and Objectives

The **Overall Goal** is a society without child marriage by 2030.

The **Strategic Objectives** are to:

- Empower girls and boys to be better able to prevent and respond to child marriage.
- Influence positive change in communities' beliefs and attitudes and social norms that drive child marriage.

- Accelerate access to quality education, sexual and reproductive health information and services and other opportunities.
- Ensure national laws, policy frameworks and mechanisms related to ending child marriage are in place and effectively enforced and implemented.
- Increase the quality and amount of data and evidence available to inform policy and programming.

Child and Family Welfare Policy

Excerpt of page 13

Strategy 1.2: Early intervention through social protection

The objective of social protection interventions is primarily to reduce poverty amongst the extreme poor. There are direct links between social protection and reduced child protection risks (unnecessary separation from family; child marriage; and child labour). The Department of Social Welfare shall be responsible for maximizing use of social protection interventions to address child and family welfare concerns.

Direct family support services that should be made available to address some of the child protection and welfare challenges that families might experience include:

- Economic empowerment through improved links to social protection programmes, such as LEAP [*Livelihood Empowerment Against Poverty*], capitation grants, the National Health Insurance Scheme and free maternal care, school uniforms or school feeding programmes;

- Identification and supporting appropriate community day-care options for children to ensure they are cared for in a safe environment while family members are engaged in other activities.

Research shall be undertaken to better understand the impact of existing social protection interventions and their possible effect on violence, abuse, neglect and exploitation of children.

COMMENTS

The right to protection against harmful social and cultural practices

This children's right is enshrined in art. 21 ACRWC and reinforced by art. 26 (2) and 39 (2) CG. It guarantees that no child suffers from any practices by and in her/his community that negatively affects her/his physical or mental development or well-being. Consequently, the Ghanaian state prohibits such harmful practices, no matter their origin or tradition.

Role of National House of Chiefs

According to art. 272 (c) CG, it's up to the assembly of Ghanaian traditional leaders, chiefs and kings to examine customs and usages that are practiced in Ghana, and to determine if and which of them are harmful and should therefore be eliminated.

Unfortunately, there is often no consensus among various traditional leaders, chiefs and kings in Ghana. Opinions differ on whether and which practices are harmful. For example, some chiefs disapprove of the practice of child marriage, recognizing it as injurious to the child, while others

accept it as part of their culture. As a result, some harmful customs and usages continue to be practiced in some parts of Ghana, but not in others.

Abolition of child, early and forced marriage

Despite the lack of consensus among the members of the National House of Chiefs, the Ghanaian state takes a clear position on child, early and forced marriages by prohibiting them. Accordingly, section 14 (1) GCA states that no child shall be forced into marriage. Furthermore, the National Strategic Framework on Ending Child Marriage in Ghana, launched in 2016, aims to eradicate child marriage in Ghanaian society by 2030 (see p. 13).

In practice, child, early and forced marriage is still a very common practice in Ghana, especially in the northern regions. According to UNICEF, there are two million child brides in Ghana (Statistical profile on child marriage: Ghana, 2022). On average, 1 out of 5 girls gets married before her 18th birthday. In the North of Ghana, there are even 1 out of 3 girls. Some girls are also married before the age of 15, but it not that frequent.

Age of marriage

An important element related to child, early and forced marriage is the child's age. Section 14 (2) GCA sets the minimum age for marriage at 18 years. This age is consistent with international and regional requirements, such as art. 21 (2) ACRWC.

Unfortunately, this minimum age is not always respected in practice. Particularly in traditional and religious marriages, children and especially girls are often only 12 to 14 years old. One reason

is that there is no minimum age for traditional or religious marriages, neither for women nor for men. For example in the Islamic religion, girls are considered mature and ready for marriage as soon as they have reached the age of puberty. Moreover, marrying at a young age is even recommended to assure that the young girl escapes the sins of sexual intercourse outside marriage. Another reason is that traditional or religious marriages do not usually require a civil marriage ceremony in advance where the ages of the parties involved are actually verified. Christian marriage is an exception here, as the church requires proof of legality (i.e. a civil marriage certificate) before a church wedding.

