AN ASSESSMENT OF THE IMPLEMENTATION OF
THE UNITED NATIONS CONVENTION ON THE
RIGHTS OF THE CHILD IN GHANA

BY

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DECLARATION

I hereby declare that with the exception of specific quotations or paraphrases used in this study, which have been acknowledged, the study is my handiwork carried out at the Legon Center for International Affairs and Diplomacy, under the supervision of Dr. Linda Darkwa.

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DATE....................
DEDICATION

To God be the glory great things he hath done. This work is dedicated to the greater glory of his name.
ACKNOWLEDGEMENTS

My heartfelt gratitude goes to the Almighty God for the educational success attained. I also express my appreciation to everyone in my family, particularly my parents who have supported me throughout the period of my studies. I would also like to express my sincere gratitude to Dr. Ken Ahorsu, Dr. Yao Gebe, Mr. Samuel Owusu-Antwi, Mr. Amponsah, Mr. Amartey, and all lecturers of LECIAD. Further appreciation goes to Mr. Benoni Mensah, Mr. Kofi Annan of Challenging Heights and Mr. Elvis Alipui Chairman of the Accra Metro Physically Disabled Society and to Effie, Efua, Ewurasi and Paapa.
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<th>Abbreviation</th>
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<tr>
<td>ACRWC</td>
<td>African Charter on the Rights and Welfare of the Child</td>
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<td>CRC</td>
<td>Convention on the Rights of the Child</td>
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<td>CHRAJ</td>
<td>Commission for Human Rights and Administrative Justice</td>
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<td>DAs</td>
<td>District Assembly</td>
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<td>DOC</td>
<td>Department of Children</td>
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<td>DCEs</td>
<td>District Chief Executive</td>
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<td>DSW</td>
<td>Department of Social Welfare</td>
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<td>FGD</td>
<td>Focus Group Discussion</td>
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<td>GBC</td>
<td>Ghana Broadcasting Corporation</td>
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<td>GNCC</td>
<td>Ghana National Commission on Children</td>
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<td>MOWAC</td>
<td>Ministry of Women and Children Affairs</td>
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<tr>
<td>NGOs</td>
<td>Non-Governmental Organizations</td>
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<td>OAU</td>
<td>Organization of African Unity</td>
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<td>UN</td>
<td>United Nations</td>
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<td>UNCRC</td>
<td>United Nations Convention on the Rights of the Child</td>
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<td>UNGA</td>
<td>United Nations General Assembly</td>
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<td>UNICEF</td>
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ABSTRACT

Conscious of the challenges in addressing the issues of child rights, the United Nations General Assembly unanimously adopted the United Nations Convention on the Rights of the Child in 1989. The Convention was designed to address the civil, political, economic and cultural rights of all children. After its adoption it has inspired new and numerous laws in countries all over the world. Ghana was the first country to ratify the Convention, not long after, the country’s 1992 Constitution was promulgated. This saw the entrenchment of children’s rights in Ghana’s supreme law. Almost twenty-five years after ratification the study using both primary and secondary sources examines how implementation of the right to be heard, could become more effective for children in Ghana including children with disabilities. For this reason the policy, institutional and legal frameworks established by Ghana to ensure compliance have been examined. Special attention was given to Article 12 of the UNCRC which establishes the rights of the child to express views and to have those views respected and taken into consideration. The study however reveals that even after twenty-three years (23) there are huge implementation gaps to be filled. Societal attitudes, resource constraints, poverty, lack of awareness and poor coordination among stakeholders are some of the major challenges hampering the effective implementation of Article 12. These challenges imply a gap between rhetoric and reality. Hence it is imperative for the Government of Ghana, as the main stakeholder to put in place adequate mechanisms which would advance the rights of all children in Ghana. Consequently the study concludes that effective implementation of Article 12 will enhance child protection and participation. Suggestions are presented in relation to how Ghana as a state party can effectively implement her obligations under Article 12 of the UNCRC and for bridging the gap between theory and practice.
CHAPTER ONE

RESEARCH DESIGN

1.1 BACKGROUND TO THE STUDY

Children, like women and the disabled, constitute one of the largely neglected portions of the population of many countries. Paradoxically, they are considered to be the future of all countries. For many children, especially in developing countries, childhood is not perceived as an important stage of life. In any national development, they continue to be silenced and marginalized, even from decisions that affect their lives and are perceived as objects.\footnote{1}

With the hindsight of these issues, the UN General Assembly adopted the United Nations Convention on the Rights of the Child in 1990, herein referred to as the UNCRC or the CRC. The UNCRC is grounded in the Universal Declaration of Human Rights and it is the main international document that provides for the welfare of children. After its adoption, it has inspired new and numerous policies and projects in countries across the world. The UNCRC entered into force only a year after its promulgation, having attained the requisite number of ratifications by state parties. Currently, it has the largest number of state parties with only three states being out of the regime.\footnote{2} The Convention recognizes children as human beings of equal value and as such lays down processes to ensure that this is recognized by all state parties.

However, according to UNICEF, despite the rhetoric in the international community about the importance of children’s rights, monitoring of the Convention shows that “the rights, norms and principles involved are regularly ignored and seriously violated virtually throughout the world on
a scale unmatched in the field of [human] rights implementation”. Although it was hoped that the Convention would have a significant and positive impact on the lives of all children, this has not happened in many parts of the world, thus to date no country can boast of having fully fulfilled all its provisions.

Ghana is on record as one of the earliest state parties to the Convention. Even before ratifying the Convention, Ghana had a number of legal provisions aimed at the protection of children. These included legislations like the Maintenance Decree, the Interstate Succession Law, and the Wills Acts and institutions such as the Ghana National Commission on Children and the Department of Social Welfare. After the ratification of the Convention, the Government of Ghana further demonstrated its commitment to advance the respect, promotion and protection of the fundamental rights of the child through efforts such as the creation of key institutions such as the Ministry of Women And Children Affairs (MOWAC), now known as the Gender, Child and Social Protection Ministry, to uphold the rights of the child. Programmes such as the Capitation Grant and the School Feeding Programme are part of efforts made to address the needs of the child.

Ghana provides two main protective regimes for the protection of child rights. The first is the general constitutional provision established in Chapter 5 of the 1992 Constitution which provides for the protection of the fundamental human rights and freedoms of all persons. These laws are enjoyed by all individuals on the basis of the fact that they are human. Furthermore, considering the vulnerability of children, there is a secondary protective regime: the 1998 Children’s Act (Act 560). This is supplementary to the constitution and provides specific statutory protection
which gives effect to Ghana’s obligation to upholding child rights. Constitutionally therefore, it is assumed that, there are no barriers against children realising their rights.

Notwithstanding these legal provisions, children in Ghana continue to be plagued by diverse problems and challenges. They are at the centre of debates on child labour, child prostitution and child trafficking. These aforementioned problems can partly be attributed to lack of understanding of what it means to listen to children and how to introduce necessary measures to fulfil that responsibility. The process of child protection and development cannot be complete without any meaningful child participation. The duty therefore to ensure that children are listened to has been enshrined in the Convention on the Rights of the Child, particularly Article 12, which states that:

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

This is a distinctive provision in the UNCRC as it takes cognisance of the legal and social status of children, who, on one hand lack the full autonomy of adults but, on the other, are subjects of rights. Paragraph 1 of Article 12 guarantees every child capable of forming his or her own views, the right to express those views freely in all matters affecting the child and the views of the child being given due weight in accordance with his or her age and maturity. Paragraph 2 states in particular that, the child shall be accorded the right to be heard in any judicial or administrative proceedings affecting him or her. 

The significance of Article 12 of the CRC can be traced to the value placed on it by the Committee on the Rights of the Child. The Committee on the Rights of the Child identified
Article 12 as one of the four general principles of the UNCRC, the others being the right to non-discrimination, the right to life and development, and the primary consideration of the child’s best interests. The emphasis placed on Article 12 as one of the fundamental values of the UNCRC highlights the fact that, this article establishes not only a right in itself, but should also be considered in the interpretation and implementation of all other rights.

Section 11 of the Children’s Act in Ghana, most obviously reflects the tenets stated in Article 12 of the Convention on the Rights of the Child. It directly resonates with the perspectives of the CRC, affirming that, “[n]o person shall deprive a child capable of forming views the right to express an opinion, to be listened to and to participate in decisions which affect his well-being, the opinion of the child being given due weight in accordance with the age and maturity of the child.” It gives credence to the right of a child to be heard in matters where it is considered that his or her level of knowledge and comprehension is adequate. Article 12 is therefore a pivotal provision in the UNCRC and without fulfilling its mandates, the effects of realizing the child’s rights would be nothing but inefficient and inadequate.

1.2 PROBLEM STATEMENT
Child participation has been recognized as an important aspect of the implementation of the UNCRC. In Ghana, this principle has been incorporated into the national law. To an appreciable extent, there appears to be the recognition by all stakeholders that participation is required at all levels of decision making. On the governmental level, some steps have been taken to ensure the participation of children in decision-making. In 2010, a Children and Youth Forum on Water, Hygiene and Sanitation was organized, in which children were involved to add their voices to the
decisions taken. Also, in the recently ended constitutional review exercise, a special session was held exclusively for children to make inputs.

Despite these efforts to give children some participatory rights, it appears that the inability to comprehensively implement the provisions of Article 12 of the UNCRC is due to the symbolic selection of children to express their views on issues that affect them. This symbolic selection of children is an indication that the country does not understand what it means to listen to children and have their views taken into consideration. This issue is thus the focus of the research work as the right to participate embodied in Article 12 extends beyond a one-day occasional activity to involve children in decisions that affect them. It needs to be understood as a process.

1.3 RESEARCH QUESTIONS

- What is the current state of children’s participation rights, in relation to Article 12 in Ghana?
- What has been achieved in terms of the implementation of Article 12 in Ghana?
- What policy interventions can be introduced to strengthen the participatory rights of children in Ghana?
- What legislative instruments have been enacted to ensure child participation in decision making on issues affecting them in Ghana?
1.4 RESEARCH OBJECTIVES
The main objective of this study is to assess the implementation of Article 12 of the United Nations Convention on the Rights of the Child in Ghana. In line with this provision, the study specifically seeks to:

- Examine the current state of children’s participation rights in relation to Article 12.
- Evaluate the progress made so far in the implementation of Article 12 in Ghana.
- Explore other available options to strengthen the progress if any, made so far.
- Assess the instruments created to ensure child participation rights in Ghana.

1.5 HYPOTHESIS
A painstaking attention to the provisions of Article 12 of the UNCRC by the Government during its implementation would lead to a realistic participation of children in decision-making.

1.6 SCOPE OF THE STUDY
Considering that the UNCRC contains many provisions, the research focuses on Article 12 which relates to the right of the child to be heard. This provision has been generally termed as participation. Participation could be looked at from two lenses. One which focuses on the translation of children’s views into concrete policy action and the other which deals generally with the participation of children in decision-making. This study would however focus on the later. It examines the policy, legal and institutional framework adopted by the country to ensure that the rights of children are not trampled upon. It also examines the consideration given to marginalised and socially excluded children such as the disabled in the implementation process.
1.7 RATIONALE
The adoption of the UNCRC has inspired new and numerous policies and projects in countries around the world. However, a review of the extant literature on child rights reveals a dearth in literature on Article 12 especially in Africa. This study would add to existing literature and serve as a platform for a more comprehensive study of the right to be heard among children in Ghana.

1.8 LITERATURE REVIEW
There has been extensive interest in recent years on child rights related issues; this section is devoted to reviewing generally scholarly works related to the current study.

In his article, “Implementing The Rights Of The Child In African Legal Systems: The Mthembu Journey In Search Of Justice”, Chuma Himonga notes that many African countries have ratified international and regional treaties on the rights and welfare of the child, with the result that “children’s human rights are increasingly a common feature and aspirations of the legal systems of these countries”. However, he notes that the diversity of the cultures of these countries and legal systems has not really led to the realization of these rights. According to him, “culture acts as one of the major obstacles to the enforcement of children’s rights on the continent”. The state may ratify a convention and make all legal provisions to ensure the compliance of these rights. However, without effective implementation, the aims and objectives of the Convention may be extinguished.

While acknowledging the truth of what Himonga proposes, it is also relevant to move beyond the cultural relativity argument. Undoubtedly, there are questions of effective implementation. However, this must not be framed in cultural arguments. There is an understandable urge to stick to traditional cultures, values or norms; however there is a need for reconciliation with the
different cultures to produce perhaps a global culture. Taken to the extreme, adopting the stance of cultural relativism would pose a dangerous threat to the effectiveness of international law and the international system of human rights laws. If culture alone regulates state compliance with international human rights law, then there would be widespread disregard, abuse and violation of human rights norms. Rather than limiting human rights to suit a given culture, states can draw on traditional cultural values to reinforce the application and relevance of universal human rights, also bold efforts are required to contextualize the UNCRC in such a way that implementation is less difficult. More pertinent drawbacks to the implementation of these legal provisions such as technical, political and legal challenges must be attended to.

