

Status of Human Rights in Ghana for the 42nd Session of the Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council. The purpose of this report is to raise concerns regarding human rights violations in the Republic of Ghana (Ghana) for the 42nd Session of the Universal Periodic Review (UPR).

Background

2. Ghana is located in western Africa with a population of approximately 33.1 million people.¹ The population is predominately Christian with 71% of the population identifying as Christian, 19% as Muslim, 3% as traditionalist, 4% as other, and 1% as having no religion.²

3. Ghana's previous UPR was on November 7, 2017.³ As a result of the review, Ghana received 241 recommendations, 214 of which were supported by Ghana.⁴ One of the recommendations made by Ireland, and supported by Ghana, was that the government "[t]ake further measures to strengthen the legislative framework on female genital mutilation, whilst also ensuring effective implementation, monitoring and investigation."⁵ On the issue of human trafficking, the United States of America recommended, and Ghana supported the recommendation, that the government "[e]nforce laws on human trafficking and child labour by holding perpetrators criminally accountable and providing adequate funding to investigate traffickers and protect victims."⁶ There were no recommendations made regarding religious freedom.

Legal Framework

Female Genital Mutilation

4. Under Article 26(2) of the Constitution of Ghana, "[a]ll customary practices which dehumanise or are injurious to the physical and mental well-being of a person are prohibited."⁷ Additionally, under the Penal Code of Ghana, the practice of Female Genital Mutilation (FGM) is expressly prohibited.

Section 69A.–Female Circumcision.

(1) Whoever excises, infibulates or otherwise mutilates the whole or any part of the labia minora, labia majora and the clitoris of another person commits an offence and shall be guilty of a second degree felony and liable on conviction to imprisonment of not less than three years.

(2) For the purposes of this section “excise” means to remove the prepuce, the clitoris and all or part of the labia minora; “infibulate” includes excision and the additional removal of the labia majora.⁸

5. Furthermore, the Children’s Act, 1998, forbids practices that are cruel or inhuman.

Protection from torture and degrading treatment

13. (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.⁹

6. Ghana is also a party to the Convention on the Rights of the Child (CRC). Under Article 19 of the CRC:

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.¹⁰

7. Furthermore, Article 7 of the International Covenant on Civil and Political Rights (ICCPR), to which Ghana is a party, holds that “[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.”¹¹

Human Trafficking

8. Under Article 24 of the Constitution of Ghana:

24. Economic Rights

1. Every person has the right to work under satisfactory, safe and healthy conditions, and shall receive equal pay for equal work without distinction of any kind.

2. Every worker shall be assured of rest, leisure and reasonable limitation of working hours and periods of holidays with pay, as well as remuneration for public holidays.¹²

9. Additionally, under sections 2 and 3 of Article 28 of the Constitution, “[e]very child has the right to be protected from engaging in work that constitutes a threat to his health, education or development. A child shall not be subjected to torture or other cruel, inhuman or degrading treatment.”¹³

10. In 2005, Ghana passed the Human Trafficking Act. Under this Act:

Meaning of trafficking

1. (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.

2) Exploitation shall include at the minimum, induced prostitution and other forms of sexual exploitation, forced labour or services, salary or practices similar to slavery, servitude or the removal of organs.

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.¹⁴

Prohibition of trafficking

2. (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.¹⁵

Additionally, under Section 12 of The Children’s Act, 1998, “[n]o person shall subject a child to exploitative labour as provided under section 87 of this Act.”¹⁶ Under Section 87, “[n]o person shall engage a child in exploitative labour. Labour is exploitative of a child if it deprives the child of its health, education or development.”¹⁷

11. Furthermore, under Article 8 of the ICCPR, “No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. No one shall be held in servitude.”¹⁸

Female Genital Mutilation

12. FGM is a historically entrenched practice with deep cultural roots. According to a study that utilized focus group discussions (FGD) with women and men from northern Ghana:

FGM is associated with tradition as it is understood as a rite of passage handed down by generations. Community members who uphold FGM strictly guard the practice to preserve its values and ensure continuity. FGD respondents believed that FGM is an important traditional practice that must be handed-down to generations yet unborn, compelling families to circumcise their daughters to satisfy this traditional requirement.¹⁹

13. Across most regions of Ghana, the prevalence of FGM is relatively low, especially when compared to other African countries, and “[b]etween 2011 and 2017-18, the overall prevalence for women aged 15-49 decreased slightly from 3.8% to 2.4%.”²⁰ While, Ghana “is making significant progress”²¹ in the fight against FGM, “the magnitude of FGM practice is variable among the regions and districts, but this practice is very dominant among the northern tribes. Even though the over-all prevalence was 4%, that of the Upper East Region was 38%, and that of a district (Bawku municipality) was 82%.”²²