Consent to marriage

Another important element related to child, early and forced marriage is the child's consent. According to section 14 (1) GCA, children shall not be married against their will. Consequently, their agreement is required. However, children can only consent to marriage from the age of 16. This results from section 14 (a) CC and is reinforced by section 101 CC, which considers any sexual relationship with a child under the age of 16 a criminal act, regardless of the child's approval. Furthermore, a child's consent is only effective if it was given without any pressure or deception. This follows from section 14 (b) CC and is backed up by section 100 CC, which declares a marriage concluded under such circumstances invalid. The parents are not allowed to act against the will of their child by replacing the child's approval by their own, especially if the child is under the age of 16. This would contradict the meaning of art. 14 GCA. It could therefore be classified as an illegal exercise of parental authority under art. 14 (c) CC and thus be ineffective too.

In practice, as well in Ghana as in many other countries, religious and traditional marriages are usually arranged between families. Parents decide for their children, mostly girls, who are not asked for their opinion and certainly not for their consent.

This can be explained, among others, by the fact that children are still not perceived and taken seriously as persons with their own rights and opinions. Moreover, parents often think that they are acting in the best interests of their child, especially when repeating the behaviour of their own parents who married them off as children too. Mainly in poor families, the certainty that the child will marry into a richer family and thus be cared for, is often more important to parents than their child's education, even more if it is a girl. Sometimes parents also believe they have no choice but to marry off their child at an early age. Be it to ensure the survival of their own family and younger siblings through the dowry they will get, or to restore the supposed family honour after a child has experienced sexual violence.

Especially in the latter case, a "culture of silence" is still too often imposed on the affected child by parents and/or community members. This means that the child is intimidated and forced to accept an amicable out-of-court agreement with the perpetrator(s) instead of making the violence or abuse public and reporting it.

Health and economic consequences

Child, early and forced marriage often has negative consequences for the children concerned, including health and economic ones. Unfortunately, parents are rarely aware of this or neglect it due to social and community pressures. (Re)Traumatization, school dropouts and teenage

pregnancies are very common. School dropouts can be both a consequence and a reason for child, early and forced marriage. Teenage girls that get pregnant, are themselves still in a physical and mental development that is not yet complete. In consequence they and their unborn can endure significant health problems such as birth complications, premature births as well as a higher rate of infant mortality. Moreover, little or no school education for (married) girls usually means that they can contribute little or nothing to the family income in the future. This leads to dependency towards the husband and increases the risk of poverty, especially if the marriage fails and the teenage mothers have to support themselves as well as their children alone.

Criminal consequences

Child, early and forced marriage also has criminal consequences. According to section 101 CC, any person who has a sexual relationship with a child under the age of 16 risks a prison sentence of at least 7 years. Similarly, forcing another person to marry, falsifying documents or making false statements for the purpose of marriage are offences, according to sections 109 and 269 CC, leading to a fine.

Unfortunately, many people, especially in rural areas of the northern regions of Ghana, do not know the national legislation that protects children from early and forced marriage. Therefore they are not aware of the criminal consequences they face. In addition, the protective legal texts are not always consequently applied. Few people responsible for child, early and forced marriage or supporting it are really sentenced. Missing or withdrawn reports as well as witness statements play an important role in this respect, as do inadequate protection approaches and lack of awareness within law enforcement agencies.

Perspectives

The Ghanaian state is willing to fight harmful cultural and traditional practices, especially child, early and forced marriage. The laws and policies enacted in this area prove this. Similarly, the state is also aware of the link between poverty and harmful practices. This results, among other things, from the Child and Family Welfare Policy (p. 13). In addition, numerous measures have been identified to achieve the goal of a Ghanaian society free from child, early and forced marriage by 2030.

