



ADF INTERNATIONAL

ECOSOC Special Consultative Status (2010)

UNIVERSAL PERIODIC REVIEW

**Submission to the 42nd Session of the Human Rights
Council's Universal Periodic Review Working Group**

July 2022

Geneva, Switzerland

GHANA

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Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people.
2. This report explains why Ghana should resist calls to liberalize access to abortion, and instead protect the right to life of all persons, including the unborn. It also calls on Ghana to safeguard parental rights in the implementation of school-based sex education programs.

(a) Right to Life

3. Under Ghana's Criminal Offenses Act, abortion is illegal except 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.¹
4. Abortion advocates lament that 15% of all abortion procedures procured in the country are 'unsafe abortions' which have a higher rate of complications and death due to their lack of regulation.² Statistics such as these generally lead to calls for increased access to abortion services in order to lower the incidences of 'unsafe abortions' and improve maternal health outcomes. It is also suggested that reasons for women in Ghana seeking 'unsafe abortions' include stigmatization of abortion, lack of knowledge of abortion's legal status, and misconceptions about the safety of legal abortion. These calls and suggestions, however, are misguided.
5. Liberalizing abortion further will not make it safe. As stated by Guttmacher Institute, 'Changing the law [...] is no guarantee that unsafe abortion will cease to exist.'³
6. Indeed, women who receive abortions will still face substandard conditions, the same ones faced by women who give birth and deal with similar complications, such as bleeding and infection. Thus, providing access to abortion will result in more women suffering from abortion complications.
7. Further, abortion can never be safe because it takes the life of the unborn child. Instead of giving in to pressure to liberalize abortion, Peru must focus on helping women get through pregnancy and childbirth safely, rather than helping them terminate their pregnancies.
8. Although Ghana has a substantially high maternal mortality rate with 310 maternal deaths per 100,000 live births in 2017⁴, increasing access to abortion would not improve this rate and may in fact worsen it. Medical journal BMC Women's Health reports that

¹ Act 29, Criminal Offenses Act, 1960, Sections 58 & 67,

<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/88530/101255/F575989920/GHA88530.pdf>

² Guttmacher Institute 'Incidence of Abortion and Provision of Abortion-Related Services in Ghana' (May 2020) <https://www.guttmacher.org/fact-sheet/incidence-abortion-and-provision-abortion-related-services-ghana>.

³ See S. A. Cohen 'Facts and Consequences: Legality, Incidence and Safety of Abortion Worldwide' (2009) Guttmacher Policy Review, <http://www.guttmacher.org/pubs/gpr/12/4/gpr120402.html>.

⁴ Guttmacher Institute 'Incidence of Abortion and Provision of Abortion-Related Services in Ghana' (May 2020) <https://www.guttmacher.org/fact-sheet/incidence-abortion-and-provision-abortion-related-services-ghana>.

10% of maternal deaths in Ghana are due to complications from unsafe abortion⁵, which means that the vast majority of maternal deaths arise from issues such as poor health infrastructure and lack of access to skilled health workers.

9. The high number of maternal deaths in Ghana must be seen as an urgent human rights priority. However, providing greater access to abortion will mean more women will suffer from abortion complications.
10. Almost all maternal deaths are preventable,⁶ particularly when skilled birth attendants are present to manage complications and the necessary medication is available, such as oxytocin (to prevent haemorrhage) and magnesium sulphate (to treat pre-eclampsia). Problems include a lack of drugs and poor infrastructure, such as no electricity or running water and inaccessibility of hospitals due to weather conditions.
11. Further, abortion can never be safe because it takes the life of the unborn child. Instead, Ghana must focus on helping women get through pregnancy and childbirth safely, rather than helping women terminate their pregnancies. Given the maternal health crisis in Ghana, resources must focus on improving conditions for pregnant women, women undergoing childbirth, and postpartum women.

The Right to Life in International Law

12. A so-called international 'right to abortion' is incompatible with various provisions of international human rights treaties, in particular provisions on the right to life. Article 6(1) of the ICCPR states, 'Every human being has the inherent right to life.'⁷
13. The ICCPR's prohibition of the death penalty for pregnant women implicitly recognizes the right to life of the unborn. Article 6(5) states that, 'the 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.'⁸ 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.
14. The *travaux préparatoires* of the ICCPR explicitly state, '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.'⁹ 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.'¹⁰

⁵ C. A. Atakro et al. 'Contributing factors to unsafe abortion practices among women of reproductive age at selected district hospitals in the Ashanti region of Ghana' (3 May 2019) BMC Women's Health 19(60), <https://bmcwomenshealth.biomedcentral.com/articles/10.1186/s12905-019-0759-5>.

⁶ World Health Organization 'Fact Sheet No. 348: Maternal mortality' (19 September 2019) <https://www.who.int/en/news-room/fact-sheets/detail/maternal-mortality>.

⁷ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art. 6.

⁸ Id.

⁹ UN General Assembly 'Report of the Third Committee to the 12th Session of the General Assembly' (5 December 1957) A/3764, 18.