14. The greatest factor contributing to FGM is cross-border activity. The regions that have the highest rates of FGM border Burkina Faso and Togo, both of which have a higher prevalence of FGM than Ghana does overall.²³

[T]he cross-border activity of perpetrators of FGM is alarming, as most Ghanaian parents cross the borders to Togo and Burkina Faso to cut their children and bring them back to Ghana. This is because the communities that patronise the practice are now aware that FGM is criminal in Ghana.²⁴

15. There is not much information regarding charges being brought against people who subject women and girls to this procedure.²⁵ “Information on FGM cases brought to court in Ghana is limited, and it is unknown to what extent law enforcement is proving successful in areas of higher prevalence or what the outcomes of any prosecutions made in recent years have been.”²⁶ Furthermore, most instances are done in private and go unreported., “[T]hough FGM is not allowed, some people still hide and do it and many girls are still suffering from it because they are not reported, nobody hears of them and action is not taken.”²⁷ While rates of FGM in Ghana are declining overall for young girls, some areas of the country have a higher or even increasing prevalence of the practice. For instance, in the northern regions of Ghana, FGM is “increasingly performed on younger girls, who are less likely to resist or report the crime.”²⁸ In fact, new techniques are being used to perform FGM on baby girls. Perpetrators have begun

“pouring ‘hot shea butter’ (also known as *Nkuto*) onto a baby girl’s clitoris to impede its growth.”²⁹

16. FGM is extremely dangerous and can have lasting health effects that can seriously impact the health of women and girls. One victim of FGM shared her tragic story: “I was twelve years when my grandmother mutilated me, I bled a lot. When I was going to give birth, I suffered, and the doctors had to use a tube to pull out the baby because he said I had no clitoris.”³⁰ FGM has been shown to cause the following complications:

Immediate complications include severe pain, shock, haemorrhage, tetanus or infection, urine retention, ulceration of the genital region and injury to adjacent tissue, wound infection, urinary infection, fever, and septicemia. Haemorrhage and infection can be severe enough to cause death.

Long-term consequences include complications during childbirth, anaemia, the formation of cysts and abscesses, keloid scar formation, damage to the urethra resulting in urinary incontinence, dyspareunia (painful sexual intercourse), sexual dysfunction, hypersensitivity of the genital area and increased risk of HIV transmission, as well as psychological effects.³¹

Child Trafficking

17. Although Ghana serves as a source, transit, and destination country for human trafficking in general, child trafficking within the country is most prevalent.³² According to a report released by the government of Ghana:

Ghanaian boys and girls are subjected to being trafficked into forced labour, such as in fishing, domestic service, street hawking, begging, portering, artisanal gold mining, quarrying, herding, and agriculture. Ghanaian girls, and to a lesser extent boys, are also subjected to sex trafficking. Sex trafficking exists nation-wide but is most prevalent in the Volta Region and is growing in the oil-producing Western Region.³³

18. Indeed, the Lake Volta region sees a high prevalence of child trafficking and child labor. “More than one-third of the 1,620 households surveyed in and around Lake Volta housed a victim of child trafficking or someone held in slave-like conditions.”³⁴ Furthermore, the International Labour Organization (ILO) “estimates there are 20,000 children living and working in slavery in the Volta region and surrounding fishing communities.”³⁵ In this region, children are valued for their small fingers that can be used to fix and untether fishing nets.³⁶ These children are subjected to dangerous jobs and physical assault.

The kids are often beaten, and the girls are at great risk of being sexually exploited. In addition to backbreaking labor hauling nets and fish, they are forced to do the most dangerous job: jump overboard into parasite-infested water to free the fishing nets that become entangled in submerged tree branches.

The children are not taught how to swim; too many of them drown. I recall one boy, perhaps eight years old, whose entire body quivered in terror as our boat

approached his on the lake. He was afraid the waves would knock him out of the boat, or worse, we would take him away someplace even more terrible. During my time at Lake Volta, I did not meet a single child – not one – who did not know another who had drowned.³⁷

19. In October 2021, two individuals were arrested for trafficking six children from Togo to Jaman, a region in northern Ghana.³⁸ According to the police, “the suspects reportedly told the Police they had the blessing of the parents to traffic their children.”³⁹ The police further stated that “the father of the children is complicit because he confessed to consenting that the children be taken away.”⁴⁰ And according to the news agency who reported on the cases, the father “confirmed that the suspects stayed with them for seven days and that they agreed to the conditions before the children were given to them. He said he was compelled to do that due to poverty.”⁴¹

20. In March 2021, 13 boys who had been trafficked to Ghana from Cote d’Ivoire were returned home.⁴² These boys had been trafficked to work in the Lake Volta region.

