



## **Advancing Sexual and Reproductive Health and Rights in Ghana through the Universal Periodic Review**

### **SuR: Ghana**

**28th Session of the Universal Periodic Review  
United Nations Human Rights Council  
November 2017**

Written submission by

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## **I. Summary**

1. Ghana has endorsed international commitments towards ensuring everyone's right to sexual and reproductive health, as well as adopted several legislative and administrative measures to implement such commitments. In this vein, Ghana has collaborated with international organisations and civil society around punctual policies. However, effective policy implementation should be regarded as the major challenge for an improved human rights performance, in particular in the field of Sexual and Reproductive Health and Rights (SRHR).
2. In particular, the persistence of entrenched social, traditional and religious conceptions and practices around gender and sexuality has proven to curb the potential impact of Governmental policies on sexual and reproductive health, and acts as a political deterrent for the adoption of new and more comprehensive policies in this regard.
3. In most cases, this policy deficit concentrates its effects on already vulnerable groups, namely women and girls, people living in poverty, in rural areas and those belonging to minorities.

**Key words:** *Abortion, Comprehensive Sexuality Education, Sexual Orientation and Gender Identity, Violence and Discrimination Against Women, Harmful Traditional Practices, Sexual and Reproductive Health and Rights.*

## **II. International commitments and previous reviews**

4. Ghana has ratified all major international human rights conventions, except for the Convention for the Protection of All Persons from Enforced Disappearance and Optional Protocols to the International Covenant on Civil and Political Rights (CCPR) and the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Despite having a good ratification record, Ghana's reporting status and alignment of national law and policies with treaty bodies' developments can be improved, particularly in the field of Economic, Social and Cultural Rights.
5. Ghana has also expressed commitment to the Programme of Action of the International Conference on Population and Development (ICPD), the Beijing Platform for Action and the Sustainable Development Goals (SDG). The country has also been active in giving and receiving recommendations during the Universal Periodic Review cycles. Yet, the country still faces major challenges in implementing international commitments related to Sexual and Reproductive Health and Rights (SRHR), particularly concerning women and girls, young people and those belonging to vulnerable groups.
6. According to its official position, Ghana has taken legislative and administrative steps towards recognition, protection and fulfillment of everyone's right to sexual and reproductive health. Yet, there is still a need for more resolute political will and action to effectively implement those rights. In particular, efforts to overcome the persistence of

harmful customary conceptions, practices and stereotypes about women, gender roles and sexuality are urgently required for Ghana to comply with its international human rights commitments.

### **III. Violence, discrimination and harmful traditional practices**

7. During its latest UPR, Ghana received and accepted 30+ recommendations calling for more resolute action against sexual, domestic and gender-based violence, against discrimination against women, and towards eradication of harmful traditional practices (such as child marriage, slavery, and female genital mutilation). Treaty Monitoring Bodies have also assessed the performance of the state in this regard<sup>1</sup>.

8. Ghanaian domestic law criminalises sexual, domestic and gender-based violence through different instruments. Some National Action Plans, administrative bodies and instruments have also been adopted<sup>2</sup>. However, current legislation and policies are deemed insufficient<sup>3</sup> and the persistence of discrimination, rape, sexual harassment at school, the workplace and the public sphere, early and forced marriages, domestic violence and female genital mutilation, as well as impunity on this regard, is still one of the major challenges to overcome, together with unwillingness to report and prosecute these cases<sup>4</sup>.

#### **9. Recommendation:**

- Ghana must ensure the effective implementation of national legislation aimed to eradicate all forms of violence and discrimination against women (such as the Domestic Violence Act and the legal prohibition of early and forced marriage and the practice of *trokosi*, etc.); by committing to report such crimes, by fighting impunity in reported cases, as well as by strengthening knowledge and resources and promoting attitudinal change among judges, prosecutors, lawyers, police, health care providers and social service institutions, religious and traditional leaders and communities.
- Ghana must ensure that victims of any kind of harmful practices, discrimination or violence against women, despite their location, marital status or socioeconomic conditions, are entrusted to report any violation of her rights to the authorities by, inter alia, granting them full access to justice and integral reparation, including medical and legal assistance, economic and psychological support, shelter as required, counselling and rehabilitation, etc.

### **IV. Access to safe abortion**

10. Ghanaian law prohibits abortion, except in exceptional cases, namely: rape, incest, risk to the life of the woman or likely injury to her mental or physical health, as well as in cases of risks or serious abnormality or disease with the foetus. It should be remarked

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<sup>1</sup> See, CEDAW. Concluding observations on the combined sixth and seventh periodic reports of Ghana. CEDAW/C/GHA/CO/6-7. 2014.

