

Legal Remedies Against the Abuse of Woman and Children: The Case of Ghana

Ernest Adu-Gyamfi¹

Abstract

Issues relating to women and children worldwide are of much significance particularly, the enormity and universality of abuse against women and children. Women and children's rights are still abused and violated in the Ghanaian society decades after Ghana acceded and ratified the universal declaration of human rights. There are commissions, documents, policies and programmes put in place to promote and protect the rights of women and children but this repulsive incident still persists. This study investigated the legal remedies against the abuse of woman and children: The Case of Ghana. The study using secondary sources available including newspaper report, talks with experts, documents confirmed that women and children's right are being encroached and violated in spite of the legal provisions available to victims. The study recommended need to set up mechanisms for monitoring and evaluating programmes, policies and implementing existing legal remedies and legislations; and ensuring greater transparency and accountability from government in order to eliminate all forms of abuses against women and children.

Keywords: Abuse, discrimination, human rights, violence, gender equity

1.1 Introduction

Violence against women and children continues to be a worldwide and universal plague that kills, tortures, and maims – physically, psychologically, sexually and economically.

It is one of the most pervasive of human rights violations, denying women and children equality, protection, dignity, self-worth, and their right to enjoy fundamental freedoms.

¹ MA, Ghana Education Service, Diaso Senior High School, Post Office Box DW 13 Diaso, Central Region, Ghana, Phone: 233243553874, E-mail: socialanalyst2004@yahoo.com

Violence against women and children is present in every state, cutting across boundaries of culture, class, education, income, ethnicity and age. Even though most societies proscribe violence against women and children, the reality is that violations against women and children's human rights are often sanctioned under the array of cultural practices and norms, or through misconception of religious tenets and doctrines.

Besides, when the violation takes place within the home, as is very over and over again the case, the abuse is efficiently condoned by the unspoken and tacit silence and the submissiveness displayed by the state and of the law-enforcing machinery. The worldwide proportions of this violence are alarming and shocking, as highlighted by studies on its frequency and pervasiveness. No country can claim to be free of such violence; the only disparity is in the patterns and trends that exist in countries and regions. Particular groups of women children are further susceptible, together with minority groups, indigenous and migrant women and children, refugee women and those in situations of armed conflict, women in institutions and incarceration, women and children with disabilities, female children, and elderly women. By definition the term abuse includes violence against women and children by a cherished partner, including a cohabiting partner, and by other family members, and strangers whether this violence occurs within or beyond the precincts of the home in public places such as streets, workplaces or in custody, or in situations of civil conflict or war.

Human rights international documents re-affirm the essence in the dignity and worth of the human person, and declare the rights set out are applicable to all persons, that every person is entitled to enjoy human rights and fundamental freedoms without peculiarity of any kind such as race, colour, sex, language, political or other option, social origin, property, birth and status. From this reason there has been the need to make singular provision for particularly marginalized groups, such as women and children, since their state of reliance of other human beings, adults and men, make them particularly susceptible to human rights abuses.

1.2 Definition and Concept of Abuse

There is no unanimously and universally established definition of abuse against women and children but the United Nations Declaration on the Elimination of Violence against Women (1993) defines violence against women and children as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life."

The United Nations Declaration on the Elimination of Violence against Women, General Assembly Resolution, December 1993. These responses have placed women and children's rights resolutely on the agenda of international human rights through their advocacy. The 1990s, in particular, witnessed concerted efforts on the part of the world community to legitimize and main-stream the issue.

The World Conference on Human Rights in Vienna (1993) accepted that the rights of women and children are "an inalienable, integral and indivisible part of universal human rights." The United Nations General Assembly, in December 1993, adopted the Declaration on the Elimination of Violence against Women. It is the first international human rights instrument to deal exclusively with violence against women, a groundbreaking document that became the basis for many other parallel processes.

1.3 Some of the Abuses That are Meted to Ghanaian Women and Children

1.3.1 Traditional and Cultural Practices

Some traditional practices undermine and destabilize the well-being of women and children in Ghana. Some of these practices are the following:

The "trokosi" system found mainly in the Volta Region of Ghana involved the giving over onto slavery of young female virgins to fetish shrines with the executions that some gods need to be pacified for offences alleged to have been committed by other members of girls family.

These girls are used by the fetish priest or priestess as unpaid priestess as unpaid labourers, the girls are forced into sexual union with the priests without the latter assuming the necessary responsibility for the girl or their children have born out of such shrines.

