LIBERAL DEMOCRACY AND THE CHALLENGE OF CULTURE: THE CASE OF GHANA

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LEGON AUGUST 2014
DECLARATION

I hereby declare that this dissertation is the result of an original research conducted by me under the supervision of Dr. Boni Yao Gebe. All sources referred to in the study have been acknowledged and that no part has been submitted anywhere else for any other purpose.

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(SUPERVISOR)

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

I dedicate this work to my husband Patrick and my sons, Kweku and Fiifi, for their patience, considerations and above all their love.
ACKNOWLEDGEMENTS

I am indeed very grateful to the Almighty God for his abundant grace and sufficiency, which has seen me through this course of study up to this end.

This work has been successfully completed with the aid of a number of people, without whose assistance I couldn’t have made it.

I first thank my supervisor, Dr. Boni Yao Gebe, for his keen interest, guidance and direction throughout the course of this work.

I am also grateful for the lives of my husband and children, for their support and understanding, especially in times of neglect.

I am indebted to Larry Gbevlo-Lartey Esq., for the opportunity to pursue this course of study and for believing in me. I thank him for his support, in the form of advice and information material, which helped me throughout the period.

To all the friends, experts and interviewees who helped me in diverse ways to accomplish this work, I appreciate your support and assistance.

GOD BLESS YOU ALL.
# ABBREVIATIONS

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<thead>
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<th>Abbreviation</th>
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<tr>
<td>ACDEP</td>
<td>Association of Church Development Projects</td>
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<td>BEWDA</td>
<td>Belim Wusa Development Agency</td>
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<td>CHRAJ</td>
<td>Commission for Human Rights and Administrative Justice</td>
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<td>CRC</td>
<td>Convention on Rights of the Child</td>
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<td>CSOs</td>
<td>Civil Society Organisations</td>
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<td>CSW</td>
<td>Commission on the Status of Women</td>
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<td>FGM</td>
<td>Female Genital Mutilation</td>
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<td>FORWARD</td>
<td>Foundation for Women’s Health, Research and Development</td>
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<td>IPAC</td>
<td>Inter-Party Advisory Committee</td>
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<td>MDAs</td>
<td>Ministries, Departments and Agencies</td>
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<td>NCC</td>
<td>National Commission on Culture</td>
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<td>NCD</td>
<td>National Commission for Democracy</td>
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<td>NDC</td>
<td>National Democratic Congress</td>
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<td>NGOs</td>
<td>Non-Governmental Organisations</td>
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<td>NHIS</td>
<td>National Health Insurance Scheme</td>
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<td>NLC</td>
<td>National Liberation Council</td>
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<td>NPP</td>
<td>National Patriotic Party</td>
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<td>NRC</td>
<td>National Redemption Council</td>
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<td>PDA</td>
<td>Preventive Detention Act</td>
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<td>PNDC</td>
<td>Provisional National Defense Council</td>
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<td>PNP</td>
<td>People’s National Party</td>
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<td>SMC</td>
<td>Supreme Military Council</td>
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<td>UN</td>
<td>United Nations</td>
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<td>Acronym</td>
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<tr>
<td>UNDP</td>
<td>United Nations Development Programme</td>
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<td>UNESCO</td>
<td>United Nations Educational, Scientific and Cultural Organization</td>
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<td>UNDHR</td>
<td>United Nations Declaration on Human Rights</td>
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<td>USAID</td>
<td>United States Agency for International Development</td>
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<tr>
<td>VAT</td>
<td>Value Added Tax</td>
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ABSTRACT

This study particularly focuses on the challenges posed by some cultural practices to the development of liberal democracy in Africa since the subject is increasingly drawing the attention of the international community, coupled with the fact that Africa is unique in its diverse traditions and human interests. Culture as a concept defines the right of the individual to his or her beliefs and activities, which are dynamic and relative to the society, which practices them. Granted that Ghana has earned international recognition as a model for political and economic reforms in Africa, some traditional beliefs and practices across the country, such as FGM, early or forced marriage and confinement of persons, particularly old people, accused by traditional societies of being witches and wizards in camps, especially in the three northern regions have tended to create gender and socio-economic inequalities which have in turn contributed to high levels of human rights abuses suffered by women and children. The study relies on data acquired through purposive sampling of expert opinions in the form of unstructured interviews and in the end reveals that despite legislation criminalizing the practice of FGM as well as humanitarian efforts to ensure gender equality and strengthen the punitive measures for rape and defilement, while eliminating human rights abuse, these and other dehumanizing practices persist. This could be due to the lack of knowledge of the victims as to their fundamental human rights under a liberal democracy, how to pursue these rights or even the courage to do so. The institutions mandated to advocate and facilitate the pursuit of these rights also tend for various reasons to be rather unwilling or unable to bring the issue to the fore under existing legislation. Attempts to bring about reform pit the law against deep-seated tradition; nonetheless, the law must maintain its supremacy under a liberal democracy. The options available to Ghana, therefore, include adequately empowering the relevant institutions to play their roles effectively. This will entail willingness and capacity building for effective monitoring and thorough investigation of cases and regular community sensitization on human rights, as well as administering effective punishment to perpetrators to curb human rights abuse against women and girls.
CHAPTER ONE

INTRODUCTION

1.1 Background to the Research Problem

After the Great Depression of the 1930s and the Second World War, the international political system became dominated by two main ideological systems, Liberal Democracy and Communism. At the end of the Cold War with the fall of the Berlin wall, one could say that Communism has been on the decline globally as a political ideology. Liberal Democracy on the other hand, continues to be the preferred ideological system by most contemporary political systems or states. According to Andrew Heywood, democracy is the only system of governance, which has thrived with very little resistance from governments and citizens alike. Although democracy as a system of governance has thrived for decades, its spread and practice do not conform to a single format and for this primary reason, a number of states are unable to adopt wholly all of its tenets as prescribed by the western world. Nonetheless, there are basic identifiable tenets, which include free and fair elections, rule of law, separation of powers and the protection of basic liberties such as the freedom of speech, association, religion, individual ownership of property and preservation of the culture of a people.

Heywood explains that the term democracy, though variously defined, basically refers to a system of governance in which the individual rights of the citizens are protected within the context of the rule of law and in which they choose their leaders and lawmakers through a system of regular and competitive elections based on a universal franchise. Considering that for a people, a culture, and/or religion, traditional political and economic systems tend to be unique, the practice of democracy on these terms has been quite a challenge for many African
countries including Ghana. Admittedly, the period of the 1970s up till early post – Cold War period [1990s] which Huntington describes as the Third Wave saw the gradual but compelling global adoption of political and economic reforms in line with liberal democracy. Several Eastern European states including Poland, which had been part of the Warsaw Pact countries gradually broke away from the domination of the Communist Soviet Union. The Soviet Union itself eventually disintegrated. Africa was not left out of this wave of liberal democratization, as several African countries also began to institute reforms to ensure liberal democratic governance and liberal socio-economic development. Fareed Zakaria attributes the practice, development and consolidation of democracy over the period to the technological revolution, growing wealth of the middle class, and the collapse of alternative systems and ideologies that organized society. In addition, America’s rise and dominance in the international community has made democratization inevitable.  

Post independence governance in Africa had been characterised by military dictatorships and lifelong terms by leaders who had wrested political independence from the colonial masters. Nonetheless, the slow but continuous efforts at strengthening and developing liberal democracy, characterised by challenges/experiences, appear to have deepened the process across the continent, including Ghana. However, some Human Rights advocates contend that the zeal with which democratization, privatization and a market economy have been adopted in several states has not been accompanied by the internalization of concepts of individual rights. This only seeks to confirm the assertion by Greenberg and Page that democracy is not a finished but a constantly evolving product.

Although Ghana is the first country in sub-Saharan Africa to attain independence in 1957, after which, it immediately adopted a system of western democratic governance, (in the form
of multi-party elections) the country under the first president Osagyefo Dr. Kwame Nkrumah subsequently metamorphosed into a one party state with the semblance of a dictatorship. After the military coup d’état that overthrew the Nkrumah government, Ghana oscillated between democratic rule and military governments with the last military led government of the Provisional National Defense Council [PNDC] lasting a twelve-year period. In 1992, the PNDC finally succumbed to both internal and external pressures to democratize. The Chairman of the PNDC as flag bearer of the newly formed National Democratic Congress [NDC] won the general elections under the auspices of the 1992 Fourth Republican Constitution and ushered Ghana into liberal democratic governance which has persisted ever since.

With six major elections to its credit, Ghana's democracy has thrived on the principle of universal adult suffrage, political equality, the guarantee of fundamental human rights and civil liberties. Notwithstanding, the multiplicity of cultural practices peculiar to Ghana, some of which infringe the fundamental human rights of the people involved, especially women and girls, appear to pose quite a formidable challenge to the intent of the framers of the constitution.

Culture has and will always form an integral part of the social structures of people anywhere, including Africa and in this case, Ghana. From the 1960s, western influence began to extend to the various corners of the globe, resulting in the erosion of certain cultural practices, while others have undergone negative or positive reforms. In the same vein, the advent of democracy and the manifestation of its tenets have exposed the negative aspects of some cultural practices. Just like Ghana, countries in Africa are endowed with diverse cultural
practices, with some being preserved from generation to generation aimed at preserving the social, economic, geographical and the moral fibre of the society.

The right of the individual to culture, which is indubitable, as also espoused in the 1992 constitution of the Republic of Ghana creates the basis for cultural relativity. For decades, the international community has been focused on promoting cultural tolerance, with increasing attention directed at those cultural practices, which infringe the fundamental human rights of the people whose culture or traditions they are, and therefore, pose a threat to the consolidation of liberal democracy in the context of their continued practice.

This research work, therefore seeks to interrogate the practice of liberal democracy in Ghana since 1993, with a focus on the challenges posed by some cultural practices.

1.2 Statement of the Research Problem

Ghana transited from military dictatorship to liberal democratic governance based on the provisions of the 1992 Constitution, which enshrines Fundamental Human Rights and Freedoms in its Chapter Five covering Articles 12 through to 33. It is observed that while the 1992 Constitution in Article 26(1) States that “Every person is entitled to enjoy, practice, profess, maintain and promote any culture, language, tradition or religion subject to the provisions of the Constitution”, it also states in Article 26(2) that “All customary practices which dehumanize or are injurious to the physical and mental well-being of a person are prohibited”. The Constitution thus, recognizes customary rights and practices, which have been in existence prior to the promulgation of the 1992 version but prohibits them to the extent that they would violate Article 26(2) and therefore abuse the basic tenets of democracy.
Culture is dynamic and should enhance national identity and development rather than injure and humiliate people and regardless of the fact that the practitioners operate under the belief that they are not harmful. While several cultural practices are seen in a positive light, others are not. The study will therefore focus on such three practices, confining alleged witches and wizards in camps, Female Genital Mutilation [FGM] and forced or early marriages of the girl child, all of which Article 26(2) frowns upon due to their harmful and abusive aspects. Even though several arguments are often made to justify some of these harmful traditional practices with the explanation that people are entitled to their beliefs and values, some of these practices equally raise some fundamental issues on the abuse of human rights, which cannot be ignored. These, therefore, demand interrogation in order to provide relevant antidotes, which this study seeks to explore. Pertinent questions, which come to the fore, include the following:

Given that some of these practices are harmful and injurious to people, should they not be forsaken in order to uphold the human rights of the people? Does the State tacitly tolerate these practices as part of the protection of the identity and rights of the people who believe, accept and uphold them? Lastly, as a nation, how can these cultural practices be aligned, through legal means, with the respect for human rights, which is a strong feature in the consolidation of liberal democracy?

1.3 Objectives

The following constitute the objectives of the dissertation:

- Review the practice of liberal democracy in Ghana since the beginning of the fourth Republic.
• Provide an understanding of the concept of culture and discuss its relevance to the practice of liberal democracy.

• Identify and discuss some cultural practices whose persistence are deemed to condone human rights abuses and therefore contravene the tenets of liberal democracy.

• Identify and discuss the challenges of the three identified cultural practices to the practice of liberal democracy in Ghana since 1993.

• Offer recommendations as to how to enforce the relevant legislations and eliminate, or at least, minimise the challenges of these identified cultural practices in order to enhance the practice of liberal democracy in Ghana.

1.4 Scope of the Study

The study covers the practice of liberal democracy in Ghana and the challenges posed to it by identifiable cultural practices since the beginning of the Fourth Republic of Ghana in 1993.

