

**Final Report:**

**Scoping study for Parliamentary Advocacy Programme on  
Combating Early and Forced Marriage in Ghana**

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## 1. Background to the study

According to the International Centre for Research on Women (ICRW) statistics, a third of the world's girls marry before they turn 18 and of that figure, 1 in every 9 girls is married before they turn 15.<sup>1</sup> It is also noted that the highest concentration of brides under 18 are found in Western and Sub-Saharan Africa even though South East Asia has the highest number due to population size.<sup>2</sup>

In view of these statistics, the Parliamentarians for Global Action (PGA) and the Parliament of Ghana seek to hold a seminar on Combating Early and Forced Marriage in Ghana, targeting Ghana's Members of Parliament and Members of some Parliaments in the West African Sub-Region.

As a measure to determine the implementation and enforcement of the laws, policies and general knowledge and capacity of key stakeholders, particularly Members of Parliament, this research was conducted to ascertain some basic information that will support input into the seminar. The input will provoke actions thereafter by Parliamentarians and other stakeholders to combat early and forced marriages.

The output intention of PGA is to prevent the occurrence of early and forced marriages through coordinated actions by Members of Parliament of Ghana particularly, to improve access to quality education and other socio-economic opportunities in order for boys and girls to realize their fullest potential.

## 2. Objectives of the study

The study as determined was targeted at the following:

- a. To research and assess current legislation and national policies on early and forced marriage in Ghana, as well as identify best practices in other countries.
- b. To assess relevant related national, institutional and provisions for early and forced marriages and ascertain the extent of implementation. What are the policies and related institutions' provision to support their implementation? How are they being implemented? What are the current constraints/gaps? What is being done to address them by CSOs, individuals and government agencies? (Draw largely from existing literature).
- c. To examine the trend and scale of practice of early and forced marriages in Ghana. What does the national statistics on early and forced marriage say?
- d. Propose practical recommendations that contribute to respecting, preventing and protecting rights of victims of early and forced marriage (by soliciting from the identified key stakeholders their recommendations and suggestions as

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<sup>1</sup> ICRW - <http://www.icrw.org/child-marriage-facts-and-figures>

<sup>2</sup> Ibid

complementary to the consultant's own point of views). (Traditional institutions, GES, Health, Police, CHRAJ, district Assembly, CSOs and other community groupings etc). (Recommendation should also include communities own proposals for change.

### **3. Scope and Methodology**

The study broadly falls within the marriage systems, practices and relevant laws and related policies. It was conducted within the legal frameworks and provisions covering crime, children, women and marriage related issues. These frameworks and provisions include:

- The 1960 Criminal Code (Act 29)
- 1992 National Constitution, Article 28
- Children's Act 1998 Act 560/LI 1705
- Criminal Code Amendment Act 1998 (Act 554)
- Juvenile Justice Act 2003 (Act 653)
- Education Act 1961/FCUBE
- The Human Trafficking Act 2005 (Act 694)
- Early Childhood Care and Development Policy, 2004
- Draft Street Children in Ghana Policy Framework, 1995
- National Gender and Children Policy, 2004
- National HIV/AIDS and Sexually Transmitted Infection (STI) Policy, 2004
- Adolescent Reproductive Health Policy, 2000
- Juvenile Justice Act of 2003 (Act 653)
- Criminal Code (Amendment) Act, 1993 (Act 458) and other amendments in 1994 (Act 484) and 1998 (Act 544)
- Revised National Population Policy, 1994
- ILO Convention on the Worst Forms of Child Labour (NO. 182)
- African Charter on the Rights and Welfare of the Child
- The United Nations Convention on the Rights of the Child 1989

The study however, specifically focused on the viability and enforcement of the Children's Act of 1998, bordering on issues of early and forced marriages in the light of strong cultural considerations regarding marriage.

#### **3.1. Methodology**

The assessment used a scientific approach grounded mainly in the qualitative design of exploring the subject matter from various stakeholder institutions purposively. Expert sampling was mainly used to ensure that officials with the requisite information were the only persons interviewed in the study in order to gather the desired data for the study. The key people interviewed came from the following organisations/stakeholder categorization<sup>3</sup>:

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<sup>3</sup> See the List of persons interviewed in Appendix 1

- The UN system organisations
- Members of Parliament/Parliament of Ghana<sup>4</sup>
- Ghana Police Service Officers / Domestic Violence and Victim Support Unit
- Civil Society Organizations
- The media
- Traditional Authorities
- Religious leaders
- Social Welfare/Ministry of Gender, Children and Social Protection
- Commission for Human Rights and Administrative Justice
- Ghana National Education Campaign Coalition

The main tool used for this assessment was the interview guide developed by the PGA/WILDAF and edited by the researchers<sup>5</sup>. The study critically sought the perceptions and the extent of implementation of the relevant laws, especially the Children's Act 1998 Act 560/LI 1705.