Female Gentile Mutilation (FGM): This is a practice among certain religious societies. This practices is exactly what is says, it mutilates the female sexual organs. It has been described by the WHO as a serious health risk, under the (Criminal Code Amendment Act 1994) Act 484. This practice is a second decree felony with term of imprisonment of least three years, in spite of this law; the practice goes on baby girls as well as adult pregnant women.

Early marriage: Early marriage, with or without the consent of the girl, constitutes a form of violence as it undermines the health and autonomy of millions of young girls. The legal minimum age of marriage is usually lower for females than for males. In many countries, the minimum legal age for marriage with parental consent is considerably lower than without it; more than 50 countries allow marriage at 16 or below with parental consent.

Early marriage leads to childhood teenage pregnancy, and can expose the girl to HIV/AIDS and other sexually transmitted diseases. It is also associated with adverse health effects for her children, such as low birth weight. Furthermore, it has an adverse effect on the education and employment opportunities of girls.

Child Maintenance: One of the major problem that many children face in Ghana is the lack of maintenance by their parents, especially fathers, maintenance affect practically every right required for the survival and development of the child, such as the right to life, survival, physical, moral and intellectual development, active participation in society, cultural life and protection from harmful influences. So children are on street selling and engaging in child prostitution, child labour among others.

Child Discipline: This issue punishment has been linked with the discipline in such a manner that is resulted in the violations of the rights of several children, both at home and in schools. Articles 28 (2) of the Conventions of the Rights of the Child (CRC) provides that:

“State parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child’s human dignity and in conformity with the present Convention.” The children’s Act, Act. 560, 13 (2) provides that “Correction of a child no justifiable which is unreasonable in kind or in degree according to the age, physical and mental condition of the child, and not correct is justifiable if the child by reason of tender age or otherwise is incapable of understanding the purpose of the correction”. There are other provisions in the criminal code (section 41) prohibiting the use of unreasonable force in the correction of the child.

Child Labour: According to the recent ILO Survey, there are about 250 million child workers aged between 5 and 14 in the world. This is without taking into account, children who work within their families, of these, are in five works in hazardous environment and quite a number of these children works are denied both education and health care. In Ghana, children suffer a systematic abuse of their rights on account of practices such as bonded labour and trafficking for the purpose of prostitution. The Labour Act prohibits the use of Child Labour in hazardous employment, but children labour countries to be used in non-formal industrial sectors, particularly if the industry is small and family based quite a number of children work as labourers in Cocoa Farms, stone quarry and the fishing industry.

Child Trafficking : Internal Trafficking, this involves children being brought from deprived parts of the country especially the northern part of Ghana to cities or commercial centers such as Accra, Kumasi, Takoradi, Tema, and other commercial towns. They are engaged to work such as domestic servitude, commercial sex, truck pushers, etc.

Sexual Trafficking: This involves the trafficking of children across borders of the country. Ghanaian children are trafficked to neighboring countries such as Gabon, Togo and other countries. Sexual abuse and rape by an intimate partner is not considered a crime in most countries, and women in many societies do not consider forced sex as rape if they are married to, or cohabiting with, the perpetrator. The assumption is that once a woman enters into a contract of marriage, the husband has the right to unlimited sexual access to his wife.

Surveys in many countries reveal that approximately 10 to 15 per cent of women report being forced to have sex with their intimate partner. Some countries have begun to legislate against marital rape including Ghana. Although provision of such laws represents considerable progress, it is often difficult for a woman to press charges because of the evidential rules concerning the crime.

Psychological and emotional abuse: Because psychological violence is harder to capture in quantitative studies, a full picture of the deeper and more insidious levels of violence defies quantification. Victim-survivors report that ongoing psychological violence – emotional torture and living under terror – is often more excruciating than the physical brutality, with mental stress leading to a high incidence of suicide and suicide attempts. While the impact of physical abuse may be more 'visible' than psychological scarring, repeated humiliation and insults, forced isolation, limitations on social mobility, constant threats of violence and injury, and denial of economic resources are more subtle and insidious forms of violence.

