

***Ghana's Laws and Regulations on Child Labor,
WFCL and Education***

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Presented by Sylvia Hinson-Ekong
Future *Resource* Development (FURDEV)

Arrangement for presentation

- The first part of this presentation looks at the four classes of WFCL mentioned in ILO C182 and look for legal backing in Ghana for their elimination.
- The second part presents briefly the Human Trafficking Act
- The third part presents the Children's Act in brief
- The final slide gives some recommendations for improving law enforcement.
- The presentation will start with reflection Exercises
- At the end there with a group activity

Child care and protection

- Children's Act (560): The whole of the Children's Act is about Child Care and Protection. Chapter V is all about Child Labour. This is presented later.

Education Act 2008 (778)

- Constitution Section 28 (4) states “ No child shall be deprived by any other person of medical treatment, education or any other social or economic benefit by reason only of religious or other beliefs.
- Education Act, 2008 (778) states Sub-Section 2 (1)“ A child who has attained school going age shall, at the basic level attend a course of instruction as laid down by the Minister in a school recognized for that purpose by the Minister.

Education Act contd...

Sub-Section 2 (2) states: Education at the basic level is free and compulsory

Sub-Section 2 (4) states: Where a child does not attend a course of instruction in compliance with Sub-Section (1) the parent shall, in the first instance, appear before the Social Welfare committee of the District Assembly for appropriate action.

Sub-Section 2 (5) spells out the sanctions for a parent who fails to send his or her child for basic education

Education Act contd....

- The sanctions include:
 - (a) For a first time offence, to a fine not exceeding five penalty units and,
 - (b) for a continuing offence, to a fine of one penalty unit in respect of each day during which the offence continues; or in lieu of payment of the fine, to community service as determined by the Court in consultation with the Social Welfare Committee.
- (6) Where a parent cannot genuinely afford to educate the child, the District Assembly may provide the support necessary for the education of the child.

Article 3 of ILO Convention No. 182, the worst forms of child labor comprise:

- The recruitment or engagement of children for slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom, as well as forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
1. the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
 2. the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in relevant international treaties
 3. 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.

Relevant Laws in Ghana that support ILO C182

- We shall make reference to the following laws:
 - The Constitution of Ghana, 1992
 - The Children’s Act of 1998 (560)
 - The Human Trafficking Act of 2005 (694)
 - The Domestic Violence Act of 2007 (732)
 - The Whistle Blowers Act
 - The Labour Act of 2003 (651)
 - The Education Act of 2008 (778)
 - The Education Strategic Plan dubbed “ Education For All by 2015” of (2003)

Byelaws and Community Regulations

- Apart from National Laws some CSOs and NPECLC have been trying to work with District Assemblies to develop Byelaws on WFCL
- CSOs working at community level have also been working and encouraging communities to develop their regulations and monitoring mechanisms to combat WFCL

1. Slavery and Slavery Practices

- **The Constitution Section 15 says;** no person shall be subjected to :
 - (a.) torture or other cruel or degrading treatment or punishment
 - (b.) any other condition that detracts or is likely to detract from his dignity and worth as a human being

Slavery continued.....

Section 16 of Constitution states that :

(1) No person shall be held in slavery or servitude

(2) No person shall be required to perform forced labour

Except in special cases imposed by court or a Service Discipline.

Slavery continued....

Human Trafficking Act (Section 2) All acts leading to trafficking are prohibited:

- (1) A person shall not traffic another person within the meaning of section 1 or act as an intermediary for the trafficking of a person.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to imprisonment for a term of not less than five years
- (3) For purposes of this section, an intermediary is someone who participates in or is concerned with any aspect of trafficking in this Act who may or may not be known to the family of the trafficked person.
- (4) To be concerned with an aspect of trafficking in this Act means
To send to, take to, consent to the taking to or to receive at any place any person for purposes of trafficking, or
To enter into an agreement whether written or oral, to subject any party to the agreement or subject any other person to trafficking.

Bonded Labour and Servitude...

- **Criminal Code Amendment Act (1998):** It is a criminal offence to hold someone in servitude for any reason including for ritual or religious purposes.

