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**Women's Initiative for Self-Empowerment/ Legal Resources Centre/Commonwealth Human Rights Initiative Africa/Africa Centre for International Law and Accountability/ Restoration of Hope Foundation/ POS Foundation/ KASA Initiative Ghana/ Amnesty International/ IUCN Ghana/ Gender Violence Survivors Support Network Ghana/ Network of Women in Growth/ Community and Family Aid Foundation/ Women in the Lord's Vineyard/ Society and Youth Foundation – JOINT UPR SUBMISSION – 2017**

**GHANA**

**Women's Initiative for Self-Empowerment/ Legal Resources Centre/Commonwealth Human Rights Initiative Africa/Africa Centre for International Law and Accountability/ Restoration of Hope Foundation/ POS Foundation/ KASA Initiative Ghana/ Amnesty International/ IUCN Ghana/ Gender Violence Survivors Support Network Ghana/ Network of Women in Growth– JOINT UPR SUBMISSION – 2017**

**(Under the Ghana Human Rights NGOs Forum)  
Joint Stakeholders' Report  
United Nations Third Universal Periodic Review Ghana**

**EQUALITY AND NON-DISCRIMINATION – WOMEN AND CHILDREN**

## EQUALITY AND NON-DISCRIMINATION

### INTRODUCTION

1. This report considers the implementation of Ghana's international human rights obligations under **Equality and Non-Discrimination** with particular reference to the protection of women and children's rights.
2. The information presented in this submission is based on the shared experiences of the above mentioned network of civil society organizations (CSOs) working on women and children's rights in their daily interactions with their constituents within the communities they work as well as their engagements with state collaborating partners, discussed at a pre-UPR submission workshop organized by Ghana Human Rights NGOs Forum (POS Foundation-Secretariat), KASA Initiative and UPR-Info Africa Office, Kenya on March 21 - 22, 2017 in Accra, which was attended by over seventy (70) CSOs nationwide and validated by same on March 28, 2017.
3. The submission highlights specific developments and follow-up measures by Ghana in relation to thematic list recommendations of the 2<sup>nd</sup> cycle – 14<sup>th</sup> session of the UPR of Ghana by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution (16/21A/HRC/WG.6/14/GHA/3).
4. Ghana's domestic legal foundation is provided by the 1992 Constitution, Chapter 5 of which promotes and ensures the protection of the human rights of the citizenry, including women and children. Ghana has put in place a number of legal instruments and is a state party to a number of related regional and international treaties.

5. For the protection of the children's rights, Ghana has ratified the United Nations Convention on the Rights of the Child (UNCRC) domesticating same in the Children's Act, 1998 (Act 560); the African Charter on the Rights and Welfare of the Child (ACRWC); the Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflicts as well as the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. The Juvenile Justice Act, 2003 (Act 653) of Ghana also provides protection for children in the justice system.
6. For the protection of women's rights, Ghana has ratified the International Covenant on Civil and Political Rights (ICCPR), Second Optional Protocol to the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention against Torture (CAT), Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Protection from Torture, Ill-Treatment and Disappearance, Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, Convention on the Elimination of all forms of Discrimination against Women and the African Charter on Human and Peoples' Rights (ACHPR) including the Protocol on the Rights of Women in Africa (Maputo Protocol).
7. Under domestic law, The Criminal Offences (Amendment) Act, 1998 (Act 554), Human Trafficking Act 2005, (Act 694) and the Domestic Violence Act, 2007 (Act 732) all give protection to women and children.
8. Although various stakeholders, both state and non-state actors, have worked assiduously to ensure that women and children enjoy their rights, there remain certain practices that infringe on these rights. Child Early and Forced Marriage (CEFM), Trafficking in Persons, relatively high incidence of domestic violence as well as low representation in public decision making processes remain a challenge to protecting the rights of women and children in Ghana.

## **ISSUES OF CONCERN FOR THE PROTECTION OF CHILDREN'S RIGHTS**

### **➤ CHILD EARLY AND FORCED MARRIAGE (CEFM)**

9. During the 2012 UPR, Ghana per Recommendation 125.27 was required to "Abolish all discriminatory legal provisions towards women and increase its efforts in combating all forms of violence against women, including marital rape, child and other forced marriages, and female genital mutilation". Although government has been taking steps to improve the situation, challenges still remain. According to UNICEF, in Ghana, about twenty-seven percent (27%) of girls between ages 15 and 18 years are entering into marriage, often against their will<sup>1</sup> endangering their personal development and wellbeing. In addition, Ghana has one of the highest child marriage prevalence rates in the world

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<sup>1</sup> UNICEF 2011 Multiple Indicator Cluster Survey (MICS)

with an overall regional average of 25%<sup>2</sup> Child brides are also deprived of their fundamental rights to health, education, and safety.