### 3.2 Field Issues

Data collection ended in the last week of February, 2014. There were several challenges on the field including re-scheduling of meeting with members of Parliament particularly. In some instances, the research team was turned away by the MPs and was not allowed to conduct the interviews mainly because the MPs said they were very busy at the time of data collection. These were mitigated by using informal approaches and reducing the questions for the MPs specifically. Following this, and learning from this situation, other respondents were made to answer targeted sections carved out in the questionnaire for them (see section headers in the questionnaire, appendix 2). Although this did not help much in establishing several triangulations, it helped in managing the data collection process to ensure that respondents were not upset by the length of the questionnaire and their time spent during the interviews.

The key opportunities that emerged throughout the study included the following:

- The platform to interact with Members of Parliament on the subject, which awakened their thought on how traditional settings and legal institutions either promote or hinder implementation of laws, particularly on the subject.
- The study also created the opportunity to learn and think further about causal elements including traditional practices and belief systems' role in determining how marriage is contracted irrespective of the laws.
- The quantum of work that lies ahead of enforcement institutions and other stakeholders were also revealed.

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<sup>4</sup> See appendix 1 for committees of MPs

<sup>5</sup> See the interview guide attached in Appendix 2

## 4. Findings and Results

### 4.1 Trends and Scale of Early and Forced Marriage in Ghana

There are indications that, “Ghana has one of the highest child marriage prevalence rates in the world, showing that on average, one out of four girls will be married before their 18th birthday”<sup>6</sup>. The Ghana Demographic Health Survey in 2008 indicated that about 25% of the women aged 20-24 were married or were in union before age 18, implying a decline of 11% since 2003 (which scored 28%)<sup>7</sup>. However the 2011 Multi-Indicator Cluster Survey (MICS) scores Ghana about 28% for age of marriage before 18 and about 6% for age before 15 years<sup>8</sup>.

At the regional level in Ghana, previous surveys gave the indication that prevalence is highest in Upper East (50%), followed by Upper West (39%), Northern (36%), Volta (33%), Brong-Ahafo (33%), Central (28%), Ashanti (23%), Western (18%), Eastern (18%), and Greater Accra (11%)<sup>9</sup>. Currently, the statistics show that the following percentages of girls are married before the age of 18 (by region): Upper East (39.2%), followed by Western Region (36.7%), Upper West (36.3%), Central (31.2%), Ashanti (30.5%), Volta (29.3%), Brong Ahafo (29.1%), Northern (27.4%), and the Eastern region (27.2%), and the lowest in Greater Accra (12.2%)<sup>10</sup>. This trend in the statistics emphasizes that that early and forced marriage is a problem in Ghana hence the need to develop strategies that will combat it although there are several questions about what amounts to forced or early marriage in Ghana, especially among some cultural norms as found by this study.

Respondents who hail mainly from the northern part of the Volta region, Upper East, Upper West and Northern Ghana critically asked questions about the acceptability of the use of the word, “forced marriage” and “early marriage”. This is because, the norm in these cultures is that marriage is contracted by parents and families for young people either boys or girls as a way to develop their lineage among other considerations. Consequently, the 1948 Universal Declaration of Human Rights states that marriage should be entered only with the free and full consent of the intending spouses<sup>11</sup>. It is therefore evident that in the majority of child marriages, however, there is often an element of coercion involved where parents, guardians or families put pressure on children or force them into marriage. The literature therefore corroborates that early

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<sup>6</sup> UNFPA Ghana - <http://ghana.unfpa.org/assets/user/file/ChildMarriageProfileGH.pdf>

<sup>7</sup> DHS, 2008

<sup>8</sup> Ghana Statistical Service, 2011. Ghana Multiple Indicator Cluster Survey with an Enhanced Malaria Module and Biomarker, 2011, Final Report. Accra, Ghana

<sup>9</sup> *ibid*

<sup>10</sup> UN Office/Accra, *Day of the Girl to be marked in Ghana for the First Time*, published on 11 October 2012, available at: <http://edition.myjoyonline.com/pages/news/201210/95343.php>

<sup>11</sup>

marriage is accepted as the norm in many countries and girls may give their consent as a duty and sign of respect to their family and community<sup>12</sup>.

