

## THE GHANAIAN CASE: ASSESSMENT OF CURRENT LEGISLATION AND NATIONAL POLICIES ON EARLY AND FORCED MARRIAGE, GAPS AND OPPORTUNITIES

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## INTRODUCTION

- ▶ Early Marriage is marriage that occurs before a person reaches the age of consent (18 years).
- ▶ Also known as child marriage, it is the practice where one or both spouses are below the age of 18.
- ▶ Similarly, Forced Marriage is marriage that occurs without the expressed consent of either one or both of the parties.
- ▶ Usually, the party whose consent is not sought is the girl although boys can be affected.

## INTRO CONTD

- ▶ Early/ forced marriage (EFM) is a negative traditional practice
- ▶ Young girls who are mostly teenagers lack the mental capacity to make informed decision about their marriage partner and the challenges associated with marital commitment.
- ▶ Marriages are contracted under duress as families put pressure or force the girls into early marriage against their wish..

## INTRO CONTD

- ▶ The 1948 Universal Declaration of Human Rights states
- ▶ "that marriage should be 'entered only with the free and full consent of the intending spouses'. Where one of the parties getting married is under 18, consent cannot always be assumed to be 'free and full'".

## BACKGROUND STATISTICS

- ▶ UNFPA 2010: 14 million girls under the age of 18 marry each year.
- ▶ That's around ...
  - ▶ 1,166,666 a month
  - ▶ 269230 a week
  - ▶ 38,461 a day
  - ▶ 27 every minute
- ▶ Or, around one girl every two seconds.

### BACKGROUND CONTD.

- ▶ Countries with the highest rates of early and forced marriage in Europe include
- ▶ Georgia (17 per cent),
- ▶ Turkey (14 per cent) and
- ▶ Ukraine (10 per cent).
- ▶ At least 10 per cent of adolescents marry before the age of 18 in Britain and France.

### BACKGROUND CONTD.

#### CHILD MARRIAGE HOT SPOTS (SOURCE UN 2013)

Country	Percentage
Yemen	71
Chad	68
Central African Republic	68
Bangladesh	66
Guinea	63
Mali	60
Niger	57
South Sudan	52
Mali	50
Madagascar	48
Sierra Leone	47
India	47
Senegal	46
Central African Republic	45
Guinea	44
Zambia	42
Democratic Republic of Congo	41
Ethiopia	41
Yemen	41
Nicaragua	41

### BACKGROUND CONTD.

- ▶ One in every five girls in the developing world is married by the age of 18.
- ▶ One in nine marries before they reach the age of 15.
- ▶ In countries like Niger, Chad, Mali, Bangladesh, Guinea and the Central African Republic (CAR), the rate of early and forced marriage is 60 per cent and over.

### CAUSES

- ▶ **gender inequality** – females often occupy a lower status in societies as a result of social and cultural traditions, attitudes, beliefs that deny them their rights and stifle their ability to play an equal role in their homes and communities
- ▶ **poverty** – in families on a low income, girls may be viewed as an economic burden. The perception of girls' potential to earn an income as comparatively poor pushes girls out of their homes and into marriage

### CAUSES CONTD.

- ▶ **negative traditional or religious practices** – in many countries the importance of preserving family 'honour' and girls' virginity is such that parents push their daughters into marriage well before they are ready. There is a belief that marriage safeguards against 'immoral' or 'inappropriate behaviour'

### CAUSES CONTD.

- ▶ **failure to enforce laws** – sometimes families are not even aware they are breaking the law. In some countries early marriage is so prevalent, prosecutions are seldom brought
- ▶ **conflicts, disasters and emergencies** – disasters and emergencies increase economic pressures on households and many families that wouldn't previously have considered early marriage turn to it as a last resort.

## EFFECTS

- ▶ Early marriages are a **big threat to the human rights and well-being of children** denying the young an opportunity to grow and empower themselves.
- ▶ It challenges the **basic right of these children to education, health, protection and development.**
- ▶ Owing to their tender age, some of them are **sexually exploited** by other men in the family and they are too scared to go out and complain. Some of the girls who marry young also join the **bandwagon of perpetuating cruelty against women.**

## EFFECTS CONTD.

- ▶ **Inability to read or write.** The majority of the child wives have never gone to school, or left school before completing a full course of primary education, making them entirely dependent on their husbands in practical aspects of everyday life
- ▶ **Having many children, early.** This exposes the mother and her children to psychological and other health problems.
- ▶ **HIV/AIDS and other sexually transmitted diseases (STD).** the child wife cannot negotiate for safer sex practices; thus exposing her to risk of acquiring HIV/AIDS and other sexually transmitted diseases.

