

**CENTER FOR MIGRATION STUDIES**

**UNIVERSITY OF GHANA, LEGON**

**AN ANALYSIS OF CHILDREN'S CONCERNS IN MIGRATION LEGAL  
INSTRUMENTS IN GHANA**

**BY**

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**DECLARATION**

I, PAUL AKUETTEH AGOE HEREBY DECLARE THAT, EXCEPT FOR REFERENCES TO OTHER PEOPLE'S WORK WHICH HAVE BEEN DULY ACKNOWLEDGED, THIS DISSERTATION IS THE RESULT OF MY OWN RESEARCH AND HAS NEITHER IN PART NOR IN WHOLE BEEN PRESENTED FOR ANY DEGREE.

SIGNED..... DATE.....

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## **LIST OF ACRONYMS**

- AGRS- Assemblies of God Relief Services
- AIDS- Acquired Immune Deficiency Syndrome
- ACRWC- African Charter on the Rights and Welfare of the Child
- AU-African Union
- CEE- Central and Eastern Europe
- CEPS- Customs, Excise and Preventive Services
- CHRAJ- Commission on Human Rights and Administrative Justice
- CIS- Commonwealth of Independent States
- CRC- Convention on the Rights of the Child
- DA- District Assembly
- DOVVSU- Domestic Violence and Victim Support Unit
- ECOWAS- Economic Community of West African States
- FGM- Female Genital Mutilation
- GoG- Government of Ghana
- GRB- Ghana Refugee Board
- GSS- Ghana Statistical Service
- GLSS- Ghana Living Standards Survey
- HIV- Human Immune Virus
- HRAC- Human Rights Advocacy Center
- ILO- International Labour Organization
- LEAP- Livelihood Empowerment Against Poverty
- MDAs- Ministries, Departments and Agencies
- MDGs- Millennium Development Goals
- MMDAs- Metropolitan, Municipal and District Assemblies
- MMYE- Ministry of Manpower, Youth and Employment
- MOWAC- Ministry of Women and Children's Affairs

NDPC- National Development Planning Commission

NMS- National Migration Study

NGO- Non-Governmental Organization

NSPS- National Social Protection Strategy (of Ghana)

OHCHR- Office of the High Commissioner on Human Rights

OAU- Organization of African Unity

ODI- Overseas Development Institute

PNDCL- Provisional National Defence Council Law

UNICEF- United Nations Children's Fund

UN- United Nations

UNFPA- United Nations Population Fund

UNHCR- Office of the United Nations High Commissioner for Refugees

USOMCT- United States Office for Migration and Child Trafficking

## **ABSTRACT**

Migration has become a phenomenon that affects the lives of many people today. Children are affected as well in diverse ways by migration. Most countries lack comprehensive policies on migration which can harness its gains for mutual benefits and reduce its negative impacts.

Meanwhile, migration has become a major process in many populations, including Ghana's. Children have also been participating in migration in various ways; as independent migrants, as moving along with migrating parents or other adults and as left behind by their migrant parents.

It is against the background that migration laws and other instruments do not often have perspectives of children considered that the present study examined how existing laws in Ghana related to migration have concerns, if any of children.

Ghana was the first country to have ratified the Convention on the Rights of the Child (CRC), yet there are serious situations that threaten their rights and wellbeing such as the negative effects of migration that are probably not addressed with policies or legal instruments. Other situations of migration also make them vulnerable to separation from families, exploitation and abuse.

Meanwhile, the Millennium Summit of the UN held in 2000 adopted eight goals popularly known as the Millennium Development Goals (MDGs); and most target children.

The present study examined the following laws (legal instruments), The Immigration Act, 2000 (Act 573), The Citizenship Act, 2000 (Act 591), The Refugee Law, 1992 (PNDCL 305D) and The Human Trafficking Act, 2005 (Act 694), and the finding show that it is The Human Trafficking Act, 2005 that explicitly mentions children and their concerns.

The study argues that it is important that migration laws and policies have concerns of children considered. Children should be specifically mentioned in them and their needs adequately provided.

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## **CHAPTER ONE**

### **INTRODUCTION**

#### **1.1 Introduction**

Migration is a movement involving a change in one's abode or residence from one geographical area to another (Weeks, 2002; UN, 1958, in UN 1973; GSS (GLSS), 2008). Though migration involves movements, there is no migration when there has not been a movement, but not every movement can be classified as migration.

Migration has received increasing attention from researchers and policy makers in recent times, and some countries have developed laws and regulations to control or manage migration into their borders or out into other countries, that is international migration. Internal migration, which is within the borders of a country, attracts relatively less management in many countries. Children have also been migrating, sometimes independently.

In Ghana, there is no centralized information management system that gives a comprehensive tracking of progress of events leading to the fulfilling of children's rights and protection from violence and exploitation. This is because there are a number of agencies responsible for children and is associated with various aspects of child protection, like the Ministry of Women and Children's Affairs (MOWAC), the Child Labour Unit of the Ministry of Manpower, Youth and Employment (MMYE), the Domestic Violence and Victim Support Unit (DOVVSU of the Ghana Police Service), Ministries of Health and Education, Department of Social Welfare, the Commission on Human Rights and Administrative Justice (CHRAJ) and a Multi-Sectoral Committee on Child Protection among others (Jones, Ahadzie and Doh, 2009,

MOWAC/UNICEF, 2009). These Ministries, Departments and Agencies (MDAs) play various roles in diverse ways to ensure wellbeing of children. MOWAC has the responsibility to coordinate groups that work to combat human trafficking in addition to monitoring and evaluating effects of migration on women and children (Manuh et al, 2010).

However, there are comprehensive and extensive legislations and administrative framework for child protection. Some of the local legislations include the Children's Act (1998), the Domestic Violence Act (2007), the Human Trafficking Act (2005), which directly deals with trafficking of people (including children) within and outside Ghana, the Juvenile Justice Act (2003), and the Registration of Birth and Death Act (1965). The other laws cover other issues of children and are applicable to both those in mobility and those who are not. There are also international instruments that aim at child protection, like the Convention on the Rights of the Child (CRC) and the African Charter on the Rights and Welfare of the Child (ACRWC). Despite these, violations continue to occur due to weak enforcement/implementation of the laws, parental poverty and harmful traditional practices (Jones, Ahadzie and Doh, 2009, MOWAC/UNICEF, 2009).

Jones, Ahadzie and Doh, (2009) have highlighted some serious weaknesses that can be identified from the legislations. They include no clearness in the terms of mandates, roles and responsibilities between some of the agencies that work on child protection and also poor coordination among the agencies. There is also the problem of limited staff capacity to engage in policy analysis, data collection and analysis and monitoring and evaluation. Another setback is the issue of inadequate funds and the lack of linkages between government agencies and NGO's that work in the area of child protection.

## **1.2 Problem Statement**

There seems to be no explicit mention of children on discussions on migration laws and policies except regarding child trafficking which is an aspect of child migration. Migration affects children in various ways, and the United Nations Children's Fund (UNICEF) Innocenti Research Center has noted ways by which migration affects children:-

experience has shown that children are affected by migration in different ways: children are left behind by migrant parents; they are brought along with their migrating parents; and they migrate alone, independently of parents and adult guardians. Other children do not move, but are nevertheless affected because they live in communities that send or receive migrants. Some children are return migrants or have been repatriated (Innocenti Research Center, 2009).

The above observation also denotes ways by which children participate in migration.

Whitehead and Hashim (2005) also made similar observations about how migration affects children when they stated that they (children) can be left behind, when one or both parents migrate; or are with families that have migrated. They also noted that they sometimes migrate themselves independently of their families.

These therefore give the categories of children in the context of migration as independent child migrants, children at the destination of migration accompanied by parents or guardians, children left behind by their migrant parent(s) and lastly, not moving but are affected by migrant parents and other relatives.

Migration influences the life of children in whatever category they may belong to in migration because they depend on adults for various needs, including protection. Children are generally

seen as immature and unable to avoid risky behavior by the judgments they make. Society therefore has an obligation to protect and guide them from any form of danger until they have the ability to protect themselves. The protection of children covers various aspects of their lives, including their dignity, human rights as well as well-being (MOWAC/UNICEF, 2009). Children are normally protected through laws and policies as well as societal norms and practices.

Meanwhile, children migrate independently on their own as active decision makers, or accompany other adult migrants, or are left behind by migrating parents. Increasingly, children actively participate in the migratory process independently in recent times.

Trafficking of children, which is an aspect of child migration seems to receive much attention than the other ways in which children participate in migration and its effects on them (children). Transnationalism also brings about another aspect of children as active participants in migration, the left-behind children and posted babies (Tetteh, 2008). For example, when they are left behind, they may not receive adequate care and protection as noted by a number of studies in Asia and Latin America (Hondagneu-Sotelo and Avila, 1997; Parrenas, 2005). This and other ways children take part in migration needs to be considered in the formulation of policies on migration. Most literature on patterns of migration due to economic reasons treats children as a luggage, “children continue to be portrayed as burdens weighing down otherwise mobile adults” (Orellana et al., 2000: 11).

Socio-political and global economic conditions, geographical locations, historical and political relations between countries, available resources, cultural practices and beliefs as well as religious persuasions are the factors that shape movements or migration of children (Orellana et al., 2000).

In her opening remarks at the Office of the High Commissioner on Human Rights (OHCHR) Consultation on “The Protection Of The Rights Of The Child In The Context Of Migration” Conference held in Geneva recently, Ms Kirsi Madi (Deputy Regional Director for CEE/CIS, UNICEF), noted that, the general absence of the perspective on children within migration laws and policies poses a great challenge in dealing with children’s concerns in the framework of migration, including children left behind. Moreover, issues pertaining to the abandonment of children by their parents or guardians are often not considered on the subject of migration and laws related to it, and child issues are either absent or minimal when it comes to laws related to migration. Also, specific impacts of migration on children have generally not received attention in formulating laws and policies on migration (Kran, 2010).

