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About the UPR Project at BCU:

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The Centre for Human Rights established the UPR Project in 2018 as part of our consultancy service. We engage with the Human Rights Council's review process in providing support to the UPR Pre-sessions, capacity building for UPR stakeholders and National Human Rights Institutions, and the filing of stakeholder reports in selected sessions. The UPR Project is designed to help meet the challenges facing the safeguarding of human rights around the world, and to help ensure that UPR recommendations are translated into domestic legal change in member state parliaments. We fully support the UPR ethos of encouraging the sharing of best practice globally to protect everyone's human rights.

Our Partner:

For this submission the UPR Project at BCU partners with the Alliance for International Development, Education and Research (AIDER) Group based in Worcester, UK. The AIDER Group is an international consortium of specialists, providing consultancy services in law, international development, security advice and training, and infrastructural development. The Group has extensive experience working in West Africa particularly within the areas of education, law, business, and policy development. AIDER's founders and associates are senior professionals working in academia, NGOs, and the charity sector. AIDER Contact: Lamin Daffeh. Email: lamin@aider.org.uk. Address: Suite 147, 79 Friar Street, Worcester, WR1 2NT.

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INTRODUCTION

1. Ghana is party to eight of the nine core international human rights treaties for which it should be commended.[1] This includes the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and in line with the Covenants' protection of minors, this Stakeholder Report focuses upon children's rights.

2. We make recommendations to the Government of Ghana on this key issue, implementation of which would see Ghana move towards achieving Sustainable Development Goals 4, 5 and 16 which aim for 'gender equality and empowering all women and girls', 'inclusive and equitable quality education and promote lifelong learning opportunities for all', and 'access to justice for all'.

3. We urge the State to make practical commitments in the fourth cycle of the UPR for the advancement of children's rights, with particular reference to (1) **child, early and forced marriage**; (2) **child sexual exploitation**; and, (3) **access to education**.

CHILD, EARLY AND FORCED MARRIAGE

A. Ghana and International Law on Child, Early and Forced Marriage (CEFM)

4. Child and early marriage occurs before the age of 18 for one or both of the parties and it manifests in any formal or informal union. Forced marriage can occur at any age when one and/or both parties have not provided their full and free consent to the union. A child marriage is therefore considered to be a form of forced marriage, as one and/or both parties are unable to provide their full, free and informed consent.[2] There are various acronyms to describe this human rights issue, but in this submission we adopt 'Child, Early and Forced Marriage' (CEFM).

5. CEFM is a human rights violation which deprives children of their agency to make decisions about their lives and future. It increases their vulnerability to various ills such as violence, discrimination, abuse, ill-health including sexual and reproductive health problems, and prevents their full participation in the economic, political and social spheres.[3]

6. Child marriage is illegal in Ghana and both its 1992 Constitution and 1998 Children's Act define a child as a person below the age of 18.[4] Furthermore, Article 14(1) of the Children's Act provides that "No person shall force a child – (a) to be betrothed; (b) to be the subject of a dowry transaction; or (c) to be married."

7. In 2014, the Ministry of Gender, Children and Social Protection established a Child Marriage Unit to promote and coordinate national initiatives aimed at ending child marriage in Ghana. In 2016, it developed the National Strategic Framework on Ending Child Marriage in Ghana in partnership with UNICEF and other key stakeholders. The framework ensures collaborations between state and non-state institutions are effective, well-structured, and well-guided.[5] The major issue in Ghana is not an absence of relevant laws and policies to combat CEFM but in their weak enforcement and implementation.

8. The domestic legal framework on CEFM has been promoted and informed by Ghana's ratification of relevant international instruments. Ghana has ratified several treaties which espouse protections against CEFM. Of particular relevance are Articles 1, 2, and 24 of CRC.[6] Article 19(1) specifically provides that state parties must take appropriate measures to protect the child against all forms of abuse, negligent treatment, or sexual exploitation. Furthermore, Article 16(2) of CEDAW states the betrothal and marriage of a child is to have no legal effect and the minimum age of marriage must be specified as 18.[7]

9. Considerable effort has also been made to address CEFM in regional treaties and charters in Africa, which Ghana is party to. This includes Article 21 of the African Charter on the Rights and Welfare of the Child 1990,[8] Article 6 of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa 2003,[9] and the Commonwealth Kigali Declaration to prevent and eliminate child, early and forced marriage adopted in May 2015.[10]

B. Implementation of Recommendations from Cycle Three in 2017

10. Ghana received 260 recommendations in the Third Cycle of which 229 were accepted and 31 were noted.[11] A total of 81 recommendations were issued on rights of the child of which 21 focused on child, early and forced marriage.[12] These were all supported by Ghana which is commendable and indicates its commitment to curb child marriage.

Recommendations concerning efforts to eliminate CEFM

11. A number of States recommended Ghana "continue efforts to prohibit and eliminate child marriage" or similar. These included **Tunisia** (para 146.168), **Venezuela** (para 146.169), **Honduras** (para 146.146), **Nicaragua** (para 146.152), **Egypt** (para 146.138) and **Argentina** (para 147.33), with **Algeria** (para 146.158) and **Spain** (para 146.156) also recommending the implementation of "necessary measures" to eradicate CEFM.

12. Whilst such recommendations are welcomed, it is crucial that they remain specific and measurable in order to assess the level of implementation. Broad recommendations, whilst easy to accept, lack any impetus to bring about real change.[13] It is recommended that States

adopt a SMART approach to recommendations as recognised by UPRinfo.[14] This would help Ghana initiate an incremental approach to the elimination of CEFM.

