

Child Marriage in Ghana: Assessing the Legal Implementation of Child Rights Standards

by

Francisca Mary Danquah

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ABSTRACT

Child marriage is a union in which one or both parties in the marriage is below 18 years. Although the prevalence of child marriage is low in Ghana as compared to other countries in Africa, the rate of child marriage in the Northern regions of Ghana is high. Child marriage has a dire consequence on the victims, the country and the world at large. Child marriage threatens the physical, emotional/psychological and economic well-being of its victims.

Poverty, traditions, religion, customary practices and peer influence are primary drivers of early marriage in Ghana. Girls who are at risk of being married, girls in union and girls who are no longer married suffer physical and verbal abuse from their husbands and husbands' family, as well as sexual and emotional abuse. Child marriage violates the rights of its victims. Ghana was the first to ratify the United Nations Convention on the Right of the Child and has ratified the African Charter on the Rights and Welfare of the Child. My aim in this study was to examine human right treaties in order to identify right standards to which Ghana has committed to, focusing on standards that are relevant to girls before, during and after marriage to support their physical, emotional/psychological and economic well-being. I then examined four legal statutes – the Constitution, Children's Act, Criminal Code, and Domestic Violence Act - to determine whether the right standards are upheld in law. The findings revealed that most of the right standards have the legal support of at least one of the four legal statutes examined.

There are two primary limitations of the study. First, there are other legal statutes I could have examined that might implement the right standards. Second, if a standard is not upheld in law, it could be implemented through policies and services, which I did not examine in this study.

Further research is needed into policies, programs and services that can promote the implementation of these rights and laws. I also recommend a comparative study on the performance of Ghana to other countries on child marriage, child welfare policies and programs.

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DEDICATION

This study is dedicated to God, my Husband (Mr. Reuben Obedson Kataka), Children (Anika and Aaron), Parents (Mr. George Danquah and Mrs. Gifty Ampah), my Siblings (Emmanuel, Christabel, Rosemary, Ebenezer, Sarah and Jesse) and my Advisor (Dr. Joan Durrant) for your support, encouragement, time and hope in my abilities and interests.

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LIST OF ABBREVIATIONS

ACRWC	African Charter on the Rights and Welfare of the Child
Art.	Article
AIDS	Acquired Immunodeficiency Syndrome
CAD	Canadian Dollars
CAMFED	Campaign for Female Education
CEDAW	Convention on the Elimination of all forms of Discrimination against Women
DHS	Demographic and Health Survey
DOVVSU	Domestic Violence and Victims Support Unit
FCUBE	Free Compulsory Universal Basic Education
FGM/C	Female Genital Mutilation/ Cutting
GDP	Gross Domestic Product
GHS	Ghana Health Service
GoG	Government of Ghana
GPS	Ghana Police Service
GSS	Ghana Statistical Service
GTVP	Ghana TVET Voucher Project
HIV	Human Immunodeficiency Virus
ICESCR	International Covenant on Economic, Social and Cultural Rights
IGOs	Inter-Governmental Organizations
IPPF	International Planned Parenthood Federation
LEAP	Livelihood Empowerment against Poverty
MDAs	Ministries, Departments and Agencies
MDGs	Millennium Development Goals
MoGCSP	Ministry of Gender, Children and Social Protection
NABCO	Nation Builders Corps
NGOs	Non-Governmental Organizations
NGP	National Gender Policy

NHIS	National Health Insurance Scheme
NMTDPF	National Medium-Term Development Policy Framework
RGD	Registrar General Department
RMR	Role Modelling and Recruitment
S.	Section
SDGs	Sustainable Development Goals
STIs	Sexually Transmitted Infections
TBA	Traditional Birth Attendant
TVET	Technical and Vocational Education and Training
UDHR	Universal Declaration of Human Rights
UGCSPS	University of Ghana Centre for Social Policy Studies
UN	United Nations
UNICEF	United Nations Children's Fund
UNCRC	United Nations Convention on the Right of the Child
UNFPA	United Nations Population Fund
VVF	Vesico Vaginal Fistula
WHO	World Health Organization

CHAPTER I: INTRODUCTION

“I used to sell onions in the market, they forced me to marry a man against my will. He does not provide money for our feeding (she and her son) neither does he call us. I regret and wants to advice people to stop forcing young girls to marry.”

-Barikisu, Joy News, 2019

First, she was denied completing her basic education to sell onions to support the family. Although she had expected to return to school once she earned enough money, she was forced to marry a 30-year-old man at the age of 13. By the time she was 14, Barikisu had given birth to a son and her hope of returning to school was lost. Now, abandoned by her husband, Barikisu is left alone without a source of income. She and her child live at the mercy of extended family members and foundations (Joy News, 2019). Like Barikisu, there are many girls and boys in Ghana, Africa, and the world at large who are victims of early marriage. Annually, about 12 million girls marry globally (Fillipenco, 2023). More girls are affected than boys and the consequences of early marriage are more severe for girls than boys. Based on data from 82 countries, 1 in 21 boys marry before the age of 18 (Gastón, Misunas and Cappa, 2019). The figures for girls are even more alarming: 1 in every 5 girls worldwide is married before her 18th birthday (United Nations Population Fund (UNFPA), 2022). The United Nations (UN), through its agencies such as United Nations Children’s Fund (UNICEF) and United Nations Population Fund (UNFPA), as well as national governments and non-governmental organizations (NGOs) are striving to end this practice that jeopardizes the lives of its victims and slows down the development of affected communities, countries, and the world. Despite these efforts, the practice remains alarmingly prevalent in developing communities. With the emergence of the COVID-19 pandemic, it is believed that increasing numbers of girls are now at risk. In the following sections, I will review the literature on child marriage, with a focus on its drivers and

consequences, as well as relevant human rights standards and measures that are being put in place around the world and particularly in Ghana to address the issue.

Defining Child Marriage

The United Nations Convention on the Rights of the Child (UNCRC), which has been ratified by all UN member states except the United States, defines a child as anyone under the age of 18 years (UN General Assembly, 1989). Child marriage is a union in which one or both members of the couple are under the age of 18 years. Most child brides around the world are girls and many marry older men they might not have ever met before. Once they marry, they are expected to have sex with their husbands, become pregnant and take care of their children, often in violent and hostile environments. Child marriage may occur with or without legal registration and under religious, civil, or customary rules (International Planned Parenthood Federation (IPPF), 2007). Child marriages may involve betrothals of very young children and even babies.

Global Prevalence of Child Marriage

It is difficult to accurately estimate the prevalence of child marriage around the world. Available figures represent only reported or known cases. Most child marriages, especially those involving very young children, are not usually reported. Therefore, the figures presented here are likely to be under-estimates of the actual prevalence.

The prevalence of child marriage is measured in various ways. One measure is the number of people between the ages of 20 and 24 who married before 18 years (UNFPA), 2017). According to UNICEF, 650 million girls and women who were alive in 2021 were married as children (UNICEF, 2021). The non-governmental organization, Girls not Brides (2021), has calculated the rate at which child marriages take place: every year, 12 million girls marry before

18 years, which equates to 23 marriages every minute or one marriage every three seconds. At the current rate and considering the negative impact of the COVID-19 pandemic on families, 150 million more girls will marry before their 18th birthday by 2030 (Girls Not Brides, 2021).

According to a 2021 United Nations Children and Education Fund (UNICEF) report, about 10 million more girls, who were not at risk before the pandemic, are now at risk due to the lockdowns that led to school closures and unemployment, which deepened poverty and hunger around the world, especially in developing communities (World Vision International, 2021). World Vision (2021) reports that the largest increase in child marriage over 25 years was experienced in 2020.

Globally, child marriage is most dominant in South Asia, where 45% of women aged 20 to 24 were married before their 18th birthday; almost one in five girls or 17% of all the girls in South Asia are married before the age of 15 (UNICEF, 2017). One-third of all child brides in the world can be found in India (UNICEF, 2017). Although Bangladesh ranks fourth globally in the rate of child marriage, it is the country with the highest rate of child marriage in South Asia (UNICEF, 2017).

Prevalence of Child Marriage in Sub-Saharan Africa

Out of the 20 countries with the highest rates of child marriage, 15 are in Africa (Human Rights Watch, 2015). Most of these 15 countries are in sub-Saharan Africa (see Figure 1 for a map of the region). Sub-Saharan Africa follows South Asia in terms of prevalence of child marriage; 37% of young women in sub-Saharan Africa married when they were below 18 years of age (UNICEF, 2020). Child marriage is most prevalent in low-income countries in sub-Saharan Africa (e.g., Nigeria). UNICEF (2020) estimated the prevalence of marriages involving girls in 10 countries where child marriage is common: Niger, Nigeria, Central African Republic,

Chad, Mali, Mozambique, Burkina Faso, South Sudan, Bangladesh, and Guinea. Niger has the highest prevalence of marriage among girls younger than 16 years (28%). Three-quarters (76%) of girls in Niger are married before the age of 18 years. Central African Republic (26%) and Chad (24%) ranked second and third, respectively, with regard to the proportion of girls who were married before the age of 15. In both countries, 61% of girls were married by age 18. The lowest prevalence of child marriage among girls was in South Sudan, where 9% of girls were married by age 15 and 52% were married by age 18 (UNICEF, 2020).

The reasons for these differences are most likely due to the poverty rates, illiteracy rates and majority religion practiced in these countries. The international poverty rate is defined as US\$1.90 per person per day (World Bank, 2021). The United Nations rated Niger, the country with the highest rate of child marriage, the least developed country in the world with almost 60% of its population living below the international poverty line (United Nations Capital Development Fund (UNCDF, 2022). According to Concern Worldwide US (2022), more than 80% of Nigeriens live in rural areas, where hunger and malnutrition are high due to major droughts affecting agriculture. Niger is also dealing with the effects of the conflict involving the militant Islamist group, Boko Haram. About 98% of Nigeriens practice Islam (Global Security.Org, 2017). Child marriage is more common in Muslim communities than in non-Islamic communities due to the higher prevalence of polygamy and laws that give women and girls lower status than men (Alsaïdi, 2015). Nigeria faces similar conditions, which likely contribute to the high rate of child marriage there. About 112 million (46%) of Nigerians live in poverty (Agbonile, 2017), largely due to government corruption, conflicts involving Boko Haram in the North, and low access to healthcare, education, economic and social infrastructure

(Agbonile, 2017). Child marriage is common in Nigeria's Muslim communities. Nigeria has the largest population in Africa and 7th largest in the World (WorldData.info, N.D.).

More than 47% of people in Guinea live in poverty; illiteracy is a major cause (World Bank Group, 2018). Poor management of natural resources, corruption by government officials, conflict and crime cause more than 60% of Liberians to live in poverty (Spicer, 2017). In Burkina Faso, illiteracy and social, physical and financial insecurities contribute to a poverty rate of 41% (World Bank Group, 2021). Cameroon has a low child marriage rate compared to the countries cited above, as well as a lower poverty rate of 24% (Dover, 2017). Ghana, has the lowest rate of child marriage among the 10 countries examined by UNICEF (2020), as well as the lowest poverty rate at 11% (Statista, 2022). Ghana is politically stable and has policies that promote education among its citizens, such as Free Compulsory Universal Basic Education (FCUBE), Free Senior High School and other health policies.

Determining the age at marriage in the sub-Saharan region is very challenging because marriages involving children do not always occur under official circumstances. Rather, it can take place in the context of abductions, betrothals and unofficial marriage ceremonies that occur between only the two families involved.

UNICEF (2021) has made eliminating child marriage one of its priorities, particularly numerous Non-Governmental Organizations (NGOs), such as Girls not Brides, Campaign for Female Education (CAMFED), Too Young to Wed, Vow for Girls, Plan International, World Vision, Equality Now, Breakthrough and Plan International implement activities and programs to end child marriage. However, the rate of child marriage in the region is increasing despite persistent efforts to end it. Twenty-five years ago, one in seven of the world's child brides lived

in the region; today, that figure is one in three (UNICEF, 2018). Out of every ten girls living in sub-Saharan Africa, four marry before age 18 (Human Rights Watch, 2015).

Prevalence of Child Marriage in Ghana

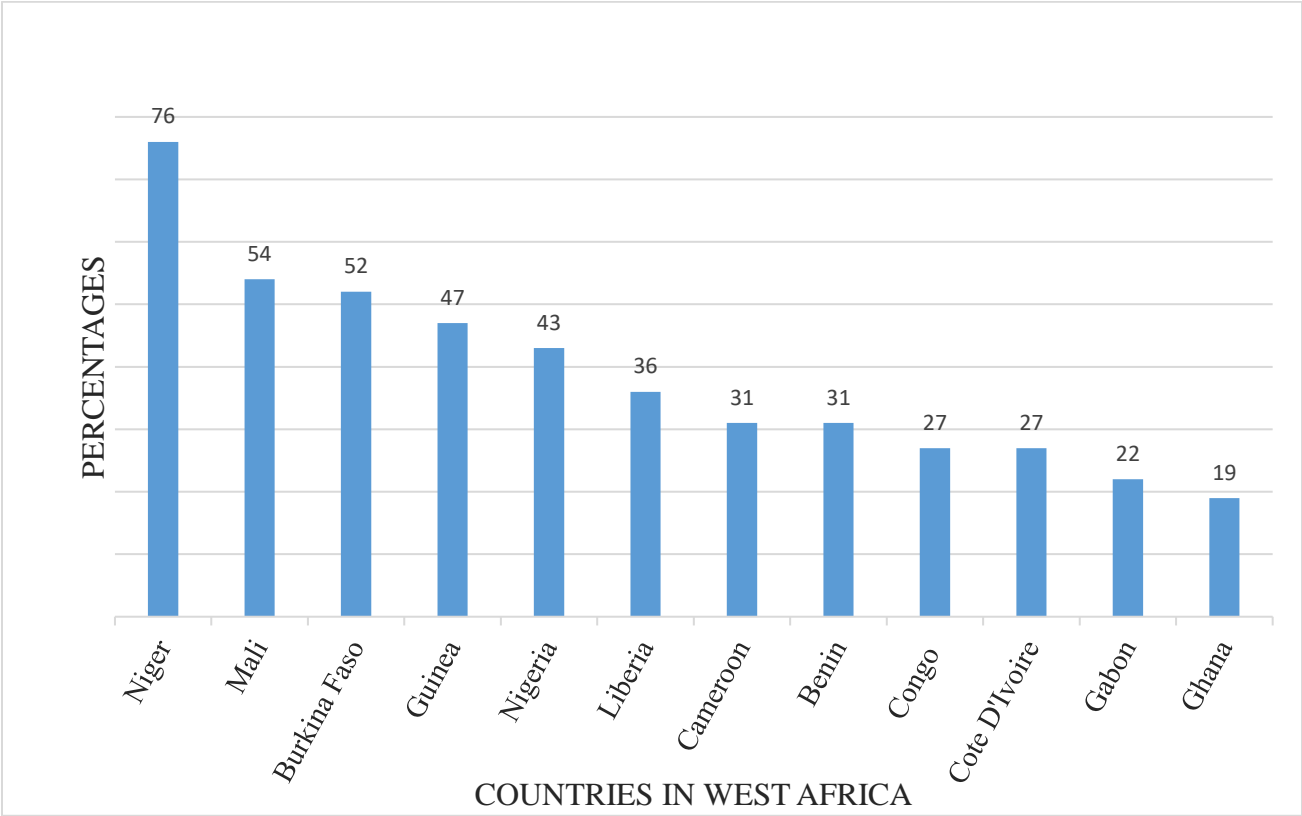
Ghana is located on the Western side of Africa and is in the sub-Saharan region (see Figure 1). The prevalence of child marriage in Ghana overall is significantly lower than the reported rate in most other West African countries like Nigeria. In Ghana, approximately 20% of women aged 20 to 24 years married before the age of 18, compared to 76% in Niger and 53% in Mali. Figure 2 presents the rate of child marriage in Ghana compared to other West African countries.