## EFFECTS CONTD.

- ▶ **Inability to plan or manage families.** The less influence and control over their children, and have less ability to make decisions about their nutrition, health care and household management.
- ▶ **The next generation of child wives.** Children whose mothers were married early tend to marry early; thus creating generations of child wives.
- ▶ **Marital instability.** Because of the age differences and the attendant poor communication, many early marriages in early divorce or separation.
- ▶ **Physical and sexual abuse.** Out of fear of her parents and the social stigma as well as the poverty associated with being single; many child wives are compelled to remain in a loveless and violent marriage

## THE GHANAIAAN CASE

▶ TOTAL POPULATION (000)	24,392
▶ POPULATION UNDER 18 %	45
▶ LIFE EXPECTANCY AT BIRTH(years)	56
▶ ADOLSCENT BIRTH RATE <small>per 1,000 women</small>	66
▶ CPR( 15-19) %	13.6
▶ UNR (15-19)%	61.7
▶ NET ENROLMENT IN SECONDARY FEMALE	44%

▶ SOURCES: (DHS,UNFPA, MICS, SOWC)

## THE GHANAIAAN CASE CONTD.

- ▶ Legal Age at Marriage (2010) BOTH MALE AND FEMALE
- ▶ Without parental consent or approval by pertinent authority 18
- ▶ With parental consent or approval by pertinent authority 16
- ▶ Source: World Fertility Policies 2011, UNPD

## THE GHANAIAAN CASE CONTD.

- ▶ Child marriage occurs more frequently among girls who are the least educated, poorest and living in rural areas.
- ▶ In 2008, women aged 20-24 and living in rural areas were about 3 times as likely to be married/in union before age 18 than their urban counterparts.
- ▶ This urban-rural divide has increased 35% since 2003 (2.2 times).

### THE GHANAIAN CASE CONTD.

- ▶ Household wealth influences the prevalence of child marriage among all wealth quintiles. Girls from the poorest 20% of the households are more than 10 times as likely to be married/in union before age 18 than girls from the richest 20% of the households.
- ▶ The Upper East region has the highest percentage 50%.
- ▶ The trokosi system in some parts of Volta Region is also forced marriage.

### REGIONAL DISTRIBUTION OF EFM

Percent of 20-24 year old females married by the age of 18



### THE GHANAIAN CASE CONTD.

- ▶ Education is associated with the prevalence of child marriage in Ghana.
- ▶ 47% of women aged 20-24 with no education and 42% with primary education were married or in union at age 18,
- ▶ compared to only 15% of women with secondary education or higher

### THE GHANAIAN CASE CONTD.

- ▶ In 2010, 277,000 women aged 20-24 were married/in union before age 18.
- ▶ If present trends continue, 407,000 of the young girls born between 2005 and 2010 will be married in union before age 18 by 2030.
- ▶ This projection shows an increase of 47% from the 2010 estimate of married girls, which is compounded by high fertility and low mortality in the recent past.

### EXISTING LAWS AND POLICIES IN GHANA

- ▶ Ghana is a signatory to all international conventions and statues like:
- ▶ The UN Convention on Consent to Marriage, *Minimum Age for Marriage and Registration of Marriage*, (1964).
- ▶ The Universal Declaration of Human Rights (1948)
- ▶ The African Charter on the Rights and Welfare of the Child (1990).
- ▶ The Convention on the Elimination of All Forms of Discrimination against Women

### EXISTING LAWS AND POLICIES CONTD.

- ▶ Including the most recent one: UN Human Rights Council Resolution: Strengthening Efforts to Prevent and Eliminate Child, Early, and Forced Marriage published September 25, 2013 *A/HRC/24/L.34, requesting a report to guide a panel discussion at the twenty-sixth session, on the challenges, achievements, best practices, and implementation gaps for preventing and eliminating child marriage.*

### EXISTING LAWS AND POLICIES CONTD.

- ▶ Pursuant to these, Ghana has passed a number of laws and policies which afford us opportunities to tackle the problem of EFM:
- ▶ The 1992 Constitution of Ghana defines a child as a person below the age of 18. Again article 26(2) states that "all customary practices which dehumanize or are injurious to the physical and mental wellbeing of a person is prohibited."