1.5 Rationale/Justification of the Study

In as much as scholarly work on liberal democracy are numerous and unending, the subject still requires attention in the face of growing human rights abuses against women and girls, globally. This study, therefore, will add to existing ones on the challenges posed by aspects of identified cultural practices to liberal democracy as a governance system using Ghana as a case study. In addition, several studies have focused more on other challenges to liberal democracy such as political, religious and ethnic diversity, regime change, among others. While discussions on culture in relation to liberal democracy have also tended to focus on one’s right to culture, the aspects of culture, which threaten the development and consolidation of democracy requires equal if not more attention. Arguably, Ghana’s induction into the democratic ‘hall of fame’ may not be totally well deserved or could be challenged if
it fails to create the right environment for the Ghanaian to practice his culture unimpeded while ensuring that the practice does not deny any individual his or her fundamental human rights.

1.6 Hypothesis

Some of the existing cultural practices among certain groups in Ghana pose a real challenge to the defining features of liberal democracy as a governance system despite their acceptance and practice from generation to generation.

1.7 Theoretical Framework

The study uses Cultural Pluralism, referred to by some as Multiculturalism, for its theoretical framework. Multiculturalism, as an ideology emerged in the 1960s, but has roots in the religious struggles of the sixteenth and seventeenth centuries. According to Hoffman, J and Graham, P in Introduction to POLITICAL IDEOLOGIES, Liberalism, as a political ideology and multiculturalism stand in a close but complex relationship to one another, with the former’s acceptance of the fact that we live in a pluralistic society, where there is no single good way to live one’s life, thus giving impetus to the argument that diversity of culture is an expression of pluralism.  

It goes without saying that multiculturalism espouses the tolerance of cultural diversity in liberal democratic politics on the basis that pluralism is a guiding principle that permits the peaceful coexistence of different interests, opinions, beliefs, convictions and lifestyles. Cultural pluralism could therefore be said to be the enabling factor that allows smaller groups to hold onto their unique cultural practices and values in the larger society they may find themselves in such as the state, and live in harmony without discrimination. This is
applicable to the case of traditionally less powerful groups like women and children.

UNESCO iterates this point of view when it states that:

In our increasingly diverse societies, it is essential that persons and groups having plural, varied and dynamic cultural identities should live together in harmonious interaction and proper accord. Policies that seek the integration and participation of all citizens are an aspect of social cohesion, vitality of civil society and peace.⁸

In line with the focus of this study, Hoffman and Graham consider the questions posed by multiculturalism, such as whether cultural tradition should be allowed to be hostile to Liberalism? For example, should girls be raised to fulfill a subservient role, limited strictly to the private sphere of the family? Or what if the practice of one’s culture erodes the dignity of the individual?⁹

Some proponents of multiculturalism or cultural pluralism include Charles Taylor, Will Kymlicka and John Rawls. Charles Taylor, in particular, posits that dignity is the basis of a liberal democratic society.¹⁰ Will Kymlicka also espouses that rights are central to a liberal polity, which in turn gives the individual rights to cultural membership (in his book, Liberalism, Community and Culture), or to choose his or her culture, to which Hoffman and Graham agree but on the basis that oppressive and illiberal cultures are less valuable than those which permit freedom, in other words, the more compatible culture is with liberal values, the better. For these proponents, multiculturalism is a critical development of the liberal ideology.

On the other hand, James Tully, agrees with the fore-going arguments of multiculturalists to the extent that culture is the basis of self – respect, but points out that ‘protection of culture can have detrimental consequences for individual freedom, in other words, holding on to
cultural practices in the name of tradition even when these practices have negative consequences could be detrimental to the advancement of society.\textsuperscript{11}

In the subsequent chapters, the dissertation discusses how the practice of culture is a right but at the same time challenges democracy in Ghana. As the study focuses on negative cultural practices, it also factors in the multiple actors which should collaborate to cure the mischief of human rights abuses in the practice of culture and therefore highlights the role of civil society organisations, non-governmental organisations, traditional rulers, traditional religious authorities and minority groups in communities who are all active players in the traditional society.

1.8 Literature Review

Existing literature are particularly focused on discussions on liberal democracy in general and its challenges. As part of this dissertation, it is important, first, to understand the several variations given to liberal democracy by scholars and what the principles or tenets are, to serve as a basis for the discussions in the case study of Ghana. In line with the general thoughts, which provoked this study, it is obvious in the various available literature that the definitions of democracy differ in wording, yet the concept is practically the same globally. The various writers therefore discuss liberal democracy as a universal system and highlight the several factors, which pose challenges to it globally, including Africa in its adoption of the system.

Greenberg and Page in \textit{The Search for Democracy},\textsuperscript{12} discuss the evolution of democracy as a system of governance particularly in the United States of America, which prides itself as the lead advocate of liberal democracy but also generally in the international community. The
authors however, admit that America did not attain its high laurels overnight. Fareed Zakaria in “The Future of Freedom: Illiberal Democracy at Home and Abroad”, also describes America as a country whose culture and politics are deeply democratic but took centuries of reforms and challenges to get to where they are now. Similarly, since the late 1980s and early 1990s, the developing world, to which Africa belongs, has gradually been dispensing with the various authoritarian regimes in favour of Western democracy. Greenberg and Page succinctly capture the advent and development of democracy in the following words:

States, within and outside Africa, which had hitherto been governed through other less favourable systems, were either compelled or attracted to liberal democracy as a unique system, which came with its attendant benefits. If it was by compulsion, which oftentimes was the case, developing states in Africa gained economic and social aid. On the other hand, the tenets of liberal democracy has made it attractive as a more stable form of government; the declaration of human rights is enshrined, citizen’s rights are prioritized and protected, minorities are also protected in the societies, governments are limited in their actions and held accountable, the Rule of Law prevails, Pluralism is ever increasing, including social pluralism and lastly but most importantly, free and fair elections are conducted regularly, giving leaders the legitimacy to rule with confidence. Under such an arrangement, the interest of the governed is prime, hence protecting the basic rights of people.\(^{13}\)

Similarly, Robert A. Dahl’s ‘On Democracy’\(^{14}\) focuses attention on what democracy is and its ideal form, going on further to establish by argument whether there is any such thing as an ideal or perfect democracy. Nonetheless, he does not fail to point out the benefits that most forms of democracy churn out for the governor and the governed. Dahl proposes five criteria, which describe a democratic system of government; standards, which should run through most if not all constitutions. In the first place, and it goes without saying, there should be effective participation whereby, the governed are able to contribute to the decision making process and its outcome. To him, participation is not wholesome if the final decision is not arrived at through equal voting, which Dahl postulates must be available to each individual and all counted as equal. He further mentions enlightened understanding, which allows every individual the opportunity to understand and appreciate the alternative decisions or policies available, the consequences of the choice of a particular one. The first
three criteria are not closed thus, allowing the governed, the right to control the agenda. By so doing the people decide on the issues that most affect them and what decisions need to be taken on them. Lastly, Dahl discusses the inclusion of adults, which highlights “universal adult suffrage as a standard aspect of democratic governance.”

The second and third chapters of this dissertation among other things attempt to identify the afore-mentioned criteria in the practice of liberal democracy in Ghana. One very important aspect of Robert Dahl’s write-up is the acknowledgement of the indubitable alignment of democracy with basic human rights, a theme that features strongly in the various chapters of this dissertation. To quote Dahl:

Democracy is not only a process of governing. Because rights are necessary elements in democratic political institutions, democracy is inherently also a system of rights. Rights are among the essential building blocks of a democratic process of government.

In order to drum home the issue of rights Dahl also indicates that it is not enough to promise rights to citizens by stating them in the existing laws of the state. His recommendation is that these rights must be effectively enforced and effectively made available to citizens in practice, without which, the practice of democracy is a farce. A study of the practice of democracy in Africa may in some cases reveal that the system of governance being practiced is only in name as being democratic and not in practice, considering the number of marginalized groups who are unable to participate fully in the country’s democratic process. The question is, does the challenge posed by some cultural practices to democratic governance in Ghana in any way render the system defective or substandard?

Clearly, Dahl admits to the fact that democracy is incapable of satisfying all the citizenry completely, thus falling short of its ideals, and he further puts across arguments to justify the practice of democracy and by so doing inadvertently brings out the defects of nondemocratic
practices. He mentions as many as ten of them, but of interest to the theme of this dissertation includes the point that “democracy guarantees its citizens a number of fundamental rights that non-democratic systems do not, and cannot grant”. The other point is that “Democracy insures its citizens a broader range of personal freedom than any feasible alternative to it.” These are critical but ideal points which may serve as the litmus test to judge democratisation in Africa and Ghana in particular.

Samuel Huntington is also acclaimed for his works on issues related to democratisation. A summary of his article, “Democracy’s Third Wave” discusses the adoption and practice of democracy in the global community. He mentions briefly the occurrence of two earlier waves of democracy, which were each followed by major reversals, and which saw the reversion of several new democracies to authoritarianism. The focus of the article, the third and current wave of democracy begins with a discussion of two main factors which provoked the wave. Huntington first draws a strong correlation between democracy and religion, Catholicism to be specific, although he admits, “by 1990, however, the Catholic impetus to democratization had largely exhausted itself.” The second factor is the rippling effect of democracy on non-democratic regions in the world, Africa inclusive. Huntington further discusses the factors that influence or sustain democracy. These basically are the political, economic and social factors, which should be in place to consolidate any democratic process. The challenges or obstacles to democracy, which Huntington puts across, are also political, economic and cultural.

The article also touches on the relation between the economy and democracy. According to Huntington, there seems to be a strong correlation between wealth and democracy. His assessment is that, a greater percentage of countries, which, democratized, were economically
developed, even in Africa. Granted, that while that may be true for a few northern, eastern and southern African countries, most sub-Saharan African countries which adopted democracy were poor, and this could only be attributed to international pressure to adhere to political and economic reforms, which were perceived, would result in the much needed economic aid. In view of this, Huntington may be right to anticipate a threat to the future consolidation of democracy by the rising economic challenges around the world and without doubt in Africa as well.¹⁸ Later in this dissertation it becomes evident that the deficiencies in the democratic process in the form of human rights abuses appear to thrive more in economically deprived communities in Ghana.

Most importantly and very much in line with the focus of this write-up, the article also discusses culture and the challenge it poses to the practice of democracy, though briefly. Huntington admits to the diversity in values, beliefs and practices of a group of people and how such diversity allows or disallows the practice of democracy. He therefore builds the argument that democracy is ideal for western societies and difficult in non-western societies like Africa. But that is exactly the underlying factor of this write-up; that Africa is also unique with its set of values and thus may not be able to adopt and practice the exact kind of democracy practiced by the western societies. Culture is extremely important to Africans, as part of the people’s identity and yet these very practices can jeopardise the development and the consolidation of democracy. Huntington acknowledges that culture is not stagnant and that the strength of values and beliefs of a people vary over a period, thus making room for more tolerance.¹⁹ Notwithstanding, he posits in his article, ‘The Clash of Civilisation’ that with the end of the Cold War, the ‘great divisions among humankind and the dominating source of conflict will be cultural.’²⁰
Moving away from the general scholarly works on democracy, “Domesticating Democracy in Africa” by Maxwell Owusu clearly confines the subject to Africa. The underlying concept of the write-up is ‘power sharing and adjusting traditional institutions to modern democracy’. In developing this agenda, the writer discusses both at the periphery and in detail, the various dimensions of democratic principles and challenges spanning several periods from pre–colonial days, through the Cold War era right to post Cold War period.

Owusu compares the domestication of democracy in Africa to ‘horticultural practice’, likening the various countries to different seeds which may adapt differently to different soil types or even climatic conditions. While some may require some form of amendments to existing conditions, others may never adapt. Undoubtedly, pre–colonial Africa had its own governance system in which tradition played a significant role in terms of social practices to sustain identity and politically to decentralise the system of governance. His view is that the factors, which characterised the colonial era during which the Europeans occupied most of Africa, had far-reaching consequences for the evolution of democracy in twentieth century Africa. The era according to him saw “the institutions of traditional Africa having to co-exist with the western political institutions for the states’ executive, legislative, judicial and bureaucratic functions especially at the local level, in both the rural and urban settings, within territorial boundaries arbitrarily imposed by the colonial master.”