With a population of 32.83 million and a GDP per capita of US\$2,363 (World Bank, 2021) Ghana is classified as a lower-middle-income country. Average life expectancy is 65 years; the infant mortality rate is 30.8 per 1,000 live births; and the under-five mortality rate is 44.7 per 1,000 live births (Worldometer, 2023). The proportion of the population living in urban areas has grown substantially over the past six decades; 56.1% of the population is now classified as urban (Worldometer, 2023). Ghana's capital city of Accra has a population of 2.27 million, making it the most populous city in the country; the greater Accra area has a population of 3.63 million (World Population Review, 2023). Approximately 56% of Accra's population is under the age of 24.

Figure 1. Map of Sub-Saharan Africa (Michigan Economic Development Forum;
<https://www.michiganbusiness.org/news/2016/06/global-trade-outlook-sub-saharan-africa/>)



Figure 2. Percentage of 20- to 24-Year-Old Women Who Married Before their 18th Birthday in 12 West African Countries (UNICEF, 2020).



Ghana is constitutionally a secular state. Of the population, approximately 71% identify as Christian, 18% as Muslim, 5% as holding indigenous or animistic beliefs, and 6% as belonging to other religious groups or holding no religious beliefs at all (US Department of State, 2021). Most of the West African countries with high prevalence rates of child marriage, such as Niger and Nigeria, are predominantly Muslim. In those countries, polygamy is viewed as moral by a majority of Muslims in these communities, and is recognized as customary marriage.

Once divided into 10 regions, Ghana is now divided into 16 regions to speed development in some areas (see Figure 3 for a map of Ghana's 16 regions). This division occurred in December 2018. For example, the North used to consist of only three regions (Upper West, Upper East, and Northern), but now is divided into five regions (Upper West, Upper East, Northern, North East, and Savannah). Compared to the Southern regions, such as the Ashanti and Greater Accra Regions, the northern parts of Ghana record less development and are primarily agricultural despite the dry nature of the land. The Northern parts of Ghana do not house any natural resources. The Northern Regions have the most patriarchal communities in the country and have more Islamic communities that practice polygamy, tribal marks, female genital mutilation, child marriage and betrothal and widowhood rites. Islam places a high value on virginity and, therefore, young brides. The Northern Regions also have less infrastructure development, such as schools, hospitals, and factories compared to the South. These regions also record the highest rate of child marriage (see Table 1).

Figure 3. Map of Ghana's 16 Regions and their capital (GHStudents, <https://ghstudents.com/map-of-ghana-regions/#jp-carousel-85945>).



Table 1. Regional Prevalence Rates among Women Aged 20 to 49 Years in Ghana in 2014 (MoGCSP, 2016).

Region	Percent of Women Aged 20 to 49 Years Who Were Married or in a Union by Age 18
Northern	39.6 %
Upper East	37.3 %
Upper West	36.1 %
Western	32.9%
Central	29.5%
Eastern	27.5%
Ashanti	25.9%
Volta	25.9%
Brong Ahafo	23.9%
Greater Accra	18.5%
National	27.2%

While the prevalence of child marriage is lower in Ghana than in other countries in the region, Table 1 shows that it remains a significant issue. Five percent of girls in Ghana are married before the age of 15 (MoGCSP, 2016). About 2 million young females in Ghana were married before the age of 18 (UNICEF, 2020). The rate of child marriage in rural areas in Ghana (36%) is twice those found in towns or cities (18%); the rate among low-income households (41%) is more than three times that among high-income households (11.5%) (MoGCSP, 2016). More girls in Ghana are affected by child marriage than boys. While 21% of young women aged 20 to 24 years married before 18 years, only 2% of young men in this age category married before 18 years (MoGCSP, 2016). As Table 1 shows, child marriage is particularly common in Northern Ghana, where 34% of women aged 20 to 24 years were married before the age of 18 (Domfe & Oduro, 2018). More recent data indicate that the Northern parts of Ghana still record the highest rate of child marriage (38.0%) which remains above the national average, and the Greater Accra Region continues to have the lowest prevalence rate, which is 17.8% (World Vision International, 2017). The reasons for this variation will be addressed in the section on the drivers of child marriage, below.

It is important to note that Ghana's child marriage rate has been decreasing over the past decade. In 2017, World Vision International reported a decrease of 1.6% in the Northern region and 0.7% in the Greater Accra region compared to the previous decade. In fact, about 52 communities in Ghana that once had high rates have been declared child-marriage-free (Rodriguez, 2020). This due to the vigorous implementation of activities and programs by MOGCSP and NGOs that are providing communities with informal training skills and supporting them with educational materials. Although this signifies great improvement, the prevalence rate in the Northern regions is alarming and demand urgent attention, particularly in

the face of the COVID-19 pandemic, which has led to school closures and hunger, particularly in large low-income families. Increasing numbers of girls are at-risk of being married off to help families survive. Although recent estimates are not available specifically for Ghana, World Vision International reported that child marriage figures in 2020 doubled in most low-income or deprived communities as a result of the pandemic. The Northern regions were those most affected in Ghana.

Victims of Child Marriage in Ghana

The most obvious victims of child marriage are the girls and women who married before the age of 18 and are currently in a union. They include those who have been married for a long time and are now middle-aged, those who married recently and are still younger than 18 years, and those who are older than 18 but younger than 45 years.

However, not all victims are currently married. A second group living with the impacts of early marriage are the girls and women who were married as children but are no longer married. Some are widows who have been abandoned by their husbands' families after being accused of killing their husbands or having bad luck that causes mayhem. They might return to their families or be completely abandoned. Most of them never remarry. Others are 'divorced'. They might have been evicted from their homes by their husbands because they: 1) have shown signs of 'rebellion'; 2) developed medical conditions like VVF; 3) are not able to bear children or carry a pregnancy to term; or 4) gave birth to children with disabilities. Another group of 'divorced' child brides are those who were able to end their marriages by paying back the bride price. However, because most of these marriages are illegal, divorces do not go through a legal process. In most cases, the husband lets the girl go, with or without conditions, and that ends the marriage.

A third group of child marriage victims are runaway wives. These girls and women are still married but have run away from their husbands' houses – some on their wedding nights, some after giving birth, and others after years of abuse and oppression. In Ghana, some relocate to other villages or towns in the north and others to urban centers in the south. To these girls, they are going to start a new life or they want financial independence.

Most widows, runaway wives, and divorced young women are illiterate and possess low or no income-generating skills. They often find their way to towns and cities where they have no friends or relatives. They engage in low-income-generating and life-threatening activities, including begging, prostitution and street hawking. Head pottering - carrying goods of traders and buyers who commute in the markets or trading areas for a negotiated fee - is common among migrant girls in Accra and Kumasi (MoGCSP, 2016) because it does not require any formal or informal education. These activities further threaten their health and physical and sexual well-being (Ahonsi et al., 2019; MoGCSP, 2016).

Outcomes of Child Marriage

Child marriage has many negative impacts on girls' physical, emotional/psychological, and social health. It is also a threat to the development of a community and the state as a whole. This section reviews the outcomes of child marriage in general with a closer look at the consequences for child brides in Ghana.

Physical and Health Outcomes

Child marriage leads to the loss of childhood and early motherhood. Most victims of child marriage marry at an age when they primarily want go to school, play with their friends and siblings, and enjoy the love, warmth, care and support of their parents or guardians. Childhoods

are cut short for child brides, and they are forced to care for grown men, some as old as their fathers or grandfathers. They are also forced to have sex and to become pregnant. They are children who are forced to take care of children, this time on their own. Their naivety, inexperience, and lack of social supports during pregnancy and post-partum create serious physical, mental and emotional health consequences for both mothers and children.

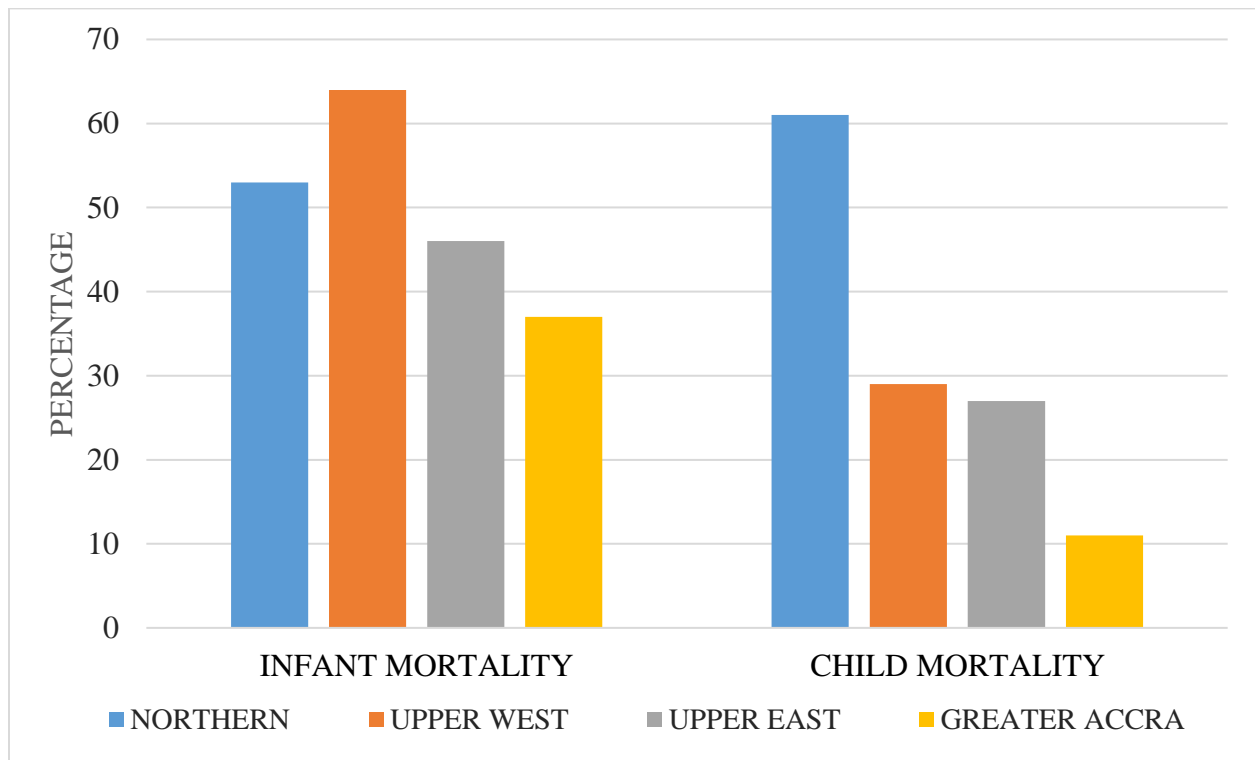
The health risks of child marriage include maternal and child mortality, early labour and preterm birth, and low birth weight in infants (IPPF, 2007; Kpada, 2020; UNICEF, 2001; Varia, 2016; World Health Organization (WHO), 2020). Early marriage generally means early childbirth. Giving birth at an early age, especially between 10 and 16 years, poses deadly risks to mother and baby. Mortality among young married girls in underdeveloped or developing communities is worse than that among young women aged 20 to 24 in developed communities (WHO, 2020). This is due to a greater likelihood of severe bleeding, sepsis, preeclampsia/eclampsia, poor nutrition during pregnancy because of financial hardship, domestic abuse during pregnancy, and lack of access to ante- and post-natal health care (Kapur, 2018, Mohato, 2016; Varia, 2016; WHO, 2020). In Ghana, health facilities and personnel in the North are severely limited compared to those in the South. In several Northern villages, most people must cross long distances on foot, bicycle or boat to access health care. Young girls in labor or facing pregnancy complications are carried on tricycles, motorcycles and or bicycles, whilst bleeding or in excruciating pain, to access far-away health facilities and many do not survive the trip. Rather than risk this outcome, some resort to home delivery by an unqualified female elder or Traditional Birth Attendant (TBA), which also threatens their survival and that of their babies.

Figure 4 presents the rate of infant and under-five mortality in the various regions of Ghana between 2004 and 2014 (Demographics & Health Survey, 2014). While child marriage is

not the sole cause of high child and infant mortalities in these regions it is a major contributing factor. Infant and under-five mortality rates were lower among mothers who completed high school or more than among those who completed primary school or less. Other factors, such as mother's age at birth, financial situation, and place of residence (rural or urban) were also associated with the rates of infant, child and maternal mortalities. As Table 4 shows, child and infant mortality are lower in the Greater Accra region, which houses the capital city of Ghana as well as many other cities, as compared to the Northern regions which are largely rural communities and are the least developed regions in Ghana. The DHS (2014) data clearly showed that: 1) infant and child mortality are more common in poor than wealthy households; 2) child marriage is more common in rural than urban communities; and 3) child marriage predicts higher rates of school dropout, poverty, teen pregnancy, and infant and child mortalities.

Recently, Ghana has seen a decrease in maternal mortality. In 2018, Ghana recorded 875 maternal deaths for every 100,000 live births (WHO Africa, 2021). This number decreased to 838 in 2019 and to 776 in 2020, despite the COVID-19 pandemic. However, although the country is recording a decrease in reported cases, some regions - particularly the Northern regions, where the rate of child marriage is highest - have not seen a decrease. This situation may be attributable to the continuous health infrastructural development taking place in the southern regions, such as Korle Bu Teaching hospital and the Greater Accra Regional hospitals with modern facilities. Health workers tend to prefer working in the South than in the North, and poor infrastructural development in the North – such as damaged and muddy roads, and dangerous transportation by boats or canoes that easily capsize – make it very difficult for women to access hospitals. Moreover, many Northern communities suffer from harsh weather and armed conflict, making life and travel very difficult.

Figure 4. Rates of Infant and Child Mortality Per 1,000 Live Births in Four Regions of Ghana, 2004-2014 (Demographics & Health Survey, 2014). Infant mortality is death among 0- to 12-month-old babies while child mortality is death among 1- to 5-year-old children.



Another health risk for young mothers in childbirth is Vesico-Vaginal Fistula (VVF), a hole between the bladder or rectum and the vagina that allows urine or feces to leak uncontrollably (Ghana Health Service (GHS), 2015; IPPF, 2007). This condition is common in Northern Ghana, affecting 34.3% of young mothers. These young women are stigmatized as witches, cursed, or unclean, and are isolated and abandoned by their husbands, families and friends leading to suicidal thoughts, low self-esteem, anger for self, family, society and sometimes for their children, and depression (GHS, 2015).

Another factor compromising the physical health of child brides is low levels of knowledge about sexual and reproductive health, such as how pregnancy occurs; sexually transmitted infections (STIs) such as syphilis and HIV/AIDs; and the process of childbirth (IPPF, 2007). Low levels of knowledge about contraception contribute to higher rates of early childbearing, unsafe abortion and high rates of STIs (Mathur et al, 2003). This is mostly due to the high illiteracy rate and lack of internet access among young married girls, especially in Northern Ghana as compared to the south illiteracy is low and internet is easily accessible and internet speed very fast.