The intangible nature of psychological abuse makes it harder to define and report, leaving the woman in a situation where she is often made to feel mentally destabilized and powerless. Jurists and human rights experts and activists have argued that the physical, sexual and psychological abuse, sometimes with fatal outcomes, inflicted on women and children is comparable to torture in both its nature and severity. It can be perpetrated intentionally, and committed for the specific purposes of punishment, intimidation, and control of the woman's identity and behaviour. It takes place in situations where a woman may seem free to leave, but is held prisoner by fear of further violence against herself and her children, or by lack of resources, family, legal or community supposed.

Child Domestic Servitude: These children who work in people household doing domestic chores, caring for children and running errands, among their tasks in exchange of remuneration. This practice is ubiquitous among middle and high income groups. As a nation, Ghana has taken a number of measures to address discrimination against children. The success rate of these measures cannot be quantified because of the absence or inadequacy of empirical data but the quantitative impact can be spoken to. The extent of legal protection for children could be seen in the paradigms of the international framework, national framework and institutional framework.

Physical abuse: A growing body of research studies confirms the prevalence of physical violence in all parts of the globe, including the estimates of 20 to 50 per cent of women from country to country that have experienced domestic violence. Statistics are grim no matter where in the world one looks. Data from industrialized and developing countries as well as from transitional countries provide an overview of the global problem. Acid attacks: Sulphuric acid has emerged as a cheap and easily accessible weapon to disfigure and sometimes kill women and children for reasons as varied as family feuds, inability to meet dowry demands, and rejection of marriage proposals.

1.4 Legal Remedies for Children

In the past, human rights protection was interpreted narrowly – state inaction to prevent and punish violations was not viewed as a failure in its duty to protect human rights. The concept of state responsibility has now developed to recognize that states also have an obligation to take preventive and punitive steps where rights violations by private actors occur. This issue of protection would be discussed at the International, Continental and National levels of all the provisions, arrangement and laws put in place for the protection of Women and Children.

International legal standards

Three doctrines, developed by human rights scholars and activists, have to be taken into account when dealing with the issue of violence against women and by private actors. The first is that states have a responsibility to exercise due diligence to prevent, investigate and punish international law violations and pay just compensation.

UN Charter (UNCRC): First, Ghana was the first country to ratify the UNCRC. The first international instrument that gives the highest and the most comprehensive international standards that guarantees for the rights of children. The paramount aim of ratifying to this convention is the best interest of, nondiscrimination against children. The major groups of rights are the survival development, protection and participation Article 19 of CRC guarantees children rights to protection from abuse and neglect.

Article 32 – 37 deals with the rights of the child engaging in work that constitute a threat to their health, protection from sexual abuse, freedom from slavery, trafficking and abduction, protection from all forms of exploitation, protection from torture, cruel treatment or punishment.

Article 1 for the purpose of the present convention a child means every human being below the age of eighteen years, unless, under the applicable to the child, majority is attained earlier Article 2(2) States parties shall take all the 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.

Furthermore, OAU Charter on the rights on the welfare of the child, Ghana have ratified the OA charter on the rights and welfare of children which is similar to content to the CRC, the charter however places emphasis on the duties of the African child.

ILO Conventions 182 (1999): Ghana has ratified the ILO 182 as her commitment to the protection of the rights of children. The ILO convention 182 (1999) concerns the prohibitions and the immediate action for the elimination of the worst forms of child labour. Ratified nations are enjoined to take appropriate measures and actions to ensure that these groups or right are enforced and respected.

Ghana has taken in number of measures including legislation, institution to give effect to the protection of child in compliance with the obligation under the UN Charter, African charter and ILO are sum of the international legislation instrument taken by Ghana to ensure protection of the rights of the child.

The 1992 Republican constitution of Ghana: The 1992 constitution of Ghana grants the whole of chapter 5 to the fundamental human rights of its people irrespective of the sex, age, gender etc. article 28 specifically deals with the right of children. Article 28 (1) provides that parliament shall enact such laws as are necessary to ensure the child's survival, protection, development since the promulgation the constitution other subsiding legislation have been enacted to deal with specific rights of the child and their enforcement. The criminal code consolidated 1960 Act 29; the criminal code is consolidation of the existing criminal law.

It provides for the protection of children from harm including physical and sexual assault, cruel customs violates the right of the child and cause harm to him/her. Harmful customary practices such as "Trokosi" ritual servitude mutilations (F.G.M) have now been made offence under the criminal code. The code prohibits corporal punishment and or capital punishment for children in conflict with the law instead the criminal code amendment Act 1998 and the juvenile justice. Act prison correction measures for such children. The children are placed under correctional institution to reform them and assist them to build a self-sustaining vacation such as farming, basketry, carpentry, mechanical engineering among others.