The post colonial period led by the older generation constituting the political elite, rather saw the disintegration of tradition to be replaced by modernisation, threatening culture, religion and ethnicity. This was largely incensed by the rivalry of superpower ideologies, which characterised the Cold War era. The struggle between western practices and indigenous practices has persisted till date. Ideally, the two should co-exist. However, this should be
done in conformity with national and international laws. In most states, the democratic process looks more like a structural political adjustment, which is necessary and unavoidable.\textsuperscript{25} Needless to say, a careful but focused nurturing of such a process would result in “an organic growth of workable African democracy”, as Owusu puts it.\textsuperscript{26}

The fact remains that colonial rule disrupted traditional rule, and subsequently created the opportunity for corrupt dictators to take over governance. People were in a hurry to modernize and adjust traditional institutions to the demands of modern democratic constitutionalism over a period of about two decades. It is obvious that the writer’s interest are generally focused on all but not specifically concentrated on a particular challenge to the domestication or consolidation of democracy in Africa. Thus the challenge of culture to democratization does not feature in the write up. He rather concludes by proposing the need for more serious scholarly attention to be paid to the analysis and evaluation of the new democratization process and interaction of cultural values, political and economic factors.\textsuperscript{27}

Also, E. Gyimah-Boadi in his book \textit{Democratic Reform in Africa: the Quality of Progress}\textsuperscript{28} describes the adoption of democratic governance and neoliberal economic reform as a major reform period for the African continent. The book discusses the optimism with which the continent has embraced liberal democracy at three different stages of postcolonial Africa akin to what Maxwell Owusu discussed in “Domesticating Democracy in Africa”. The focus of the book however is the new political reform in Africa since the 1990s, its challenges, its impact on development in the continent and the way forward. The issues highlighted include the various areas in which the principles of democracy are applicable; religion, ethnicity, culture, control of corruption and internal conflicts, aspects of which contribute positively or negatively to the progress of African politics. While ethnic and religious diversity form the
main underlying factors fuelling conflicts on the continent, negative cultural practices highlighted briefly as challenges to the practice of liberal democracy, in the form of human rights abuses. He discusses the effects of the human rights abuses against women and girls who are confined to human servitude in a practice referred to as Trokosi in some remote parts of the Volta Region of Ghana. The book also highlights and assesses the impact of liberal democracy on some selected countries - Nigeria, Botswana, Mozambique and South Africa.

Of most importance to this dissertation is his first chapter. In his opinion, the new liberal democracy makes way for the respect of human rights. In a continent where the exertion of authority by previous, and in some cases, current leaders has been akin to human rights abuses, the new face of governance goes beyond ‘elite political rights’ to grassroot social issues such as customary bondage, child slavery, and female genital mutilation. He indicates how “…the advent of constitutional and democratic rule in 1993 saw an active campaign placing under the spotlight and targeting for abolition for the first time two of the most repressive and inhuman institutions – Trokosi and Witches Camps, rooted in traditional culture and religion and practiced over centuries.” According to him, despite the two legislations passed, one to criminalise the practice of customary servitude and the other to protect the rights of children, and the joint monitoring by Ghana’s independent Commission on Human Rights and Administrative Justice (CHRAJ) as well as a variety of civic and community-based organisations, the problems persist till date and have to a large extent necessitated this study.

In his article ‘Christianity’s Challenge to Cultural Relativism’, Peter Corney, sets out to explain what cultural relativism is and how it has become a belief and value system that is now very influential in our public policy and popular values. Cultural relativism, according
to Corney “is an approach to the nature and role of values in a particular culture...that the values and behaviours of a people in one culture should not be judged according to those of another, but understood in terms of the culture concerned.” Corney makes a critical point relevant to this study to the effect that, with regard to cultural relativism, the element of good and bad is not applicable to cultural practices. Nevertheless, he admits that certain cultural values clash with certain systems or practices, which is the main argument of this study.

In a hypothetical sense, when certain cultural values clash, Corney proposes three alternatives as to which should prevail. He posits that parallel systems of values may co-exist and bring about cohesion, but values which infringe on fundamental human rights break down and divide society. Secondly, he argues that societies and states do not exist as islands and are not autonomous, adding that as members of the international community, they are expected to conform to international standards, among which is the human rights charter. The Vienna 1993 World Conference on Human Rights recognized that the standards contained in the International Bill of Rights are universally applicable to all nations. The challenge facing all is to recognize the need to take account of cultural diversity within the context of universality in an effort to promote and protect human rights and democratic development in a meaningful way. Thirdly, Corney argues that in a situation where the majority of any group impose their values on a minority group, the central authority should be able to compel the practitioners to conform to agreed standards which the state is invariably a party to.

Corney then juxtaposes Christianity with cultural diversity arguing that agreeably, most cultures are faith based, [Christianity, Islam, Judaism, Traditional Religion, etc]. However, he also points out that modernization in religion has equal repercussion on the survival of certain
cultural values. Finally, he stresses the need but difficulty in juggling the various cultural practices in order to ensure social cohesion.

Abjorn, Eide et al, in their commentary on the 1948 “Universal Declaration on Human Rights” explore the international approach to the major themes of this dissertation to the effect that since Human Rights gained international attention in the 1940s and the subsequent adoption by the U.N. of the Universal Declaration of Human Rights, key International organisations, including the United Nations, some of its allied agencies such as the UNDP and UNICEF, as well as the donor agencies have ‘…initiated programs intended to set international "standards" in the field of human rights by influencing the promotion of human rights, development and democracy, a process, which appears to be both irresistible and irreversible.”31 Right from the preamble through the articles to the end, various portions of the Human Rights Charter addresses political, economic and socio-cultural rights of the individual. While articles 1 and 2, 21(3), 26, 27(1) ensure the political and civil liberties of the individual, articles 3 to 5, 7,8, 12, 13(1), 16(2), (3), 18, are particularly related to the liberties of the individual in the cultural context.

The writers also observe that:

“...The programmes also throw the limelight on recalcitrant states as they indulge in systematic abuses of individuals. The aim is to ensure that disadvantaged individuals and groups have access to power, not merely in a claim, but most importantly, that these rights implicitly allow marginalized members of society access to ways to resolve their own difficulties, through redress by way of the courts, to human rights commissions, or through other avenues whose legitimacy has been established by international precedent.”

Particularly, the U.N.D.P. attracted global attention in 1990 with the publication of its now annual "Human Development Report," which contained an analytical tool called the "human development index" establishing a close correlation between levels of development and the
enjoyment of basic freedoms and democratic institutions. Since then, human rights have become central to democratic advancement and economic development especially in the developing world whose dependence on donor agencies for economic programmes and assistance is tied to their human rights record.

The article further indicates that efforts by the international community to ensure the practice of the three mentioned themes [liberal democracy, cultural practices and human rights] do not constitute an attempt to duplicate the enforcement and monitoring institutions at the national level. “Rather the element of assistance has become a tool, to punish as well as reward recalcitrant and complying states respectively”. All these factors are evident in Africa and Ghana in particular. It needs mentioning, that at the local level, the citizenry are constantly seeking political, religious, ethnic and cultural identity in all forms of diversity which inadvertently puts a strain on human rights at various times.

Ghana. A Decade of a Liberal State, edited by Kwame Boafo-Arthur and featuring several authors on different aspects of democracy, discusses at length how Ghana from 1993 to 2003 developed and consolidated democracy, using the general principles of democracy mentioned in various sections of this study. The difference however in this book and its obvious relevance to chapters two and three of this study is that, these known tenets or principles of democracy are situated in the Ghanaian context, citing certain examples of the improved practices compared to what pertained to the PNDC era.

One of the writers, Kofi Quashigah, acknowledges the emphasis placed on human rights issues by the 1992 Constitution and equally dedicates a lot of attention to the subject. The bottom line, he draws, is that, every aspect of democratic existence is geared towards the
fundamental right of the individual. Of particular interest is his discussion of the rights of the child, touching on outlawed yet prevalent traditional practices such as Trokosi, female genital mutilation, rape and defilement of children and proscribed early marriages. He mentions Ghana’s efforts at halting such practices with the passing into law of the Criminal Code [Amendment] 1998, Act 554 and the ratification of the Convention of the Right of the Child, all aimed at ensuring more protection for the child.34

The missing link in most of these academic works, which the study seek to bridge is that, in as much as the individual has right to his or her culture, the cultural practices should ideally, conform to the general principles or standards of human rights in any state, including Ghana.

1.9  Definition of Concepts

The definition of some key terms and concepts is important especially in the context in which they are used in this study.

- **Liberal democracy** (government) is a democracy based on the rule of law and the recognition of individual rights and freedoms, in which decisions from direct or representative processes prevail in many policy areas.35

Ghana has not achieved workable definitions of terminologies such as tradition, custom and culture among others. Neither the constitution nor the Chieftaincy Act (Act 370, 1971) provides meaning to any of the terminologies.36 In the community set-up, these terminologies are used interchangeably, although they tend to carry different meanings. Some dictionary and other source definitions are therefore proffered below:

- **Culture**, as defined by the Oxford Advanced Learners Dictionary refers to the customs and beliefs, art, way of life and social organisation of a particular country or group. In addition, the beliefs and attitudes could be about something that people in a
particular group or organisation share.

- The National Commission on Culture also defines culture as “Lifestyle as manifested by a particular people or society. So it is man-made, not genetically inherited. It is evolved for the purpose of living. It is socially taught and learned. It originates as human response to the local physical and biological environment. Cultural traditions look to the past for their mandate, authority and authenticity as cultural traits are regarded as society’s norms handed down the generations. However, culture is dynamic and is often affected by local and external influences and stimuli”.

- Culture is expressed in intangible or non-material form, for instance in terms of languages, dialects, philosophical thought, cosmology, morals and ethics, religious beliefs and rituals oral traditions, folklore, festivals, political ideas, music and dance, social customs related to birth, puberty, marriage, family life, work, death etc. Culture is also manifested in tangible or material form, in terms of types of food procurement and preparation, diverse technology and crafts clothing, body decoration, visual art and symbols, secular and religious architecture, monetary medium of exchange, transport systems etc.

- **Tradition** on the other hand, is a belief, custom or way of doing something that has existed for a long time among a particular group of people; a set of the beliefs and customs could be religious or cultural. Tradition could thus be in the form of knowledge passed from one generation to the next and not necessarily with respect to human beings.

- **Traditional authorities**, per clause (Sec. 162), Act 462 of the Chieftaincy Act defines traditional authority as “a House of Chiefs or any Council or body established or recognized as such under customary law”.

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• **Custom** also means the frequent repetition of the same behaviour or way of behaviour common and accepted to many.\(^{39}\) In legal parlance, it means a long – established practice, considered as unwritten law, and resting for authority on long consent; usage. In simple terms, custom is defined as any practice peculiar to a particular set – up, which in turn becomes a tradition when it is accepted and practiced from generation to generation.\(^{40}\)

• **Female Genital Mutilation** is defined by the WHO as “all procedures that involve partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons.”\(^{41}\)

### 1.10 Sources of Data & Research Methodology

The sources of data consist first of primary sources derived from unstructured interviews conducted with some experts on traditional practices and Human Rights issues, such as Hon. Henry Seidu Daannaa, Minister of Chieftaincy and Traditional Affairs, Mr. Sumaila Abdul-Rahman and Mr. Benjamin Tawiah, the Country Director and the Public Relations and Communications Director, respectively, of ActionAid, Ghana, Mr. Ato Brebuo, a Principal Investigator with CHRAJ as well as comments and opinions of some key personalities in relevant government institutions. Admittedly expert opinion of key officials in the field of liberal democracy was rather limited, secondary data was therefore highly relied upon in this area.

Secondary data was mostly accessed from Books, journal articles, and the Internet. The Balme and LEClAD Libraries, documents from some key institutions such as the Ministry of Chieftaincy and Traditional Affairs, ActionAid, Ghana and CHRAJ were also relied upon. As part of the research methodology, the qualitative research approach is adopted using the
unstructured interview technique. The primary aim of this study is to identify the cultural practices and how they pose challenges to the practice of democracy in Ghana, and therefore, purposive sampling of expert opinion, is the preferred way to elicit the views of persons with specific expertise and demonstrable knowledge in the area of study.

1.11 Arrangement of Chapters

The entire dissertation comprises four chapters, with Chapter One as the Introduction, while Chapter Two constitutes an overview of liberal democratic practice in Ghana since 1993. Chapter Three then discusses the Cultural Practices and Abuse. Finally, Chapter Four provides the summary of findings, conclusions and recommendations.
Endnotes

2 Heywood, Andrew, op. cit.
7 Hoffman, John & Graham, Paul., Introduction to Political Ideologies.,(London: Pearson Longman,2006.,p. 204
9 Hoffman, John & Graham, Paul., op. cit., p. 198.
13 Ibid.
15 Ibid, p. 47.
16 Ibid.
18 Ibid., pp. 19-22.
19 Ibid., p. 19.
22 Ibid.
23 Ibid, p.132.
24 Ibid., p. 131.
25 Ibid., p. 134.
26 Ibid.
27 Ibid., p. 147.
29 Corney, Peter, [Christianity’s Challenge to Cultural Relativism], September 2012
35 http://www.collinsdictionary.com/dictionary/english/liberal-democracy
38 Ibid
40 Hon. Henry Seidu Daanaa, Minister of Chieftaincy and Traditional Affairs, interviewed on 22 July, 2014.
41 Female Genital Mutilation, accessed on http://www.who.int/topics/female_genital_mutilation/en/, on 20th August 2014
CHAPTER TWO

OVERVIEW OF LIBERAL DEMOCRATIC PRACTICE IN GHANA SINCE 1993 AND THE CHALLENGE OF CULTURE

2.0 Introduction

The chapter discusses in detail one of the main themes of the study – liberal democracy in Ghana and how the 1992 Fourth Republican Constitution serves as a guide, making provisions for the key areas with the necessary mandate to operate. Although this is not a comparative study, the post independence governance system is briefly highlighted to better place the scope of the study. However, the analysis is done within the context of the subject of the study and therefore areas in which Ghana’s democracy has striven and thrived are the main topics discussed. These include general elections, rule of law, separation of powers, good governance, fundamental Human Rights and finally bringing into perspective Ghana’s policy on culture and its place in governance.