Child brides are, by definition, victims of rape/forced sex/sexual abuse due to their inability to consent as children. A study of child brides in Calcutta (Kpada, 2020) found that girls who had undergone female genital mutilation/cutting (FGM/C) usually do not experience the urge to have sex, so it is generally forced upon them. These practices are common in northern Ghana, to deter girls' 'immorality'. While the prevalence rate of FGM/C in Ghana is 4% overall, the Upper East region records 38% of the national figure whilst Bawku records 82% (Sakeah et. al, 2018) regional figure, that is the 38%. Victims of FGM/C suffer vaginal pain and

inflammation during and after sex, and they are more likely to experience a range of physical health complications related to pregnancy and childbirth (Kpada, 2020).

Most victims of child marriage suffer physical violence from both their husbands and their families (Equality Now, 2019; Mohato, 2016; Oranje, 2016). It is common for husbands to believe ‘the child in the girl’ needs to be beaten out of her when she does not submit to unfair treatment, such as forced sex (Equality Now, 2019; Oranje, 2016). Such violence can cause external and internal injuries, weaken the immune system, and even lead to loss of life (Ending Violence against Children as cited in the Youth edition, 2016; Oranje, 2016). Violence leads some girls to run away and even migrate to another region. The impact of physical violence on a child cannot be overestimated. Young girls who are experiencing domestic abuse are likely to feel unsafe in what is supposed to be their home, lose trust in their husbands, and normalize violence in intimate partner relationships (Oranje, 2016). When these girls become mothers, they are likely to transfer their anger and frustration to their children. Worldwide, approximately 50% of 15- to 19-year-old married girls accept and believe that, under certain conditions their husbands are allowed to hit their wives (Oranje, 2016). Many girls who suffer domestic violence in their marriages are unable to leave due to lack of money and inadequate support from their own family and friends (Domfe, 2018).

Children of young married girls face many health and physical challenges which threaten their physical growth and general wellbeing (Sarfo et al., 2020). First, the mothers are children themselves, burdened with the responsibilities of caring for another child (Ahonsi et al., 2019; Diala, 2019). Second, many of these mothers are illiterate, with little knowledge of nutrition, so their children are vulnerable to anemia, which can affect the development of the brain, immune system and overall physical growth (Girls not Brides, 2017; Paul, Chouhan & Zaveri, 2019).

Third, young mothers are usually not able to consistently provide nutritious meals for their children, which contributes to infant mortality resulting from malnutrition, a weakened immune system, low body weight, and wasting (Paul, Chouhan and Zaveri, 2019). Many are not able to financially support their children in school, creating a cycle of illiteracy and poverty. According to the Ministry of Gender, Children and Social Protection (MoGCSP), the number of young women who leave school as a result of child marriage is twice the number who graduate from high school (MoGCSP, 2016).

Psychological and Emotional Outcomes

As a result of the traumatic loss of their childhood (Diala, 2019; UNICEF, 2001), physical and emotional violence, forced sexual activities, early parenting responsibilities, and lack of financial freedom and personal growth, child brides experience significant emotional and psychological challenges. They may live with hatred or rage for men, their families, and sometimes their children. For some at-risk girls, the thought of dropping out of school or leaving their family, siblings and friends leads to running away or suicidal thoughts. For some child brides, seeing other children playing, going to school, or with their parents is emotional torment (Diala, 2019). It is common practice in northern Ghana for girls to leave school as early as 12 or 13 years of age to prepare for marriage and learn domestic skills, as education and employment are seen as neither beneficial nor acceptable roles for females, especially those who are married. This limitation on their life choices and self-determination can be a source of psychological stress for girls.

Living in poverty often leads to discrimination, which negatively affects self-esteem and mental health (Girls not Brides, 2017; Mohato, 2016). In Ghana, most at-risk girls and child

brides who run away migrate to the south. There, they have no decent shelter or jobs, and they face discrimination and verbal abuse from those who are better off.

Child brides often endure physical and verbal abuse from the husband and his family (IPPF, 2007). Some girls are reminded daily of how “useless” they are in their homes. Frequent physical and verbal abuse can negatively affect their cognitive development and their ability to regulate their own anger, and can contribute to depression and suicidal thoughts (Durrant, 2016; Turner, 2013; UNICEF, 2016). Girls with medical conditions such as VVF are often considered cursed and are isolated from their children and the rest of society (Ahonsi et al., 2019; Fookes, 2013; GHS, 2015), causing mental and emotional breakdown. In northern Ghana, access to mental health and counseling services is often very limited due to poverty and lack of parental and system support (MoGCSP, 2016).

Social Development Outcomes

Child marriage also threatens the achievement of global development objectives, such as the Millennium Development Goals (MDGs) and Sustainable Development Goals (SDGs). SDG 5.3 calls for the elimination of all harmful practices, such as child, early and forced marriage and female genital mutilation in every region of the globe. Poverty and the feminization of poverty are leading outcomes of child marriage, which often leads to high illiteracy and low skills development in communities where the practice is common. The feminization of poverty is a result of high gender inequality in most Northern communities. Boys’ education is promoted over that of girls and most economic activities are reserved for men, leading to a high rate of poverty among women in the North. Many child brides drop out of school and are left without skills for their economic survival. Some do not start schooling at all. In communities where child

marriage is practiced, education and skills development like hairdressing and tailoring are seen as unprofitable for girls as compared to boys. Girls are groomed to be wives once they begin menstruating, or even earlier. As a result, they have great difficulty earning an income. They depend on their husbands, charities, NGOs and government agencies for their survival. Once they give birth, the situation worsens as they are not able to take care of their children. This also creates a vicious cycle of poverty in communities and feminizes economic hardships, as education and income-generating activities are reserved for men.

In Ghana, child marriage contributes to forced internal migration of young, uneducated and unemployed girls from the north to the southern cities of Accra and Kumasi (Ahonsi et al., 2019; MoGCSP, 2016). This puts pressure on facilities in the cities, requiring increased government support. Child marriage also perpetuates violence against the girls and their children, which weakens any form of sustainable development investment in children. All of these issues increase government expenditures which, in turn, leads to increased borrowing from development agencies like the World Bank and developed countries like the United States and Canada. The resulting debt limits the country's development capacity (National Development Planning Commission (NDPC), 2021).

Young married girls are unlikely to participate in economic activities that increase the country's productivity and Gross Domestic Product (GDP; Girls not Brides, 2017). The outcomes of child marriage - such as child trafficking, gender inequality, exclusion from quality education, and child labour slow the development of states (Girls not Brides, 2017). Education is a major key to development. However, most girls who are married at an early age end their education at the primary level and some do not go to school at all. A 2018 World Bank report indicates that, in sub-Saharan Africa, 70% of girls complete primary education but only 40%

complete secondary education, which would guarantee better job and higher earnings (World Bank, 2018). This means less income for the government, which impacts access to and quality of health and social services. The high maternal and child mortality rates associated with child marriage, as well as health implications like VVF, put more stress on already overstretched health facilities in most developing communities. This limits the government's capacity to invest monies in other development activities. The World Bank (2018) has documented that Africa loses several billions of dollars in earnings and human capital as a result of child marriage. In Ghana, child marriage is a key reason for the underdevelopment of the northern regions (Alhassan, 2013).

The government of Ghana spends millions of Ghana cedi's (GHC) on various Ministries, Departments and Agencies (MDAs) aiming to curb the impact of violence against children - especially child marriage, as it promotes child trafficking, child labour, physical violence, gender inequality, hunger, high population growth, maternal and child mortality, and poverty among women. According to UNICEF (n.d.), the government of Ghana annually spends US\$223 million to US\$347 million, which is equal to 0.8% to 1.4% of its GDP, to curb violence against children and promote the achievement of the SDGs. This includes the allocation of GHC 30 million (CAD \$5,797,202) annually to roll out policies such as Free Compulsory Universal Basic Education (FCUBE), Youths in Agriculture, the School Feeding Program, and Health Insurance, and also to promote the activities of the Ministry of Gender, Children and Social Protection and its Department of Social Welfare and Development. This is to address sexual violence and other gender-based violence perpetrated against children in Ghana (UNICEF, n.d). The government allocates about GHC 5.5 million (CAD \$1,062,8204) annually to the MoGCSP for the

organization and execution of the National Strategic Framework on Ending Child Marriage (2017–2026) at the state, regional and district levels (UNICEF, n.d.).

In summary, child marriage has serious short- and long-term impacts on individuals, families, societies, states, and the world at large. These impacts include loss of childhood, early motherhood; maternal, infant and child mortality; feminization of poverty; underdevelopment; slower achievement of international development goals.

Factors Contributing to Child Marriage in Ghana

Poverty is a major driver of child marriage around the world and Ghana is no exception. Ghana Statistical Service (GSS) records indicate that young girls from financially struggling or deprived homes are four times more likely to be married off as children compared to girls from more wealthy homes (GSS, 2011). The rates are 41.2% and 11.5%, respectively. Although the Free and Compulsory Universal Basic Education (FCUBE) program was introduced in 1995, many girls from poor homes drop out of school because their parents are unable to cover the costs of school bags, shoes and uniforms. Some girls drop out of school and sell to support their parents. These girls are at high risk for early marriage.

The regions in the north of Ghana have the highest poverty rates in the country: Upper West region's WA West District records 92.4%; the Upper East region's Builsa South District records 84.4%; and the Northern region's East Gonja District, records 84.2% (GSS, 2015). According to the Ghana Poverty Mapping Report, the regions in the North account for the most rural places in Ghana (GSS, 2015). The prevalence of child marriage is high among the poorest, uneducated population residing in rural areas in Ghana (de Groot et al., 2018). The Ghana

Poverty Mapping Report indicates that 36.2% of girls in rural areas and 19.4% of girls in urban areas are married as children (GSS, 2015).

In the North, wealth is counted in the number of livestock a family owns. It is customary for the groom's family to pay a bride price to the girl's family and for the bride's family to pay a dowry to the groom's family. The bride price and dowry are paid in livestock. These customs contribute to child marriage in two ways. First, a family with daughters can drastically improve its financial conditions by marrying them off. Second, when boys are ready to marry but have no means to acquire the cows required, their sisters are forced into marriage to obtain the bride price, which then enables the boys to marry (University of Ghana, Centre for Social Policy Studies (UGCSPS) and World Vision Ghana, 2017).

Traditions, religion, customary practices and social norms also contribute to the high prevalence of child marriage in the North. Northern Ghana is popularly known for its rich culture and respect for social norms, customs and religion. Although the population of Christians (about 70%) is higher than Muslims (about 11%) nationwide, the majority of Ghanaian Muslims live in the North. Child marriage is common in Muslim communities because of the value placed on "purity"; that is, virginity. The practice of polygamy, approved in these Muslim communities, also plays a role. Older men marry young girls as second, third and sometimes fourth wives but many of these girls are abandoned after giving birth, especially if they develop medical complications, such as VVF. Also, there is high respect in the North for cultural practices such as 'bride exchange,' which involves marrying a daughter off to a man in her brother's wife's family to solidify family bonds.

The patriarchal nature of these communities also plays an important role. One of the reasons a man will be polygamous is his quest for a male child, especially when the first wife has

failed to deliver a boy after several attempts. The disregard for the dignity and rights of female children pushes some families to marry them off to get enough money to take care of the male children (UGCSPS & World Vision Ghana, 2017). In contrast to the South, which is made up of mostly matrilineal societies, Northern communities emphasize male dominance and female subordination in every aspect of life, including worshipping in the mosques where females stand behind males (sometimes separated by a barricade) irrespective of their age. In these communities, girls and women look to men to provide leadership and meet their economic needs (UGCSPS & World Vision Ghana, 2017). From infancy, girls are taught to serve men, which contributes to the ongoing feminization of poverty, gender inequality, and child marriage (de Groot et al., 2018).

In order to prevent teenage pregnancy and pre-marital sex among girls, parents in the North of Ghana marry off their daughters once they begin menstruating, regardless of their age or physical, mental and emotional readiness. It is commonly believed that marriage will prevent the girl from disgracing the family by violating religious, societal or cultural standards. The marriage of virgins, young girls who start menstruating and girls who exhibit signs of ‘immorality’ becomes a control mechanism to prevent promiscuity among girls and promote the society’s moral standards (UGCSPS & World Vision Ghana, 2017). While this practice does keep the rate of teenage pregnancy low, it also increases the rate of child marriage and its negative impacts.

In Ghana, peer influence is another contributing factor to child marriage. Peers may share stories of the material benefits of marriage, but not its physical, health and personal developmental harms. Girls might see friends who left school to marry wearing nice clothing, owning mobile phones, or helping their families financially. Girls who struggle academically and

are continually required to repeat classes are more likely to be vulnerable to peer pressure and social comparison, leading to withdrawal from school (MOGCSP, 2016; UGCSPS & World Vision Ghana, 2017).

Another reason for the high prevalence of child marriage in the North of Ghana is the common disregard for and/or lack of knowledge of national laws against some of the cultural practices like child marriage and high level of conformity to religious and cultural laws. Enforcement of the law in these communities is weak and religious leaders who encourage or carry out child marriages often go unpunished. Community members respect religious leaders and their instructions more than the national laws (UGCSPS & World Vision Ghana, 2017).

Human Rights Standards

Child marriage violates the human rights of children and their dignity. When a child marries before the age of 18, her rights to education, good health, safety, quality care and economic opportunities are denied. Eliminating child marriage means more girls will go to school, more young women will have opportunities for financial independence, and fewer will experience the negative physical and mental health outcomes associated with early marriage. It will also mean fewer girls will live with fear, improving the mental health of girls in at-risk communities. Ghana has a good record of accepting human rights standards internationally, nationally, regionally, and sub-regionally. For example, Ghana was the first country to ratify the UNCRC. Over the years Ghana has engaged in bringing peace and stability to neighboring countries and other countries in the sub-Saharan region. Nationally, successive governments have initiated and implemented policies and programs including FCUBE, free SHS, and the Planting for Food Jobs program, which aim to reduce poverty. These are poverty alleviation

programs aiming at making lives better for Ghanaians. Ghana has a working constitution (the 1992 Constitution) and an effective judiciary system, which includes the Courts of Justice, Parliament of Ghana, and the Ghana Police Force. At the district and communal level, the district courts, the Social Welfare Department, and the Commission for Human Rights and Administrative Justice (CHRAJ) promote fairness, justice, rights and freedoms. The human rights instruments identified below set out standards concerning marriage and children, providing a legal foundation for individuals, academics, NGOs and Inter-Governmental Organizations (IGOs) who are fighting to end child marriage in every part of the world.

International Human Rights Treaties

The *Universal Declaration of Human Rights* (UDHR; United Nations, 1948) was the first human rights treaty, coming into force in 1948. Articles 4 and 5 provide protection against all forms of slavery and servitude, as well as “torture, cruel or inhumane treatment”. Article 16 of the UDHR also entitles married people to “equal rights” and declares that “marriage shall be entered into only with the free and full consent of the intending spouses.” Child marriage is inherently unequal, as most girls enter it with little or no education, financial independence, property, or choice. It also, by definition, is non-consensual, as children are unable to provide full, free and informed consent. Article 26(1) of the UDHR states that “everyone has the right to education” and calls for universal access to free and compulsory basic education. Child marriage puts an end to education for victims and many at-risk girls.

The *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery* (United Nations, 1956) identifies child marriage as slavery: “any institution or practice whereby a woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian,

family or any other person or group” (Art. 1). As child marriage is mostly an economic arrangement between a girl’s father and the groom, child marriage becomes a form of slavery.