Children Act 1998 Act 560: The children Act 1998 Act 560 provides further guarantees for the rights of the children in specific situations the preamble set out the objectives as follows; An act to reform and consolidate the law relating to children to provide for the right to the child, maintenance and adoption, regulate child labour and apprenticeship, ancillary matters. The central principle is that the act serves the best interest of the child. The act provides for both penal and civil remedies for violation of the children rights.

Subsection 1 of the Act deals with issues on life non-discrimination, rights to name and nationality, rights to grow up with parents, parental duty and responsibility, rights to education and well-being, protection from exploitative labour, protection from torture and degrading treatment, rights to refuse betrothal and marriage. Section 13 of the Act prohibits the use of force with the aim of causing injury of harm to the child as a form of correction. Section 15 of this act 560 stipulates that any person who contravenes a provision of sub part 1 commits an offence which is liable on conviction to fine not exceeding GH¢500 or to term of imprisonment not exceeding one year or both.

Cinematography Act 1961: Cinematography Act of 1961, Act 76 as amended by NRCD 350 1975. Article 28 (d) of the constitution provides for the protection of children from physical and moral hazards, section 6(3a) of the children Act 560 instruct parents to protect the child from neglect, discrimination, violence, abuse, exposure to physical and moral hazards and oppression. The cinematography Act protects children from exposure to unsuitable materials especially through the media.

Pornography exhibition Bill: It is an important legislative aimed at ensuring that children do not have access to pornographic and other harmful materials. Operation of cinemas are sanitized not in indulge in activities that will retard the child's developmental process. In addition, National Media Commission Policy has a comprehensive provision relating to children, section 72.2 states that it is the duty of the media to protect the identity, privacy and reputation of children. Television and radio stations are also required to provide programmes that protect children's right and support their sound and physical and social development.

Human trafficking Act 2005 (Act 694): The trafficking in person prevention Act underline objectives which is to prevent suppress and punish trafficking in persons particular children. (1) Human trafficking means the recruitment, transportation, transfer, harbouring, trading or receipt of persons within and across national borders by (a) the use of threats, force or other forms of coercion, abduction, fraud, deception, the abuse of power or exploitation of vulnerability, or (b) giving or receiving payments and benefits to achieve consent. 2)

Exploitation shall include at the minimum, induced prostitution and other forms of sexual exploitation, forced labour or services, salary or practices similar to slavery, servitude or the removal of organs

Instates Succession Law 1985 (PNDCL 111): Make provision for children during the loss of a parent. The children are given greater portion of the disbursement.

The Court System: One of the fundamental rights of humankind is the expectation of reciprocity of treatment in the conduct of one's affairs. This translates into being just and fair, and to be so treated in the courts which are charged with administering justice. In discharging this obligation, the streams of justice must be kept pure and unadulterated, not clogged or polluted.

1.5 Legal Provision for Women

The Convention of Elimination of all forms of Discriminations against Woman (CEDAW)

Ghana has ratified the UN charter on the Elimination of All Forms of Discrimination Against Women in 1979.

Article 1 of CEDAW states: *“for the purpose of the present convention, the term “discrimination against women” shall mean any destruction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by woman, irrespective of their marital status, on a basis of equality of men and women of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”.*

The protocol of the African Charter of Human and People’s Right of Women in African

Article 2 Elimination of Discrimination against Women provides:

1. State Parties shall combat all forms of discrimination against women through appropriate legislative, institutional other measures. In this regard they shall;
 - a) Include in their national constitution and other legislative instruments, if not already done, the principle of equality between women and ensure its effective application;
 - b) Enact and effectively implement appropriate legislative or regulatory measures, including those prohibiting and curbing all forms of discrimination particularly those harmful practices which endanger the health and general well-being of women;
 - c) Integrate a gender perspective in their policy decision, legislation, development plans, programmes and activities and in all other spheres of life;
 - d) Take corrective and positive action in those areas where discrimination against women in law and in fact continues to exist;
 - e) Support the local, national, regional and continental initiative directed at eradicating all forms of discrimination against women.
2. States parties shall commit themselves to modify the social and cultural patterns of conduct of women and men through public education, informational, education and communication strategies, with a view to achieving the elimination of harmful cultural and traditional practices and all other practices which are based on the idea of the inferiority of the superiority of either of sexes, or on stereotyped roles for women and men.

