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CHILD LABOR LAWS AND POLICIES IN GHANA

**WITH SPECIFIC EMPHASIS ON THE
COCOA SECTOR**

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Acronyms

CFI	Cocoa and Forest Initiative	LEAP	Livelihood Empowerment Against Poverty
CHRAJ	The Commission on Human Rights and Administrative Justice	MELR	Ministry of Employment and Labor Rules
CLaT	Child Labor and Trafficking	MINTER	Ministry of Interior
CLFZ	Child Labor Free Zones	MMDA	Metropolitan, Municipal and District Assemblies
COCOBOD	Ghana Cocoa Board	MMDPCP	Metropolitan/ Municipal/District/Child Protection Committees
CP/LC	Child Protection/Labor Committee	MoGCSP	Ministry of Gender, Children and Social Protection
CSO	Civil Society Organization	NEP	National Employment Policy
DA	District Assemblies	NGO	Non-governmental Organization
DICAP	Development and Implementation of Community Action Plans	NLC	National Labor Commission
EU	European Union	NPA	National Plan of Action
FCUBE	Free Compulsory Universal Basic Education	NSCCL	National Steering Committee on Child Labor
GCLMS	Ghana Child Labor Monitoring System	NTC	National Tripartite Commission
GEA	Ghana Employers' Association	RAP	West African Regional Action Plan
GoG	Government of Ghana	SDGs	Sustainable Development Goals
GSGDA	Ghana Shared Growth and Development Agenda	SOP	Standard Operating Procedure
HAF	Hazardous Activity Framework	TSC	Technical Sub-Committee
ICT	Information and Computer Technology	UN CRC	United Nations Convention on the Rights of the Child
ILO	International Labor Organization	WACAP	West Africa Cocoa and Commercial Agriculture Project
IPEC	International Program on the Elimination of Child Labor	WFCL	Worst Forms of Child Labor

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Executive Summary

This report, by Ghanaian Law Firm Taylor Crabbe, details the legislative and institutional framework for the protection of human and labor rights, and specifically child labor, in Ghana. It concludes that there is an elaborate existing legislative and institutional framework for the protection of labor and human rights in Ghana, including detailed laws and policies for combatting the exploitation of children as laborers.

This framework is anchored in the 1992 constitution and consists of various acts of Parliament, notably the Children's Act (1998), the Labor Act (2003), and the Human Trafficking Act (2005). Ghana has also ratified the key International Human Rights and International Labor Organization (ILO) conventions, including ILO 182 on the Worst Forms of Child Labor (WFCL).

This report details the legal framework as well as the relevant government policies and action plans guiding the implementation or enforcement of the legal framework. These include a National Social Protection Policy, a Child and Family Welfare Policy, and a National Action Plan (Phase II) concerning the WFCL (2017-2020), as well as a National Action Plan for the Elimination of Human Trafficking (2017-2021).

Despite this extensive legal framework and a range of relevant implementation initiatives, it is well documented that child labor, including the WFCL, remains prevalent in Ghana; specifically, in the agriculture (cocoa), forestry, and fishing sectors, although data does suggest that it is declining.

To address child labor, this report makes several recommendations including raising awareness of incidences and the illegal nature of child labor, a realignment of mandates and recourses of enforcement agencies, and improvement of the legislative and institutional architecture for addressing child labor. These recommendations must go hand in hand with measures addressing the root causes of child labor such as the extreme poverty of most cocoa farmers.

Addressing child labor is also important because important consumer markets, notably the European Union (EU), the Netherlands, and the United States, are considering or have already passed policies to regulate the import of cocoa and other forest-risk commodities to ensure these imports are not produced with child labor and do not lead to deforestation.

The EU has indicated a desire to collaborate with Ghana to address child labor and deforestation concerning cocoa and is discussing with the Government of Ghana what this could look like. These discussions may help support the required change in Ghana described in this report.



BACKGROUND

Defining Child Labor

Child labor is defined by the ILO as work that deprives children of their childhood, their potential and dignity, and that is harmful to physical and mental development.¹ The ILO also points out that it is important to make a distinction between working children and child labor.² There are many children that occasionally help on family cocoa farms, this can contribute to the child's development and help prepare them to be productive members of society. Hence, not all work done by children should be classified as child labor that is to be targeted for elimination.

It is, however, a global priority to eliminate the WFCL³ as defined by Article three of ILO Convention 182.⁴ WFCL involves (1) all forms of slavery or practices similar to slavery; (2) the use, procurement, or offering of a child for prostitution, for the production of pornography or for pornographic performances; (3) the use or offering of a child for illicit activities; and (4) work which is by its nature or the circumstances in which it is carried out, likely to harm the health, safety, or morals of children.

Child Labor in Ghana

In the case of Ghana, the minimum age for engaging a child in “light work” is 13 years⁵ and for regular work is 15 years.⁶ Light work constitutes work which is not likely to be harmful to the health or development of the child and does not affect the child's attendance at school or the capacity of the child to benefit from schoolwork.⁷

The law prohibits the engagement of a child in exploitative labor.⁸ Labor is exploitative if it deprives the child of its health, education or development. Children must also not be engaged in night work, e.g., work between the hours of eight o'clock in the evening and six o'clock in the morning.⁹ The minimum

¹ “What is Child Labor?” The International Labor Organization. <https://www.ilo.org/pec/facts/lang--en/index.htm> (Accessed March 4, 2020)

² “The Worst Forms of Child Labor” The International Labor Organization. <https://www.ilo.org/pec/facts/WorstFormsofChildLabour/lang--en/index.htm> (Accessed March 4, 2020)

³ Including by the Sustainable Development Goals of which 8.7 reads: Take immediate and effective measures to eradicate forced labor, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labor, including recruitment and use of child soldiers, and by 2025 end child labor in all its forms.

⁴ “Worst forms of Child Labor Convention No. 182” The International Labor Organization. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182 (Accessed March 4, 2020)

⁵ Section 89 of the Children's Act, 1998 (Act 560)

⁶ Section 90 of the Children's Act, 1998 (Act 560)

⁷ Section 90 of the Children's Act, 1998 (Act 560)

⁸ Section 87 of the Children's Act, 1998 (Act 560)

⁹ Section 88 of the Children's Act, 1998 (Act 560)

¹⁰ Section 91 of the Children's Act, 1998 (Act 560)

¹¹ Section 91 of the Children's Act, 1998 (Act 560)

age for the engagement of a person in hazardous work is 18 years.¹⁰ Work is hazardous when it poses a danger to the health, safety, or morals of a person.¹¹ This includes going to sea, mining and quarrying, portering of heavy loads, work in manufacturing industries where chemicals are produced or used, work in places where machines are used, and work in places such as bars, hotels and places of entertainment where a person may be exposed to immoral behavior.¹² These provisions apply to work both in the formal and informal sector.

Child labor, including the WFCL, remains prevalent in Ghana despite many attempts by both the Government and the private sector to address it, although it is declining in most sectors. An analysis of data from the Ghana Living Standards Survey (GLSS), examining rounds 6¹³ and 7,¹⁴ shows a significant decrease in child labor in all sectors, apart from the relatively small group of non-market services and manufacturing. (See Tables 1, 2, and 3.) It is noteworthy that the decline is most marked in the group of children between five and 12 years old.

Table 1: Population Distribution of Children Engaged in Child Labor (2012/2013)

Economic Activity	5-12 years	13-14 years	15-17 years	Total
Agriculture (including forestry and fishing)	1,120,989	441,225	605,967	2,168,180
Mining and Quarrying (including electricity, gas, and water)	4,173	2,308	5,535	12,016
Manufacturing	36,405	27,721	52,262	116,388
Construction	821	2,575	17,779	21,175
Market Services (including trade, accommodation, food, and business administration)	205,785	108,905	160,581	475,272
Non-market Services (including education, health, arts, community, and social services)	24,155	9,777	25,011	58,943
Total	1,392,328	592,511	867,135	2,851,974

Source: Ghana Statistical Services Data compiled, analyzed, and aggregated by Forest Trends.

¹² Section 91 of the Children's Act, 1998 (Act 560)

¹³ "Ghana Living Standards Survey Round 6" Ghana Statistical Service.
https://www.statsghana.gov.gh/gssmain/fileUpload/Living%20conditions/GLSS6_Main%20Report.pdf

¹⁴ "Ghana Living Standards Survey Round 7" Ghana Statistical Service.
https://www.statsghana.gov.gh/gssmain/fileUpload/pressrelease/GLSS7%20MAIN%20REPORT_FINAL.pdf

**Table 2: Population Distribution of Children Engaged in Child Labor (2017/2018)**

Economic Activity	5-12 years	13-14 years	15-17 years	Total
Agriculture (including forestry and fishing)	639,479	345,092	535,087	1,519,659
Mining and Quarrying (including electricity, gas, and water)	844	2,172	3,242	6,258
Manufacturing	26,072	24,847	66,394	117,313
Construction	-	1,619	6,558	8,177
Market Services (including trade, accommodation, food, and business administration)	105,112	50,975	130,664	286,751
Non-market Services (including education, health, arts, community, and social services)	26,744	24,724	62,502	113,970
Total	798,252	449,429	804,447	2,052,129

Source: Ghana Statistical Services. Data compiled, analyzed, and aggregated by Forest Trends.

Table 3: Percent Change in the Number of Children Engaged in Child Labor by Age and Sector (2012/2013-2017/2018)

Economic Activity	5-12 years	13-14 years	15-17 years	Total % change (by sector)
Agriculture (including forestry and fishing)	-43%	-22%	-12%	-30%
Mining and Quarrying (including electricity, gas, and water)	-80%	-6%	-41%	-48%
Manufacturing	-28%	-10%	27%	1%
Construction	-100%	-37%	-63%	-61%
Market Services (including trade, accommodation, food, and business administration)	-49%	-53%	-19%	-40%
Non-market Services (including education, health, arts, community, and social services)	11%	153%	150%	93%
Total % change (by age)	-43%	-24%	-7%	-28%

Source: Ghana Statistical Services. Data compiled, analyzed, and aggregated by Forest Trends.