Children and adolescents constitute about thirteen percent (13%) of all international migrants (Madi, 2010). This is a substantial figure regarding children in mobility. Unaccompanied child migrants and children who migrate irregularly form the most vulnerable group of all migrants, and their numbers keep on increasing every year. They are also confronted with a number of risks, including trafficking, violence, intimidation and abuse. They also face a future jeopardized as a result of the risks associated with migration and can be exploited in their quest to move across borders (Madi, 2010; Sarpong, 2010; Touzenis, 2007).

Sarpong (2010) has also noted the phenomenon of child migration and the various hazards they face, including unaccompanied minors and left-behind children who are vulnerable to health, behavioural and psychological problems, and he calls for “a collective policy formulation to halt it” (Sarpong, 2010).

According to the Fifth Round Report of the Ghana Living Standards Survey (GLSS), more than half of the country's population aged seven years and above are migrants and highly mobile (GSS, 2008), which shows that Ghanaians have a high propensity to migrate.

Recently, the *Daily Graphic* (August 4, 2010) reported a police interception of three buses loaded with children at the outskirts of Prampram believed to be for trafficking purposes. The Human Rights Advocacy Center (HRAC) also catalogues some situations in the country in which people have been arrested and prosecuted for offences related to trafficking and their victims freed (HRAC, 2011).

Such movements must be a matter of public concern. Indeed, the adoption of The Human Trafficking Act, 2005 (Act 694) is an indication of public action taken against trafficking of both children and adults.

As migration increases around the globe due to several factors such as fast and low cost of communication and transportation (Adamson, 2006), so does children's participation in migration also keep increasing. And in Ghana as well, children have been active participants in migration recently especially as independent actors.

Protection and well-being of children are therefore important areas of research on migration. The need to examine laws and policies on or related to migration that address needs and concerns of children cannot be overemphasized. Laws and policies are aimed at the general good of the people by regulating behaviours and social order.

Implications of migration on children receive less attention despite the conspicuous nature of children's involvement in migration and adoption of policy regarding migration in several countries.

Some research studies on children have been carried out on children in migration. For instance, MOWAC/UNICEF (2009) examined issues of the education, protection, health and nutrition and other issues of children. Tetteh (2008) also looked at the impact of parents' migration on their children, especially the left-behind children. The present study seeks to fill the gap in migration related laws and policies and children.

### **1.3 Research Questions**

The study attempted to answer the following questions;-

1. Which laws and policies of Ghana are on or related to migration?
2. Are children mentioned in the laws and policies, and in what situations/contexts are they mentioned?
3. What other issues about children in the laws and policies are missing?

### **1.4 Objectives of the Study**

The study explored the extent to which the legal instruments (laws and policies) on migration have concerns of children. The general objective of the study was to find out whether the interests and concerns of children have been taken into account in the existing legal instruments (laws and policies) on or related to migration in Ghana. The specific objectives are;

1. To find out if Ghana's legal instruments (laws and policies) on or related to migration have any mention of children.

2. To find out what issues, if any, about children are in the legal instruments (laws and policies).
3. To examine the enforcement of one of the laws, The Human Trafficking Act, 2005 (Act 694) since its enactment in 2005.
4. To make recommendations based on the findings, for any policies and programmes that seek to address issues concerning children with respect to migration.

### **1.5 Rationale of the Study**

Migration has received the attention of governments, policy makers and other bodies in many countries in recent times. The wellbeing of migrants has also been discussed in many contexts regarding human development. Laws and policies on migration have become the main instruments by which these issues are being addressed in many countries.

Therefore, if children are involved in migration, we need to examine laws and policies on migration and if they address children's issues. Because laws and policies etc. are the main means by which migrants, including children in migration can have their wellbeing ensured.

### **1.6 Chapter Outline/Organization of the Study**

Chapter One of the study is on the introduction or background to the study, problem statement, objectives of the study, research questions and rationale of the study.

Chapter Two contains the literature review and methodology adopted for the study.

Chapter Three is about Ghanaians' participation in migration, both internal and international and migration related laws.

The analysis of the laws and policies (legal documents) are presented in Chapter Four.

The summary, conclusions and recommendations on the study are in Chapter Five.

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **2.1 Introduction**

Migration has become an area of human development planning because of its relatedness to wellbeing of migrants and their families including children left behind and those who move with migrating parents.

Migration also has impacts on source regions and destination areas. Generally, migrants perceive benefits at destination areas that they pursue. Children as migrants also strive to achieve their purposes for migrating.

But when children accompany their parent(s) or are left behind, migration impacts may either be positive or negative on them. Indeed when children and adults migrate voluntarily for economic benefits, they may become vulnerable for several reasons. As a result, laws and policies on or related to migration are required generally to protect migrants. In the case of children especially, they have some vulnerabilities that are associated with their developmental stages as well.

The literature reviewed for the present study therefore comprises vulnerabilities in children and migration-related vulnerabilities and policies on migration.

#### **2.2 Vulnerabilities in Children**

Though childhood poverty and vulnerability are usually tied to that of the household, it has four distinctive features:

1. childhood as a dynamic stage of life in which capacities of children evolve,

2. children requiring more care and protection than adults in their course of development (biological, neurological, social and moral development),
3. vulnerability to disease, abuse and exploitation, and
4. voicelessness of children as they have little or no opportunity to participate in decisions about their lives.

There is also a strong relational nature-dynamics and distribution of power in household resource which may have a profound effect on their experience of poverty (Jones and Summer, 2007, cited in Jones, Ahadzie and Doh, 2009).

Children suffer also vulnerabilities and risks related to health, especially infants and young children. Some children may also be denied education which is a basic right. Their involvement in employment activities also risks them not getting enough time to study and also attend school regularly. Meanwhile, children may be exploited when they work and their employers pay them less than they would pay adults (Touzenis, 2007). They may also suffer abuse from employers. Poverty has been identified as one of the underlying causes of child labour, trafficking and associated sexual exploitation.

Again, socio-cultural factors undergird some forms of child abuse like child marriage which affects girls, *trokosi* (slavery to a shrine) in Ghana and other West African countries and FGM, scarification (making scars on the face or body) and food taboos. (Jones, Ahadzie and Doh, 2009, MOWAC/UNICEF, 2009). Lack of education, or minimal of it causes poverty. Another risk factor that affects children is the lack of birth registration (MOWAC/UNICEF, 2009). Migration further aggravates problems related to children's citizenship status as well as other areas of wellbeing.

Migration makes children vulnerable under certain situations like trafficking and prostitution, and especially when they migrate alone, they are not able to resist pressures from traffickers and free themselves.

### **2.3 Migration, Protection of Children and Children in Migration**

Children may independently migrate voluntarily or involuntarily. Children may also be part of their parent(s) or adult's migrant family or non-family members too.

Children's protection can be in various forms, including socially. Santrock (2001:12) defines social policy as 'a national government's approach to influencing the welfare of its citizens'. He notes that its shape and scope is influenced by the prevailing political system. Social protection has been conceptualized as 'a set of public actions which address poverty, vulnerability and risk throughout the lifecycle' (Jones, Ahadzie and Doh, 2009:15). Again, social protection has been defined in Ghana's National Social Protection Strategy (NSPS) as efforts that 'go beyond income support and include the strengthening of social cohesion, human development, livelihood and protection of rights and entitlements' (MMYE, 2007a, cited in Jones, Ahadzie and Doh, 2009:43).

Social protection measures could play certain roles in society: protection from adversity, preventing harmful coping responses like sale of assets or resorting to child labour, promoting means of escaping or getting out of poverty and vulnerability by promoting investments in human capital development and also transforming social relations by empowering the oppressed and those facing discrimination. Other roles of social protection are contribution to reduction of

social inequality and exclusion. It also contributes to social stability and conflict prevention (Jones, Ahadzie and Doh, 2009).

Social protection can be formal or informal, and provide social assistance to extremely poor individuals and households, social welfare services to groups who need special care in addition to social insurance to protect people against the risks and consequences of livelihood, health and other shocks. Also, social protection provides social equity measures to protect people against social risks such as discrimination or abuse (Jones, Ahadzie and Doh, 2009).

Bortei-Doku Aryeetey and Doh (2007, cited in Jones, Ahadzie and Doh, 2009), have identified five main sources of informal social protection to include kin-based support systems, remittances, trades associations, faith-based support networks and credit societies. These are based on traditional principles of reciprocity and mutual exchange. Protection of children can also be through institutionally and legally.

Though Whitehead and Hashim (2005) note that there is no legal instrument or framework, be it international or regional, that deals directly with the issue of child migration, including the other ways children are involved in migration, de Wenden, (2007) also suggests that there are few legal instruments on migration to protect children at national, regional and international levels. There are laws that talk about the general well being of children, which are difficult to implement, especially in developing countries. Whitehead and Hashim (2005) add that some frameworks exist that are directly or indirectly significant to the movement of children, be it forced or voluntary.

Most of children's rights are on social and economic issues- the rights to education, health, family life, leisure etc.; some are civil and political as well (Sigona and Hughes, 2012; Touzenis, 2007).

Because migration policies and practices impact deeply upon children's lives (Jones, 2007), children must feature prominently (must matter) in migration policies and laws. Migration policies (and that of Ghana) can incorporate issues about children like providing them with protection to vulnerabilities and providing access and investment in education, health and equality in social protection.

Shuteriqi (2007) notes aptly that legislation and migration policy is the cause for lack of assistance that children in migration need.

Though the CRC gives protection to migrant children irrespective of their legal status, its enforcement largely depends on its incorporation into domestic or national law (Sigona and Hughes, 2012).

In Ghana, a number of laws and policies, direct and indirectly on children exist, and some deal with movements of children as well. The purpose of the present study is to find out if laws and policies (legal instruments) on or related to migration have concerns of children.

### **2.3.1 Migration and Children Left Behind**

Migration directly impacts family structure by splitting the nuclear family and also dispersing them geographically, children live either on their own or with relations (Wahyuni, 2000, cited in Wahyuni, 2005). Migration does not only impact on children left behind by migrant parents, but also those who accompany adult migrants and those who move alone.