Article 3, on the Rights to Dignity of the protocol espouses as follows:

1. Every woman shall have the right to dignity inherent in a human being and to the recognition and protection of her human and legal rights.
2. Every woman shall have the right to respect as person and to the free development of her personality.
3. State Parties shall adopt and implement appropriate measures to prohibit and exploitation or degradation of women.

Solemn Declaration of Gender Equality – 2004

This is a reaffirmation of the commitment of the Heads to the principles of gender equality as enshrined in Article 4(L) of the constitutive Act of the African Union, as well as the existing commitments, principles goals and actions set out in the various regional, continental and international instruments. The declaration particularly created a platform for the acceleration of the involvement of women in governance processes at the continental, regional and national levels. Article 5 of the Solemn Declaration states “Expand and promote the gender parity principle that we have adopted regarding the Commission of the African Union to all the other organs of African Union, including its NEPAD programme, to the Regional Economic Communities, and the National and local levels in collaboration with political parties and the National Parliaments in our communities”.

Protocol on Women's Rights – 2004

It came into force in 2004. Article 9 on the right to participation in the political and decision making process provides that

- 1) State parties shall take specific positive action to promote participative governance, and the equal participation of women in the political life of their countries through affirmative action, enabling national legislation, and other measures to ensure that;
 - a. Women participate without any discrimination in all elections.
 - b. Women are represented equally at all levels with men in all electoral process;
 - c. Women are equal partners with men, at all levels of developments and implications of state policies and development programmes.

- 2) State parties shall ensure increased and effective representation and participation of women at all levels of decision making.

Ghana ratified the Protocol in 2007 without reservation; Ratification is further endorsement and commitment of the government of Ghana towards advancing gender equality and women's empowerment.

ECOWAS Protocol in Good Governance and Democracy

Article 40 – Members states agree that the promotions of the welfare of women are essential factors for development, progress and peace in the society. Consequently, they undertake to eliminate all forms of discrimination and harmful and degrading treatment women. Ghana ratified this Protocol on 10/10/02.

Ghana has commitment existing from the United Nations Conferences on women, namely the 1985 Nairobi Awards looking strategies (NFLS), the 1995 Beijing Platform for Action (PFE) and the 200 review of Beijing commitments known as Beijing + 5. The United Nations Conferences on Population and Development (ICPD) (1994) the social summit (1994) and recently, the 2000 Millennium Development Goals (MDEGs) have clear provision of improving the status of women and promoting equality.

The 1992 Constitution of Ghana

1992 constitution of Ghana amply spells out statutory provision that protect the right of women. In article 27 (1) special care shall be accorded to mothers during a reasonable period and after child birth. And during those periods, working shall be accorded paid leave.

Article 27 (2) facilitate shall be provided for the care of children below school going age to enable women who have traditional care for children to realize their full potentials.

Article 27 (3) women shall be guaranteed equal rights to training and promotion without any impediment from any person. Article 27 (3a) desirous to stop customary practices which dehumanize people especially women.

Article 26 (2) provide all customary practices which dehumanizes or can cause injury to the physical and mental well-being of a person are prohibited.

Article 17 (3b) recognizes the contribution of spouses in marriage. Article 22 talks about the property right of spouses. Article 22 (i) a spouse shall not be deprived of a reasonable portion of the estate whether or not the spouse died having made a will. Article 22 (ii) parliament shall as soon as practicable after the coming into force of this constitution enact legislations regulations property rite of spouses.

Domestic Violence Act 2007 Act 732

It covers a whole lot under domestic violence, physical abuse namely physical assault or use of physical force against another including the possible conferment of detection of another person and the deprivation of another person of access of adequate food, water, clothing, shelter, rest or subjecting another person to torture or other cruel, inhuman or degrading treatment or punishment. This is meant to protect the women against any form of inhuman treatment be it widowhood rite etc.

Interstate Succession Law 111

Act 1985 (PNDCL 111) this act was issued as the intestate succession law, 1985 (PNDCL 111) made or the 14th July, 1985. The act is aimed at removing the abnormalities in the present law relating to intestate succession law that will be applicable throughout the country irrespective of the class of the intestate the type of marriage contracted by him or her. This act 1985 is therefore aimed at giving a large portion of the estate of the deceased to the surviving spouse and children.