13. Efforts to improve data collection regarding child marriage have been made. UNICEF-Ghana has partnered with Ghana Statistical Services for "strengthened data accuracy including, sampling the relevant age cohort of women interviewed to make available for the first time accurate regional prevalence statistics on child marriage/child cohabitation in Ghana."[15] The National Strategic Framework on Ending Child Marriage in Ghana 2017-2026, the UNCIEF-UNFPA Global Programme to Accelerate Actions to End Child Marriage (2016-2019), Child and Family Welfare Policy, Justice for Children Policy and National Gender Policy are some programmes and policies promulgated for the prevention of CEFM. In addition, the President's Coordinated Programme for Economic and Social Development Policies (2017-2024) has made child marriage a priority.[16]

14. **Bahrain** (para 146.164) and **Guatemala** (para 146.134) recommended the State to "organize programmes about the negative consequences of child marriage and about the importance of education". This has been **implemented**. The Ministry of Gender, Children and Social Protection has a Facebook page which disseminates information and coordinates with relevant stakeholders on matters related to child marriage.[17] Additionally, the government has initiated sensitization programmes aiming to educate young girls and equip them with safeguards against threats of forced marriage.[18] Importantly, a dialogue with parents, religious leaders, and elders on the adverse impact of child marriage has commenced.

Recommendations concerning existing laws and policies on CEFM

15. **Rwanda** (para 146.52) and **Korea** (para 146.139) urged Ghana to strengthen its existing laws aimed at ending CEFM. **Zambia** (para 146.162) recommended "amend[ing] and harmoniz[ing] all relevant laws in order to ensure that child marriage is strictly prohibited and criminalized". This has **not been implemented**. Religious and customary laws continue the practice of child marriage and have not been brought into harmony to criminalize CEFM.

16. Ghana's existing initiatives to combat CEFM, including the Ending Child Marriage Unit and its National Strategic Framework for Ending Child Marriage, were raised in recommendations by the **United Kingdom** (para 146.16), **Namibia** (para 146.17), **Kenya** (para 146.159), **Canada** (para 1461.161), and **Ethiopia** (para 146.165). **Myanmar** (para 146.167) also called for the full operation and implementation of the Framework. These have been **implemented.**

17. The Ministry of Gender, Children and Social Protection continues to allocate 3 per cent of its recurrent budget to national coordination functions for ending child marriage. In addition, the Government increased its child protection (including child marriage

prevention and response services) budget allocations to metropolitan, municipal and district assemblies from GHC 73 million in 2019 to GHC 144 million in 2020, equivalent to approximately $19,354,867.

18. The implementation of the National Strategic Framework for Ending Child Marriage continued to yield some results in 2020. As part of the Framework, a national operational and monitoring and evaluation plan to end child marriage (for 2020–2021) was finalized, printed and disseminated to at least 457 cross-sectoral stakeholders. It was observed that enhancing girls' human capital (e.g., schooling, life-skills, livelihood and gender rights training) and their employment opportunities have been the most successful channel for delaying their marriage among programmes evaluated to date.[19] The Ministry of Gender, Children and Social Protection also coordinated regional review meetings with stakeholders to track the implementation of the operational plan.[20]

19. The National Department of Gender, with support from UNFPA, organized three national cross-sectoral meetings in 2020 to assess implementation of the five-year Adolescent Pregnancy Strategy by various partners. Discussions highlighted how partners adopted innovative ways to roll out interventions in spite of the COVID-19 restrictions. Consequently, the Ghana Education Service sensitized 1,377 (786 female and 591 male) Muslim stakeholders as part of the implementation of the national guidelines for management of adolescent pregnancy and school re-entry of adolescent mothers and pregnant schoolgirls through complementary funding from UNICEF.[21]

20. It is also promising to note that, at the height of the pandemic in Ghana, the Department of Gender, with support from UNFPA, commenced on a two-pronged social media campaign that engaged and reached approximately 5,800 girls with advocacy messages, fliers and audio clips under the campaign slogan 'Your Voice, My Voice, Together Against Child Marriage'.[22]

21. Furthermore, the Department of Gender and UNFPA updated the Child Marriage Advocacy Toolkit with new components (such as, traditional proverbs, adages and songs that communities can identify with) and greater illustrations to aid facilitation and sustain the interest of community members.[23]

22. **Canada** (para 1461.161) recommended Ghana "allocate adequate resources to the Ending Child Marriage Unit within the Ministry of Gender, Children and Social Protection". No data has been made public regarding the funding of the Unit, making implementation difficult to track.

C. <u>Further Points for Ghana to Consider</u>

COVID-19 and the Increased Risk of CEFM

24. The UNFPA-UNICEF Global Programme to End Child Marriage (GPECM) was launched in 2016 and indicated 12 countries as high-prevalence or high-burden countries, this included Ghana.[24] Phase I, aimed at "strengthening institutions and systems…to deliver quality services and opportunities for a significant number of adolescent girls"[25] completed in 2019 and Phase II (2020-2023) of the project aims to "accelerate actions to end child marriage".[26] It has also identified the implications of CEFM in the COVID-19 pandemic.[27]

25. As a result of the pandemic, a further 10 million child marriages are projected globally before the end of the decade; unions that otherwise might have been prevented.[28] COVID-19 has exacerbated the risk of CEFM through five main routes:

    (1) interrupted education;
    (2) economic and food insecurity;
    (3) disruptions to programmes and services;
    (4) adolescent pregnancy; and,
    (5) death of a parent or primary caretaker.