The 1964 *Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages* (United Nations, 1964) expands upon Article 16 of the UDHR and Article 1 of the *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*. Articles 1 and 2, respectively, state that “marriages should be entered into with the ‘full and free consent’ of both parties” and that States Parties shall take legislative action to specify a minimum age for marriage.” Article 3 calls for all marriages to be officially registered by able and legal authorities, ending the practice of having fathers and religious and traditional figures officiate. Although birth certificates of couples are not requested during the marriage registration, the ages of the would be couple are requested. This will help expose marriages involving minors.

The UN *Convention on the Rights of the Child* (CRC; UN General Assembly, 1989) has been ratified by all countries but the United States. By ratifying, countries commit to respecting and implementing all of its provisions. States are required to integrate these provisions into their national laws. Article 1 of the CRC defines a child as any human being younger than 18 years. Therefore, marriages involving girls below 18 years are, by definition, child marriages. Article 2 of the CRC forbids discrimination on the grounds of gender and religion. Child marriages affect more girls than boys because of the patriarchal nature of the societies that perpetuate it, such as communities in the North of Ghana.

The 1990 *African Charter on the Rights and Welfare of the Child* (ACRWC) is a regional human rights instrument that focuses on children in Africa (ACRWC; Organization of African Union, 1990). The Charter includes standards of non-discrimination (Art. 3) and the best interest

of the child (Art. 4). Under Article 5, States Parties to “the present Charter shall ensure, to the maximum extent possible, the survival, protection and development of the child.” Article 14 requires States parties to implement policies that aim “to reduce infant and child mortality rates and to ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care.” Most victims of child marriage do not have access to healthcare to address their health needs during and after pregnancy. The Charter also forbids the betrothal and marriage of children (Art. 21). It calls on States Parties to set the minimum age of marriage at 18 years and to make the official registration of marriages compulsory.

The SDGs (UN General Assembly, 2015) adopted by all 193 UN Member States, set out 17 global development priorities to be achieved by 2030. Goal 5 is to “achieve gender equality and empower all women and girls”. A specific target is to “eliminate all harmful practices, such as child, early and forced marriage” (Target 5.3). One of the Indicators that will be used to measure countries’ progress will be the percentage of women aged 20 to 24 who were married or in a union by age 18 (Indicator 40).

Purpose of the Present Study

Ghana, unlike other sub-Saharan African countries like Niger, Benin and Nigeria, has seen a decrease in the number of girls who marry before their 18th birthday, although the national prevalence rate among girls remains at 20% (de Groot et al., 2018; MOGCSP, 2016). The prevalence rates in some regions of the country are much higher. In the North, the prevalence rate is 1 out of every 3 girls (de Groot et al., 2018; MOGCSP, 2016).

In light of the economic, health and developmental consequences of child marriage and the human rights standards that call for its eradication, the prevention of child marriage must be a key strategy for Ghana. Initiatives are underway to end the practice. These efforts are being spearheaded by the Ministry of Gender, Children and Social Protection (MoGCSP), which launched an Ending Child Marriage Campaign in 2014 and a 10-year national strategic plan in 2016. This strategic program seeks to collaborate with government, international and nonprofit organizations working to end child marriage (MoGCSP 2016). These efforts are unquestionably critical to preventing child marriage from occurring. However, more than one-quarter of women aged 18 to 49 in Ghana have already been married as children and they are living with the psychological, physical and economic impacts of the experience. They are in dire need of support, whether they currently live with their husbands or they are among the many runaways and ‘divorcees’ trying to survive in northern towns and southern cities.

The purpose of this study is to examine and document the laws that exist in Ghana to determine whether they uphold the rights of young married girls, divorced girls and runaway wives under 18 years of age. I will examine whether these laws are explicit enough to promote and protect the rights of victims of child marriage. The findings will be used to generate concrete recommendations for strengthening laws to protect the rights of married, divorced and runaway wives in Ghana and improve their life outcomes.

CHAPTER 2: METHOD

Human rights are standards put in place to ensure freedom, justice and protection. For human rights to be realized, they need to be enshrined in or backed up by law. In this chapter, I describe my approach to identifying right treaties that enshrine the rights of victims of child marriage in Ghana. Then I describe the method I employed to determine whether Ghana's laws uphold those rights.

Identifying the Rights of Child Brides, Runaway Wives and Divorcees

First, I examined the human rights instruments that have been ratified by the government of Ghana (GoG) to identify the articles that set out protections for children: 1) before marriage; 2) during marriage; and 3) after marriage. Thus, I documented the human rights standards that Ghana is obligated to implement in order to protect children before, within and after marriage.

Ghana has signed and ratified two international treaties on the rights of the child: the *United Nations Convention on the Rights of the Child* (UNCRC) and the *African Charter on the Rights and Welfare of the Child* (the African Charter). By ratifying these treaties, the GOG is legally bound to ensure the implementation and enforcement of the rights they proclaim. To determine the standards that the GoG has committed to uphold these rights, I examined each of these treaties and identified the articles relevant to the rights of children before, during and after marriage. This process set out the roadmap that the GoG is required to follow under these treaties.

Determining the Extent to which the Rights of Child Brides, Runaways and Divorcees are Implemented in Law

To assess the extent to which the GoG is following the roadmap set out by the treaties it has ratified, I identified and examined key legislative instruments to determine whether they uphold the human rights standards identified in those treaties. For each human rights standard identified, I first examined three key legal statutes to determine whether a law has been passed to uphold it: 1) the *1992 Constitution of Ghana*; 2) the *1998 Children's Act*; and 3) the *Domestic Violence Act, 2007*. Second, I studied the *Criminal Offences Act, 1960 Act 29*, which is Ghana's criminal code, to determine whether a violation of each human rights standard is a criminal offence and, if so, whether a criminal penalty is attached to it. In order to do this, I matched each human right standard identified to a relevant section of the *Constitution of Ghana*, the *Criminal Code of Ghana*, the *Children's Act*, the *Domestic Violence Act* and/or the *Criminal Code*.

CHAPTER 3: FINDINGS

In this chapter, I first report the findings of my examination of the UNCRC and ACRWC to identify the rights standards relevant to the physical, psychological/emotional and economic well-being of girls before, during and after marriage. Then I report on whether Ghana's legislation upholds these rights.

Identifying the Rights of Child Brides, Runaway Wives and Divorcees in Ghana

To identify the rights of child brides, runaway wives and divorcees in Ghana, I examined two human rights treaties ratified by Ghana: the UNCRC and the ACRWC. To contextualize my findings, I will first provide a brief background on each treaty and its ratification.

Ghana was the first country in the world to ratify the UNCRC, the first binding Convention setting out the fundamental rights of children and the most ratified treaty in the world on 5th February, 1990. (MoGCSP, 2019). It comprises a Preamble and 54 Articles that set out universal rights standards. The Preamble points to the importance of family in the growth and development of the child. Article 1 of the UNCRC establishes that children are human beings below the age of 18. Therefore, any marital union in which one or both spouses is less than 18 years of age is child marriage. Under Article 2, ratifying States must make the rights proclaimed in the Convention a reality. They are required to safeguard the rights of children under their jurisdiction without discrimination.

Unlike the UNCRC which any member state of the UN can ratify, the ACRWC is specific to Member States of the Organization of African Unity (African Union). Based on the UNCRC, it addresses issues affecting children in Africa, such as poverty, natural disasters, social conditions like conflict and war, and cultural practices specific to African countries. The

ACRWC was adopted in 1990 and entered into force in 1999 (African Network for the Prevention and Protection against Child Abuse and Neglect, 2021). All African Union Members have ratified it except for Morocco, Sahrawi Arab Democratic Republic, Somalia, South Sudan and Tunisia. It is binding on all ratifying States, which include Ghana. This treaty highlights how circumstances such as war, poverty, and some cultural traditions increase the African child's risk for abuse. Like the UNCRC, it emphasizes the importance of growing up in a loving family and a safe and free environment.

In the following sections, I identify the rights standards set out in these two treaties that have particular relevance to child brides, runaway wives and divorcees. I focused my analysis on the key outcomes of child marriage examined in Chapter 1: physical health, emotional and psychological well-being, and economic well-being.

To begin my analysis, I set out a framework for examining the two treaties. I classified the rights standards into those relevant to each outcome category: 1) physical health, 2) emotional and psychological well-being, and 3) economic well-being. Within each outcome category, I examined each treaty to identify the articles that protect children from marriage, during marriage, and after marriage.

Rights to Physical Health Under the UNCRC

The literature reviewed in Chapter 1 showed that child brides are at risk for maternal and child mortality, early labour and preterm birth, birth complications, VVF, infants born at low birth weight, poor nutrition, and sexually transmitted infections (STIs, such as syphilis and HIV/AIDS). They often lack knowledge of reproductive health and suffer sexual and physical violence. In this section, I identify the rights standards related to children's physical health set

out in the UNCRC that should protect children: 1) from marriage, 2) during marriage, and 3) after marriage. The relevant rights standards are summarized in Table 2.

Physical health rights under the UNCRC that protect children from marriage. Under Article 24(3), Ghana is obligated to abolish “traditional practices prejudicial to the health of children.” As a traditional practice that compromises girls’ health, child marriage must be abolished under this standard. Prohibition of child marriage is a first step toward protecting children from becoming brides.

As shown in Chapter 1, lack of necessities for health and survival is a critical risk factor for child marriage. Therefore, ensuring that children’s basic health needs are met is an important component of prevention. Article 24(1) guarantees all children “enjoyment of the highest attainable standard of health” obligating the state to provide health care to all children (Article 24(2b), and adequate nutritious foods and clean drinking water (Article 24(2c)). If these standards are met, the risk of children being married off should be greatly reduced.

Article 6(1) of the UNCRC holds States Parties responsible for the “survival and development” of children under their authorities. The government of Ghana is required to employ every means possible to ensure children survive and thrive in all regions of the country. One component of this obligation is that States Parties, in collaboration with parents or guardians, will work to meet every child’s basic needs (Article 27(3)). Every child in Ghana has the right to nutrition, clothing and housing adequate for their health, growth and survival. The state is expected to help parents achieve this using available resources and to create supportive programs, such as school nutrition programs, job training, and affordable housing.

Table 2. Rights to Physical Health under the UNCRC and ACRWC that Protect Children From, During, and After Marriage

Rights to Physical Health that Protect Children <u>From</u> Marriage		
Rights Standards	UNCRC Article	ACRWC Article
Abolish harmful traditional practices	24(1)	21
Highest attainable standard of health	24(1)	14
Universal health care	24(2b)	
Adequate nutrition and clean drinking water	24(2c)	
Life, survival and development	6(1)	
Government to work with parents/guardians to meet every child's basic needs	27(3)	
Birth registration	7	6(2)
Rights to Physical Health that Protect Children <u>During</u> Marriage		
Rights Standards	UNCRC Article	ACRWC Article
Protection from sexual and physical violence	19(1)	27
Access to programs to curb maltreatment through identification, reporting, referral, investigation, treatment and follow-up	19(2)	
Protection from the government on health and safety grounds (e.g., confidential, non-discriminatory pre/post-natal health care, non-stigmatized treatment for STIs and sexual violence, free birth control)	3(3)	
Protection from harmful cultural practices such as FGM	24(3)	
Life, survival and development	6	
Freedom to seek, receive and share information and ideas	13	
Promotion of children's understanding of primary health care through education		2(h)
Mobilization of local resources to develop primary health care for children	24(2b)	14(2j)
Take measures to reduce infant and child mortality rates	24(2a)	14(2a)
Access to health care for all expectant and nursing mothers	24(2d)	
Basic knowledge of health, hygiene and breastfeeding	24(2e)	14(2h)
Rights to Physical Health that Protect Children <u>After</u> Marriage		

Rights Standards	UNCRC Article	ACRWC Article
Protection from all forms of violence, exploitation and maltreatment	19	27
Access to material assistance and support programs for mothers and children	27(3)	
Public sector workers equip themselves with knowledge of child health and nutrition		2(g)
Dignified life irrespective of physical disabilities		13(1, 2)
Adequate nutrition and clean drinking water	24(2c)	14(2c)
General knowledge of child development, health and nutrition, breastfeeding, personal and environmental hygiene	24(2e)	14(2h)

Under Article 7, every child has the right to be registered at birth, which reduces the risk that their ages can be manipulated in marriage documents. Birth registration is a critical factor in preventing child marriage.

Physical health rights under the UNCRC that protect children during marriage.

Because a child cannot consent to sex, child brides are by definition victims of rape. Child brides are also at heightened risk for physical violence by their husbands and in-laws. Under Article 19(1), Ghana must take all legislative measures to protect children from sexual and physical violence, inside or outside of marriage. Under Article 19(2), all married children should have access to programs for “identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment.”

Article 3(3) mandates the government to establish standards for health and safety in all “institutions, services and facilities responsible for the care or protection of children.” With regard to child brides, this would include universal standards for confidential and non-discriminatory pre- and post-natal health care, non-stigmatized access to treatment for STIs and for injuries due to sexual violence, free access to birth control, and systems for detection of and support for victims of physical violence. Those who have undergone FGM are at particular risk for childbirth complications. As a “traditional practice prejudicial to the health of children,” FGM must be abolished under Article 24(3). In Chapter 1, the literature review revealed high rates of maternal, infant and under-five mortality rates among child brides. Article 6 requires States Parties to “recognize that every child has the inherent right to life” and to ensure children’s survival and development to the maximum extent possible. Article 24(2a, d) requires the state to “diminish infant and child mortality” and to ensure pre- and post-natal care for mothers. Therefore, Ghana must invest sufficient resources to ensure the healthy development of

children in marital unions, as well as that of their children.

Freedom to access information is critical to caring for one's physical health, preventing pregnancy, and preparing for labour and delivery. Under Article 13, the child has the right to seek, obtain and share information and ideas on any matter relating to her in any form in accordance with the law. Article 24(2e) requires that children obtain basic knowledge of health, hygiene and breastfeeding.

Physical health rights under the UNCRC that protect children after marriage. As shown in Chapter 1, the health of children who have run away from their marriages or become divorced remains at risk due to rejection by their families and stigmatization. They are vulnerable to violence, exploitation, malnutrition, and homelessness. Article 19 obligates Ghana to protect these children from all forms of violence, maltreatment and exploitation, as well as to provide support, treatment and follow-up. Those children who suffer from VVF have sustained a serious disability. Article 23 guarantees children with disabilities “a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.” It also calls on the state to provide assistance to children with disabilities and those who care for them free of charge.

Article 27(3) requires the state to “provide material assistance and support programs, particularly with education for both mother and children, if any, regard to nutrition, clothing and housing.” Article 24(2e) calls on states to ensure that parents and children have “basic knowledge of child health and nutrition, the advantages of breast-feeding, hygiene and environmental sanitation and the prevention of accidents.”

Rights to Physical Health under the ACRWC

In this section, I identify the rights standards related to children's physical health set out in the ACRWC that should protect children from marriage and should protect the health of child brides during and after marriage. The relevant rights standards are summarized in Table 1 above.

Physical health rights under the ACRWC that protect children from marriage. Child marriage must be prohibited under Article 21, which states that all appropriate measures must be taken to end harmful practices that affect the child's growth and development, particularly those that are "prejudicial to the health or life of the child" (Art. 21(1)). Article 14 guarantees every child the best attainable state of physical health and obligates States Parties to take measures to provide medical assistance and health care to all children; ensure adequate nutrition and safe drinking water; and combat disease and malnutrition. These basic health provisions should reduce parents' perceived need to marry off their daughters.