As a counter to the argument made by some respondents from the northern part of Ghana concerning the “vague” meaning of early and forced marriage in the light of ingrained cultural practices, a volume of knowledge put forth by a set of researchers<sup>13</sup> point to the fact that early and forced marriage exists where one of the parties in a marriage is under the acceptable legal age (for example 18 years as in the case of Ghana). Thus devoid of cultural norms any marriage that is contracted outside the legal age minimum limits will amount to coercion, early and forced marriage.

Further literature (UNDP, 2011) suggests that child marriage also occurs when one or both spouses are below the age of 18. While boys can be affected, the practice predominantly impacts girls. It is often referred to as “early and forced” marriage because the girls, given their young age, can rarely make a free and informed decision about their marriage partner, the timing or the implications of this binding commitment. Again, an element of coercion may be involved because their families may put pressure or force the girls into marriage<sup>14</sup>. This scenario conforms to what respondents in this study from the northern part of the country stated. They stated that some people presume that strong social and cultural norms have an edge over the legislation in place in Ghana for a number of reasons including acceptability of the law and inadequate education on its existence.

## 4.2 Reasons for the prevalence of Early and Forced Marriage in Ghana

A variety of reasons have been cited as the contributing factors for forced and early marriage by the respondents in this study. Some of them are economic, cultural, family honour, high school dropout among girls, and lack of awareness on the laws and lack of parliamentary oversight in the implementation of the laws.

### Economic:

- A respondent stated that, *“When poverty levels are high among some families, the girl child is regarded as economic burden hence they may be given to rich men as a relief and source of income to the family ....further, in some other situations in times of economic hardship, young girls are given away in marriage to lessen the burden so the best option to take is to give her hand in marriage.” – (a development practitioner)*
- Other respondents also observed, *“the dowry paid to the family is used to support the family” (i.e. the number of cows demanded). It also serves as an*

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<sup>12</sup> Breaking Vows: Early and Forced Marriage and Girls’ Education Myers, J. & Harvey, R. Researchers: Alana Livesey and Allison Wong, Plan UK, 2011

<sup>13</sup> Ibid

<sup>14</sup> UNDP, World Fertility Policies, 2011

*investment to the family since it will be used by the girl's brother when he is ready to marry from a different family – (a CSO executive).*

### **Deepening Traditional Values:**

- *Some views by respondents suggest that, “Early and forced marriage is deeply rooted in tradition; this makes it difficult to convince some ethnic groups to stop practicing it. For instance, it will be difficult to convince rural women of its health implication. This is because they also got married at a younger age and did not experience any complications”. – (Member of Parliament)*
- *“In most rural communities in the North, marriages are contracted very early by parents for their children and since the male children are not responsible for the welfare of their spouses directly, but the family is, they seem to enjoy this practice and also for the fact that, that is the way we marry”. – (Member of Parliament)*

### **Family Honour:**

- *A respondent, from a religious point of view stated that “Some families give their girl child's hand in marriage especially in cases where the girl is not in school. This is done to prevent the girl from being impregnated out of wedlock. It is believed that when the girl child gets pregnant outside marriage it brings disgrace to the family. The family dignity is also honoured especially when their daughters are given in as virgins. – ( a religious leader)*
- *For an MP and CSO executive, “it is better to give the girl child's hand in marriage especially when she is mature and not in school”....according to another CSO executive, “in some instances girls are forced to marry the men who impregnate them to avoid disgrace to the family”*

### **Cultural Practices:**

- *Puberty rites that mark the transition from childhood to adulthood for boys and girls also lead to early and forced and arranged marriage. The ‘Dipo’ celebration practice amongst the people of Krobo, which marks the transition from childhood to adulthood for girls, has led to teenage pregnancy, early betrothal and arranged marriages. This is because the rights are mostly performed for girls who have experienced their first menstruation; hence these girls are seen as adults, after this celebration. – A religious leader and CSO executives.*
- *“The exchange marriage practices that exist amongst the Kokonba and the Nanumba is one of the contributing factors of early and forced marriage in Northern Volta” – Member of Parliament*

### **Lack of awareness creation on bills**



- Some Members of Parliament stated that the lack of thorough education on the Children's Act in their constituencies could be cited as a driving early, arranged and forced marriages in their constitutions

### **Lack of Oversight roles of MPs on related marriage bills**

- There were some discussions pointing to the fact that if MPs were able to engage in critical oversight activities on related marriage bills and their implementation, it could have reduced the prevalence in some of their constituencies. This is because, MPs are respected by all stakeholders and they have the capacity to engage traditional authorities, the media, CSOs, and all government agencies on issues of early and forced marriage.

### **The seemingly relaxed punishment**

- Civil society actors were of the view that the punishment in section 15 of the Children's Act, of paying only GHS 500 or serving a prison term of one year or both is not enough to cause families and communities to stop the practice.