26. Furthermore, families tend to make decisions about education and marriage in parallel hence school closures and suspension of educational services increase vulnerability to discontinue education and promote marriage instead. The pandemic has widened educational inequalities for vulnerable children and adolescents living in poor and/or remote rural areas as well as girls, refugees, those with disabilities, and those who are forcibly displaced.[29]

27. Ghana, like many other countries, did not have a coordinated national child protection emergency and response plan in place when the pandemic hit. This severely affected its ability to provide services during the pandemic that are essential to preventing child marriage, such as adolescent sexual and reproductive health and rights information and resources. A dangerous vacuum has been created as a result of curtailing awareness campaigns and community dialogues on the negative consequences of CEFM.

D. Recommendations

We recommend the government of Ghana to:

i. Fully implement the National Strategic Framework on Ending Child Marriage in Ghana. This includes regular monitoring and tracking of progress against targets set under the Framework.
ii. Adopt a COVID-19 response strategy that extends beyond health and prioritises the prevention and elimination of CEFM, paying particular attention to the impact of COVID-19 on vulnerable adolescents, girls, and women.

iii. Empower girls and boys to be better able to prevent and respond to child marriage. For example, supporting existing adolescents' groups to offer safe spaces to discuss sensitive issues.
iv. Conduct, in consultation with relevant stakeholders, awareness raising and education programmes aimed at addressing the negative implications of CEFM and how to effectively address the issue. These should be targeted at community and religious leaders.

CHILD SEXUAL EXPLOITATION

E. Ghana and International Law on Child Sexual Exploitation (CSE)

28. Child sexual exploitation (CSE) is "any actual or attempted abuse of position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. Sexual exploitation is a broad term, which includes a number of acts…, including 'transactional sex', 'solicitation of transactional sex' and 'exploitative relationship'."[30]

29. Ghana has ratified several international treaties that obligate it to protect children from sexual exploitation. Article 19 of the Convention on the Rights of the Child guarantees the right to be protected from neglect and abuse.[31] Articles 32-37 of the same provide for protection from sexual abuse, trafficking and all forms of exploitation, especially in the case of work.[32] The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) also commits ratifying states such as Ghana to prevent and combat trafficking of children in particular. In addition, Article 16 of African Charter on the Rights and Welfare of the Child obligates states to "take specific legislative, administrative, social and educational measures to protect the child from … sexual abuse…."[33]

30. On a domestic level, the Constitution of Ghana also establishes children's rights and sets forth a framework under which the parliament may enact laws necessary for the protection, survival, and development of the child.[34] The Children's Act 1998 (Act 560) protects children from exploitative labor and child marriage.[35] The Criminal and other Offences Act 1960 (Act 29) makes it an offence to harm a child physically or sexually.[36] It further makes Trokosi, a ritual practice whereby young girls are handed over to temples as reparations for their families' wrongdoings, an offence.[37] Additionally, the Human Trafficking Act 2005 (Act 694) aims to prevent and punish trafficking, especially of children, and covers induced prostitution and other forms of sexual exploitation.[38]

F. Implementation of Recommendations from Cycle Three in 2017

31. Ghana received 24 recommendations on CSE, of which all but one were supported. Its acceptance of the majority of the recommendations received is a laudable response but one which must be met with effective implementation.

Recommendations concerning ratification of international law and prohibition of CSE

32. A number of States recommended the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. This included **Iran** (para 146.3.2), **Honduras** (para 146.3.1), **Spain** (para 146.3.3), **Montenegro** (para 146.3.4); **Uruguay** (para 146.3.5), and **Guatemala** (para 146.4). This has **not been implemented.**

33. **Ecuador** (para 146.172) recommended Ghana "prohibit the use, acquisition, or the offering of children in the production of pornography and pornographic spectacles". This has been **implemented**.

34. Ghana ratified the African Union Convention on Cyber Security and Personal Data Protection in 2018.[39] It then proceeded to ratify the Convention on Cybercrime in 2019. Both required the state to promulgate comprehensive laws which facilitate the fight against cybercrime. In light of this, the Cybersecurity Act 2020 (Act 1038) was passed.

35. The act criminalizes various acts involved in the creation, sale, and viewership of child pornography.[40] Sections 62 to 67 deal with the protection of children online, prohibiting the production, publication, and distribution of indecent images of a child; online grooming of children; aiding and abetting in CSE; cyberstalking of a child and sextortion. Any person under the age of 18 qualifies as a child for the purposes of this act. The punishment ranges from a fine or a jail term between 5-10 years, depending on the crime.

36. We also welcome the news that the Ghana Police Service, in collaboration with UNICEF, launched Ghana's first ever Child Protection Digital Forensic Laboratory in September 2020.[41] The Lab will equip the Ghana Police Service with the tools to prevent and respond to cases of online child sexual exploitation and abuse. It will facilitate the detection and investigation of trafficking and kidnapping cases where digital devices have been used and particularly cause the removal of child sexual abuse image online. This facility will link Ghana Police Service with Interpol's International Child Sexual Exploitation database and is the first of its kind in the West and Central Africa region. [42]

Recommendations concerning elimination of 'Trokosi'

37. **Poland** (para 146.188) recommended taking "all necessary steps to eliminate harmful practices towards girls, as well as release all children who are subjected to the Trokosi practice". This has been **partially implemented.**