10. In 2014, the Ministry of Gender, Children, and Social Protection (MoGCSP) created an “Ending Child Marriage Unit”, which intervenes in communities to address CEFM in Ghana and in 2016, launched the 2017-2026 National Strategic Framework for ending child marriage in Ghana<sup>3</sup>.

**11. OBLIGATION:** CEFM is a violation of human rights, contravening both the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) as well as the Children's Act, 1998 Act (560) and the 1992 Constitution.

## **12. RECOMMENDATION**

13. The State Party should:

- I. To, as a matter of urgency, allocate adequate resources to MoGCSP's Ending Child Marriage Unit and to implement the National Strategic Framework.

### **➤ TROKOSI**

14. As per recommendation 125.32 of the 2012 UPR, Ghana was to “Continue its efforts in the field of women's rights in order to, amongst other things, enforce the 2007 Domestic Violence Act and laws prohibiting harmful practices against women, including trokosi and female genital mutilation.”

15. Trokosi is a practice where young virgin girls, typically from age six (6) to ten (10) years, are sent to fetish shrines to live and atone for the crimes of their family members. There they suffer a lot of abuses including child labour and sexual violence.

16. Article 16 of Ghana's 1992 Constitution provides that “no person shall be held in slavery or servitude or be required to perform slave labour”. Parliament in response to public outcry against the practice, enacted the Criminal Code (Amendment) Act, 1998, Act 554 and criminalized all customary practices of servitude and ritual enslavement such as Trokosi making it an offence punishable by a minimum of three (3) years in jail.

17. Since the recommendation was made in 2012, there has been an increase in governmental efforts to address the issue; however, Trokosi is still in practice<sup>4</sup>. Our group found that non governmental organizations (NGOs), including International Needs Ghana (ING)<sup>5</sup>

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<sup>2</sup> ibid

<sup>3</sup> Ministry of Gender, Children and Social Protection, “National Strategic Framework for Ending Child Marriage in Ghana, 2017-2026 (Third Draft) February, 2016.

<sup>4</sup> <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Trokosi-cannot-be-wiped-away-easily-149077>

<sup>5</sup> <https://www.opendemocracy.net/5050/yakin-erturk/women-at-war-in-country-in-peace-ghana>

are working with communities to provide development infrastructure such as schools and boreholes while encouraging shrine priests to accept livestock or monetary donations, instead of girls, from families seeking to appease the gods.

18. **OBLIGATION:** Trokosi is in direct contravention of Section 314 of the Criminal Code (Amendment) Act, 1998, Act 554, the Children's Act, 1998 Act (560) and the 1992 Constitution, Convention on the Rights of the Child (CRC) and the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) Convention against Torture (CAT), Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Protection from Torture, Ill-Treatment and Disappearance.

### 19. RECOMMENDATION

20. The State Party should:

I. Enforce legislation on Trokosi, arrest and prosecute offenders.

#### ➤ CORPORAL PUNISHMENT

21. 2012 UPR Ghana recommendation 123.20 states “Explicitly prohibit corporal punishment of children in all settings, including the home”. The Ghana Education Service (GES) has issued directives that only head-teachers should use the cane following a strict protocol but corporal punishment by other teachers still exists in government schools, especially in the remote areas.<sup>6</sup> Suffice it to say some schools, orphanages and homes have consequently adopted their own regulations against caning the children<sup>7</sup>.

22. **OBLIGATION:** Ghana is obligated to respect its obligations under the Children's Act, 1998 Act (560), Convention on the Rights of the Child (CRC), Convention on the Elimination of all forms of Discrimination against Women (CEDAW), Convention against Torture (CAT), Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and Protection from Torture, Ill-Treatment and Disappearance.

### 23. RECOMMENDATION

24. The State Party should:

I. Adopt a law to explicitly prohibit the corporal punishment of children in all setting and find an alternative for the “Spare the rod and spoil the child” mantra to desist people from meting out corporal punishment to children.