2.1 Post-Independence Political History

Ghana’s first three republics were characterised by democratic rule, short-circuited by military interventions, taking the form of authoritarian or dictatorial governance. The Nkrumah – led civilian CPP government was replaced by the military regime of the National Liberation Council (NLC) headed first by Lt. General Ankrah and then by Lt. General Afrifa. The NLC made way for the civilian government of the Progress Party (PP) with Prof. Abrefa Busia as Prime Minister. The National Redemption Council/Supreme Military Council [NRC/SMC] led by General I.K. Acheampong and later F.W.K. Akuffo overthrew Prof. Busia’s PP and ruled the country until June 1979 when another military regime took over led by Flt. Lt. Jerry John Rawlings. Rawlings gave way to the civilian People’s National Party
(PNP) with Dr. Hilla Limann as the Executive President. The last military government prior to the fourth republic was that of Flt. Lt. Jerry John Rawlings, known as the Provisional National Defence Council (PNDC), having toppled the newly elected government of Dr. Hilla Limman on 31st December 1981.¹

The PNDC was in power for eleven years during which period the government set out to bring social and economic transformation to the people of Ghana – to institute participatory democracy, economic development and social justice in the country. It eventually towed a very similar line to its predecessors, marked by the same impunity, repression, martial law, looting and pillage that had been exhibited by previous governments. The PNDC era, thus recorded recurrent incidents of abuse of civil and political liberties.²

Boafo – Arthur, in assessing the Rawlings government, indicates:

However, contrary to its initial Marxist-Leninist agenda, the government of the PNDC that usurped political power in the early 1980s was compelled by the magnitude of the economic problems confronting the state to pursue a neoliberal or free market agenda after its initial socialist posturing, while at the same time supporting internal social democratic forces with an antithetical economic and political agenda. The contradiction produced by that unnatural equation was resolved in favour of a liberal democratic state that would guarantee the growth of a neoliberal Economy.”³

The PNDC government did chalk some successes, as a result of which the World Bank touted Ghana as the success story and the democratic model of Africa, but these assertions must have been relative because towards the end of the 1980s the political and socio-economic situation in the country provoked both internal and external pressures on the PNDC to institute major reforms.⁴ Needless to say, Rawlings’ idea of democracy did not meet international standards. To him, democracy meant participatory democracy and popular participation, and this perception “...resounded throughout his PNDC reign until global
forces which were pressing for democratisation and good governance in the developing world around 1988 suddenly turned Rawlings into a ‘liberal multi-party democrat in 1992.” The initiation process into liberal democratic era as highlighted by Boafo – Arthur went through the following stages:

- The holding of district-level elections in 1988 and 1989;
- The collation of views on the democratic future of the country by the National Commission for Democracy (NCD) set up by the PNDC;
- The promulgation of a law on 17 May 1991 setting up a nine-member Committee of Experts (Constitution). The mandate of the committee was to prepare a draft proposal (constitution) taking into account previous constitutions of Ghana since independence and any other relevant constitution(s) as well as matters referred to it by the PNDC;
- Inauguration on 26 August 1991 of a 260-member Consultative Assembly to draw up a draft constitution (based on the work of the Committee of Experts) for the country;
- Submission to the PNDC on 31 March 1992 of a draft constitution by the Consultative Assembly. Consequently an Interim Electoral Commission (INEC) was set up;
- A referendum on the draft constitution was held on 28 April 1992 with 92.6 per cent of eligible voters voting in favour of the draft constitution;
- Lifting of the ban on political party activities on 15 May 1992. Flight Lieutenant Jerry Rawlings, chairman of the PNDC, founded the National Democratic Congress (NDC) to contest the presidential and parliamentary elections;
- Holding of presidential election on 3 November 1992 and the parliamentary election on 28 December 1992;
- The inauguration of the Fourth Republic on 7 January 1993 with Rawlings as President.
2.2 Democracy in the Fourth Republic

Kwame Ninsin in *Ghana. Transition to Democracy* describes the new era of liberal democracy that Ghana experienced in the early 1990s as a pluralist democracy; one characterised by multiple actors and featuring prominently the tenets of the system; regular [free and fair] elections, rule of law, separation of powers and protection of liberties of speech, assembly, religion, culture, property, association, media pluralism and economic development. With a history of incomplete transitions, the new era of democracy as Ninsin explains, came with uncertainties with regard to its sustainability. According to him, it was not simply a matter of replacing the old regime with its attendant norms, ideas and sentiments with the new, but rather the challenge was in “converting the PNDC pseudo military structures into effective wings.” The world out there was interested in seeing Ghana’s democracy transcend beyond the political transition in 1993, viewing the period with skepticism and pessimism. Obviously, the transition to democratic rule was not the first in Ghana’s 35 years of independence from colonialism. The country had experienced democratic rule on three separate occasions, and during those periods, were guided by the constitution of the land. The fourth Republic was equally backed and subsequently guided by a constitution, which has been in force till date.

2.2.1 The Constitution

For any democratic set up there should in the first place be laid down rules and regulations to check or ensure that there is constant balance of power. The presence of a constitution is therefore mandatory, whether documented, as is the case of Ghana or in the form of conventions as is the case of the British system, to serve as a guide for governance. Right in the Preamble, the 1992 Fourth Republican Constitution of the Republic of Ghana captures the principles of democracy while delineating the various roles of key sectors of government,
arrogating the necessary powers for them to function, limiting powers in certain instances and in other cases enshrining the liberties and rights of the citizenry. In simple terms, constitutions legitimize the actions of the governor and the governed. It is the supreme law of the state, superseding all other laws in the state.9

2.2.2 General Elections

The Constitution outlines the principles of liberal democracy, which have served as guidelines for Ghana’s democratic process. The first landmark manifested in 1992, with the first general elections after more than a decade of military rule. Subsequently, Ghana has gone through five more elections. Article 42 of the Constitution clearly states that “every citizen of Ghana of eighteen years of age or above and of sound mind has the right to vote and is entitled to be registered as a voter for the purpose of public elections and referenda,” while Article 43 institutes and mandates an Electoral Commission to manage elections in the country.

Mike Oquaye discusses the ability of the liberal state to navigate around all potential explosive electoral disagreements and misunderstandings, attributing it to the ability of the Electoral Commission to achieve elite-level complementarities/consensus. He adds that the formation of the Inter-Party Advisory Committee (IPAC) in 1994 was instrumental in achieving consensus. This he explains is the reason why “…in the face of several contested issues, such as the Value Added Tax (VAT), election-related violence created by the leading political parties since December 1992 came under control." He finally opines that the peaceful change of government through the ballot box in 2000, the first since the country attained independence in 1957, is an indication that democracy has come to stay. The country faced yet another testing period when the 2012 presidential election won by John
Mahama’s NDC was legally contested by the opposition NPP, the first in the history of Ghana. Thus the NPP’s acceptance of the Supreme Court verdict has gone a long way to deepen and consolidate Ghana’s democracy.

2.2.3 Separation of Powers

The constitution further makes provision for the Separation of Powers, which is key in a democratic set – up. Oquaye refers to Montesquieu’s assessment of the human nature as susceptible to the temptation to abuse the power vested in an individual.\(^\text{11}\) Thus, to avoid such abuses, not that they don’t happen anyway, the powers exercised by the executive, legislative and the judiciary should be in independent hands. The Constitution allows for checks and balances but does not permit pressures on the individual powers to coerce them. In Ghana, and like several other African countries, while the executive and legislature have been able to hold up against pressures, the judiciary is always challenged by external pressures in its delivery of justice. Oquaye describes the independence of the judiciary as a cardinal requirement of a democratic government.\(^\text{12}\)

2.2.4 Rule of Law

It is commonly said that the law is no respecter of persons, and that the Rule of Law must always prevail and in any democratic setting all the laws of the state must be clearly laid down, promulgated and known in advance.\(^\text{13}\) Every action by any government sector whether the Executive, the Legislature and the Judiciary or individuals must be in conformity with the rules of the land. It also means that laws once properly and duly passed are supreme and its consequence must be felt equally by all and sundry.\(^\text{14}\) The rule of law purposely ensures that there is fairness in the judicial system. Oquaye clearly outlines some basic tenets of the rule of law, which should prevail in a democratic environment such as Ghana. According to him,
“...every adjudicator must hear both sides before arriving at a verdict relating to any controversy or accusation; every side in a controversy is entitled to have its case duly considered before a decision is taken. Additionally, no man can be a judge in his own cause; reasons must always be given for a decision reached and of course, justice should not only be done but it must manifestly be seen to be done.”

From the foregoing, it is indicative that in any democratic state, decision-making regarding the governor and the governed cannot be done arbitrarily.

### 2.2.5 Good Governance

Generally, democracy is all about good governance. Thus, the citizenry must observe without doubt that the government in power is seen as doing everything possible to ensure that every aspect of human living, including political, social, economic and cultural is well taken care of. Modern democracy still has a semblance of the type of democracy propagated by Plato and Aristotle- representative and participatory, respectively. Central governance had become unattractive, giving way to the local government system. Ghana, as part of its democratic practice has initiated and sustained the local government structures through the Decentralisation System, allowing ordinary citizens and traditional authorities to be part of the democratic process. In addition, local representation of key national sectors such as police, military, fire service, customs, prisons, as well as ministries, departments and agencies (MDAs) are put in place to ensure a consistent local administration system.

Almost every definition or perception of what liberal democracy entails, factors in the key aspects of economic development. While it may be easier for wealthy or economically thriving states to practice and consolidate democracy, the reverse is also obvious, that poverty or economic hardships militate against democracy. The African continent is a typical example. In most parts of Africa where conflicts or civil unrest have arisen, although the direct reason may include factors such as politics, religion or ethnic diversity, the underlying
factor fuelling such unrests, remains the persistent economic stagnation.

Similarly, Ghana’s democracy has been challenged by strife and conflict. Pre – 1992 political instability marked by coup d’états has always reared its head during severe economic hardships, with perpetrators citing corruption and lack of accountability as reasons. There are strong indications that conflicts recorded in Ghana have been provoked by economic factors such as social stagnation, unemployment and financial deprivation. Also, other human rights abuses against women, girls and children in the social and traditional context can also be closely linked to economic factors. Parents or wards and young girls affected by early marriages usually cite economic gains as their motivation. Children are prevented from or unable to attend school so they can engage in commercial activities for themselves and their families. These issues however will be expanded in the next chapter.

2.2.6 Fundamental Human Rights

For decades, the issue of Fundamental Human Rights has gained international attention and has therefore become an indubitable aspect of liberal democracy. The 1948 Declaration of Human Rights seeks to address the problems of human rights abuses. Unfortunately, the international scene is experiencing a growing trend where the rights of minority groups – religious, ethnic, political, gender are constantly being undermined, with the majority imposing its will on the minority. Ghana has had its own share of such challenges especially during the first three republics. Since the wanton disregard for human rights by Nkrumah during the first Republic with the enforcement of the Preventive Detention Act [PDA], subsequent constitutions have constantly enshrined fundamental human rights clauses. These constitutional provisions have not been able to stop human rights abuses across the country.
The study also borders on how some minority groups in the traditional set up of some societies are undermined. The Constitution clearly enshrines fundamental human rights and mandates all the arms of government, persons, and institutions to respect them. Additionally, the element of discrimination is addressed, whereby the individual’s rights are ensured without regard to his race, place of origin, political opinion, colour, socio-economic status etc. However, emphasis is placed on the respect of these rights subject to the respect of the rights of others, in the general interest of the public.\(^{18}\) The right to life (Art. 13), personal liberty (Art. 14), the inviolability of the dignity of the individual (Article 15), protection from slavery or servitude and forced labour (Art.16), equality before the law (Art. 17), the right to own property (Art. 18), the right to a fair hearing (Art. 19), the right to civil liberties including speech, press and other media, religion, association etc. are all necessary to deepen the country’s democratic process.