### **Ignorance of the essence of Birth registration**

Available records indicate that 62.5% of Ghana's population has their birth duly registered. Birth registration and determination of the actual age of a person is a critical issue among several communities in Ghana. Some people would prefer to reduce or add up to their actual dates of birth and this affects the actual records of age at first marriage.

## **4.3 Consequences / Impacts of Early and Forced Marriages**

The practice of early and forced marriage among girls as seen on the field deprives girls of education and thus leaving them less independent in life, otherwise causing them to be dependent on men later in life. The incidence also restricts their economic autonomy and often adversely affects their reproductive health. In the literature, consequences of early and forced marriage include:

- Increased maternal and infant health risks as a result of undeveloped biological and reproductive systems of these teenage mothers
- Increased maternal mortality
- Exposure to HIV/AIDS and related complications
- Exposure to domestic violence and sexual abuse
- Truncating of desired future plans of these girls and reduction in education for girls.

From the field, responses indicate that "the incidence infringes on the child's fundamental rights and affects her socialization process while growing up". "It was also said that the education of a girl comes to an end midway and affects the girl's ability to contribute to her family financially and to the education of her kids." Other respondents also indicated that the incidence will lead to increasing number of girls who cannot

contribute to the national economy, thus putting pressure on the economy". There were assertions which also point to the direction that, "the social status of the girls as well as decision-making capacity become very much affected once they fall victim to early and forced marriage".

Respondents also emphasize the reproductive health implications associated with the incidence of early and forced marriage. Among their concerns were issues such as: "Women who are young are affected by the physical pain associated with sexual intercourse because their bodies are not well developed for sex and pregnancy and this may lead to obstetric fistula as a result of prolonged child delivery". The respondents also indicated that early marriage exposes girls to sexual abuse, HIV & AIDS and other STIs as a result of the multiple sexual partners the man may have". A population expert pointed out that, "once girls in Ghana are married, only a few of them (13.6% currently) use contraception in spite of their need to space their childbearing time" and this has several implications on them and the nation as a whole.

#### **4.4 Current Legislation and other national policies on Early and Forced Marriage**

In addition to the list of legislations, policies and frameworks listed in sections 3 of this report, the study found that the Children's Act 1998 Act 560 is the only legal document that explicitly talks about early and forced marriage and the penalty for its contravention in sections 14 and 15 respectively as well as sections 8, 11, 12, 13, which have related provisions as shown below:

##### **Right to education and well-being**

**8.**

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

(2) No person shall deny a child medical treatment by reason of religious or other beliefs.

##### **Right of opinion**

**11.**

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.

##### **Protection from exploitative labour**

**12.**

No person shall subject a child to exploitative labour as provided under section 87 of this Act.

##### **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 dehumanizes 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.

### **Right to refuse betrothal and marriage**

#### **14.**

(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.

### **Penalty for contravention**

#### **15.**

Any person who contravenes a provision of this Sub-Part commits an offence and is liable to a summary conviction to a fine not exceeding ₵5 million<sup>15</sup> or to a term of imprisonment not exceeding one year or to both.

The concerns of respondents in this study about the Children's Act are varied. There were views about the “blanket” nature the law without consideration for cultural norms, geographic areas or gender (different ages for boys and girls). This group stated that “a law of this nature will be difficult to implement”. They called for revision or enactment of a new law. An explanation to this view was that, in some portions of the country, especially Upper East, Upper West, Northern Ghana and Northern parts of the Volta region, there are various forms of cultural practices that promote early marriage irrespective of the existence of the law and making the law a bit irrelevant. Majority of the respondents also expressed varied views about the punishment in contravention with the law mainly claiming its inadequacy, limited in nature and not deterring enough. A respondent commented, “the punishment as outlined in section 15 of the Children's Act will only see the culprit paying old five million Cedis or being imprisoned for not more than a year or both”. Others were of the view that the punishment should be an out of court issue where the culprits are made to serve sentences in their communities for everyone to see them, which would act as a form of deterrent.