### EXISTING LAWS AND POLICIES CONTD.

- ▶ the Criminal Code (Act 29) 1960. Section 71, 91 and 92 of the Criminal Offences Act, 1960 (Act 29) as amended in 1998 now referred to as the Criminal Offences Act, 1960 (Act 29) criminalized the abandonment or exposure of a child to danger, abduction of a child and a range of sexual offences that could render a child vulnerable to HIV infection.

### EXISTING LAWS AND POLICIES CONTD.

- ▶ Section 100 of the Criminal Code Amendment Act (Act 554) it states "if a female is compelled to marry another person by duress as to make the marriage void or voidable, the marriage is of no effect".
- ▶ Section 109 of the amendment Act it states "whoever by duress causes any person to marry against his or her will shall be guilty of a misdemeanor."

### EXISTING LAWS AND POLICIES CONTD.

- ▶ Section 92 of the Criminal Code Amendment Act (Act 554) provides "a person is guilty of abduction of a female who with intent to cause her to be married to any person when he unlawfully takes her from lawful possession and care and detains her"
- ▶ In the same Amendment Act (Act 554) 1998 the age of sexual responsibility was raised from fourteen to sixteen years.

### EXISTING LAWS AND POLICIES CONTD.

- ▶ The age for statutory rape referred to as defilement is now sixteen years.
- ▶ The penalty is a minimum of five years imprisonment and a maximum of twenty-five years without the option of a fine.
- ▶ The penalty for defilement is a minimum of seven years and a maximum of twenty-five years without an option of a fine.

### EXISTING LAWS AND POLICIES CONTD.

- ▶ The Children's Act (Act 560) 1998 sets the minimum marriage age at 18 years.
- ▶ Section 14 of the same Act prohibits early and forced marriage of children in Ghana.
- ▶ It states "a person shall not force a child to be betrothed, to be the subject of a dowry transaction or to be married"

### EXISTING LAWS AND POLICIES CONTD.

- ▶ Section 69 of the Criminal code amendment Act (Act 484) 1994 abolished Female Genital Mutilation, (FGM) and the Anti-Human Trafficking Act 694 (2005) and
- ▶ Domestic Violence Act, (Act 732) 2007 ,
- ▶ Section 1 (b) defines domestic violence to include "the forcible confinement and detention of another person

### EXISTING LAWS AND POLICIES CONTD.

- ▶ Ghana has a number of policies aimed at improving the education and health needs of women and girls.
- ▶ Even though these policies are not directly aimed at ending early marriages, they contribute to delay the onset of early marriage and provide good maternal care for pregnant women.

### EXISTING LAWS AND POLICIES CONTD.

- ▶ The Adolescent Sexual and Reproductive Health Policy by the Ghana Health Service is to provide safe counseling and family planning services and antenatal services for young mothers.
- ▶ The construction of CHPS compounds across the country is to provide easy access to health facilities in the rural areas so that pregnant women can receive attention at the earliest possible time.

### EXISTING LAWS AND POLICIES CONTD.

- ▶ The Livelihood Empowerment against Poverty (LEAP) which is a cash transfer programme for the poor should be targeted in highly prevalent areas.
- ▶ Free Maternal Health Care Policy under the National Health Insurance Scheme. This policy provides free antenatal services for pregnant women thereby reducing maternal mortality ratios.

### EXISTING LAWS AND POLICIES CONTD.

- ▶ National Vocational and Technical Institute(NVTI),
- ▶ Ghana Youth Employment and Entrepreneurial Development Agency (GYEEDA), and the
- ▶ Local Enterprises and Skills Development Programme (LESDEP ) has the potential to equip young girls with vocational skills thereby empowering them economically and delay early marriage.

### EXISTING LAWS AND POLICIES CONTD.

- ▶ The Girl Child Education Unit was established within the Ghana Education Service to be responsible for educating communities and focusing the attention of policymakers on the educational needs of the girl child
- ▶ Free Compulsory Universal Basic Education, Capitation Grant, School Feeding Programme and Free School Uniform programme have proven to increase enrollment of the children in basic schools.

