



GHANA: A BRIEF ON EQUALITY AND NON-DISCRIMINATION,  
CHILD MARRIAGE, EDUCATION, DISABILITY, AND MIGRANT  
DETENTION  
(CRC ARTICLES 2, 9, 19, 24, 28, 34, 37 AND GENERAL  
COMMENT 4)

*Information for the Committee on the Rights of the Child*

*100<sup>th</sup> Pre-Sessional Working Group, February 2025*

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## INTRODUCTION

The WORLD Policy Analysis Center, based at the University of California, Los Angeles, captures quantitative policy data on more than 2,500 indicators that matter to equality, health, and well-being. We strive to improve the quantity and quality of globally comparative data available to policymakers, citizens, national governments, intergovernmental organizations, civil society, and researchers for all 193 UN member states. We submit the following brief in advance of the 100<sup>th</sup> Pre-Sessional Working Group of the Committee on the Rights of the Child.

This brief will focus on the following areas:

- General Principles: **Equality and Non-Discrimination**
- Special Protection Measures: **Child Marriage**
- Special Protection Measures: **Education, Leisure and Cultural Activities**
- Special Protection Measures: **Children in Situations of Emergency (Detention based on Immigration Status)**

We have collected and analyzed information on rights, laws, and policies in these areas for all 193 UN member states (150 in the case of detention based on immigration status) using a variety of sources, including primary national legal sources (e.g. original legislation and constitutions), national reports on policies and laws to the United Nations and official global and regional bodies, and secondary sources where clarification or corroboration of primary data is needed. Using a rigorous double-coding process, we create original databases which distill thousands of pages of text to highlight the essential features of each right, law, or policy. These original databases are the reference for the following brief. When drafting each brief, we perform a series of additional verifications to ensure the data provided reflects the current available information on the constitutional and legal landscape of a country.

In this report we first provide a summary of our constitutional and legislative findings, as well as suggested questions for the Committee to ask Ghana, and topics we hope the Committee will address in its concluding observations. This summary is followed by detailed constitutional and legislative excerpts documenting our findings. We hope the Committee will recommend that Ghana address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations. We also recognize that while having strong laws and policies in place are necessary first steps, implementation is also of paramount importance. In areas where we have commended Ghana for having provisions in place, we hope the Committee will recommend that Ghana work with stakeholders to overcome any obstacles in implementing these provisions.



## SUMMARY OF FINDINGS AND RECOMMENDATIONS

### 1. General Principles: Equality and Non-Discrimination (Article 2)

Our review of full-text constitutions found that Ghana’s constitution prohibits discrimination on all the grounds covered by the Convention, with the exception of language. However, although Ghana constitutionally prohibits discrimination on the basis of disability, the constitution does not broadly guarantee equal rights based on disability as it does for other Convention-protected groups.

#### RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

We hope the Committee will:

- In its list of issues, ask Ghana: have Ghana’s constitutional provisions on general equality before the law been interpreted, through case law or otherwise, to cover discrimination on the basis of language?
  - If they have not, can Ghana outline any concrete, near-term plans to amend its constitution to prohibit discrimination on the basis of language?
    - If Ghana cannot outline such plans, recommend in its concluding observations that Ghana amend its constitution to explicitly prohibit discrimination on the basis of language, consistent with CRC commitments.
- In its list of issues, ask Ghana: can Ghana outline any concrete, near-term plans to amend its constitution to guarantee equal rights on the basis of disability and language, as it does for other Convention-protected groups?
  - If Ghana cannot outline such plans, recommend in its concluding observations that Ghana amend its constitution to explicitly guarantee equal rights on the basis of disability and language. This protection could be added to Article 12 of the constitution, which already contains such a guarantee for other Convention-protected groups.



## 2. Special Protection Measures: Child Marriage (Articles 19, 24, 28, 34, and General Comment No. 4)

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Ghana explicitly prohibits marriage before the age of 18; however, the last recorded child marriage rates in the country are relatively high: 3% of surveyed women married before age 15, 16% of surveyed women married before age 18, and 7% of girls aged 15-19 were already married at the time of survey.<sup>1</sup>

### **RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS**

We hope the Committee will:

- In its list of issues, ask Ghana: Can Ghana outline how it will work to eliminate child marriage and improve the enforcement of the legal provisions that prohibit marriage before age 18?
  - If Ghana has no concrete plans for eliminating child marriage and improving the enforcement of the minimum age of marriage legislation, recommend that Ghana formulate concrete, near-term plans to do so.

## 3. Special Protection Measures: Education, Leisure and Cultural Activities (Article 28)

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Our research shows that Ghana's legal framework provides for free and compulsory education through the lower secondary level and free education through the end of secondary. In addition, Ghana's constitution provides for the right of education to be enjoyed without gender discrimination. Despite these legal guarantees, as of 2022, 8% of all Ghanaian children of primary school age were out of school.<sup>2</sup>

### **RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS**

We hope the Committee will:

- In its list of issues, ask Ghana: Given the current out-of-school rates for primary students, can Ghana provide any information on what concrete measures it is taking to effectively implement its free and compulsory education provisions?
  - If Ghana does not have concrete measures in place, recommend in its concluding observations that Ghana develop a concrete, near-term plan to effectively enforce its provisions to provide primary education that is both free and compulsory.