Twum Danso in her work, “Searching for the Middle Ground in Children’s Rights In Ghana” focuses mainly on Article 12 which has caused so much controversy in countries around the world. While she acknowledges the Western bias of the Convention she argues that the debate in the implementation of the article should move beyond the universality-relativity dichotomy as it does not help to solve the reality of child rights violations. She however, acknowledges the validity of both arguments. Twum Danso recognizes that the majority of literature assumes the cultural stance. According to her however, dwelling on this creates a deadlock. Rather than focusing so much on it, “efforts should be made to contextualize the discourse on children’s rights to take into account the peculiarities and features of a given society such as cultural values, traditional methods of tackling problems and importantly the capacity of the existing structure of a particular government to enforce the law”.

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University of Ghana          http://ugspace.ug.edu.gh
Twum Danso’s call for the stakeholders of the Convention to move beyond the culture-relativity dichotomy reaffirms the position of the argument in the preceding paragraphs. Child-rights issues are sensitive, which means that honest debates about the issues are important to making progress. References to culture are used by state parties to explain and excuse their difficulties with the implementation of Article 12. Cultural obstacles must be effectively addressed for human rights values and norms to assume credibility. The UN Committee on the Rights and Welfare of the child in its General Comment No. 17 noted that it is “through cultural life and the arts that children and their communities express their specific identity and the meaning they give to their existence, and build their view representing their encounter with external forces affecting their lives”. This implies that there are positive traits in culture: cultural practices are not always negative. Reliance on cultural justifications is used by state parties for failure to implement the Convention. The author is thus justified, because aside from culture there are many other impediments to the implementation of the convention. Her work provides a useful guideline considering the context in which the study was conducted. Since the main focus of the work was Article 12 the methodology is apt as it incorporates the views of children themselves.

As part of his contribution to the work “Participation Rights of children” Mieke Verheyde asserts that, participation rights were the driving force behind the children’s rights movements in the seventies and may be considered as one of the main innovations of the UNCRC. According to him the importance of participation rights is two fold. There is a substantive dimension and an instrumental dimension:

The substantive dimension of participation rights refers to their importance in enriching the child’s life and shows that participation rights are fundamental rights that stand on their own. The instrumental dimension as the name suggests points outs the process for promoting the rights of the child, it relates to the importance of participation rights for the realization of other rights and freedoms of the child.
Verheyde looks at participation rights of children specifically in the school setting. According to him the educational sector is a field where participation rights of children is most relevant. He asserts that “schools should be the first place where children should be valued as partners and not seen as passive recipients of adult expertise”\(^ \text{19} \). Schools according to him are second to the family and therefore have a crucial role to play in the development of the child’s personality. For him, the realization of this is vital to self fulfillment of the child. Participation is an effective, not to say indispensable tool, for reaching some of the other aims enshrined in the UNCRC. Verheyde scores a high point in drawing a relationship between participation in education and the improvement in the realization of the rights of children. Indeed, education leads to effective socialization resulting in the developments of the child’s potentials.

Notwithstanding the fact that, the author brings out issues which are relevant and provide a useful guideline to the current study, he dwelt on participation only at school which is not a sufficient scope for the current study. This study would be covering other areas such as the home which is the first point of socialization and the community. Nevertheless, his recommendations can be useful in the implementation of the UNCRC and in particular Article 12.

Rakesh Rajani and Alfhild Petren have examined the essence of raising awareness for children’s rights in their article “Raising Awareness for Children’s Rights”\(^ \text{20} \). They assert that the effectiveness of the CRC is dependent on how widely it is known, understood and applied by state parties. They point out that, for the Convention to gain wide public knowledge and acceptance, governments that have ratified the convention have a task of informing the public about its entire principles and provisions. Aside, from government they further examine the role
played by non-governmental organizations and the media in promoting the UNCRC and give suggestions on how this can be done efficiently and effectively.

According to Rajani and Petren although the UNCRC is a powerful tool with worldwide recognition for promoting child rights, bridging the gap between the articles in the Convention and the everyday reality of many children remains a challenge. Advocacy to raise awareness among children and the society in itself is therefore a vital tool for turning the “rhetoric into practice”. They point out Article 42 which makes it obligatory for state parties to the Convention to disseminate the text in relevant languages and to make sure that its contents and purposes are widely understood and adhered to. The authors further suggest that the state owned and private media can contribute to the awareness campaign through both formal and informal means, also they assert that child-related reports should not be relegated to pages or programmes solely for children but should form part of the major news item.

The non-governmental organizations and inter-governmental organizations also have roles to play as “watch dogs” to hold governments accountable and encourage them to fulfill commitments and obligations. Non-Governmental Organizations have the advantage of being closer to the people and should take this opportunity to inform and provide support services to children who have been violated to ensure the exercise of their rights. These two authors have provided useful information on how to ensure the realization of child rights through awareness creation, however it must be noted that implementation of the CRC goes beyond awareness creation, though this in itself is important. The UNCRC must be incorporated into national laws to make application of it by the courts easier. Also, their article did not mention specifically the
need for creating awareness for more marginalized groups like disabled children. These therefore would be covered in the current study.

Janice Windborne’s work “New Laws, Old Values: Indigenous resistance to children’s rights in Ghana” asserts that children are far from realizing their rights as enshrined, despite the fact that Ghana is a state party to the convention. According to her, the failure to achieve “the rights of children is due to the fact that: the interests of parents are pitted against those of the state”\(^22\). She makes a claim that a change in adult attitudes would be instrumental in realizing child rights. She asserts that though children know they are entitled to certain rights particularly the right to education they are also resigned to their powerlessness before the will of adults. She accepts the validity of the fact that, the persistent disregard for child rights is due to poverty, which is deeply embedded in the economic fabric of many developing countries. She explicitly makes a claim that, until poverty is a reduced to its barest minimum, the rights of children will be subsumed beneath the needs of the family. Notwithstanding these claims, she brings to fore social and historical factors which include tradition and gender roles that parents rely on to deny their children rights. The author points out that, aside from lack of acceptance of child rights by parents, states contribute to the resistance to implement the rights of children. The conflicting message brought out by states with regards to child rights, challenges the traditional and gender roles parents are familiar with. It must be mentioned that, children’s rights are sometimes in conflict with the interest of groups such as parents so there is a need for states to provide parents with viable or alternative options when they make laws regarding child rights. This, according to the author is sometimes not done and this affects the decisions parents make for their children. In essence, the attitude of states in this regard makes compliance with the Convention on the Rights
of the child more difficult for parents\textsuperscript{23}. The work above is insightful as it points out some challenges faced in the implementation process. These would be considered in the current study.

In their work, \textit{“The Child’s Right To Be Heard In The Health Care Setting: Perspectives Of Children, Parents And Health Professionals”}\textsuperscript{24}, Kilkelly and Mary Donelly stress on the importance of Article 12. They address participation of children in the health sector. The current study would however tackle the issue of child participation from a different angle. They assert that the participation of children in the healthcare sector may have a positive effect on the outcome of healthcare treatment. They underscore the pivotal position of Article 12 and further assert that the breadth and scope of Article 12 means that it is a highly influential provision which has the potential to bring about greater respect for children. In this way, Article 12 permeates what the whole UNCRC as a whole is trying to achieve for children. This directly resonates with the hypothesis of the current study which argues that to ensure the success of the Convention in any legal system efforts must be made to make Article 12 a reality as it constitutes the cornerstone for the realization of child rights.

In his article, \textit{“Implementing Children’s Right And Health”}\textsuperscript{25}, Gerison Lansdown explores the implications of involving children in the field of healthcare where the decisions of the actors and healthcare professionals impacts on the lives of children. He examines two important principles in the convention: articles 12 and 3 that highlight the implications of taking a right based approach to children. For him, Article 12 has broader implications as it is not just a matter of listening to children; ‘Respecting children’s right to be heard does not mean that their views must always prevail”\textsuperscript{26}. He further asserts that the right to participate in Article 12 extends
beyond obligations to involve children in individual decisions that affect them. It also applies to matters which affect them as a body. He suggests the creation of new structures to enable children share their views in an effort to comply with Article 12. Notwithstanding the benefits of the study by Lansdown, he confines his scope to the “Right to be Heard” only in the health sector. It is necessary to note that Article 12 is broad and could cover other areas such as right to be heard in schools, in the home and community. For a more comprehensive study it would be best to cover these.

The review of literature demonstrates that there is a gap between the law and the actual practice of the law. This is a clarion call for duty-bearers to adequately address the challenges and optimize child rights. Furthermore, the review has revealed that many of the earlier studies have lumped children together. None of the studies have focused so much on disabled children. This would be explored in the current study.

1.9 THEORETICAL FRAMEWORK
The theoretical underpinning of this study is the International regime theory. As a theoretical construct, international regime traces its intellectual antecedents to the works of scholars such as Stephen Krasner, Oran Young, and John Ruggie. These scholars espouse an optimistic view of international politics, and underscore the importance of international regimes as a means of cooperation and pacific settlement of disputes in international politics.

According to Stephen Krasner regimes are “implicit or explicit principles, norms, rules and decision making procedures around which actors expectations converge in a given area of
international relations.\textsuperscript{27} States come together to establish regimes because they provide an international, institutional and juridical framework to solving certain issues on the international plane. Again, in view of the fact that there is no super-ordinate or overarching central authority in international relations, these rules are voluntarily established by states to provide some degree of order in their relations with other states. The international regime theory is derived from the theory of liberalism which holds that interaction between states is not limited to high politics but low politics as well and assumes that cooperation is possible within the anarchic system of states.\textsuperscript{28} According to these scholars although states lack a sense of obligation they think twice before they violate agreed upon rules. States with a reputation for opportunism will find it more difficult in the future to be accepted as partners in a potentially beneficial regime. Moreover, since international institutions are difficult to construct states will hesitate to put an existing regime at risk.\textsuperscript{29}

The theory has thus been chosen for this work due to the above qualities it possesses. The issue being discussed in this work is a human rights regime based on the UNCRC. The UNCRC is an international, comprehensive and holistic convention established by 195 states parties to promote the civil, political, economic, social and cultural rights of children. Since its existence it has proven to be the most universally accepted human rights instruments in history that has drawn almost every nation to agree on addressing child rights issues. It therefore involves state parties adjusting their own state policies to be conterminous with the provisions of the UNCRC. Article 12 of the UNCRC provides the impetus for the promotion and upholding of child participation in decision making.
The theory of international regimes is not without criticisms. One criticism of the theory is that international human rights regimes are not extremely effective, for instance though the UN Committee on the Rights of the Child has been created to monitor the implementation of the UNCRC it has not functioned effectively. The Committee does not have effective sanctions which would compel states to comply fully with regimes. It must put in place more effective sanctions than just verbal condemnation. There is therefore the need to develop and apply more stringent measures like diplomatic isolation, placement of embargoes, court sanctions and the imposition of trade and financial restrictions if issues of child rights are to be optimized globally. In addition, Susan Strange criticizes the theory as being vague and imprecise. The theory is said to over-emphasize the role of state actors to the neglect of non-state actors. However, this is an unfair approach as there has been the explosion of parallel initiatives of states at a variety of levels by non-state actors in recent years. Besides, issues such as child rights which regimes try to solve are multifaceted and do not depend solely on states intervention. Another criticism is that developed and developing countries are put on the same platform though they differ in culture and resources. Thus it becomes unrealistic for developing countries to implement these laws like the developed countries.

Regardless of the criticisms, it is apparent international regimes are relevant to finding solutions to challenges relating to child rights issues confronting states. It ideally establishes a supervisory mechanism for these rights. It is against this background that the theory was chosen. The UN as an international institution therefore serves as a platform for addressing contending challenges, and their focus on low politics relate to the issues under discussion in this study.
1.10 CLARIFICATION OF SOME KEY CONCEPTS

CHILD: The CRC defines a child as every human being below the age of eighteen years unless under the law applicable to the child, maturity is attained earlier.

CHILD RIGHTS: This is the legal guarantee that provides for the survival of the child, education, active participation in decisions that affect the child, adequate health care, protection from exploitation and all other forms of discrimination and to have his or her views heard and taken into consideration on relevant issues that affect him or her in order to enjoy full and decent life and thereby reaching his or her fullest potential.