## **4.5 The National Institutions responsible for the Implementation and Enforcement and Results**

The following Ministries and agencies came out clearly as national institutions that have direct responsibilities for the implementation and enforcement of the Law on early and forced marriage in Ghana:

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<sup>15</sup> This currently under the redenomination is GH₵500

- Ministry of Gender, Children and Social Protection
  - Department of Social welfare
- Parliament of Ghana
  - Committees of Parliament
- Ministry of Interior
  - DOVVSU
- Commission on Human Rights and Administrative Justice

Apart from these institutions, there are a number of CSOs and religious bodies with various efforts towards curtailing the practice of early and forced marriage in Ghana. However discussions around implementation and enforcement have shown that there are issues with the Children Act and the provisions on early and child marriage. Some of the concerns raised included:

#### **4.5.1 The legislation - Issues**

- The Children's Act does not mention of 'child marriage'; hence there is the need for the Ministry of Gender, Children and Social Protection to initiate a 'bill on early and forced marriage through Parliament to be passed into law. The bill should also address its effect on health, education, community and the economy.
- The police do not have extensive knowledge in prosecuting such cases when reported. So they rather mediate and settle such cases at the police station than proceeding to the law court or using the appropriate Alternative Dispute Resolution (ADR) channels.
- The courts do not take into consideration the interest of the child when adjudicating cases. They are guided by laws than emotions and the actual implications.
- The District Assembly as mentioned in the Children Act 1998 Act 560 in consultation with community leaders are not working hard to enact bye-laws to protect the girl child against forced and early marriage since it is in the interest of the community to protect the girl child.
- The definition of "child" should not be limited to age alone. The mental conditions of the person must also be taken into consideration.
- The legislation is not culturally sensitive; it does not have cultural values of the country.
- Some provisions of the legislation require Legislative Instruments (L.I.s) to ensure that they are carried out. e.g. creation of a fund to support victims, regulations on how the fund will be disbursed, and establishing shelters for victims and regulations on how shelters will be managed.
- The punishment in the Act is not stringent and does not act as a deterrent to perpetrators. The penalty should be stiffer to deter perpetrators from engaging in such acts and offenders should be treated as criminals.

#### **4.5.2 Enforcement Challenges:**

- Currently there are only 46 District Child Panels out of 170 Districts. The absence of Child Panels in 124 Districts in Ghana impedes enforcement.

- The lack of training of the police personnel in handling cases involving early and forced marriage makes the police resort to mediation rather than prosecution.
- Child protection systems do not function effectively.
- Some cultural practices make it difficult to prosecute reported cases.
- The Criminal Act 1960 which states the age of sexual consent at sixteen years conflicts with the age of marriage (eighteen) in the Children Act 1998.
- Inadequate resources to fund the necessary state agents involved in protecting the girl child.

### 4.5.3 Lessons from some key practitioners

The main challenges facing the implementation of the law were structural and work process barriers. The structural barriers related to the establishment and working of the family tribunals/ child panels and the collaborative work around managing cases. The work process barriers included resources, including a yearly budget, stationery, transport, computers, materials and documentaries about child abuse as well as the lack of training, and shortage of qualified staff.

Another key barrier or challenge is the lack of community and parental cooperation on supporting the work of protecting children. The lack of cooperation centered on the refusal of parents to notify the authorities about violations against children by other important members of the larger family. For example, some mothers did not want legal actions taken against their husbands for neglecting their children. Others felt embarrassed to hear that they were unable to cater for their children. These behaviors were attributed to cultural values where parents often put on the 'culture cloak'. One of the social workers described it as *"..... people hiding behind their culture and saying that it is forbidden to report your husband..... and refusing to report cases"*.

There were also problems with the community members, who were reported as being apathetic to other people's issues and others who engaged in name-calling and ridiculing of women who reported their husbands for child neglect. These acts inhibited or served to de-motivate other women from reporting their husbands who neglected their children.<sup>16</sup>

The family is the beacon of hope for the survival of the child. However, in recent times, a lot of challenges including socio-economic issues have affected the family system leading to its disintegration. The test to families is further compounded with double income families and the added stress of having to juggle home and work, as well as urbanisation and its attractions which leads to migration. The extended family system seems to be giving way to the nuclear family system and this affects the collective responsibilities of the family towards child care. Single parenting is slowly becoming the order of the day with its implications of irresponsible parenting. The situation compels

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<sup>16</sup> [http://www.eshare.edgehill.ac.uk/3328/1/Child\\_Rights\\_Protection\\_Law\\_in\\_Ghana.pdf](http://www.eshare.edgehill.ac.uk/3328/1/Child_Rights_Protection_Law_in_Ghana.pdf) Implementing Child Rights and Protection Law in Ghana: Case Study Ahmed Bawa Kuyini, PhD University of New England, Australia and Fati K. Mahama

children to take care of themselves thereby making them vulnerable and subjected to abuse, violence and exploitation<sup>17</sup>.

An expert from the Gender Centre<sup>18</sup> agreed with some of the reasons given by Appiah (2010) by stating that *“inadequate resources to carry out sensitization on the law coupled with the socialization and orientation of some the police personnel. The police are the main actors in the enforcement of the legislation however some grew up where early marriage was normal so their approach to combating forced and early marriage is not effective. Also there is supposed to be an L.I to enable some of the provisions of the act to be implemented. Especially issues relating to the establishment of child panels and funding”*.