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<sup>1</sup> UNICEF data – Child Marriage. Retrieved November 7, 2024 from <https://data.unicef.org/topic/child-protection/child-marriage/>

<sup>2</sup> UNESCO Institute for Statistics. SDG 4 September 2024 Country Dashboard. Accessed November 7, 2024, at: <http://sdg4-data.uis.unesco.org/>



#### 4. Special Protection Measures: Children in Situations of Emergency (Detention based on Immigration Status) (Articles 9, 24, 28, 37)

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Our research shows that migrants and asylum-seekers are subject to the provisions of the Immigration Act, which generally allows detention without specifying age and is silent on family unity issues.

#### **RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS**

##### **We hope the Committee will:**

- In its list of issues, ask Ghana: given the absence of explicit legal provisions on the detention of minor migrants and minor asylum-seekers in Ghana’s existing legislative framework:
  - Can Ghana provide details on the current rates of detention among minor migrants?
  - Can Ghana provide details on the current rates of detention among accompanied minor asylum-seekers?
  - Can Ghana provide details on any specific steps it is taking to explicitly prohibit the detention of minor migrants and minor asylum-seekers?
    - If Ghana is not taking any specific steps to explicitly prohibit the detention of minor migrants and minor asylum-seekers, recommend that Ghana pass and implement legislation prohibiting immigration detention of minors and ensuring family unity.



## DETAIL OF CONSTITUTIONAL AND LEGISLATIVE FINDINGS

While the following review is systematic and rigorous, we recognize that there may be laws or policies governing these areas that we have not captured, including new legislation or policies that have not yet been published globally.

### 1. General Principles: Equality and Non-Discrimination (Article 2)

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Article 2.1 of the Convention states that:

*States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.*

Constitutions state the values of a country, outlining the rights of people living within the country and profoundly influencing norms and practices. In nearly all countries, constitutions take precedence over other sources of law—making them critical tools for delineating and implementing equal rights. New constitutions and new rights guaranteed in constitutions can be used to overturn discriminatory laws, as well as to legislate non-discrimination guarantees. Moreover, constitutions can offer protection against policy and legal changes during periods of social and political shifts that may seek to undermine equal rights. For these reasons and others, as the foundational document setting out the rights of all human beings in a country, a constitution and the rights contained therein are essential to realizing equal rights.

#### *GHANA'S CONSTITUTIONAL PROVISIONS: MISSING EXPLICIT GUARANTEES OF EQUALITY AND NON-DISCRIMINATION BASED ON LANGUAGE*

Our review of full-text constitutions found that through articles 12, 17, 29 and 35, Ghana's constitution prohibits discrimination on all of the grounds covered by the Convention, with the exception of language. However, although Ghana constitutionally prohibits discrimination on the basis of disability, the constitution does not broadly guarantee equal rights based on disability as it does for other Convention-protected groups.

*Constitution of Ghana, amended to 1996*

(...)

**12. PROTECTION OF FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS**



(...)

*Every person in Ghana, whatever his race, place of origin, political opinion, colour, religion, creed or gender shall be entitled to the fundamental human rights and freedoms of the individual contained in this Chapter but subject to respect for the rights and freedoms of others and for the public interest.*

#### 17. EQUALITY AND FREEDOM FROM DISCRIMINATION

*All persons shall be equal before the law.*

*A person shall not be discriminated against on grounds of gender, race, colour, ethnic origin, religion, creed or social or economic status.*

(...)

#### 29. RIGHTS OF DISABLED PERSONS

(...)

*Disabled persons shall be protected against all exploitation, all regulations and all treatment of a discriminatory, abusive or degrading nature.*

#### 35. POLITICAL OBJECTIVES

(...)

*The State shall actively promote the integration of the peoples of Ghana and prohibit discrimination and prejudice on the grounds of place of origin, circumstances of birth, ethnic origin, gender or religion, creed or other beliefs.*

## 2. Special Protection Measures: Child Marriage (Articles 19, 24, 28, 34, and General Comment No. 4)

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General Comment No. 4 (2003) states that:

*The Committee strongly recommends that States parties review and, where necessary, reform their legislation and practice to increase the minimum age for marriage with and without parental consent to 18 years, for both girls and boys.*

Child marriage has life-long health, educational, and economic consequences. For girls in particular, child brides are more likely to drop out of school, be victims of domestic abuse, and experience





pregnancy and childbirth complications due to early childbearing, all of which affect core rights of the Convention, specifically the right to protection from violence (Article 19), the right to health (Article 24), the right to education (Article 28), and the right to protection from sexual exploitation and abuse (Article 34).

*GHANA'S LEGISLATIVE PROVISIONS: MARRIAGE OUTLAWED BEFORE 18, BUT RELATIVELY HIGH CHILD MARRIAGE RATES PERSIST*

Ghana unequivocally sets the minimum age of marriage for both sexes at 18, with no possible exception.