38. Trokosi is a religious and cultural practice of sexual slavery in Ghana. The practice sees young virgin girls, some as young as six years old, sent into Troxovi shrines (shrines for gods) as slaves to make amends for family sins, which range from breaking the law to offending the gods.[43] Section 314(A)(1)(b) and 314(A)(2) of the Criminal Code makes the practice of Trokosi a criminal offence. Any person who participates in such a custom is liable to a term of not less than three years.[44] The girl's parents, the priest, the person making the agreement, any spectators, or mediators involved are all liable under the Act. The same statute makes indecent assault and rape criminal offences.[45]

39. Trokosi victims are regularly subjected to both these crimes. However, the law has not impacted the practice in a favourable manner.[46] Most people who were aware of the bondage are liable for prosecution and this deters anyone from reporting to the police. This is further compounded by a lack of government enforcement.[47] This is because the practice is accepted as an important religious ritual and there is a fear of spiritual consequences in case of interference.[48] To date, there have been no prosecutions under the law.

40. However, there have been other efforts by the state to curb this practice. Joint campaigns have been undertaken by Ghana's Human Rights Commission and various NGOs.[49] Their strategies have been (1) to encourage priests to accept animals as reparations instead of young girls, (2) to negotiate with priests to set slaves free in return for financial packages to help generate income, and (3) provide vocational training to Trokosi women so that they may retain skills for livelihood upon being freed, and create well-needed distance between the shrine and themselves. [50]

Recommendations concerning child trafficking

41. **United States** (para 146.186) recommended Ghana "enforce laws on human trafficking and child labour by holding perpetrators criminally accountable and providing adequate funding to investigate traffickers and protect victims." This has been **partially implemented.**

42. Since the Human Trafficking Act in 2005, no new legislation has been enacted to curb human trafficking. However, a budget of GHC 730,000 was allocated for the implementation and enforcement of the Act in 2017.[51] Of this, GHC 150,000 was allocated for public awareness at various levels. GHC 500,000 were lodged in the human trafficking fund.[52] An inter-ministerial committee was set up to "administer this fund, advise the Ministry of Gender, Children and Social Protection on policies, further promotion efforts, and facilitate protection and reintegration of trafficking victims."[53] This committee has not

made any concrete proposals for the improvement or enforcement of the Human Trafficking Act.

43. One reason why the law has not been as successful is the lack of a legislative instrument detailing procedures for agencies to follow under the Act.[54] Additionally, the Act does not define human trafficking clearly. Nonetheless, since the promulgation of the law, the number of prosecutions has increased and awareness efforts have been more successful.

44. Other recommendations included promulgating and implementing laws to prevent sexual exploitation of children. However, other than the steps discussed above, no concrete measures have been taken to prevent such abuse.

G. Further Points for Ghana to Consider

The Universal Periodic Review Recommendations and the Contribution to the Sustainable Development Goals

45. Ghana should consider adopting the UPR recommendations as an expression of mutual reinforcement of the government's commitment to promoting the Sustainable Development Goals.[55] The human rights values expressed in both the UPR and the SDGs can be woven together to promote policy coherence.[56]

23. SDG 16 provides for "access to justice for all and build[ing] effective, accountable and inclusive institutions at all levels" but the CSE is inconsistent with this goal. Specifically, SDG Target 16.2 aims to end abuse, exploitation, trafficking and all forms of violence against and torture of children.[57]

24. The Special Rapporteur on the sale and sexual exploitation of children has noted in her 2022 annual report that it is vital for States to have a robust legal and policy framework in place which must also be effectively implemented. Significant gaps remain in the implementation of legal standards and in the sharing of information, leading to inadequate responses to CSE and "the result is that children continue to fall through the safety nets that do exist and become victims of sale and sexual exploitation."[58]

H. Recommendations

We recommend the government of Ghana to:

i. Ratify the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
ii. Establish subnational plans to tackle the issue of commercial sexual exploitation such as sex tourism.
iii. Generate more awareness, education and sensitization on CST among stakeholders and the general public.

iv. Strengthen the legal and policy framework to increase the number of prosecutions on Trokosi and trafficking.
v. Increase the penalty for the violation of Section 314A on Prohibition of Customary Servitude.
vi. Focus on the role of the schools in preventing sexual exploitation and implement measures accordingly.

ACCESS TO EDUCATION

I. Ghana and International Law on Access to Education

46. Ghana has ratified various international legal instruments which obligate the state to ensure education for all children. Of particular relevance are Article 13 and 14 of the ICESCR; Article 5(v) of CERD; and Article 23(3), 28,29,32 CRC. These rights focus on free and compulsory basic education, availability and accessibility of secondary education, and inclusive education catering to the needs of special children. Specifically, Article 28 of the CRC provides that all children have a right to education regardless of their identity or citizenship status[59] and Article 10 CEDAW instructs states to ensure equal rights in education for both women and men in education.[60] Article 11 of the African Charter on the Rights and Welfare of the Child provides that States must safeguard the child against all forms of exploitation and work which interferes with their education. [61]

47. Ghana's domestic law also provides multiple safeguards for the right to education of children. Article 25 of the 1992 Constitution of Ghana provides that, "all persons shall have the right to equal educational opportunities and facilities and with a view of achieving the full realisation of that right: (a) basic education shall be free, compulsory, and available to all." Article 38 of the Constitution states that the state will provide education to all to the greatest extent possible.[62]

48. Free and compulsory primary education has been ensured under the 2008 Education Act (Act 778) which also provides for distance learning where necessary. Persons with Disability Act (2006) also provides for the right to education of disabled persons. Other rules and regulations protecting the child's right to education include Early childhood care and development standards (ECCDs) developed by the Ministry of Gender, Children and Social Protection for development and growth of children aged 0-3 in Ghana. Hence, from a regional perspective, Ghana has established a strong legal framework to protect children's right to education.