Physical health rights under the ACRWC that protect children during marriage. Under Article 2(h), education must include promoting children's understanding of primary health care. Therefore, children should learn in school about how to access health care; this information can guide them should they become brides. Article 14(2j) requires governments to support the development of primary health care for children by mobilizing resources in local communities. Thus, primary health care should be available to children in all communities throughout Ghana.

Child brides are also at heightened risk of dying in or after childbirth, as are their babies. Under Article 14(2a), States Parties must take measures to reduce infant and child mortality rates. They also must ensure that expectant and nursing mothers have access to health care. As shown in Chapter 1, many child brides do not have access to information about reproductive health. Article 14(2h) requires Ghana to ensure that children receive basic knowledge of health,

hygiene, and breastfeeding. These standards must be implemented for all children, regardless of ethnic group, language, religion, fortune or other status. Therefore, they must be in place throughout the country, including remote rural areas and urban centers. Article 27 protects children “from all forms of sexual exploitation and sexual abuse.”

Physical health rights under the ACRWC that protect children after marriage. When children leave marriages, they are often abandoned by their families, left to find the care they need for physical harm sustained while they were married. Under Article 2(g), community leaders and community workers must have basic knowledge of child health and nutrition. Implementing this standard would ensure that runaways and divorcees would have access to local individuals who could provide care or guide them to appropriate care.

Child brides are at-risk for developing VVF during or after labour, which constitutes a serious physical disability (National Institutes of Health, 1999) leading to social exclusion, bullying, and discrimination. Under Article 13(1, 2), every child has the right to live a dignified life irrespective of physical disabilities. Article 27 calls on states to take measures “to prevent the inducement, coercion or encouragement of a child to engage in any sexual activity” including their use “in prostitution.”

Without a source of income, many former child wives lack access to material supports that protect their physical health, facilitate breastfeeding, and allow them to care for themselves while menstruating. The state must provide food and clean drinking water (Art. 14(2c)) and also promote general knowledge on child development, health and nutrition, breastfeeding, and personal and environmental hygiene (Art. 14(2h)).

Rights To Emotional/Psychological Well-being Under the UNCRC

As shown in Chapter 1, marriage places children's emotional and psychological health at risk due to the loss of their childhood and their families, discrimination, verbal abuse from their husbands and families, and lack of freedom and opportunities for personal growth. Those who develop VVF are often stigmatized, isolated and abandoned, leading to suicidal thoughts, low self-esteem, anger, and depression (GHS, 2015). In this section, I identify the rights standards related to children's psychological/emotional well-being set out in the UNCRC that should protect children from marriage and should protect the psychological/emotional well-being of child brides during and after marriage. The relevant rights standards are summarized in Table 3.

Emotional/psychological well-being rights under the UNCRC that protect children from marriage. Marriage separates children from their parents' warmth, care and protection. Article 9(1) proclaims that forceful separation of children from their parents is against their human rights unless it is supported by a judicial ruling and is in the best interest of the child. Given the overwhelming research evidence demonstrating the many risks of child marriage, it cannot be deemed to be in children's best interests.

Chapter 1 revealed that most child marriages are forced unions with strangers. In most cases, this is not a choice these children would make and the impacts on their mental health are far-reaching. Under Article 12(1), children have the right to participate in decisions affecting them. Therefore, they cannot be forced against their will into marriage. Their views must be respected.

As demonstrated in Chapter 1, girls' education is typically ended when they marry, limiting their life choices, self-determination and self-worth. States Parties to the UNCRC recognize the right of the child to education (Article 28(1)). Therefore, as a State Party, Ghana

Table 3. Rights to Psychological/Emotional Well-being under the UNCRC and ACRWC that Protect Children From, During, and After Marriage.

Rights to Psychological/Emotional Well-being that Protect Children <u>from</u> Marriage		
Right Standard	UNCRC Article	ACRWC Article
Birth registration	7	6(2)
Parental care and protection	9(1)	19
Express views and take part in decision-making	12(1)	7
Education	28(1)	11
Discipline that upholds dignity		20(1)
Assistance to parents in child-rearing	18(2)	20(2)
Protection from social and harmful practices	24(3)	21(1)
Prohibit child marriage		21(2)
Compulsory registration of all marriages		21(2)
Rights to Psychological/Emotional Well-being that Protect Children <u>During</u> Marriage		
Right Standard	UNCRC Article	ACRWC Article
Rest, leisure, participation in sport, cultural life and the arts	31(1)	12
Freedom of association	15(1)	8
Freedom to seek, receive and share information	13(1)	
Education	28	11(4)
Protection from sexual exploitation, abuse and coercion to engage in any unlawful sexual activity	34	
Protection from all forms of physical, mental and sexual abuse; torture, inhuman or degrading treatment, mental injury, abuse	19 37(a)	16(1)
Express views		7
Rights to Psychological/Emotional Well-being that Protect Children <u>After</u> Marriage		
Right Standard	UNCRC Article	ACRWC Article
Protection from all forms of violence and abuse	19(1)	
Enabling environment for children with disabilities to ensure dignity, promote self-reliance, facilitate active participation, movement and access to public spaces	23(1)	13(3)
Protection from degrading, cruel or inhumane treatment	37(a)	16(1)
Psychological recovery and social reintegration	39	

has committed to making primary education compulsory, free and available to all – and to work toward making higher education free, affordable and accessible to all.

Emotional/psychological well-being rights under the UNCRC that protect children during marriage. The importance of play and social interaction for a child’s mental and emotional health cannot be overestimated. In most cases, once girls are married, they are isolated from society and confined to their new homes. They often must engage in domestic work and childrearing, without opportunities for leisure, play, social interaction, or cultural engagement that would promote their emotional and psychological well-being. By ratifying the UNCRC, Ghana has recognized the right of the child to rest and leisure, to engage in play and recreational activities, and to participate freely in cultural life and the arts (Art. 31(1)). Article 15(1) recognizes the rights of the child to freedom of association and peaceful assembly. This establishes the foundation for realizing the rights enshrined in Article 31.

When they become pregnant, some child brides are prevented from accessing the information they need to understand what is happening to their bodies and to reduce the trauma of childbirth. As a result, many do not understand the physical changes they are experiencing, leading to fear and anxiety. Article 13(1) enshrines the child’s right to seek and share information by any means the child chooses. Under Article 28, children possess the right to any form of formal and informal education.

As previously stated, sex with a child is by definition rape. Within a marriage, it is also marital rape. It is often forced, violent, painful and frightening. The emotional and psychological outcomes of rape are deep and wide-ranging, including trauma, fear of sex and even men. Under Article 34, Ghana must protect all children from all forms of sexual exploitation and abuse, in particular “the inducement or coercion of a child to engage in any unlawful sexual activity.”

Article 19 obligates Ghana to take all appropriate measures to protect children “from all forms of physical or mental violence, injury or abuse ... including sexual abuse” and Article 37(a) requires the government to ensure all children are free from torture or other cruel, inhuman or degrading treatment or punishment.

Emotional/psychological well-being rights under the UNCRC that protect children after marriage. Children who have left their marriages are often subjected to verbal abuse, humiliation and rejection by their families and communities. Article 19(1) requires states protect children from all forms of violence and abuse.

The emotional and psychological impacts of VVF are long-lasting, continuing throughout life. Even after a girl has run away from her marriage or become divorced, she lives with the indignity, dependency and social exclusion that often accompany the condition. Article 23(1) requires Ghana to provide conditions for disabled children that “ensure dignity, promote self-reliance and facilitate the child’s active participation in the community.” Under Article 37(a), Ghana must ensure that “no child shall be subjected to torture or other cruel, inhuman or degrading treatment.” Therefore, the government is obligated to address the stigmatization of children who have been married. Moreover, Article 39 mandates States Parties to promote “psychological recovery and social reintegration of a child victim of ... abuse ... or any other form of cruel, inhuman or degrading treatment.” Article 7 requires all births to be registered, facilitating child wives’ access to services.

Rights to Emotional/Psychological Well-being under the ACRWC

In this section, I identify the rights standards related to children’s psychological/emotional well-being set out in the UNCRC that should protect children from

marriage and should protect the psychological/emotional well-being of child brides during and after marriage. The relevant rights standards are summarized in Table 2 above.

Emotional/psychological well-being rights under the ACRWC that protect children from marriage. Marriage of young girls is embedded in patriarchal beliefs that restrict girls' choices and control their decision-making (University of Ghana, Centre for Social Policy Studies & World Vision Ghana, 2017). Sexual discrimination and lack of control over one's life have far-reaching impacts on children's emotional and psychological well-being, including depression and anxiety (Plan International, 2017). Under Article 21(1), Ghana must eliminate harmful practices affecting the welfare and dignity of children, particularly those that discriminate on the basis of sex. Article 21(2) specifically requires the prohibition of child marriage, as well as compulsory official registration of all marriages. Under Article 7, children must be free to express their views on issues concerning them, subject to legal restrictions. This means that children have the right to decide whether they want to get married and whether they want to go to school.

When their schooling is truncated by marriage, girls can suffer mentally and emotionally. For some child brides, seeing other children playing in their school uniforms and going to school is mental and emotional torment (Diala, 2019). Under Article 11, every child has the right to education that develops their talents and mental abilities "to their fullest potential." Education must also foster respect for human rights, particularly those set out in international conventions (such as the UNCRC). Article 11(3) requires Ghana to provide "free and compulsory basic education", and to work toward making secondary education "free and accessible to all," while also increasing regular school attendance and reducing drop-out rates. Article 11(3e) specifically obligates Ghana to "take special measures in respect of female ... children, to ensure equal

access to education.” By implementing measures to keep girls in school, Ghana could protect many from early marriage while promoting their healthy psychological development.

Victims of child marriage are mostly denied their rights to parental care and protection, and their right to live with their parents, which are enshrined in Article 19. “No child shall be separated from [her] parents against [her] will” (Art. 19(1)). Many child brides were forced to marry by their parents at a young age before they can protect themselves, and many are not allowed to visit or communicate with their parents. In some cases, they are severely punished for trying to contact or return to their families. This forced isolation and disruption of the parent-child bond can have profound psychological consequences. Under Article 20(1), parents must ensure that “the best interests of the child are their basic concern at all times” and that “discipline is administered with humanity and in a manner consistent with the inherent dignity of the child.” Article 20(2) requires Ghana to assist parents in their child-rearing responsibilities. Measures aimed at keeping families together and reducing children’s fear of punishment for resisting marriage should contribute to the prevention of child marriage in Ghana.

Emotional/psychological well-being rights under the ACRWC that protect children during marriage. Play is critical to children’s emotional and psychological development (Li, 2023). Victims of child marriage are denied the right to play and rest as they are forced into domestic servitude. Article 12 requires Ghana to ensure children engage in play, rest and leisure, recreation, and cultural life and the arts. Article 7 proclaims children’s rights to express their views freely. Therefore, they have the right to decide whether they want to attend school, give birth, see their parents, or access mental health supports. Under Article 8, every child has the right to freedom of association, ensuring that they can gather with friends, join clubs, and engage in group activities.

Married girls maintain the right to protection from torture, inhuman or degrading treatment, mental injury or abuse (Art. 16(1)). Such treatment is common in these girls' lives and can negatively affect their psychological development and their ability to regulate their own anger, and can contribute to depression and suicidal thoughts (Durrant, 2016; Turner, 2013; UNICEF, 2016).

Emotional/psychological well-being rights under the ACRWC that protect children after marriage. After leaving a marriage, children are often in dire need of mental health supports and services. Access to services and social protection is greatly facilitated by government birth registration, which allows girls to document their identity and age. Article 6(2) requires immediate registration of all births. Girls who have left their marriages have the right to protection from social exclusion and ostracism (Art. 16(1)) and those suffering from VVF and/or other disabilities have rights to enabling environments and full participation (Art. 13(3)).

Article 11(6) guarantees victims of child marriage who are no longer in unions the right to go back to school if they are motivated to do so. However, after giving birth, most are embarrassed to return to school. Therefore, the state should put appropriate procedures in place to reintegrate young mothers into the education system.

Rights To Economic Well-Being Under the UNCRC

As discussed in Chapter 1, child marriage is more likely where gender inequality is higher, boys' education is prioritized over that of girls, and economic activities are reserved for men. These conditions lead to poverty among girls and women and increase the likelihood that parents will marry off their daughters because of their economic cost to the family. Child brides often must leave school without skills for economic survival. Once they become mothers, their

poverty deepens. If they leave their marriages, they are excluded from schools, making them highly vulnerable to trafficking and exploitation as laborers. In this section, I identify the rights standards related to children's economic well-being set out in the UNCRC that should protect children from marriage and should protect the economic well-being of child brides during and after marriage. The relevant rights standards are summarized in Table 4.

Table 4. Rights to Economic Well-being under the UNCRC and ACRWC that Protect Children From, During, and After Marriage.

Right Standard	UNCRC Article	ACRWC Article
Rights to Economic Well-being that Protect Children <u>From</u> Marriage		
Rights Standards	UNCRC Article	ACRWC Article
Education and measures to reduce school dropout rates	28(1)	11(3)
Adequate standard of living, with assistance from the state	27	
Non-discrimination	2	3
Promotion of female education		11(3e)
Rights to Economic Well-being that Protect Children <u>During</u> Marriage		
Rights Standards	UNCRC Article	ACRWC Article
Universal access to education and diverse forms of secondary education	28	11(3b)
Economic assistance through universal social insurance	26	
State assistance to husbands and child mothers to provide adequate standard of living	27	
Support to parents in child-rearing responsibilities and development of facilities and services for the care of children.	18	
Ensure that children who become pregnant before completing their education have an opportunity to continue		11(6)
Protection from all forms of economic exploitation (e.g., domestic servitude)	32(1)	15
Rights to Economic Well-being that Protect Children <u>After</u> Marriage		
Rights Standards	UNCRC Article	ACRWC Article
Child-care for working parents	18(3)	20(2)
Protection from economic exploitation and hazardous work, minimum age for employment; regulated working hours and conditions; penalties for infractions	32	15(1, 2)
Promotion of diverse forms of secondary education whilst making it accessible and progressively free	28(1b)	11(3b)
Ensure that children who become pregnant before completing their education have an opportunity to continue		11(6)

Material assistance and support programs for child mothers		20(2)
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Economic rights under the UNCRC that protect children from marriage. Lack of education and low literacy narrow girls' opportunities for economic self-sufficiency, making marriage a viable option. Under Article 28(1), every child has the right to education with equal opportunity. Article 28(1a) requires that primary education is compulsory and free of charge for all children. Article 28(1b) obligates States Parties to develop a range of forms of secondary education that are available and accessible to all children. They must also introduce free secondary education and provide financial assistance to ensure that all children can access it. Under Article 28(1d, e), all children must have access to educational and vocational information and the state must take measures to reduce dropout rates. With full access to education, parents will be less likely to view marriage as a legitimate or necessary choice for their daughters.

Poverty is a powerful driver of child marriage, as parents need to “unburden” themselves from the costs of raising a girl who will not become a wage earner. Article 27 obligates Ghana to ensure an adequate standard of living for every child. Under Article 27(2,3), “parent(s) or others responsible for the child” must secure adequate living conditions, but the state must assist them in doing so.

Economic rights under the UNCRC that protect children during marriage. If married girls can attend school, their chances of gaining financial self-sufficiency increase substantially, making it easier for them to leave their marriages. Article 28 requires universal access to education, regardless of marital status or gender. It also requires States Parties to reduce drop-out rates, which would require states' attention to the role of child marriage in school-leaving.