The District Director of CHRAJ in Nkwanta South alluded to the fact that although forced and early marriage is prevalent in the district, his office is under-resourced and finds it difficult to go to the communities where such cases occur. “The office gets assistance from World Vision International (WVI) for their activities”. The MP and District Director of CHRAJ in Nkwanta South suggested that since the communities in the district are widely dispersed, it becomes difficult for law enforcers who are inadequately resourced to follow up and investigate reported cases.

## 4.6 Practices and Lessons from other Countries

This section pulls together some lessons and practices from Asia and Africa

### 4.6.1 Policy Actions taken by India<sup>19</sup>:

- India’s first law setting minimum age limits for marriage was the Child Marriage Restraint Act, enacted in 1929. The law has since gone through multiple revisions. The Prohibition of Child Marriage Act of 2006 prohibits marriages in which either party is a minor and sets the legal age for marriage at 18 years for girls and 21 years for boys.
- It mandates punitive measures against all who perform, permit or promote child marriage. These measures include imprisonment of up to two years or a fine of up to INR 100,000 (US\$1,800). However in the Child Marriage Restraint Act, enacted in 1929 the punishment was three months imprisonment and a fine.
- It also provides for nullification of a child marriage and gives a separated female the right to maintenance and residence from her husband or in-laws until she is remarried. In addition, a 2006 Supreme Court decision requires registration of all

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<sup>17</sup> <http://cepa.org.gh/researchpapers/Addressing68.pdf>

<sup>18</sup> Dr. Joyce Cooker-Appiah

<sup>19</sup> [http://wcdhry.gov.in/Child\\_Acts/ChildRestraintAct.pdf](http://wcdhry.gov.in/Child_Acts/ChildRestraintAct.pdf)

marriages, which makes it easier to implement laws. The National Plan of Action for Children of 2005 also includes goals on eradicating child marriage.

- Government has introduced a cash transfer scheme designed to give incentives to parents to delay their daughters' marriage and keep them in school.
- The Indian government has undertaken collaborative reproductive health and life skills programmes for adolescents with many international agencies.

#### 4.6.2 Pakistan

- The “Child Marriages Restraint Act” was enacted in 1929, and it states the minimum age of marriage for boys as 18 years and for girls as 16 years and whoever performs, conducts or directs any child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees i.e. approximately 8 Euros.
- More recently a bill was tabled in the National Assembly, the Child Marriage Restraint (Amendment) Act, 2009 to amend the CMRA, 1929. In addition to proposing amendments for enhanced imprisonment and fines it seeks to remove the gender disparity in the age of marriage of males and females (i.e. make 18 years as the minimum age of marriage for both).
- Sharia Law (Islamic Law)
  - Most importantly, Sharia law overrides all civil laws according to a decision of Supreme Court of Pakistan in its reported case law 2005 SCMR Page 1217, —Law of Sharia is a Superior Law. Regarding child marriage, Sharia law says that the minimum criteria for marriage depend on puberty, which is not a fixed age, and may be age 10 or 12 years. The superior courts have declared that The Child Marriage Restraint Act 1929 only penalizes the guilty person but does not nullify such marriage. Hence even if a child marriage of a girl under the age of 16 years takes place and is reported, if it is taken to the Sharia court and it is proven that the girl had acquired physical puberty at the time of marriage, the marriage would be valid and not punishable.<sup>20</sup>

#### 4.6.3 Policy in Cameroon<sup>21</sup>

- The government has introduced policies to support girls and their families financially and to reduce the need to marry girls early. This includes support for income-generation activities funded by the Women's Empowerment Centres, which have been set up around the country to provide different forms of support for women and their families.

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<sup>20</sup> <http://sexualrightsinitiative.com/wp-content/uploads/Pakistan-UPR-14-FPAK.pdf>

<sup>21</sup> <http://www.ohchr.org/Documents/Issues/Women/WRGS/ForcedMarriage/Commonwealth%20Secretariat.pdf>



- The government has also established ‘toll-free’ emergency telephone helplines in all 10 regions of Cameroon, with the aim of reducing levels of domestic violence, including forced marriage.
- In Cameroon, to increase awareness among traditional leaders, the government, working in partnership with CSOs, has signed a declaration with the Council of Imams on the importance of education for Muslim girls.
- The Cameroon government has collaborated with CSOs, to raise public awareness through the media about the rights of the child and the impact of early marriage. The government has produced public education materials and ensured these are translated into local languages, as well as English and French.
- The government has also worked with Plan Cameroon to launch a petition to encourage girls to ‘say no to EFM and yes to education’.