It is commendable that these rights have been impressively put on paper although admittedly, in practice, illiteracy, inadequate court systems and other logistical problems have operated to deny many, especially the politically, socially and economically underprivileged, the benefits of these elaborate liberal rights.\(^{19}\) Additionally, even the rights, which are not all listed in the constitution, are still inherent in a democratic set - up and “intended to secure the freedom and dignity of the individual.”\(^{20}\)

Boafo-Arthur also puts the limelight on the legal system, bringing into focus the mandate of the courts to enforce the rights of the individual if there is any breach. He all too clearly points out the reality of the slow, tedious and expensive legal system which rather deters people from accessing justice, alluding to that as reason for the establishment of the Commission for Human Rights and Administrative Justice [CHRAJ] of the constitution,
passed in 1993 by Act 456, with the mandate to investigate complaints of violations of fundamental human rights and freedoms, injustice and corruption; abuse of power and unfair treatment of persons by public officers in the exercise of their duties, with power to seek remedy in respect of such acts or omission and to provide for other related purposes.  

He however admits that CHRAJ has become a good and free alternative for the many ‘abused’ citizens who cannot afford the overly slow courts, although it cannot serve as a substitute in promoting fundamental human rights.  He adds that the CHRAJ through its decisions has been gradually assisting in the development of a human rights jurisprudence that may in the future serve as the basis for the interpretation of constitutional provisions on human rights. Nevertheless, it is not a court and therefore not vested with judicial authority.

It should however be noted that, the promotion and protection of the fundamental human rights are not done in vacuum. Policies should be formulated and implemented to create a just and free society. This provision is taken so seriously that Articles 34 (1) and (2) make the President fully responsible for ensuring that such policy objectives allow for the ‘realisation of basic human rights, a healthy economy, the right to work, the right to good health care and the right to education.’ The subsequent Articles go at length to stress the requirement for government to ensure that the individual has access to social, economic, political, cultural rights and also bearing in mind the sacrosanctity of the ‘sovereignty residing in the people of Ghana and from whom the president or government derives all powers and authority through this Constitution’. Human rights concern the very foundations of society and ‘are therefore influenced by developments in that society as well as the changing international scene, to the extent that the issue of human rights finds itself in a state of more or less, permanent development.'
Ghana, since the coming into force of the 1992 Constitution has ratified a number of important international human rights instruments whose existence seems previously to have been ignored. The significant instruments among them include the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, both of which were ratified on 7 September 2000. The country also ratified the Maputo Protocol in 2007. These human rights instruments are in addition to others such as the African Charter on Human and Peoples’ Rights, the 1979 Convention for the Elimination of all forms of Discrimination Against Women (CEDAW) and the 1989 Convention on the Rights of the Child (CRC) that had been ratified earlier on.

Various pieces of new and amended legislation have been promulgated in order to realign the laws with the human rights demands of the existing Constitution and obligations under international law. The Children’s Act and the Criminal Code (Repeal of Criminal Libel and Seditious Laws) (Amendment) Act are respective examples of this type of legislation.”

Again according to Boafo-Arthur, “Parliament enacted the Children’s Act 1998 with the main objective of bringing the country’s legislation on children into conformity with its obligations under the CRC, ratified in 1990, and also to satisfy the requirements of Article 28 of the Constitution which guarantees the rights of children.” The Act, which sets the age of a child as below eighteen years in conformity with Article 1 of the CRC, is intended ‘to provide for the rights of the child, maintenance and adoption, regulate child labour and apprenticeship, for ancillary matters concerning children generally and to provide for related matters.’ The Children’s Act also aims at effecting some positive changes in the rights of children. In addition, the Act mentions other rights of the child, which are to be protected, emphasizing the interest of the child as paramount in any matter concerning a child (Article 3). Generally, as is provided by the Act, the child is entitled to the following:
To a name and nationality;

- The right to grow up with parents;
- The right to parental property;
- Parents also have duties and responsibilities;

- The right to education and well-being (Article 28 and 29);
- The right to social activity;
- Not to be discriminated against (Article 2);
- Disabled children to be given special care;
- The right to an opinion (Article 12);
- Protection from exploitative labour Article 19);
- Protection from torture and degrading treatment (Article 36) and
- The right to refuse betrothal and marriage.”

2.2.7 The Directive Principles of State Policy

In addition, the Directive Principles of State Policy contained in Chapter 6 of the Constitution serve as a ‘guide’ to ‘all citizens, Parliament, the President, the Judiciary, the Council of State, the Cabinet, political parties and other bodies and persons, in applying or interpreting this Constitution or any other law, and in taking and implementing any policy decisions, for the establishment of a just and free society’. The Directive Principles of State Policy are therefore enforceable through the fundamental human rights and freedoms provisions of the Constitution. They rather serve as adjuncts to the fundamental rights and freedoms in Chapter 5 in particular and the whole Constitution and other laws in general.’

They highlight certain key policies, which are mandatory to ensure sustainable growth, and development, which are necessary to keep democracy thriving. Notable among them are the right to education and the freedom of press and other media and the right to one’s culture.
On education, the framers of the 1992 Constitution pointed out the non-negotiable goal of ensuring an educated and knowledgeable people and the need to enhance the education policy. It also needs no gainsaying that democracy thrives on wealth, and wealth is more attainable by well-educated people, since they can better apply their knowledge to industry, research and in all fields of endeavor in a more productive and profitable manner. Sections of the constitution therefore, provides clear guidelines as to how to empower the people to promote economic growth, in that “the state shall provide educational facilities at all levels and in all the regions of Ghana, and shall to the greatest extent feasible, make those facilities available to all citizens.” It categorically states that, “the government shall, within two years after parliament first meets after the coming into force of this constitution, draw up a programme for implementation within the following ten years for the provision of free, compulsory and universal basic education.” Also in addition, “The state shall, subject to availability of resources, provide (a) equal and balanced access to secondary and other appropriate pre-university education, equal access to university or equivalent education, with emphasis on science and technology; (b) a free adult literacy programme, and a free vocational training, rehabilitation and resettlement of persons; and (c) life-long education.” This constitutional requirement transcends all administrations in Ghana and is applicable to all parties although till date, implementing the policy fully for all Ghanaian children remains a challenge, with the adult literacy programme almost non-existent.

Secondly, Article 12 of the Constitution highlights and also guarantees the freedom of the press and other media. Ghana’s democracy started on a good note, with the removal of impediments and constraints on the print and electronic media, making way for the free flow of information to feed the hungry citizenry. The Newspaper Licensing Law 1985 in May 1992 and the Criminal Libel Law provided an additional impetus to the new wave of freedom
sweeping the country, creating a long – awaited opportunity for most of the individually owned newspapers to launch out. Today, that opportunity for the operations of the private newspapers has created a pool of alternatives to sources of information and has thus, repositioned the role of the media in Ghana as being fundamental to the development of democracy in the country. However, the content of the information churned by the media, in the words of Boafo – Arthur can be summed up as ‘critical, polemic and combative’, to say the least, adding to the political opening in the country. Since Ghana’s third general elections in 2000, the media has become more emboldened, acting as a platform for the Ghanaian public to discuss freely issues that promote good governance and sustainable development.

2.3 Ghana’s Current Democratic Practice

Ghana’s consolidation of democratic principles has been sustained further due to its relation with the international community. Having made key developmental strides by international standards, the country cannot afford to lag behind in democratic development- and this, leadership and the governed are very much aware of. Over the years the country has had to adopt favourable economic policies and good governance practices to consolidate its democracy. In the same vein, globalization has helped to create a general international environment in which Ghanaians can indulge in economic, social and cultural activities in order to realise their self worth and potential.

It is over two decades since the commencement of the Fourth Republic and the democratic journey has been fraught with challenges, some of which have been overcome while the nation continues to grapple with others for various reasons ranging from economic to socio-cultural. Democracy, however, is not an end product and it requires constant adaptation to the changing international systems. To this end, Ghana cannot claim to have achieved full
democratic status if there is any such thing. An ActionAid 2013 annual report describes Ghana’s democracy as a pluralist democracy, one which has evolved into a stable and mature democracy, manifesting good performance in democratic governance as a result of the existing strong multi-party political system, growing media pluralism and strong civil society.\textsuperscript{34}

The report further acknowledges that the recently contested 2012 Presidential Election results by the opposition NPP who subsequently accepted the Supreme Court ruling in favour of the NDC, has confirmed the trend of stronger governance and democratic consolidation in Ghana, pointing to the fact that some international ratings do confirm Ghana’s growing democratic credentials. It cites for instance, the ‘Reporters Without Borders’ 2013 Press Freedom Index report which placed Ghana 3\textsuperscript{rd} in Africa, having progressed from the 41\textsuperscript{st} position to the 30\textsuperscript{th} position. In the same vein, the 2012 report of the World Wide Governance Indicators places Ghana between the 50\textsuperscript{th} and 60\textsuperscript{th} percentile on political stability, government effectiveness and regulatory quality, rule of law, control of corruption and voice and accountability.\textsuperscript{35}

These achievements, the report points out, are attributable to the multiple actors now involved in the democratic process – the media, civil societies, NGOs, IGOs, traditional authorities, government institutions, both at the national and the local level and of course, the citizenry. Additionally, the gradual but increasing effectiveness of public institutions as well as persistent economic growth has resulted in Ghana attaining a lower middle-income status.\textsuperscript{36} Regardless of the recent slowing down of the economy, Ghana at the pace of growth over the past two decades has concentrated efforts in reducing the level of poverty in the country, particularly in rural communities, albeit with more room for improvement. To a
very large extent, the country is where it is now because opportunities for females to develop and contribute to developmental programmes at both the community and national levels have been woefully inadequate.

Over decades, critics have blamed the political and socio-economic instability within the African continent on mismanagement by bad leaders. While such a claim may be debatable with regard to Ghana, it may also be fair to state that the policy choices and commitment to their implementation by past and current leaders cannot be disregarded. Ghana in particular has for decades pursued IMF recommended socio-economic policies aimed at ensuring sustainable economic growth not only at the national but also at the local community level. The aim has been to empower the Ghanaian economically and women in particular at the community level.

2.4 The Challenge of Culture to Liberal Democracy in Ghana

Throughout the numerous scholarly works and criticisms on the practice of liberal democracy, there are mainly, but not limited to, two factors, which are critical to the sustainability of democracy, absence of which equally undermine or mitigate its development; first, the sustainable economic growth or development and second, fundamental human rights. Admittedly, governments of the fourth republic have made efforts at improving upon the country's economic and human rights record, however, some cultural traditions whose practice cause injury with dehumanizing consequences persist in various parts of the country. It is therefore, incumbent on the state to ensure equity and justice for the generality of the people regardless of their social, economic, political, ethnic, religious and in this particular case, cultural standing.
According to the National Commission on Culture, Ghana has some three score ethnic groups, each characterised by peculiar cultural values and traditions that give identity to the ethnic group. Some of the following cultural practices “are simply barbaric or violate the fundamental human rights of those subjected to them, and others that are clearly visible also negatively portray the country in very bad light to foreigners. Such practices include dipo rites, breast ironing, punitive widowhood rites, tribal facial marks, nudity, exorbitant bride price and Trokosi (female slavery).”

Articles 26 (2) and 39 (2) of the Constitution capture the crux of this study, either prohibiting or abolishing “All customary and traditional practices which dehumanize or are injurious to the physical and mental well-being of a person.” Various pieces of legislation have also been tightened to guarantee greater protection for the rights of women and children, particularly, girls. In particular, the Criminal Code (Amendment) Act 1998, Act 554 enhanced the punishment for rape and defilement of children and also criminalized the practice of Trokosi and proscribed early marriages. Traditional practices such as female genital mutilation and Trokosi still persist even in the face of legislation aimed at criminalizing them. More so, the 1960 Criminal Code, when amended in 1994, included FGM as a second-degree felony. Shortcomings and gaps that hinder the law’s effectiveness were identified and a bill was drafted to further amend Section 69A of the 1994 Criminal Code. In 2007, Parliament amended the criminal code to include the offence of FGM. The law attracts a penalty of five to ten years’ imprisonment for FGM offenders.

2.5 Ghana’s Policy on Culture

Several aspects of Ghana’s cultural traditions can be exploited for development resulting in socio – economic gain, while enhancing the image of the country. To this end, in 2004, the
Government of Ghana, guided by Article 39 of Chapter 6, of the 1992 Constitution, approved a cultural policy for the country, in which the NCC, came out with the following objectives:

- Firstly, to document and promote Ghana’s traditional cultural values such as those enshrined in concepts of human dignity, attitudes to nature and the environment, law and order, honesty and truthfulness, unity and peace, self-reliance and dignity of labour, family community and national solidarity.
- Secondly, to ensure the growth and development of our cultural institutions and make them relevant to human development, democratic governance and national integration.
- Thirdly, to enhance Ghanaian cultural life and develop cultural programmes to contribute to the nation’s human development and material progress through heritage preservation, conservation, promotion and the use of traditional and modern arts and crafts to create wealth and alleviate poverty.

The NCC intends to achieve its objectives by “promoting cultural interaction and inter-ethnic understanding through programmes that create enabling environment for national development.”

