



www.fmsi-onlus.org

Universal Periodic Review (UPR)

Of

GHANA

28th Session

(6th - 17th November 2017)

An NGO Submission by

**Marist International Solidarity Foundation (FMSI)
(Special Consultative Status with UN ECOSOC)**

Submitted in Geneva, 30th March 2017

I. Introduction

1. This report is a submission made by the Marist International Solidarity Foundation (FMSI). FMSI is an NGO in consultative status with UN ECOSOC, which has a special focus on promoting and protecting the rights of children. This organisation was established in 2007 in Italy as a Not-for-Profit Organisation with a Social Purpose (FMSI-ONLUS) and has a presence in nearly eighty countries.
2. The report highlights FMSI-ONLUS concerns related to Child Rights issues especially those related to education in Ghana.
3. The statistics and information presented in this submission came from personal interviews and surveys with local members within the country and also includes information from national institutions dealing with children's issues in Ghana.

II. Right to Education

Second-Cycle UPR Recommendations

1. In the Second Cycle of the UPR, Ghana accepted recommendations made by Cuba, China, Zimbabwe, Singapore and Hungary¹ on realizing the right to education for all by more effectively enforcing compulsory education and promoting and consolidating quality education - so that all areas have access to education, and net enrolment rate is increased.

Legal and Institutional Framework

2. Ghana is a state party to the International Covenant on Economic, Social and Cultural Rights (1976)² and the Convention on the Rights of the Child (1990)³ that promote the free and compulsory education. The right to 'free, compulsory universal basic education' (FCUBE) is enshrined in the Ghanaian Constitution, and there are many federal acts in place which relate to education for instance the Education Act (2008) promotes the free and compulsory education at the basic level. The Act urges the District Assembly to ensure that learning infrastructures are properly done and parents assume their

¹ A/HRC/22/6 Paragraph 124 and 125

² Ghana signed and ratified the International Covenant on Economic, Social and Cultural Rights in 2000.

³ Ghana signed and ratified the Convention on the Rights of the Child in 1990.

responsibilities of supporting Government's efforts to encourage their children to go to school.⁴

Promotion and Protection of Human Rights on the Ground

3. We are concerned about the extent to which the FCUBE policy is being faithfully implemented, with reports suggesting that Ghana's education system is neither truly free, nor compulsory. Though primary public schooling itself may be free, there are many costs for things such as uniforms, school books, excursions etc. which can often fall to the family and the student to cover. These costs can be enough to prevent children from attending school. Though there are some government bursaries and scholarships, such as capitation grants, many rural areas in particular do not receive these financial aids, or do not receive them when they are needed. This defies the purpose of having free education, so that these kinds of barriers do not exist for children. It is however, pleasing to note that the 2017/2018 budget allocation towards education has been increased as presented by the Minister of Finance in the Parliament in February 2017. FMSI feels that the increase of the budget may not improve children's situation if it does not include areas that have been highlighted as needing support.
4. The compulsory element of the FCUBE policy is not being faithfully upheld, with no real measures of enforcement being taken to ensure children of primary school age are attending school⁵. The intention behind enforcement of compulsory attendance is to prevent children wandering the streets during school hours, instead giving them a safe space to learn and to get an education. The fact that efforts to enforce this aspect of the FCUBE policy was not regarded as important is not a positive sign that Ghana is truly committed to providing education for all children.

Teacher / Pupil ratio

5. Ghana has made a tremendous stride on Teacher/Pupil ratio. The average is so far 31.26 (UNICEF, 2015) against the 30 proper for a conducive learning environment. However, Ghana faces a challenge to have sufficient trained teachers. "At least 40 percent of teachers working with children under the age of 15 have never had any formal training"⁶ In certain areas, particularly in rural areas, a lack of trained teachers means that one teacher can be responsible for up to three levels of classes at one time. In situations such as this, with resources spread thin, it is nearly impossible for teachers to provide the kind of one-on-one contact necessary to provide a child with a quality education.
6. Private schools are becoming an increasing risk to FCUBE policy - with companies establishing private schools to make a profit from supplying sub-par education. Private

⁴ Ghana Education Act 778 (2008) articles 2(1-5)

⁵ <http://citifmonline.com/2015/05/14/supreme-court-to-rule-on-ppps-fcube-case>

⁶ <http://video.aljazeera.com/channels/eng/videos/ghana-faces-shortage-of-qualified-teachers/4911140607001>; Dec. 27, 2016.

schools often employ untrained teachers, have a greater number of students, and due to the lack of government support have fewer resources and buildings are often in poor conditions. In addition to the question of the quality of education, the establishment of private schooling can also create social issues by segregating the rich and those who can afford private education fees, from the poor and those who cannot. Even if there is no guarantee the private education is of a higher quality, the illusion of status remains.