¹⁰ UN General Assembly 'Report of the Secretary-General to the 10th Session of the General Assembly' (1 July 1955) A/2929, ch. VI, 10.

15. The protection of unborn life is also found through an ordinary reading of the preamble of the Convention on the Rights of the Child (CRC). Article 6 holds that ‘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 child.’¹¹ Article 1 defines a child as ‘every human being below the age of eighteen years.’¹² 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. This is reinforced by the preamble, which asserts that ‘the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, *before as well as after birth* [emphasis added].’¹³ Viewed in this context, both Articles 1 and 6 of the CRC indicate recognition and protection of the right to life of the unborn child.

(b) Comprehensive Sexuality Education

16. In 2019, Ghana adopted a comprehensive sexuality education curriculum called “Our right, Our lives, Our Future (O³).¹⁴ The curriculum was criticised by religious and community leaders across the country due to its promotion of sexual activity among children and the undermining of national values in this regard. The Bishop of the Methodist Church of Ghana noted that the Church was not against sex education but the inclusion of foreign materials in the Comprehensive Sexual Education was unacceptable.¹⁵

17. Upon the launch of the curriculum, Ghana’s Minister for Education, Dr. Mathew Opoku Prempeh, remarked that Ghana views CSE as a conduit to address issues affecting the country’s youth population. Similarly, the Health Minister, Dr. Kwaku Agyemang, claimed that this CSE program will help empower the nation’s youth and allow them to better protect themselves.¹⁶

18. Contrary to the claims of its proponents, evidence suggests that CSE yields negative effects on children, including higher levels of early sexual debut and risk-taking behaviours.¹⁷ Instead of inspiring responsible sexual behaviour, CSE programs desensitize children to sexuality, particularly its emotional and spiritual aspects; question religious, social and cultural norms and traditions that impact sexual behaviour in society; and do not effectively discourage children’s early sexual debut. Moreover, CSE curricula fail to provide evidence-based information to children concerning the serious health risks and long-term implications associated with early sexual activity. The consequences of premature sexual activity have a disproportionate impact on

¹¹ Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, art. 6.

¹² *Id.*, art. 1.

¹³ *Id.*, preamble.

¹⁴ C. Prah ‘Our Rights, Our Lives, Our Future Programme launched in Accra’ (28 January 2019) United Nations Ghana, <https://ghana.un.org/en/18353-our-rights-our-lives-our-future-programme-launched-accra>.

¹⁵ APA-Accra ‘Ghana: Controversy over Comprehensive Sexuality Education’ (12 October 2019) APA News, <http://apanews.net/en/news/ghana-controversy-over-comprehensive-sexuality-education>.

¹⁶ E. Ferdinand ‘Ghana and UNESCO’s Launch of Comprehensive Sexuality Education in February 2019’ (1 October 2019) Education Ghana, <https://educationghana.org/ghana-and-unescos-launch-of/>.

¹⁷ S. Weed, I. Ericksen ‘Re-Examining the Evidence for Comprehensive Sex Education in Schools’ (2018) Institute for Research & Evaluation, https://www.institute-research.com/CSEReport/CSEReportFinal_9-13-17.pdf.

young girls because their bodies are not developmentally prepared for pregnancy, in addition to the fact that they are more susceptible to HIV and other STIs due to biological factors. Furthermore, the incorporation of CSE in school curricula interferes with parents' right to educate their children in conformity with their moral and religious convictions, especially when provided mandatorily.¹⁸

19. Abstinence-based sexual education programs have been found to produce more effective results and less harmful outcomes than CSE. Education on responsible sexual behavior should promote abstinence and fidelity, notably by informing young people about the risks associated with premature sexual activity and multiple concurrent partners, as well as encouraging healthy relationships and responsible decision-making.
20. Instead of giving in to international pressures to implement standardized, ideology-driven programs, Ghana should ensure that sex education programs are developed in close consultation with parents, their representative organizations and other local stakeholders, to guarantee that they are tailored specifically to the needs of children and adolescents growing up in Ghana and prioritize access to knowledge-based education about their bodies, healthy behaviours, and responsible decision-making.

(c) Recommendations

21. In light of the aforementioned, ADF International suggests the following recommendations be made to Ghana:
 - a. Resist pressures to further liberalize abortion, and instead implement laws aimed at protecting the right to life of the unborn;
 - b. 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;
 - c. Ensure that sex education programs are geared towards delaying sexual debut and promoting responsible sexual behaviour and healthy relationships;
 - d. Ensure that parents are able to opt their children out of education programs which violate their religious or moral convictions, including school-based sex education, in accordance with international human rights norms and standards.

¹⁸ J. de Irala, A. Osorio, C. Beltramo, S. Carlos, C. L. del Burgo 'The Politics of "Comprehensive Sexuality Education"' (11 April 2014) Center for Family and Human Rights, https://cfam.org/briefing_paper/the-politics-of-comprehensive-sexuality-education/.



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