Intestate succession law, 1985 (PNDCL 111) provide and cater for both their woman and children. The law gives the surviving spouse and children a house, if the deceased had more than one home then the surviving spouse and children must choose on f the houses. It is not for the head of family or customary successor to decide for the surviving spouse and children which house they should have.

Evident decree 1975 (NRCP 223) 32 (2): A child of a women who have been married, born with 300 days after the end of the marriage is presumed to be a child of that marriage. These laws, Acts are meant to condition the women for national development.

She sees the society as a place where she can contribute to the society rather than a threat to her existence.

Criminal Code 1990 Act 29: The criminal code 1990 (Act 29) under this Act, protection is given to women, it is required that convicted women are tested for pregnancy and if there is pregnancy must be kept at a place where healthy needs can be met.

Ghana can not only rely on legislative instrument to protect women and children in our society. But have set institutions that seek to protect women and children. These are:

Family: As the most basic unit of society, the family has the primary responsibility for the survival, protection and development of children. Article 5 of the UNRCRC expects that state duty to respect the rights and responsibilities of parents and the wider family to provide guidance appropriate to the child evolving capacities. The roles of the external family in the child's upbringing is underlined in the African Charter in the view the states is enjoined to provide the necessary support to enable parents and families perform the duties according for children. The constitution of Ghana recognizes the states obligation towards the family and makes specific provision in Article 28 to guarantee the rights of the family to facilities that enable it perform its function in care and maintenance of children.

Article 28 among other things provide the parliament shall enact such laws as are necessary to ensure that the protection and advancement of the family as the basic unit of society are safe guided in promotion of the best interest of children. Article 28 (e) programmes focusing on children interest should be taken into account by the family.

Women and Juvenile Unit (WAJU): They are unit under the Ghana Police Service; they play a significant role of reducing violence against children and women. The unit has offices throughout the ten regions of the country and some district capitals. Their role is to respond promptly and effectively to violence against women and children. It has proven to persecute cases of domestic violence at court and also offers counseling services.

Commission of Human Right and Administrative Justice (CHRAJ)

The Commission on Human Rights and Administrative Justice was established by an Act of Parliament (456) in 1993 under the 1992 Constitution of Ghana. The 1992 Constitution of the Republic of Ghana provides for the Fundamental Human Rights and Freedoms of every person in Ghana. The commission was established to deal with complaints on violation of fundamental human rights including violent against children and women.

Their activities include education on human rights, providing counseling to victim and perpetrators of human rights abuse and making recommendations to appropriate law enforcement agencies for redresses and ensuring the welfare of women and children. Under the children Act, the department is enjoined to investigate all cases of contravention of children rights. The department is mandated to ensure effective reintegrated children rights. The departments also establish and maintain children homes or orphanages protecting vulnerable and physically challenged children.

Labour Unit: This is a unit under the ministry of manpower and development and employment. They are tasked with responsibility of address various forms violence against children.

1.6 Achievement by Ghana in the Promotion and Protection of Women and Children's Rights

Since Ghana ratified the Convention of Elimination of All forms of Discrimination against Women (CEDAW) on 2nd February 1986, it has make progress in creating awareness on gender issues and the societal perception and concept for women and girls and developing is changing. The government and people of Ghana have demonstrated their commitment to the tents of the Convention by ensuring that the Constitution, new legislation and policies are consistent with CEDAW. Fundamentally, the Constitution of Ghana commits the country to the elimination of gender discrimination. It also provides the constitutional basis for gender mainstreaming and equality. The government of Ghana has continued to vigorously pursue institutional, administrative and legal reforms as well as formulated and implemented various policies to address issues of Gender Equality and Women's Empowerment.

The creation of cabinet-level Ministry of Women and Children's Affairs in 2001 was a demonstration of political will to address the problem of women's marginalization and raise the issue of women's right and empowerment to a high national level. Support to Women's Economic and Political Empowerment; Operation of government and donor funded Women's Development Fund. The fund covers women in small scale farming, agro Processing and micro Enterprises. Since its inception in 2002 to – date, an amount of ₵15billion Cedis (about US\$10m) has been disbursed to 177,000 women throughout the country (Ministry of Women and Children's Affairs, 2008).

Establishment of Women in Local Governance Fund for Women's Participation in Local Government (District Assembly) Election through innovative mobilization of resources for women with means and male supporters. This fund has been established to enhance women's participation in the District Levels election in September 2006.