49. Ghana has pursued policies for universal basic education since the 1980s. Up to 11 years of education are free as a capitation grant compensates for fees, food, school infrastructure, stationery and books, and other necessities.[63] Ghana has also introduced a School Feeding Programme. Efforts to improve infrastructure and incentives include the School Under

Trees Project, incentives like free bicycles for teachers in under privileged areas, a quota system for postings of teachers, and non formal literacy programmes.[64]

J. Implementation of Recommendations from Cycle Three in 2017

50. Ghana received 16 recommendations on the right to education of which 14 were supported and two noted.

Recommendations concerning rights of vulnerable groups (migrants, refugees, girls)

51. **Mexico** (para 146.5) recommended Ghana "strengthen strategies to guarantee the protection of the rights of migrants and refugees in order to ensure their access to justice, education and health, regardless of their status." Although education is free and compulsory for all children, migrant parents are largely unaware about such laws and hence fail to enrol their children in schools.[65] Many parents do not place a high value on schooling or believe that the school's socio-cultural and religious values are incompatible with their own.[66] Some beliefs regarding gender roles and shame also contribute to this trend.[67] Finally, the inability to cater to the hidden costs of schooling is the biggest reason for the lack of access to education for migrant children.[68] These are all non-legal causes which must be addressed by the government of Ghana.

52. **Japan** (para 146.2) recommended "enhanc[ing] education and awareness-raising to ensure maximum respect for the rights of girls." This has been **partially implemented.** According to a 2019 survey on gender parity, Ghana has a gender parity score of 61%, coming seventh place in all sub-Saharan Africa.[69] The UNESCO 2020 Gender Report found that Ghana has made tremendous improvement in girl's education and enrollment, especially in primary and secondary education.[70] Through its widespread awareness campaigns, the government has successfully made it fashionable for girls to attend schools. However, enrollment in STEM remains low and school infrastructure is not inclusive for menstruating or disabled girls.

53. A number of initiatives have helped Ghana's Gender Parity Index to improve from 0.93 to 0.95.[71] These include the Ghana Education Strategy Plan for 2018-2030;[72] the Campaign for Female Education which provides scholarships for girls in rural communities;[73] the appointment of a Girls Education Officer in each district by the Girls Education Unit;[74] and training provided by the Ministry of Education for female teachers and to promote girls' clubs for female empowerment.[75]

54. Furthermore, given the impact of the pandemic on school closures, the Ghana Education Service collaborated with UNICEF to promote the 'Guidelines to Reduce Teenage Pregnancy and to Facilitate the Re-entry of Teenage Mothers into the Ghanaian Education System' and the prevention of gender-based violence in a safe schools initiative through the back-to-school campaign in December 2020. This activity was implemented to support

the safe return to school of children, especially girls, including pregnant schoolgirls and young mothers, when schools reopened in January 2021.[76]

Recommendations concerning accessibility, free education and discrimination

55. **Angola** (para 146.127), **Peru** (para 146.125), and **Azerbaijan** (para 146.128) issued recommendations to increase the quality and availability of primary and secondary education. **Kenya** (para 146.124) also recommended the state "continue the efforts being undertaken to make education more accessible and specially to implement the much-lauded free education programme." These have been **partially implemented**.

56. Due to the detailed procedure of releasing the funds, first through the central governments to the district and then to the schools, a lot of times capitation grants are not released on time. Other than this, corruption at the regional and district directorates is prevalent due to which the amount which eventually gets transferred to schools is not enough.

57. Despite the free education programme, there is a high drop out rate as poverty-stricken children opt to work.[77] A lack of resources and governmental inefficiency means that some schools are still charging students money.[78] Lack of trained teachers, school buildings, and infrastructure are a cause for concern. Hidden costs are prevalent, and education is not really free as of yet.

58. Nonetheless, it is promising to note that in 2020, the World Bank financed $150 million to support Ghana in improving the quality of its education system.[79] The Ghana Accountability for Learning Outcomes Project has committed to provide modern teacher training and learning materials.[80] Key expected outcomes include "improved teaching practices in targeted schools, including targeted instruction, structured pedagogy and continuous coaching and mentoring support, decreased absenteeism among teachers, effective allocation of teachers across schools, and increased utilization of the accountability dashboard to improve learning." Other pilots under the project include "the innovative delivery of in-service teacher training on targeted instruction and structured teaching; digitized data collection and accountability systems; strengthened school resourcing for learning; and enhanced school-based management and citizen engagement."[81] 2.3 million children are expected to benefit from this programme.

59. **Portugal** (para 146.129) urged the state to "take concrete steps towards operationalizing extended access to free senior high school for all students." This has been **partially implemented.** In September 2017, Ghana introduced a free senior high school policy.[82] A study discovered that low resourced and unreputable schools in the South have since seen a 30% increase in enrolment.[83] Meanwhile the Northern schools saw a reduction in enrolment. Where enrolment has increased, the issues of teacher inadequacy, large class size, and increased teacher workload have exacerbated. There have been delays in the release of teaching materials and when provided, an inadequacy of them.[84] Additionally, there is now increased inadequacy for teachers and students' lodging facilities. Dining

halls have not been expanded to cater to the influx of students.[85] It is clear that the financing for this initiative is inadequate for the high demand it triggers.