When household heads migrate, they leave behind *de facto* single parent families, and the household heads perform responsibilities of migrated family members in addition to theirs. This changes the family structure and affects the home as an agent of socialization and economic unit. Husbands are seen as *de jure* family heads.

Wahyuni (2005) argued that in Javanese villages, migration has been relied upon to solve economic problems of families. Though separating children from their parents at a tender age is inconsistent with Javanese traditional societies, migration has made that possible (Wahyuni, 2005). Migration then becomes a causal agent of whether a child will move along with a migrating adult or will be left-behind.

In Nepal, migration is changing the family structure from the traditional 'split-household family' to 'dual-wage earner' (Glenn, 1983, cited in Yamanaka, 2005). In the former, male breadwinners migrate leaving their families behind with relatives while in the latter, both parents migrate leaving their children with relatives because of employment opportunities abroad (Yamanaka, 2005). The children have to cope with the persons they are left behind with, typically family relations. Migration can alter long cherished traditions once there are opportunities for people to. Such a typology of migration affects children mainly as left behind children, their parents leave them under the care of other relations or friends.

In Botswana, the findings of the National Migration Study (NMS) carried out in the 1970's (cited in Mokoodi, 2000) identified two types of female headed households, *de jure* and *de facto*. *De jure* female household heads were seen as females who were the usual or permanent heads of their households; and *de facto* heads of households being females who are the temporary heads of their households in the absence of *de jure* male household heads. Colonization alongside migration (labour) has been factors that have led to increased female-headed households in Botswana (Mokoodi, 2000). Indeed, one of the legacies of migration in Botswana (and to some extent Southern Africa) is the increase in female headed households mainly because of labour migration to South African mines. Thus migration alters the structure of the household. This kind

of parental movement also affects children left behind as the mothers may not be able to play the role of a mother and father together effectively.

A study by Coe (2011) on the impact of transnational migration on the family in Ghana indicates that as families become more transnational, where either parents (or both) are international migrants but with ties to Ghana, their children remain with extended family members in the places of origin. The parent(s) maintain links with the children through phone calls, remittances and visits. Coe (2011) identifies transfer to postings of professionals like nurses, teachers, accountants and ministers in addition to farmers seeking fertile lands for farming and trading across long distances as the major forms of internal migrations within Ghana. Some of such internal migrant fathers neglect their children though their support is important for the well-being of their children; 'many agree that children who are out of touch with their fathers have a difficult life and an uncertain future' (Coe, 2011: 154).

The absence of fathers leads to increased responsibilities for mothers and children, having to perform their responsibilities and that of the migrant father. Again, children and adolescents may involve themselves in social vices such as teenage pregnancy, drug abuse, and may have serious psychological and emotional problems, theft and depression as well as interpersonal difficulties etc. Though parents' migration may lead to improved lives of the children economically, they also suffer in the form of neglect, and sometimes, unhealthy relationship when parental migration leads to a separation from them (Ryan, 2008; Farrow, 2007; Jones, 2007).

### **2.3.2 Migrant Children at Destination Areas**

The foregoing discussion on children in migration suggest that vulnerabilities are associated with their migration experience as independent child migrants, accompanying migrant parents or other

adults, or as left behind. Children, in whatever form they participate in migration need protection.

At destination areas, migrant children may have problems adapting and integrating into the host society. They may also be faced with problems relating to citizenship rights and related uneasy access to social services. Also, some children are found in exploitative work with their parents, while some help their parents in their businesses, sometimes working more hours than non-migrant children, and which could lead to inadequate access to education and healthcare. Some children get separated from their parents because of lack of enough child care mainly because of their parent's absence for work while others face racial discrimination and harassment, likewise language difficulties (Ryan, 2008; Farrow, 2007; Rutter, 2007). Though in some countries like the UK, migrant children are entitled to public funded schools, proving residency through immigration status poses a difficulty for irregular migrants, and so their children are unable to attend school and also access health care (Kran, 2010; Farrow, 2007). All these conditions could negatively affect the health, education and general wellbeing of children in migration.

Rutter (2007) uses the term 'chaotic migrancy' to describe children whose parents are either irregular migrants, has jobs in the informal sector in households (or insecure employment), are separated from usual carers, or have little or no contact with welfare or educational agencies at destination areas. Such children grow up with little or no education and therefore have no skills, and may end up stealing or shoplifting to survive. Again, overcrowding in housing facilities in migrant communities also impacts on children in their education, health and welfare (Rutter, 2007).

Also, children's immigration status is dependent on their parents', such that if a parent is an illegal immigrant, the child then is also an illegal immigrant, and the deportation of parents implies the deportation of the child as well (Sigona and Hughes, 2012; Farrow, 2007).

There are three areas (basic requirements) within which migrant children need protection at the destination areas of migration. Firstly, recognizing and protecting the family unit, access to specialized services for unaccompanied/independent child migrants and those who see violence whilst migrating and lastly, recognizing their legal status before the law (Ryan, 2008). These are essential for the integration, social cohesion and promoting the dignity and well-being of (migrant) children.

### **2.3.3 Independent Child Migrants**

Touzenis (2008) notes that children who migrate independently do so with the prospects of improving opportunities in life as adults, and older children have the propensity to migrate independently. Such migration is high in areas where adult migration is high as well. Children find it a necessity to move in order to fulfill personal and sometimes family desires for income.

Independent child migrants are children (below 18 years) who have changed their place of residence and are not being cared for by an adult who by law or custom is supposed to (Edmonds and Maheshwor, 2009; Touzenis, 2008). Not all such children (independent child migrants) are separated from their families; some are connected with their families but still leave home to go and work to improve their family fortunes, either as an individual decision maker or as a result of a family decision, especially in families with large numbers of children. Some also migrate for other reasons. It is difficult and rare to come by an estimated number of independent child migrants (Cortina, 2010).

Whitehead and Hashim (2005:2) also describe independent child migrants to mean 'any child who migrates separately from their parents'. Aside independent child migration, children also

participate in the migratory process as accompanying other adult migrants, as left behind by migrating adults and also as being affected by migration though not moving.

However, there is a widespread understanding of seeing independent child migration as a result of child trafficking, thereby giving a narrow view of understanding independent child migration (Sigona and Hughes, 2012). There are more internal migrants than international migrants even among children, especially independent child migrants (Yaqub, 2009).

There are risks involved with independent child migration, and in Ghana, independent child migrants face a number of risks, which include poor remuneration for their services, poor housing, low income, poor health care, poor sanitation facilities and sexual harassment. (Kwankye et. al., 2007).

## **2.4 Types and Patterns of Child Migration**

Child migration can take various forms or categories. They include trafficked children, migrant street children, child soldiers and child refugees (Whitehead and Hashim, 2005). In Ghana, four main facets of child migration can be identified; namely, fostering, street children, trafficking and independent child migrants (Agyei and Ofosu-Mensah, 2009; Anarfi, et al. 2003). They are also ways in which children participate in migration.

A study carried out by Hashim in 2005 (cited in Agyei and Ofosu-Mensah, 2009) on the migration of Kusasi girls from northern to southern Ghana identified three patterns of movement of children. They include the movement of children to relatives for fosterage in cocoa growing areas, to gain better education or to have vocational training. The last type is the migration of children in pursuance of higher education through earning of income.

Gradually, a considerable number of children are becoming part of the process of migration as independent actors (migrants) and not as dependents to various destinations, including villages, towns and cities, within or outside their countries of origin (Anarfi and Appiah, 2009; Touzenis, 2008; Whitehead and Hashim, 2005). These movements are embarked upon for various reasons and such reasons range from economic, search for social and cultural amenities to fleeing restrictions of family members (Agyei and Ofosu-Mensah, 2009). Other factors that cause migration of children include poverty, desire for income, for educational purposes, family neglect/abuse, household crises, in response to wars and conflicts and when under hazardous and life-threatening conditions among others (Anarfi and Appiah, 2009; Touzenis, 2008; Whitehead and Hashim 2005). Migration of children (independently) may also be a process of socializing as well (Frempong-Ainguah, et al., 2009). But the economic reasons seem to be the main motive for independent child migration in Ghana. Children migrate to achieve better livelihoods for themselves and their families.

Whitehead and Hashim (2005) assert that parents and children are the key actors that take the decision of children migrating independently to their various destinations. This is consistent with the Ghanaian situation, where the decision of children to migrate comes from three main sources, the child (migrant), the parents or relatives and friends (Frempong-Ainguah, et al., 2009).

## **2.5 Dangers Associated With Independent Child Migration**

In the course of migration, children are vulnerable to various vices. Vulnerability is the state of being in which people are not able to cope with threats to their wellbeing or access resources without incurring a damaging loss (Dercon, 2005, cited in Jones, Ahadzie and Doh, 2009). Children form part of society's most vulnerable members, and they are vulnerable to conditions

such as hunger, abuse, violations of their rights, and also diseases (like malaria, polio and HIV/AIDS) (MOWAC/UNICEF, 2009). In child migration as well, the children also encounter such vulnerabilities.

Children are also susceptible to and face various dangers, including being targets of violence, theft, exploitation, homelessness, inability to attend school and working in jobs that are exploitative and hazardous to their health. (Touzenis, 2008; Whitehead and Hashim, 2005). Also, they are confronted with other risks, such as being trafficked, intimidated, abused, having their future jeopardized and exploited (Madi, 2010; Sarpong, 2010). Some independent child migrants end up living and working on the streets and lack access to basic amenities/facilities (Kwankye et al., 2007; Touzenis, 2007). Thus, the ability of child migrants who come across such hurdles on their journey and at their destinations depends on their resilience in overcoming such challenges and also their determination to achieve their objectives for moving.

The migration of children independently across Ghana and especially from the north to the south has become a subject of public concern recently as the vulnerabilities associated with it have become evident (Kwankye et al., 2009), despite interventions by individuals and non-governmental organizations (NGOs) to help control it. The other ways by which children are affected by migration must also be a matter of concern, since migration in general and migration of children as well cannot be stopped.