However, this objective will be failed if:

- the existing national laws and policies continue to be applied and implemented as inconsistently and inadequately as they are now,
- the resources and means necessary for their application and implementation are not made available,
- there is no effective and constructive cooperation between the competent state authorities as well as with civil society actors, especially with regard to the protection, support and rehabilitation of affected children and their families.

RECOMMENDATIONS

- Sensitize Ghanaian traditional leaders, chiefs and kings regarding the negative effects of child, early and forced marriage.
- Call on the National House of Chiefs to take a common stand in condemning child, early and forced marriage and to get their members to put it into practice.

- Invite traditional and religious leaders to put in place local by-laws to end child, early and forced marriage and to cooperate with community councils to ensure their application.
- Recommend a civil marriage ceremony as a condition for any traditional or religious marriage.
- Promote the application of the minimum age for marriage to all forms of union.
- Raise awareness, especially among parents and children themselves, for the negative health, economic and legal consequences of child, early and forced marriage.
- Inform the public about the existing legal framework to protect children against early and forced marriage.
- Empower children and parents to speak out and to report child, early and forced marriage or the risk of it.
- Encourage chiefs and community members to report those responsible for child, early and forced marriage as well as any other form of sexual violence to law enforcement authorities so that they can be prosecuted instead of trying to protect them.
- Support children affected by child, early and forced marriage or other forms of sexual violence for reporting and prosecution process.
- Encourage judicial and law enforcement personnel to apply existing laws to protect children from child, early and forced marriage and to improve enforcement mechanisms.

- Call on decision-makers to provide necessary resources for the prosecution of perpetrators as well as the rehabilitation and (re)integration of children affected by child, early and forced marriage.
- Encourage cooperation between state authorities as well as with civil society actors in fighting child, early and forced marriage.
- Remind traditional and religious leaders as well as politicians that interfering in cases of child, early and forced marriage reported to law enforcement agencies to prevent or stop their prosecution, is a criminal offence.

Section 4: Children's rights norms related to child trafficking

African Charter on the Rights and Welfare of the Child (ACRWC)

Article 29 – Sale, Trafficking and Abduction

States Parties to the present Charter shall take appropriate measures to prevent:

- (a) the [...] traffic of children for any purpose or in any form, by any person including parents or legal guardians of the child;

[...]

Ghana Children's Act (GCA)

Section 6 (3) – Parental duty and responsibility

Every parent has rights and responsibilities whether imposed by law or otherwise towards his child which include the duty to

- (a) protect the child from neglect, discrimination, violence, abuse, exposure to physical and moral hazards and oppression.

[...]

except where the parent has surrendered his rights and responsibilities in accordance with law.

Ghana Human Trafficking Act (GHTA)

Section 1 – Meaning of trafficking

- (1) Human trafficking means the recruitment, transportation, transfer, harbouring, trading or receipt of persons within and across national borders by
 - (a) the use of threats, force or other forms of coercion, abduction, fraud, deception, the abuse of power or exploitation of vulnerability, or
 - (b) giving or receiving payments and benefits to achieve consent.

[...]

- (3) Placement for sale, bonded placement, temporary placement, placement as service where exploitation by someone else is the motivating factor shall also constitute trafficking.
- (4) Where children are trafficked, the consent of the child, parents or guardian of the child cannot be used as a defence in prosecution under this Act, regardless of whether or not there is evidence of abuse of power, fraud or deception on the part of the trafficker or whether the vulnerability of the child was taken advantage of.

Section 2 – Prohibition of trafficking

- (1) A person shall not traffic another person within the meaning of section 1 or act as an intermediary for the trafficking of a person.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to imprisonment for a term of not less than five years.

- (3) For purposes of this section, an intermediary is someone who participates in or is concerned with any aspect of trafficking under this Act who may or may not be known to the family of the trafficked person.
- (4) To be concerned with an aspect of trafficking in this Act means
 - (a) to send to, take to, consent to the taking to or to receive at any place any person for the purposes of trafficking, or
 - (b) to enter into an agreement whether written or oral, to subject any party to the agreement or subject any other person to trafficking.