Under Article 26, Ghana is mandated to provide economic assistance through universal social insurance, which would reduce their financial dependence on their husbands and increase

their opportunities to survive when they leave their marriages. Under Article 27, the state must assist husbands of child brides to provide an adequate standard of living – and to assist child mothers to provide an adequate standard of living for their own children. Article 18 requires States Parties to support parents “in the performance of their child-rearing responsibilities and shall ensure the development of institutions facilities and services for the care of children.”

Therefore, Ghana must ensure that child mothers have all the economic and institutional supports they need to provide care for their children and to ensure their own children’s rights are upheld. Under Article 32(1), children must be protected from all forms of economic exploitation, which includes domestic servitude.

Economic rights under the UNCRC that protect children after marriage. Article 18(3) requires States Parties to “ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.” A girl who has left her marriage must engage in some form of work in order to survive. In Ghana, they often participate in farming, shea butter production, household help and head pottering. In order to undertake wage-earning activities, they must have access to child-care services so their children are safe and cared for, rather than left unsupervised.

Under Article 32, they also must be protected from economic exploitation and from hazardous work. Article 32(2a-c) requires Ghana to implement a minimum age for employment, regulate working hours and conditions, and provide penalties for infractions of those laws.

Rights To Economic Well-Being Under the ACRWC

In this section, I identify the rights standards related to children’s economic well-being set out in the ACRWC that should protect children from marriage and should protect the

economic well-being of child brides during and after marriage. The relevant rights standards are summarized in Table 3.

Economic rights under the ACRWC that protect children from marriage. Every child has the right not to be discriminated against irrespective of their economic or social background (Article 3). As shown in Chapter 1, young girls from financially struggling or deprived homes are four times more likely to be married off than girls from more wealthy homes (GSS, 2011). Many girls from poor homes drop out of school because their parents are unable to cover the costs of school bags, shoes and uniforms. Article 11 of the ACRWC proclaims the right to free and compulsory basic education (Art. 11(3a)), obligates states to reduce school dropout rates (Art. 11(3d)) and “take special measures in respect of female, gifted and disadvantaged children, to ensure equal access to education for all sections of the community (Art. 11(3e)).

Economic rights under the ACRWC that protect children during marriage. Under Article 11(3b), the state must “encourage the development of secondary education in its different forms and to progressively make it free and accessible to all.” By upholding this standard, Ghana should provide access to diverse forms of education, such as technical or vocational training, at the secondary level. Article 11(6) has particular relevance to married girls, as it obligates states “to ensure that children who become pregnant before completing their education shall have an opportunity to continue with their education on the basis of their individual ability.” Under Article 15, “every child shall be protected from all forms of economic exploitation,” which includes exploiting girls for domestic labour.

Economic rights under the ACRWC that protect children after marriage. Children who have left their marriages have the right to return to school, either through formal education or

technical and skills training (Art. 11(3b)). State parties are to ensure children who became pregnant before completing school can continue their schooling (Art. 11(6)).

Many victims of child marriage who are no longer married have few skills for their economic survival and that of their children. As a result, they are highly vulnerable to economic exploitation and being forced to do dangerous work. Article 15(1) obligates states to protect children from economic exploitation, hazardous work, and any work that interferes with their “physical mental, spiritual, moral, or social development. The government also must legislate a minimum wage for every job, regulate hours and conditions of employment, and provide for penalties if these standards are violated by employers (Art. 15(2)).

Article 20(2) requires the state to provide material assistance and support programs for those responsible for children – in this case, the child mothers who have left their marriages. It also requires the state to develop child-care facilities and to ensure that working parents have access to them.

Identifying Laws that Promote the Realization of the Rights of Child Brides, Runaway Wives and Divorcees in Ghana

Article 7(2) of the UNCRC and Article 1 of the ACRWC mandate ratifying states to enact laws that will promote the treaties’ standards. To determine whether Ghana has taken such measures, I examined the 1992 *Constitution*, as well as three Acts of Parliament - the 1960 *Criminal Code, Act 29* (most recently amended in 2003), the 1998 *Children’s Act*, and the 2007 *Domestic Violence Act*.

The 1992 *Constitution of Ghana* was adopted as the supreme law of the fourth republic of Ghana. Any law in Ghana which contradicts the 1992 *Constitution* is valueless and annulled.

The 1960 *Criminal Code* was enacted to solidify and amend the laws underpinning criminal offences, which are grouped into: offences against the person; offenses against property; and offenses against public order, health, and morality. The 1998 *Children's Act* was the 560th act of parliament of the Republic of Ghana. It reorganized and unified the laws concerning children and enshrines rights of children. It identifies procedures to be followed in case of violations. The 2007 *Domestic Violence Act* defines domestic violence and sets out legal remedies, such as protection orders, criminal charges and civil claims.

I examined each of these statutes to determine whether they uphold the rights proclaimed in the UNCRC and ACRWC. Because the UNCRC was a blueprint for the ACRWC, many of their standards are similar. In addition, several rights standards apply across the three temporal categories – before, during and after marriage. Therefore, I approached this analysis by grouping the rights standards into themes, collapsing them across treaty and temporal category. For example, the right to education became a single theme. I then assessed whether one or more of the four legal statutes uphold each theme. The following sections report on these findings by outcome category – i.e., physical, psychological/emotional, and economic well-being – respectively.

Laws Related to Children's Rights to Physical Health Before, During and After Marriage

In this section, I report on each rights theme related to children's physical health before, during and after marriage, in terms of whether one or more of the four legal statutes upholds it. Table 5 summarizes these findings.

Table 5. Laws that Uphold Rights to Physical Health under the UNCRC and ACRWC that Protect Children From, During, and After Marriage.

Rights Themes	UNCRC Article	ACRWC Article	Legal Statutes Upholding Rights	
			Statutes	Articles
Abolish harmful traditional practices	24(1) 24(3)	21	Constitution Criminal Code Children's Act	15(2), 16(1), 28(1d, 3), 26(2) 69A, 71, 91 13
Highest attainable standard of health; universal health care	24(1) 24(2b)	14	Limited right under: Constitution Children's Act Domestic Violence Act	34(2), 28(4) 7(2) 8(1, 2)
Adequate nutrition and clean drinking water	24(2c)	14(2c)	None	
Life, survival and development	6(1)	5	Constitution Criminal Code Children's Act	13 46, 47, 50, 53c, 75, 79b, c 6, 59
Government to work with parents/guardians to meet every child's basic needs; access to material and support programs for mothers and children	27(3)	20(2)	Limited obligation under: Constitution Children's Act Domestic Violence Act	12(1) 16(1, 2) 7, 11, 18
Protection from sexual and physical violence, exploitation, maltreatment	19(1)		Criminal Code Children's Act Domestic Violence Act	69-88, 97, 101, 103, 108, 111 6(3), 17, 19 1
Access to programs to curb maltreatment through identification, reporting,	19(2)		Limited right under: Constitution Children's Act	35(3, 6c) 22

referral, investigation, treatment and follow-up			Domestic Violence Act	7
Protection on health and safety grounds (e.g., confidential, non-discriminatory pre/post-natal health care, non-stigmatized treatment for STIs and sexual violence, free birth control)	3(3)		None	
Freedom to seek, receive and share information and ideas	13		Constitution Children's Act	21(1a, b, d,f) 11
Right to knowledge about primary health care, health, nutrition, hygiene and breastfeeding		14(2h, j)	None	
Mobilize local primary health care for children		14(2)		
Take measures to reduce infant and child mortality rates; access to health care for all expectant and nursing mothers		14(2a)		
Education for public sector workers about child health and nutrition		2(g)	None	
Dignified life irrespective of physical disabilities	23	13(1, 2)	Constitution Children's Act	29(1, 2, 4) 10(1, 2)

Right to protection from traditional practices that harm or degrade children. Several articles of the 1992 *Constitution* uphold this right. Article 16(1) forbids slavery, servitude, and forced labour. Children must be protected from “exposure to physical and moral hazards” (Art.28(1d)); “torture, or other cruel, inhuman or degrading treatment or punishment” (Arts. 15(2), 28(3)); and “customary practices which dehumanize or are injurious to the physical and mental well-being of a person.” (Art.26(2)).

Several sections of the *Criminal Code* criminalize acts that contribute to causing pain, harm or torture to an individual, including FGM (s. 69A), exposing children to danger (s.71), and abduction of children under 18 years (s. 91). The *Children’s Act* also protects children from “torture or other cruel, inhuman or degrading treatment or punishment including any cultural practice which dehumanizes or is injurious to the physical and mental well-being of a child” (s. 13).

Right to the highest attainable standard of health. Under the *Constitution*, the President of Ghana must report annually on steps taken to realize the right to good health care for all citizens (Art. 34(2)) and “no child shall be deprived by another other person of medical treatment” on the basis of religious or other beliefs (Art. 28(4)). However, the *Constitution* does not proclaim the highest attainable standard of health as a right of citizenship. Similarly, the *Children’s Act* states only that child may not be denied medical treatment on the basis of religious or other beliefs but does not otherwise refer to children’s rights to health or health care (s. 7(2)).

Neither the *Criminal Code* nor the *Domestic Violence Act* criminalizes the violation of children’s rights to health or health care. However, the *Domestic Violence Act* does require

police, when necessary, to send victims of domestic violence to a medical facility and the medical treatment received must be provided free of charge (Art. 8(1, 2)).

Right to Nutritious Food and Clean Drinking Water. None of the four legal statutes examined specifically addresses the right to nutritious food or clean drinking water.

Right to life, survival and development. Article 13 of the *Constitution* specifies that no individual in Ghana “shall be deprived of his life intentionally” except in the case of judicial capital punishment or if the force used is justifiable in the circumstances, such as to protect another person or property.

The *Criminal Code* has several articles relevant to the right to life. Chapter 2 (Criminal Homicide and Similar Offences) defines murder as causing the intentional death “of another person by any unlawful harm” (s. 47), which is punishable by death (s. 46). Manslaughter is a first-degree felony (s 50). A murder charge can be reduced to a manslaughter charge if the actor experienced “extreme provocation” which includes “the crime of unnatural carnal knowledge committed ... upon his or her ... child” (s. 53c). Under Section 75, threatening a person with death “with intent to put that person in fear of death” constitutes a second-degree felony. The *Criminal Code* also specifies that parents and guardians are under a duty to provide the necessities of health and life (s. 79b, c)

Under Section 6 of the *Children’s Act*, parents must assure their child’s survival and development (unless they have surrendered their rights and responsibilities). Under Section 59 of the *Children’s Act*, failure of parents to “supply the necessities of health, life, education and reasonable shelter for a child when legally liable to do so” is a punishable offence. The *Domestic Violence Act* does not explicitly address the rights to life, survival and development.

Obligation of government to work with parents/guardians to meet every child's basic needs. Article 12(1) of the *Constitution* mandates the state and its agencies and department to be responsible and accountable for the realization of the fundamental human rights and freedoms it enshrines. The *Criminal Code* does not address collaboration among government and parents/guardians.

Section 16(1) of the *Children's Act* calls on district assemblies to safeguard the rights of children in their constituencies, and to ensure collaboration among government agencies “in matters concerning children.” Section 16(2) assigns responsibility to the Social Welfare and Community Development Departments of District Assemblies for investigating contraventions of children's rights. However, no reference is made to collaboration with parents/guardians to meet children's basic needs.

Under the *Domestic Violence Act*, police must respond to requests for assistance and offer protection, even when the person reporting is not the victim (Art. 7). The Courts are empowered to provide protection orders (Art. 11) and where a child is in need of protection in a situation of family violence, the case may be referred to a Family Tribunal (s. 18). However, the *Act* does not address any other collaboration with parents/guardians to meet children's basic needs.

Right to protection against sexual and physical violence, exploitation, and maltreatment. The *Constitution* does not address the right to protection from violence. The *Criminal Code*, however, defines the following as criminal acts: causing harm, use of a weapon, exposing a child to danger, negligence, threat of harm or death, causing harm by omission, failure in the duty to prevent harm to another person, failure in the duty to provide the necessities of health and life, assault, and battery (s. 69-88), The *Criminal Code* also criminalizes rape of a child 16 years or older (s. 97), “defilement” of a child under 16 years of

age with or without the child’s consent (s. 101), indecent assault (s. 103), and seduction of a child under 16 years (s. 108). The *Criminal Code* also prohibits a householder from “permitting defilement of a child” under 16 years (s. 106) and grants powers to search for a child “detained for an immoral purpose” (s. 111).

Under the *Children’s Act*, parents have the duty and responsibility to protect their children from neglect, discrimination, violence, and abuse (s. 6(3)). Any person with information about a child in need of protection must make a report to the Social Welfare and Community Development Department (s. 17). The Social Welfare and Community Development Department is to make, direct, and enforce inclusive social welfare programs and services to improve the standard of living of disadvantaged children, youth, women, and disabled children as well as empower them. If the Department has reasonable grounds, an investigation will be launched (s. 19) and if the report is substantiated, action will be taken to protect the child (s. 19).

Section 1 of the *Domestic Violence Act* defines domestic violence as threat or harm to a person under the Criminal Code or any of the following “acts, threats to commit, or acts likely to result in”:

- (i) physical abuse, including physical assault; forcible confinement; deprivation of satisfactory food, water, clothing, shelter, rest; torture or other cruel, inhuman or degrading treatment or punishment,
- (ii) sexual abuse, including conduct that humiliates, degrades or violates the sexual integrity of another person.

Access to programs to curb maltreatment. Under the *Constitution*, “the State shall promote just and reasonable access by all citizens to public facilities and services” (Art. 35(3))

and will take measures to provide adequate facilities throughout Ghana (Art. 35(6c)). The *Criminal Code* does not address program provision.

The *Children's Act* requires that probation officers and social welfare officers must “advise and help the child and his family” if the family is under a supervision order (s. 22). Section 7 of the *Domestic Violence Act* requires police officers to offer assistance and protection to domestic violence victims and “assist the victim to obtain medical treatment when necessary” (s. 8c)).

Education for public sector workers about child health and nutrition. None of the four legal statutes under examination in this study address this standard.

Right to Protection on health and safety grounds. None of the four legal documents under examination in this study address this standard.

Freedom to seek, receive and share information and ideas. Under the *Constitution*, all persons have the right to information, freedom of speech and expression, freedom of thought, and freedom of assembly, including “freedom to take part in processions and demonstrations” (Art. 21(1a, b, d, f)). The *Children's Act* clearly states that “no person shall deprive a child capable of forming views the right to express an opinion, to be listened to and to participate in decisions which affect his well-being” (s. 11). The *Criminal Code* and *Domestic Violence Act* do not address the right to information.

Right to knowledge about primary health care, health, nutrition, hygiene, and breastfeeding. None of the four legal documents under examination in this study address this standard.

Mobilize local primary health care resources for children. None of the four legal statutes examined address the mobilization of local health care resources or the provision of health care for pregnant and nursing mothers.

Reduce infant and child mortality rates and provide access to health care for all expectant and nursing mothers. None of the four legal statutes examined specifically address the reduction of mortality rates or access to health care for pregnant and nursing mothers.

Education for public sector workers about child health and nutrition. None of the four legal documents under examination in this study address this standard.

Rights of children with disabilities to a dignified life. Under Article 29(1) of the *Constitution*, “disabled persons have the right to live with their families or with foster parents.” They also have the right to participate in social and recreational events (Art. 29(1)) and cannot be treated differently from others based in terms of where they live, unless required by their condition or potential for improvement with access to treatment (Art. 29(2)). They are protected from discrimination, exploitation, violence and undignified treatment by anyone (Art. 29(4)).