7. Additionally, the monitoring systems which have been created to try and monitor private schools have not been allocated sufficient resources to be effective. The ‘Private School Desk’ within the Ghana Education Service has been reported as being understaffed and under-resourced to the extent that they cannot fulfil their responsibilities. The government in Ghana has allowed the establishment of private schools as a way of “filling the gap” in the education system and providing even more opportunities for education - however without the proper checks and balances necessary to ensure private education is of a good quality, this may be doing more harm for children’s education than good.

Recommendations

- 1. Properly review the District Assemblies monitoring mechanisms to ensure that they are diligently doing and reporting the situation of schools in their areas.**
- 2. Prioritize funding and allocation of resources to the ‘Private School Desk’ in order to better regulate the private schools in Ghana and enforce a higher standard of quality regarding trained teachers and facilities.**
- 3. Take necessary measures to ensure that primary schooling is completely free for children to attend.**

Obstacles to Education: Disability

Second-Cycle UPR Recommendations

8. In the Second Cycle of the UPR, Ghana accepted recommendations made by Australia, Malaysia, Italy and Sudan on reforming policies to improve lives of people with disabilities⁷.

Legal and Institutional Framework

9. Ghana is a state party to the Convention on the Rights of Persons with Disabilities (CPRD) (2008) which it ratified in 2012. The Mental Health Act 2012 lays out procedures for people with mental illnesses and/or intellectual disabilities to challenge continued detention in places such as prayer camps. Children with Disabilities Inclusive

⁷ A/HRC/22/6 para 125 Recommendations 86, 87, 88, 89

Education Policy (IE policy), created in line with the rights to education for persons with disabilities set out in article 24 of CRPD includes a five year plan, along with budget and monitoring indicators.

Promotion and Protection of Human Rights on the Ground

10. The Inclusive Education policy's five year plan is designed to run from 2015 to 2019⁸, and as such is only just entering its third year of implementation. This makes it difficult to determine the effectiveness of the program thus far, as there is not yet sufficient data available. It is pleasing to note that workshops throughout the country have been conducted to train head teachers and teachers for capacity-building⁹ to work with children with disabilities. Community education programmes such as the "Disability rights awareness and inclusive education: building capacity of parents and teachers" manual, are being used to teach about different types of disabilities, the causes of disabilities, how to engage with individuals with disabilities and how to educate children with impairments. This is a resource which can improve awareness and reduce stigma and superstition surrounding disabilities, in order to give those living with disabilities a better quality of life and ideally to prevent further admissions into prayer camps.
11. Regarding the prayer camps, it is sad to note that no actions have been taken to close them or to ban admissions. FMSI has noticed that the appalling condition of people with mental challenges admitted in the prayer camps still remains unabated. The Mental Health Act was intended to offer a pathway to help individuals leave prayer camps of their own free will, as legislators want to find a middle ground where people running prayer camps can send individuals whose health or disabilities have not improved to seek medical services for care. However, it is illegal to keep people with mental health problems in the unaccredited facilities (art. 51 Mental Health Act, 2012).
12. FMSI is concerned that this approach to the running of prayer camps will not be successful in reducing the instances of inhuman, cruel and degrading treatment - as those running the camps may not be willing to relinquish their custody, or may believe they are still able to heal individuals with disabilities through prayer in spite of educational campaigns suggesting otherwise. There are no real monitoring systems in place to ensure that prayer camps are complying with mandatory reporting, or to ensure that they are not mistreating those under their care. This is why closing the prayer camps is the number one priority.

⁸ <https://zeroproject.org/policy/ghana/>

⁹ Inclusive Education rolled out throughout Ghana ; https://20cxh614hon119kmcx49v25h-wpengine.netdna-ssl.com/wp-content/uploads/2016/02/257_Ghana_Inclusive-Education-rolled-out-throughout-Ghana.pdf

13. However, if this method of referring individuals with mental illnesses or intellectual disabilities to doctors was to be fully adopted, there would not be sufficient resources to handle the influx of patients who would come from prayer camps. By 2011, there were only 18 registered psychiatrists in Ghana¹⁰. Resources are already stretched very thin amongst patients in these hospitals, and this is one factor as to why the prayer camps have not been closed outright, as those living in them would have no other place where they could go to be cared for.