Section 3 – Provision of trafficked person prohibited

- (1) A person who provides another person for purposes of trafficking commits an offence even where the person is a parent.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a term of imprisonment of not less than five years.

Section 4 – Use of trafficked persons prohibited

A person who uses a trafficked person commits an offence and is liable on summary conviction to a term of imprisonment of not less than five years.

Section 5 – Conveyance in trafficking

Means of conveyance in trafficking includes use of public transport and other forms of transport such as conveyance by land, water or air.

Section 6 – Duty to inform

- (1) A person with information about trafficking
 - (a) Shall inform the police, or
 - (b) May inform
 - (i) the Commission of Human Rights and Administrative Justice,
 - (ii) the Department of Social Welfare,
 - (iii) the Legal Aid Board, or
 - (iv) a reputable Civil Society Organisation.
- (2) A person who fails to inform the police commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units or a term of imprisonment not less than twelve months or to both.

Section 9 – Filing of complaint to police

- (1) A victim of trafficking or a person with information about trafficking may file a complaint with the police or other security services at the place where
 - (a) the offender resides,
 - (b) the victim resides,
 - (c) the trafficking occurred or is occurring, or
 - (d) the victim is residing temporarily, if the victim has left his or her normal place of abode.
- (2) A child may be assisted by a next friend to file a complaint on trafficking.

Section 11 – Receipt of complaint by police

- (1) Where a police officer receives a complaint, the officer shall
 - (a) take a statement from the parties and witnesses,
 - (b) record the complaint in detail and provide a copy of the written report to the victim,
 - (c) assist the victim to obtain medical treatment where necessary,
 - (d) assist the victim to a place of safety if the victim expresses concern about safety, and
 - (e) inform the victim of his or her rights and any basic material support which may be available to assist the victim.
- (2) A police officer shall take a statement from a child in the presence of a next friend or a guardian.

Section 18 – Rehabilitation of trafficked person

- (1) The Ministry shall assist to provide a rescued victim of trafficking with employable skills and employment opportunities.
- (2) The Ministry shall assist the victim with startup capital to ensure the survival of the trafficked person.
- (3) Trafficked victims may receive financial assistance from the Fund. 8 Act 694 Human Trafficking Act, 2005
- (4) The best interest of the child shall be paramount in assistance given to the rescue, rehabilitation and re-integration of a trafficked child.

Section 37 – Reference to Family Tribunal

- (1) Where there is a need for care and protection for a child victim of trafficking, the court dealing with an offence committed under this Act, may refer matters concerned with temporary custody of the trafficked child to a Family Tribunal.
- (2) A matter connected with trafficking that relates to a child and the rights of the child shall be referred to a Family Tribunal under the Children’s Act, 1998 (Act 560).

COMMENTS

The right to protection against trafficking

This specific children’s right is enshrined in art. 29 (1) ACRWC and backed up by section 3 GCA and section 2 GHTA. It ensures that children are protected from being abducted or traded like objects by anyone, including their parents or caregivers, whether by force or through false promises.

Human trafficking, and child trafficking in particular, continues to be a major challenge in Ghana, both within the country and across borders. The Ghanaian Ministry of Gender, Children and Social Protection stated in its National Plan of Action for the Elimination of Human Trafficking in Ghana 2022-2026 (p. 2) that *‘Ghana is a source, transit, and destination country for men, women, and children subjected to forced labour and sex trafficking.’* There (p. 3) it is also pointed out that 60% of children working on southern Lake Volta were trafficked into forced labour.

Definition of child trafficking

In accordance with section 1 GHTA, child trafficking includes the following acts: recruiting, transporting, transferring, harboring, trading or receiving a person under the age of 18. Different types of placements such as placements for sale, bonded placements, temporary placements or placements as service are also considered child trafficking if they are motivated by the aim of exploitation of the child by another person. Section 5 GHTA also clarifies that the transport may be by public or private means, by land, air or water. In addition, it does not matter whether these acts take place within Ghana or across its borders. Nor does it matter whether the children are tricked, forced or persuaded to leave their homes and then exploited, forced to work or sold. Child trafficking can therefore take place with or without the consent of the child, parents or guardian of the child.