2. Pornography and Pornographic Performances

- Prostitution in any form is prohibited in Ghana however, nothing is said about criminals who force others into prostitution
- Human Trafficking Act Section 1 prohibits prostitution.. “Exploitation shall include at the minimum the induced prostitution and other forms of sexual exploitation”
- Unfortunately the Children’s Act of 1998 permits juveniles of 16 years to consent to sex ???

3. Children in Illicit Activities

- This class refers to the use of children in the production and trafficking of drugs. The Ghana Narcotics Law prohibits the production, promotion and sale of narcotic drugs.
- The Justice Administration Act makes special provisions for children who come into contact with the law and provides for their rehabilitation in correctional centers.

4. Children engaged in Hazardous work

- Hazardous work is defined by ILO C182 as any work that can affect the health, safety or morals of a child.
- **Constitution of Ghana Section 28 (1 d)** states “ children and young persons receive special protection against exposure to physical and moral hazards”
- **Section 28 (2)** states “Every child has the right to be protected from engaging in work that constitutes a threat to his or her health, education or development” (child labour)

Hazardous work contd.....

- ILO C 182 requires each country to define what is hazardous work. In Ghana the Children's Act gives a minimum list of what is Hazardous work for children
- The minimum age for employment is pegged at 15 years in Ghana
- Hazardous work is permitted only for persons 18 years and above.
- In the cocoa sector a Hazardous List and a Hazardous Activity Framework have been developed to guide work by children in the cocoa sector

Forced Labour....

Labour Act Section 12 states that “ all employment shall be secured by a written contract”

Labour Act Section 13 states that both employer and employee must sign the written contract

Section 14 prohibits restrictive conditions of employment

FOSTERAGE

- Fosterage is regulated in Ghana. The Children's Act defines *a foster parent as a person who is not the parent of a child but is willing to undertake the care and maintenance of the child*. In Child Rights Regulation in Ghana, L.I. 1705 (2002), the committee shall specify the length of the foster care order which may be reviewed periodically. Foster care by law is to be monitored by a Social Welfare Officer while in the foster home and the child is to be monitored for his/her health, educational development, the relationship between foster parent and the child.

Fosterage contd.....

- The Child Rights Regulation, 2002 (L.I.1705) also recognises inter family fosterage. Regulation 24 states exactly how family fosterage is to be contracted: (i) where a relative wishes to foster within the family, the application shall be submitted to an officer or person in charge of the relevant approach residential home.

Inter-Family Fosterage

- The Children's Act, 560 spells out the responsibilities of a foster parent. The law demands in Section 64, subsection (3), that the foster parent in whose care a child is placed or committed shall have the same responsibilities in respect of the child's maintenance as the parent of the child while the child remains in his care.

Liability of a Foster Parent

- And subsection (4) says a foster parent is liable for contravention of any of the provisions under Part 1 of this Act.

PROHIBITION AND OFFENCES RELATING TO TRAFFICKING

1. Meaning of trafficking

- (1) Human trafficking means the recruitment, transportation, transfer, harbouring, trading or receipt of persons within and across national borders by
The use of threats, force or other forms of coercion, abduction, fraud, deception, the abuse of power or exploitation of vulnerability, or
Giving or receiving payments and benefits to achieve consent.
- (2) Exploitation shall include at the minimum, induced prostitution and other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs
- (3) Placement for sale, bonded placement, temporary placement, placement as service where exploitation by someone else is the motivating factor shall also constitute trafficking.
- (4) Where children are trafficked, the consent of the child, parents or guardian of the child cannot be used as a defence in prosecution under this Act, regardless of whether or not there is evidence of abuse of power, fraud or deception on the part of the trafficker whether the vulnerability of the child was taken advantage of.

Recommendations

- The laws on children should be disseminated widely among the public and law enforcement agencies
- Law enforcement agencies, relevant GOG departments and CSOs should be trained in the laws
- Politicians and public servants found to interfere with law enforcement should be sanctioned to serve as a deterrent.
- Provide adequate funding for training.