## 5. Conclusions

The Children’s Act 1998 Act 560 was enacted to protect, improve the welfare and the rights of children in the country. The provision of the Act proposed some positive clauses in the interest of the child. However, the study found that there are some challenges relating to the formulation of the legislation, its implementation and enforcement. Hence the need to address the gaps in the Act. The institutions mandated to promote and protect the rights of the child in the country are not well resourced and its officers are not well trained to prosecute cases of early and forced marriage. The members of parliament who have oversight responsibilities have not aggressively advocated for policies to combat forced and early marriage. Since early and forced marriage is deeply rooted in tradition, the law will never deter the perpetrators if is not accompanied by intensive public awareness drive and stiffer punishment.

The Children’s Act 1998 Act 560 did not specifically make reference to child marriage. This gives opportunity for Ministry of Gender and Social Protection, members of Parliament especially the women caucus and other CSOs in the country to advocate for a review of the Act or enact a new law to address child marriage.

## 6. Recommendations

### 6.1 Members of Parliament

1. There should be engagement with local authorities to get their opinions factored in the law. They have to see themselves as part of the law making process, this will enable them abide by the laws.



2. State agencies that are mandated to enforce the law ought not to see the enforcement only as a responsibility imposed by their work, but as an opportunity to change their own cultural perspective and belief of such practices.
3. There must be frantic effort by the government to establish Child Panel in all the District of the country to mediate in issues of the rights of the child in the Districts.
4. There must be reconciliation between the law and beliefs, traditional values and customs of the people the laws were made for.
5. Increase advocacy for girl child education.
6. Raise community awareness about the negative impact of early and forced marriage on the girl child in relation to reproductive health, education, economy, independence, sexual abuse, HIV/AIDS and other forms of violence.

## **6.2 Review of the Children's Act/ Enact a new law addressing Early and Child marriage**

1. The state should enact a family law that that will open up the family for further investigation in such cases. ie. The welfare of the children should not be limited parents of the children alone.

## **6.3 Implementation and Enforcement**

1. The government must establish a good child protection system in the communities to support the appropriate state agencies in delivering their mandate.
2. Cases of forced and early marriage are usually not reported to the appropriate quarters and also some parents are not conversant with the children's act hence are unco-operative with the process of the law.
3. The absence of resources to facilitate the work of appropriate agencies.
4. The absence of child panel and family tribunal, child courts in the districts also affects the implementation process.
5. Getting and keeping girls in school may be one of the best ways to foster later, consensual marriage, while also contributing to delayed sexual initiation, lower rates of HIV and AIDS and other morbidities, and greater gender equality.

## **7. Appendices**

### **Appendix 1: List of Persons Interviewed**

<b>Names</b>	<b>Organisation</b>	<b>Contact</b>	<b>Email address</b>
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Hon: Ayii Laadi Ayamba	MP, Gender and Children Committee; Education Committee	0244764441	laadiayii@yahoo.com
Hon: Mary Salifu Boforo	MP, House Committee, Business Committee; Local Governance Committee; and Food, Agric and Cocoa Affair, Committee	0265266666	
Hon: Timothy Ataboadey Awontiirim	Former MP for Builsa North ( Government Assurances and Health Committee)	0200795113	
Hon: Gershon K.B Gbediame	MP (Special Budget Committee; Local Government Committee)	0244016464	gbediame@gmail.com
Juliana Azumah Mensah	MP (Chair, Gender and Children Committee; Appointment Committee)	0542175429	
Faisal Bawa	UNFPA	0244642412	
Esenam Ahiadorme	WILDAF	0244817618	esenamabra@gmail.com
Dorcas Appiah-Cooker	Gender Centre	0208129531	frema@hotmail.com
Dinah Adiko	Ministry of Gender and Social Protection(Domestic Violence Secretariat)	0244641747	dinahkpodo@yahoo.co.uk
Clement Kwaku Kpegah	District Director CHRAJ (Nkwanta South)	0243362493	clementkpegah@gmail.com
Reverend Daniel Sakitey	Christian Council	0201258989	dksakitey@gmail.com
Joyce Larko	Christian Council	0244253656	joyselarko@yahoo.co.uk

Steiner	(Senior Programme Manager Human Right & Gender)		
Sheik Mohammed Alhassan Salman	Muslim Cleric (Ahlussinna Wal-Jama'a)	0244629814	Salmania79@yahoo.co.uk