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<sup>6</sup> <https://www.ghanabusinessnews.com/2016/04/30/corporal-punishment-still-widely-used-in-ghana/>

<sup>7</sup> For instance, in June 2015, the Director of Education for Nsawam Adoagyiri Municipality baned caning; in August 2015, the Ga West Education Director followed suit in his District.

## ➤ CHILD TRAFFICKING

25. During the 2012 UPR, Ghana received a number of recommendations on trafficking in persons<sup>8</sup>. Recommendation 125.49 called on Ghana to “Take all necessary measures for the prevention and combating of child trafficking, and for the provision of effective remedies for victims”
26. Ghana has been a country of origin, transit and destination for human trafficking and there have been concerted efforts by state and non state actors, to prevent and reduce human trafficking while punishing perpetrators as well as offering victims rehabilitation and reintegration services. Ghana enacted the Human Trafficking Act, 2005 (Act 694) to prevent, reduce and punish acts of human trafficking and ensure the rehabilitation and re-integration of victims.
27. Challenging Heights, an NGO collaborates with the Anti-Human Trafficking Unit (AHTU) of Ghana Police Service to rescue victims. In 2014, thirty-three (33) trafficked and at-risk children were rescued and forty-one (41) child slaves were rescued in the Lake Volta area in 2015.<sup>9</sup> Twenty one (21) minors who had been trafficked to South Africa were recently rescued by the Ministry of Gender, Children, and Social Protection (MoGCSP) in collaboration with the International Organisation of Migration (IOM) and the Anti-Human Trafficking Unit of the Ghana Police Service.
28. MoGCSP is in the process of developing a Human Trafficking National Plan of Action<sup>10</sup> and the State is currently implementing the Child Protection Compact Agreement to combat child trafficking. Though Ghana has nine (9) regional Anti-Human Trafficking Units, very few cases of trafficking are prosecuted each year.<sup>11</sup> The State's failure to investigate and prosecute the suspected 190,000 cases of trafficking in Ghana has been attributed to inadequate funding for AHTU, the DOVVSU and Social Welfare.<sup>12</sup>
29. The US State Department is concerned that trafficking in Ghana is actually on the rise as in 2016, Ghana was unable to demonstrate overall increasing anti-trafficking efforts compared to the previous year and as such, was demoted from Tier 2 to the Tier 2 Watch-List according to the minimum standards established in the Trafficking Victims Protection Act (TVPA).
- 30. OBLIGATION:** Ghana is obligated under Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and the Ghana Anti-Human Trafficking Act, 2005 (Act 694) to protect children from being trafficked.

## 31. RECOMMENDATIONS

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<sup>8</sup> Recommendations 125.46, 125.47, 125.48, 125.49 and 125.52.

<sup>9</sup> <https://www.newsghana.com.gh/how-government-interventions-can-help-end-modern-slavery/>

<sup>10</sup> <http://pulse.com.gh/news/child-trafficking-gender-ministry-develops-human-trafficking-action-plan- id4735650.html>

<sup>11</sup> Ibid

<sup>12</sup> <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Public-advised-to-assist-to-combat-human-trafficking- 426294>

32. The State Party should:

- I. Publish and increase awareness of the Human Trafficking National Plan of Action from the MOGCSP.
- II. Construct and furnish shelters for rescued trafficked children.

➤ **VIOLENCE AGAINST WOMEN (VAW) INCLUDING DOMESTIC VIOLENCE (DV)**

33. During the 2012 UPR, Ghana received over twenty (20) recommendations to address the issue of Violence Against Women (VAW)<sup>13</sup>.

34. As per recommendation 125.23, Ghana was advised to “Continue the implementation of the strategic plan regarding domestic violence, in particular violence against women and girls”. Recommendation 125.26 required government to “Fully implement the Domestic Violence Act and ensure the effective functioning of DOVVSU”

35. Since the passage of the Domestic Violence Act, 2007 (Act 732) development partners have supported both state and non state actors in its implementation. The Domestic Violence and Victims Support Unit (DOVVSU) of the Ghana Police Service continues to receive thousands of reports of sexual and gender based violence nationwide. According to DOVVSU statistics, only 10.3% of reported cases of gender-based violence have resulted in successful convictions of perpetrators.<sup>14</sup>

36. Appropriate support to victims of violence against women remains a challenge. The DV Act established a Domestic Violence Fund to assist in the rehabilitation and re-integrations of victims of gender-based violence,<sup>15</sup> but allocation to this fund is woefully inadequate. The DV Act mandates the State to set up shelters for victims of gender-based violence<sup>16</sup> but there is no operational state-owned shelter for abused women. The only shelter for abused women is operated by an NGO.