CHILD PARTICIPATION AND RIGHT TO BE HEARD: This requires adults to consider the age appropriate input from affected children when they make decisions or develop policies that affect children. It can simply mean taking part, being present, being involved or consulted. Alternatively, it can denote a transfer of power so that participants’ views have influence on decisions and knowing that one’s actions and views are going to make a difference and may be acted upon, thus leading to empowerment. Adults need to realize that children have their own experiences and concerns about some issues in life and without the voice of children the effects of realizing the child’s rights would be inadequate and inefficient.

IMPLEMENTATION OF THE UNCRC: These are measures taken to make the principles and provisions of the UNCRC a reality to children.
1.11 SOURCES OF DATA AND METHODOLOGY

The study approach is exploratory and descriptive in nature. Exploratory research employs investigation and explores all sources of information. It usually involves the use of qualitative data and is more open to using a range of evidence and discovering new issues. Two main sources of data were explored for this study, primary and secondary data. Structured open-ended interviews were conducted to allow us gain more insight into the thinking of practitioners about their work in child rights. In order to gain a comprehensive understanding of the implementation of Article 12 of the UNCRC in Ghana, Mrs Patience Hayford the assistant programmes officer at the Information, Research and Advocacy Division of the Department of Children of the Gender, Child and Social Protection Ministry was contacted in a face-to-face interview to determine the ministry’s role in effecting Article 12 of the UNCRC. An interview was also conducted with Mr Kofi Annan the Executive Director of Challenging Heights, a non-Governmental organization. He was chosen to grant this interview because his outfit has conducted similar work on in this field: child participation. Mr Elvis Alipui the Chairman for the Accra Metro Physically Disabled Society was also interviewed. The choice of these key informants was specifically based on their mandate relating to working with and for children and their in-depth knowledge about the issue being researched on. To prevent the occurrence of biases which is usually associated with key informant interviews, the participants were selected from different work backgrounds but of course one which relates to children. The information collected from them were compared and the inconsistencies were either sifted out or critically analysed.

The study also relied on information from children themselves. Considering that the study is about child participation it was necessary to include the views of children as it increased the reliability of the research. Ten (10) children from the Tema Municipality were engaged in a
focus group discussion. Due to the vulnerability of children, there were ethical considerations in the selection of participants. Also, in light of the fact that the UNCRC enjoins states to take into consideration the “age and maturity” of the child, it was deemed appropriate to select children from the upper primary and the Junior high school level where they are deemed to be more mature and rational. Although 10 participants may not seem enough the sample size is not out of the norm for a qualitative study. For example Patton (2002) posits that “qualitative inquiry focuses in depth on relatively small samples,…selected purposefully.”33 The focus of the study is not to generalize but to gain an in-depth understanding of issues.

Secondary data was gathered from books and journal articles to enable the researcher know earlier works in the field. This also helped the researcher generate new insights about the subject. In all these processes, specific attention was given to identifying the challenges with the implementation of Article 12 of the UNCRC. Also special emphasis was given to marginalized children such as the disabled.

1.12 ORGANISATION OF THE STUDY

The study is organised into four chapters.

The first chapter provides the research design made up of the background to the problem, problem statement, research questions, objectives of the study, rationale, scope of the research, hypothesis, theoretical framework, literature review, definition of concepts, methods and sources of data and the arrangement of chapters.

The second chapter of the study is based on the review of the various legislations available for the protection of child rights in Ghana. The UNCRC, the African Charter on the Rights and

Chapter three is the analysis of the findings.

The research is concluded in the fourth chapter with the summary of significant findings, conclusions and some recommendations exploring viable options and good practices in the protection, promotion and sustenance of children’s rights in Ghana.
ENDNOTES


2 The United States of America, South Sudan and Somalia are the three countries that have not ratified the Convention as at now. Some conservatives in the US oppose the UNCRC because they believe it undermines parental authority and like all other international treatise, weakens US sovereignty by subjecting Americans to foreign oversight. Somalia was for a long time tagged as a failed state, it had no recognized central government. Plans are currently underway to put structures together for proper functioning of the country. South Sudan on the other hand, is the newest nation in the world. The reasons given for her position is that, there is a conflict situation with North Sudan and until the conflict is resolved South Sudan would not be able to provide education and healthcare for children throughout the country. South Sudan might therefore not ratify the CRC until the conflict is resolved and oil revenues are secure. Children’s rights are however supported in the Constitution.


4 Twum-Danso, Op-cit., p.376.

Although these laws are commonly known in the names cited in the work, they have their proper legal identities. Following the same order in which they were mentioned and their main functions, they are the 1977 SMCD 133 which dealt with issues relating to child maintenance. It sets out a number of rights to ensure the well being of children. Under the Act, the best interest of the child must be paramount in any matter concerning the child; the 1985 PNDCL 111 was enacted to provide a uniform system of inheritance. The law gives surviving children a considerable proportion of the property of their deceased parent and makes it illegal for anyone to deprive a beneficiary of his/her share of the estate or to forcefully eject a surviving child from the matrimonial home and the 1971 Act 360 regulates the making of statutory wills, by restricting the freedom of the testator so as to secure a reasonable part of his/her estate to the child where he/she makes no provision for it.

5 Article 28, sub-section 2 of the 1992 constitution reads that: Every person in Ghana, whatever his race, place of origin, political opinion, colour, religion, creed or gender shall be entitled to the fundamental human rights and freedoms of the individual contained in this Chapter but subject to respect for the rights and freedoms of others and for the public interest.


8 Ibid. The guiding principles are the general requirements for all rights and therefor provide the means by which the substantive articles are interpreted and achieved. They can be found in Articles 2, 3, 6 and 12.

9 UNCRC Article 12, op.cit.


12 Ibid., p.89.

13 Ibid., p.90.


15 Ibid., pp.376,379-382.

16 Committee on the rights and welfare of the child, General Comment No.17(2013)on the Right of the Child to Rest, Leisure, Play, Recreational activities, Cultural life and the Arts, pp.6


18 Ibid., p.181.

19 Ibid., p.182.


21 Ibid., p.143.

23 Ibid., p. 157


26 Ibid., p. 5.


31 www.york.ac.uk/spru/research/pdf/qualityprotects.pdf


CHAPTER TWO

OVERVIEW OF INTERNATIONAL AND NATIONAL LEGAL PROVISIONS RELATED TO CHILD RIGHTS

2.1 INTRODUCTION
Child rights are fundamental freedoms and inherent rights of all human beings below the age of 18. These rights apply to every child, irrespective of the child's parent's or legal guardian's race, colour, sex, creed or other status.¹ Children’s rights are a relatively new concept. Although issues of human rights received some attention in the 17th century it was not until the 19th and 20th centuries that the rights of children began to be considered.² However, discussion of children’s rights tended primarily to be focused more on protection rights rather than any concept that children were entitled to their own rights. Following the creation of the League of Nations (later to become the UN) the international community started to give some kind of importance to the concept of child rights. This was partly influenced by the change in world views about children and their rights: from “property items”³ to human beings. The year 1924, therefore marked the first time children were mentioned in an internationally recognized text when the Assembly of the League of Nations passed a resolution endorsing the Declaration of the Rights of the Child.⁴

2.2 INTERNATIONAL LEGAL PROVISIONS FOR THE PROTECTION OF CHILD RIGHTS
There are a number of legal instruments, documents, resolutions and decisions adopted which refer to the promotion and protection of children’s rights at the international and regional levels. It is therefore prudent to give a brief trajectory of children’s rights and welfare.
The Declaration of the Rights of the Child was the first international instrument on child rights (also known as the Geneva Declaration). It established the concept of the rights of the child and the idea that a child may have rights. The Declaration was very much concerned with protection and provision rather than rights; therefore, it stressed the material needs of children. They should have by “rights” the means necessary for their normal development, including food for the hungry, nursing for the sick, help for the handicapped and shelter for the homeless. Although the Declaration contributed to bringing child rights to the forefront it had a number of limitations. Children were not seen as the holders of rights, but more as recipients of adult protection and provision. The Declaration was not a formal treaty; it was not intended to be a legally binding instrument, but more of a prelude to the development of legally binding norms. Also, despite the fact that it was entitled the “Rights of the Child”, its text was mainly concerned with the provisions of children’s economic, psychological and social needs which were more pertinent to the language of welfare. Due to these shortcomings there was a need to adopt a more comprehensive legal instrument for the protection of child rights. Building on the 1924 Declaration, the 1959 Declaration was promulgated. It formally introduced the principles of “special protection” and the “best interests” of the child into international law. Unlike, the 1924 Declaration, it placed an obligation on governments to implement the Declaration through legislative and other measures and gave a duty to non-governmental organizations to be observers. It expanded the scope and mandate of the 1924 Declaration. As rightly pointed out by Geraldine Van Bueren, the 1959 Declaration set the stage for the adoption of a much proposed comprehensive legal instrument, the Convention on the Rights and Welfare of the Child, discussed herein after.
The United Nations Convention on the Rights of the Child (UNCRC) was adopted by the UN General Assembly on November 20, 1989. The Convention sets out the rights of children in fifty-four (54) articles and two optional protocols. The Convention is divided into three main parts. Part one is made up of Articles 1-41 which contain the substantive provisions of the Convention, part two contains Articles 42-45. These are concerned with the implementation and monitoring of the Convention and finally part three is made of Articles 46-54. These are the final clauses in the Convention. Currently, there are 140 signatories to the convention and only three nations have not ratified it; the United States, Somalia and South Sudan. Upon ratification of the UNCRC, each state party is requested to submit an initial report within two (2) years and subsequently a report on progress on the implementation of the UNCRC every five years. Fundamental changes to the view of children’s rights were introduced with the adoption of the UNCRC. The United Nations Committee on the Rights of the Child is the elected international body responsible for monitoring compliance with the Convention. This monitoring body has identified four (4) guiding principles which must inform implementation in all areas. These are “The right to life, survival and development (Article 6), The principle of non-discrimination (Article 2), The Best interest principle (Article 3) and The right to be heard” (Article 12). These would be discussed more in detail later in the work. The UNCRC differs not only in respect to its legal standing. It is a formal treaty and not merely a proclamation of general principles. It goes beyond a statement of what is owed to children by virtue of their “physical” and “mental maturity” and incorporates some of the rights and freedoms listed in the more general human rights treaties.

Regardless of the promises the UNCRC holds for all children, human rights experts in Africa were convinced that the UNCRC had not adequately addressed children’s problems and difficulties in Africa, also they felt African countries were under-represented in the drafting
process of the UNCRC. It became evident that, there was the need to develop a specific legal instrument aimed at protecting the specific realities of children in Africa: a home-grown child protective instrument which would take into account the peculiarities of the continent. The African Charter on the Rights and Welfare of the Child (also called ACRWC or the Children’s Charter) was therefore promulgated to protect children in Africa. “The Charter, which was adopted by the Organization of African Unity (now the African Union) in July 1990, entered into force in November 1999.  

The Charter spells out the rights that African countries must ensure for their children and it is the main instrument of the African human rights system for promoting and protecting child rights. “Africa is the only continent with a region-specific child rights instrument.” The African Charter on the Rights and Welfare of the Child is divided into two parts. Part one deals with the rights, freedoms and duties of the child and has 31 articles. Part two deals with states obligations to adopt laws to enforce the provisions of the Charter. As of May 2013, the Charter had been ratified by 41 states of the 54 states of the African Union. Like the UNCRC, there is a committee tasked to monitor state’s compliance and interpretation of the Charter. Article 32 explicitly stresses that “An African Committee of experts on the rights and welfare of the child herein after called the Committee shall be established within the Organization of African Unity to promote and protect the Welfare of the Child.”

The Charter has so many similarities with the Convention that it sometimes raises questions of its said uniqueness. Within two years after ratification, the state party is to submit a report on the progress. The point of divergence is that while reports are submitted every three years with the
Charter, the Convention requires five years. Another major difference lies in the “existence of provisions concerning children’s duties [in article 31], in line with the African Human Rights Charter”. In as much as children have been provided with rights, it also behoves that, there must be accompanying responsibilities. The Charter therefore provides the express inclusion of the concept of children’s responsibilities which is missing in the Convention.

2.3 DEFINITIONAL CHALLENGES IN THE VARIOUS LEGAL PROVISIONS
Article 1 of the UNCRC defines a child as “every human being below the age of eighteen (18) years unless under the law applicable to the child, majority is attained earlier”. The law referred to in the UNCRC includes international treaties and domestic legislations specific to children. Article 1 creates room for states to give different interpretations to who a child is and this makes it difficult in the protection of child rights. Also, it restricts its application by including the phrase “unless majority is attained earlier”.