The *Children’s Act* prohibits degrading treatment of children with disabilities (s. 10(1)). It further elaborates that they have rights to special care and education to become independent and achieve their full potential (s. 10(2)). Neither the *Criminal Code* nor the *Domestic Violence Act* addresses the rights of children with disabilities.

Laws Related to Children’s Rights to Psychological and Emotional Well-being Before, During and After Marriage

In this section, I report on each rights theme related to children’s psychological/emotional well-being before, during and after marriage, in terms of whether one or more of the four legal statutes upholds it. Table 6 summarizes these findings.

Right to birth registration. Birth registration facilitates girls’ access to services. Also, when girls do not know – or cannot prove - their date of birth, they are more vulnerable to exploitation. The *Constitution* does not require births to be registered, nor does the *Criminal Code*. Section 121 of the *Children’s Act* mandates District Assemblies to be responsible for birth registration in their district. Section 6(4) instructs parents to initiate the birth registration process and identifies the specific information required to appear on the birth certificate. The *Domestic Violence Act* does not address birth registration.

Obligation to register all marriages. None of the four legal statutes examined require marriages to be registered.

Right to stay with parents and to parental care and protection. According to Article 28(1a) of the *Constitution*, “every child has the right to the same measure of special care, assistance and maintenance as is necessary for its development from its natural parents, except where those parents have effectively surrendered their rights and responsibilities in respect of the child in accordance with law.” Further, Parliament must enact laws to ensure that parents undertake their obligations “in such manner that in all cases the interests of the children are paramount” (s. 28(1c)).

Table 6. Laws that Uphold Rights to Psychological/Emotional Well-being under the UNCRC and ACRWC that Protect Children From, During, and After Marriage.

Rights Themes	UNCRC Article	ACRWC Article	Legal Statutes Upholding Rights	
			Statutes	Articles
Birth registration	7	6(2)	Children's Act	121, 6(4)
Compulsory registration of all marriages		21(2)	None	
Parental care and protection	9(1)	19	Constitution Children's Act	28(1a, c) 5, 6(1)
Freedom to seek, receive and share information	13(1)		Constitution	21(1f)
Express views and take part in decision-making	12(1)	7	Constitution Children's Act	21 11
Protection from mental violence and degrading, cruel or inhumane treatment	19(1) 34 37(a)	16(1)	Constitution Criminal Code Children's Act Domestic Violence Act	15 (1,2) 16, 21(1e), 26(2), 28(1d, 3) 69A, 71, 74, 75, 89, 91, 93 13 1b iv, 1d ii
Prohibit child marriage		21(2)	Constitution prohibits forced marriage Children's Act	109 14
Education, including right to return to school	28	11	Constitution Children's Act	25, 28, 38(1) 6(2), 8(1)
Rest, leisure, participation in sport, cultural life and the arts	31(1)	12	Children's Act	9
Freedom of association	15(1)		Constitution	21 (1e)
Enabling environment for children with disabilities to ensure dignity, promote self-reliance, facilitate active participation, movement and access to public spaces	23(1)	13(3)	Constitution Children's Act	29 10
Psychological recovery and social reintegration	39		None	

The *Children's Act* clearly enshrines the right of every child to grow up with their parents. “No person shall deny a child the right to live with his parents and family and grow up in a caring and peaceful environment unless it is provided in court that living with his parents would (a) lead to significant harm to the child’ or (b) subject the child to serious abuse; or (c) not be in the best interest of the child” (s. 5). Section 6(1) of the *Children's Act*, mandates parents to promote the welfare of their children regardless of whether they are married when the child is born or whether the parents continue to live together.

The *Criminal Code* and the *Domestic Violence Act* do not specifically discuss the right to stay with parents and to parental care and protection.

Right to seek and share information. Article 21(1f) of the *Constitution*, enshrines the right of all persons to information. It is not clear whether this includes children. The other three statutes do not address the right to information.

Right to freely express views and participate in decision-making. Under the *Constitution*, all persons have the right to freedom of speech and expression, freedom of thought, and freedom of assembly, “including freedom to take part in processions and demonstrations” (Art. 21(1a, b, d)). All citizens have the right to participate in political activities (Art. 21(3)).

The *Children's Act* clearly states that “no person shall deprive a child capable of forming views the right to express an opinion, to be listened to and to participate in decisions which affect his well-being” (s. 11). The *Criminal Code* and *Domestic Violence Act* do not address freedom of expression or participation.

Right to protection against mental violence and degrading, cruel or inhumane treatment. Article 16 of the *Constitution* protects all persons from slavery, servitude and forced labour. Article 21(1e) gives any person in Ghana the freedom to join or form an association that

safeguards the person's interest, which could include mental health support groups. The state is mandated to protect all children against "moral hazards" (Article 28(1d)). Degradation and violations of human dignity are forbidden under Articles 15(1, 2) and 28(3) cultural practices that degrade or can cause mental injury are prohibited (Art. 26(2)).

The *Criminal Code* criminalizes acts that cause mental harm, namely FGM (s. 69A), exposing children to danger (s. 71), threatening harm (s. 74), threatening to kill (s. 75), kidnapping (s. 89), abduction (s. 91), and child stealing (s. 93). Section 13 of the *Children's Act* prohibits any person from subjecting a child to degrading treatment, including "any cultural practice which dehumanizes or is injurious" to the child's mental well-being.

The definition of domestic violence under the *Domestic Violence Act* includes "emotional, verbal or psychological abuse namely any conduct that makes another person feel constantly unhappy, miserable, humiliated, ridiculed, afraid, jittery or depressed or to feel inadequate or worthless" (Art. 1b iv). The definition also includes harassment, inducing fear in another person, and any conduct that "undermines another person's privacy, integrity or security, or detracts or is likely to detract from another person's dignity and worth as a human being" (Art. 1d ii)).

Right to refuse marriage as a child. The *Criminal Code* prohibits anyone from forcing a child or anyone into marriage: "A person who by duress causes another person to marry against that other person's will, commits a misdemeanor" (Art. 109). Section 14 of the *Children's Act* enshrines the child's "right to refuse betrothal and marriage" and establishes the minimum age for marriage at 18 years. Neither the *Constitution* nor the *Domestic Violence Act* addresses coerced marriage.

Right to education. Several articles of the 1992 *Constitution* address education. Under Article 25, “all persons shall have the right to equal educational opportunities and facilities.” It specifies that primary education should be “free, compulsory and available to all” (Art. 25(1a)) and that secondary education will be “available and accessible to all by every appropriate means,” including the introduction of free education. Higher education must also be “equally accessible to all, on the basis of capacity” (Art. 25(1c)). The *Constitution* also mandates the government to ensure these schools have all the structures and resources necessary to make a functional educational system. Article 28(4) of the *Constitution* states that no child shall be denied education based on their religion or any other belief. Under Article 38(1), the state must provide educational facilities at all levels and make them available to all citizens.

The *Children’s Act* identifies education as a right of every child (Art. 6(2)). Article 8(1) declares that “no person shall deprive a child access to education.” The *Criminal Code* and *Domestic Violence Act* do not address issues pertaining to education.

Right to rest, leisure and engaging in recreational activities. The *Children’s Act* states that no one may deny a child the right to take part in sport, cultural, artistic or leisure activities (s. 9). The *Constitution*, *Criminal Code* and *Domestic Violence Act* do not address children’s rights to rest, leisure and recreation.

Freedom of association. According to the *Constitution*, everyone in Ghana is allowed to form or join any association (Art. 21 (1e)).

Right of children with disabilities to an enabling environment. Article 29 of the *Constitution* gives people with disabilities the right to live with their families or foster parents, to participate in “social, creative or recreational activities,” to enjoy equal access to housing and living conditions “as close as possible to those of the normal life of a person of his age,” and to

be protected from exploitation, discrimination, abuse and degradation. Section 10 of the *Children's Act* prohibits undignified treatment of children with disabilities and upholds their “right to special care, education and training wherever possible to develop his maximum potential and be self-reliant.” Neither the Criminal Code nor the Domestic Violence Act addresses these rights standards.

Right to psychological recovery and reintegration program. None of the four legal statutes under review addresses children's rights to programs to help them reintegrate.

Laws Related to Children's Rights to Economic Well-being Before, During and After Marriage

In this section, I report on each rights theme related to children's economic well-being before, during and after marriage, in terms of whether one or more of the four legal statutes upholds it. Table 7 summarizes these findings.

Right to an adequate standard of living, with assistance from the state. None of the four statutes examined uphold the right to an adequate standard of living. However, the *Children's Act* provides for some forms of maintenance. A person with custody of a child – or the “next friend” of a child – may apply for a maintenance order “against any person who is liable to maintain the child or contribute toward the maintenance of the child” (s. 48). Maintenance awarded to a mother includes medical expenses through pregnancy and delivery, as well as an allowance during pregnancy and nine months following delivery, and payment for the continued education of the mother if she is herself a child (s. 51).

Right to education. As shown above, Articles 25, 28(4) and 38(1) of the *Constitution* address the right to education. The *Children's Act* identifies education as a right of every child

(Art. 6(2)) and Article 8(1) declares that “no person shall deprive a child access to education.”

The *Domestic Violence Act* and the *Criminal Code* do not address issues pertaining to education.

Table 7. Laws that Uphold Rights to Economic Well-being under the UNCRC and ACRWC that Protect Children From, During, and After Marriage.

Rights Themes	UNCRC Article	ACRWC Article	Legal Statutes Upholding Rights	
			Statutes	Articles
Adequate standard of living, with assistance from the state, including husbands and child mothers	27		Limited right to maintenance under Children's Act	48, 51
Education	28	11(3)	Constitution Children's Act	25, 28(4), 38(1) 6(2), 8(1)
Promotion of female education and right to return after pregnancy		11(3e, 6)	None	
Non-discrimination	2	3	Constitution Children's Act	5 3
Economic assistance through universal social insurance	26		None	
Protection from economic exploitation, hazardous work, minimum age for employment, regulated working hours and conditions, penalties for infractions	32	15	Constitution Children's Act	24(1, 2) 87-91
Child-care for working parents	18(3)	20(2)	Constitution	27(1, 2)
Material assistance and support programs for child mothers		20(2)	Limited right under Constitution	27(3)

The right to non-discrimination. Under Article 5 of the *Constitution*, all persons must be treated equally and without discrimination based on “place of origin, circumstances of birth, ethnic origin, gender or religion, creed or other beliefs.” The *Children’s Act* states that “no person shall discriminate against a child on the grounds of gender, race, age, religion, disability, health status, custom, ethnic origin, rural or urban background, birth or other status, socio-economic status or because the child is a refugee” (s. 3). Neither the *Criminal Code* nor the *Domestic Violence Act* addresses discrimination.

Right to social security. None of the four statutes examined address the right to social security.

Right to safe work. Several Articles of the *Constitution* address work-related rights, namely the right to work under healthy and safe conditions and to equal pay for equal work (Art. 24(1)), of the right to rest, paid holidays, and limits on working hours (Art. 24(2)), and the right to form or join a trade union (Art. 24(3)). Part 5 of the *Children’s Act* comprises 10 sections addressing the employment of children. Exploitive labour (defined as that which harms the child’s health, education or development) and night work (between 8:00 pm and 6:00am) are prohibited (s. 87, 88). The minimum age is 13 years for light work that does not interfere with schooling, 15 years for employment, and 18 years for hazardous work (s. 89, 90, 91). The definition of hazardous work includes “portage of heavy loads.” (s. 91 (2c)).

Right to child care for working parents. Under Article 27(1) of the *Constitution*, working mothers are entitled to paid leave before and after childbirth, and child care will be provided for children below school age. None of the other three legal statutes examined addresses child care.

Right to material assistance and support programs for child mothers. Article 27(3) of the *Constitution* guarantees women equal rights to training. It is unclear whether “women” include child mothers. However, the *Constitution* does not specifically address the rights of child mothers to support and assistance. The *Children’s Act*, *Criminal Code* and *Domestic Violence Act* do not address support for child mothers.

CHAPTER 4: CONCLUSION

The prevalence of early marriage in Ghana, especially in the North, is persistent and alarming. Five percent of girls in Ghana are married before the age of 15 (MoGCSP, 2016). As of 2020, about 2 million young females currently living in Ghana were married before the age of 18 (UNICEF, 2020). Although the national prevalence is low compared to other sub-Saharan African countries like Nigeria, Niger and Guinea, the rate of early marriage in the Northern, Upper East, Upper West and Savanna Regions are high. The impacts of child marriage are numerous and can be life-threatening, including rape/forced sex/sexual abuse, physical and verbal violence from both their husbands and in-laws, discrimination, early labour and preterm birth, low birth weight in infants, and VVF during childbirth. Child marriage slows development nationally, regionally and globally. Many factors contribute to the persistence of child marriage, including poverty, cultural traditions, religious conformity, customary practices, social norms, patriarchy, peer influence, and lack of knowledge and/or disregard of national laws. The Government of Ghana launched an Ending Child Marriage Campaign, which is a 10-year national strategic plan in 2016 aimed to build collaborations among government, IGOs and NGOs working to end child marriage in Ghana by 2026 (MoGCSP 2016). While these efforts are critical, the problem still continues.

The aim of this study was to assess Ghana's legislative action on child marriage. First, I identified the child rights standards to which Ghana has committed that protect the physical, psychological/emotional, and economic well-being of children before, during and after marriage. Then I examined four legal statutes to determine whether they uphold those rights standards. The findings of this study will be used to generate concrete recommendations for strengthening laws to protect the rights of married, divorced and runaway wives in Ghana.

Ghana's Commitment to Child Rights

Ghana is well known and respected for her contributions toward promoting human rights in the sub region of Africa and even the world at large. In Ghana, there are numerous NGOs and IGOs whose objective is to promote human rights to operate freely without fear or intimidation. There are, however, areas in which Ghana has been criticized on its human rights record, including the treatment of people with mental health issues as well as child labour (Human Rights Watch, 2023).

It is significant that Ghana was the first country in the world to ratify the UNCRC, the first binding Convention setting out the fundamental rights of children. It also has ratified the *Convention on the Elimination of All forms of Discrimination against Women* (1986), the *Convention on the Rights of Persons with Disabilities* (2012), and the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (2000). Together, these ratifications set a strong rights foundation for addressing child marriage in Ghana.

Ghana has also ratified the ACRWC, which is the first treaty to set child rights standards for a specific region, considering its own traditions and histories (Lloyd, 2002). One of the important aspects of the ACRWC is that it does not include the UNCRC's provision that states will implement rights standards "to the maximum extent of their available resources" (Art. 4). Thus, it addresses the critique of the UNCRC that "it is insufficient to grant children rights with little means of implementation; states need to be prepared to effectively implement such rights" (Lloyd, 2002, p. 14). Therefore, Ghana has ratified a treaty that calls for full implementation regardless of economic challenges. This commitment suggests that Ghana is strongly committed to implementing children's rights as a governmental priority.

In this study, I examined these two human rights treaties to identify those standards that apply specifically to the protection of children from marriage, as well as the protection of children who are currently married and those whose marriages have ended, who are typically runaways or divorcees. I focused my examination on those rights standards that are relevant to the physical, psychological/emotional, and economic outcomes of child marriage. I then examined four key legal statutes to determine whether they uphold those rights standards as a measure of Ghana's level of implementation. In this chapter, I summarize my findings and present my conclusions.