Children are trafficked mainly for their labour and also to involve them in sexual exploitation (such as prostitution rings, child pornography or sex tourism). Poverty and ignorance seems to be the major drivers of child trafficking, and two types of child trafficking take place in Ghana, internal (within the country) and external (outside the country) (MOWAC/UNICEF, 2009).

Migration makes children vulnerable under certain situations like trafficking and prostitution, and especially when they migrate alone, they are not able to resist pressures from traffickers and free themselves.

## **2.6 Conceptual Context**

The term 'policy' has been defined in various ways. Hecloo suggests that 'a policy may usefully be considered as a course of action or inaction rather than specific decisions or actions' (1972:85, cited in Ham and Hill, 1993). Matland also defines policy as "the programmatic activities formulated in response to an authoritative decision" (Matland, 1995: 154). Again, it has been defined as "a relatively stable, purposive course of action followed by an actor or set of actors in dealing with a problem or matter of concern" (Anderson, 2006: 6). One thing common in these definitions is the fact that an action is taken or activities undertaken by an authority to deal with a problem or situation. A policy may thus be seen as a set of ideas and decisions to be put into action for public benefit.

Public policy has also been defined in various ways by scholars. Dror defines public policy as a very complex and dynamic process whose various components make different contributions to it. It decides major guidelines for actions directed at the future mainly by governmental organizations. These guidelines on policies formally aim at achieving what is in the public interest by the best possible means. (1968, cited in Ayee, 1996).

Public policy thus could be seen as a government's major plan aimed at the public good.

Policy may be defined as “a relatively stable, purposive course of action followed by an actor or set of actors in dealing with a problem or matter of concern” (Anderson, 2006:6). The focus of this definition is about what actually gets done and not what is intended to be done.

Public policies are made by government agencies and officialdom and they affect large numbers of people, though they may be influenced by non-governmental actors (Anderson, 2006). Certain features can be deduced from his definition of policy. Public policies are;

- i. purposive or goal-oriented action; they are intended to achieve specific goals.
- ii. it involves series of actions taken by officials to enforce the policy or rule.
- iii. public policies are made because of demands by members of the public.
- iv. a public policy entails the things that governments actually do, not only what they aim at doing.
- v. a public policy could be positive or negative.
- vi. public policy is normally based on law and so is authoritative.

Some scholars have pointed out that the environment within which policy takes place is important in policy making. Ayee (1996) identifies two aspects of the policy environment that influence the making of policies as internal and external. The internal factors include geographical characteristics, demographic characteristics, political culture, social structure and the economic system. External forces could be countries, international organizations and donor agencies, which influence policy making. This is relevant to the study because some of our legislations like the Human Trafficking Act, 2005 (Act 694) and the Refugee Law (PNDCL 30) have been influenced wholly or partially by international instruments on those themes or subjects.

The making of public policy is seen as a process or cycle, and scholars have identified five stages of the process of making public policy. The stages include problem identification/agenda setting, policy formulation, policy adoption, policy implementation and finally, policy assessment/evaluation/impact (Anderson, 2006; Ayee, 1996).

Sabatier (1991) suggests that theories on policy process should integrate the following; ideas of scholars in public policy, researcher's focus on interests and preferences, available resources, rules of institutions as well as socio-economic situations.

### **2.6.1 Policy Analysis and Conceptual Background for the Study**

Policy analysis as a discipline in the social sciences does not have one definition acceptable to all (Wildavsky, 1979, cited in Ham and Hill, 1993), and it has been defined in various ways by scholars. Policy analysis as a term describes a range of varied activities, sometimes referred to as policy sciences or policy studies (Ham and Hill, 1993). According to Dye (1976: 1 cited in Ham and Hill, 1993) policy analysis 'is finding out what governments do, why they do it and what difference it makes'; to him, it describes and explains causes and consequences of government action.

Anderson (1984, cited in Ayee, 1996) also defines the concept of public policy analysis as "the examination and description of the causes and consequences of public policy". To Ayee (1996: 6), "policy analysis is the activity of creating knowledge of and in the policy making process. In creating knowledge of policy making processes, policy analysis investigates the causes, consequences and performance of public policies and programmes". Policy analysis is therefore the activity of reviewing a policy to find out its causes and consequences and offer alternative(s).

It is a means of social change and has a purpose of raising levels of argument among competing interests (Wildavsky, 1969).

Policy analysis involves evaluating and bringing out alternatives for policy decisions and its aim or reason is that the public gets served better if their opinions are informed by an appraisal of alternatives and also to make agencies relevant politically and socially (Elmore, 1983; Wildavsky, 1969). Though Wildavsky (1969) notes that there are no particular rules of undertaking policy analysis, Patton and Sawicki (1993) have outlined six major steps or processes that can be used for policy analysis, and they are defining a problem, determining evaluation criteria, identification of alternatives, evaluation of alternatives, comparison of alternatives and the assessment of outcomes.

Ayee (1996) further mentions the various models and approaches used in explaining the policy making process or the results of the policies, as the *Descriptive Approach (Model)* and the *Prescriptive Approach (Model)*. In the former, which is based on the behavioral theory of politics, policy analysis is concerned with the way participants in the policy making process address problems and also how far they take important factors in policy-making into consideration. The latter on the other hand, is based on the normative political theory and is concerned with how participants in the policy making process ought to act.

The *Descriptive Models* talk about the real process of policy making, and the actors involved with policy making. Models of policy making classified under the descriptive models include the Elite/Mass Model, the Group Model, the Systems Model and The Institutional Model.

The *Prescriptive Models* approach to policy making is associated with normative political theory, “how policy makers ought to act. They seek to prescribe the best ways of making policies” (Ayee, 1996: 15). Policy models linked to the prescriptive approach are the Rational-

Comprehensive Model, the Disjointed Incremental Model, the Mixed Scanning Model, the Normative Optimum Model and the Public Choice Model.

The present study uses the Prescriptive Model Approach by first examining a set of laws (legal instruments), which are The Immigration Act, 2000 (Act 573), The Citizenship Act, 2000 (Act 591), The Refugee Law, 1992 (PNDCL 305D) and The Human Trafficking Act, 2005 (Act 694) and then indicating what they ought to have on children.

## **2.7 Methodology of the Study**

### **2.7.1 Sources of Data and Information**

For the objectives of the study to be achieved, two main sources of data were used. The first source is legal instruments because the general objective of the study was to find out if the legal instruments have concerns on children.

Qualitative research methods were also employed for the conduct of the study. This approach was used to solicit information on the enforcement or implementation of one of the legal instruments, The Human Trafficking Act, 2005 (Act 694) as stated in the objective section.

Laws and policies (legal instruments) related to migration were the main sources of data for the study. The legal instruments were secondary sources of data. They included four legal instruments (laws and policies), which are;

1. The Immigration Act, 2000 (Act 573),
2. The Citizenship Act, 2000 (Act 591),
3. The Refugee Law 1992 (PNDCL 30) and

4. The Human Trafficking Act, 2005 (Act 694).

The Immigration Act, 2000 (Act 573) provides for the “admission, residence, employment and removal of foreign nationals” (Manuh et al, 2010:69). It also provides for embarkation and disembarkation at approved points and appearance before an immigration officer and possession of a valid travel document. It introduces the indefinite residence status and the right of abode (Manuh et al, 2010).

The Citizenship Act, 2000 (Act 591) lays down the procedures for acquiring Ghanaian citizenship and also, obtaining dual citizenship as well.

The Ghana Refugee Law, 1992 (PNDCL 305D) was also used as a source of data. It is based on the UN 1951 Convention Relating to the Status of Refugees and the Organization of African Unity (OAU) (which is now known as the African Union, AU) Convention on Refugee Governing the Specific Aspects of Refugee Problems in Africa (1967). In both Conventions, a refugee is defined as a person who

“owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.” (cited in Manuh et al., 2010:35; Refugee Law, 1992 (PNDCL 305D), pp. 8).

### **2.7.2 The Qualitative Interviews**

The qualitative interview conducted was expert interviews with two officials, one from the Ministry of Women and Children's Affairs (MOWAC) and the other from of the Ghana Police Service, specifically the Anti- Human Trafficking Unit. Expert interviews are ideal for subjects that the interviewee is knowledgeable about (Ramirez, 2002). Interview in qualitative work generally encourages 'rambling' or going off which 'gives insight into what the interviewee sees as relevant and important' (Bryman, 2008:437). This idea guided the conduct of the interview.

The expert interviews were conducted with the officials because they are major stakeholder institutions in migration that are involved in the enforcement of the Human Trafficking Act, 2005 (Act 694).

This Act was chosen because trafficking especially in children has received considerable public concern and response recently. At the international level, The United Nations' Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children has been adopted. It supplements the United Nations' Convention against Transnational Organized Crime (also known as the Palermo Protocol).

The Human Trafficking Act, 2005 (Act 694) was passed to prevent, reduce and punish offenders of trafficking in the country is in line with the Palermo Protocol.

### **2.7.3 Analysis of the Legal Instruments**

Issues on children within these legal instruments were examined as was the objective of the study. This was done in three stages on each of the four (4) legal instruments selected for the

study. For the first stage, the legal instruments in question were examined to find out if children's issues were in them, whether children have been mentioned and, if so, what about them are in the laws (legal instruments).

At the second stage, the issues on children were then examined to find out if they address the nature of migration of children and the various ways they participate in migration as independent migrants, migrating with parents or other adults and as left-behind children of migrant parents.

This content analysis was presented with recommendations made on them, as part of the chapter that covered the analysis. The concluding chapter also have a section on recommendations on the study as a whole.

Content analysis was utilized in getting data from the laws, because according to Patton (2002:453), it "is used to refer to any qualitative data reduction and sense-making effort that takes a volume of qualitative material and attempts to identify core consistencies and meanings".