60. **Slovenia** (para 147.26) recommended Ghana "provide clear national guidelines to prevent discrimination in schools and universities on any ground, including sexual orientation and gender identity." This has **not been implemented.** No national guidelines of such nature have been promulgated till date. The revised Code of Conduct for Staff of the Ghana Education Service provides for non-discrimination on the basis of sex, race, age, religion health or class. However, no clear guidelines have been established.

61. **Iraq** (para 146.114) and **China** (para 146.122) recommended an increase in government spending on education. This has been **implemented**. Ghana's share of education in the domestic budget was 27% in 2018, exceeding the recommended 20% share.[86] This is a 23% increase from its educational budget in 2017.[87]

K. <u>Further Points for Ghana to Consider</u>

Impact of COVID-19 on Adolescent Girls and Gender Equality

62. COVID-19 has amplified and compounded gender norms that hinder girls' school attendance, risk of child marriage, early pregnancy, gender-based violence, sexual exploitation and child labour. A girl is at risk of encountering violence in every sphere, including in the classroom, no matter where she may live.

63. Global figures indicate that in comparison to boys their age, girls between 5 and 14 years old spend 40 per cent more time on unpaid household chores and care work, which compromises their education and learning. As a result of COVID-19 school closures, girls may have increased exposure to sexual activity, sexual violence and unwanted pregnancy as they may spend more time at home and unsupervised. The loss of school time may also lead families to view girls' education as a less worthwhile investment. Unfortunately, a disproportionate number of girls will simply not return to education.[88]

64. Economic fragility, loss of livelihood and an increase in household poverty may limit the ability of families to provide for their children. Economic and food insecurity tend to produce two reactions: reducing expenditure (such as education costs) and reducing the household size. Both can lead to child marriage. In addition, child marriage can benefit a household's income where the groom's family has to pay a form of bride wealth (known as 'lobola' in Southern Africa) to the bride's family.[89]

25. According to UNFPA-UNICEF,

> "The impact of the pandemic is likely to be felt for at least another decade, also raising the risk of child marriage for girls who are now young. Because

marriage fundamentally alters the course of a girl's life, the full effect of the pandemic on human development will play out over a generation."[90]

L. Recommendations

We recommend the government of Ghana to:

i. Implement a checklist system that will serve as a tool to guide the legislative provisions on children's right to education and gender disparities in accessing education.
ii. Add penalty provisions within Article 25(1)(a) to strengthen the effective enforcement of this right.
iii. Increase its investment in education as this has declined in recent years.
iv. Consider the inherent dignity of children and enable them to express his or her views in accordance with Article 12(1) of UNCRC when enacting legislative and policy provisions in relation to children's right to education.
v. Ensure that its domestic legislation on free education covers the hidden costs of education, so that these do not create a barrier to the right to education.
vi. Implement both legislative and policy mechanisms to ensure the non-discriminatory practices of children with disabilities in education.
vii. Implement legislative mechanisms that will monitor the enforcement of free and compulsory education at community level.

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[1] See <https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=67&Lang=EN>.

[2] In this submission we adopt the definitions of 'child marriage,' 'early marriage,' and 'forced marriage,' as provided by the OHCHR which identifies that:

- "child marriage" is a marriage in which at least one of the parties is a child. According to the Convention on the Rights of the Child, a child is "every human being below the age of eighteen unless under the law applicable to the child, majority is attained earlier (CRC art 1).
- "early marriage" is often used interchangeably with "child marriage" and refers to marriages involving a person below 18 in countries where the age of majority is attained earlier or upon marriage. Early marriage can also refer to marriages where both spouses are 18 or older but other factors make them unready to consent to marriage, such as their level of physical, emotional, sexual and psychosocial development, or a lack of information regarding the person's life options.
- "forced marriage" is any marriage which occurs without the full and free consent of one or both of the parties and/or where one or both of the parties is/are unable to end or leave the marriage, including as a result of duress or intense social or family pressure.

See, Preventing and eliminating child, early and forced marriage, Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/26/22, 2 April 2014, paras. 4-6. See also, Child and forced marriage, including in humanitarian settings, OHCHR, Women's Rights and Gender Section, <www.ohchr.org/en/issues/women/wrgs/pages/childmarriage.aspx>.

[3] Child and forced marriage, including in humanitarian settings, OHCHR, Women's Rights and Gender Section, <www.ohchr.org/en/issues/women/wrgs/pages/childmarriage.aspx>.

[4] Article 28(5), Ghana Constitution 1992; Article 1 Children's Act 1998.

[5] See Ministry of Gender, Children and Social Protection, 'National Strategic Framework on Ending Child Marriage in Ghana 2017 – 2026' available at <www.unicef.org/ghana/media/1001/file/National%20Strategic%20Framework%20on%20Ending%20Child%20Marriage.pdf>.

[6] Convention on the Rights of the Child (CRC), UNGA Res 44/25, 20 November 1989. Article 1: For the purposes of the present Convention, a child means every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier. Article 2(1): States Parties shall respect and ensure the rights

set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. Article 2(2): States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members. Article 24(3): States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

[7] Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), UNGA Res 34/180, 18 December 1979, UN Doc A/RES/34/180. Article 16(2): The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

[8] African Charter on the Rights and Welfare of the Child 1990, OAU Doc. CAB/LEG/24.9/49 (1990), entered into force Nov. 29, 1999. Article 21(2): Child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years and make registration of all marriages in an official registry compulsory.