In Ghana, child trafficking can be noted in various areas and situations:

Many children are trafficked from their home villages to work in fishing communities, especially in the Lake Volta area. There they are exploited by fishermen who themselves are desperately trying to earn a living and feed their families. These trafficked children often work long hours in extremely poor and even dangerous conditions. They are used to release the fish from nets that are getting smaller and smaller, and to untangle those nets deep under water when they have been caught by submerged tree branches. Small children's hands are considered best suited for such work. Sometimes it is not even checked in advance whether the children can swim at all. Instead, their drowning is knowingly accepted because it is considered beneficial for the next catch if a child dies in the water. Some fishing communities even go so far as to decapitate a child in the water, as children's blood is said to promise a particularly profitable catch of fish.

Children in Ghana are also trafficked for the purpose of ritual killings, for organ harvesting, for exploitative labour on cocoa plantations or in the household of relatives. Girls, children from poor families, children who are often left to themselves without their parents' supervision and orphans who lack the support of family members are most at risk in this regard.

Child trafficking in Ghana is favoured by socio-economic factors and the culture of having children live with extended family members for a certain period of time. In fact, children do not always grow up with their parents, but with relatives or acquaintances. It's rather common for parents to entrust their children to others. This makes it easier for child traffickers, especially in rural regions, to take children away, mainly in return for false promises of special future opportunities, or even to buy them from their often impoverished parents. Some children are also pushed by their parents to look for money in the city or abroad to support the family. Others intentionally leave their home village in the hope of a better life. Common to all these situations is that promises are made, such as monthly payments of the children's earning to the families, but these are rarely honored. Instead, the children are exploited and robbed of their childhood, their future and in the worst case, their lives.

Duty to report

Anyone who witnesses a case of child trafficking or has information about it must report it. Failure to do so may result in a fine or even imprisonment (at least twelve months), or both. This follows from section 6 GHTA.

Unfortunately, people in Ghana, as well as elsewhere, are reluctant to report cases of child trafficking. Some are afraid of becoming the target of attacks by traffickers themselves and fear retaliation. Others are unwilling to endure the bureaucracy associated with reporting a case (long waiting times, repeated questionings, etc.) or to take responsibility for the trafficked child, who is often left in the care of the person reporting the trafficking. Still others do not know who to turn to in such cases. Very few people don't speak up for trafficked children because they either don't realize that these children need support or don't feel responsible for them. Finally, the legal obligation to report child trafficking is still largely unknown.

Reporting process

➤ *Who can report?*

According to section 9 GHTA, different persons can report (child) trafficking: either the person who has information about it or the person who has been trafficked. In particular, if the latter is a child, she or he can be accompanied and supported by another person such as a close friend.

➤ *Where to report?*

Section 6 GHTA states that the reporting can be made to the police, the Commission of Human Rights and Administrative Justice, the Department of Social Welfare, the Legal Aid Board, or to a trustworthy civil society organization. Section 9 GHTA specifies that one should turn to the institution situated at the place where the trafficked person (even if only temporarily) or the trafficker resides or the trafficking takes or took place.

While the police stations are easy to reach, thanks to their presence at local level, the other state institutions are rather difficult to access. Although the Commission of Human Rights and Administrative Justice as well as the Department of Social Welfare have representatives at regional or district level, they are hardly known to the population. Most people do not even know that the above-mentioned state institutions are also responsible for receiving reports of child trafficking. If they do know, they often cannot afford the cost of transport to reach them. There is also no free hotline that can be used for reports. In addition, the institutions themselves do not have the necessary resources to investigate the reports. As a result, they usually inform those reporting that they cannot do anything and refer them to civil society organizations that are active in this area.