A study by Tulane University¹⁵ provides the most detailed on the ground assessment of child labor in the cocoa sector in Ghana and Cote d'Ivoire. The study estimates that the number of children in hazardous work – classified as WFCL – in cocoa production in Ghana is declining, although the report estimates there were still around 880,000 children involved in the WFCL in 2013/2014 in the cocoa growing areas (a decrease of six percent from 930,000 in 2008/2009).

EU Regulation

The EU has recognized its responsibility as a consumer market by legislating to reduce market access for illegally harvested timber, conflict minerals, and the products of illegal, unregulated and unreported (IUU) fishing. It is now considering a regulation that would require companies to ensure transparency in their supply chains and to monitor and mitigate the negative impact of their imports on forests and human rights.¹⁶ Child labor has been given specific prominence, with the European Commission President calling for zero tolerance for child labor in her political guidelines for the new Commission.¹⁷

Furthermore, a number of EU Member States have developed laws that introduce Human Rights Due Diligence (HRDD) obligations for companies and corporate liability. The French duty of vigilance law (2017) and the Dutch child labor due diligence law (coming into force in 2021) are the most developed, with similar laws in various stages of drafting being considered in Germany, Switzerland, Austria, Finland, and Italy.¹⁸

The European Commission work program includes legislative action on Sustainable Corporate Governance by the end of 2020. The European Parliament's Human Rights Subcommittee is also working on a Non-legislative Report on Human Rights Due Diligence legislation.

In terms of cocoa specifically, the EU is considering how best to ensure that the cocoa it imports from abroad will not be from areas which have been deforested and is not grown or processed using child labor. Given that by far most of Ghana's exports go to the EU (Figure 1), this is particularly relevant.

Within the EU, the Netherlands is by far the largest importer of cocoa (Figure 2). Hence the Dutch child labor law, coming into force in 2021, is specifically relevant as it requires all companies that deliver products or services to the Dutch market to determine whether child labor occurs in their supply chains, and requires companies to set out a plan of action on how to combat it.

¹⁵ "Survey Research on Child Labor in West African Cocoa Growing Areas" Tulane University. Available: https://www.dol.gov/sites/dolgov/files/ILAB/research_file_attachment/Tulane%20University%20-%20Survey%20Research%20Cocoa%20Sector%20-%2030%20July%202015.pdf

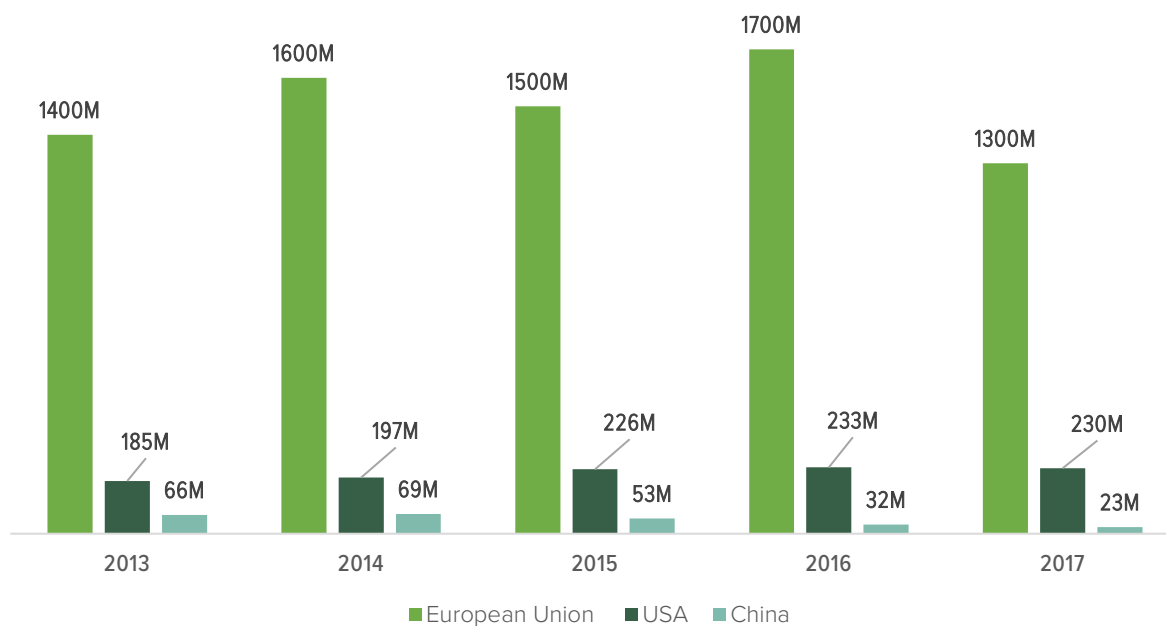
¹⁶ "The European Green Deal" European Parliament. https://www.europarl.europa.eu/doceo/document/TA-9-2020-0005_EN.pdf (Accessed March 4, 2020)

¹⁷ Direct quote from Ursula Von der Leyen, President of the European Commission's candidacy agenda: "I will ensure that every new agreement concluded will have a dedicated sustainable-development chapter and the highest standards of climate, environmental and labor protection, with a zero-tolerance policy on child labor." Available: https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission_en.pdf

¹⁸ "ECCJ publishes comparative legal analysis of HRDD and corporate liability laws in Europe." The European Coalition for Corporate Justice. <https://corporatejustice.org/news/16783-eccj-publishes-comparative-legal-analysis-of-hrdd-and-corporate-liability-laws-in-europe> (Accessed March 4, 2020).

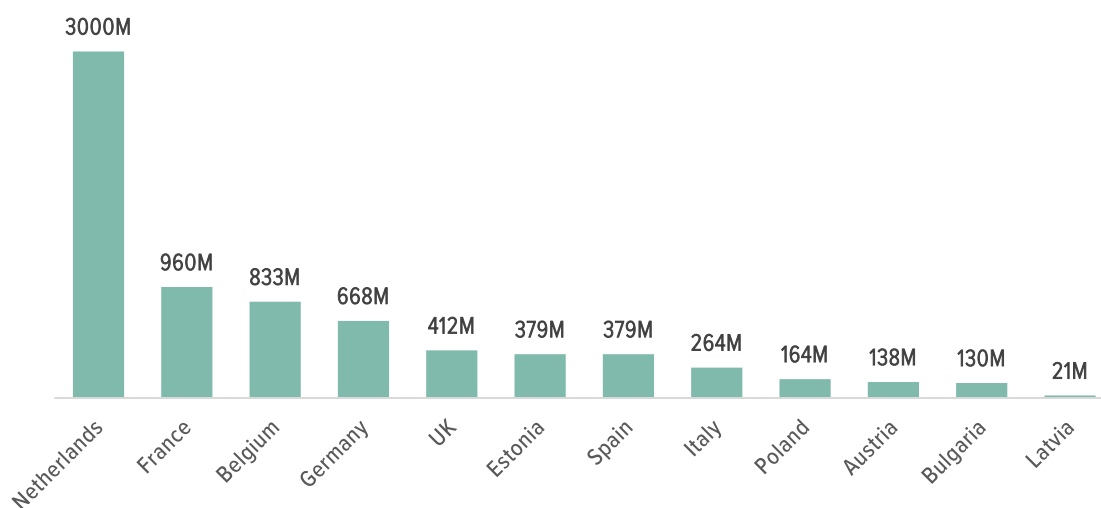


Figure 1: Total Value of Cocoa (HS18) Imports from Ghana to the EU, the USA, and China (2013-2017)



Source: UN Comtrade Data. Compiled by Forest Trends in 2019. Note: Data are presented in Millions (M) USD.

Figure 2: Top 10 European Importers by Value of Cocoa (HS18) From Ghana (2013-2017) (USD)



Source: UN Comtrade Data. Compiled by Forest Trends in 2019. Note: Data are presented in Millions (M) USD.

The private sector encourages the EU to take regulatory action. Companies like Mars, Mondelez, and Barry Callebaut have released a statement calling on the EU to negotiate bilateral agreements with governments in cocoa producing countries, as well as to establish a demand-side regulatory and policy framework to encourage sustainable cocoa production and sustain market demand for cocoa from West Africa. This statement was also supported by Nestle and Tony Chocologely, and a similar call was made by the industry group European Cocoa Association (including OLAM and Cargill, amongst others).

All of these “demand side” laws are more likely to have the positive impact that regulators seek if they are designed to support local governance processes and respect local laws. It is therefore important to understand the legal and institutional frameworks in the countries which will be impacted by these laws, as is the aim of this study.

CHAPTER I: NATIONAL LEGAL FRAMEWORK CONCERNING LABOR AND HUMAN RIGHTS IN GHANA

1.1 Introduction

The Ghanaian child labor and human rights-related legal framework is anchored in provisions in the 1992 Constitution. The Constitution is the supreme law of Ghana and all other laws promulgated in Ghana must conform to the Constitution or risk a declaration of nullity by the Supreme Court.

The Constitution has substantive provisions on labor and human rights. It creates and tasks certain institutions with the protection of fundamental human rights and freedoms. The Constitution further enjoins the legislative arm of Government, the Parliament, to make laws that ensure the protection of particular groups in Ghana. There also exist in the legal framework Acts of Parliament and Legislative Instruments that make provisions for human and labor rights.

A complete appreciation of the human and labor rights legal framework of Ghana requires an assessment of provisions in law that guarantee and ensure the protection of rights and freedoms as well as the institutions tasked with this responsibility.

This report first discusses what constitutes “the hierarchy of laws of Ghana” to provide an understanding of both the hierarchical and vertical structure of the laws, and to show how a conflict is resolved. Second, it discusses the nature and scope of the provisions on human rights, including child labor rights, in the Constitution. Third, it gives a broad overview of other human and labor rights legislation in Ghana and their mandate. Fourth, it presents an overview of findings from relevant existing studies and interviews with key enforcement actors regarding child labor issues in Ghana. Finally, it presents some recommendations on how to begin closing the gap between the relatively strong legal framework addressing labor and human rights and the lack of enforcement within this framework.

1.2 The Hierarchy of Laws in Ghana

The 1992 Constitution of Ghana pursuant to Article 1(2) is the supreme law of Ghana. Article 11 of the Constitution sums up the sources of law in Ghana as: The Constitution; enactments made by or under the



authority of Parliament; any Orders, Rules, and Regulations made by any person or authority under a power conferred by the Constitution (subsidiary legislation); the existing law; and the common law, which includes customary law. Although it is not specifically stated, Article 11 suggests a hierarchy of laws in Ghana placing the Constitution at the apex.