Content analysis also enables the understanding of social realities subjectively and scientifically as well (Zhang and Wildemuth, nd). Mayring (2000:2) also sees qualitative content analysis

as an approach of empirical, methodological controlled analysis of texts within their context of communication, following content analytical rules and step by step models, without rash quantification.

It aims to describe a phenomenon and consist of three main phases, preparation, organizing and reporting (Elo and Kyngas, 2008).

Qualitative content analysis can be approached in two ways, either inductively or deductively (Elo and Kyngas, 2008; Mayring, 2000; Zhang and Wildemuth, nd). The inductive approach to content analysis is adopted in a study where there is a fragmentation of knowledge, i.e. where

there is no enough previous studies of a phenomenon under study, whereas the deductive approach is adopted where a study is aimed at testing an existing theory in different circumstances or to compare them (Elo and Kyngas, 2008). The inductive approach was adopted in the conduct of the present study because this study aimed at bridging the gap in migration related laws and policies and children.

## **CHAPTER THREE**

### **MIGRATION AND MIGRATION-RELATED LAWS AND CHILDREN IN GHANA**

#### **3.1 Introduction**

Long before colonization, there were a lot of migratory movements within Ghana and the rest of the West African sub-region for various purposes such as trade, building strong states and searching for new lands for settlements. Search for farmland and escape from wicked rulers were also among the reasons for migration in the sub-region (Agyei and Oforu-Mensah, 2009; Anarfi et al., 2003).

Migration is an age-old practice among the people of Ghana. Almost all the tribes or ethnic groups in Ghana claim to have moved from somewhere to their present location (Agyei and Oforu-Mensah, 2009; Boahen 1975, in Anarfi et al., 2003). This show how likely it is for Ghanaians to migrate in pursuance of their individual and communal goals and objectives.

Some countries have come up with policies and laws to either control or manage migration as well as to harness its benefits for the growth of their economies and states.

#### **3.2 Internal Migration**

Migration has been and continues to be an important phenomenon in Ghana and to Ghanaians. Within the country, migration has been a way of life and livelihood strategy for many people (Manuh et al., 2010). Ghanaian migrants are found in many destinations all over the world too for various reasons and purposes.

However, migrations mainly for trading purposes became widespread during the period of colonialism (Sudarkasa, 1974-75, in Anarfi et al., 2003) because the sub-region was peaceful as a result of the virtual end of inter-tribal wars and also improvements in levels of education (Anarfi et al., 2003). Before and during colonialism, economic motives were predominant in most migrations in Ghana. The growth of mines and cash crops such as cocoa was an attraction for many migrants, especially people from northern Ghana and some countries within the West African sub-region, mainly as migrant labour (Agyei and Oforu-Mensah, 2009; Anarfi et al. 2003).

Aside economic opportunities and considerations, a number of other factors also influence migrations within Ghana, such influences as low cost of communication and transportation and also social issues like women moving to join their husbands (Agyei and Oforu-Mensah, 2009; Adamson, 2006). These took place especially after independence when Ghana's economy was booming and some industries were established in large towns. Most migrations were from rural to the urban areas as migrants searching for jobs to earn income and improve livelihoods (Agyei and Oforu-Mensah, 2009; Anarfi et al., 2003).

Today, a lot of migration still goes on in Ghana, and it takes the forms of rural-urban, rural-rural, urban-urban and urban-rural migrations. Various reasons account for these movements, such as economic reasons, search for social and cultural amenities, freedom from certain traditional practices, declining cost in communication and transportation as well as family issues like women joining their husbands (Agyei and Oforu-Mensah, 2009).

Decisions to migrate come from the migrants themselves or sometimes from the family who see and use migration as a survival strategy for their families through remittances received from the migrant(s), or better livelihood for families at the destination areas.

### **3.3 International Migration**

Beginning from the period of economic decline, notably from the mid 1960s through the 1980s, Ghanaians migrated out of the country to several destinations (Manuh, 2006; Anarfi et. al, 2003). Though the United Kingdom (UK) was the main destination for Ghanaian emigrants initially because of Ghana's colonial ties with the UK, other destination areas in Europe, North America, the Middle and Far East as well as other African countries emerged later (Manuh, 2006; Twum-Baah, 2005). Emigration seems to be declining as the economy has since the late 1990s become quite better than previous decades.

Various reasons have motivated people to emigrate, ranging from mismanagement of the economy by political leaders, political turbulence in the country, intimidation, human right abuses (especially under military regimes), conflicts, better opportunities for work outside the country, for studies (educational purposes) and for business purposes (Manuh et al., 2010; Adepoju, 2005; Twum-Baah, 2005; Anarfi et al, 2003). Such factors have rendered some of the migrations involuntary (forced). Ghana has also at some points been both recipient and origin of such forced migrations (Anarfi et al, 2003). Refugees from the West African sub-region (Liberia and Sierra Leone especially) moved into Ghana at different times between the late 1980s up to the late 1990s. As a result of relative peace in those countries and repatriation of refugees, the number of those still living in Ghana has reduced.

Twum-Baah (2005) gives an approximate number of Ghanaian emigrants as 310,977 in Europe, 150,572 in North America with another estimated 1,000,000 within Africa, majority of who are in West Africa, bringing the estimated number of Ghanaians living outside Ghana to 1.5 million.

These are part of the about 214 million people around the world who live outside their countries of origin, who are international migrants (UNFPA, 2011).

One way Ghana has benefitted from the emigration of its nationals is the flow of remittances that are sent by Ghanaian emigrants to family members and relations either in cash or in kind (Manuh, 2006; Adepoju, 2005; Anarfi et al., 2003). Nevertheless, Ghana has also lost some of her skilled manpower through ‘brain drain’ (Adepoju, 2005; Anarfi et al, 2003), particularly health workers, lecturers, engineers and teachers (Adepoju, 2010; Nyonator and Dovlo, 2005).

But Ghana, like many other countries face a number of problems related to migration within, out of and into the country. Illegal or undocumented migration and trafficking in women and children are some of the major ones (Twum-Baah, 2005). Another problem regarding migration in Ghana is the absence of a coordinated policy that would harness benefits of migration (Anarfi et al, 2003) and cover all aspects of migration in the country.

### **3.4 Children in Migration**

Children too have been participating in migratory movements in Ghana. Child migrants can be classified into two main types, the accompanied, that is those who move with someone, either their parents or other adults, and the unaccompanied, also called independent child migrants. Both types of child migration have some impacts on the lives of the children involved in the migration (Anarfi and Appiah, 2009). Child migrants move or are moved within and across national borders of Ghana. The means by which they (i.e. children) take part in the migration include fostering, street living, trafficking, accompanying migrating parents and guardians and

independent migration (Agyei and Oforu-Mensah, 2009; Innocenti Research Center, 2009; Anarfi et al. 2003).

Some children do migrate independently, especially from rural areas to urban centers mainly for economic reasons. Poverty has been one major underlying factor. Such child migrants seek to improve the income status of themselves and their families. Such migration of children has been on the rise (Agyei and Oforu-Mensah, 2009; Anarfi and Appiah, 2009). Child migration may result from neglect by the family or abuse, orphanhood due to HIV/AIDS infection and subsequent death of parents, other household crises such as divorce and separation of parents as well as response to conflicts and wars (Anarfi and Appiah, 2009). Some of these conditions may lead to fostering of children. Fostered children may be raised at places not their usual places of residence.

There has been growing perception that all child migrations are trafficking (Huijsmans, 2008, in Anarfi and Appiah, 2009). For this reason, intentions to protect such children in migration have rather made their situations difficult, creating the impression that child migration is illegal and hazardous (Anarfi and Appiah, 2009).

Majority of such children most often find themselves working (Anarfi and Appiah, 2009). Some children are also trafficked to work on farms and also for child prostitution. Concerns have been raised about high levels of child trafficking (Adepoju, 2010), which is an aspect of child migration in Ghana. Indeed, Ghana has been identified as a source, transit and destination of trafficking in women and children (United States Office for Migration and Child Trafficking [USOMCT], 2006, cited in Agyei and Oforu-Mensah, 2009).

Another aspect of child migration is the independent movement of children/girls mainly from northern Ghana to urban centers in the south, mainly Accra and Kumasi to be head porters,

houshelps or work in 'chop bars' as labourers (Frempong-Aingua et al., 2009; Awumbila and Ardayfio-Schandorf, 2008). Most of the girls, aged between 8-24 years mainly migrate to the cities because of poverty at their origin, and employment opportunities in the cities. They purchase items in preparation for marriage as they engage in economic activities at the destinations. Socio-cultural factors also cause children to migrate. Most of the migrant children do not have basic education, and also face a lot of risks and vulnerabilities because they sleep in the open and at lorry stations (Frempong-Aingua et al., 2009, Awumbila and Ardayfio-Schandorf, 2008).

Children also born to migrant parents at the destination areas (especially in international migration) sometimes have problems with their parents. This situation is due to local language use by the parents that the children do not like, issues about discipline and generational gap that exists between parents and children (Manuh, 2006).

### **3.5 Migration Laws and Children**

At the international level, there is no existence of a comprehensive international agreement or treaty that regulates global migration and also regulates all the aspects of international migration. What exist are international agreements of various types and their rules and norms, customary international law and international instruments among states (Benneh, 2005).

A migration policy is important to migration systems (Kritz, 1985, cited in Benneh, 2005) and they must correlate with other purposes of the State (Benneh, 2005). According to Castles (2004), three major factors shape a migration policy; factors arising from the social dynamics of the migratory process, factors linked to globalization, transnationalism and North-South

relations, and finally, factors within political systems. Benneh (2005:89) further notes that Ghana's migration policy, like migration policies of other countries are "restrictive regulatory frameworks comprising immigration laws for the entry, residence and employment of foreigners." A policy on migration does not have to be based on the size of international migration. It must also include characteristics of its composition such as age, sex, educational background, occupation and levels of skills (Twum-Baah, 2005). He further notes that a number of countries have developed policies to control, not necessarily to lower immigration. But migration can only be managed and not controlled since the conditions that trigger migration are ever growing. It is also very crucial for laws and policies on migration to incorporate into themselves concerns or consideration of children since child migration is on the ascendancy.