*THE CHILDREN'S ACT, 1998*

*Section 14. Right to refuse betrothal and marriage.*

*(1) No person shall force a child:*

*(a) to be betrothed;*

*(b) to be the subject of a dowry transaction; or*

*(c) to be married.*

*(2) The minimum age of marriage of whatever kind shall be eighteen years.*

Despite this clear prohibition, the last recorded child marriage rates in the country are relatively high: 3% of surveyed women married before age 15, 16% of surveyed women married before age 18, and 7% of girls aged 15-19 were already married at the time of survey.<sup>3</sup>

### 3. Special Protection Measures: Education, Leisure and Cultural Activities (Article 28)

Article 28.1 of the CRC recognizes a child's right to education, and specifically orders States Parties to "make primary education compulsory and available free to all" as well as to "[e]ncourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education." Article 2.1, referenced above, compels States Parties to ensure that these rights are enjoyed without discrimination on the basis of sex.

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<sup>3</sup> UNICEF data – Child Marriage. Retrieved November 7, 2024 from <https://data.unicef.org/topic/child-protection/child-marriage/>



*GHANA'S LEGISLATIVE PROVISIONS: PRIMARY EDUCATION IS FREE AND COMPULSORY, BUT ENROLMENT LAGS BEHIND*

Ghana makes basic education both free and compulsory, through the end of lower secondary education, and free through the end of upper secondary education.

*Pre-Tertiary Education Act of 2020*

*System of pre-tertiary education*

*1. The system of pre-tertiary education shall consist of*

*(a) basic education which comprises*

*(i) two years of Kindergarten;*

*(ii) six years of Primary School; and*

*(iii) three years of Junior High School; and*

*(...)*

*Free, Compulsory and Universal Basic Education*

*2. (1) A child who has attained school going age shall attend a course of instruction as laid down by the Minister in a school at the basic level recognised for that purpose by the Ministry.*

*(2) Basic education, shall be free, compulsory and universal.*

*(...)*

*Free secondary education*

*3. Secondary education in its different forms, including technical and vocational education, shall be free and accessible to all eligible candidates.*

Despite these legal guarantees, as of 2022 8% of all Ghanaian children of primary school age were out of school,<sup>4</sup> and thus the effectiveness of these provisions remains an open question.

Ghana's education legislation does not prohibit discrimination in education, but its constitution does call for the enjoyment of all rights, including education, without discrimination on the basis of gender.

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<sup>4</sup> UNESCO Institute for Statistics. SDG 4 September 2024 Country Dashboard. Accessed November 7, 2024, at: <http://sdg4-data.uis.unesco.org/>



*Constitution of Ghana, amended to 1996*

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12. PROTECTION OF FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

1. The fundamental human rights and freedoms enshrined in this Chapter shall be respected and upheld by the Executive, Legislature and Judiciary and all other organs of government and its agencies and, where applicable to them, by all natural and legal persons in Ghana, and shall be enforceable by the courts as provided for in this Constitution.
2. Every person in Ghana, whatever his race, place of origin, political opinion, colour, religion, creed or gender shall be entitled to the fundamental human rights and freedoms of the individual contained in this Chapter but subject to respect for the rights and freedoms of others and for the public interest.

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25. EDUCATIONAL RIGHTS

1. All persons shall have the right to equal educational opportunities and facilities and With a view to achieving the full realization of that right-
  - basic education shall be free, compulsory and available to all;
  - secondary education in its different forms, including technical and vocational education, shall be made generally available and accessible to all by every appropriate means, and in particular, by the progressive introduction of free education;
  - higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular, by progressive introduction of free education;
  - functional literacy shall be encouraged or intensified as far as possible;
  - the development of a system of schools with adequate facilities at all levels shall be actively pursued.

4. [Special Protection Measures: Children in Situations of Emergency \(Detention based on Immigration Status\) \(Articles 9, 24, 28, 37\)](#)

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As noted in the 2002 Committee’s Report on the Rights of All Children in the Context of International Migration, migrant children may experience heightened vulnerabilities. Particularly, the detention of children based on immigration status violates the principle of the best interests of the child and infringes on core values outlined in the Convention including the right to liberty (Article 37) and the right to not be separated from their family (Article 9). Children held in detention may also face barriers accessing education (Article 28) and health services (Article 24).



Article 37.b. specifically states:

*No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;*

Article 9.1 affirms the right to family unity stating:

*1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. [...]*

#### *GHANA'S LEGISLATIVE PROVISIONS: SPARSE LEGISLATION WITH DETENTION GENERALLY ALLOWED*

Our research shows that migrants and asylum-seekers are subject to the provisions of the Immigration Act, which generally allows detention without specifying age and is silent on family unity issues.

##### *Immigration Act, 2000 (consulted 2012 amendment)*

##### *Section 7—Power to Detain a Person for Further Examination.*

*(1) Where an immigration officer is in doubt as to the right of any person to enter Ghana, the officer may send that person to be detained and that person shall remain in custody pending the determination of the matter.*

...

##### *Section 22—Authority of Immigration Officer to Arrest and Prosecute.*

*An immigration officer enforcing this Act has the authority and powers of a police officer relating to arrest, detention and search.*

...