➤ *What to report?*

As with any criminal offence, it is important to give details of what has happened, when, where, how, by whom and to whom. When a report is made to the police, the officer will first interview the person reporting and any other person involved, such as a witness, in accordance with section 11 GHTA. All detailed information is then documented in a written report, a copy of which is given to the trafficked person.

Unfortunately, the police stations in the Northern Region of Ghana in particular do not generally have suitable locations that enable trafficked children to be interviewed in a child-friendly environment that also protects their privacy. Furthermore, only a few police officers are trained to conduct such interviews. Most of them rarely know how to approach child victims of trafficking

in particular, what evidence to secure and how to document it so that it can later be used in court.

Consequences

➤ *For child victims of trafficking*

Children who were trafficked must be informed about their rights, receive medical care if necessary and be placed in a safe location if needed. According to section 11 GHTA, it is the duty of the police officer to inform the children accordingly and to support them in this regard. In accordance with section 18 GHTA, trafficked children also have the right to be assisted for their rehabilitation and reintegration. This can include financial support to ensure their survival. Likewise technical support is possible, e.g. to get an employment or to acquire competencies to this end. To sum it up, all measure need to be taken in the best interest of the child.

Unfortunately, due to a lack of financial and human resources, there are hardly any or, in some areas, no support programs for child victims of trafficking. There are also very few child protection centres, only one in the Northern Region of Ghana, for example. Therefore, rehabilitation and reintegration measures are mainly offered by civil society structures or individual persons such as local chiefs. However, these are usually temporary and often inadequate in view of the existing needs, as they are project-based and project-funded.

➤ *For traffickers and persons involved in trafficking*

Human trafficking, and child trafficking in particular, is a crime. According to sections 2, 3 and 4 GHTA, any person who traffics another person, assists traffickers or uses trafficked persons, risks

a prison sentence of at least 5 years. This means that it is enough to be involved in human trafficking as an intermediary to be condemned. This is the case, for example, if you provide a person for trafficking (this can also be done as a parent), arrange, agree to or carry out the transportation of a trafficked person, accommodate a trafficked person at any location or make a written or verbal agreement on human trafficking.

Aspects that hinder the effective fight against (child) trafficking in Ghana include the inadequate implementation of existing laws and the lack of successful prosecution of traffickers. It is still common for traffickers to use their social status within the community or political connections to ensure that charges against them are dropped. Unfortunately, this system is encouraged by corrupt individuals in influential or decision-making positions. Charges based on evidence that does not stand up in court (see explanations under point *What to report*) also play into the hands of those accused of human trafficking. Last but not least, there are also loopholes in existing legislation, regarding the adoption process in particular, which are exploited by traffickers.

RECOMMENDATIONS

- Raise awareness of situations in which children are at risk of becoming victims of trafficking.
- Sensitize parents on the risks associated with giving their children out to family members and friends.
- Inform the population about the importance, but also about the legal obligation to report child trafficking.

- Encourage state institutions, responsible for receiving reports of child trafficking, to reach out to the population in order to become more accessible.
- Set up a hotline where information about child trafficking can be reported anonymously and free of charge.
- Continue training state agents to improve child-friendly interviewing and evidence gathering, particularly in cases of child trafficking.
- Encourage judicial and law enforcement agents to implement existing laws to protect children from child trafficking.
- Call on decision-makers to provide necessary resources to the state institutions responsible for the prosecution of perpetrators as well as the rehabilitation and reintegration of child victims of trafficking.
- Advocate for an effective and holistic rehabilitation scheme for trafficked children that provides them with shelter, food, medical care, clothes, counseling, etc.
- Continue fighting against corruption among law enforcement officers.

RADIO ADVERTISEMENT

An instrument to share the content of this document in order to promote the knowledge and respect of Children's rights amongst populations will be the radio, especially the following:

COMMUNITY RADIO FOR RURAL DEVELOPMENT - GUSHEGU

FM 94.7 MHz

The voice of the voiceless

Operated by:

Pan African Organisation
for Research and
Protection of Violence on
Women and Children
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Motto:

Promoting the Communication Rights of Rural Masses

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