ADF INTERNATIONAL

ECOSOC Special Consultative Status (2010)

UNIVERSAL PERIODIC REVIEW – THIRD CYCLE

Submission to the 28th session of the
Human Rights Council's Universal Periodic Review Working Group

October-November 2017, Geneva, Switzerland

GHANA

Submission by:

ADF International
Chemin du Petit-Saconnex 28
1209 Geneva, Switzerland

Web: www.ADFinternational.org
Email: rnavarro@ADFinternational.org

Introduction

1. ADF International is a global alliance-building legal organization that advocates for religious freedom, life, and marriage and family before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name "Alliance Defending Freedom"), ADF International has accreditation with the European Commission and Parliament, the Organization for Security and Co-operation in Europe, and the Organization of American States, and is a participant in the FRA Fundamental Rights Platform.

2. This report explains why Ghana should reaffirm the sanctity of life for all human beings, including the unborn, and why it should resist calls to liberalize access to abortion due to the fact that there is no international human right to abortion. It also deals with the issue of high levels of maternal mortality and morbidity in Ghana.

(a) Maternal Health and Abortion

3. Ghana's abortion laws are relatively liberal in the African context, as the procedure has been legally permitted since 1985 in cases of rape, incest, risk to the life of the mother or injury to her physical or mental health, and substantial risk of serious physical abnormality or disease of the child.

4. Abortion advocates such as the Guttmacher Institute state that around one in ten maternal deaths (11%) are the result of "unsafe" induced abortions, and makes the claim that "this is all the more tragic because it is unnecessary: Many women likely turn to unsafe providers or do not obtain adequate post-abortion care when it is needed because they are unaware that abortion is legal on fairly broad grounds in Ghana."[1]

5. It is true that rates of maternal mortality and morbidity in Ghana are very high, with 319 maternal deaths per 100,000 live births in 2015.[2] The fact that an outlet advocating for increased access to abortion identifies only 11% of these as being caused by "unsafe abortion," however, necessarily implies that the vast majority of maternal deaths in Ghana have myriad other causes, including development issues in healthcare and transportation infrastructure, as well as lack of access to skilled health workers.

6. UNFPA documented that with regard to availability of midwives, nurses, clinical officers and medical assistants, physicians, and OB/GYNs, only 30% of the estimated need was met in 2012, and that in rural areas more than half of all births did not involve skilled birth attendants.[3]

---

[1] Guttmacher Institute, Abortion in Ghana: July 2010 Report, https://www.guttmacher.org/report/abortion-ghana.

[2] World Bank, Maternal mortality ration (modeled estimate, per 100,000 live births), 2015, http://data.worldbank.org/indicator/SH.STA.MMRT.

[3] UNFPA, The State of the World's Midwifery 2014, 102, http://www.unfpa.org/ sites/default/files/pub-pdf/EN_SoWMy2014_complete.pdf.

7. The WHO has also noted that although close to two-thirds of women receive post-natal care from a doctor, nurse, or midwife, over a quarter receive no post-natal check-up at all, with the remaining 8.6% only seeing a community health worker.[4]

8. Legalizing abortion does not make it safe. The medical infrastructure in many parts of Ghana is poor, with an inadequate number of trained health professionals and unsanitary, poorly equipped public health facilities.[5]

9. A so-called international "right to abortion" is also incompatible with various provisions of international human rights treaties, in particular provisions on the right to life. Article 6(1) of the ICCPR states that "every human being has the inherent right to life." The ICCPR's prohibition of the death penalty for pregnant women implicitly recognizes the right to life of the unborn.

10. Although the ICCPR allows for the death penalty to be imposed on both adult men and women, it explicitly prohibits applying the death penalty to pregnant women. Article 6(5) states, "Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women." This clause must be understood as recognizing the unborn child's distinct identity from the mother and protecting the unborn child's right to life.