<sup>2</sup> Ghana. National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21. A/HRC/WG.6/14/GHA/1. Para. 15, 18, 41, 43, 52, 60, 74, 75, 78, i.a.

<sup>3</sup> CEDAW. Cit. Para. 10-14, i.a.

<sup>4</sup> CEDAW. Cit.; United Nations. The World's Women 2015: Trends and Statistics. New York. UN Department of Economic and Social Affairs. Statistics Division. Sales No. E.15.XVII.8.

that socioeconomic reasons or abortion on demand are not decriminalised in the country<sup>5</sup>. When legal, abortions can only be performed by a doctor or a midwife in a registered health-care facility, which raises concerns about the availability of such service, particularly in rural areas.

11. Despite exceptional decriminalisation, most of the abortions performed in Ghana are still unsafe, representing the second highest cases of maternal mortality and one of the main causes of long-term maternal morbidity in the country<sup>6</sup>. Remaining legal restrictions, lack of accessibility and affordability, lack of access to information and contraception, increasing rates of unwanted/untimed pregnancies, together with stigma and social rejection of premarital sexual activity, among others, have been identified as major causes of unsafe abortion<sup>7</sup>. Lack of knowledge and stigma play a major role in women's reluctance to seek post-abortion care, particularly among young women<sup>8</sup>.

12. In a context characterised by ambiguous interpretation of domestic law, lack of access to family planning and stigma, it can be concluded that maintaining the criminalisation of abortion on demand lays a disproportionate burden on women, particularly women in vulnerable situations, namely the young, the poor and those living in rural areas, as appointed by Treaty Bodies<sup>9</sup>.

13. Ghana's commitment to fighting violence and discrimination against women, as well as fighting maternal mortality and morbidity as contained, i.a., in the 2030 Agenda for Sustainable Development demands to ensure women access to safe and legal abortion on demand.

#### 14. **Recommendation:**

- Ghana's Government, in association with relevant state and non-state stakeholders, must continue fighting maternal mortality and morbidity by institutionalising and implementing programmes aimed to enhance access to comprehensive and safe abortion, with special focus on the root causes leading to unsafe abortion, and taking special consideration of the most vulnerable groups and locations, as already recommended by the Committee on the Elimination of Discrimination Against Women.
- Ghana's Government must take all necessary legislative and administrative steps in order to provide effective physical and legal access to safe abortion by, inter alia, decriminalising abortion on demand, fighting discrimination and stigma, and increasing awareness and availability of family planning, abortion and post-abortion information and service among public servants, health-care providers and potential users, as already recommended by the Committee on the Elimination of Discrimination Against Women.

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<sup>5</sup> Ghana Criminal Code, art. 58, 67. See <https://cyber.harvard.edu/population/abortion/Ghana.abo.html>

<sup>6</sup> Guttmacher Institute. Abortion in Ghana. In Brief. 2010. Series No. 2; CEDAW. Cit. Para. 36.d.

<sup>7</sup> Guttmacher Institute. Abortion in Ghana. Fact Sheet. 2013.

<https://www.guttmacher.org/sites/default/files/factsheet/fb-abortion-in-ghana.pdf>

<sup>8</sup> CEDAW. Cit. Para 32, 36, 38.

<sup>9</sup> Human Rights Committee. Concluding observations on the initial report of Ghana. CCPR/C/GHA/CO/1. 2016, para. 23. CEDAW, Cit.

## V. Comprehensive Sexuality Education

15. Ghana has expressed a strong commitment towards achieving gender equality and universal access to education<sup>10</sup>, including political support to comprehensive sexuality education<sup>11</sup>. To this end, Ghana has adopted some policies on health and population, including components aimed to enhance young people's access to information on sexual relationships, fertility regulation, marriage and childbearing, sexual and reproductive health and responsible parenthood<sup>12</sup>.

16. Yet, there is no official policy for providing youth with the necessary knowledge and skills for facing serious challenges preventing them from reaching their full developmental potential, namely: teenage pregnancy and childbearing rates, girls' school drop-out due to pregnancy, teen marriage, teenage unsafe abortion, maternal mortality and harmful customary practices<sup>13</sup>.

17. Joint state and non-state efforts aiming to provide comprehensive sexuality education have addressed the current significant lack of knowledge among teachers, students, and parents<sup>14</sup>. Nevertheless, the absence of a standardised and comprehensive content for sexuality education within school curricula, together with traditional views on sexuality as a taboo, reduces the positive impact that comprehensive sexuality education could have on reaching youth's full developmental potential<sup>15</sup>.