2.6 Conclusion

From the foregoing, Ghana’s adoption and practice of liberal democracy seem to be on a positive track, although there is much room for the country to improve on the various principles on which good governance and socio-economic development thrive, particularly, with regard to human rights. More so, having identified culture as a key area with potential for national integration and development and at the same time, a haven for abusing the rights of women and children, especially girls, it is important to clearly delineate the exact cultural practices in order to address the challenges associated with them.
Endnotes

2 Ibid.
4 Ibid.
5 Mike Oquaye , op. cit, p. 58.
6 Boafo-Arthur, Kwame, op. cit.
7 Ibid., p. 7.
9 Article 1 (2) of the 1992 Constitution reads, “The Constitution shall be the supreme law of Ghana and any other law found to be inconsistent with any provision of this Constitution shall, to the extent of the inconsistency be void.”
10 Oquaye, Mike, op. cit.
11 Ibid., p. 70.
12 Ibid.
13 Ibid.
14 Ibid., p. 70
15 Oquaye, Mike, op. cit., pp. 71,72]
16 See Declaration of Human Rights, 1948.
18 See Article 12 (2) of Chapter 5 of the 1992 Constitution
19 Boafo-Arthur, K., op. cit., p. 24
20 See Article 33 (5) of the 1992 Constitution
21 Article 216 of the Constitution/ Act 456, passed in 1993
22 Ibid.
23 See Article 35 (2)
25 Ibid.
26 Ibid., p 8
27 Ibid., pp. 36-37.
29 Ibid., p. 33
30 Article 38 (1) of the 1992 Constitution
31 Article 38 (2)
32 Article 38 (3) (a-c)
33 Boafo -Arthur, Kwame., op. cit., p 34.
34 ActionAid Ghana, ANNUAL REPORT 2013, p. 16.
35 Ibid.
36 Ibid., p 17.
42 Ibid.
CHAPTER THREE
CULTURAL PRACTICES AND ABUSE

3.0 Introduction

This chapter focuses on three cultural practices. Early or forced marriage, Female Genital Mutilation and the confinement of alleged witches in camps. These cultural practices, which are prevalent among some tribes in the Volta and northern parts of Ghana, could be said to be tantamount to the abuse of the human rights of their victims who tend to be women and children, especially girls. The chapter relies on data acquired from diverse reports and studies conducted by some institutions and organisations as well as interviews with primary sources. The analysis of the data and information so acquired seeks to establish a link between these three cultural practices and human rights abuses as well as establish the impact of their persistent practice on Ghana’s socio-economic development and democratic governance. The chapter concludes with a view of the global perspective considering the international legal efforts made over the past few decades to protect women and children from violence and abuse in the international community as a whole.

3.1 Global and National Perspective on Negative Cultural Practices

Much as the individual has right to his culture, the practices thereof need to be in line with existing national and international laws. Many cultures and traditions seek to promote their identity and foster social cohesion and unity, however, upon closer interrogation, it would be observed that some of these practices tend to invade and abuse the physical being, psychological stature, health and integrity of some individuals, particularly girls and women. In 2008, Ban Ki Moon the UN Secretary General bemoaned and deplored the unabated
violence against women and girls in every continent, country and culture. He particularly
drew attention to the toll of these practices on the lives of women, children, families, and on
societies as a whole. Although he acknowledged efforts being made by many societies to
prohibit such violence, he pointed out the fact that some of such atrocities are often covered
up or tacitly condoned. Indeed, these harmful traditions exist in many different forms, but
are predominantly found in societies, especially rural, where unequal social and economic
relationships exist between men and women. Female Genital Mutilation, the confinement of
alleged witches in camps, servitude and forced labour, early forced marriage and
childbearing, widowhood rites and such other practices with gender bias are some of the
practices that have received such global attention due to their severe and negative impact on
the health and well-being of females.

At the national level, the country’s constitution upholds the right of the individual to culture,
albeit within the context of freedom, respect and dignity, as stated in Article 39 that:

“The State shall take steps to encourage the integration of appropriate customary values
into the fabric of national life through formal and informal education and the conscious
introduction of cultural dimensions to relevant aspects of national planning. The State
shall ensure that appropriate customary and cultural values are adapted and developed
as an integral part of the growing needs of the society as a whole; and in particular that
traditional practices which are injurious to the health and well-being of the person are
abolished. The State shall foster the development of Ghanaian languages and pride in
Ghanaian culture. The State shall endeavour to preserve and protect places of historical
interest and artifacts.”

3.2 Early/ Child Marriage and Marriage by Abduction

The practice of betrothing under-aged young girls, sometimes as young as months old to
much older men is an age old practice, typical in some developing countries in Sub – Saharan
Africa, Southern Asia, Middle East, North Africa, East Africa, South Africa and parts of
West Africa. Although boys are also married off as children, girls are disproportionately
affected, resulting in physical and psychological harm such as early birth, infant mortality,
school dropouts. However, gender perceptions are gradually changing in developing countries including Ghana, which though does not fall within the top twenty countries associated with early marriages, still records cases of the practice, making it an area of increasing focus for reform by governments over the decades. Laws specifying minimum ages for marriage have been enacted in Ghana and other countries still fail to prevent forced marriages of those under the prescribed age. It has been observed that in quite a number of societies, legal limits on age at marriage tend to apply in urban communities and in some instances, union of partners for purposes of marriage are not predicated on prior parental consent. In rural communities and where marriages are considered as unions between clans and families of those getting married, and therefore tend to be arranged by parents, children well below the legal minimum age of the country in question tend to be married off. In this regard betrothal of infants is still an acceptable practice although it has become less prevalent. In global comparative terms, the age of first marriage in sub-Saharan Africa and South Asia remains rather low.

As migration and human movement continues to occur, this practice of early marriage and betrothal, which has hitherto been predominant in the rural areas of Ghana is gradually spreading to rural and peri-urban communities in southern Ghana even in parts of the Greater Accra region such as the environs of Tema, Ashiamang, Kasoa and Kpong. What this implies is that the related impacts on the victims such as unequal opportunity and deprivation are also spreading and getting endemic. A major characteristic of the urban setting that tends to give further momentum to the practice is the high cost of living. The inability of poor parents to provide for their children gives way to a phenomenon where the girl child becomes a victim. They tend to be pushed into early marriages against the law and without their
intrinsic consent in order to reduce the financial burden on the nucleus family and sometimes for financial gain depending on who the suitor is.

At the launch of the National Children’s Day in Accra, in August 2013, the Minister of Gender, Children and Social Protection, Nana Oye Lithur indicated that child marriage, which may also be called forced marriage, had assumed a disturbing trend in Ghana, especially in the Northern parts of the country. Although the actual cultural practice is that, girls at any age below the adult age could be betrothed to older men but get into the marriage when they reach puberty, with some girls as young as thirteen years being actually forced into the marriages depending on their physical development.

Another variant of the practice of early marriage is where very young girls on their way to school, farm, funerals and market place are abducted by persons hired by a suitor from the community. As a cultural practice, the family of the abducted girl is informed and it is expected that once the abduction was successful they would in turn concede and facilitate the conduct of the actual marriage rites and ceremonies. The abductions are sometimes done with the connivance of the parents and at other times without their knowledge. In the case of the latter, the practice is reciprocal to the extent that should the parents refuse to consent to the marriage, men from their own family, clan or village as the case may be, would face similar opposition when their men abduct young girls from the community for marriage. In an interview with Mr. Benjamin Tawiah, a study conducted into the history of the practice revealed that in the past abduction of young girls was a way of manifesting bravery among competing parties for the hand of a young girl believed to be a virgin. This belief could however be said to have outlived its usefulness in present day not even to touch on the fact that it is illegal and a gross infringement on the rights of the victim.
3.2.1 Common Underlying/Contributory Factors

As much as this practice is attributed to an age – old tradition, there are also underlying factors, which could be said to contribute to its continuous practice. The three northern regions in Ghana have admittedly been quite involved in the Sahelian trade and rather detached from the coastal trade for many years. There is therefore a semblance of under-development and economic disparity with communities of the south in general terms. Poverty is rather endemic in some of the communities. The communities are also patriarchal, thus relegating women and therefore girls to the second-class position within the social structure. Men do not accept and treat their women folk as equal in the traditional setting. Women tend not to own landed property and are not involved in major decision-making. A few variations observed in the practices across the regions indicate that while in most communities of the northern region, men own and work the land themselves, in the Upper East Region, the trend is for men to own the land and for the women to work on them. Also, in the northern region, the dowry price of a woman is not as expensive as that of her colleague in the Upper East who attracts about seven cows as dowry price. Traditionally, the payment of such a price on the head of a wife seeks to automatically transform her into an acquisition. Gender roles are ascribed by tradition and these as well as their resultant impact are thus difficult to alter even by law.

In this traditional context, the education and career development of girls tend to be sacrificed for that of the boys. Girls are considered as having the opportunity of an early marriage to earn a livelihood while boys could seek one through school. The socio-cultural pressure that this exerts is two pronged - an unmarried young woman and her family risk being the subject of ridicule in the community by both sexes. The family also risks foregoing a dowry and the financial gains from an in – law if she refuses to get married.
The issue of stigma plays a key role in the persistence of the practice. Although girls who are targets for such marriages may be unwilling, or those already in them wish to opt out, the fear of being shunned by the family and the community as non-conformist weighs down heavily on them and keeps them in the practice. The family system in Ghana is very strong and that makes it difficult for children to go against traditions that are considered to be age-old practices and backed by traditional stalwarts. “Rebellion” under such circumstances could be rather daunting for a girl between ages 12 and 16 who might then have to survive outside the family system, especially when the challenge of economic survival is what puts her in a situation as extreme as marriage at that tender age. Her options tend to be few and no less denigrating. In the absence of shelters for the homeless (government or private owned), such a “rebel” may become prone to engaging in prostitution to survive or find a way of travelling to the city to do any menial job or get into a marriage at least of her choice. Mr. Ato Breboh, a Principal Investigator with the CHRAJ recounts his encounter with two young girls, Anatu and Zeinabu, both 16 years, in Bolgatanga in the Upper East Region, who had run away from their village near Navrongo to engage in prostitution for a simple reason besides money – to earn a reputation bad enough to disqualify them as potential brides. Mr. Breboh again recounts another rather unfortunate incident in the Brong Ahafo Region where a young teenage girl being prepared to marry at the young age of 14 years attempted suicide out of dread of the impending marriage.

In addition, health and moral reasons are some of the factors underpinning early marriage. Some of the societies, which practice them, in the light of sexually transmitted diseases, are of the view that marrying off the girl early curtails her chances of promiscuity and hence contracting any such disease, while in some cases, the practice is an attempt to bring the girl under the protection of her husband and keep her safe from sexual harassment from men.
Also in the course of interviews, it became evident that failure by the relevant agencies to play their effective roles in curbing these practices, continue to embolden the patriarchs to hold unto many of the outmoded traditional practices. Institutions such as CHRAJ, DOVVSU, and the Courts who have the legal mandates of enforcement are not making the required impact and this could in part be attributed to the following:

- Lack of resources (adequate budgetary allocations, personnel and logistics)
- Untrained staff
- Inaccessibility to the family court systems at the regional and district levels

3.2.2 Human Rights Perspective

The continuous practice and even spread of early or forced marriages from rural to semi urban communities has severe implications for the affected communities in particular and Ghana in general. As a result of this practice, girls in formal school or skills apprenticeship are sometimes forced out to prepare for or be married off immediately. Article 26(1) of UNDHR spells out the right to education, stating that “everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Teaching and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.” The girls who fall victim to such marriages are not only denied their right to make a choice as to who they marry as stated in Article 16 (2), they are also denied their constitutional right to education as stipulated in Article 25 (1). The implication is that they would most probably by so doing be robbed of their opportunity for economic empowerment unless they are rescued from these marriages. The lack of pursuit of opportunity for economic power on the part of the girl has the tendency to create a situation of financial dependence in her marriage. Numerous cases of domestic
violence, lack of enterprise, psychological trauma and depression could be traced to such
dependence. The cases of psychological trauma and depression have been traced in many
instances to the situation where a rather young girl has to live and stay in a marriage at such
eyearly age under duress with a husband that is several years and sometimes decades older than
her and with whom she shares practically no mutual interests. In some cases, these child
wives, instead of being in school or playing, are found working in near slave – like conditions
in the homes of their in – laws.\textsuperscript{12} There are also health implications for such young girls in
the exposure of their reproductive systems to high risks during pregnancy at such early age.
The lives of many of these girls have been found to be fraught with pain that they endure
silently, from physical abuse through sexual intercourse to childbirth, during which several
die or lose their babies. For those who are able to “rebel” and escape this tradition, they
inadvertently tend to fall victim to several other challenges for survival due to their
vulnerabilities. Some of these too do get pregnant at an early age, outside wedlock and
become exposed to even harsher conditions than child wives, as they tend to be on their own
and without family support.