Unlike the CRC, the African Charter on the Rights and Welfare of the child defines a child more concisely as “every human being below the age of eighteen (18) years”. According to Michael Gose, one of the most advanced features of the Charter is the definition of the “concept of childhood”. There are no caveats or limitations included in this definition. This definition is crucial for the proper application of the Charter as it is very clear. The Charter’s protection is therefore more comprehensive and inclusive. However beneficial this approach might be, it seems to be in discord with the African traditions and culture where maturity of a person is not determined by numbers. Each age is tailored to suit the particular subject in question. Giving a definite age conflicts with long held beliefs and practices. Traditionally, the termination of
childhood has very little to do with the attainment of any pre-determined age but with the physical capacity to perform acts which are normally reserved for adults, for example initiation ceremonies, or marriage. In this way, the Charter’s role of childhood clashes with the African traditional cultural understanding.\(^{19}\)

2.4 AN ANALYSIS OF THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD AND THE AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD

The analysis of the UNCRC and the ACRWC would be done based on four thematic areas, referred to as the four guiding principles. It must be mentioned that any analysis of the various provisions must be done based on these four guiding principles. The four principles must be interpreted equally if children’s entitlements are to be fulfilled\(^{20}\). However, much attention would be dedicated to Article 12, which is at the heart of this research.

2.4.1 THE RIGHT TO LIFE, SURVIVAL AND DEVELOPMENT

This provision assures to children the right conditions and environment which would enable their development. It can be found in Article 6 of the Convention and 5 of the Children’s Charter. There are similarities in the wording of both the Convention and the Charter. However, it must be noted that, whilst the Convention and the Children’s Charter provide an end to childhood, there are no provisions to indicate the beginning of childhood. It therefore takes no stance on the issue of abortion and leaves the topic open for individual countries to find means of addressing the issue.
The Children’s Charter tried to make this article significant by indicating that the “right to life shall be protected by law”. This additional sentence could be interpreted as a special obligation for states to pass legislations that treats any act a person commits which deprives a child of his or her life as a criminal offence, and also to introduce laws that will reduce the causes of still birth and high infant mortality rates. There is a repetition of wording in Article 6(2) of the Convention and 5(2) of the Charter. The only difference between these provisions is the inclusion of the word “protection” in the Charter.

2.4.2 THE PRINCIPLE OF NON-DISCRIMINATION

The principle of non-discrimination is in Article 2 of the Convention and it finds its respective counterpart in Article 3 of the Children’s Charter. The wording of the Convention and the Charter are almost the same except for the prohibited ground of discrimination relating to ethnic group that was added in the Charter and the difference between “fortune” in the Charter and “property” in the Convention. “Ethnic group” seems to be a wider concept than the Convention’s listed notion of “race”. The term “fortune” could also be interpreted in a wider sense than the more specific concept of “property”. The mentioning of disability as a prohibited ground for discrimination as captured in the Convention is missing in the Children’s Charter even though there is a mention of it in article 13 of the Children’s Charter. This omission is rather unfortunate because the Charter misses an opportunity to reaffirm the rights of children with disabilities. Another difference is also the fact that, while family members of the child other than parents are recognized in the Convention, they are not mentioned in the text of Article 3 of the Charter. This is quite surprising, given the special emphasis on the concept of family in the general African context. The Convention in this regard is more comprehensive on this point.
2.4.3 THE BEST INTEREST PRINCIPLE

The human rights of children are underpinned by this principle and must be interpreted in conjunction with this principle.\textsuperscript{24} It is contained in Article 3 and 4 of the Convention and Children’s Charter respectively. The Children’s Charter provides that the best interest principle shall be “the primary consideration” while under the Convention it is only “a primary consideration”. Deducing from the above, one can conclude that although the Convention contains this principle it does not place so much emphasis on it. The Convention allows for other principles and considerations to be taken into account first. The Children’s Charter, however seems to measure the influence of the best interest principle in proclaiming its supremacy over other considerations.\textsuperscript{25} However, it must be noted that Article 3 of the CRC does not contain only the best interest principle but lays out further obligations of States in its second and third subsections in fulfilling this provision. This is missing in the Children’s Charter. One could interpret the absence of further provisions, apart from the best interest principle as a way in which the drafters of the Convention emphasize the principle by dedicating a whole article to it alone.

2.4.4 THE RIGHT TO BE HEARD

This can be found in Article 12 of the UNCRC, its corresponding article is in Article 4 of the ACRWC. Article 12 of the UNCRC provides that:

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.\textsuperscript{26}

Article 12 is a “unique provision in human rights treaty: it addresses the legal and social status of children, who on one hand lack the full autonomy of adults but on the other are subjects of
Article 12 gives children some participatory rights in decisions that affect them. The provision requires states to take measures to facilitate the child’s expression of his or her views in all matters affecting him or her and to ensure that those views are given due weight in accordance with the child’s age and maturity. Though there is no mention of participation, article 12 has broadly been conceptualized as “participation”.

Article 12 is however not the only provision in the UNCRC which incorporates the right to participate. The right to be heard or participate is reinforced by Articles 2 (the principle of non-discrimination), 14 (freedom of thought, conscience and religion), 15 (freedom of association), 21 (right to care in the event of an adoption), 28 (right to education), 31 (right to leisure, play and culture). Article 42 and 17 which touches on the fact that, state parties take appropriate measures for the implementation of child rights and that children have the right to get information that is important to their health and well being respectively are all crucial to the successful implementation of Article 12. The view that children have a right to be heard is further supported by article 13, which recognizes the child’s right to freedom of expression “either orally, writing or in print, in the form of artwork, or through any media of the child’s choice”.

Unlike the African Charter on the Rights and Welfare of the Child, which does not explicitly indicate the alternatives available to the child to express his opinion, the Convention requires the use of a range of approaches and methods including verbal and non-verbal communication, sketch or any other props which can help the child convey his or her message. Children with disabilities are given more opportunities to participate from the angle the Convention formulates this provision.
Again it must be noted that “Participation rights are very new to the legal traditions of most signatories so the convention drafters gave some instruction on how to implement article 12: “[For] this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law”\textsuperscript{29}. The convention leaves the specifics of the implementation of Article 12 to the individual state parties, but the basic requirement remains that they must give children the right to be heard in judicial proceedings that affect them.

Article 12 is thus a pivotal provision, which acknowledges the respect to which children are entitled and reflects their increasing autonomy and evolving capacity. Article 12 throws more light on children as holders of rights and state parties must acknowledge this and make provision for it in their national laws. Also it points to the fact that competence does not develop along rigid time lines or developmental stages. According to the Committee, young people are acutely sensitive to their surroundings and very rapidly acquire understanding of the people, places…..in their lives, along with awareness of their own unique details. They make choices and communicate their feelings, ideas and wishes in numerous ways long before they are able to communicate through the conventions of spoken or written language.\textsuperscript{30} Though it does not form part of the guiding principles, Article 5 is a key provision which enshrines the principles of parental guidance and evolving capacity. In particular, Article 5 requires the State parties to, respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or “other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities
of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention”\textsuperscript{31}. The request for parental guidance is because though children have the rights to express their views; it is not a guarantee that everything that the child says is correct. It is the duty of the parent to put the child on the right developmental path by pointing out rights or wrongs of the child.

More marginalized groups such as the disabled children have been provided measures that will ensure they experience this same right in Article 23. State Parties are encouraged to give special care and support to these children to “facilitate their active participation in the community”. Indeed, the UNCRC has impacted on how society views children and how they react to children as people. The drafters and state parties wanted to ensure that children will be supported and guided throughout their childhood so that they may become full and functioning adult members of the society. Geerdink brings out a point which is very much in line with this study. According to her, “Participation granted to children is that adults can and will have to learn from children to lend an ear to the purposes of why the CRC has been drawn up as a widely ratified document, namely to concede children and to protect and preserve their rights”\textsuperscript{32}

Article 4 of the Children’s Charter as mentioned is in line with Article 12 of the UNCRC. Paragraph 2 provides that:

In all judicial or administrative proceedings affecting the child who is capable of communicating his/her own views, an opportunity shall be provided for the views of the child to hear either directly or through an impartial representative as a party to the proceedings, and those views shall be taken into consideration by the relevant authority in accordance with the provisions of the appropriate law\textsuperscript{33}
Although article 3 of the Children’s Charter allows every child to enjoy the rights and freedoms in the Charter, a critical look at article 4 initially throws the reader aback. This is because there is a restriction to the participatory rights accorded children. Unlike the UNCRC where children are encouraged to take part in “all matters” affecting them, the Charter refers only to “judicial or administrative proceedings”. The participatory rights of children are not better enhanced by the Charter. Also, aside from the conventional modes of communicating, explicit indications have not been provided for alternative modes of conveying an opinion. Gose confirms this line of argument when he asserts that:

> [t]he wording of the Charter is in this sense more restrictive than that of the Convention because a child who is not able to communicate could, nevertheless, be able to express his or her views by means other than verbal or written, as for instance by body language or other means. The views of the children who are unable to communicate in the conventional sense are therefore neglected in the Charter.\(^{34}\)

Notwithstanding these shortcomings, it is necessary to mention that the forms of participation differ from that of the Convention and is more convenient. “While the Charter provides for the indirect participation of the child in the form of an “impartial representative as a party to the proceedings” the convention offers the additional possibility of participating through an “appropriate body”. The establishment of such an “appropriate body” could, however, limit the participation rights of the individual child all in favour of the more general interests of all children”.\(^{35}\)

### 2.5 LEGAL PROTECTION OF CHILDREN IN GHANA

As ratification of the UNCRC required governments to take steps to ensure that all children within their national boundaries are able to enjoy the rights stipulated in the Convention, governments were expected to harmonize their national laws with the Convention’s standard. The 1992
Constitution of Ghana therefore provided an avenue for Ghana to translate its international agreements into domestic law. Its passage created a conducive climate\textsuperscript{36} to set out the principles and fundamental human rights and duties of citizens. Chapter five of the constitution lays down the general fundamental human rights and freedoms that all Ghanaians including children should be accorded. Recognizing the vulnerability of children, Article 28 has been dedicated to them. Article 28 states among other things that:

Parliament shall enact such laws as are necessary to ensure that children have the right to care and maintenance as is necessary for their development from their natural parents, provision from their parents’ property, protection from exposure to physical or moral hazards, protection from work that affects their health, education and development, children should not be subjected to torture, inhuman treatment, forced labour, degrading treatment, or punishment, be deprived of medical treatment, education or any other social or economic benefit by reason only of religious or other beliefs.\textsuperscript{37}

Under the law therefore, a child has many rights including but not limited to:

- the right to a name, nationality and family
- the right to education
- the right to access food, shelter, medical attention, and anything else required for the child's healthy development.
- the right to participate in social activities
- the right to express an opinion
- the right to be protected from all activities which might pose as a danger to the child’s development.

The enforcement of this right has been explicitly stated in Article 33. Article 33 of the 1992 constitution asserts that:

Where a person alleges that a provision of this Constitution on the fundamental human rights and freedoms has been, or is being or is likely to be contravened in relation to him, then, without prejudice to any other action that is lawfully available, that person may apply to the High Court for redress.
The High Court may, under clause (1) of this article, issue such directions or orders or writs including rites or orders in the nature of habeas corpus, certiorari, mandamus, prohibition, and quo warrant as it may consider appropriate for the purposes of enforcing or securing the enforcement of any of the provisions on the fundamental human rights and freedoms to the protection of which the person concerned is entitled.  

Children in Ghana therefore have equal rights in the constitution to avoid all forms of discriminatory actions against them and it is the duty of the appropriate stakeholders to implement these rights as enshrined in the Constitution.

Furthermore, to ensure full compatibility between the national law and the Convention, a Committee was set up to review the status and the law regulating children’s rights in the country. Based on the recommendations of the Committee, the Children’s Act was passed. Also known as Act 560, the 1998 Children's Act is a comprehensive law for children, it consolidated and revised existing law and filled in appropriate gaps. “Among other things, it sets out the rights of the child and parental duties and provides for the care and protection of children. In addition to the Constitution and statutes, case law, court rules, and ethical rules inform the role of counsel in the representation of the child in the law court and advocacy on behalf of the child”.  

The rights enshrined in the children’s act have been grouped into six main parts Part one focuses on the rights of the child, the best interest principle, right to education, right of every child to a name and nationality, the right to protection from torture, right to refuse betrothal and child marriage and the right to social activity. Article 12 of the UNCRC: “right of opinion”, which is the main scope of this study, can be found in part one, Section 11 of the Children’s Act. Section 11 asserts that:
No person shall deprive a child capable of forming views the right to express an opinion, to be listened to and to participate in decisions which affect his well-being, the opinion of the child being given due weight in accordance with the age and maturity of the child.40

Part II of the Act recognizes that some children could fall foul to the law and therefore a quasi-judicial body called the child panel has been established to mediate in criminal and civil matters which concern the child. This system enables families and communities to resolve child related problems without going to the main judiciary.