Ghana is a dualist state in terms of its incorporation of international law. In this regard, international treaties, agreements, and conventions must be ratified by Ghana's parliament to become enforceable in the law courts in Ghana.^{20,21}

Policies are not stated as a source of law in Ghana. The Constitution under Chapter Six provides for the Directive Principles of State Policy which serve as a guide to the agencies of State in the making of policies. Policies are considered merely as guidelines to the actions of Government and are generally not enforceable. Policies are, however, indicative of government action and intentions.

1.3 Constitution of the Republic of Ghana (1992), and Human Rights and Freedoms

This section discusses the national legal framework on human and child labor rights in Ghana. In addition, it highlights key governmental policies on matters of human and child labor rights.

The protection and preservation of rights is identified in the preamble of the Constitution as one of the principles upon which the people of Ghana adopted the Constitution in 1992. While the basic legal framework for human rights is provided for by the Constitution under Chapter Five, a recent Supreme Court decision²² suggests that provisions of Chapter Six can be considered as human rights provisions to the extent that some of the provisions in that chapter reflect social, economic, and cultural rights.

Chapter Five is titled "Fundamental Human Rights and Freedoms." There is no definition of the term "fundamental human rights" in the Constitution but the prefix is often attributed to the naturalist idea of the origin of rights. Article 33 (5) under Chapter Five declares that the rights and freedoms enshrined in the Constitution are not exclusive and that rights and freedoms which have not been specifically mentioned in the chapter, but are considered inherent in a democracy and intended to secure the freedom and dignity of man, may be enforced in Ghana.

²⁰ The existing law refers to written and unwritten laws of Ghana which existed immediately before the promulgation of the Constitution. Examples of the existing law therefore include (i) Laws of the Gold Coast (1951 Rev); (ii) the 1952-57 Ordinances of the Gold Coast; (iii) 1957-60 Acts of Ghana;

²¹ Article 75 of the 1992 Constitution of Ghana

²² Ghana Lotto Operators Association et v. National Lottery Authority [2007-2008] 2 SCGLR 1088

Figure 3: Key rights dealing with labor and human rights related issues in the 1992 Constitution

Rights	Article	Scope
Right to life	Art. 13	No person shall be deprived of his or her life intentionally except in the exercise of a sentence of a court in respect of a criminal offence under the laws of Ghana.
Right to personal liberty	Art. 14	The personal liberty of a person may be curtailed in the execution of a sentence or order of court in respect of a criminal conviction or contempt of court; for purposes of executing an arrest warrant made by court; in the case of a person suffering from a contagious or mental disability to treat him or protect the community; or for educating a person below eighteen; or for immigration control such as deportation; or where a person is suspected to have committed or is about to commit an offence.
Human dignity	Art.15	The Constitution safeguards human dignity. It provides that the dignity of all persons shall be inviolable. It also provides that no person in Ghana under any circumstances should be subjected to torture or other cruel, inhuman or degrading treatment or punishment. It further requires that juvenile offenders kept in lawful custody or detention must be kept separately from adult offenders.
Protection from slavery and forced labor	Art. 16	Prohibits “slavery”, “servitude” or “forced” labor. It defines “forced labor” to preclude any labor required as a result of a sentence or order of a court; or any labor required of a member of a disciplined force or service as his duties or, in the case of a person who has conscientious objections to a service as a member of the Armed Forces of Ghana, any labor which that person is required by law to perform in place of such service; or any labor required during any period when Ghana is at war or in the event of an emergency or calamity that threatens the life and well-being of the community, to the extent that the requirement of such labor is reasonably justifiable in the circumstances of any situation arising or existing during that period for the purposes of dealing with the situation; or any labor reasonably required as part of normal communal or other civic obligations.
Economic rights	Art 24	Provides that every person has the right to work under satisfactory, safe and healthy conditions, and shall receive equal pay for equal work without distinction of any kind. Workers have the right to form or join trade unions of their choice for the protection of their economic and social interests.
Cultural rights	Art 26	Constitution 1992 guarantees the cultural rights of persons in Ghana under Article 26. Every person is entitled to enjoy, practice, profess, maintain and promote any culture, language, tradition or religion subject to the provisions of this Constitution.
Children’s rights	Art 28	Guarantees the rights of children to education, health care and seeks to safeguard their dignity. It seeks to protect a child from engaging in work that constitutes a threat to his health, education or development.

1.4 Acts of Parliament

1.4.1 Children’s Act, 1998 (Act 560)

The Children’s Act, 1998 (Act 560) was passed pursuant to Article 28 of the Constitution. It provides for the rights of children, maintenance, and adoption matters. The long title of the Act states that the Act was



promulgated to also regulate child labor and apprenticeship.²³ The Act was amended in 2016 with the passage of the Children's (Amendment) Act, 2016 (Act 937). The Act applies to all children found within the territory of Ghana.

Section 1 of Act 560 defines a child as "a person below the age of 18 years." Section 2 proceeds to state a welfare principle that "the best interest of the child shall be paramount in a matter concerning a child."

The Act permits the engagement of children in labor but provides strict conditions for such engagements. Section 12 of the Act prohibits any person from engaging a child in exploitive labor. The Act defines exploitive labor as any labor that deprives a child of health, education, or development.

Section 88 of the Act prohibits children from night work between the hours of eight o'clock in the evening and six o'clock in the morning.

The Act provides a minimum age for children in work under two circumstances. Where the work is "light work,"²⁴ the minimum age is 13 years. Where it is not light work, it is 15 years. The Act defines light work as work which is not likely to be harmful to the health or development of the child and does not affect the child's attendance at school or the capacity of the child to benefit from schoolwork.

Children are barred in the Act from engaging in hazardous work that poses a danger to health, safety, or morals of a person. Hazardous work includes going to sea, mining and quarrying, portorage of heavy loads, manufacturing where chemicals are produced or used, work in places where machines are used, or work in places such as bars, hotels, and places of entertainment where a person may be exposed to immoral behavior.

The Ministry of Gender, Children and Social Protection (MoGCSP) was created by an Executive Instrument 1 (E.I. 1) in January 2013 as a successor to the Ministry of Women and Children's Affairs. The primary objective for its establishment was to have a Ministry responsible for policy formulation, coordination, and monitoring and evaluation of Gender, Children and Social Protection issues within the context of the national development agenda. The Minister is the political head of the Ministry. Deputy Ministers report directly to the Minister. The Chief Director is the Administrative Head of the Ministry. The Ministry has six Directorates, three Departments and six Agencies. There is a department for children and a secretariat that addresses the issues related to human trafficking.

1.4.2 Labor Act, 2003 (Act 651)

Ghana's Labor Act, 2003 (Act 651) amends and consolidates the laws relating to labor, employers, trade unions, and industrial relations. It establishes a National Labor Commission whose main function is to facilitate and settle industrial disputes and to promote effective labor cooperation between labor and management.

²³ The Children's Act, 1998 An Act to reform and consolidate the law relating to children, to provide for the rights of the child, maintenance and adoption, regulate child labor and apprenticeship, for ancillary matters concerning children generally and to provide for related matters.

²⁴ The Act does not provide any definition of "non-light" work.

Act 651 applies to all workers and employers except those in the Armed Forces, Police Service, Prisons Service, and the Security Intelligence Agencies.

The Act generally covers labor issues including public and private employment centers, protection of the employment relationship, general conditions of employment, employment of persons with disabilities, employment of young persons, employment of women, fair and unfair termination of employment, protection of remuneration, temporary and casual employees, unions, employers' organizations and collective agreements, strikes, the establishment of a National Tripartite Committee (NTC), forced labor, occupational health and safety, labor inspection and the establishment of the National Labor Commission (NLC).

The NTC is composed of the Minister responsible for Employment and Labor Relations who doubles as the Chairman, other representatives of Government, the Ghana Employers Association (GEA), and Organized Labor. The primary function of the NTC is the determination of the National Daily Minimum Wage (NDMW). A Technical Sub-Committee (TSC) is constituted by the NTC to table proposals or scenarios for the determination of the NDMW. After the TSC report, Committee members study the report with their constituents, after which they present their respective proposals for adopting the NDMW. An agreed percentage and figures for the NDMW are reached by all parties and announced as the NDMW for a particular year.

1.4.2.1 Young Persons

Young persons, according to Act 651, are to be given special treatment and suitable places of work. The Act bars young persons from working in places which may have hazardous consequences on their health or morality. According to the Act, a young person is defined as a person of or above 18 years of age but below 21 years.

1.4.2.2 Forced Labor

The Act criminalizes forced labor. Forced labor according to section 117 of Act 651 means work or service that is exacted from a person under threat of a penalty and for which that person has not voluntarily offered to work. Forced labor does not include labor required during war periods, in execution of a court sentence, carried out by a member of a disciplined force or service, or required as part of normal communal or other civic obligations.

1.4.2.3 Occupational Health and Safety

An employer is under an obligation to ensure that an employee is given a safe and healthy environment in which to work.²⁴ This provision in the Act applies to small scale farmers employing laborers.²⁵ The Act requires that labor inspectors are appointed to ensure that employers comply with this provision of the law.

²⁴ Section 9 of the Labor Act, 2003 (Act 651)

²⁵ Section 1 of the Labor Act, 2003 (Act 651)



1.4.2.4 Establishment of the National Labor Commission

Act 651 creates the National Labor Commission. The Commission is by law obliged to:

- A: Facilitate the settlement of industrial disputes;
- B: Settle industrial disputes;
- C: Investigate labor complaints;
- D: Maintain a database for labor dispute mediators; and
- E: Promote effective labor co-operation.

The Ministry of Employment and Labor Relations (MELR) is currently the executive body responsible for the formulation and implementation of labor laws, policies, regulations, and conventions of industrial relations, as well as the monitoring and evaluation of such policies and programs. It is also responsible for the implementation of labor market programs in collaboration with other stakeholders in the sector. It convenes meetings of the NLC and the NTC (on salaries and wages) and advises the Government on the decisions taken by these institutions.