37. In 2016, MoGCSP introduced the draft Legislative Instrument (LI) to the DV Act, 2007 (Act 732), to Parliament for discussion and passage but this unfortunately was not done. In the instance of a new Parliament and Executive, the Bills in accordance with regulation would have to be re-introduced into Parliament for deliberation before passage. MoGCSP will have to re-introduce it before the new Parliament.

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<sup>13</sup> recommendations

<sup>14</sup> <http://www.graphic.com.gh/news/general-news/60892-ghana-lauds-uk-s-financial-support-to-deal-with-sexual-gender-based-violence.html><sup>SEP</sup>

<sup>15</sup> Section 31

<sup>16</sup> Ibid

**38. OBLIGATION:** VAW is a violation of human rights under the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), International Covenant on Civil and Political Rights (ICCPR), as well as the DV Act 2007, Act (732) and the 1992 Constitution.

### **39. RECOMMENDATIONS**

40. The State Party should:

- I. As a matter of urgency provide funds for the effective implementation of Section 8 (3) of the DV Act, 2007, (Act 732).
- II. Take immediate steps to set up shelters for victims as stipulated by the DV Act.

#### **➤ INTERSTATE SUCCESSION BILL**

41. As per recommendation 125.10 of the 2012 UPR, Ghana was required to “Accelerate the adoption of **pending bills** and intensify efforts in order to see more strengthened implementation of the measures decided and instruments created, including in terms of the difficult fight against harmful traditional practices, protection of children, inequality of rights between sexes, and access to justice and strengthening of its effectiveness”

Recommendation 123.18 states that Ghana must “Make efforts to achieve gender equality, including through adoption of the Property Rights of Spouses Bill and the **Intestate Succession Bill**”.

42. To protect the rights of women and children to inheritance upon the demise of the husbands / fathers who die intestate, Ghana enacted PNDC Law 111 but this law has been found to lack provisions for full protection. The Intestate Succession Bill, which would provide the needed relief was proposed, drafted and placed before Parliament for consideration and passage into law, but was not passed by the last Parliament. This bill will have to be re-introduced to Parliament.

**43. OBLIGATION:** Ghana is obligated under Elimination of all forms of Discrimination against Women (CEDAW), International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights (ACHPR) including the Protocol on the Rights of Women in Africa (Maputo Protocol).

### **44. RECOMMENDATION**

45. The State Party should:

- I. Pass the Interstate Succession Bill into law by December 2019.

## ➤ **PROPERTY RIGHTS OF SPOUSES BILL**

46. As per recommendation 123.18 Ghana was advised to “Make efforts to achieve gender equality, including through adoption of the **Property Rights of Spouses Bill** and the Intestate Succession Bill”.
47. Often, women do not make direct financial contribution to property acquisition in a marriage and even where they do, there is hardly ever appropriate documentation to attest to it. Property is often registered in the name of the man and women are left with next to nothing upon the dissolution of the marriage. Because women face more barriers to property ownership, they also experience more limited access to formal credit.<sup>17</sup>
48. The Property Rights of Spouses Bill which seeks to provide a more equitable distribution of property acquired during a marriage between spouses, was proposed, drafted and placed before Parliament for consideration and passage into law but was not passed before the closure of the last Parliament. This bill will have to be re-introduced to the new Parliament.
- 49. OBLIGATION:** Ghana is obligated under Elimination of all forms of Discrimination against Women (CEDAW), International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights (ACHPR) including the Protocol on the Rights of Women in Africa (Maputo Protocol).

## **50. RECOMMENDATION**

51. The State Party should:

- I. Pass the Property Rights of Spouses Bill into law by December 2018.