A policy on migration must not only be about entries, exits and tightening up controls, it must be based on managing as well as taking advantage of opportunities that come with migration, and through cooperation. The cooperation could be through bilateral and multi-lateral negotiations and agreements on the modalities for movements of people across borders (Benneh, 2005; Twum-Baah, 2005). There must also be protective measures to ensure that child migrants who find themselves working are not unduly taken for granted (exploited). Also needed is public education about what children go through and their need for help from the public. They ought to be paid well to improve their livelihoods (Anarfi and Appiah, 2009). During the colonial era, there was a Colonial Ordinance that was used in managing and regulating immigration into the Ghana, after which came into existence the Aliens Act, 1963 (Act 160) (Benneh, 2005).

However, there has been no law on migration in Ghana except the Immigration Act, 2000 (Act 573) which repealed the Aliens Act, 1963 (Act 160) and its amendments (Manuh et al., 2010). The Immigration Act, 2000 (Act 573) regulates the movements of foreigners into, residence,

employment and exiting the country. In addition, there are a number of legal instruments (laws and policies) related to migration, and they include the following;

1. The Revised 1994 Population Policy
2. The Refugee Law 1992 (PNDCL 30).
3. The Ghana Investment Promotion Center Act (Act 478).
4. Immigration Act, 2000 (Act 573).
5. Citizenship Act, 2000 (Act 591).
6. The Labour Act (Act 651).
7. The Human Trafficking Act, 2005 (Act 694).
8. The Dual Citizenship Regulation Act, 2002.
9. The Representation of People's Amendment Act, 2006 (Act 669).

The present study focuses on four of the laws, namely The Refugee Law 1992 (PNDCL 30), The Immigration Act, 2000 (Act 573), The Citizenship Act, 2000 (Act 591) and The Human Trafficking Act, 2005 (Act 694). These laws are the focus of this study because they are relevant to the topic under study.

## **CHAPTER FOUR**

### **MIGRATION-RELATED LAWS AND CHILDREN**

#### **4.1 Introduction**

Content analysis was the main tool adopted in analyzing the laws and policies (legal documents) chosen for the study. Coding was undertaken under three main themes or categories, namely; independent child migration, children accompanying older migrants (parents and guardians) and left behind children by migrating parents. These themes were chosen because they are ways by which children participate in migration and also ways by which migration affects children.

The study attempted to identify provisions in the laws and policies for the various aspects of children's participation in migration. It also sought to find out if 'child' has been mentioned at all in the laws and policies, and regarding what situations or contexts. Furthermore, any other issues about children included in the legal instruments were examined.

#### **4.2 The Legal Instruments and Children**

The four laws (legal instruments) examined by the study include;

1. The Immigration Act, 2000 (Act 573).
2. The Citizenship Act, 2000 (Act 591).
3. The Refugee Law, 1992 (PNDCL 305D).
4. The Human Trafficking Act, 2005 (Act 694).

The Immigration Act, 2000 (Act 573), is mainly about how foreigners should enter, stay in and depart from Ghana. It also gives the conditions under which a foreigner can be regarded as a prohibited immigrant, and be granted the indefinite residence status. It also regulates how foreigners can be employed in Ghana.

The Citizenship Act, 2000 (Act 591), is about the means of acquiring Ghanaian citizenship, mainly through birth. The means through which foreigners can acquire citizenship of Ghana are foundling, naturalization, registration or adoption. It also gives the guidelines of how a Ghanaian can acquire citizenship of another country while maintaining his/her Ghanaian citizenship (dual citizenship).

The Refugee Law, 1992 (PNDCL 305D) is about refugees, and their entry into the country. The Law also establishes the Ghana Refugee Board with a number of functions that it is expected to perform. The Law spells out the procedure for the granting of refugee status, rights and duties of refugees and also the withdrawal of refugee status.

The Human Trafficking Act, 2005 (Act 694) defines and prohibits trafficking in human beings in, into, and out of Ghana. The provision of, use and conveyance of trafficked persons into and within Ghana are banned. The Act provides for the rescue, rehabilitation and reintegration of trafficked persons. It also establishes the Human Trafficking Fund and the Human Trafficking Management Board and gives them their appropriate mandates.

#### **4.2.1 The Immigration Act, 2000 (Act 573) and Children in Migration**

The Immigration Act, 2000 is basically about regulating foreigners' movement into and out of Ghana. It provides information on how they can enter and stay in the country. The Immigration Act, 2000 also spells out clearly issues on employment that foreigners can engage in. How they can exit or be removed from the country is also spelt out in the Act.

There is no explicit mention of child or children in the Immigration Act, 2000. However, the Immigration Act, 2000 considers children under 'dependants'. 'Child' is used in a way to define who a prohibited migrant is, to include a migrant unable to support his dependants (Section 8,1b). The Act also defines a child as 'a natural or an adopted child under the age of eighteen years' (Section 18(4)), and specifies dependants as 'a child and a spouse' (Section 56).

As dependants, children are expected to be supported by their parents or guardians. The Act has information about children being accompanied by adult migrants in migration. The Act also prohibits anyone from bringing someone into the country for the purposes of prostitution and other immoral acts, including children.

However, The Immigration Act, 2000 does not provide for situations in which children may be independent migrants or situations in which children travel or migrate alone. In other words, the law is silent on unaccompanied child migrants. The Act does not also talk about the other ways by which migration affects children, namely left-behind children by migrant parents who are in Ghana, or children born abroad and "posted" (sent) to Ghana. Such children may travel with a passport of the destination country and enter Ghana as foreigners.

Transnational migration or transmigration has been a characteristic of international migration in many parts of the world today (Sanchez, 2001). African migrants in particular have lived transnational lifestyles and left spouses and children behind in their home countries (Adepoju, 2010; Adpoju, 2005; Akyeampong, 2000). Some Ghanaian transnational migrants have also sent back their children to Ghana to be raised for a number of reasons, as indicated by a number of studies such as Asima's (2010) and Tetteh's (2008). Some foreigners in Ghana have also probably have adopted similar lifestyles. In some cases, parents intend to invite their children to join them later. Some may need to attend school while others aged between 15 and 17 years may engage in some economic activity. Anecdotal information indicates that young teenagers from Ghana's neighbouring countries, especially Burkina Faso enter Ghana to engage in domestic work in Accra and other urban centers. These become international independent labour migrants. Again, anecdotal sources indicate that Ghanaian young people also enter neighbouring countries to work. They sell in Lome, Togo for example.

While the ECOWAS Protocol on free movement of people and goods within the West African sub-region may cover them, they may have special needs including protection against exploitation in the labour market. The Protocol allows citizens of the ECOWAS region with valid travel documents to enter member states without visas for up to ninety days (Adepoju, 2005).

These situations require some specifications in the Act on what should be expected or done. There may even be more children in every migrant household than adult migrants. The lack of provision for children in these situations is therefore a flaw in the Act. The possibility of a child migrating independently to work is not considered (Touzenis, 2007) in the Act.

#### **4.2.2 The Citizenship Act, 2000 (Act 591) and Children in Migration**

The Citizenship Act, 2000 is basically about regulating Ghanaian citizenship, how to acquire citizenship or nationality of the country. It lists the various ways by which Ghanaian citizenship can be acquired: by birth, adoption, foundling, registration or naturalization. The Act also provides for dual citizenship, and how to acquire it. Ghanaians with dual citizenship are however prevented from holding certain public positions such as being a Justice of the Supreme Court or an Ambassador or High Commissioner.

The mention of ‘child’ in The Citizenship Act, 2000 is found in the following sections; section 8, 9, 10(5), 11(twice), and 24. In the first instance, it is mentioned to mean a child who is missing and not more than the age of seven years, and is found in the country (section 8). Such a child whose parents cannot be traced is considered a Ghanaian by birth by law through foundling (Section 8). In this instance, the child is participating in the migratory process as an independent child migrant. But the law does not say how that child shall be taken care of, who will take care of him/her through education and health needs and whose responsibility it is for the general wellbeing of such a child. It may be assumed that the child will be raised in a foster home or may be given for fostering or adoption by a Ghanaian or a Ghanaian family.

In another instance in which ‘child’ is mentioned, it is with the meaning of adoption, where a child not more than sixteen years of age, of foreign parentage, and is adopted by a Ghanaian becomes a citizen of Ghana by virtue of the adoption (Section 9). Children participating in migration here is by accompanying the parent.

Another occurrence of ‘child’ in the Citizenship Act, 2000 is in the situation of a child being a citizen by virtue of parent’s citizenship through marriage and registration. When a non-Ghanaian

marries a Ghanaian and the marriage is duly registered, the child born in this marriage is deemed a citizen of Ghana (Section 10, sub section 5).

In the next two instances in which ‘child’ appears in The Citizenship Act, 2000, it is with the understanding of the child’s parent or guardian applying on behalf of the child to be a citizen (Section 11). The children participate in migration by virtue of their parents’ migration status, and their immigration status being dependent on their parents’ immigration status (Farrow, 2007). The other occurrence of child in The Citizenship Act, 2000 is to define a “child” as ‘a person who has not attained the age of eighteen years’ (Section 24).

The Citizenship Act, 2000 only mentions an independent child migrant as a missing boy/girl whose parents cannot be traced. It does not mention the real intention of a child to migrate independently on his/her own. Again, the Act does not provide for a situation where children may need to have dual citizenship. There is no mention of a situation where a Ghanaian child adopted by non-Ghanaian(s) may want to maintain his/her Ghanaian citizenship in addition to that of the foster parent(s).

Since the adoption or passing of The Citizenship Act, 2000, there have been changing trends in migration the world over. An increasing number of Ghanaian transnational migrants are sending their children home for fostering. Some of these children are brought down to Ghana to be disciplined, to learn their mother tongue language and also to know other relatives and family members (Asima, 2010; Tetteh, 2008). If they arrive with a different citizenship, how are they to be treated? These are some unanswered questions that The Citizenship Act, 2000 needs to address.