## Appendix 2: Interview Guide

### **Parliamentary Program to Combat Early and Forced Marriage in Ghana**

Preliminary Questions for MPs and other stakeholders in Ghana

Draft 01/21/2014

Brief Background and Consent Note for Interviewee/Respondent

The current law in Ghana calls for a legal age of marriage of 18, and yet the statistics show the following percentages of girls are married before the age of 18 (by region): Upper East (39.2%), followed by Western Region (36.7%), Upper West (36.3%), Central (31.2%), Ashanti (30.5%), Volta (29.3%), Brong Ahafo (29.1%), Northern (27.4%), and the Eastern region (27.2%), and the lowest in Greater Accra (12.2%).<sup>22</sup>

### *General comments [Persons and Institutions]*

1. In your view, what are the major reasons for early marriage in Ghana?
2. What impact does child marriage have on a girl's life, and her family and community? What is the impact on Ghana's economic development?
3. Do you think early marriage is a problem that should be addressed? If so, what needs to change to address this issue (examples: laws and law enforcement, child protection services, social and cultural norms/beliefs, educational and employment opportunities, access to reproductive health, etc.)?
4. What issues are more compelling in your constituency and what is the role you play in the community?
5. Availability and access to contraception

### *Legislation and processes; Gaps in legislations [CSOs, MPs, DOVVSU/Ministry Gender, Children and Social Protection]*

<sup>22</sup> UN Office/Accra, *Day of the Girl to be marked in Ghana for the First Time*, published on 11 October 2012, available at: <http://edition.myjoyonline.com/pages/news/201210/95343.php>

6. State what the national legislation is if you can. What does the national legislation say about Early Child/Forced Marriage in Ghana?
7. How effective is legislation in practice?
8. How is this legislation implemented and enforced?
9. What are the main achievements from the implementation/enforcement of this legislation?
10. What are the main impediments to enforce this/these legislation (s)?
11. Is there information to determine whether legislation is implemented?
12. If it is not, what are the main reasons?
13. What is the missing link to fully implement/enforce legislation on CEFM?

***Awareness on legislation [CSOs, MPs, Ministry of Gender, Children Social Protection]***

14. Are children and young people (as well as women and the community at large) aware of the legislation?
15. Does the Children's Act of Ghana, 1998 (Act 560), which prohibits forced marriages of children, specify the minimum age for marriage for both boys and girls?
16. Does the law in Ghana allow children under the minimum age for marriage to marry in exceptional circumstances? Yes /No – (if yes, possibility of repealing this law)
17. Are there any educational campaigns in the media and/or schools to inform girls and boys about reproductive health issues? Are there any programs particularly targeting girls informing them about their right to refuse getting married? If yes, have they been effective

***Secondary laws/regulations [MPs, CSOs, Dovvusu]***

18. Is there any legislation on birth registration?
19. Are there any sanctions/penalties for parents who do not register their child?

20. What is the percentage of registered births?
21. What is the process for a person to charge someone of forced marriage?
22. Do police officers' take reports of violence seriously? How affordable, accessible and reliable is the justice system for young women and girls?
23. Is there data on the number of reported crimes compared to the number of prosecutions and sentences given?
24. Are services available and accessible for victims?
25. Do you know about the Domestic Violence and Victim Support Unit dedicated to address early and forced marriage?
26. Is there any program for girls at risk?
27. Are there any programs that allow pregnant girls to continue school or obtain vocational training?
28. Are there any cash incentives programs in Ghana (national /regional) to support education, nutrition, health-related outcomes for girls?
29. Are there any facilities/programs in Ghana that offer adolescent reproductive health?

#### ***Enforcement and Implementation [CSOs, MPs, DOVVSU, MGCSP]***

30. In case, someone is forced to get married, the Act states he or she will be guilty of a misdemeanor (section 109 Compulsion of Marriage), what is the penalty/sanctions for a misdemeanor?
31. Is this penalty strong enough?
32. Do you think a stronger penalty may help prevent forced marriages?
33. Are there any evaluations/results about the impact of the enforcement of legislation – Section 14 of the Children's Act – on the Right to Refuse Betrothal and Marriage?
34. What is the role of the your institution in the implementation/enforcement of the legislations in Ghana?

35. What are the national/state and local agencies involved in the process of protecting and enforcing legislation to CEFM?

***Results and Challenges [Persons and Institutions]***

36. How successful have you been?

37. What challenges you have encountered?

***Recommendations [Persons and Institutions]***

38. How can this Parliamentary Seminar help you in addressing early and forced marriage? What tools do you expect to get out of it?

39. What information would be useful to you as a parliamentarian to address this practice?

40. What strategies would you suggest to reintroduce debate on CEFM in Parliament?

41. What policy options would you recommend to put in place to ensure that CEFM reduces in Ghana?