3.2.2 Implications for Democratic Development

While some practitioners may argue that these situations are limited to the individual victims,
their families and the communities they belong to, it could be said that the situation has
serious repercussions for development and the democratic process of the country. UNICEF
has argued that the practice, without a doubt has profound physical, intellectual,
psychological and emotional impacts on the victims, putting them in positions where they are
unable to attain their full potential and hence contribute to the development of their
communities and the country at large. Having missed out on the opportunities that would
otherwise equip them to become responsible and resourceful women who can contribute to
the upkeep of their families, the poverty cycle risks being repeated.

During the inauguration of the women’s wing of the Gonjaland Youth Association in Tamale
in July 2014, the Deputy Minister of Transport, Joyce Bawa Mugtari who hails from that part
of the country, passionately attacked some of the cultural and religious norms and practices
that had over the years discriminated against the disadvantaged and constantly held down
majority of women in the North of Ghana from participating adequately in the processes of
democracy and decision-making. She was particularly unhappy about how traditional and
religious norms and practices in the north counteracts Article 35 of Ghana’s 1992
Constitution, which provides for equal rights and opportunities for women to thrive. She
further bemoaned the fact that Ghana has 275 parliamentarians out of which only 29 are
female. She, like other women in government, find the situation very appalling,
disappointing and unacceptable, especially when Ghanaian women constitute almost 52% of
Ghana’s population.13

3.2.3 Remedial Efforts at Addressing the Early/Forced Marriage Menace

The efforts being made to involve women at the decision – making level have been tedious
although a few times rewarding. Currently, and through the collective efforts of the Northern
Region Assembly Caucus on Good Governance [NORWACGG], Mary Nakubu has been
appointed District Chief Executive for Chereponi, the only female among the 26 in the
Northern Region.14 Similarly, the Upper West Regional Caucus of Assembly Women is
seriously making efforts at ensuring increased representation of women in District Assembly
elections. Efforts include a fund raising strategy to identify, encourage and support potential
women to contest the local level elections.15 When women take up such leading and
responsible roles, it serves not only as a boost to the image of the woman but young girls are challenged and motivated to tow similar lines to rise to such positions. Ultimately, as more girls and women contribute to socio-economic development in their communities, Ghana’s democracy also deepens.

Currently and as part of general efforts to sensitise women and girls on their rights, vacation camps have been introduced in the Ghana Shared Growth and Development Agenda [GSGDA], which seeks to bridge the gender gap in access to education, with government pledging its commitment to adopt model Girls’ Camp guidelines to inform the organisation of Girls Camps in Ghana.16 This concept of girls’ camps was instituted over a decade ago by ActionAid, and organized in collaboration with the Girls Education Unit [GEU] of Ghana Education Unit. It seeks to encourage girls from deprived communities to stay in school and remain in formal education to the highest level. It is also meant to encourage girls to be assertive and have rights consciousness to address gender-based violence, identify life opportunities and make career choices that girls can aspire to achieve.17 The event is held on an annual basis.

At a seminar to launch the 2013, 16 days of activism program, the Upper West Regional Coordinating Council directed all Municipal and District Assemblies in the Region to note that marriage by abduction was a major outmoded cultural and traditional practice that must be stopped in the region. The directive stressed on the negative effects of the practice, in terminating the educational dreams of many young girls, violating their rights to life choices and control over their bodies.18 Other interventions, which ActionAid instituted to meet the December 2014 deadline for the end of the practice include the following:
• Sustained pressure on authorities by continuously highlighting and bringing to public attention, the inherent Human Rights Violations of the practice;

• Organized community durbars in selected communities where the practice is endemic, in a bid to raise awareness on the human rights violations of the practice and hence to change the minds of the men, traditional heads and the chiefs about the practice;

• Rescue as many girls as possible, through efforts of COMBAT, and equip them with skills and knowledge of their rights, so they could serve as models for the society;

• Impress on members of the Regional House of Chiefs and government through the Regional Minister to more vigorously enforce the abolition of the practice;

• Partner with media houses to raise awareness and increase pressure on the traditional authorities to ensure the practice is not carried out in the various communities.

3.3 Confined ‘Alleged’ Witches in Northern Ghana

The practice of branding women and in some very rare cases men, as witches and wizards, respectively, in various societies in Ghana is not uncommon. The practice however is more prevalent in certain parts of the northern and upper regions. These witches and wizards are alleged to possess supernatural powers, which they use for evil purposes against the community. They are blamed for all kinds of misfortunes including sickness, barrenness, accidents, loss of properties and even lives. The traditional mode of handling such cases is to confine such witches and wizards, with the belief that they would then be dispossessed of their evil powers in order thereby to maintain order in the community and assuage powerful, visceral fears.

The challenge, however, is the fact that witchcraft belongs to the field of the supernatural – religion, and not science, making it difficult for any empirical study to prove or disprove its
existence. It is neither scientific nor legal; however, that is a traditional belief the people in these communities apply as a system to rule. Apart from the Tindan–zhie camp at Kpatinga, where the traditional authorities determine the culpability of the individual as a witch, all the other known camps take the accused persons through rituals to prove that they are indeed witches or not. As ritual, a fowl is normally slaughtered and left to die on the ground and its final lying position becomes the determining factor. If it dies facing downward, that is a sign of guilt for the accused, while the reverse means exoneration. Although men are branded as possessing witchcraft, majority of the accused are women who are usually old and sometimes widowed, unmarried or barren.

The process of branding a person as a witch or wizard is usually preceded by suspicion of a wrongdoing, followed by an accusation and a report to the family leadership or the traditional authorities of that locality. Subsequently, the suspect is subjected to abuse, which could include lynching, and eventually banished to camps ironically referred to only as ‘witch camps’. The terminology is a poignant reflection of the gender discrimination with respect to the phenomenon. The accused either voluntarily or under compulsion seeks refuge at the witch camps. Over time, these camps become permanent homes for the alleged witches and wizards together with family dependents; usually grandchildren who accompany them to help with domestic chores, as majority of the accused are old and weak.

All six established witch camps are in the Northern Region of Ghana and are occupied by an unspecified number of alleged witches although they were pegged to a few thousands as at 2013. The camps are located in Kukuo, Gnani–Tindang, Gambaga, Bonyase, Tindan–zhie (Kpatinga) and Naboli in the Nanumba South, Yendi, East Mamprusi, Central Gonja and Gushegu Districts, respectively. These camps are headed or managed by chiefs, fetish
priests or *Tindanas* who are believed to possess the ability to exorcise the evil spirits possessing the accused. In some cases, queens, also known as *Magazias* who are also victims of witchcraft allegations but have been resident in the camp for a long time earn the position of an “In-charge,” although this position does in no way absolve them of the allegation of possessing witchcraft. The following is a brief background and information update with regard to current status and occupancy:

- **The Kukuo Camp** located in the Nanumba South District has a population of over one thousand four hundred. Oral history has it that the camp was established by a Hausa man who came to reside in the community to do fishing in River Oti which is about two kilometres from Kukuo camp. Out of sympathy for the alleged witches, who were often beaten and banished from in and around Bimbilla community, he established the camp to offer home and protection for the helpless women. This man was said to have also had supernatural powers to exorcise the spirit of witchcraft from his victims. As at 31st December 2013, there were 117 alleged witches with 165 of their children and grandchildren at the camp. Over 66 percent of these accused women are above 70 years of age. Majority of them come from Bimbilla and its surrounding communities, followed by Napkalin in the Zabzugu District. The average age and number of years spent in the Kukuo camp is 59 years and 27.5 years, respectively. There are however no males in the camp for the simple reason that, unlike their counterparts, the males are easily able to re-integrate into communities after their evil spirit is believed to have been exorcised. A rapid appraisal conducted by ActionAid Ghana indicates a slight drop in the number of inmates in 2014.

- The camp has no standing government support system and lacks basic amenities including potable drinking water and adequate housing structures. The nearest basic
school for the children is one kilometer away. More so, the inmates face the challenge of both livestock and crop farming, as most of them are too old to till the land and care for their livestock and therefore become dependent on the meager support of the family back home or in some cases on the magnanimity of fellow accused. The children in such circumstances are compelled to go out to help on farms in the communities to eke out a living.

- **The Gnani – Tindang, Tindan – Zhie and Naboli Camps** are located in the Yendi Municipal Assembly, and have a population of over one thousand eight hundred. The Gnani – Tindang camp is the largest of the three camps in the Dagbon State of the Northern region. Oral history has it that the Ya – Na 1 of Dagbon State invited a powerful priest from Togo to provide spiritual protection and support to the people of Dagbon. The priest gave the Ya – Na a stone believed to have powers to determine whether a visitor to the king had malicious intentions or not. The king was instructed by the priest to send the stone to the outskirts of Yendi town where visitors would be sent to ascertain their intentions before they were allowed to see the king. The stone was sent to Gnani Community. A priest was then appointed and given the spiritual mandate by this Togolese priest. As time elapsed, alleged witches/wizards were sent to Gnani to ascertain their innocence or otherwise. Due to the stigma attached to witchcraft, many of the victims are often rejected by their families and choose to remain in the camps. The Gnani – Tindang Camp has a resident population of 215 inmates, comprising 173 (80.4%) women and 42 (19.6%) men, as well as 231 children and grandchildren as at 2013. A 2014 rapid appraisal however showed a drop to about 164. Compared to the other two camps in the municipality, inmates in the Tindang camp are relatively older with the average age being 72 years, and the average time spent in the camp being 11 years.
• **The Tindan – Zhie camp** is a relatively small one with a population of about 34 alleged witches and about 10 children and grandchildren. Similarly, about 70 percent of the population is 70 years or above.

• **The Naboli Camp** is the most recent and fastest growing of all the camps. It is also in the Gushiegu District and has a population of 78 women. The camp has no children living in it. These three camps face almost similar challenges, with Naboli being the most deprived.

• **The Bonyase Camp** is located in the Central Gonja District of the Northern Region with Ayishetu Kusunaba as the Tindana. The camp so far has just about 5 women. It is the only camp under the control of a woman who is believed to have inherited the management of the camp from her late father. There are also no children in this camp.

• **The Gambaga Camp** is located in the heart of the Gambaga Township in the capital of the East Mamprusi District, with a current population of seventy-six (76), majority of who are aged 60 years and above. It is believed to be the first ‘witch’ camp to be established in Northern Ghana and therefore the most well known. Oral history has it that, before the establishment of the camp, alleged witches were lynched on the outskirt of Gambaga after an accusation and with the endorsement of the elders of Gambaga. It is further believed that in the year 1900 an Imam met and pleaded with a mob for the release of a woman they were about to lynch. The mob obliged and the Imam took the woman to his house [in Gambaga] for protection. As the years unfolded, other accused women sought refuge from this sympathetic Imam. However, being an Imam [an Islamic scholar and teacher], he found the traditional beliefs and practices associated with witchcraft to be at variance with his faith and therefore at a point handed the alleged witches over to the Gambaga Naa, Chief of
Gambaga to protect them, resulting in the establishment of the permanent camp which remains in use till this day.

### 3.3.1 Common Underlying/Contributory Factors

Studies conducted by ActionAid revealed that although both men and women are accused of possessing witchcraft, the majority of the accused are women who fall within a certain gender criteria. They are usually widows, barren women or unmarried women who are very old with weak social and economic protection systems. The lack of economic empowerment renders them liabilities to their families, within communities, which are rather poor. Majority of these women are also very ignorant of their rights in the communities they live in and even so within the camps.  

The vulnerability and susceptibility of the women to accusation and possible lynching or banishment from the society could be attributed to the existing unequal power relations in these societies. In response to such societal ‘norms’, General Recommendation No.19 of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) describes gender-based violence as violence that is directed against a woman because she is a woman or affects women disproportionately. The rule stresses on the obligation of states under international law to prevent, investigate and punish such violence against women.

### 3.3.2 The Reintegration Process

Over the years, there have been collaborative efforts by NGOs, CSOs, Traditional Authorities, District and Municipal Assemblies towards reintegrating these alleged witches and wizards back into either the society they came from or a totally new one of their choice.
While the relationships between some inmates of the camps and family members back at home are completely severed, others still remain in contact with their relations, especially children who visit regularly or invite them [inmates] back into the community to participate in family programmes such as funerals, marriage ceremonies, naming ceremonies and festivals. It may be fair to state that for such persons, the chances of reintegration into society seem higher.27

In society, erasing stigma can be extremely difficult. Once stigmatized as witches, members of the family and the community may not easily discard the accusation even if the alleged witch has been exorcised of the alleged evil spirit. In such circumstances, these women remain reluctant to return to their communities. Besides, the fear of renewed abuse following their return to their communities or even being accused of causing more misfortune cannot be ruled out. In a number of instances this was reported to have happened. For this reason, a lot of the inmates at the various camps prefer to remain at the camps, with majority of them more often than not spending the rest of their lifetime at the camps.28 What probably started out as refuge centres, accessed voluntarily by these accused and banished supposed witches or in some cases for the fear of being lynched, has now become a place of confinement.