[9] Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa 2003, Adopted by the 2nd Ordinary Session of the Assembly of the Union, 11th July 2003, Entry into Force 25th November 2005. Article 6: States Parties shall ensure that women and men enjoy equal rights and are regarded as equal partners in marriage. They shall enact appropriate national legislative measures to guarantee that: a) No marriage shall take place without the free and full consent of both parties; b) The minimum age of marriage for women shall be 18 years.

[10] Kigali Declaration, Moving from aspiration to action to prevent and eliminate child, early and forced marriage in the Commonwealth, May 2015.

[11] UNHRC, 'Report of the Human Rights Council on its thirty-seventh session' (14 June 2018) UN Doc A/HRC/37/2, para 994.

[12] See UNHRC, 'Report of the Working Group on the Universal Periodic Review – Sri Lanka' (29 December 2017) UN Doc A/HRC/37/17.

[13] Amna Nazir, 'The Universal Periodic Review and the Death Penalty: A Case Study of Pakistan' (2020) 4(1) RSIL Law Review 126, 153.

[14] See UPRinfo, 'For impact on the ground the UPR needs SMART recommendations' <https://www.upr-info.org/en/news/for-impact-on-the-ground-the-upr-needs-smart-recommendations> (21 October 2015).

[15] Commission on Human Rights and Administrative Justice, 'Child, Early and Forced Marriage Research Prepared by the Commission on Human Rights and Administrative Justice, Ghana' (2019) p.3 available at <www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/HumanitarianSettings/Ghana_CHRAJ.docx>.

[16] UNICEF, 'Ending Child Marriage: A Profile of Progress in Ghana' (2020) p.14 available at <https://reliefweb.int/sites/reliefweb.int/files/resources/Child-marriage-Ghana-brochure-English_2020.pdf>.

[17] Commission on Human Rights and Administrative Justice, 'Child, Early and Forced Marriage Research Prepared by the Commission on Human Rights and Administrative Justice, Ghana' (2019) p.3 available at <www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/HumanitarianSettings/Ghana_CHRAJ.docx>.

[18] ibid.

[19] UNFPA–UNICEF Global Programme to End Child Marriage, 2020 Country Profiles: Ghana (2021) p.15 available at <www.unicef.org/media/111376/file/Child-marriage-country-profile-Ghana-2021.pdf>.

[20] ibid.

[21] ibid 16.

[22] ibid 9.

[23] ibid 7.

[24] UNFPA–UNICEF Global Programme to End Child Marriage, Report, Phase I (2016–2019), <www.unicef.org/media/83516/file/Child-marriage-annual-report-2019.pdf> The target countries under Phase I were: Bangladesh, Burkina Faso, Ethiopia, Ghana, India, Mozambique, Nepal, Niger, Sierra Leone, Uganda, Yemen and Zambia.

[25] UNFPA–UNICEF Global Programme to End Child Marriage, 'Research Strategy for Phase II: The UNFPA–UNICEF Global Programme to End Child Marriage' (5 November 2021) <https://reliefweb.int/sites/reliefweb.int/files/resources/Child-marriage-research-strategy-2021.pdf>.

[26] ibid.

[27] UNFPA-UNICEF Global Programme to End Child Marriage, 'Act Now: Accelerating Gender Equality by Eliminating Child Marriage in a Pandemic', Annual Report, October 2020, p. 15. <www.unicef.org/media/108461/file/Act%20now.pdf>.

[28] ibid 15.