Recommendations

- 1. Enact and strengthen a domestic policy that would guide and regulate the practice of prayer camps in the country if it is necessary that prayer camps should be continued.**
- 2. Develop and construct more infrastructure to support mental health services, so that persons with mental illness or intellectual disabilities especially children have care that would replace the prayer camps.**
- 3. Implement a system of monitoring for known prayer camps, to ensure that those within their care are not being mistreated.**

Obstacles to Education: Harmful Traditional Practices

Second-Cycle UPR Recommendations

14. In the second-cycle of the UPR, Ghana accepted recommendations made by Brazil and Switzerland on continuing to protect women's and girls' rights by enforcing laws prohibiting harmful practices against women, including Trokosi and Female Genital Mutilation (FGM), and to intensify efforts to prevent and prosecute harmful practices like FGM¹¹. They also accepted the recommendation made by Mexico to ensure that traditional practices were compatible with CRPD¹²

Legal and Institutional Framework

15. In federal legislation, the Domestic Violence Act (2007) makes physical and psychological abuse of women illegal. The Criminal Code was amended in 1994¹³ to include FGM as a crime and Trokosi is illegal under the Ghana Criminal Code (1998)¹⁴. There is currently no domestic legislation which deals with the legality of witch camps. However, Ghana Constitution prohibits slavery and servitude¹⁵

¹⁰ An overview of Ghana's mental health system: results from an assessment using the World Health Organisation's Assessment Instrument for Mental Health Systems (WHO-AIMS); 2014

¹¹ A/HRC/22/6 para 125 recommendations 32 and 39

¹² A/HRC/22/6 para 125 recommendation 90

¹³ Criminal Code Amendment Act 484 1994 (CHECK FORMATTING)

¹⁴ Ghana Criminal Code (1998) s314A prohibits ritual servitude, like Trokosi.

¹⁵ Constitution of the Republic of Ghana, article 16(1)

Promotion and Protection of Human Rights on the Ground

16. Though Trokosi¹⁶ is legislated against, no prosecutions have occurred in Ghana relating to the practice. It is difficult to fully eliminate Trokosi, as many families will send their girls back to the shrines if they are liberated out of fear of punishment by the gods. Many NGOs are working to educate tribal leaders and families against the practice, however it is not clear what the government is doing to try and prevent Trokosi beyond purely legislative measures. If nothing else, there should be a greater effort made to encourage reporting of shrines and shrine priests, if the lack of reports is indeed the reason why there has been no prosecutions.
17. The practice of FGM persists despite legislation, predominantly near the borders of Burkina Faso and Togo where it is still legal. Parents have taken to crossing the border to cut their girls out of fear of prosecution. In 2015, Ghanaian delegates reported that FGM prevalence had been reduced from 30% to 4% over the last 10 years,¹⁷ however not many prosecutions have been made so far as a result of this.
18. FMSI's investigation reveals that the closure of all witch camps recommended in the previous UPR has not been achieved. It remains a goal and a challenge to the government. Furthermore, the free movements of people in the north to cross to Burkina Faso and Togo pose a big challenge to control Ghanaians since they can still do the practice outside Ghana's borders.

Recommendations

- 1. Reinforce the domestic guidelines and put stringent controls to monitor the practice of trokosi, particularly in areas along the borders with countries where the practice is still prevalent.**
- 2. Ensure that children and women who have undergone FGM and who are liberated from shrines as Trokosi are given access to social, medical, rehabilitative and psychological services, and opportunity for legal redress.**
- 3. Implement programmes to help empower women who have been victims of harmful practices to report the incidents to police, so they can prosecute those responsible.**
- 4. Conduct awareness raising campaigns to sensitize communities on the negative impact of trokosi system.**

Obstacles to Education: Forced Marriages

¹⁶ The traditional religious practice found in parts of Ghana, Benin and Togo that plays an important part in rural justice system. A young girl is offered to the shrine as an expiation to appease the gods for the wrong done in the community. A young girl lives like a slave in the hands of a priest.

¹⁷ CRC Ghana 2015

Second-Cycle UPR Recommendations

19. In the Second-Cycle UPR, Ghana accepted a recommendation made by Portugal to combat violence against women including child and other forced marriages¹⁸.