Ghana's Implementation of Child Rights Standards to Protect Children From, During and After Marriage

Prohibition of Harmful Traditional Practices. Both the UNCRC and the ACRWC call for the abolition of harmful traditional practices, which include child marriage. This is the starting point for ending the many harms of early marriage. If this standard was fully implemented, current child marriages would be annulled and no further such marriages would take place. The *Constitution* prohibits dehumanizing and injurious customary practices. However, it is always a question of whether children are considered persons under statutes that do not specifically apply to them. The *Children's Act* clearly specifies that this prohibition applies to children. However, the *Criminal Code* does not identify child marriage as a crime although it talks about compulsion of marriage. It is a crime to cause mental harm to children or to abduct or expose a child to danger. But even these crimes are misdemeanors, which are punishable by prison sentences of less than 12 months. Therefore, while the *Constitution* and the *Children's Act* forbid child marriage, the *Criminal Code* does not provide a strong legal framework for enforcement. The Criminal Code need to be amended to criminalize child

marriage. The section 109 of the Criminal Code can be further amended to prohibit the marriage of children, whether under duress or consensual.

Compulsory registration of all births (called for in the UNCRC and ACRWC) and marriages (called for in the ACRWC) can support the elimination of child marriage. Birth registration not only allows children to prove their ages, but in the process of birth registration, important information like place of birth, birth attendant, mother's name, age, nationality, highest level of education and occupation are recorded. This information is important to the development of policies to prevent child marriage and improve the lives of child brides by identifying where the highest risks exist. Marriage registration is necessary for accessing bank accounts and claiming financial rights as a widow, as well as for obtaining a divorce. Again, during the marriage registration, the ages of the couple are required. This will aid the appropriate authorities to determine whether the marriage involves a minor. If it does, the appropriate steps will be taken in accordance to law to end such marriage. Unfortunately, only the *Children's Act* requires birth registration and none of the four statutes requires marriage registration. (Marriage registration, however, is required under the *Marriages Act*.)

Right to an Adequate Standard of Living. Poverty has been identified as one of the major drivers of child marriage and a key barrier to sustaining mental health during a marriage, leaving a marriage, and surviving after marriage (Girls not Brides, 2017; GSS, 2011; Mohato, 2016). An adequate standard of living with assistance from the state is a right of all children under the UNCRC, but not under the ACRWC. The only legal statute that addresses children's financial well-being is the *Children's Act*, and there it is limited to the right to maintenance. None of the four statutes requires economic assistance through universal social insurance.

Therefore, the right of all children to an adequate standard of living is not adequately addressed in Ghana's legal framework.

Children who leave or escape their marriages, or become widowed, are extremely vulnerable to economic exploitation. They tend to find precarious employment in unregulated, hazardous, poorly paid and demeaning jobs, such as head pottering. The UNCRC and ACRWC guarantee protection from economic exploitation, hazardous work, and unregulated working conditions. The *Constitution* enshrines "the right to work under satisfactory, safe and healthy conditions" as well as equal pay for equal work. The *Children's Act* confirms that children must be protected from exploitative labour, hazardous work (including "portering of heavy loads"), and night work. These laws carry penalties of fines up to 10 million Cedi (\$1.2million CAD) or up to two years imprisonment. These laws should provide a strong foundation for addressing the economic exploitation of child marriage survivors.

In order for children to support themselves and their own children adequately, they need the support of the state in providing child-care that will allow them to work. The right to child-care for mothers of preschool-aged children is upheld in the *Constitution*, but in the section on women's rights; it is not addressed in the section on children's rights. It is not addressed in any of the other three legal statutes examined. This means the laws about rights to child-care for working mothers are weak.

Education plays a substantial role in economic self-sufficiency. It can protect children from marriage, remove barriers to leaving marriages, and enable survivors to secure steady employment. The UNCRC and ACRWC strongly emphasize free primary education and access to diverse forms of secondary education as basic human rights. The *Constitution* upholds the right of equal access to education and the *Children's Act* confirms that this is a right of all

children. However, the right of girls to return to school after pregnancy that is proclaimed in the ACRWC is not upheld in any of the four legal statutes examined. This reveals a major setback or flaw in the campaign to promote female education and also the campaign to end poverty among women in Ghana.

Right to health. The health of child brides is a tremendous concern. The risks of childbirth complications, STIs, VVF and maternal and infant mortality are high for these children (GHS, 2015; IPPF, 2007; Kpada, 2020; UNICEF, 2001; Varia, 2016; WHO, 2020). Under the UNCRC and ACRWC, all children have the right to life, survival and development, and states must take measures to reduce infant and child mortality. The *Constitution* upholds all peoples' right to life and the *Criminal Code* prohibits murder, manslaughter and death threats. However, the right to the highest attainable standard of health and to adequate nutrition and clean drinking water, which are obligations of states under the UNCRC and ACRWC, are not upheld under any of the four statutes. The *Criminal Code* and *Children's Act* place the responsibility on parents to provide the necessities of life and health. The only protections in this area are offered by the *Constitution* and *Children's Act* which forbid denial of medical treatment on the basis of religion or other beliefs, and by the *Domestic Violence Act* which requires medical treatment to be free of charge for victims of domestic violence.

While these legal provisions are steps toward ensuring children's health, the overarching right to health care for all children and their rights to adequate nutrition and clean drinking water are not upheld in any of the four statutes. Moreover, the state's obligation to work with parents to meet children's basic needs are not referenced in any of the statutes, nor are children's rights to knowledge about health, nutrition, hygiene and breastfeeding. Therefore, Ghana cannot be

considered to be upholding its obligations under the UNCRC and ACRWC with regard to children's rights to health.

Right to Protection. Violence and degradation are inherent to child marriage. Parental violence can drive it, as girls find an escape from home through marriage. Marital violence is universal, as child brides are by definition victims of rape and physical and mental violence are commonplace. After marriage, girls are highly vulnerable to violence and exploitation due to poverty and community ostracism. The UNCRC and ACRWC are clear that every child has the right to protection from all forms of physical, sexual and mental violence, exploitation and degrading treatment. All four of the legal statutes examined address this right to at least some degree. The *Constitution* holds that “the dignity of all persons shall be inviolable” and that children must not be subjected to degrading treatment or punishment. The *Criminal Code* prohibits a range of forms of violence, including exposing a child to danger, and rape and defilement of children. Rape is a first-degree felony, punishable by life imprisonment. Any intentional and unlawful harm to a person that reduces their chance of survival is a second-degree felony and punishable by up to 10 years in prison. The *Children's Act* requires anyone with knowledge of a child in need of protection to report it. The *Domestic Violence Act* prohibits a range of forms of physical, sexual and verbal violence. Together the four statutes provide a strong legal framework for addressing the many forms of violence that drive and sustain child marriage and place survivors at risk.

Right to Decision-making. One of the greatest casualties of child marriage is the girl's loss of agency. She loses her voice and her choices about continuing her education, working, becoming pregnant and even her social life. Her opinion is of no consequence. The UNCRC and ACRWC mandate states to uphold children's rights to seek and share information, associate

freely, express their views, and participate in decisions that affect them. The *Constitution* upholds the right to seek and share information, and this is confirmed in the *Children's Act*. Of the four statutes examined, only the *Constitution* upholds the right to freedom of association and it is not clear whether this right extends to children in Ghana; it is not addressed in the *Children's Act*. The *Constitution* enshrines the right to freedom of speech and expression and the *Children's Act* confirms the child's right to express their opinion and "to participate in decisions which affect his well-being." Therefore, there is a legal foundation for challenging the forced marriage of children and the many forms of coercion it entails.

Right to non-discrimination. The right to non-discrimination is fundamental to the UNCRC and ACRWC. This right is upheld under the *Constitution* but only on the basis of gender, race, color, ethnic origin, religion, creed, and social/economic status. Although the *Constitution* proclaims that "all persons shall be equal before the law," age is not grounds for a claim of discrimination. The *Children's Act* does identify age as a criterion for non-discrimination, but the *Constitution* is the supreme law of Ghana. Thus, it is not clear whether a child could make a claim of discrimination.

The violence many child brides experience and the physical trauma they sustain in childbirth can render them disabled. VVF is one example of the severe disabilities that are common outcomes of child marriage. The UNCRC and ACRWC obligate states to ensure all children have dignified lives, regardless of disability and that their environments enable their full participation in society. Ghana's *Constitution* upholds these rights for all people and the *Children's Act* confirms the rights of children with disabilities.

Recommendations

Under the UNCRC and ACRWC, harmful customary practices such as child marriage are human rights violations and this core standard is upheld by Ghana's *Constitution* and the *Children's Act*. However, its absence from the *Criminal Code* means that there is no criminal penalty for men who marry children or for those who arrange such marriages. This lack of criminal enforcement leaves a significant gap in Ghana's ability to end child marriage. Therefore, a central recommendation resulting from this study is to amend the Criminal Code to define marriage to a child as a felony subject to a significant term of imprisonment. This can be achieved by an Act of parliament amending the Section 109 of the *Criminal Code* to criminalize child marriage.

Failure to register a birth or marriage contributes to child marriage and its cascading impacts on child brides and survivors has been well-documented. Yet it is not a criminal offence to fail to register a birth or marriage. Therefore, a second vital recommendation is to strengthen enforcement of rights to birth and marriage registration. This can be done through an all-inclusive public education on registration of births and marriages. This campaign to educate the public should be widespread in every community in Ghana, especially in localities where child marriage is common. The campaign should adopt the specific local language of the communities so that there will not be any language barrier. The process of birth and marriage should be free if possible. If not, it should be affordable and simple to go through.

Poverty is a key driver of child marriage, it keeps child brides in servitude, and it threatens the survival of children whose marriages have ended. The UNCRC and ACRWC both obligate states to provide an adequate standard of living for every child. Yet universal social insurance is not a *Constitutional* right, nor is it mandated in the *Children's Act*. In order to eliminate child

marriage, children and their parents must be economically secure. The government must provide social assistance as well as programs that promote employment, retraining, and food security. Interestingly, in June 2023, the Government of Ghana received financing for its “Productive Safety Net Project 2” which will expand social safety nets, increase access to income generating activities, and support the School Feeding Program which provides nutritious food to 3.6 million children across all regions (World Bank, 2023). Of course, the challenge of such financing is the debt it incurs for the government, which must be repaid to the World Bank.

Although the UNCRC and ACRWC mandate states to ensure the highest attainable standard of health for all children, including universal health care, this is not a *Constitutional* right nor is it addressed in the *Children’s Act*. However, Ghana does have a universal health care system and a national health insurance scheme (since 2004), although it is inadequate to fund health services for all citizens and it is difficult for those in the “informal work sector” to pay the premiums (Macha et al., 2012). The NHIS should be free for households in rural communities and strengthened to cover more areas like surgeries for fistula.

Finally, clarity is needed on whether Ghana’s laws prohibit discrimination on the basis of age. This is not explicitly stated in the *Constitution*, but it is a non-discrimination criterion under the *Children’s Act*. And while both statutes uphold the right to a dignified life for people with disabilities, there is evidence of lack of enforcement. A 2022 report on human rights practices in Ghana found that children with disabilities are often targeted for abuse, stigmatized as having “demonic afflictions,” and vulnerable to infanticide as “spirit children” (US Department of State, 2022). In addition, substantial barriers were identified to accessing education and health services for people with disabilities. Therefore, there is a substantial need for public education, as well as enforcement of non-discrimination laws. This can be started in schools, where children should be

taught to respect people irrespective of their physical, social or economic conditions. Community centers can be targeted to meet community leaders to educate them on the right standards identified above. Then a door-to-door campaign by the leaders could be conducted to promote these rights in the communities.

Limitations of the Present Study

Although this study successfully identified key human rights standards relevant to girls before, during and after marriage, as well as some of the laws that uphold them, there were some limitations to this study. First, it is important to note that there are additional international human rights treaties ratified by Ghana that address related issues. These include: the *International Covenant on Economic, Social and Cultural Rights*; *Convention on the Elimination of All Forms of Discrimination against Women*; *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*; *International Covenant on Civil and Political Rights*; and *Convention on the Rights of Persons with Disabilities*. Some of these treaties have Optional Protocols addressing issues that the “parent treaty” may not adequately cover. In fact, the UNCRC has *Optional Protocols on the Sale of Children, Child Prostitution and Child Pornography* and on the *Involvement of Children in Armed Conflict*, both of which are relevant to child marriage. Moreover, Ghana has ratified continental/regional treaties that are highly relevant to child marriage, including: the *African Charter on Human and Peoples' Rights*; *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa*; and *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa*. While it was not feasible to examine all of these treaties in this study, it is important to note that relevant additional human rights standards likely exist and

their implementation must be examined before firm conclusions can be drawn about the situation in Ghana.

Second, Ghana has additional legal statutes which could reveal aspects of implementation that were not uncovered in this study. These include: the *Ghana Health Service and Teaching Hospitals Act - 1996* (Act 525); *Mental Health Act 2012* (Act 846); *National Health Insurance Act, 2021* (Act 1061) I; *Public Health Act, 2012* (Act 851); *Marriages Act 1884-1985, Cap 127*; and *Education Act, 2008* (Act 778).

Third, this study has not examined whether the laws upholding the rights standards are actually enforced. Laws without enforcement are merely theories. If the responsibility is solely on the victim to report her victimization, enforcement of laws could be minimal. Further, some or all of the rights standards identified in this study may be implemented through policies, services and programs, rather than through legal statutes. It may also be the case that there is implementation “on paper” but the potential beneficiaries are not aware of it or do not know how to (or are unable to) access legal recourse or service provision. As shown in Chapter 1, some pregnant child brides lose their lives whilst on their way to the nearest health facility. Some must cross rivers to access these facilities or ride on motor bikes due to the lack of ambulance services in the remote areas of Northern Ghana. Therefore, even where child rights treaties have been ratified, laws are in place, and facilities are present. This is because, lives of mothers and children can be lost if none are accessible.

Recommendations for Future Studies

The aim of this study was to reveal the human right standards relevant to child brides and to assess whether they are upheld in Ghana’s laws. An important direction for future research is

identifying and analyzing whether Ghana's policies, programs and services promote or contribute to the implementation of these right standards and or the laws. Another important area for research is the level of knowledge that victims of child marriage possess about their rights and the laws intended to protect them. Research in these two areas would make a substantial contribution to understanding why child marriage is still practiced in Ghana and would identify routes to its elimination as well as improving the standard of living of victims better. A third area of needed research is comparisons of Ghana with other countries that have done better or worse regarding child marriage to identify specific policies, programs and services that make a difference to prevalence rates and to the well-being of survivors. This will help figuring out what might help Ghana. There is also the need for a theoretical approach in this area of research to examine the role of the state in general, and the welfare state in particular, in perpetuating/mitigating child marriage.

Summary and Conclusion

In Ghana, child marriage remains common, particularly in the Northern Sector, despite the country's ratification of two child rights treaties – the UNCRC and ACRWC. Its continuing prevalence contributes to serious physical and mental health problems in children (and their children), as well as poverty, exploitation, violence and illiteracy. These issues constitute substantial threats to Ghana's social development. Ghana has taken important actions by ratifying the two international treaties on children's rights and through passing laws that implement some of the rights standards. However, further action is required to ensure that children are protected from marriage and that their rights are upheld during and after marriage.

The outcomes of child marriage are dire and can be deadly. This study has demonstrated that victims of child marriage possess rights that shield them from the harsh outcomes of early marriage and that most of these rights have the legal backing to hold violators accountable for their actions.

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