Presently, Ghana's migration policy which is being drafted by the Migration Bureau (MB) of the Ministry of Interior is probably taking all these factors into consideration for the benefit of the country and the children. Another issue that the migration policy may consider is the independent international child labour migration into Ghana as discussed in an earlier section above. Some of these children may eventually need Ghanaian citizenship when they reside in Ghana permanently.

#### **4.2.3 The Refugee Law, 1992 (PNDCL 305D) and Children in Migration**

This law is about the entry, stay, status, exit and other issues pertaining to refugees, and it incorporates both the United Nations Convention Relating to the Status of Refugees and the Organization of African Unity (OAU, now African Union, AU) Convention Governing the Specific Aspects of Refugee Problems in Africa. The UN Convention defines a refugee as someone

owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear is unwilling to return to it (Manuh et. al., 2010:35; Refugee Law, 1992 (PNDCL 305D), pp. 8).

The UN Convention also enjoins refugees to be subject to the laws of their host countries (Article 2), and the host countries also to treat them in the same manner they treat aliens (Article 7).

Africa has been a major source of refugees. The OAU Convention Governing the Specific Aspects of Refugee problems in Africa adopts the definition of a refugee by the UN, and adds that a refugee

shall also apply to every person who owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality (Refugee Law, 1992 (PNDCL 305D), pp. 22).

The OAU, now AU encourages member states to receive refugees, and refugees to conform to laws of their host countries. Member states are also encouraged to cooperate by providing information about refugees to the AU, and also to cooperate with the Office of the United Nations High Commissioner for Refugees (UNHCR).

The Refugee Law, 1992 does not also explicitly mention children. However, an instance in which 'child' was mentioned in the law was a definition as 'any unmarried child of the refugee under the age of eighteen years' (Section 26 (b)). The law classifies children under 'member of family' category (Section 26) which also includes a spouse. In this case, children's participation in refugee type of migration is in the form of accompanying migrating parents. The law does not make provisions for the other ways in which children partake in the migratory process, being independent refugee migrants, and as not accompanying refugee parents, or children of those

who might have lost their parents or guardians. Health needs of the children, for example, are very crucial when conflict arise. They may experience shocks, become exposed to contaminated food and water and other vulnerabilities. In the situation where health services are paid for, children may have no access to health services.

The law creates a Fund and its proceeds are to be used to provide relief and settlement for refugees. But the UN through the UNHCR, the Catholic Relief Services (CRS), the Assemblies of God Relief Services (AGRS) and a number of NGOs have supported refugees, including their children. The work of such bodies on children has been timely and tremendous.

#### **4.2.4 The Human Trafficking Act, 2005 (Act 694) and Children in Migration**

The purpose of this law is to prevent, reduce and punish human trafficking, and to provide for victims of trafficking to be rehabilitated and reintegrated to their families and communities. It also mentions other related matters of trafficking. The law defines human trafficking as

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 (Republic of Ghana (Human Trafficking Act), 2005:3).

Trafficking in humans, especially women and children have become a major concern throughout the world in recent times (Adepoju, 2010; Adepoju, 2005). The Human Trafficking Act, 2005 also makes mention of ‘child’ or ‘children’. The first instance children/child appears in it is with

regard to the child's knowledge of or consent to the trafficking. It is also stated in the Act that the child's knowledge and consent, and that of his/her parents or guardians' consent of being trafficked cannot be used as a defence in the prosecution of the trafficker (Section 1 (4)).

In the next instance, child is used in the event that he/she is empowered to be helped to file a complaint of trafficking, or in other words, a child can report a case of trafficking (of him/herself or of another person, Section 9 (2)). In another place (Section 11 (2)), a police officer may obtain a statement from a child in the presence of witnesses (a next friend or guardian) about a case of trafficking.

In addition, the Act guarantees that the best interest of the child is to be paramount when assistance is given to a trafficked child, such as rescue, rehabilitation and reintegration (Section 18 (4)).

In the next instances, children who are victims of trafficking and who need care and protection of temporary custody or whose case involves human right matters may be referred to a Family Tribunal under the Children's Act, 1998 (Act 560). Finally, the law defines a child as a person below the age of eighteen years (Section 42).

The Human Trafficking Act, 2005 has more reference to children than the previous laws (legal instruments). Perhaps, the involvement of children in trafficking especially as victims is the reason. Children are trafficked out of their or parents' ignorance. It must however be noted that children aged below 18 years are involved in sex trade which is one of the ways by which human trafficking takes place. If such children 'offer' themselves for trafficking, dealing with the case might be complicated by their consent. In whichever way, human trafficking must not be encouraged, offenders must rather be punished severely.

#### **4.2.5 Issues of Children in the Laws (Legal Instruments) Related to Migration**

The four laws examined in this study have a mention of children, though a few times. It is the Human Trafficking Act that somehow does it explicitly. One issue about children in the laws is definition of child. They all have similar definition of who a child is by age as a person below eighteen years.

The Immigration Act, 2000 does not explicitly mention children but categorizes them as dependants, because children are not expected to move or travel on their own without appropriate permission from either parents or guardians. They may travel along with their parents.

The Citizenship Act, 2000 talks generally about how people in various ways can attain citizenship or nationality of Ghana, including children. The ways by which children can attain Ghanaian citizenship are also highlighted in the Act.

The Refugee Law does not have much about children but considers them under ‘member of the family’. Probably because the rights of children are guaranteed by other laws in Ghana (such as The Children’s Act, 1998 (Act 560)), and refugees who find themselves in Ghana are subject to Ghanaian laws, refugees in Ghana are not under any special laws, and laws that guarantee rights of children apply to refugee children as well. The UN Convention even enjoins refugees to be subject to the laws of their host countries (Article 2).

The Human Trafficking Act, 2005 addresses some concerns of children. Women and children are the most vulnerable persons to trafficking mostly by men for purposes such as labour (including farming and fishing), exploitation, prostitution and manual work (Adepoju, 2010). The Act is not

silent on children. It is even stated in it that the best interest should be supreme in matters regarding their rescue, rehabilitation and reintegration.

As stated earlier, enough concerns and issues of children are minimal in the legal instruments; nevertheless, the issues about children have been covered in other laws and policies related to children like The Children's Act, 1998 (Act 560).

#### **4.2.6 Positives about the Laws Related to Migration**

The laws and policies (legal instruments) at least have covered some issues about children. The Immigration Act, 2000 for instance prohibits the bringing of people, including children into the country for immoral acts and behaviours such as prostitution. The Immigration Act, 2000 also protects children of an immigrant who cannot prove of his/her ability to support himself and his dependants (including children), and regards such a person as a 'prohibited immigrant'. It covers an aspect of children in migration, as accompanied by adult migrants.

The Citizenship Act, 2000 provides various means by which children can acquire citizenship of Ghana.

The Refugee Law provides that refugees shall not be refused entry into the country, including child refugees. It also guarantees anyone who has applied for refugee status to remain in the country with his dependants, which include children.

The Human Trafficking Act, 2005 prohibits trafficking in persons, including children and it is also indicated in it that the best in interest of the child shall be paramount in a case that a child has been trafficked.

#### **4.2.7 Addressing the Gaps the in Legal Instruments on Migration and Children**

Concerns on children absent in the legal instruments include the right to education especially to refugee children. Education is so important to a child's development that provision for migrant children need to be provided for (Rutter, 2007). Others include their general and specific reproductive health needs.

Also, there is no specific consideration for children who may be working, and for that matter, may have specific needs (Touzenis, 2007). Working children are exploited when their remuneration is less than would have been given an adult, or when their age is too low, leading to negative effects on their wellbeing as well (Touzenis, 2007). A measure by law is necessary to protect independent child migrants who work and are exploited by their employees (Anarfi and Appiah, 2009).

Factors that motivate migration of children independently have to be considered in policies, likewise their migration experiences so they will be protected and their development also ensured. Also, livelihood opportunities for children must be in the policies. Education about the dangers involved in independent child migration should be carried out and targeted at children and parents to reduce the rate of independent child migration. (Anarfi and Agyei, 2009).

Policies and programmes that would lead to expanding economic activities and which will also lead to more employment opportunities should be adopted by government especially in northern Ghana to reduce the incidence of independent child migration mainly from the north to the south of the country. There is the need to build the capacity and self employment skills of the youth by government and civil society organizations at destinations. Again, independent child migrants

who return voluntarily to their homes must be followed up upon and supported with micro-finance which will help in their re-integration (Addoquaye Tagoe and Kwankye, 2009).

The wellbeing of child migrants at the destination areas must feature prominently in a migration policy, including their safety and wellbeing at destination areas. Education on sexual and reproductive health issues must be given to child migrants to raise their awareness about sexuality and its related matters (Anarfi and Kwankye, 2009).

#### **4.2.8 Enforcement of The Human Trafficking Act, 2005 (Act 694)**

In an interview with an official of the Human Trafficking Secretariat (of MOWAC), it was found out that MOWAC is the coordinating ministry for the Human Trafficking Act, 2005. He pointed out that a lot of strides have been made in enforcing the Human Trafficking Act, 2005, and this is done in three broad areas of the three Ps (3Ps), i.e. prevention, protection and prosecution, or the three Rs (3Rs) rescue, rehabilitation and reintegration as guiding principles for the implementation.

##### **4.2.8.1 Successes in Enforcement**

Enforcement is done under the 3Ps, prevention, protection and prosecution.

1. Under the first P, which is prevention, the respondent indicated that a lot of advocacy has been done, giving out information and sensitizing people (education) about trafficking. This is done through “*advocacy strategists*”, who send out information, education and

communication (IEC) materials to various communities, to do advocacy and sensitization. He says that,

*“so the major thing we have done extensively is advocacy, or trying to prevent human trafficking..., the preventive aspect has to do more of advocacy and sensitization, we’ve gone to so many communities to do community awareness creation, doing community durbars, doing community sensitization and all that”.*

In another interview with an officer of the Anti- Human Trafficking Unit of the Ghana Police Service, he also emphasized that sensitizing the people through education in both the print and electronic media and outreach programmes about trafficking is one way of enforcement of the law on trafficking. Awareness creation has thus been created especially in communities that have high prevalence of child trafficking.