Legal and Institutional Framework

20. Ghana is a state party to the Convention on the Elimination of All Forms of Discrimination Against Women¹⁹ which it ratified in 1986. In domestic law, the Children's Act 1998 prohibits and criminalizes child marriage,²⁰ as does the Ghana Criminal Procedure Code 1960.²¹

Promotion and Protection of Human Rights on the Ground

21. In 2016, 21% of girls in Ghana were married before age 18 and figures might be higher in other regions.²² Research shows that the practice of child marriage is mostly driven by socioeconomic factors such as poverty, gender inequality, pregnancy and a lack of education. 41% of girls from the poorest families are married before 18, as opposed to only 11.5% of girls from the richest families. Virtually, the 'bride price' for young girls is higher, and so families can often see child marriage as a necessary means to support their family. Additionally, 41.6% of women with no education were married before 18, compared with 4.7% of women married before 18 who had a secondary education²³. Teenage pregnancy can be both a cause and a consequence of child marriage, as there is a stigma against single motherhood and motherhood out of wedlock, so many families decide it is better to marry off the pregnant girl. This often means the end of her education, and creates a situation where the poverty cycle and thus the cycle of child marriage may continue through her children. This is of great concern, and education is a key factor which can prevent child marriage and give girls a future.

Recommendations

- 1. Raise awareness on the negative consequences of child marriage, and the importance of education particularly in the Northern Region.**
- 2. Enhance Human Rights education in all schools in order to sensitise children particularly young girls on how to defend their own rights.**
- 3. Provide adolescent children with sexual health education to try and prevent teenage pregnancy, in order to break the cycle of pregnancy leading to marriage.**

¹⁸ A/HRC/22/6 Par. 125 Recommendation 27

¹⁹ Article 16 of the Convention on the Elimination of All Forms of Discrimination Against Women prohibits forced marriage (1981)

²⁰ Children's Act (1998) Act 560.

²¹ Ghana Criminal Procedure Code 1960, Act 30 (1998)

²² UNICEF; <http://www.girlsnotbrides.org/child-marriage/ghana/>

²³ <http://www.girlsnotbrides.org/child-marriage/ghana/>

Child Labour

Second-Cycle UPR Recommendations

22. In the Second-Cycle of the UPR, Ghana accepted recommendations made by Italy, Turkey, United States of America and Spain to take stringent measures to reduce the use of child labour²⁴, particularly in the mining, cocoa industry, and in the fishing industry on Lake Volta. Also accepted was to implement Ghana Child Labour monitoring system and promote rehabilitation, reintegration and education for victims of forced labour and trafficking.

Legal and Institutional Framework

23. Ghana is a state party to relevant ILO treaties.²⁵ Ghana has federal legislation restricting child labour, however, these laws are not strictly enforced.²⁶ To help reduce child labour, Ghana implemented a National Plan of Action for the Elimination of the Worst Forms of Child Labour ('NPA')²⁷, which aimed to reduce the worst forms of child labour to the "barest minimum" by 2015, and to lay social and institutional foundations for the elimination of other forms of child labour in the long term. Ghana is also engaged in an anti-trafficking partnership with the U.S.²⁸

Promotion and Protection of Human Rights on the Ground

24. According to independent reports published in January 2016, the National Plan of Action did not accomplish its goals. The number of child labourers had increased by the end of 2015, as had the proportion of those engaging in hazardous work.²⁹ In 2014, there were six convictions relating to the worst forms of child labour. In 2015, there were zero convictions, despite having 97 labour inspectors employed and 317 labour inspections being carried out. It is difficult to assess the success or failure of efforts in Ghana to reduce child labour, or to assess the prevalence of child labour, as many statistics are often not made public by the government. These 'private' statistics include things such as the number of child labour violations found during inspections, or the funding the Labour

²⁴ A/HRC/22/6 – Para. 125 Recommendations 51, 53, 54, 55 and 56

²⁵ Has ratified ILO's Minimum Age Convention (c138) and the Worst Forms of Child Labour Convention (c182); C029 Forced Labour Convention (1930); C105 Abolition of Forced Labour Convention (1957); C138 Minimum Age Convention (1973); C182 Worst Forms of Child Labour Convention (1999)
http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103231

²⁶ The minimum age for work and hazardous work is set out in the Children's Act, s89 and s91 respectively, and the prohibition of forced labour is enshrined in the Constitution as well as in other legislation.