Capacities of women are being built to participate in Public life effectively. Several other pro women's empowerment are gender equality institution arrangement have been made such as: the establishment of the Girl Child Education Directorate in Ministry of Education, Women and Agriculture Development (WIAD) in Ministry of Food and Agriculture (MOFA), Maternal and Public Health Units of Ghana Health Service.

In education, the government has taken concrete steps to address the problem. There is near parity in meeting school enrolment under MGD 3. There are science and mathematics clinics for children particularly girls. More women are enrolled into our tertiary institutions. Universities have introduced gender courses. In other areas, women hold key positions in the country including the commissioner of CHRAJ, and deputy inspector general of police, the Chief Justice and among other.

Ghana submitted Report on implementation of African Union Solemn Declaration on Gender Equality and Women's Empowerment (2006) and passed the Human Trafficking Law to prevent trafficking in person especially women and children and to provide for rehabilitation and reintegration of victims of trafficking. Furthermore, the country Submitted Report on progress made on the critical areas of concern of the Beijing Platform for action (Beijing 5 and 10 (2000 & 2005).

The country has built the capacity of stakeholder institutions to implement the law on trafficking, disseminating and sensitising communities on the Human trafficking law. Again, passed the Domestic Violence Law that seeks to protect victims of domestic violence and improve family cohesion. Establishment of MOWAC as a Central Management Agency charged with the responsibility of; (i) formulating Policies and Strategies to promote Gender Equality, (ii) the Socio-economic Empowerment of women, (iii) the protection, survival and holistic development of the Ghanaian child and (iv) coordination of all policies and programmes for the advancement of Gender Equality and the Protection of the Rights of women and children in Ghana.

1.7 Criticism Against the State in the Promotion and Protection of Women and Children's Rights

Although the state by law having taking into consideration the need to protect women and children. However, to what extent have these laws and institutions accomplished these tasks?

First, less participation of women in politics and public life is an index that the convention on the elimination of all forms of discrimination against women has not achieved the desired results.

Secondly, after 29 years of the promulgation of the convention majority of rural women in Ghana have no social security for their present work, less education and inadequate health care delivery system.

The prevalence of street children, child labour, child trafficking, child prostitution and extremely high school dropout among rural children in Ghana point to the fact that these laws and institutions are on paper and not its implementations'. It is clear that in terms of constitutional legislation Ghana is ranked high in having laws which seeks to offer legal protection to women and children, yet when it comes to implementation, it seems to make a mockery of its own law and mothering pragmatically is done to protect women and children. Thus protection of women and children in Ghana to a large extent means mothering but more provision in the constitution.

Also, the institutions that have been tasked to enforce these laws and act face with challenges that make it difficult to carry out their works. For instance, the police units in charge of women and children's affairs are face with financial and logistical constraints; hence it is difficult for the institution to fully achieve its goals.

1.4 Conclusion

Women and children are important assets in the country, this is because, and they represent the beginning and the future of every nation. A nation without women and children cannot continue to exist, they are pivot of sustainable development hence government of Ghana should by all legal and institutional framework protect women and children. Dr. Kwegyir Aggrey said that *"if you educate a man, you educate an individual but if you educate a woman you educate a whole nation"*.

Abuse of women and children, whether it is perpetrated by private or state actors, constitutes a violation of human rights. It is the duty of states to ensure that there is no impunity for the perpetrators of such violence. Ghana has a double duty under international human rights law as we are not only required not to commit human rights violations but also to prevent and respond to human rights abuse.

The study recommended the need to set up mechanisms for monitoring and evaluating programmes, policies and implementing existing legal remedies and legislations; and ensuring greater transparency and accountability from government in order to eliminate all forms of abuses against women and children as laws alone will not ensure that women and children are treated equal with all respect and dignity that accord them as humans.