[29] ibid.
[30] Task Team on the SEA Glossary for the Special Coordinator on improving the United Nations response to sexual exploitation and abuse, 'Glossary on Sexual Exploitation and Abuse: Thematic Glossary of current terminology related to Sexual Exploitation and Abuse (SEA) in the context of the United Nations' (24 July 2017) available at <https://hr.un.org/sites/hr.un.org/files/SEA%20Glossary%20%20%5BSecond%20Edition%20-%202017%5D%20-%20English_0.pdf>.
[31] CRC, Article 19.
[32] CRC, Articles 32-37.
[33] Organization of African Unity (OAU), African Charter on the Rights and Welfare of the Child, 11 July 1990, CAB/LEG/24.9/49 (1990), Article 16.
[34] Constitution, Article 28(1)
[35] The Children's Act, 1998 (Act 560).
[36] The Criminal and other Offences Act, 1960 (Act 29).
[37] ibid.
[38] Human Trafficking Act, 2005 (Act 694).
[39] Ministry of Communications and Digitalisation, 'Cybersecurity Act Passed to Promote & regulate Cybersecurity Activities' (*MOC)* <www.moc.gov.gh/cybersecurity-act-passed-promote-regulate-cybersecurity-activities>.
[40] Cybersecurity Act, 2020 (Act 1038).
[41] 'Ghana's first child protection digital forensic laboratory launched' (*E-Crime Bureau*, 1 September 2020) <https://e-crimebureau.com/2020/09/01/ghanas-first-child-protection-digital-forensic-laboratory-launched/>.
[42] 'Combating online child sexual exploitation and abuse in Ghana: For every child, a safe online experience' (*UNICEF,* 30 October 2019) <www.unicef.org/ghana/press-releases/combating-online-child-sexual-exploitation-and-abuse-ghana>.
[43] Wisdom Mensah, 'Girls in West Africa Offered into Sexual Slavery as 'Wives of God'' (*Conversation,* 29 October 2018) <https://theconversation.com/girls-in-west-africa-offered-into-sexual-slavery-as-wives-of-gods-105400>.
[44] Criminal Code, Section 314.
[45] ibid.
[46] Sainabou M Musa, 'Modern Day Slavery: Why application of United States Asylum Laws should be Extended to Women Victimized by the Trokosi Belief System' (2018) 13 Rutgers Race & Law Review 169, 194.
[47] ibid.
[48] Micheal S Talbot, 'The Challenge of Trokosi: Ritual Servitude and the Framework of International Human Rights Law' (2018) 31 Harvard Human Rights Journal 1, 13.
[49] Commission on Human Rights and Administrative Justice, 'Child, Early and Forced Marriage Research Prepared by the Commission on Human Rights and Administrative Justice, Ghana' (2019) available at <www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/HumanitarianSettings/Ghana_CHRAJ.docx>.
[50] Wisdom Mensah, 'Girls in West Africa Offered into Sexual Slavery as 'Wives of God'' (*Conversation,* 29 October 2018) <https://theconversation.com/girls-in-west-africa-offered-into-sexual-slavery-as-wives-of-gods-105400>.
[51] Abdulai Kuyini Mohammad, 'Is Ghana's Law Against Human Trafficking a Success?' (2020) 47(1) Criminal Justice Review, 53-76.
[52] ibid.
[53] ibid.
[54] See eg Ernest Adu-Gyamfi, 'Legal Remedies Against the Abuse of Woman and Children: The Case of Ghana' (March 2014) 2(1) International Journal of Gender and Women's Studies 61-81.
[55] See the UN Sustainable Development Goals website, https://sustainabledevelopment.un.org/?menu=1300.
[56] The first two cycles of the UPR were reviewed under a data mining procedure and of the circa. 50,000 recommendations, it was possible to link more than 50% of those to SDG targets, see, The Danish Institute for Human Rights, Linking the Universal Periodic Review to the SGGs, p. 2.
[57] ibid.
[58] Mama Fatima Singhateh, 'A practical approach to addressing the sale and sexual exploitation of children' (10 January 2022) UN Doc A/HRC/49/51, para 23.
[59] CRC, Article 28.
[60] CEDAW, Article 10.
[61] Organization of African Unity (OAU), African Charter on the Rights and Welfare of the Child, 11 July 1990, CAB/LEG/24.9/49 (1990).
[62] Ghana Constitution 1992, Article 38.

[63] Right to Education Project, 'Right to Education Country Factsheet: Ghana' February 2012, p5 <www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/RTE_Country_Factsheet_Ghana_2012.pdf.
[64] ibid 6.
[65] Daniel Owusu Kyereko, 'Education for All: The Case of Out of School Migrants in Ghana' in Mora M McLean (ed) *West African Youth Challenges and Opportunity Pathways. Gender and Cultural Studies in Africa and the Diaspora* (Palgrave Macmillan, 2020).
[66] ibid.
[67] ibid.
[68] ibid.
[69] Clara Lindhart Neltoft, 'Girl's education in Ghana: Fighting barrier beyond gender parity' (*Education Out Loud,* 24 September 2021) <https://educationoutloud.org/girls-education-ghana-fighting-barriers-beyond-gender-parity>.
[70] Global Education Monitoring Report Team, 'Global Education Monitoring Report 2020: Gender Report, A New Generation: 25 Years of Efforts for Gender Equality in Education' (September 2020) <https://gem-report-2020.unesco.org/gender-report/>.
[71] ibid.
[72] ibid 22.
[73] Lydia Lamm, 'Strengthening Women's Education in Ghana' (*Borgen Project,* 4 April 2018) <https://borgenproject.org/womens-education-in-ghana/>.
[74] ibid.
[75] ibid.
[76] UNFPA–UNICEF Global Programme to End Child Marriage, 2020 Country Profiles: Ghana (2021) p.11 available at <www.unicef.org/media/111376/file/Child-marriage-country-profile-Ghana-2021.pdf>.
[77] Charlotte Mitchell, 'Q&A: The Reality of Free Education for all in Ghana' (*Aljazeera,* 25 February 2018) <www.aljazeera.com/features/2018/2/25/qa-the-reality-of-free-education-for-all-in-ghana>.
[78] ibid.
[79] 'Over 2 Million Children to Benefit from Improved Quality Education in Ghana' (*World Bank,* 24 October 2019) <https://tinyurl.com/39m2s5hc>.
[80] ibid.
[81] ibid
[82] See Timothy Chanimbe and Kwaku Opoku Dankwah, 'The 'New' Free Senior High School Policy in Ghana: Emergent Issue and Challenges of Implementation in Schools' (2021) 52 Interchange 599-630.
[83] ibid.
[84] ibid.
[85] ibid.
[86] GPE Secretariat, 'Ghana: Making Quality Education Available to More Children' (*Global Partnership*, 13 September 2021) <www.globalpartnership.org/blog/ghana-making-quality-education-available-more-children>.
[87] Doris Dokua Sasu, 'Government expenditure on education in Ghana from 2010-2018' (*Statista*, 22 November 2021)<www.statista.com/statistics/1277617/government-expenditure-on-education-in-ghana/#:~:text=Government%20spending%20on%20education%20in,billion%20U.S.%20dollars%20on%20education>.
[88] UNFPA-UNICEF Global Programme to End Child Marriage, 'Act Now: Accelerating Gender Equality by Eliminating Child Marriage in a Pandemic', Annual Report, October 2020, p. 16. <www.unicef.org/media/108461/file/Act%20now.pdf>.
[89] ibid.
[90] ibid 15.