The youths – all boys aged nine to 19 – were brought to Ghana from Cote d’Ivoire under the pretext of studying Quran. An Imam allegedly exploited the children as farm workers, some for up to ten years according to Ghanaian authorities. Exact timelines are difficult to trace, as children as young as three were trafficked and they do not know the day, month or year they came to Ghana.⁴³

21. In January 2021, police arrested two individuals and rescued 11 children (eight boys and three girls) to Kumasi in the Ashanti Region.⁴⁴

22. The above examples are just a few of the many cases of child trafficking going on in Ghana, It is a significant concern, complicated by the fact that Ghana lacks the necessary resources to adequately address this massive issue.⁴⁵

Ghanaian law enforcement officials often lack the resources necessary to carry out their basic duties under [Ghana’s Human Trafficking] Act such as fueling vehicles to travel to rescue sites. One law enforcement official explained that officers are afraid to take action in trafficking cases because they know the responsibility of providing shelter for the trafficked person will fall to them. Additionally, a number of law enforcement and NGO interviewees indicated they had taken trafficked persons into their homes when no shelters were available. Beyond these very basic resource constraints, law enforcement likely lacks the funding to conduct numerous comprehensive trafficking investigations sufficient to result in successful prosecutions.⁴⁶

Recommendations

23. Overall, Ghana’s work to combat FGM within the country is contributing to an overall decline of the practice. It still, however, faces enforcement difficulties in remote areas of the country. Because FGM stems from tradition, it is important to educate these communities about the dangers of FGM. To that end, we recommend that Ghana focus educational efforts on the northern and border regions by working closely with tribal leaders so that a change in how FGM

is viewed comes from within the traditional structure of the tribe. On the issue of human trafficking, particularly child trafficking, the government must prioritize resources and training for authorities to be able to investigate cases of trafficking and provide aid and rehabilitative services for the victims so that eventually the children will be able to return home. In addition, the government must do what it can to address extreme poverty, which is a main factor making children vulnerable to human trafficking.

¹ Ghana, THE WORLD FACTBOOK, <https://www.cia.gov/the-world-factbook/countries/ghana/> (May 10, 2022).

² *Id.*

³ *Universal Periodic Review – Ghana*, U.N. HUM. RTS. COUNCIL (UNHRC), <https://www.ohchr.org/en/hr-bodies/upr/gh-index> (last visited May 17, 2022).

⁴ *See UPR of Ghana – Thematic List of Recommendations*, UNHRC, <https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session28/GH/MatriceRecommendationsGhana.docx> (last visited May 17, 2022).

⁵ Rep. of the Working Group on the Universal Periodic Review – Ghana, U.N. Doc. A/HRC/37/7, at ¶ 146.150 (Dec. 26, 2017).

⁶ *Id.* at ¶ 146.186.

⁷ GHANA'S CONST. OF 1992 WITH AMENDMENTS THROUGH 1996, art. 26 sec. 2, https://www.constituteproject.org/constitution/Ghana_1996.pdf.

⁸ Criminal Code, 1960 (Act 29) sec. 69A (Ghana), <https://www.wipo.int/edocs/lexdocs/laws/en/gh/gh010en.pdf>.

⁹ The Children's Act, 1998 (Act 560) sec. 13 (Ghana), <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/56216/101251/F514833765/GHA56216.pdf>.

¹⁰ Convention on the Rights of the Child, G.A. Res. 44/25, art. 19 (Nov. 20, 1989), <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

¹¹ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. 95-20, 6 I.L.M. 368 (1976), 999 U.N.T.S. 171, art. 7, <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>.

¹² GHANA'S CONST. OF 1992 WITH AMENDMENTS THROUGH 1996, art. 24, https://www.constituteproject.org/constitution/Ghana_1996.pdf.

¹³ *Id.* at art. 28 sec. 2, 3.

¹⁴ Human Trafficking Act, 2005 sec. 1 (Ghana), https://www.mint.gov.gh/wp-content/uploads/2017/06/Human_Trafficking_Act_2015-1.pdf.