1.4.3 Human Trafficking Act, 2005 (Act 694)

The Human Trafficking Act, 2005 (Act 694) criminalizes the recruitment, transportation, transfer, harboring, trading or receipt of persons, within and across borders, by the use of threat, fraud and exploitation of vulnerability or by paying to gain consent as well as induced prostitution and other forms of sexual exploitation, forced labor, slavery, or the removal of organs. The Act allows for the filing of complaints with the police not only by the victim but by any person having information about trafficking.

The Act also provides for the rescue, rehabilitation, and reintegration of trafficked persons. The Act provides for the creation of a fund whose proceeds shall be applied towards the basic support of victims of trafficking, tracing their families, the provision of skills and training to such victims, and the training for the persons connected with rescue operations.

The Act was expected to be amended to remove the option of the fine in lieu of imprisonment, but this has not yet happened. This amendment, when effected, is expected to make imprisonment the only option for the offence of human trafficking and exploitative work, making it punitive.

The government reported initiating 82 investigations into suspected human trafficking during calendar year 2018. Of these, 48 were labor trafficking investigations, most of which were suspected labor trafficking of Ghanaian children within Ghana; 19 were sex trafficking investigations, nearly all of which involved transnational trafficking of Nigerian women and girls. It should be noted that the government reported initiating only 13 prosecutions, including nine labor trafficking cases and four sex trafficking cases, against 42 alleged traffickers. In 2018, the Judiciary convicted seven traffickers, four for labor trafficking and three for sex trafficking, all prosecuted under the Human Trafficking Act.

1.4.4 Criminal and Other Offences Act, 1960 (Act 29)

The Criminal and Other Offences Act, 1960 (Act 29) is the source of most of Ghana's substantive criminal law.

With regards to slavery, the Act provides that a person commits a second-degree felony when the person:

- A: Deals or trades in, buys, sells, barterers, transfers, or takes a slave; or
- B: Deals or trades in, buys, sells, barterers, transfers, or takes another person in order that the other person may be held or treated as a slave; or
- C: Places or receives a person in servitude as a pledge or security for debt, whether then due and owing or to be incurred or contingent, whether under the name of a pawn or by any other name by which the other person may be called; or
- D: Conveys a person, or induces a person to come to the Republic of Ghana to be dealt with as a slave or traded in, bought, sold, bartered as a slave, or become a slave, or be placed in servitude as a pledge or security for a debt; or
- E: Conveys or sends a person, or induces a person to go out of the Republic to be dealt with as a slave or traded in, bought, sold, bartered, transferred as slave or become a slave, or be placed in servitude as a pledge or security for a debt; or
- F: Enters into a contract or an agreement with or without consideration for doing any of the acts or accomplishing any of the purposes mentioned in points (a) to (e).

The Act also criminalizes customary slavery. It provides that a person who:

- A: Sends to, or receives at a place, any other person, or
- B: Participates in or is concerned in a ritual or customary activity in respect of any other person, with the purpose of subjecting the other person to a form of ritual or customary servitude, or a form of forced labor related to a customary ritual, commits a criminal offence and is liable to a term of imprisonment not less than three years.

The act defines "concerned in" to mean:

- A: To send to, take to, consent to the taking to or receive at a place, a person for the performance of the customary ritual; or
- B: To enter into an agreement whether written or oral to subject to any of the parties to the agreement or any other person to the performance of the customary ritual; or
- C: To be present at an activity connected with or related to the performance of the customary ritual.

Of less relevance to child labor and in specific contexts only are the Juvenile Justice Act and the Domestic Violence Act.



1.4.5 Juvenile Justice Act, 2003 (Act 653)

The Juvenile Justice Act, 2003 (Act 653) establishes the juvenile justice system in Ghana. The purpose of the Act as stated in the long title is to protect the rights of juveniles and to provide for young and juvenile offenders.²⁶ This law applies therefore to children legally working in the cocoa – or any other – sector.

The Act defines a juvenile as a person under 18 who is in conflict with the law. It requires that a juvenile is dealt with in a manner which is different from an adult, except under some exceptional circumstances provided under the Act.

The Act states as a welfare principle that the best interest of a juvenile is paramount in a matter concerned with the juvenile, thus the primary consideration by a juvenile court, institution or any other body in a matter concerned with a juvenile.

The Act also provides for “rights of the juvenile.” A juvenile has the right to privacy during arrest, the investigation of an offense, at the trial of the offense and at any other stage of the cause or matter. A person cannot in the course of arrest, investigation or trial of an offense connected with a juvenile, or at any other stage of the cause or matter, release an information for publication that may lead to the identification of the juvenile.

1.4.6 Domestic Violence Act, 2007 (Act 732)

The Domestic Violence Act, 2007 (Act 732) provides for a person’s protection in law from domestic violence. The Act criminalizes domestic violence. It provides that a person in a domestic relationship who engages in domestic violence commits an offence and is liable on summary conviction to a fine. This law would apply to children working in a domestic setting.

It defines domestic violence as engaging in the following activities within the context of a previous or existing domestic relationship: a threat or harm to a person as defined under the Criminal and other Offences Act, 1960 (Act 29); or acts or threats to commit, physical, sexual, financial or emotional abuse. The Act seeks to prevent behavior or conduct that in any way harms a person, undermines his or her privacy, integrity or security, or detracts or is likely to detract from a person’s dignity.

1.5 International Treaties

The Constitution 1992 requires that whenever an international treaty, agreement, or convention is entered into by the Republic, the said convention, agreement or treaty is subject to Parliamentary ratification. The Supreme Court has held that ratification is required before the agreement can become enforceable in Ghana. Ratification of international agreements, treaties, or conventions can be achieved in one of two ways.

²⁶ An Act to provide a juvenile justice system, to protect the rights of juveniles, ensure an appropriate and individual response to juvenile offenders, to provide for young offenders and for connected purposes.

Parliament may by resolution approve the international treaty, agreement, or convention by a vote of not less than one-half of its members; or it may ratify it through the domestication of the treaty, agreement, or convention in an Act of Parliament.

Ghana is a signatory to and has ratified the following international treaties, agreements, conventions, and protocols which relate to human/labor rights.

1.5.1 International Covenant on Economic, Social, and Cultural Rights (ICESC)

Ghana ratified the International Covenant on Economic, Social and Cultural Rights on 7th September 2000. According to this Convention, all persons have the right to self-determination. State parties are required to ensure that all persons regardless of their sex are guaranteed equal rights to the enjoyment of all economic, social, and cultural rights.

1.5.2 International Covenant on Civil and Political Rights (ICCPR)

Ghana ratified the International Covenant on Civil and Political Rights on 7th September 2000. According to this Convention, all persons have the right to freely determine their political status and freely pursue their economic, social, and cultural development. State parties are required to protect the civil and political rights of persons in their countries.

1.5.3 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

Ghana ratified the Convention on the Elimination of All Forms of Discrimination against Women on 2nd January 1986. The Convention defines discrimination against women as “...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.” Party States are under an obligation to put in place mechanisms to prevent discrimination against women.

1.5.4 Convention on the Rights of the Child (CRC)

This Convention sets out the civil, political, economic, social, health, and cultural rights of children. It defines a child as any human being under the age of 18 years. State parties are required to put in place measures to safeguard the rights of children as prescribed by the Convention. Ghana ratified this Convention on 5th February 1990.

UN CRC Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography

Ghana signed the UN CRC Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography on 24th September 2003. Ghana is yet to ratify the Protocol. The Protocol prohibits the sale of children, child prostitution, and child pornography. Sale of children is defined as any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration. Child prostitution is defined as the use of a child in sexual activities for remuneration or any other form of consideration. Child pornography is defined as any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.



1.5.5 Conventions of the International Labor Organization (ILO)

ILO Convention No. 138, Minimum Age

This Convention requires member states to abolish all acts of child labor within their national territory. States must fix a minimum working age in their countries and communicate it to the ILO. Also, the convention forbids children from doing work that is dangerous, unhealthy, or bad for their morals. Children are, however, allowed to work in schools for “vocational” or technical education, or in other training institutes. Ghana ratified this convention on 6th June 2011.

ILO Convention No. 182 on the WFCL

The Convention requires states to prohibit and eliminate the WFCL. It defines a child as anyone who is under the age of 18. It further defines the “worst forms of child labor” as:

- A: all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom, and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict;
- B: the use, procuring, or offering of a child for prostitution, for the production of pornography, or for pornographic performances;
- C: the use, procuring, or offering of a child for illicit activities, particularly for the production and trafficking of drugs as defined in relevant international treaties;
- D: work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children.

Ghana ratified this convention on 13th June 2000.

1.5.6 African Charter on Human and Peoples’ Rights

This Charter is the Regional Charter for African States. It entered into force on the 21st of October 1986. Ghana ratified it on 24th January 1989. Member States agree to the adoption of legislative and other measures to recognize and give effect to the rights provided for in the Charter. These include right to life, liberty, movement, and the collective rights of Indigenous Peoples. It also includes the right to work under equitable and satisfactory conditions. The Charter and a Protocol creates an African Commission on Human and Peoples’ Rights and an African Court on Human and Peoples’ Rights to protect and promote the rights protected in the Charter.

1.5.7 African Charter on the Rights and Welfare of the Child

This Charter is the African Regional agreement that sets out the civil, political, economic, social, health, and cultural rights of children. It also defines a child as any human being under the age of 18. Members States who are party agree to put measures in place to safeguard the rights of children as prescribed by the Charter. Ghana ratified this Charter on 10th June 2005.

CHAPTER II: GOVERNMENT POLICES AND ACTION PLANS/STRATEGY CONCERNING CHILD LABOR

Governmental policies and action plans on human rights and labor rights focusing on child labor include the following:

2.1 National Social Protection Policy, 2015²⁷

The National Social Protection Policy provides a framework for delivering social protection coherently, effectively and efficiently in a way that is holistic and properly targeted. It defines an understanding of social protection and a social protection floor within a Ghanaian context. The framework is in six parts consisting of an introduction, the country context, a situation analysis of social protection, the policy focus and direction, the implementation framework, and institutional relationships. The sixth chapter deals with mechanisms for policy delivery.