A Child Panel shall meet as often as may be necessary except that a Child Panel shall meet at least once in every three months.

The quorum at any meeting of a Child Panel shall be four and in the absence of the Chairman shall be chaired by a member elected by the members present from their number.

Any agreement made between the parties shall be recorded by the secretary to the Child Panel. Any person with a significant interest in a matter before a Child Panel may be invited to attend and participate in its deliberations.

A Child Panel shall permit a child to express his opinion and participate in any decision which affects the child's well being commensurate with the level of understanding of the child concerned. Except, as otherwise provided in this Sub-Part, a Child Panel shall regulate the procedure at its meetings.41

Part III of the Act deals with Parentage, Custody, Access and Maintenance. The Acts makes parents liable for issues concerning children’s welfare and maintenance. The child’s education, food clothing, shelter are the main responsibility of the parents.

Part IV of the Act 560 deals with Fosterage and Adoption. It recognizes that children can be abused by their foster parents. It therefore puts in place mechanisms to ensure that as these children stay with their foster parents their rights are not infringed upon.
Part V focus on employment of children. The issue of child labour is extensively covered. Children under 18 are prohibited from engaging in exploitative and hazardous labour that deprive the child of his or her education, health and development in accordance with article 28(2) of the Constitution. However, it recognizes some children in Ghana are of necessity obliged to work. From the age of 15, where it is presumed that children would have completed their basic education they can be admitted into employment. But there are cautions with the type of work the child can do. Section 89 states the minimum age for child labour “the minimum age for admission of a child to employment shall be fifteen years.”

Part VI which is the last part of the Act 560 makes provision for institutionalized care and miscellaneous matters. Approved residential homes can serve as homes for neglected and abandoned children. The procedures under which Non-Governmental Organizations (NGOs) and other persons may establish homes for the care of children as well as conditions under which children may be admitted to these homes have been laid down. The Department of Children is the body charged with implementing of the Children’s Act. The Act is an indication of Ghana’s effort to domesticate the Convention on the Rights of the Child. It takes into consideration the local context within which it is to operate. "The Act guarantees not only the rights and responsibilities of children, but also the responsibilities of parents and guardians and criminalizes parental irresponsibility. It makes the duty to maintain children a legal issue and not a moral one." It paved the way for the passage of other key legislations like the Juvenile Justice Act (2003) Act 653, the Human trafficking Act 2005, and the Gender and Children’s Policy (2002).
2.6 PARTICIPATION RIGHTS OF CHILDREN WITH DISABILITIES IN GHANA

Human rights instruments apply to all people including persons with disabilities. It is therefore necessary to examine how these provisions protect and enhance participation of disabled children in Ghana. This group includes children who suffer from learning, visual and hearing impairment, mental handicap, autism, communication difficulties, cerebral palsy and behavioural difficulties. Children with disabilities are accorded rights in article 23 of the CRC which clearly stipulates measures to ensure the active participation of disabled children. Article 13 of the UNCRC indicates a range of options available for children regardless of their physical or mental capabilities. Taking this inspiration from the Convention, the Section 10 of the Children’s Act in Ghana makes provision for disabled children; however the right of opinion in Section 11 does not extend to all children. The stipulations in the provision are restricted to only “a child capable of forming a view”. A child who is not capable of forming his view due to his disability is not captured in this provision. The Act taken in its totality does not provide the use of non-verbal means: music, dance, theatre, crafts, arts painting and sculpture which are viable alternative options which can be employed by disabled children. Clearly this insufficiency of the Act with regards to participation sidelines active participation of disabled children who because of their situation need more attention to help them express their views and opinions. Consequently, the Children’s Act misses an opportunity to reaffirm its position with regards to participatory rights of disabled children.

2.7 CONCLUSION

The United Nations Convention on The Right of the Child and The African Charter on the Rights and Welfare of The Child are crucial for the attainment of child rights. It is evident these legal
provisions made by countries shows their committed efforts to uphold the rights of children, therefore legally there are no barriers to children realizing their rights. The brief overview reveals that when efforts are made to implement these rights the world would be better for all. Across the world therefore, governments as well as civil society organizations, academic institutions, development agencies and other professional bodies have tried to see to the realization of these provisions. Ghana, as a state party to the Convention, showed her commitment in the harmonization of these legal instruments into her national laws, nevertheless it appears that the reality of these rights remain elusive for children in Ghana.
ENDNOTES

3 UNFPA, UNICEF. (2011) Women and Children’s Act: Making a Connection. UNFPA, UNICEF.
8 The optional protocols to the UNCRC was adopted by the United Nations on May 25, 2000. The two are the optional protocol to the CRC on the Sale of Children, Child Prostitution, and Child pornography and the Optional Protocol to the Convention on the Rights in the involvement of children in Armed Conflict.
11 Ibid. p. 33.
16 www.aichpr.org/sessions/52nd/interssessions-activity-reports-and-conditions-and-conditions-of-detention.retrieved on 19/6/2013
17 Children Charter, Article 32
19 Op-cit.
20 Op-cit.
22 Ibid., p. 47
23 Ibid., p. 48
24 Ibid., 25.
27 Ibid.
29 Ibid.
35 Ibid 129


40 The 1998 Children’s Act.

41 Ibid.

42 Op-cit. Children’s Act, Article 38.

CHAPTER THREE

BENCHMARKS FOR SUCCESSFUL IMPLEMENTATION OF ARTICLE 12

To ensure the realization of children’s participation rights, it is important to develop standards or indicators against which to monitor and measure what has been achieved and why. It is only by doing this that a proper assessment of the implementation process can be made.

Generally the Committee on the Rights of the Child provides guidelines for the implementation of the provisions through its General Comments. At its Thirty-fourth Session in 2003, the Committee elaborated in detail the scope of Article 12 and how it expects governments to interpret their obligations to children under its provisions. These measures cover legislation, the establishment of coordinating and monitoring bodies, awareness raising and training, and the development of appropriate services and programmes. These are therefore the benchmarks against which Ghana’s implementation of Article 12 is assessed.

3.1 GENERAL MEASURES OF IMPLEMENTATION

3.1.1 Law reform

The right to be heard must be established in legislation. States have to ensure that all domestic legislation is fully compatible with the Convention and that the Convention’s principles and provisions can be directly applied. States parties are to review national legislation and ensure that national laws are compatible with the rights set out in the UNCRC.
3.1.2 Independent human rights institutions for children

The establishment of independent human rights institutions for children should not substitute, but rather be complementary to self-monitoring governmental institutions. These institutions should be geared towards promoting and safeguarding the rights of the child. Increasingly, states are establishing independent human rights institutions for children. In Ghana, the Ministry of Gender, Children and Social Protection realizing the importance of this has also established the Department of Children to deals solely on all issues related to children.

3.1.3 National plans of action

In order to promote and protect the rights of the child at all levels, State parties need to develop a comprehensive national strategy for children based on the UNCRC. The strategy must set realistic and achievable targets and must include adequate allocation of human, financial and organizational resources.

3.1.4 Coordinated Government

Full implementation of the UNCRC requires effective coordination both horizontally between government agencies and departments and vertically across different government levels, from local, regional to central, but also between the government and the private sector.

3.1.5 Education, training and awareness-raising on the UNCRC

Awareness raising on the UNCRC should be geared towards adults and children alike. The text of the Convention should be widely available and be presented in understandable language, e.g. by publishing a child-friendly version of the UNCRC. Additionally, State reports submitted to the UN Committee should be easily and widely accessible by the general public.

As part of the process of creating awareness, children need to learn about their rights and the UNCRC. This should be incorporated into the school curriculum at all stages. Furthermore, education should extend to training and capacity building of personnel working with children. These include child psychologists, teachers, health and social workers, the police and others.
3.1.6 Collaboration with civil society (including children)

In its general Comment no.5 the Committee states explicitly that implementation is an obligation for States parties, however they need to engage all sectors of society, including children themselves. NGOs, the media, civil society and in particular children and young people should participate and be directly involved in the process.

SUCCESES AND CHALLENGES IN THE IMPLEMENTATION OF ARTICLE 12 IN GHANA

3.2 INTRODUCTION

The Vienna Convention on the Law of Treaties stipulates that states must perform their treaty obligations in good faith: “pacta sunt servanda” (treaties are binding on the parties and must be performed by them in good faith). This means that states are obliged to provide adequate budgetary, policy, infrastructural and human resource support to ensure a proper implementation of their treaty provisions.

The Committee on the Rights of the Child at its forty-first session in March 2006 noted with appreciation the adoption of laws aimed at protecting and promoting the rights of the child in Ghana. This chapter therefore examines the implementation of Article 12 of the CRC in Ghana. It seeks to identify the provisions in place to enable children effectively participate in decision-making by being able to express themselves and being listened to. There is no gainsaying that without effective implementation of treaty obligations the protection promised by treaties would remain merely theoretical. It is necessary to point out that the implementation of Article 12 is not done independently of the CRC itself. Rather, it is implemented through the same medium as the
other provisions of the CRC. Thus, the study examines the general measures for implementing the CRC but with a particular focus on Article 12 which relates to “the right to be heard”.

3.3 IMPLEMENTATION PROCESS IN GHANA
As a state party to the CRC, the Government of Ghana (GoG) is required to undertake her obligations as the main stakeholder for the implementation of international Conventions. Ghana is a dualist state; dualist states emphasize the difference between national law and international law, and require for the translation of international law into national law before they become effective. Therefore in Ghana, treaties are signed by the Executive, ratified by the Legislature and implemented by the Executive. It must also be mentioned that child protection is undertaken through the existing governance structures at the national, regional and district levels.

3.3.1 THE INSTITUTIONAL FRAMEWORK FOR IMPLEMENTING THE CRC: NATIONAL, REGIONAL, AND DISTRICT LEVELS
The institutional context for the implementation of the CRC at the national level incorporates a number of governmental institutions. However, the main institution that coordinates the implementation of the CRC and for that matter, Article 12 is the Gender, Child and Social Protection Ministry. The Ministry recognizes that children’s issues cut across all spheres of the social fabric. Consequently, in coordination with other relevant institutions and stakeholders the Ministry through the Department of Children has organized a number of regional and zonal fora to train, sensitize as well as advocate on issues relating to the CRC. These campaigns have been undertaken in pursuance of the UNCRC including Article 12. However, to ensure an effectual implementation of these measures, these measures have been devolved at, as noted already, two
levels namely regional and district levels. At the regional levels, there are regional offices under the aegis of the Ministry’s department, the Ghana National Commission on Children (GNCC), now the Department of Children (DOC), tasked with the responsibility to ameliorate conditions which could potentially prevent or inhibit active participation of the child in the decisions which have implications for their wellbeing.²

To give practical meaning to the concept of decentralization, District Assemblies (DA) form a part of the implementation strategy as devolved from the national level. It has to be mentioned that DAs remain integral to development and for optimal development the child must remain the focal point of developmental policies. Obviously, in developing countries including Ghana, where districts are relatively deprived of institutional infrastructure and facilities, such as the prevalence of well-staffed and equipped government agencies, and where children are most likely hampered by education, safeguarding the interests of the child becomes pertinent. As a result, Article 16(2) of the Children’s Act, tasks DAs to rigorously pursue the rights of children within their jurisdiction.³ In consonance with the attainment of the optimal objectives of decentralization, the Department of Social Welfare is the Government Statutory Agency that has the mandate to regulate the operations of children’s homes in Ghana and take action on all matters of violations of child rights. This is because as a government institution it has the whole government machinery behind its operations to ensure decency and sanity in the registration and operation of these establishments. The efforts of these institutions are complemented by statutory organizations including the National Commission on Civic Education (NCCE) and the Committee on Human Rights and Administrative Justice (CHRAJ).
3.4 OPERATIONAL FRAMEWORK BY GOVERNMENT OF GHANA TO FULFIL THE OBLIGATIONS OF ARTICLE 12
This section discusses operational measures taken by the various institutions for the effective implementation of Article 12. It pays attention to the education and training of service providers responsible for the implementation of Article 12, activities undertaken to popularize the provisions and the role of non-state actors to mention but a few. It also discusses measures taken by Government of Ghana to specifically facilitate the objectives of Article 12 of the CRC and analyses how these measures aid in the effective implementation of the Article.