### 18. **Recommendation:**

- The Government must take legislative and administrative steps for integrating comprehensive sexuality education, in accordance with Unesco's technical guidance on the topic, into the national school curricula for primary and secondary education.
- The Government must take all administrative and financial measures for guaranteeing universal access to comprehensive sexuality education, including sufficient training of teachers, as well as sufficient information and knowledge to youngsters, their parents and other relevant stakeholders.
- The Government must engage with all relevant stakeholders, including traditional and religious leadership at the local level, to promote positive, non-judgmental and evidence-based attitudes towards gender and sexuality, as a step for combatting harmful traditional practices, such as *trokosi*, child and forced marriage, female genital mutilation, etc.

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<sup>10</sup> Ghana. Ghana – Vision 2020. Presidential Report on Coordinated Programme of Economic and Social Development Policies. 1995. Pag. 45-46.; Ghana. National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, para. 82, 85, i.a.

<sup>11</sup> See, Resolution HRC 32/19, para. 9, 14.c; HRC Secretariat. Final List of Original and Additional Co-Sponsors 32<sup>nd</sup> regular session, record on L.28/Rev.1 orally revised.

<sup>12</sup> Ghana. Ghana Adolescent Reproductive Health Policy. National Population Council. 2000; Ghana. Child and Family Welfare Policy. Ministry of Gender, Children and Social protection. 2015. <http://www.bettercarenetwork.org/sites/default/files/Child%20and%20Family%20Welfare%20Policy%20-%20Ghana.pdf>; Ghana. Justice for Children Policy. Ministry of Gender, Children and Social protection. 2015. <http://www.mogcsp.gov.gh/policies/Justice%20For%20Children%20Policy.pdf>

<sup>13</sup> Ghana Statistical Service. Demographic and health survey. 2014. Chapters 4-10.

<sup>14</sup> See, for instance, the programmes "The World Starts with Me", the "FLASH Programme" and "She+", implemented in association with national and international civil society.

<sup>15</sup> Ghana Statistical Service. Demographic and health survey. Cit. pag. 69, 70.; CEDAW. Cit., para. 33.

## VI. Sexual Orientation and Gender Identity

19. Ghanaian domestic law criminalises “unnatural carnal knowledge”<sup>16</sup>, which has widely been interpreted as the legal basis for criminalising same-sex relations in the country. On the other hand, Ghanaian constitutional provisions entitle everyone the right to not being discriminated against, the right to equality before the law and the right to privacy<sup>17</sup>. This ambivalence and the lack of sound policy against discrimination based on sexual orientation and gender identity has led to the systematic denial of LGBT-persons’ human rights<sup>18</sup>.

20. Social stigma and religious prejudice are two major causes behind systematic violence and discrimination against LGBT-persons<sup>19</sup>. Also, and regardless of the actual enforcement of such legal provision, the sole association of LGBT-persons with a criminal activity reinforces stigmatising opinions on them and acts as a deterrent for LGBT-persons to feeling confident to approach the state, namely for reporting cases of violence and discrimination, but also for seeking health-care information and services.

21. During the 2<sup>nd</sup> UPR cycle, Ghana received a significant amount of recommendations concerning Sexual Orientation and Gender Identity. Unfortunately, most of them were not accepted. Given the persistence of the challenges on this important topic, the 3<sup>rd</sup> UPR cycle presents a new opportunity for Ghana to take effective action towards respect, protection and fulfilment of human rights of LGBT-persons.

### 22. *Recommendation:*

- Ghana’s Government must take all legislative and administrative measures in order to decriminalise same-sex relations between consenting individuals.
- Ghana’s Government must adopt a comprehensive policy for fighting social stigma, harassment, violence, impunity and discrimination based on sexual orientation and gender identity. Such policy should include awareness raising and attitudinal change among public servants, private stakeholders, such as media figures, politicians, religious and traditional leaders and communities.

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<sup>16</sup> Ghana Criminal Code. Art. 108.

<sup>17</sup> Constitution of Ghana, art. 17, 18.

<sup>18</sup> Human Rights Committee. Cit. Para 43, 44.

<sup>19</sup> Human Rights Committee. Cit.; The Guardian. Article “These are our rights: Ghana’s LGBT community finally finds solace. February 2016. <https://www.theguardian.com/global-development/2016/feb/11/these-are-our-rights-paralegals-empowering-lgbt-ghana>