²⁷ Government of Ghana's Response to United States Department of Labour's Report on Child Forced Labour in Foreign Countries (May 2011); <https://www.dol.gov/ilab/submissions/pdf/20110520b.pdf>

²⁸ The 'Child Protection Compact Partnership'; <https://www.state.gov/documents/organization/245530.pdf>

²⁹ Challenging Heights; <http://challengingheights.org/2017/01/18/challenging-heights-set-to-end-child-trafficking-in-5-years/>

Inspectorate receives. This makes it difficult to conclusively say whether or not the government is truly investing in the prevention of child labour, and to see how prevalent the worst forms of child labour is based on the number of violations found.

25. Regarding child labour in the cocoa industry, the Chocolate and Cocoa Industry Public Private-Partnership (PPP) is a partnership between the ILO and chocolate/ confectionary companies³⁰ which aims to eliminate child labour from the cocoa industry, and also contributes to another framework which seeks to address causes of child labour.
26. The Lake Volta region is known to be a hotbed of human trafficking and forced child labour. The 'Growing up Free' initiative³¹ works to develop programmes regarding prevention, rescue, prosecution, rehabilitation, reintegration and education to overcome child fishing slavery. The IOM³² also works to rescue children trafficked into the Lake Volta fishing industry. More than 700 kids have been liberated, rehabilitated and reintegrated into their home communities since 2002. These are positive steps towards preventing child labour, however effective and transparent monitoring system would allow NGO's to have a better insight into the problem to better be able to help to prevent it.

Recommendations

- 1. The government should make public all data relating to child labour violations, to make it easier to implement targeted solutions.**
- 2. Reinforce the monitoring mechanism to establish the actual situation of children engaging in the labour industry.**

Corporal Punishment

Second-Cycle UPR Recommendations

27. In the Second-Cycle UPR, Ghana accepted recommendations made by Portugal and Austria³³ to amend all legislation to explicitly prohibit corporal punishment in all settings, including the home, and to create awareness raising campaigns and educational programmes (involving children, former victims of abuse and community members) to prevent child abuse and corporal punishment. Ghana also accepted recommendations to ratify the three Optional Protocols to the CRC.

Legal and Institutional Framework

³⁰ Companies such as Ferrero, the Hershey Company, Kraft Foods, Mars and Nestle.

³¹ Joint programme run by the United States and Ghana

³² International Organization for Migration

³³ A/HRC/22/6 – Para. 123.20 and Para. 125.50

28. Ghana is a state party to the Convention on the Rights of the Child (1990)³⁴ and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)³⁵. Ghana is also signatory to all three OPs of the CRC, however Ghana has only ratified the Optional Protocol on Children in Armed Conflict (OP-AC). Domestic legislation relevant to corporal punishment is in the Children's Act 1998³⁶, which prohibits any form of corporal punishment in situations which are not 'reasonable' and 'justifiable'.

Promotion and Protection of Human Rights on the Ground

29. The view that corporal punishment in situations that are 'reasonable' and 'justifiable' is acceptable, is one which does not align with the rights of the child outlined in the convention. There is no situation in which it is reasonable or justifiable to harm a child, and the wording of the Children's Act should reflect that. The current provisions allow for the abuse of children so long as whomever is doing the abusing can convince the judiciary it was deserved, and allowing these kinds of excuses for corporal punishment does not equate to 'explicit prohibition', which is what Ghana agreed to in the recommendations.
30. Regarding awareness campaigns and education programmes, the Ghana Education Service has revised their handbook for teachers so that it includes the consequences for harming pupils - such as possible prosecution. GNECC³⁷ has been running programs such as the Stop Violence against Girls in Schools project, and developing a 'Positive Discipline Pack' with Action AID Ghana, to teach educators on alternative methods of discipline that do not require violence in the hope that this will eliminate corporal punishment in schools.

Recommendations

- 1. Strengthen the monitoring system to ensure that no child is given corporal punishment.**
- 2. Fortify efforts to raise awareness on alternative methods of discipline, and the consequences for teachers using corporal punishment on pupils.**

³⁴ Article 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Ghana signed and ratified it in 1990.

³⁵ Article 37 of the Convention on the Rights of the Child. Ghana signed and ratified in 1990

³⁶ Article 13 of Ghana Children's Act, 1998.

³⁷ Ghana National Education Campaign Coalition