3.4.1 EDUCATION AND TRAINING
Legislation cannot be effective when those tasked with its implementation do not fully understand its implications. In view of this, it has become necessary to train and educate people on child rights issues. Some identified cultural constraints which come against children forming their views are slowly being lifted with the help of educational programmes run by the Department of Children (DOC) and Commission for Human Rights and Administrative Justice (CHRAJ). CHRAJ for instance receives individual complaints on child-related matters, the complaints are categorized as either administrative justice or family related issues. The collated information serve as the back drop CHRAJ uses in its educational campaigns. To deepen understanding about the boundaries of Article 12 of the CRC, about 1000 professionals, particularly including lawyers, teachers and judges, have been trained essentially on aspects of the CRC including Article 12\textsuperscript{4}. The Department of Children, as the main implementing body, issues out letters to the various stakeholders stating short falls in their child administration system and the need to equip the essential human resource to address this challenge. The stakeholders themselves do an internal assessment to verify this position by the Department, after
which they nominate officials in their outfit who would take part in this educational upgrading exercise. Many a time, the Department conducts the training programme in conjunction with UNICEF. This training is necessary to ensure that the various institutions who handle child-related matters are well equipped and have a firm understanding on the rights of the child as outlined in Article 12 of the CRC. In addition, these professionals often come into contact with children in their line of duty. Their ability to handle issues of child abuse is dependent on their knowledge of the provisions enshrined in the Convention. For example, children spend most of their productive years in school other than their homes. As such, schools have been identified as one of the strong centers of socialization; children pick up all manner of traits and build up their potentials in school. How strong a potential they build, depends on the society and the opportunities available for them to grow. The training of the adequate human resource in this sense is a step in the right direction, as human resource, according to Julian Simon, is the “ultimate resource.”

3.4.2 SENSITIZATION CAMPAIGNS
The first step in the implementation process is centered on sensitizing the populace about their rights and obligations as outlined in Article 12. Raising awareness about the existence of laws which provide a platform for the children to have their interest catered for is, therefore, imperative. This is against the backdrop that the mere existence of laws does not necessarily guarantee its invocation. Therefore awareness campaigns have been launched to sensitize the general public on the dangers of violating the rights of children and the importance of involving children in decision making. To enable easy comprehension of issues relating to child rights including that of Article 12 of the CRC, the Convention has been translated into six local dialects.
namely Ga, Ewe, Twi, Dagbani, Dagare and Nzema. In addition, between the years 1997 and 2000, several national, regional and district dissemination exercises have been held through a cross section of stakeholders and civil society groups. The Departments of Children (DOC) collaborates with other child focused state-agencies to organize workshops and seminars aimed at promoting the rights of children. To accelerate the pace of dissemination of Article 12, media programmes, both in print and electronic, have been undertaken to make the CRC widely known to children.

In this regard, there is the emergence of radio and TV stations that have child-focused programmes. In some of these child-focused programmes, children do not act as passive participants but are allowed to present and produce their own programmes. Ghana’s state owned media outlet, Ghana Broadcasting Corporation (GBC), dedicates its “Curious Minds” programme exclusively for children, to articulate their views on critical issues which have implications for their future aspirations. It is, therefore, not unexpected that the 2005 UNCRC Ghana Report indicates that Curious Minds through its radio broadcast has educated many children on the CRC, the Children’s Act and some aspects of the Criminal Code. Other programmes with similar objectives to that of “Curious Minds” include GTV’s Kids Time, TV3’s Talented Kids and Amazing Child on TV Africa. As stated already, these programmes are designed to create a platform for children to point to key issues affecting their welfare, and make a compelling case for why their views must be considered in crafting key policy decisions in areas ranging from politics to economic development.
3.5 THE ROLE OF NON-STATE ACTORS
States remain important to the effectual implementation of all treaties as they are high
contracting parties. However, it is also important to admit that non-state actors have also been
playing very important roles as vessels of implementation of treaties. There is no denying about
the roles of NGOs in the implementation of treaties including the CRC. NGOs complement the
efforts of states in the implementation of treaties and contribute meaningfully to the optimal
implementation of treaties. In Ghana, a number of child-related NGOs are involved in the
promotion of the CRC. Some of these NGOs have come together to form the Ghana NGO
Coalition on the Rights of the Child to work to improve the Welfare of Children in the country.
The coalition has a membership of 150 NGOs with an average of 15 in each of the administrative
regions in the country.

Some of these NGOs, such as Challenging Heights, Child Rights International, Afrikids, among
others, have been complementing government’s efforts at promulgating programmes which
safeguard child rights. The NGOs, with the support of the Ghana Education Service (GES), have
stimulated the proliferation of child rights clubs in second-cycle institutions across the country.
One of the NGOs dedicated to the promotion of Article 12 of the CRC as well as Children’s Act
in Ghana, Challenging Heights, has invested considerable efforts into providing shelter and
education for deprived children. This is immensely important because providing education for
deprived children is linked to their ability to appreciate their obligations and rights. Without
shelter for instance, a child’s welfare is undermined and in the process, their ability to play an
active role in decisions that affect them is constrained. Therefore the role being played by
Challenging Heights cannot be underestimated because education and improved welfare of
children enable them to invoke their rights as pertained to Article 12 of the CRC and related domestic laws.

3.6 CHALLENGES IN THE IMPLEMENTATION OF ARTICLE 12 IN GHANA
Notwithstanding the various efforts at incorporating the ideas and views of children as noted in Article 12 of the UNCRC, the state of implementation of Article 12 of the UNCRC has not been without challenges. These challenges revolve around lack of political will, resources constraints, poor coordination, poverty, lack of capacity, societal attitudes, and lack of awareness of the existence of the Convention on the Rights of the child.

3.6.1 LACK OF POLITICAL WILL
Political commitment is imperative to the effective implementation of Article 12 and the CRC in general. In the absence of a firm political commitment by the government, it is difficult to translate the laws into a concrete policy action. It is a measure of governments’ commitment that states are expected to play leading roles in the implementation of treaties. This is because governments are powerful agents for promoting changes in public opinion and in people’s attitudes about children through their constant hammering and pressuring of other stakeholders on the importance of child rights issues. Government can also provide punitive legislations to serve as deterrents to violators of child rights. However thus far, the GoG has failed to prioritize child rights issues generally. To a significant extent, NGOs rather are actively involved in safeguarding the rights of the child.

Enforcement mechanisms required to enforce national laws that would give practical meaning to Article 12 of the CRC are lacking. There are no sanctions to punish or serve as a deterrent to people who continue to sideline children in decision making processes, particularly decisions
that would directly impinge on their rights. Patience Hayford, assistant programmes officer at the Department of Children\textsuperscript{10} revealed that successive governments have not prioritized the rights of the child. National development, to successive governments in Ghana, is limited to putting up infrastructure such as roads, hospitals and toilets which could potentially win them votes during the next round of elections. Issues of child development are not seen as major priority areas to development. Of course, per the definition of the CRC and the Constitution of Ghana, children do not have the right to vote, it is therefore politically convenient to not prioritize the implementation of legal instruments for the protection of children. Furthermore, it is not known if children are consulted before political establishments draft their manifesto, nor is it apparent that government consciously seeks the views of children before formulating policies on child rights.

3.6.2 RESOURCE CONSTRAINTS
Resource incapacitation (both financial and human resource) has besieged the work of the Department of Children. This has halted a number of projects to be carried out. Due to lack of funds, many of the activities which have to be carried out depend on supports received by the Department from international NGOs. By making the Department of Children the main implementing body, one would have expected that the department would be transformed into a well structured, competent institution for the implementation of the various provisions in the Convention. Unfortunately, this has not happened and this important responsibility has been allocated to a generally little known, poorly resourced Department.
Patience Hayford asserted that, there is a severe shortage of personnel to handle the workload of the Department which keeps increasing tremendously year after year. Also she mentioned that despite the huge workload, the Department does not have logistics such as vehicles which is a necessity in the sough of work they do. This has restricted their mobility and makes it difficult to keep up with sensitization and awareness campaigns. Patience Hayford indicated that at the time of conducting this research funds had not been released to enable the Department undertake its duties. This problem has been worsened by the fact that the Department’s budget is tied to the budget of the main Ministry and this has impacted negatively on their ability to carry out projects independently.

Furthermore, working conditions in terms of the office space and environment are “depressing” and this in turn can demoralize the already disillusioned staff, resulting in a high turnover. Institutionally, by making the Department of Children the main implementing body, it was envisaged that the Department of Children at the Gender, Child and Social Protection Ministry would be transformed into a well-defined structure, with the institutional and financial wherewithal for the implementation of the various provisions in the Convention. Unfortunately, the jury is still out on whether the change of name from the now defunct Ministry of Women and Children Affairs to, as mentioned already, Ministry of Gender, Child and Social Protection would engender considerable commitment from the GoG.

3.6.3 LACK OF COORDINATION
For effective implementation of the provisions in the UNCRC including Article 12, there is the need for effectual coordination among the various stakeholders involved in the implementation.
These stakeholders include civil society groups and government ministries, departments and agencies. Deducing from the in-depth interview conducted with the assistant programmes officer, one can confidently say that, there is no proper coordination among these stakeholders. Poor coordination or the absence of it has led to the abysmal state of implementation of the Convention. Considering the fact that resources are limited, it is imperative to use the limited resources efficiently and effectively. This requires the streamlining of the roles performed by each stakeholder, roles that overlap must be integrated in order to harmonize the activities of the stakeholders. It is little wonder therefore that implementation has become scanty. The inability of the Ministry to follow up on communiqués and assess the success or otherwise of programmes stems from the lack of structural lines of coordination and clearly defined task allocation. Again whilst the lack of funds is an obvious challenge the lack of collaboration with other relevant institutions that could assist with some of the activities exacerbate an already bad situation. For example, although, the department has mentioned that it liaises with CHRAJ and NCCE, upon further interrogations with the assistant programmes officer, the manner in which this is done does not come out clearly; there is no established procedure to ensure this process. It is therefore essential for governments to ensure effective coordination among all stakeholders of child protection.

3.6.4 POVERTY
It has been stated that “one major challenge confronting Africa continues to be promotion of sustained socio-economic growth and reduction of widespread poverty among its peoples”. Similarly, in Ghana, the prevalence of poverty has implications for the promotion of child rights. Poverty has been identified as one of the many impediments to the implementation
of Children’s Rights for three reasons. First, a poverty-ridden family may be over-burdened with the vagaries of life rather than been concerned with encouraging children to articulate their views on decision-making. Secondly, poverty inhibits the ability of parents to provide children with the required exposure, be it education or training, which would sensitize children about their rights. This means that even in instances where the rights of these underprivileged children are violated, they cannot invoke their rights because they are unaware. Thirdly, the prevalence of poverty means parents are unwillingly inclined to expose their children to nefarious activities, including child trafficking and labour, which can affect the development of the well being of the child.

3.6.5 CAPACITY BUILDING
Prior to the implementation of laws, responsible agencies are to embark on capacity building to increase their efficiency. This is because capacity building is recognized as one of the most critical areas to facilitate the implementation of policies. An institution whose mandate is to promote child rights, for example, must have personnel with deep understanding about the provisions of Article 12 and domestic laws needed for enforcement. Therefore, for institutions that specializes in child rights-related cases, there is a need for refresher courses to build capacities of staff in areas ranging from acquiring knowledge of relevant laws as well skills required for handling vulnerable groups including children with disabilities. Administrative, technical and research capacities are needed for the promotion of child rights. However, the Department of Children does not have a strong and adequately staffed and equipped Advocacy, and Research Division to monitor and evaluate the implementation process.
The Department of Children (DOC) sometimes has to rely on donor support from some of its development partners to source consultants to fill parts of its human capacity. The capacity gap of the Department of Children has been compounded by weak resource mobilization. So far institutional and human capacity of the Department of Children has contributed little towards the attainment of the desired outcome in the implementation strategy. Although consultants funded by donors have been useful in filling some capacity gaps, they have not been adequate to meet all the critical human capacity needs of the Department. Moreover, over-reliance on externally funded consultants is not sustainable in the long run as donor-fatigue may set in. Also, a donor-funded programme may mean government would play limited role in the implementation process especially in instances where donors insist on being at the forefront of policy implementation.

3.6.6 SOCIETAL ATTITUDES
The attitude of society is critical to the implementation of government policy. A receptive response to government policy would elicit positive attitude while negative attitudes derail the effectiveness of government policy. In Ghana, to a significant extent, Children are expected to accept decisions without being critical. Therefore any law that seeks to provide a space for children to play active roles in decision making is deemed as inimical to the social fabric, which is skewed against children who are outspoken. In this regard, the implementation of Article 12 of the CRC has become daunting. Although the view that children must not be heard is anachronistic and smacks of ignorance, the practice still remains that, the perspectives of children are seen as secondary to that of their parents, as parents presume that they know what is best for their children. In an interview with Mr. James Kofi Annan, a child rights activist, he noted that strategies to give children a voice will only work if there is consensus among all
interest groups that children also have their independent perspectives on issues, ranging from education and economic development, which have implications on their wellbeing.