The policy defines social protection in Ghana as: “a range of actions carried out by the state and other parties in response to vulnerability and poverty which seeks to guarantee relief from destitution for those sections of the population who for reasons beyond their control are not able to provide for themselves.” The social protection floor consists of access to basic essential health care for all, with attention to maternal health, minimum income security to access the basic needs of life for children, minimum income security for people of working age, and minimum income security for older persons.

The policy indicates that Ghana’s social protection approach is to promote access to essential social security transfers and social services, with disability and gender issues mainstreamed into these considerations. The policy provides a country context and discusses the economic circumstances of the country, poverty, inequality, and (un)employment. It also outlines the policy and governance context, setting out international commitments and the national direction from the Constitution. Also, a historical overview of the evolution of social protection in Ghana is given and the direction for social protection in national planning.

The goal of the policy is to create a well-coordinated, inter-sectoral social protection system to ensure effective implementation and coordination, enabling people to live in dignity through income support, livelihoods empowerment and improved systems of basic services. The purpose is to promote the well-being of Ghanaians through an integrated platform of effective social assistance, social and productive inclusion, social services, and social insurance. The policy seeks to provide effective and efficient social assistance to reduce extreme poverty; promote productive inclusion and decent work to sustain families and communities at risk; and increase access to formal social security and social insurance for all Ghanaians. Ultimately, the policy aspires to close the inequality gap and ensure total inclusion for all Ghanaians.

The policy also deals with institutional arrangements for policy implementation, coordination, and relationships. The policy assigns overall technical and operational coordination to the Ministry of Gender,

²⁷ “Ministry of Gender, Children and Social Protection Policies.” Republic of Ghana <http://mogcsp.gov.gh/index.php/policies/> (Accessed 28th September 2019).



Children, and Social Protection (MoGCSP), which is required to provide operating standards and instruments, mobilize, collate and disseminate pertinent information, and identify social protection priorities and trends. Roles are also envisaged for non-state actors, including traditional authorities, non-governmental and civil society organizations (NG/CSOs), organized labor, faith-based organizations, development partners, media, universities, policy research institutions and think-tanks, and the private sector.

2.2 Child and Family Welfare Policy, 2015²⁸

The Policy notes for the existing legal and policy frameworks to address child maltreatment are often disjointed. The current child protection system is reactive, with few effective preventive measures. The system is characterized by weak information management systems and ineffective coordination between the key actors. Further, for children and families, the main entry points into the existing Child and Family Welfare System are the police and social welfare agencies, but these institutions are hampered by a lack of financial and human resources to effectively deliver services. Community structures – mostly led by family heads, religious leaders, chiefs, queen-mothers, and assembly members – often emphasize compensation, reconciliation, and restoring harmony in the family and community over the needs of the child who has been harmed.

The overall goal of the policy is to help formulate child and family welfare programs and activities to more effectively prevent and protect children from all forms of violence, abuse, neglect, and exploitation. The policy is guided by national and internationally recognized principles, as well as values, beliefs, and practices specific to Ghana, ensuring that the Child and Family Welfare System will be “fit” for the context of Ghana. The policy prioritizes three areas of concern, namely: child protection issues stemming out of family-related challenges; child maltreatment, and other protection issues concerning children, especially older children, that are not brought about by a third party but because of risks taken by the child his/herself.

The main objectives of the policy are:

- 1: Design child and family welfare programs and activities to more effectively prevent and protect children from all forms of violence, abuse, neglect, and exploitation.
- 2: Ensure effective coordination of the child and family welfare system at all levels.
- 3: Empower children and families to better understand abusive situations how to make choices that prevent and respond to situations of risk.
- 4: Build the capacity of institutions and service providers to ensure adequate service quality for children and families in urban and rural areas.
- 5: Reform existing laws and policies to conform to the Child and Family Welfare System.

²⁸ “Ministry of Gender, Children and Social Protection Policies.” Republic of Ghana <http://mogcsp.gov.gh/index.php/policies/> (Accessed 28th September 2019).

- 6: Ensure the provision of adequate human, technical, and financial resources required for the functioning of the Child and Family Welfare System at all levels.

To achieve the objectives of the policy, ten strategies have been identified as follows:

- 1: Strengthening community structures
- 2: Early intervention through social protection
- 3: Improved child and family welfare services
- 4: Provision of alternative care
- 5: Improved coordination and data/information management
- 6: Empowering children and young people to protect themselves from harm
- 7: Empowering families in their role as primary caregivers
- 8: Ensuring adequate resources and building capacity of social welfare services providers
- 9: Partnerships with civil society organizations
- 10: Legal reform

The policy also provides guidance to specialized services, especially to the Department of Social Welfare and Community Development at district level. The guidance aims to support staff to facilitate solutions when problems arise, emphasizing promoting welfare and restoring the well-being of the child, the family and the community. The Ministry of Gender, Children and Social Protection will lead and coordinate implementation of the policy while other key line ministries, departments, and agencies have been identified to perform various roles and responsibilities as critical contributors to successfully reform the Child and Family Welfare System.

2.3 National Employment Policy

The National Employment Policy (NEP) was developed in pursuance of the Government of Ghana's (GoG) commitment to coordinate, address employment issues, and adopt an evidence-based approach.

The following key issues have been identified by the government:

- 1: Increasing unemployment, especially youth unemployment
- 2: High population growth rate that has resulted in a growing working population that far exceeds the rate of job creation
- 3: Lack of forward and backward linkages between the productive sectors of the economy limits employment opportunities
- 4: Uncompetitive nature of the private sector limiting its potential for job growth



- 5: Large informal sector employment that is characterized by low productivity, huge decent work deficits, vulnerable workers, and poor working conditions
- 6: Weak resource mobilization in support of the cooperative sector and of small-scale business development.
- 7: Over emphasis on academic education to the neglect of employable skills resulting in skills mismatch and employability challenges
- 8: Incidence of youth and seasonal unemployment among rural smallholder farm workers
- 9: Weak institutional capacity for labor administration and coordination of employment creation interventions
- 10: Lack of accurate and timely labor market information for development decision making and planning.

The key policy objectives of the NEP include the following:

- 1: To create more decent jobs to meet the growing demand for employment
- 2: To improve the quality of jobs for those who are employed
- 3: To increase labor productivity
- 4: To strengthen governance and labor administration

The NEP is to be implemented across sectors. Specific ministries, departments, agencies, and local government institutions shall mainstream employment outcomes into their development plans and ensure allocation of funds for implementation. Specific Action Plans and Monitoring and Evaluation (M & E) Frameworks will be developed by sectors to aid program/project implementation, monitoring, and evaluation. The Ministry for Employment and Labor Relations and its technical departments and agencies shall play the coordination role. An action plan is to be developed to translate all the policy recommendations into specific, measurable policy activities and targets expected to be achieved within stipulated timeframes.

2.4: National Gender Policy, 2016³⁰

The overarching goal of this policy is to mainstream gender equality concerns into national development processes by improving the social, legal, civic, political, economic, and socio-cultural conditions of the people of Ghana particularly women, girls, children, the vulnerable, people with special needs, persons with disabilities, and the marginalized.

The issues of concern identified by the policy include:

³⁰ "National Gender Policy." Ministry of Gender, Children and Social Protection. <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/103987/126660/F-515436150/GHA103987.pdf> (Accessed September 28 2019)

- 1: Inequality in access to social protection by the marginalized, vulnerable, and the poor.
- 2: Inequalities in the burden of extreme poverty, education, skilled training gaps, and excess maternal mortality.
- 3: Unequal access to social and economic power, and justice; including lack of respect for, and inadequate protection and promotion of, human rights of women and girls.
- 4: Inequalities between women and men in sharing of power and decision making at all levels and in dealing with all kinds of conflict.
- 5: Insecurities and threats on women and girls.
- 6: Inequality in macro-economic issues including trade, industry structures, and productive resources.
- 7: Stereotyping and persistent discrimination against women and girls that manifest in negative gender relations and that have severe implications for maternal health and mortality.

To address the challenges posed by these inequities, efforts have been made by promoting girl-child education, social development and protection initiatives, such as distributing free school uniforms, free exercise books, skill training for young women, free ante-natal services for pregnant women, access to credit in the form of programs such as the Livelihood Empowerment against Poverty, among others. The Government has also improved the legal environment by enacting the Domestic Violence Act, 2007 (Act 732) to aggressively tackle gender inequality and promote the welfare of women and girls.

The National Gender Policy focuses on mainstreaming gender equality, women empowerment, and social protection concerns by strongly concentrating on the implementation of the following five policy commitments:

- 1: Women's Empowerment and Livelihood
- 2: Women's Rights and Access to Justice
- 3: Women's Leadership and Accountable Governance
- 4: Economic Opportunities for Women
- 5: Gender roles and relations

The application of Information and Communication Technology (ICT) tools, skill development, advocacy, lobbying, negotiation, mobilization, transformational leadership, research, monitoring, and evaluation are key strategies listed for action towards achieving the goal and objectives / commitments of this policy. The Ministry of Gender, Children, and Social Protection will be the main body driving policy actions using a Strategic Implementation Plan to actualize the policy objectives.



2.5 National Plan of Action Phase II, on the Elimination of the WFCL (NPA2) (2017-2020)

In 2009, the Cabinet adopted the first National Plan of Action (NPA1) for the Elimination of the WFCL in Ghana. The plan ran from 2009 to 2015, making important gains in the fight against child labor. NPA1 was developed through a long consultative process. Some 88 stakeholder-institutions were consulted. The outcome was a document that sought to address all the fundamental causes of child labor in a manner that pulled together efforts of duty-bearing agencies, integrating ongoing interventions with new gap-filling ones as well as innovative intentions. It heavily depended on the institutional capacity, professional responsibility, and available resources of mandated agencies, both public and non-public.