¹⁵ *Id.* at sec. 2.

¹⁶ The Children's Act, 1998 (Act 560) sec. 12 (Ghana), <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/56216/101251/F514833765/GHA56216.pdf>.

¹⁷ *Id.* at sec. 87.

¹⁸ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. 95-20, 999 U.N.T.S. 171, art. 8, <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>.

¹⁹ *Persistent Female Genital Mutilation Despite its Illegality: Narratives from Women and Men in Northern Ghana*, PLOS ONE (Apr. 22, 2019), <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0214923>.

²⁰ FGM IN GHANA: SHORT REPORT, 28 TOO MANY, at 1 (Nov. 2019), [https://www.28toomany.org/static/media/uploads/Country%20Research%20and%20Resources/Ghana/ghana_short_report_v2_\(april_2021\).pdf](https://www.28toomany.org/static/media/uploads/Country%20Research%20and%20Resources/Ghana/ghana_short_report_v2_(april_2021).pdf).

²¹ *Female Genital Mutilation in Ghana*, THE BORGEN PROJECT, <https://borgenproject.org/female-genital-mutilation-in-ghana/> (last visited Jun. 15, 2022).

²² ABDUL RAUF ALHASSAN & JOHN NYAABA ANYINZAN-ADOLIPORE, FEMALE GENITAL MUTILATION IN GHANA: PREVALENCE AND SOCIOECONOMIC PREDICTORS, BIOMED RESEARCH INTERNATIONAL (May 12, 2021), <https://downloads.hindawi.com/journals/bmri/2021/6675579.pdf>.

²³ FGM IN GHANA: SHORT REPORT, *supra* note 20.

²⁴ *Id.*

²⁵ GHANA: THE LAW AND FGM, 28 TOO MANY, at 5 (Sept. 2018),

[https://www.28toomany.org/static/media/uploads/Law%20Reports/ghana_law_report_v1_\(september_2018\).pdf](https://www.28toomany.org/static/media/uploads/Law%20Reports/ghana_law_report_v1_(september_2018).pdf).

²⁶ *Id.*

²⁷ *Ghana*, 28 TOO MANY, <https://www.28toomany.org/country/ghana/> (last visited May 17, 2022).

²⁸ FGM IN GHANA: SHORT REPORT, *supra* note 20, at 4.

²⁹ *Id.*

³⁰ *Gov't Committed to Fight Against FGM – Otiko Djaba*, CITI (Nov. 17, 2017),

<https://citifmonline.com/2017/11/govt-committed-to-fight-against-fgm-otiko-djaba/>.

³¹ *Female Genital Mutilation (FGM) Frequently Asked Questions*, UNFPA (Feb. 2022),

<https://www.unfpa.org/resources/female-genital-mutilation-fgm-frequently-asked-questions>.

³² NATIONAL PLAN OF ACTION FOR THE ELIMINATION OF HUMAN TRAFFICKING IN GHANA, MINISTRY OF GENDER, CHILD. AND SOC. PROT. (June 2017), <https://www.unicef.org/ghana/media/1851/file>.

³³ *Id.*

³⁴ Lisa Kristine, *On Ghana's Lake Volta, Child Slavery is in Plain Sight*, CNN,

<https://www.cnn.com/2021/07/03/opinions/lisa-kristine-lake-volta-spc-intl/index.html> (July 3, 2021, 4:07 AM).

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ Mohammed Aminu M. Alabira, *Yendi: Two Arrested for Allegedly Trafficking Six Children*, CNR (Oct. 6, 2021),

<https://citinewsroom.com/2021/10/yendi-two-arrested-for-allegedly-trafficking-six-children/>.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Child Survivors of Trafficking Rescued in Ghana Return to Côte d'Ivoire*, IOM U.N. MIGRATION (Mar. 19, 2021), <https://www.iom.int/news/child-survivors-trafficking-rescued-ghana-return-cote-divoire>.

⁴³ *Id.*

⁴⁴ Mohammed Aminu M. Alabira, *Two Arrested in Tamale over Suspected Trafficking of 11 Children*, CNR (Jan. 11, 2021), <https://citinewsroom.com/2021/01/two-arrested-in-tamale-over-suspected-trafficking-of-11-children/>.

⁴⁵ Manda Sertich & Marijn Heemskerk, *Ghana's Human Trafficking Act: Success and Shortcomings in Six Years of Implementation*, 19 HUM. RTS. BRIEF 2 (2011).

<https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1779&context=hrbrief>.

⁴⁶ *Id.* at 6.