## ➤ **AFFIRMATIVE ACTION BILL**

52. At the last UPR in 2012, Ghana received recommendations to “Take measures to ensure a proper legal framework for the Affirmative Action Policy”<sup>18</sup> as well as “Develop consequential strategies to fulfil the affirmative action policies of 40 per cent of women in public decision - making processes”<sup>19</sup>
53. Low participation in governance and public decision making processes continue to impede the full actualization of women's rights as enshrined in Article 21 of the Universal Declaration of Human Rights. Women's representation in the 4<sup>th</sup> Parliament of Ghana has been a little over ten percent (10%). The just ended Parliament had 10.9%

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<sup>17</sup> <http://www.ghanaweb.com/GhanaHomePage/business/Focus-on-women-also-to-impact-food-security-Survey-426276>

<sup>18</sup> Recommendation 125.11

<sup>19</sup> Recommendation 125.12

women's representation and the current Parliament has 12.72 %, unacceptably lower than the UN recommended rate of at least 30%.

54. An Affirmative Action Bill (AA Bill) developed in accordance with international instruments and ratified by Ghana to promote women's participation in governance and public decision making was introduced to Parliament and was expected to have been passed before the end of the last Parliament in 2016. This bill will have to be re-introduced to the new Parliament.

55. There is no evidence to suggest any practical measures on the part of government to increase women's representation in public office outside the provisions of the AA Bill.

56. **OBLIGATION:** As a signatory to CEDAW and other treaties, Ghana is obligated to take measures to ensure participation of women in public decision making.

#### **57. RECOMMENDATION**

58. The State Party should:

I. Pass the Affirmative Action Bill into law by March 8, 2018, International Women's Day.

#### ➤ WITCH CAMPS

59. As per recommendations 125.41 and 125.42, Ghana was expected to "Close as soon as possible the witch camps" and "Take all possible measures to abolish the practice of witch camps", respectively.

60. Belief in supernatural forces is quite widespread and deeply rooted in Ghana. There are many cases, especially in rural areas, in which women—and occasionally men—are accused of practicing witchcraft to bring harm to members of their family or community.<sup>20</sup> Accused women are often violently driven from their homes and communities, physically assaulted and, in extreme cases, murdered. Most of these people tend to be poor and elderly, mostly in the northern regions of Ghana.<sup>21</sup>

61. This group found that some of those who are driven from their homes are forced to live in "witch camps". It is estimated that about a one thousand (1,000) women in northern Ghana are inhabiting camps whose sole occupants are deemed to be witches. They are not allowed to return to their communities, as they are victims of stigmatisation.

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<sup>20</sup> <https://www.opendemocracy.net/5050/yakin-erturk/women-at-war-in-country-in-peace-ghana>

<sup>21</sup> Ibid

62. In addition, children who are believed to be relatives of these women are sent to serve the supposed witches for as long they remain at the camps. They are made to cook, fetch water, clean and sometimes bathe these women. As a result, the children miss out on opportunities to be educated or acquire any meaningful skills whilst in the camps.
63. In its Concluding Observations on Ghana, CEDAW noted “the high number of cases of violence against girls and older women alleged to be witches, which has caused several of them to seek refuge in so-called witch camps, often under difficult living conditions, including lack of access to adequate housing, sufficient food and water and sanitation.”<sup>22</sup>
64. In 2014, MoGCSP disbanded two (2) witch camps in the Northern region and is expected to close all existing camps by 2017. The closure is expected to be complimented with the provision of rehabilitation, reintegration into the communities, alternative housing and livelihood options to alleged witches.<sup>23</sup>
65. However, Government has made little progress in providing these services to the former inhabitants of the witch camps, thus leaving them without any place to live and little prospect for supporting themselves.
- 66. OBLIGATION:** Ghana is obligated under the International Covenant on Civil and Political Rights (ICCPR), Second Optional Protocol to the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention against Torture (CAT), Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Elimination of all forms of Discrimination against Women and the African Charter on Human and Peoples' Rights (ACHPR) including the Protocol on the Rights of Women in Africa (Maputo Protocol).

## **67. RECOMMENDATION**

68. The State Party should:

- I. Implement its program of rehabilitation and reintegration for former inhabitants of witch camps.

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<sup>22</sup> Committee on the Elimination of Discrimination against Women, Concluding observations on the combined sixth and seventh periodic reports of Ghana, Adopted by the Committee at its fifty-ninth session, meeting from 20 October to 7 November 2014. <sup>517</sup>SEP

<sup>23</sup> <http://citifmonline.com/2015/11/27/closed-witches-camps-by-2017-cedaw/>

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