The objectives of NPA1 were to:

- 1: Review, update and enforce the laws.
- 2: Ensure social mobilization for the respect and protection of children's rights.
- 3: Ensure full implementation of the Free Compulsory Universal Basic Education (FCUBE) Policy, prioritizing deprived communities.
- 4: Improve access to post-basic education for children above 15 years.
- 5: Make alternative education, including transitional education, available to out-of-school children in deprived areas and children withdrawn from WFCL.
- 6: Put in place clear institutional arrangements to identify, withdraw, rehabilitate, and reintegrate children unconditionally from the WFCL.
- 7: Put in place measures to prevent and eliminate hazardous child labor.
- 8: Empower deprived households and communities to overcome vulnerability to child exploitation.
- 9: Progressively introduce new technologies and labor market reforms to reduce dependence on child labor.
- 10: Provide adequate institutional, technical, and organizational capacity to duty-bearing agencies at all levels and to enhance the inter-agency knowledge base.

The overall impact was below expectation. Significant efforts were made to monitor the implementation of NPA1, but there were serious challenges. The monitoring plan developed was not implemented effectively and the monitoring agency, the Child Labor Unit of the Ministry of Employment and Labor Relations, was institutionally, technically, and logistically incapacitated to conduct adequate inspections.

The recommendations after the evaluation of NPA1 led to the introduction of a second National Plan of Action (NPA2) for the Elimination of the WFCL in Ghana. The strategy of NPA2 is not only informed by the findings and recommendations of NPA1, but also by the National Child Labor Report (GLSS, 2014), and relevant policy objectives, sectoral plans under the Ghana Shared Growth and Development Agenda

(GSGDA2: 2014-2017), and the National Child and Family Welfare Policy (2015). It also hinges on regional and global frameworks such as the West Africa Regional Action Plan (RAP) on child labor and the Sustainable Development Goals and targets (SDGs), particularly Goal 8 and Target 8.7.³¹

Specifically, the plan seeks to:

- 1: Inform Ghanaian society on the rights of children and mobilize to support the fight against child labor.
- 2: Design, implement, and promote policies and programs that strengthen the rural economy and promote the fundamental principles and rights at work using integrated area-based approaches towards Child Labor Free Zones (CLFZ).
- 4: Ensure implementation modalities for conducting child labor interventions are mainstreamed in agricultural policies and programs, especially agricultural extension services including fisheries and livestock, are in place and functional
- 5: Ensure that laws on child labor are enforced and content gaps in the legal framework addressed
- 6: Expand social protection intervention including the LEAP (Livelihood Empowerment Against Poverty) Program and other livelihood enhancement interventions in all areas where child labor is endemic.

The following eight areas will receive priority attention:

- 1: Public awareness and advocacy for effective implementation of key policies in education, social protection, child development, rural economy (including agriculture and artisanal small-scale mining), and youth employment
- 2: Social mobilization for direct community action
- 3: Proactive and preventive strategies, including quality education, gender equality, and poverty reduction direct services to affected families and children
- 4: Law enforcement at all levels
- 5: Protection of children and their rights
- 6: Withdrawal of children below the age of 15 from child labor and the protection of working children aged 15 and above from exploitation and hazardous work
- 7: Operationalization of the Hazardous Activity Framework (HAF)³² and implementation of standard procedures and protocols for dealing with cases of child abuse and exploitation

³¹ Target 8.7: Take immediate and effective measures to eradicate forced labor, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labor, including recruitment and use of child soldiers, and by 2025 end child labor in all its forms



- 8: Development of institutional capacity at all levels of government and civil society to ensure the effective application of established procedures and protocols

The main objective of this NPA is to reduce the WFCL to the barest minimum, i.e. below 10 per cent by 2021 while laying strong social, policy, and institutional foundations for the elimination and prevention of all forms of child labor in the longer term.

On the issue of low prioritization and inadequate implementation modalities for child development policies at regional and district levels, the plan aims at generally achieving effective provision and monitoring of social services and economic empowerment programs by local government administrations. Specifically, child development interventions in the regions will be effectively coordinated and monitored; Metropolitan, Municipal and District Assemblies (MMDA) will prioritize the implementation of child development interventions and provide adequate educational and social protection services to child labor endemic communities. Development and Implementation of Community Action Plans (DICAP) will be monitored in all communities in each MMDA.

Ultimately, the plan is to ensure that there is effective inter-agency collaboration and coordination in the development and implementation of national policies and programs to improve the well-being of children. The plan also aims to promote community empowerment and sustainable action against child labor.

2.6 National Plan of Action for the Elimination of Human Trafficking in Ghana (NPA) (2017-2021)³³

This plan notes that Ghana continues to be a source, transit, and destination country for human trafficking. The exploitation of Ghanaians, particularly children, within the country is more prevalent than transnational trafficking. Ghanaian boys and girls are subjected to being trafficked into forced labor, such as in fishing, domestic service, street hawking, begging, portaging, artisanal gold mining, quarrying, herding, and agriculture.

The key goals of this National Plan of Action are to strengthen Ghana's capabilities along the holistic "4 Ps" strategy, in the:

- 1: Prevention of trafficking in persons
- 2: Prevention of trafficking in persons victims
- 3: Prevention of trafficking in persons offenders
- 4: Partnerships with stakeholders to combat trafficking in persons

Under Prevention, the objectives of the plan are to: include increase public awareness and facilitate a deeper understanding of human trafficking issues; develop and implement systematic procedures for proactively identifying persons at risk of being trafficked; enhance social protection for high risk

³³: "National Plan of Action for the Elimination of Human Trafficking in Ghana." The Ministry for Gender, Children and Social Protection. <https://www.unicef.org/ghana/media/1851/file/National%20Plan%20of%20Action%20for%20the%20Elimination%20of%20Human%20Trafficking%20in%20Ghana.pdf> (Accessed September 28).

communities; eliminate push and pull factors of trafficking; enhance identification of human trafficking networks; and prevent the re-trafficking of victims.

Under Protection, the objectives of the plan include coordinating inter-agency action to support victims of trafficking through an established referral system, ensuring the provision of comprehensive care to victims of trafficking, and developing livelihood opportunities for rescued victims of trafficking.

Under Prosecution, the objectives of the plan include: providing training to prosecutors and judges on the appropriate implementation of anti-trafficking laws, ensuring Attorney General's Department prosecutors receive robust human trafficking case dockets and review them faster, monitoring the prosecution of human trafficking cases, and reviewing human trafficking laws to meet new demands.

Finally, under Partnership, the objectives include:

- 1: Improving data collection and information sharing amongst key stakeholders
- 2: Coordinating among line ministries for enhanced budgetary prioritization and monitoring to deliver on the NPA
- 3: Increasing coordination and joint monitoring between key ministries, departments, agencies, and other stakeholders
- 4: Increasing cooperation amongst regional and international actors in the fight against cross-border trafficking.

2.7 Justice for Children Policy, 2015³⁴

This Policy seeks to establish a well-structured and coordinated justice for children system that: promotes the well-being of children; prevents violence, exploitation, and abuse, protects children from harm, and promotes justice for children. The Policy is all children in contact with the justice system – victims of crime, witnesses, alleged offenders, offenders, and other cases involving children. The Policy addresses both criminal and civil cases. The Policy statement is guided by internationally recognized principles and existing laws, as well as values, beliefs, and practices specific to the country, especially those provided in the Child and Family Welfare Policy, to ensure the justice system “fits” the Ghanaian context. The rationale for this Policy is to establish a coherent system by providing guidance on the reform of justice for children programs and activities.

The objectives of the Policy are to: prevent juvenile offending; strengthen programs for rehabilitation and social reintegration; strengthen and link formal and community justice systems to enhance access to justice and protection for children in conflict with the law; protect child witnesses and victims of crimes; provide protection for children involved in family and other civil proceedings; guide the reform of laws, policies, and procedures to improve access to justice for children to inform the necessary changes to the

³⁴ Ministry of Gender, Children and Social Protection Policies.” Republic of Ghana <http://mogcsp.gov.gh/index.php/policies/> (Accessed 28th September 2019).



regulatory framework; develop guidelines for handling cases relating to children at all levels; and ensure the provision of financial and human resources for implementation of the policy.

2.8 2010 Declaration of Joint Action to Support the Implementation of the Harkin-Engel Protocol (2010 Declaration) and its Accompanying Framework of Action

This is a Framework of Action³⁶ aimed to reduce the WFCL in cocoa producing areas of Côte d'Ivoire and Ghana. The Framework is intended to support the implementation and realization of the goals of the Harkin-Engel Protocol³⁷, an international agreement aimed at ending the WFCL and forced labor in the production of cocoa³⁸. The protocol was negotiated by U.S. Senator Tom Harkin and U.S. Representative Eliot Engel in response to a documentary, and multiple articles in 2000 and 2001 reporting widespread child slavery and trafficking in the production of cocoa. The protocol was signed in September 2001. Joint statements in 2001, 2005, 2008, and a joint declaration in 2010 extended the commitment to address the problem.

The overarching goal of the 2010 joint declaration is that by 2020, the WFCL will be reduced by 70 percent in the cocoa sectors of Côte d'Ivoire and Ghana through joint efforts by key stakeholders to:

- 1: Provide and support remediation services for children removed from the WFCL, including education and vocational training
- 2: Provide protective measures to address issues of occupational safety and health related to cocoa production and provide livelihood services for the households of children in cocoa growing communities
- 3: Establish and implement a credible and transparent sector-wide monitoring system across cocoa growing regions in the two countries
- 4: Promote respect for core labor standards

Tens of millions of dollars have been invested, and Tulane University in Louisiana has been tasked with monitoring progress.

2.9 Strategy on Anti-Child Labor and Trafficking in Fisheries, 2018

In Ghana, fishing is an important economic activity. Empirical evidence shows that, especially in the artisanal and small-scale fisheries sector, children are engaged in work, and many are trafficked from one fishing location to the other. This strategy document was created in response to the need for existing

³⁶ "Framework of Action to Support IMplementation of the Harkin-Engel Protocol" Cocoa Initiative. https://cocoainitiative.org/wp-content/uploads/2016/10/Cocoa_Framework_of_Action_9-12-10_Final-1-1.pdf (Accessed March 4, 2020).

³⁷ The protocol is formally called "Protocol for the Growing and Processing of Cocoa Beans and Their Derivative Products In a Manner that Complies with ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor.

³⁸ Signed by government of Ghana as well as US senator and representative and the International Chocolate and Cocoa Industry (ICI).

policies and legislations on Child Labor and Trafficking (CLaT) to be complemented by a dedicated and comprehensive strategy that focuses on eliminating CLaT in fisheries.