2. Quite a lot of work has been done under protection. Victims, both children and adults, have been rescued from trafficking. The respondent from the Human Trafficking Secretariat (of MOWAC) says

*“this is where we have also done quite a lot, because we have instances where children have been rescued from issues of trafficking, we have had instances where adults have been rescued from trafficking, and we continue to monitor...”*

The Gender Desk of the *Daily Graphic* newspaper reported in the Thursday, May 19, 2011 edition of the paper that one hundred and sixteen (116) children whose ages ranged from four to seventeen years (4 to 17 years) were rescued in communities near Kete

Krachi in the Volta Region in an operation by the Anti-Human Trafficking Unit of the Ghana Police Service. There are other instances in which people (both children and adults) have been rescued from internal and international trafficking (HRAC, 2011).

3. By way of prosecution, the official of the Human Trafficking Secretariat (of MOWAC) admitted that not much have been done in this area,

*“we haven’t done quite well, but at least we’ve done some prosecutions”*,

because of lack of witnesses to give evidence. At the time of our interview (on 15<sup>th</sup> June, 2011), there were at least seven cases of both internal and international trafficking that were being prosecuted. Thirty men who engaged the one hundred and sixteen (116) trafficked children (mentioned above, *Daily Graphic* of Thursday May 19, 2011) rescued in fishing activities were arrested, prosecuted and sentenced to sixteen months in prison. To deter other people from engaging in trafficking, especially children, a sentence of sixteen months in prison is too short; traffickers need to be given more prison sentences and other forms of punishment to discourage others from engaging in the illegal act.

By way of rescue as the first R, quite a number of people have been rescued from trafficking. The Human Rights Advocacy Center (HRAC, 2010) noted some trafficked victims that have been rescued. As mentioned above for instance, one hundred and sixteen trafficked children for fishing activities were rescued.

Regarding rehabilitation, not much has been done in this area because shelters to house rescued trafficked persons are non-existent. Metropolitan, Municipal and District Assemblies (MMDAs)

are mandated to provide shelters for rescued trafficking victims, but they complain of lack of enough funds to put up the structures. This lack of shelters makes some of the children to be sent back to their homes and re-integrated with their families without (enough) counseling.

Re-integration has been going on; most rescued trafficked children are successfully re-integrated with their families. An example is those children rescued around Prampram (*Daily Graphic*, August 4, 2010).

The official of the Human Trafficking Secretariat (of MOWAC) also indicated that training in trafficking issues such as identifying who a trafficker is has been offered to law enforcement officials like the Police Service, Customs, Excise and Preventive Services (CEPS), and the Ghana Navy. Also, training is offered to judges, Ministries, Departments and Agencies (MDAs) as well as communities, families and parents.

An officer at the office of the Anti- Human Trafficking Unit of the Ghana Police Service also spoke about *getting more men trained*, stressing the importance of training in combating human trafficking. The above institutions have been targeted for training in trafficking issues because they are part of the machinery of law enforcement. Judges and magistrates have also been involved in the training because they are arbiters of the law.

Since poverty has been identified as one of the major reasons why some parents give out their children (unknowingly) for trafficking purposes, government adopted the Livelihood Empowerment Against Poverty (LEAP) programme which serves as an intervention against trafficking, to reduce poverty levels of households. Under the LEAP, cash transfers are given to households to alleviate poverty.

#### **4.2.8.2 Challenges in Enforcement**

Notwithstanding the successes achieved, there are some hurdles that hinder the enforcement process. The officials of the Human Trafficking Secretariat (of MOWAC) and the Anti- Human Trafficking Unit of the Ghana Police Service highlighted the major challenges they face. The challenges are;

1. getting evidence for prosecution, people are not willing to present themselves as witnesses during prosecution of traffickers.
2. lack of temporary structures/shelters to house rescued victims of trafficking- because of lack of funds for District Assemblies to provide such facilities. Lack of agencies own shelters.
3. weak witness protection, sometimes witnesses in prosecutions are threatened by traffickers and their accomplices.
4. lack of a standard operating procedure to link trafficking victims to services, from MOWAC, NGOs, DAs and the Police etc.
5. sensitization (education) has also not been enough in some areas, and some parents have been found to be irresponsible, thus making their children vulnerable to trafficking.
6. logistics like vehicles are needed for quick movements.
7. getting more men trained and
8. bureaucracy involved in operations because many organizations are collaborating in the fight against trafficking

There is therefore the need to bring a harmonization in efforts to combat trafficking.

#### **4.2.8.3 Other Laws and Policies Related To Children**

As indicated by a respondent/interviewee of the Human Trafficking Secretariat, MOWAC, some issues about children may not be seen in these laws because they have been covered in other domestic or municipal laws, and also policies and international conventions and protocols on or related to children.

Some domestic laws (in Ghana) on children include the Children's Act, 1998 (Act 560) which is about the overall protection of the lives of children. There is also the Criminal Code Amendment Act, 1998 (Act 554), which covers the criminal justice system. It also contains issues relating to the protection of children with respect to sexual offences. Again, there is the Juvenile Justice Act, 2003 (Act 653), a law which focuses on situations where a child is in conflict with the law and protecting him or her. In addition, there is the Domestic Violence Act, 2007 (Act 732) which is about protecting every person in a domestic relationship including children. Article 28 of 1992 Constitution specifically talks about children. Finally, there is the Criminal Offences (Amendment) Act, 2007 (Act 741).

National policies that are directly related to children include the Early Childhood Development Policy, the Gender and Children's Policy and the Orphans and Vulnerable Children's Policy. There are also Sector Policies related to children in various sectors like education and health.

International Conventions and Protocols which are also geared towards protecting the rights of the child exist, and some of them are the Convention on the Rights of the Child (CRC), ILO Convention 182, ILO Convention 138, Palermo Protocol on Trafficking in Persons and the African Charter on the Rights and Welfare of the Child (ACRWC). Others are the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights and the

International Covenant on Economic, Social and Cultural Rights. There is also the ECOWAS Protocol on Free Movement of Goods and Persons which grants nationals of member states with valid travel documents and health certificates to enter any member state to up till ninety (90) days (Adepoju, 2005).

## CHAPTER FIVE

### SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

#### 5.1 Summary

This study sought to find out whether laws related to migration in Ghana have considered issues and concerns of children against the background that migration laws and policies often neglect issues on children. Specifically, the study sought to find out whether the interests and concerns of children have been taken into account in the formulation of existing laws and policies (legal instruments) related to migration in Ghana and also what issues about children are in the legal instruments.

Four legal instruments (laws) were used, namely The Immigration Act, 2000 (Act 573), The Citizenship Act, 2000 (Act 591), The Human Trafficking Act, 2005 (Act 694) and The Refugee Law 1992 (PNDCL 30). Content analysis (inductive approach) was adopted to ascertain whether issues of children are present in the legal instruments selected for the study.

However, there are comprehensive local laws and policies, as well as international instruments that are geared towards protecting the rights of children, even migrant children and children affected by migration (Touzenis, 2007).

#### 5.2 Conclusions

The study found that it is the Human Trafficking Act, 2005 (Act 694) that explicitly mentions children, but the others refer to children minimally and issues on children are relatively absent in them for a number of reasons. In the case of the Immigration Act, 2000, the law is about foreign nationals' entry into the country and also children, on their own are not supposed and expected to

travel without parental consent. Meanwhile, children participate in migration, in various ways, even independently, and their concerns must be present in laws and policies on or related to migration, because migration as a growing and important phenomenon, cannot be stopped.

Today, economic processes coupled with cheaper means of transportation and communication and other factors have made it easier for people to migrate (Adamson, 2006). Children are also active in the migratory process and in various ways are affected by migration, either accompanying parents or other adult migrants, on their own as independent migrants or as left-behind children by their migrating parents. Some children are also posted back to the families or friends of their migrant parents.

At the Millennium Summit of the UN in the year 2000, member states adopted eight Millennium Development Goals (MDGs), to be achieved by 2015 and most of them target children. The latest report on Ghana on the MDGs indicates that the country is on track to achieve some of them by the targeted time (NDPC/GoG/UNDP, 2010).

Nevertheless, there is still much more to be done about children. At the celebration of the International Day of the African Child marked on 15<sup>th</sup> June, 2011, it was revealed that there are thirty-three thousand street children, mostly migrants in Ghana with a significant number of them (71%) being illiterates (Daily Graphic, Friday June 17, 2011).

The above situation and others as well by which children are affected by migration must be a concern for all. The study concludes that it is very necessary that issues about children are covered in policies and laws on or related to migration because migration affects children.

### **5.3 Recommendations**

The study recommends the following based on its findings;

1. Laws and policies on or related to migration should increase children's concerns. Issues on children in migration, for example;
  - protection to vulnerabilities in the process of migrating and at the destination areas,
  - guaranteeing their rights to basic social facilities including education, health and social protection should feature prominently, and also
  - their reproductive health needs must be adequately provided in them (laws and policies on or related to migration).
  
2. Various stakeholders involved with children, especially in migration should be involved in the adoption of laws and policies on migration to include concerns of children. Such stakeholders could include churches, civil society organizations, non-governmental organizations etc.
  
3. Children's views can be solicited in the adoption and implementation of laws and policies on or related to migration.
  
4. There should be budgetary allocations from District Assemblies to built shelters to house rescued trafficked persons, including children.

Migration affects the lives of almost everybody, including children. Migration affects the welfare and wellbeing of children in the various ways they participate in the migratory process, and therefore, it is important that their concerns are present in policies and laws (legal instruments) on or related to migration.

The forthcoming migration policy of Ghana being developed by the Migration Bureau of the Ministry of Interior must consider children's interests in all facets of the lives of children that migration affects them for migration to be beneficial to them.

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