11. The *travaux préparatoires* of the ICCPR explicitly state that "the principal reason for providing in paragraph 4 [now Article 6(5)] of the original text that the death sentence should not be carried out on pregnant women was to save the life of an innocent unborn child."[6] Similarly, other early UN texts note that the intention of the paragraph "was inspired by humanitarian considerations and by consideration for the interests of the unborn child."[7]

12. The protection of unborn life is also found through an ordinary reading of the language in the preamble of the Convention on the Rights of the Child (CRC). The preamble states, "[T]he child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth."

13. Article 1 of the CRC defines a child as "every human being below the age of eighteen years." This provides an upper limit as to who is a child, but does not provide a lower limit on when the status of "child" attaches. Moreover, Article 6 of the CRC holds, "States Parties recognize that every child has the inherent right to life. States Parties shall ensure to the maximum extent possible the survival and development of the

---

[4] World Health Organization, Ghana: Maternal and Perinatal Health Profile, 2014, 5, http://www.who.int/maternal_child_adolescent/epidemiology/profiles/maternal/gha.pdf.

[5] See, e.g., Flavia Nassaka, No healthcare for the poor, INDEP., 2015, http://www.independent.co.ug/features/features/10548-no-healthcare-for-the-poor.

[6] A/C.3/SR.819, para. 17 & para. 33; In accordance with the Article 32 of the Vienna Convention, the travaux préparatoires are considered to be a "supplementary means of interpretation."

[7] Commission on Human Rights, 5th Session (1949), 6th Session (1950), 8th Session (1952), A/2929, Chapter VI, Article 10.

child." Viewed in the context of the preamble, both Articles 1 and 6 of the CRC indicate recognition of, and protection for, unborn life.

14. Ghana's rate of 319 maternal deaths per 100,000 live births in 2015 has decreased since 1990, in which it was 634 per 100,000.[8] This is still higher than rates of maternal mortality in Gabon, which does not legally allow abortion at all. Maternal mortality rates, therefore, have little to do with the legality of abortion per se, but are instead largely due to an inability to access proper obstetric care, lack of information, and lack of health workers, especially in the case of women living in poverty and in rural areas.

15. These issues must be remedied, but frequent calls to increase legal abortion access as a necessary precondition are misguided. Poor medical infrastructure means that women who receive abortions will still face poor conditions, the same ones faced by women who give birth and deal with similar complications, such as bleeding and infection.

16. Providing more access to abortion will mean more women will suffer from abortion complications. Almost all maternal deaths are preventable,[9] particularly when skilled birth attendants are present to manage complications and the necessary medication is available.

17. In line with paragraph 8.25 of the ICPD, Ghana must focus on introducing measures to avoid recourse to abortion by way of investing in social and economic development and by providing women with support throughout and after pregnancy.

(b) Recommendations

18. In light of the aforementioned, ADF International suggests the following recommendations be made to Ghana:

    a. Affirm that there is no international human right to abortion and that the right to life applies from conception until natural death, and as such that the unborn child has the right to protection of his or her life at all points;

    b. Resist calls to further liberalize abortion, and instead implement laws aimed at protecting the right to life of the unborn;

    c. Recognize that the legalization of abortion in a country with high levels of maternal mortality and morbidity and problems with access to proper health care does not make pregnancy and childbirth any safer; and

    d. Improve health care infrastructure, access to emergency obstetric care, midwife training, and resources devoted to maternal health, with a focus on safely getting mothers and babies through pregnancy and childbirth, with

[8] World Bank, Maternal mortality ration (modeled estimate, per 100,000 live births), 2015, http://data.worldbank.org/indicator/SH.STA.MMRT.
[9] World Health Organization, Fact Sheet No. 348, Maternal mortality, http://www.who.int/mediacentre/factsheets/fs348/en/.

special focus on improving health-care access for women from poor and/or rural backgrounds.

VIENNA
HEADQUARTERS

BRUSSELS

GENEVA

STRASBOURG

LONDON

NEW YORK

WASHINGTON, DC

MEXICO CITY

ADF INTERNATIONAL

ADFinternational.org facebook.com/ADFinternational @IntlADF