References

- Adjetey, F. & Ofori-Boadu, G. (n.d) Domestic Violence in Ghana.FIDA Handbook. Accra: International Federation of Women Lawyers (FIDA) Ghana.African Charter of the Rights and Welfare of the Child, February 1990.
- African Charter on Human and People's Rights, 2003 (specifically the protocol relating to women's rights has been approved by Parliament for ratification), March 2007
- Asante, S.K. B (2002) *Reflections on the Constitution, Law and Development*, Accra: Ghana Academy of Arts and Sciences. African Union Solemn Declaration on Gender Equality and Women's Empowerment, July 2004.
- Amankwa, A.A. (2005). Haggling over Domestic Violence Continues: (<http://allafrica.com/stories/200505030370.html>). (Retrieved: 15th January 2007)

- Amnesty International, (1995). *Human Rights are Women Rights*. U. K. Flashprint. Enterprises Ltd.
- Barya, J.J. (No date). 'The New Political Conditionality of Aid: an Independent View from Africa', from the International Development Studies website at <http://www.ids.ac.uk/ids/bookshop/bulletin/bull241abs.htm> date September 1st, 2007.
- Beijing Platform for Action, 1995.
- Bunch, C. Carrillo, R. & Shaw, B.F. (1998). *Achieving Gender Equality and Empowering Women: UN Millennium Project*
- Ching, F., (1993). 'Eye on Asia' *Far Eastern Economic Review* 29 April.
- Coomaraswary R. Combating Domestic Violence: Obligation by the State. (<http://www.womenaid.org/press/info/violence/victims/html>(Retrieved: 30th June, 2007).
- Cusack, K., Prah. M., Gadzkepo, A., Aniwa M., & Coker-Appiah, D. (1999). *Violence Against Women and Children in Ghana*. Accra: Gender studies and Human Rights Documentation Centre.
- Diana, A.S (1995). *The Challenge of Human Rights and Cultural Diversity*, Background Note from the UN Web site at <http://www.un.org/>.
- Donnelly, S. (1989). *Human Rights in Theory and Practice* London: Cornell University Press.
- Georgetown University Law Center, (2003). *Domestic Violence, International Women's Human Rights Clinic*. Washington, DC: Georgetown University Law Centre. 600 New Jersey Avenue, NW.
- Hurley, D. & Jaffe, P. (1990). Children's Observations of Violence: II. Clinical Implications for Children's Mental Health Professionals. *Canadian Journal of Psychiatry*, 35(6), 471-476
- Krug, E., eds., *WORLD REPORT ON VIOLENCE AND HEALTH* (Geneva: World Health Organisation, 2002).
- Lawson, S. (1998). Democracy and the problem of cultural relativism: normative issues for international politics. *Global Society: Journal of Interdisciplinary International Relations*, 12(2), 251-271.
- Nickel, J. (1987). *Making Sense of Human Rights* Berkeley: University of California Press. PRC, (1991). *Human Rights in China*, Information Office, the State Council of the People's Republic of China.
- Sabina, A. (2002). Conceptual Framework for Human Security paper presented at Kennedy School, Harvard University, 2002, at website, www.humansecurity-chs.org/doc/0206harvard.html, at p.5.
- Sen, A.K., (1999). "Beyond the Crisis: Development Strategies in Asia", in *Sustainable Development and Human Security*, Second Intellectual Dialogue on Building Asia's Asian Studies. p. 22.
- Smith, M. (<http://www.womenaid.org/press/info/violence/victims/html>) Help Domestic Violence and Abuse: Help Intervention and Prevention.
- Surin, P.(1999). "Statement by H.E. Dr. Surin Pitsuwan, Foreign Minister of the Kingdom of Thailand", at the Ministerial Meeting on Human Security Issues of the "Lysoen Process" Group of Governments, Bergen, Norway, May 19, 1999, p. 1.
- United Nations, (1994). United Nations Development Programme, *Human Development Report, 1994*(New York: Oxford University Press, 1994), p.22.

- United Nations, (1948). Universal declaration of human rights, Adopted 10 December 1948. GA.
- Res. 217 AIII. United Nations Document a/810. New York: UN.
- UNHCR, 1993. The statement from the UNHCR website.
- United Nations General Assembly, Advancement of women: *Convention on the Elimination of all forms of Discrimination against women*: Report of the US department of Justice, Bureau of Justice Statistics: Intimate Partner Violence in United States (2006) (Retrieved: 15th January 2007) [http://endabuse.org/userfiles/file/Children_and Families/Children.pdf](http://endabuse.org/userfiles/file/Children_and_Families/Children.pdf))
- UN General Assembly (1993). Declaration on the Elimination of Violence Against Women
- WHO (2005). Multi-Country Study on Women's Health and Domestic Violence: Centre for Disease Control and Prevention; Kenya
- WILDAF (1999). Violence Against Women.
- Women Aid International, (1998). Women: Victims of Violence. *Advocates of Peace*.
- 1992 Republican of Constitution of Ghana