The goal of the strategy is to develop systems and structures to achieve a CLaT-free fisheries sector in Ghana through the effective protection of children and the prosecution of offences relating to child labor and trafficking. The broad outcome is for progressively improved resilience of vulnerable individuals and families through strengthened protective, preventative, and enforcement systems that respond to CLaT related issues.

The strategy outlines six key objectives as follows:

- 1: To achieve a minimum of 6CLaT elimination through the development of rescue and referral protocols that are consistent with national legislations and regulations
- 2: To develop rehabilitation and reintegration protocols for all stakeholders connected to anti-child labor and child trafficking interventions
- 3: To prevent at-risk children from engaging in child labor or being exposed to trafficking
- 4: To mobilize civil society action and promote community awareness and behavior change to ensure collective response to CLaT elimination by 2020
- 5: To strengthen relevant government institutions as part of the process of promoting coordination among stakeholders and sectors functioning for the welfare of working children
- 6: To promote speedy and effective prosecution along the criminal justice process through strengthening institutions whose jurisdiction fall along the chain of anti-CLaT enforcement and prosecutions

Specific strategies outlined in this document include withdrawal and rescue, rehabilitation, integration, and preventative strategies. Other important strategies outlined include investigations and prosecution, institutional strengthening, and capacity building strategies. The CLaT and Fisheries Strategy acknowledges that a holistic, integrated, and multi-sectoral approach is required to promote a CLaT-free fisheries sector.

The strategy includes a detailed implementation arrangement that examines the roles, responsibilities, and commitments of all parties, including: the central government, local government, decentralized departments, employer's organizations, trade unions and worker's associations, communities, families, children, religious bodies, fisher associations, civil society organizations, the private sector, development partners, and the media. A financing mechanism, implementation plan, and a monitoring and evaluation system is also provided.



CHAPTER III: INSTITUTIONAL FRAMEWORK

In addition to the National Labor Commission (NLC) mentioned above (page 18) the existing legal framework mandates certain institutions with the enforcement and protection of human and labor rights, including child labor, in Ghana.

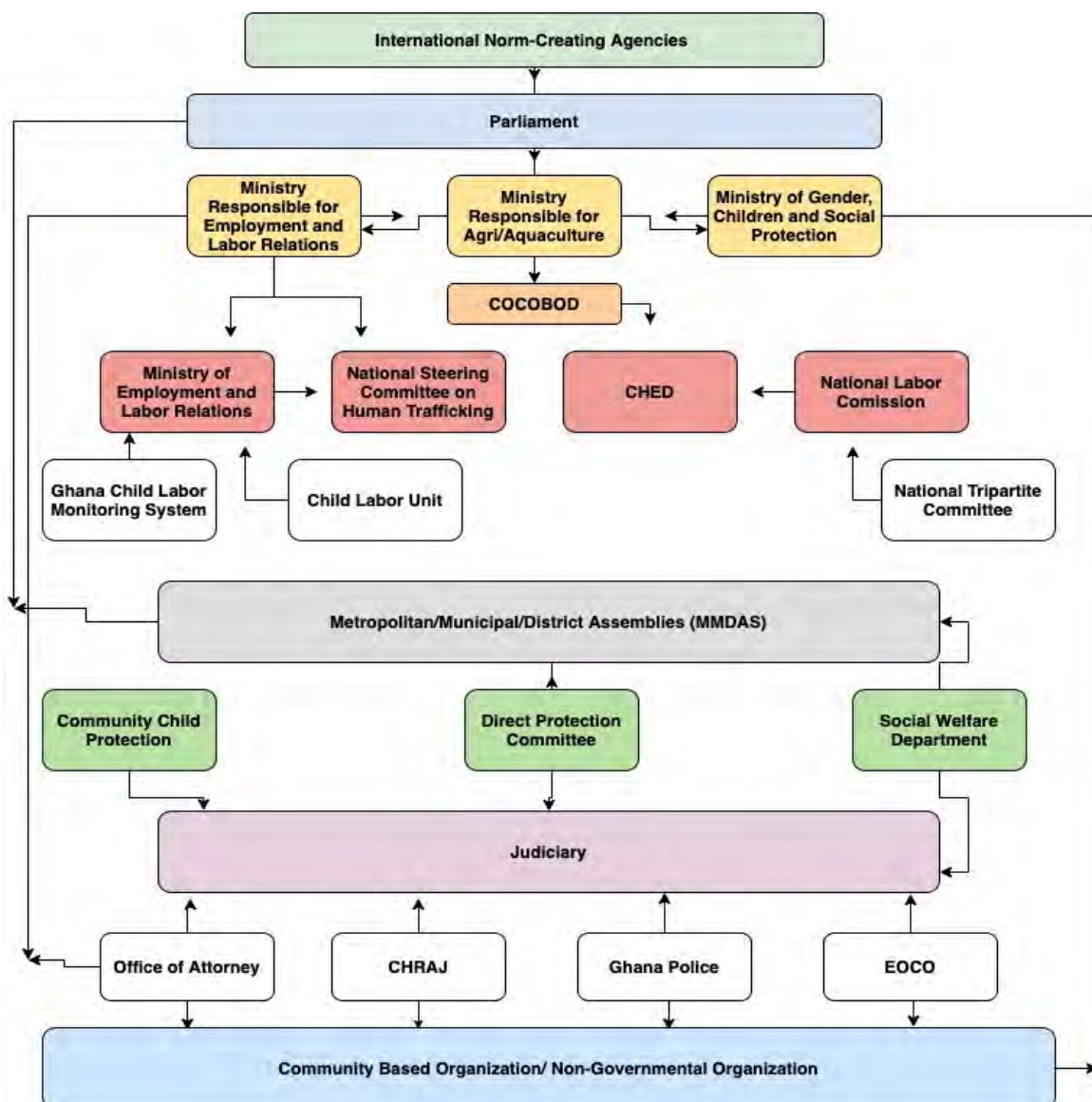
Figure 4: Institutional Roles and Functions in Ghana

Name of Institution	Function/Role
Ghana Police Service	Criminal matters are often first reported to the police. The police also have a domestic violence complaints unit that receives complaints from the public on domestic violence offences and issues relating to children and juveniles.
The Court	The courts also protect and enforce rights. The courts form the judiciary of Ghana and are mandated by the Constitution to administer justice. As stated above, the constitution gives the High Court exclusive jurisdiction to hear and determine human rights abuses of individuals in Ghana. If the human rights matter has a general implication on the large Ghanaian community, it may be determined by the Supreme Court. Where there is a need to sue the Ghana prison service and the government of Ghana for appalling prison conditions, such a suit must be lodged with the Supreme Court.
CHRAJ	The Commission on Human Rights and Administrative Justice is established pursuant to Article 216 of the Constitution. The enabling legislation for CHRAJ is the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456). The Commission is mandated to investigate complaints of violations of fundamental human rights and freedoms, injustice and corruption, abuse of power, and unfair treatment of persons by public officers in the exercise of their duties. The Act empowers victims to seek remedy in respect to such acts or omissions.
Ministry of Justice and Office of Attorney-General	The Ministry of Justice and the Attorney-General is the sector of government tasked with ensuring and supporting the courts in the delivery of justice. The office is also in charge of legal matters involving state institutions. It is headed by a Minister of Justice and Attorney-General. It has a number of divisions including the Legislative Drafting Division, the Civil Division, and the Prosecution Division. The Legislative Drafting Division is responsible for drafting substantive and subsidiary legislation for the Government. The Prosecution Division assists the Attorney General in carrying out the constitutional duty of initiating and conducting criminal prosecutions. The Civil Division initiates and conducts civil action on behalf of the state and also defends the state in all civil matters initiated against the state.
Department of Social Welfare	The Children's Act requires that the District Assemblies protect the welfare of children and promote their rights. The Act requires that a Social Welfare and Community Development Department be established in every District Assembly to investigate cases of the contravention of children's rights.

Economic and Organized Crimes Office	The Economic and Organized Crimes Office Act establishes the Economic and Organized Crime Office. The objects of the office include the prevention and detection of organized crime and the confiscation of the proceeds of crime. One of its main function is to prosecute matters on money laundering and human trafficking.
Ministry of Employment and Labor Relations (MELR)	The Ministry of Employment and Labor Relations is mandated to formulate policies on labor and employment issues, develop sector plans, coordinate employment and labor related interventions across sectors, promote harmonious labor relations and workplace safety, monitor and evaluate policies, programs, and projects for accelerated employment creation for national development. The Ministry has a Child Labor Unit which is tasked with the duty to prevent child labor.
Ministry of Interior	The Ministry of Interior (MINTER) is mandated to ensure internal security and the maintenance of law and order in the country.
Ministry of Gender, Children & Social Protection	The Ministry is mandated to coordinate and ensure gender equality and equity; promote the survival, social protection, and development of children, vulnerable and excluded and persons with disabilities; and aims to integrate fulfillment of their rights, empowerment, and full participation into national development.
National Steering Committee to Combat Human Trafficking	The committee oversees the implementation of the national intervention data base project for combating human trafficking in Ghana.
COCOBOD	The mission of the Ghana Cocoa Board (COCOBOD) board is to encourage and facilitate the production, processing, and marketing of good quality cocoa, coffee, and sheanut in all forms in the most efficient and cost-effective manner. The board also aims to maintain the best mutual industrial relation with its objectives.
Community Child Protection Committee/District Child Protection Committee	Tasked with establishing a well-structured and coordinated child and family welfare system that promotes the well-being of children, prevents abuse, and protects children from harm.
Ghana Child Labor Monitoring System (GCLMS)	<p>This is a program of the Ministry of Employment and Labor Relations that aims to obtain comprehensive information on all children in or at risk of the WFCL; institute timely, adequate, sustainable, and appropriate responses at all levels to eliminate the WFCL; secure ownership and mainstream the elimination of the WFCL into national policies and structures; and support national efforts to meet its obligations under ILO C.182</p> <p>The Administrative Component of the GCLMS is the hierarchical system of Child Protection/Labor Committees (CP/LCs) from the community, from the district to the national level. At the national level, there is a National Steering Committee on Child Labor (NSCCL), while Metropolitan/ Municipal/ District Child Protection Committees (MMDPCs) and the Community Protection Committees exist at the Metropolitan/Municipal/District and Community levels.</p> <p>Generally, the role of these committees is to supervise, coordinate, and manage the GCLMS operations.</p>



Figure 5: Institutional Chart Showing Institutional Interactions in the Human Rights and Labor Sector



The Department of Labor under the Ministry of Employment and Labor Relations is in charge of enforcing child labor laws through the District Assemblies. The Police have the duty to investigate reports made to them by these officers and to prosecute offenders. The work of these government departments is assisted by the Judicial Service and the advocacy work of various NGOs.