3.6.7 LACK OF AWARENESS
The implementation of every policy objective is also linked to the degree of awareness among the population. However, the level of awareness and, the dissemination of information about the Convention in general and Article 12 in particular as a guiding principle are limited, regardless of several awareness campaigns which have been outlined in the various country reports. As noted by Patience Hayford, sensitization of Article 12 has to be accelerated. She revealed that a study conducted by the department indicated that the general population, including personnel working at governmental agencies dedicated to the promotion of child rights who have undergone several training programmes about the CRC, lacked in-depth knowledge of the UNCRC and its provisions.

It is only when information is accessible and available that the population would appreciate the relevance of Article 12 to the overall development of children. An effective implementation of the CRC demands a conscious attempt to make known its provisions, if not all, at least the four guiding principles\(^4\). She also reiterated the fact that in as much as the Department would like to carry out more campaigns they are restricted since the funds for the aforementioned programme is grossly inadequate to pay for the expenses of carrying out such an outreach. The challenges cited above have hampered the effective implementation of the UNCRC in general and particularly Article 12. Lack of awareness of a particular programme is not a challenge unique to the implementation of the UNCRC, in fact it abounds in the implementation of most treaties and
policies. This notwithstanding one would have expected that, since Ghana was the first to ratify the CRC the country would have ameliorated this challenge. This casts doubt over whether Ghana is genuinely interested in implementing Article 12 of the CRC or only keen to ratify international conventions.

3.6.8 LIMITED ROLE AND PARTICIPATION: FROM THE PERSPECTIVE OF CHILDREN

Understanding children is centered on giving them a voice on issues that relates to them. In reading extant literature on child rights, the lives of children have been explored through the eyes of adults who make their own interpretations and claims on the concept of childhood. This research, therefore, elicited the responses of sampled children, in a focus group discussion to know how they perceived their rights and to what extent they were involved in decision making and participation. The participation rights were divided into separate sections namely rights in the home, school and the community. The concept of rights was not explained to them but they revealed that they knew they were entitled to some rights, though it was sometimes, difficult to assert these rights. They gave classroom definitions of rights; “rights are benefits that an individual must enjoy under the 1992 constitution” but were unable to tell in their own words what rights essentially are. The children argued that the question concerning what rights are was difficult to define. However they are capable of at least differentiating between what is permissible and what is not permissible. Regrettably, these children do not know the UNCRC but they were nevertheless eager to know what kind of document it is. After some explanations, the children understood the Convention as a document which has been designed specifically for children. Clearly, this is a reflection of the fact that the CRC has not been adequately disseminated even among the key target group of the Convention: children.
It was also revealed during the focus group discussion that children play limited roles at home, perhaps, the first point of interaction for most children. Though they sometimes had the opportunity to decide on the clothes to wear and the food to eat, their views were not sought on serious issues like the type of school they would like to attend or the environment they would like to stay in. According to a significant number of children in the focus group discussion they sometimes understood and could contribute effectively to some issues in the house, however, they were tagged as insolent, rude and disrespectful in case they attempted to contribute. This humiliation reduces their self esteem and hence their resolved silence in decision-making processes at home. Clearly, concerning rights at home, children were not satisfied with the extent to which they were sidelined in decision-making. This reinforces the idea that society’s perception of children as carriers of instructions has not changed significantly. At home, therefore, the relationship between children and parent is, to a significant degree, is paternalistic and the choices of children are usually usurped.

By contrast, the research showed that the school environment is an arena where children’s participation is highly stimulated. As soon as they go to school they are also shaped and influenced by other groups including their peers. The school is an environment in which children learn to cooperate with other children and are provided a platform where they can express their opinions as well as participate in school activities. At school, the children intimated that if you wanted to be given the opportunity to participate your behavior and academic results in school would dictate how serious you should be listened to and taken serious. One child in a response to this question: “Do you think enough attention is being paid to your opinion at school”, responded
“yes”, adding that “am always listened to whenever I say something in class and this is because I always bring out good decisions”. This implies that these children have come to realize that if they must be listened to and taken seriously they must conduct themselves in a manner which is acceptable.

In school, children have the opportunity of participating in decision making, such as the election of student leaders, also known as school prefects. In addition, daily interactions with teachers means children have the platform to express their views during teaching lessons. Also, membership of groups, such as debate and speech writing clubs, enable children to express their perceptions on a particular subject matter. Amongst themselves however, they argued that the teachers always selected the students who would take part in the debates. From their point of view, they thought they were all competent or “suitable candidates”. They also expressed dissatisfaction with the fact that sometimes the voices of individual children is not being heard, voices are only heard as part of an organization but not all children want to be in these organizations. These factors notwithstanding the children expressed the same sentiments that they were appreciated at school much better than the house.

On the issue of participation in the community, they immediately said this was a herculean obstacle since children are perceived as lacking the intellectual wherewithal to engage with adults over decisions which affect the community. Their participation in decision making in the community was therefore limited. Unfortunately, the notion that only adults can actively engage in decision-making has been reinforced and children have, regrettably, inculcated this perception and as a result, have become passive players in decisions that affect their well being.
Unfortunately, a considerable number of children have been socialized into believing that they cannot independently proffer their views.

3.6.9 NEGLECTING DISABLED CHILDREN
It is of particular importance for the exercise of their rights to find out which categories of children risk experiencing difficulties in making their views heard. Children with disabilities are examples of such groups. Disabled children comprise those with learning, visual and hearing impairment, mental handicap, autism, communication difficulties, cerebral palsy and behavioral difficulties as mentioned in the precious chapter. The research shows that, while participation of children in decision-making is generally low, participation is lower in respect of children with disabilities. Involvement is still patchy and requires further development. Children with disabilities are an extremely vulnerable group, they tend to live in the shadows and margins of society and as a result their rights are overlooked. They are many a time excluded from activities in their communities. Disabled children have not been afforded their full participation rights under the 1998 Children’s Act, the Disability Act or the UNCRC. In an interview with the Chairman for the Accra Metro Physically Disabled Society to identify and investigate current work concerning the participation of disabled children within the decision-making process, he revealed that participation is not sustained and the involvement of disabled children in decision-making at all levels of the society is still rare. Speaking on behalf of all children in this group, he asserted that disabled children are involved in large scale events where it is difficult to assess their inputs. In the end, this involvement in large scale events means nothing to them. This indicates that the participation of disabled children needs further development including more evidence on which factors can support and promote disabled children’s effective participation.
Patience Hayford confirms this minimal involvement in her interview as she was unable to give a definite answer on how many disabled children were involved in the many participatory approaches of engaging children in decision-making indicated by the ministry’s 2007 report. There are substantial gaps in knowledge about both the processes and the outcomes of disabled children’s participation by implementers of the UNCRC. This is aggravated because disabled children, because of stigmatization, are unwilling to openly mingle and play active roles in participatory programmes designed for children to deepen their knowledge of child rights. Effectively, children with disabilities are not an integral component of child rights activism. This is not surprising because generally, the society’s attitude towards the disabled is repugnant, likewise children with disability. Furthermore, catering for children with disability is relatively expensive and, mindful that successive governments have typically invested limited funds into issues of child rights, safeguarding the rights of disabled children may prove an illusion. Elvis Alipui, Chairman for the Accra Metro Physically Disabled Society,\textsuperscript{19} mentioned that there needs to be a review of existing legislative and policy frameworks at the national level to address some of these challenges with regards to disabled children and to ensure the effective integration in all facets of child development.

\textbf{3.7 SUCCESSES OF THE IMPLEMENTATION OF ARTICLE 12 OF THE CRC}

Some successes have been chalked in the field of child participation as it relates to Article 12. However the successes are transient and not far-reaching. Nonetheless it is important to acknowledge these successes, albeit minimal. At the governmental level, some participatory approaches have been made to gather the views of children. In 2010, a Children and Youth Forum on Water, Hygiene and Sanitation was organized, and a Mock AU Summit has been
institutionalized to provide a platform for children to contribute to decisions at the continental level.

In the recently ended constitutional review exercise, a special session was held exclusively for children to make inputs. To bring to the fore, challenges confronting children in relation to safeguarding their rights, a day has been instituted as National Children’s Day, where children are educated on their rights as well as their responsibilities. Both electronic and print media have contributed to this progress as they have been strong advocates of children’s rights. There are many child focused programmes on the media. Mention can be made of Amazing Child on TV Africa, Talented Kids on TV3, and Kids World which is currently being telecast by the Ghana Broadcasting Corporation (GBC).

On the legal front, under section 11 of the Children’s Act, a child has the right to form an opinion on any matter. Section 11 reads that:

No person shall deprive a child capable of forming views the right to express an opinion, to be listened to and to participate in decisions which affects his wellbeing, the opinion of the child being given due weight in accordance with the age and maturity of the child.

This above stated legal provision grants the child the rights to express an opinion in any matter which affects them, be it in the family life, school or in the community. Section 30 of the children’s Act, allows for the child to express an opinion and participate in any decisions which affect the well being of the child. Subsequently, Section 38 of the Children’s Act grants children some other participatory rights. “The child has the right to legal representation at a family Tribunal, the right to give a fair account and also the right to express an opinion”. These laws are deemed adequate to enable child participation. Furthermore, in all second cycle institutions, there is a Student Representative Council, a platform for the student leaders to comment on some
matters in the school that directly affects them as students and issues that affect the school generally. The student leaders are represented on the school management committee where they are able to bring to fore issues that hamper their development.

The report of the GoG to the UN Committee in 2003 indicated that over 3000 members in children clubs in schools have been trained on the CRC, leadership skills and on methods of influencing policy at the local, national and international levels. “In 2002 for instance, some group of children from deprived communities of the Country interacted with the vice president and parliament on specific issues affecting their communities. Children have also been involved in the formulation of some policies such as the Adolescent Health Policy, the Draft Child Labour Policy and the Child Trafficking Bill”. These activities are expected to propel children’s participatory rights.

3.8 CONCLUSION
To conclude, it is noteworthy that Ghana’s ratification of the CRC is a testament to the country’s commitment to safeguarding the rights of children. However, this commitment must go beyond ratification to include effective implementation of stipulations under the CRC. This is because limited successes have been attained with reference to Article 12 of the CRC. The report indicated that about 1000 professionals who come into contact with children in their course of work and over 3000 children in child rights clubs have been trained, but this has not reflected in the output expected. The successes have been limited to the media, where jingles and promotional programmes are aired or telecast as a ruse for the promotion of participation of children in decision-making. This is laudable but woefully inadequate. Thus far programmes
and laws needed to achieve the objectives of Article 12 of the CRC remain laudable on paper. As noted in the preceding paragraph, government must address identified challenges if Article 12 of the CRC would be effectual. For example, government agencies tasked to promote child rights are riddled with limited funds and high turnover. The pace of sensitization programmes about child rights is slow and generally, the political will required to implement Article 12 of the CRC is lacking. If these challenges are not resolved, child rights would be hampered and children would remain on the periphery of decision-making in Ghana.
ENDNOTES

2 Ibid.
4 Ibid.
5 Ibid.
7 Ibid.
8 Ibid.
9 The underlining objective of these various kids programme is to unearth raw talents among children, nurture them in the hope of boosting the confidence level of these children. The children are offered the platform to exhibit their hidden talents and develop them to an appreciable level.
10 Interview with Mrs. Patience Hayford, assistant programmes officer at the Department of Children, 8th July, 2013.
11 The Department of Children lacks a modern state of the art infrastructure, the building is often overlooked by passersby who do not even know its purpose. There are poor ventilation ducts and the office space is cramped up.
13 Interview with Mr. Kofi Annan, Director of Challenging Heights, 7th July, 2013.
14 The guiding principles are the general requirements for all rights and therefore provide the means by which the substantive articles are interpreted and achieved. They can be found in Articles 2, 3, 6 and 12.
15 Examples of works in this field include but not limited to The Implementation of the Convention on the Rights of the Child: A Study of 3 Municipalities in Sweden: Orebro-Strangnas-Boras by Sanaz Sheikholmeslamzadeh and also New Laws, Old Values: Indigenous Resistance To Children’s Rights In Ghana by Windborne, Janice
17 Ibid.
18 Interview with Mr. Elvis Alipui, Chairman for the Accra Metro Physically Disabled Society, 25th July, 2013.
19 Ibid.
CHAPTER FOUR

SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

4.1 INTRODUCTION
The study sought to assess the implementation of Article 12 of the UNCRC in Ghana. It is therefore imperative to summarize the findings reached at the end of the study and give some recommendations on how best to implement Article 12 to better enhance the participation of children in decision-making processes at all levels in Ghana. Essentially, chapter one provided the introduction to the study. Before the inception of the UNCRC, issues bordering on child rights did not occupy considerable space in state’s relation, however, the coming into force of the UNCRC in 1989 meant that issues of child rights and specifically, child participation became one of the dominant issues with reference to safeguarding the rights of the child. Ghana ratified the Convention on 5th February 1990, making it the first country to do so. Ghana’s commitment under the UNCRC was evident in the several laws and policies it put into place to address child-related issues.