## OTHER OPPORTUNITIES

- ▶ Resources available for women and girls to seek redress
- ▶ the Commission for Human Rights and Administrative Justice,
- ▶ the Domestic Violence Unit of the Ghana Police Service,
- ▶ the International Federation of Women Lawyers, Ghana (FIDA-Ghana) and
- ▶ Women in Law and Development (WILDAF).
- ▶ A host of CSOs who are working vigorously to combat EFM

## GAPS

- ▶ Although legislations and policies exist to safeguard the welfare of women and girls, the country does not have a specific policy aimed at eliminating early and forced marriage.
- ▶ Enforcement of laws in Ghana banning early and forced marriages, remains a big challenge.
- ▶ Most of these practices are entrenched and widely accepted in rural communities thus offences are not reported for the law to take its course.

## GAPS CONTD.

- ▶ Most of these rural folks are not even aware of the existence of the law and may not be aware they are breaking the law.
- ▶ Again the current body of laws does not make provision for a shelter for girls who have escaped forced marriages.
- ▶ It does not specify where the law enforcers should keep the victim.

## GAPS CONTD.

- ▶ There are no funds earmarked for the upkeep of the escapees.
- ▶ It is the case that most of these victims run to the cities and work as "kayaye" (headporters) without any proper shelters. They are thus subjected to all kinds of inhuman treatment such as rape, teenage pregnancy, robbery and streetism

## THE WAY FORWARD

- ▶ In a publication entitled "**Mapping Early Marriage In West Africa**- A scan of trends, interventions, what works, best practices and the way forward, **Judith-Ann Walker et al**, 2013 have outlined a number of causes and recommendations from countries that have "tackled the problem of early marriage with some degree of success"

## THE WAY FORWARD CONTD.

- ▶ The study recommends that any successful effort against early marriage in West Africa must operate on all three levels:
  - law and rights,
  - policy and institutional frameworks, and
  - programs, projects and actions.
- ▶ Ending child marriage requires strategies for girls' empowerment, social and cultural norms change, legal reform, and policy action

### THE WAY FORWARD CONTD.

- ▶ Proven solutions involve
  - girls' schooling (especially lower secondary) and programmes that offer life skills,
  - literacy, health information and services, and social support
- ▶ Married girls especially need access to sexual and reproductive health services, including family planning and maternal health services.

### THE WAY FORWARD CONTD.

- ▶ The High Commission of Canada in Ghana supported a media forum that broadcasted a conversation on the radio airways in an attempt to educate the public about EFMs, their negative impacts on women and children.
- ▶ Care International has launched a five-month project that seeks to end the practice of forcing under-aged girls into early marriages in remote communities in the Upper West Region.

### THE WAY FORWARD CONTD.

- ▶ The project, dubbed; "Positive Action against Early and Forced Marriages," is being implemented in six communities in the Nandom and Sissala West districts, has specific components to target the communities and schools.

### THE WAY FORWARD CONTD.

- ▶ inculcate these laws into the educational curricula of second cycle institutions so that young girls can be made aware of their rights.
- ▶ Members of parliament have to create awareness about the existence of such laws and educate their electorates on the provisions of the law and caution them to refrain from early and forced marriage..

### THE WAY FORWARD CONTD.

- ▶ Members of the communities need to be sensitized and encouraged to report such practices. NGO'S and CSO's should undertake advocacy and educational campaigns to break those traditionally entrenched practices
- ▶ we have to tighten our laws and strengthen our law enforcement agencies to deal with this social menace

### THE WAY FORWARD CONTD.

- ▶ advocacy and sensitization programmes for the National House of Chiefs, queen mothers and traditional rulers which has started with the Canadian High commission should be intensified and replicated in all regions
- ▶ Government should implement the new WAEC Senior Secondary School Curriculum, which offers girls in secondary school a range of 34 vocational and technical subjects to choose from in developing a career.



### **.THE WAY FORWARD CONTD**

- ▶ Improve the capacity of agencies including social welfare departments, the police, ministries of education and health and the courts to work together to address cases of coerced marriage
- ▶ Engage both Christian and Muslim faith leaders and faith-based organizations in community awareness programs effects of early marriage in the form of a leadership development project

### **.THE WAY FORWARD CONTD**

- ▶ Celebrate Children's Days in grand style highlighting all the problems children face
- ▶ Eg , the Day of the African Child (DAC) on 16 June and
- ▶ the Day of the Girl Child on 11 October

***THANKS***

***▶ THANK YOU VERY  
MUCH FOR YOUR  
ATTENTION***