The Children's Act assigns officers of the Department of Labor, Social Services Sub Committee, and the Social Welfare and Community Development Department of the District Assembly with the task of enquiring into and reporting violations of the provisions on the employment of children in Ghana.

4.1 Introduction

Potentially relevant judgments of the Supreme Court of Ghana with statements on labor and human rights in Ghana are discussed below. The decisions of the court concerned matters involving the right to dignity, protection from slavery and forced labor, freedom of movement, and cultural rights and practices.

4.2 **Nana Adjei Ampofo v. Attorney-General & National House of Chiefs (2011) SCGLR 1114**

The Supreme Court's decision in this matter touches on what must prevail when custom conflicts with the Constitution. In this matter, the plaintiff sought a declaration from the Apex Court that a section of the Chieftaincy Act 2008 (Act 759) of Ghana was null because it contravened the freedom of movement and right to liberty of persons in Ghana. The section had made it a criminal offence for a person not to honor a chief's summons. The provision, in effect, sought to make it contemptuous to refuse to appear before a chief whenever or from wherever one was summoned.

The Court declared that provision null. In the judgment, it emphasized that though the institution of chieftaincy is very important in Ghana, the rights of chiefs are subject to the 1992 Constitution and cannot supersede any provision therein.

4.3 **Donkor & Others v. Gliksten (West Africa) [1997-98] 1 GLR 799**

This case touches on labor rights in Ghana. The court found that delays in paying a worker's wage or salary cause social and economic hardship, breaching the employer's obligation under the law. The court also found that delayed payments of this kind also consign the worker to a state of slavery or servitude, contrary to Article 16(1) of the Constitution, 1992. Finally, the court found that the worker had been forced to work in unsafe and unsanitary conditions. Accordingly, the plaintiffs were entitled in concert with the other workers to meet and discuss what action to take to encourage the defendant company to be sensitive to their plight and pay their salaries, which had fallen into arrears.

4.4 **Foli VII and Others v. The Republic [1968] GLR 768**

This was a criminal suit against the accused persons for causing harm by cremating a corpse without lawful authority. Their defense was their action was in accordance with custom. The court held that a custom could not be validated merely because it was an established and long-standing one within a particular locality when that custom was counter to statute and the duty to act fairly. Customary Law is subject to the Constitution and Acts of Parliament (Criminal and Other Offences Act).



CHAPTER V: FINDINGS FROM EXISTING LEGAL FRAMEWORK ON HUMAN RIGHTS AND COMBATING CHILD LABOR IN GHANA

5.1 The Legal Framework

Eliminating all forms of child labor and human rights abuses in a sustainable manner requires an adequate policy and legislative environment in line with international standards to be effectively mainstreamed into national development plans and programs.

Ghana has made important commitments through the promulgation of national legislation and the ratification of international treaties, agreements, and conventions. The country has a strong legal framework for child protection, labor rights, and other human rights with comprehensive national laws protecting children from child labor, exploitation, and the abuse of human rights. This has the important effect of signaling national intent to eliminate child labor and providing a framework within which this can be achieved. While significant progress has been made in developing this comprehensive legal framework, it is not yet complete.

Despite this progress, there is no clear legal framework for articulating the scope of permissible versus non-permissible work among children across various sectors of the economy. ILO 182 requires countries to develop a list of hazardous sectors and activities in a Hazardous Activity Framework (HAF). This HAF should provide guidance for intervention and evaluation to safeguard the health, safety, development, and education of children. While Ghana's existing HAF attempts to provide this distinction, it does not have legal backing to ensure enforcement, despite the fact that providing legal backing was an action point in the National Plan of Action against Child Labor (NPA, 2009-2015). The Government is currently working on amending the Children's Act (Act 560, 1998), and there is a hope that this amendment will consider incorporating the existing HAF.

Second, the Human Trafficking Act is likely to include an amendment to remove the option of the fine in lieu of imprisonment. This amendment, when effected, should make imprisonment the only option for the offence of human trafficking and exploitative work, which will make it punitive. This amendment may be introduced as a Private Members Bill under the current government.

Last, the domestic legal framework is complemented by the signing and ratification of some key international legal instruments relevant to the combat of child labor. However, Ghana is yet to ratify the UN CRC Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography.

It is also instructive to note that although there appears to be a robust legal framework for addressing child labor and human rights concerns, Ghana's pending framework might not meet certain set standards – such as the Victim of Trafficking and Violence Protection Act (2000) of the United States, which requires countries to, among other things, prescribe punishment for trafficking which is adequately deterrent and also reflects the harms and ill nature of the offence.

5.2 The Policy Framework

The legal framework for addressing child labor and human rights issues in Ghana is further strengthened by a number of aforementioned policies and programs active since 2000. These include a program implemented from 2000-2006 with support from the ILO's International Program on the Elimination of Child Labor (ILO/IPEC); the Ghana Country Program on child labor supported by ILO, and the Ghana component of the West Africa Cocoa and Commercial Agriculture Project (WACAP), implemented from 2000-2002 and 2003-2006, respectively.

Under these initiatives, a central database of children in child labor as well as those at risk, in selected sectors and locations was established in 52 communities within five districts. A comprehensive Hazardous Activity Framework (HAF) covering all sectors was developed and a Standard Operating Procedure (SOP) for addressing the WFCL was produced, including the deployment of the Ghana Child Labor Monitoring System (GCLMS). The program created extensive awareness of the problem of child labor, especially in the cocoa, fishing and mining sectors, and an annual national celebration to mark the World Day against Child Labor. The continuous implementation of these policies is necessary for the combatting of child labor within the agricultural sector, specifically the cocoa industry.

CHAPTER VI: CONCLUSIONS AND RECOMMENDATIONS

There is an elaborate legislative and institutional framework for the protection of human rights and specifically for combatting child labor in Ghana. However, child labor remains prevalent, due to poverty and the low level of enforcement resulting from institutional inertia or a lack of resources.

Ghana's cocoa economy is undergoing a rapid and dynamic shift caused by land scarcity, increasing urbanization of its rural communities, and improved access to education for children. These factors are changing the drivers for child labor in cocoa growing communities and impacting the future of cocoa production.

It is important to understand these trends and work alongside them because they remind us that child labor and child slavery do not exist in a vacuum. Responding to them as if they are unconnected or unrelated to their cultural and economic context will only result in undermining efforts aimed at combating child labor.

The following recommendations must therefore be seen within this context.

6.1 Improving the Legal Framework

Improving the legal framework must consist of two activities:

First, the ratification of the UN CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography would show clear commitments on the part of the government to end all forms of child abuse. This would also ensure the abuse and use of children does not shift from well-regulated sectors to sectors with no regulation.



Second, the national legal framework could be strengthened by amending the Children's Act (Act 560, 1998) to include the existing HAF, thereby giving it legal force and by including an amendment to the Human Trafficking Act to remove the option of the fine in lieu of imprisonment. This amendment should make imprisonment the only option for the offence of human trafficking and exploitative work, which will make it punitive.

6.2 Improvement of the Institutional Architecture

Expanding the Government's capacity to monitor formal workplaces remains a major challenge. The effectiveness of legislation aiming to protect children from child labor or slavery depends on establishing and strengthening mechanisms for monitoring and enforcing laws, including provisions for inspections and for the removal of child laborers to safe places.

First, the mandate of the labor inspectorate should be strengthened. The Labor Department, officers of the Ministry of Employment and Labor Relations and district officers of the various District Assemblies need to be fully equipped to enable them to effectively carry out investigations of child labor offences. Ghana's labor inspection units need more personnel and logistics to enable them to eventually take much of the weight of investigation of child labor offences off the Police service.

Second, the Ghana Police Service needs to be greatly improved in order to effectively carry out its work as the investigator and prosecutor of child labor offences. The Police need to be educated to appreciate the fact that child labor is no longer an activity that a child or his family has the right to engage in. The practice has been criminalized and therefore must be dealt with within the full rigors of the Law. The personnel and logistical needs of the service needs to be improved.

It should be noted that unregistered businesses in the informal economy are currently largely outside formal inspection regimes. Therefore, given the extent of child labor, it will be difficult for the current national inspection system alone to be effective in protecting children from workplace violations, specifically outside formally registered businesses.

This highlights the importance of establishing decentralized, community-based child labor monitoring systems as a mechanism for 1) identifying children who are involved or at risk of engaging in child labor, and 2) referring them to appropriate social services. To be able to operate effectively, these social services would need training, capacity building, and ongoing evaluation of their activities.

6.3 Integrated Solution

A sustainable child-centered approach to child labor and child slavery calls for the integration of the viewpoint of the child and his or her family and community. Focusing on one type of harm may push children into other more hidden forms of exploitation. Without systemically responding to the root vulnerabilities and enablers of child labor, efforts run the risk of plastering over the issue in ways which externalize it to another sector or geographical area. This also requires all stakeholders to strengthen and build upon existing national support systems and mechanisms, in partnership with the Ghanaian government. These include strengthening of basic support services such as education, health, justice, as well as water and sanitation.

The cyclical nature of child labor can be broken if some of the root causes such as poverty are addressed. Putting in place mechanisms that ensure that farmers are paid realistic prices will allow them to avoid child labor on their farms. A societal shift away from viewing children as a source of labor is also required and citizens should be encouraged to consider the long-term effects of child labor on a child's development. By not tackling child labor the nation would have lost on training human capital to help in the development process.

6.4 Intensifying Awareness Raising

Raising awareness remains important. Public education on child labor and human rights in general by the various organizations and government departments will involve some financial commitment on the part of the Ghana government. The use of the decentralized structures, chiefs, heads of families, and the various non-governmental organizations may be useful in this regard.



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