There was a brief overview of some legal instruments meant to regulate child rights in Ghana. In the analysis of these instruments, particular attention was paid to Article 12 which forms the heart of this study. The study further examined the extent to which Article 12 of the UNCRC had been implemented in Ghana. Attention was paid to the various levels of implementation, namely the national, regional and the district level as well as the main body tasked with implementation, the Department of Children (DOC). It also examined the successes and challenges in the
implementation of Article 12 in Ghana, the perspectives of children as well as the participation of disabled children. Chapter four, therefore summarizes the findings of the study, states the conclusion and offers some recommendations.

4.2 SUMMARY OF FINDINGS
Despite the existence of several laws and policies meant to ensuring that the views of children are incorporated into decision-making in Ghana, there continues to be impediments to the realization of these rights. However, as explained by the theoretical framework underpinning this study, Ghana as a State Party to the UNCRC is expected to fully implement all its provisions. Drawing on the interview with government personnel who have strategic responsibilities of child care policies and from the focus group discussion, one can conclude that there is no in-depth knowledge on the UNCRC and its provisions. Their knowledge on the document was scanty and this was reflected in their responses to the questions posed. This is particularly worrying considering the fact that on paper it has been boldly indicated that these people have received adequate education and training on the UNCRC. While it is acknowledged that some training and awareness programs have been made available to professionals, there is serious contention as to whether it has been specifically on the Child’s right to express their views.

Moreover, children who are the target group of the Convention are not aware of it existence. Children’s lack of knowledge of the UNCRC is an indication of the abysmal manner of implementation. Many of the educational and campaign strategies had not targeted children and the few government personnel who are deemed to have undergone this exercise are not testaments to it.
Furthermore, as stated in the criticism of the theory underpinning this study, regimes are not extremely effective and this became evident in the research finding. States do comply with regimes yet there are some challenges with this issue of compliance. Resources and capacities needed to effectively implement the provisions of international regimes are often not available during the time the agreement was signed. The issue of resource availability many a time comes up during the implementation stage thereby limiting the state’s capacity to comply fully with the regime. It was found that almost every institution of State relevant to the promotion and protection of the rights and welfare of children in Ghana faces serious resource and capacity challenges. Without committing the necessary resources child rights protection will continue to be an illusive deal.

Also, as stated in the previous chapter, in order to achieve the objectives for ratifying the UNCRC, State Parties must have the political will to ensure the implementation of the provisions in the Convention. In the absence of strong political will to comply with agreements, State Parties expend only limited energy on implementing them. This study identified a similar trend, there is no strong political will to push through the implementation processes. Patience Hayford,\(^1\) reiterated that generally successive governments in Ghana lack the political will to ensure implementation of treaties.\(^2\) Undoubtedly, this has contributed immensely to the poor implementation processes found in Ghana.

Also, it was identified that it was only a small number of disabled children who were actively engaged in participatory activities. These are mainly the children who are the most able to communicate, most articulate and are confident. This conclusion was reached from the analysis
of the interview with the chairman for the Accra Metro Physically Disabled Society. Due to the fact that the disabled are mostly stigmatized in society, parents who have children with disabilities are not eager to allow them to socialize, they often hide them in their homes to shun away discrimination therefore it is mostly the children of the few confident and bold parents who are able to engage in participation in the family and in the community. In addition, an analysis of the interview conducted with Patience Hayford revealed that less is even known about factors which could promote disabled children’s participation. The need for participation of disabled children therefore highlighted the need for more staff training and education, as well as skills development in order to promote participation. Although there are some well-trained persons in Ghana to handle such cases, statistically there is no exact proof of their number. Staff or the implementers should be trained in various methods of communication so that they are able to support children who use non-verbal means of communication such as sign language.

Also, it was realized from the various interviews conducted with the stakeholders that, there was no feedback given to children who participated at some of the programmes organized by the Ministry of Gender, Child and Social Protection. Yet this is very important if children are to feel their views are valued. The impact of their participation at these programmes was not relayed to them and this could have negative consequences such as a feeling of tokenism. There should be an on-going dialogue with children. This is important and needs further development.

The regime theory is said to overemphasize the role of state actors to the neglect of non-state actors and this was manifested in the research. The government is the main actor in the execution of the treaty, other actors only play auxiliary roles and as such operate within the mandate the state allows it rather than through compulsion or enforcement. It is generally agreed that NGOs
have played a significant role in raising awareness on child rights, but these activities have generally been ad hoc and have not been financially supported by the State. NGO participation in preparation of the State report was low. This explains some of the reasons why the UNCRC has not achieved its objectives. Regardless of these criticisms, it is apparent that international regimes are relevant to finding solutions to challenges confronting states. It is envisaged that the UNCRC would provide the impetus for the protection and promotion of child rights.

4.3 CONCLUSION

The issues of human rights or more specifically child rights cannot be relegated to the background as all matters on the globe are now attached to compliance with human rights norms and it is the core for the development of any nation. There is no gainsaying therefore that, there have been enormous efforts aimed at promoting child rights across all regions in the world. These efforts culminated in the adoption of the UNCRC to address some of the shortfalls of the earlier child rights regimes which were deemed not comprehensive enough. Ghana immediately showed acceptance of this legal instrument by ratifying it and harmonizing its provisions with its national laws.

Notwithstanding this laudable effort by Ghana, no significant success will be attained if she is not able to effectively implement the provisions and specifically Article 12 in the Convention satisfactorily. Thus, an effective implementation approach to the subject is a prerequisite if participation of children in decision making will be more realistic. Clearly, Ghana has not effectively implemented the provisions of Article 12 of the UNCRC a situation which can be attributed to lack of political will, resource constraints, negative societal attitudes to the issue of
child participation and poverty. Due to these aforementioned challenges, Ghana has fallen short in providing children the opportunity to participate in decision-making at all levels of the society despite the enormous benefits that could be gained from children’s inputs. These shortfalls demonstrate to a large extent the validity of the hypothesis that guides this study. Nevertheless, a painstaking attention to details in the implementation of Article 12 of the UNCRC as stated in the hypothesis will lead to a realistic participation of children in decision-making.

4.4 RECOMMENDATIONS
In view of the many challenges enumerated, it would be beneficial to offer a few suggestions that would aid in improving the implementation of Article 12 in Ghana. Undoubtedly, the effective implementation of Article 12 would positively impact the issue of child rights in the country.

One vital issue which must be worked on is increased political will to support the issue of child participation. There must be procedural reform within state institutions tasked with the responsibility of implementing documents, policies or conventions on child rights. Also, there is the need for innovation and dedication of different officials in the implementation process. The effectiveness of its implementation is dependent on state parties political will. Thus, it is imperative for Ghana to develop a culture of implementation instead of ratifying treaties and storing the documents on the shelves of government departments and agencies. Without implementation it becomes very difficult to evaluate the effectiveness or the efficiency of a treaty or an agreement.

Another point worth noting is that the effective implementation of Article 12 is also dependent on its publicity. There is the need to intensify awareness campaigns especially among the target
Although the Ministry has highlighted some awareness campaigns it is crucial that they diversify the campaign strategy to make dissemination of information more easy and enjoyable. Advocacy and lobbying for children’s rights must be a regular task to be undertaken by all stakeholders but more especially by the Department of Children since it is the main implementing body. Advocacy must be kept alive throughout the year. It was realized from the study that knowledge about the entire Convention is very low and this is not good especially for a country that was the first to ratify it. Routine open fora could be organized in the various regions to enable the general public discuss the contents of the UNCRC.

Additionally, the Ministry of Gender, Child and Social Protection must make available simple and abridged versions of the UNCRC to be distributed in schools to both children and their teachers. The formation of child rights clubs should be made compulsory in all schools as part of the extra-curricula activities. During these sessions, teachers and invited facilitators would have the opportunity of discussing the various aspects of the UNCRC.

Non-governmental organizations (NGOs) also have a role to play. NGOs can act as pressure groups to make sure the government and other duty bearers fulfill their responsibilities towards children. They can on their own develop programmes meant to ensure child participation or they should play complementary role in relation to monitoring and advocacy. Monitoring human rights is a fundamental part of the work. Human rights monitoring can help strengthen the State’s compliance of the Convention. As suggested by Rajani and Petren in their work, “Raising Awareness for Children’s Rights”3 the non-governmental organizations should act as “watch
dogs” to hold governments accountable and encourage them to fulfill commitments and obligations.

The issue of resource constraints has been identified in almost all social policy implementation cases in Ghana. It is important to meet the Department of Children’s inadequacy of resources and logistic challenge. Revamping of the Department has become very important. Considering the current challenges of the Department of Children it may seem possible that the rights of children may be put on hold for a long time. Immediate efforts should be put in place to meet the Department’s resource needs.

Participation whether in individual decisions or in service development, should not be a one-off event. It is more effective to start with participation in the individual homes where it is more meaningful for everyone. Of course, everyday simple choices are part of the process. Also, it has become common to feature child speakers at large scale events, but such arrangements usually fail to shape policies and this needs immediate attention. The process of involving children at large scale events is not in itself bad, but the process of selection of participants must be clear.

In conclusion, more attention and expectation must be focused on getting the views of disabled children and this should be monitored systematically so that it becomes ingrained in the cultures of organizations or institutions that have interest in children’s rights in Ghana.
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Mrs. Patience Hayford, assistant programmes officer, Department of Children, 8/07/2013

Mr. Kofi Annan, Challenging Heights 7/07/2013

Mr. Elvis Alipui, Chairman for Accra Metro Physically Disabled Society, 25/07/2013

I. FOCUS GROUP DISCUSSION
APPENDICES

APPENDIX I

RELEVANT ARTICLES FROM THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD RELATED TO CHILD PARTICIPATION

Article 2

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

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

(a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
(b) Encourage international cooperation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;

(c) Encourage the production and dissemination of children's books;

(d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;

(e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

**Article 21**

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) Ensure that the child concerned by intercountry adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in intercountry adoption, the placement does not result in improper financial gain for those involved in it;

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

**Article 28**

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

(a) Make primary education compulsory and available free to all;
(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

(c) Make higher education accessible to all on the basis of capacity by every appropriate means;

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

**Article 31**

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.
APPENDIX II
UNIVERSITY OF GHANA

LEGON CENTER FOR INTERNATIONAL AFFAIRS (INTERVIEW GUIDE FOR THE
DEPARTMENT OF CHILDREN)

TOPIC: AN ASSESSMENT OF THE IMPLEMENTATION OF THE UNITED NATIONS
CONVENTION ON THE RIGHTS OF THE CHILD.

This is only for academic purposes and confidentiality of the information provided is fully assured

1) How do you define child participation?

2) Has the Government of Ghana designed policies and programmes aimed at involving children in decision-making?

3) In your opinion how adequate or effective are the policies and programmes above in the upholding of child rights?

4) What has been achieved in terms of the implementation of the UNCRC in Ghana?

5) Aside from the Government are the other stakeholders in the implementation of the UNCRC in Ghana?

   a) Who are they?

   b) What role do they specifically play?

6) What are the prospects for the implementation of the provisions of Article 12 of the UNCRC in Ghana?

7) What are the main challenges that hinder the implementation of Article 12 of the UNCRC?

8) What can be done to meet the aforementioned challenges?
9) How have marginalized children been factored in the implementation process?

10) Any other information you may wish to provide.
APPENDIX III

1) What are rights?

2) What do you think are your rights?

3) What can you do or can’t you do?

4) Do children have a right to have their voices heard?

5) Are you aware of the UNCRC?

6) Why do we need to involve children in decision-making?

7) How can children’s view point be an invaluable contribution to laws and policies in Ghana?

HOME

8) What decisions are you allowed to make at home?

For example, What time you go to bed or What clothes you wear.

9) Do you make sufficient decisions or you would like to decide more?

10) Do your parents listen to what you say?

SCHOOL

12) Do you think enough attention is being paid to your opinion at school? (for example the teacher you like, or a subject you like or dislike)

13) Are you being listened to when you say something in class?

14) If important decisions have to be made at school are you allowed?
COMMUNITY

15) Do you think you can give your opinion about some important opinions that matter to all people in your community?