The 2013 ActionAid annual report captures on – going efforts by the National Commission for the Reintegration of alleged witches in collaboration with the Ministry of Gender, Children and Social Protection, the Ministry of Chieftaincy and Traditional Affairs as well as local stakeholders which include the Tindanas in implementing a road map to facilitate the reintegration and resettlement process. There are also calls for the formulation of a government white paper on the reintegration as well as the development of a national strategy
to gradually disband the camps. The Livelihood Empowerment Against Poverty (LEAP) Programme and the Local Enterprises and Skills Development Programme (LESDEP) have been made to particularly focus on the women in the camps, with the aim of providing them with livelihood support and skills training.\(^{29}\)

### 3.3.3 Human Rights Implication

Article 14 of the 1992 Constitution clearly provides the individual with a right to personal liberty, stressing that “no person shall be deprived of his personal liberty…” except in instances that are specified in the constitution. The constitution does not therefore endorse the incarceration of these alleged witches. It is typical for women within communities in these communities to be denied some fundamental human rights contrary to Article 17(2) of the same constitution which forbids discrimination “…on the grounds of gender, race, colour, ethnic origin, religion, creed or social or economic status.” However, they lose all rights and dignity when they are accused of witchcraft and banished to camps. Besides, the factual basis of being branded witches is rebuttable even in the traditional setting.

Although these alleged witches prefer to remain in these camps which serve as havens, compared to the hostile environment back in their own homes and communities, the circumstances under which they have to live in these camps deny them the enjoyment of their fundamental human rights. They are robbed of dignity if they had any at all prior to being banished from their homes.\(^{30}\)

Contrary to the constitutional provision for the right to shelter, facilities at these camps can best be described as deplorable. What passes for shelter at the camps are mud built structures with thatched roofs. It is only in the Kpatinga Camp that the structures are concrete with
aluminium roofing sheets. The UN Human Rights Commission Committee on Economic, Social and Cultural Rights defines adequate shelter as, “adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities, all at a reasonable cost”. Obviously, these conditions are lacking in the camps.

At the camps, the Magazias are responsible for securing temporary shelter for any new inmate until the family is able to provide a permanent one. In a case where the family refuses, a long term resident is mandated to assist. The women also have no or very limited access to basic amenities such as potable drinking water, places of convenience as well as clinics and market facilities. Their young dependents are equally deprived of these basic amenities as well as food and basic education. In cases where schools are available, the facilities are either inadequate or remotely located and sometimes serve as breeding grounds for hostilities against these ‘stigmatised’ children. More often than not, the females instead of going to school, are compelled to assist with domestic chores at the camps, while the males assist on neighboring farms to make some money or some food, badly needed at the camps. This is indicative of the fact that there are no adequate livelihood activities to support the education of these children. Under the circumstances, majority of these children are deprived of the opportunities that life is supposed to accord them for their personal development.

The people in the camps, whether confined against their will or there voluntarily as accompanying a family member, eventually lose their rights to justice and face discrimination within the community. At community meetings, if they dare attend, their opinions are neither respected nor their interests factored in any decision-making. The circumstances are such
that they completely lose charge of their own destinies and rather unwillingly vest their fate in the Chief, fetish priest or *Tindana* to take major decisions on their behalf.\(^{32}\)

The rights of these alleged witches to orthodox health care are also denied them. Their lack of economic empowerment denies them the privilege to benefit from the existing National Health Insurance Scheme [NHIS]. Sick inmates receive traditional treatment from the fetish priest or the *Tindana* of the camp. Family members are expected to send persistently sick inmates to seek medical attention elsewhere, which most of them fail to do and these inmates end up dying of preventable diseases such as tuberculosis, pneumonia, malaria and diarrhea. It is only recently that CSOs and District Assemblies/Coordination Councils have been joining forces to pay the NHIA premium on behalf of some of these women and their young wards.\(^{33}\)

### 3.3.4 Implications for Economic Development

The impact made by these women on their societies and their families in particular may be minimal but should not be discounted. Their absence from the home disrupts the existing social and family structure. It is no wonder that they usually go along with their young dependents. Some of these are women who as mothers, wives and grandmothers would farm under harsh conditions to maintain their homes. The overall implication of banishing these women from their homes is therefore part of a long unbreakable chain of poverty, deprivation and under development because these women undoubtedly, would play an important role in raising children and keeping the homes. Having been banished to the camps therefore, if these women are not economically empowered, it means they are unable to support their families, contribute to the development of their community and the Gross Domestic Product of the country at large.
3.4 Female Genital Mutilation or Cutting (FGM/C)

Female Genital Mutilation or Cutting is an age-old worldwide practice. It is primarily accepted as a cultural practice and not a religious one, although some practitioners use religion to justify FGM/C. The practice is scattered across continents, including parts of Africa, where prevalence, type, age of performance, cultural explanations and rationalisation for performing it are varied.\(^3\) Three million girls were circumcised in Africa in 2015. According to the World Health Organisation [WHO], “Female Genital Mutilation [FGM] often referred to as ‘female circumcision’ comprises all procedures involving partial or total removal of the external genitalia or other injury to the female genital organs whether for cultural, religious or other non-therapeutic reasons”. The WHO further classifies the practice of FGM into four types or categories: \(^5\)

- **Type I, Clitoridectomy**: partial or total removal of the clitoris (a small, sensitive and erectile part of the female genitals) and, in very rare cases, only the prepuce (the fold of skin surrounding the clitoris).
- **Type II, Excision**: partial or total removal of the clitoris and the labia minora, with or without excision of the labia majora (the labia are "the lips" that surround the vagina).
- **Type III, Infibulation**: narrowing of the vaginal opening through the creation of a covering seal. The seal is formed by cutting and repositioning the inner, or outer, labia, with or without removal of the clitoris.
- **Type IV, Other**: all other harmful procedures to the female genitalia for non-medical purposes, e.g. pricking, piercing, incising, scraping and cauterizing the genital area.

In Ghana, FGM is practiced predominantly in the three northern regions of the country; the Upper East, the Upper West and the Northern Regions. In a 1996 report, following a collaborative study by Amnesty International Ghana, Association of Church Development
Projects (ACDEP) and the Foundation for Women’s Health, Research and Development (FORWARD), it was estimated that 76 percent of all women in the three northern regions had been excised. Communities that are noted to practice FGM include Kassena – Nankana, Bolgatanga, Bawku – East and Bawku – West in the Upper East Region. In the Northern Region, the communities include Bole, Mamprusi, West Walewale and Zabzugu – Tatale and Kotokoli. In the Upper West Region, Wa and Nandom are especially noted for the practice, while communities within the Kadjebi, Worawora and Jasikan areas of the northern Volta Region are also alleged to indulge in the practice.

The FGM is a social practice that primarily correlates with ethnic affiliation and cultural traditions and not with political boundaries. In other words, FGM practitioners may live in close proximity to non-practitioners. Local structures of power and authority, such as community leaders, religious leaders, circumcisers, and even some medical personnel contribute to upholding the practice. The type practiced varies among different groups although the most common in Ghana are the Types I and II.

Studies have also shown that the procedure is performed on infants of 7 – 10 days old to girls of 6-10 years and among 14 – 16 years old girls as a rite of passage. There are few known cases of adult women. The prevalence of FGM in Ghana ranges from 8 to 94 percent depending on the age group, region and or tribe. Following a 2005 study conducted by the Ghana’s Ministry of Health, findings indicated that approximately 15 percent of women aged between 12 and 19 years in the three Northern Regions of Ghana had undergone FGM.

The FGM is practiced and rationalized on several premises, which are all legally untenable with some being downright ridiculous. While some regard it as part of the religious
obligations prescribed by the Koran or Bible, though this is only a myth, others argue out the health benefits – that it prevents and cures genital diseases in women. Yet still, others view it as a social and moral means for the female to keep her virginity and modesty. It is also argued that it is a symbolic marker of group inclusion or a means to integrate into the larger society. While there are indications that the practice has greatly reduced, studies also show that increasing NGO and government sponsored awareness campaigns regarding its illegality have driven the practice underground and that the real state in these regions was as high as 30 percent. In some instances, according to Mr. Benjamin Tawiah, parents travel with their female wards to neighbouring Togo or Burkina Faso under the guise of recreational trip but end up getting them circumcised.

Medical literature on the subject indicates that FGM has no health benefits but rather causes harm to the bodies and minds of the girls and women who fall victim to the practice. Immediate complications can include severe pain, shock, haemorrhage (bleeding), tetanus or sepsis (bacterial infection), urine retention, open sores in the genital region and injury to nearby genital tissue. Long-term consequences could even include recurrent bladder and urinary tract infections, cysts, infertility, an increased risk of childbirth complications including newborn deaths and the need for corrective surgeries. For example, in the case of Type III, where the vaginal opening is sealed or narrowed, there is a need to cut open later to allow for sexual intercourse and childbirth. Sometimes, it is stitched again several times, including after childbirth, hence the woman goes through repeated opening and closing procedures, further increasing both immediate and long-term risks.

During a short discussion with the Country Director for ActionAid, he intimated that there have been instances where girls who were ‘saved’ from this practice by their mothers now
bear the full brunt of abuses from the members of their communities, rejection and disdain, to the extent that some who are now women regret not being circumcised. The belief appears to be so deep-seated that it creates the community perception that an uncircumcised woman cannot be normal and should be ostracized. He recounts a particular case in which the victim who is an adult now, was convinced to undergo FGM so she could fulfill her royal duties of becoming a queen mother. Also among the Frafras, Kassenas, Nankanas and Builsas, an uncircumcised woman is not entitled to traditional funeral rites, without which her soul could not go to her ancestors. All these point to the fact that an unacceptable practice such as FGM has become a means to an end.

There are other arguments that favour the practice for the simple reason that it is more pleasing to men during sexual intercourse, since the clitoris is described as a vestigial penis. This school of thought argues that the woman is infertile if she has not been cut. Other reasons include the perception that it is a way of staying hygienic, aesthetic purposes or as protection against rape. In these communities therefore, uncircumcised women are regarded as unclean, unattractive and less desirable for marriage. To a large extent all these rationalisations only go to confirm that the practice is perpetuated by traditional tribal beliefs and not religion.

Interestingly, there is an economic side to the practice, which makes it difficult to eliminate all together. The cutters, who are women themselves, mostly old, see their role as quite lucrative opportunities. Payment for the service they provide varies; which could be in the form of cash or is kind, such as bars of soap, fowls, bags of rice or millet.


3.4.1 The Human Rights Perspective

A human rights framework affirms that the rights of women to physical and mental integrity, to freedom from discrimination and to the highest standard of health are universal and that violations of these rights can never be justified. In the last two decades, the international community and individual countries have passed laws as part of efforts to enshrine and uphold human rights in society. Standards of Human Rights have therefore virtually become universal.

In the case of children, FGM could be said to be a complete violation of their rights as children. For the girls who are in their teens, they are either brainwashed to think the practice is an essential social, cultural, moral and even a health necessity, or in some circumstances are forced against their will through societal pressures. The practice also violates a person's rights to health, security and physical integrity, the right to be free from torture and cruel, inhuman or degrading treatment, and the right to life when the procedure results in death, all inherent in the 1992 Constitution. The study observed that while children are simply violated with impunity, teenagers and women affected by such practices are mostly unaware of their related human rights and the remedies available to them when forced into such practice.

3.5 International Legal Perspective

In 1992, Gender-based violence was defined in the General Recommendation of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The 1993 UN Declaration on the Elimination of Violence against Women (DEVAW), and subsequently, the 1995 Beijing Declaration and Platform for Action, both considered violence against women as a hindrance to women’s full enjoyment of their human
rights and fundamental freedoms. As a sequel to these, Governments have been expected to take specific identified actions to prevent and respond to violence against women and girls.\textsuperscript{51} The United Nations Organization has also since directed its efforts towards the issues of gender inequality, the elimination of violence against women and, highlighting women’s right to be free from violence.\textsuperscript{52}

The 1993 Declaration on the Elimination of Violence against Women became the first international instrument to explicitly address violence against women and to provide a framework for national and international action. It defines violence against women as any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.\textsuperscript{53}

At the 1994 United Nations International Conference on Population and Development, world leaders, high ranking officials, representatives of non-governmental organizations, and United Nations together set explicit objectives to end gender bias and gender discrimination and their severe consequences. The Programme of Action called for:

- Eliminating all forms of discrimination against the girl child and the root causes of son preference, which result in female infanticide and prenatal sex selection;
- Increasing public awareness of the value of the girl child and concurrently strengthening the girl child's self-image, self-esteem and status;
- Improving the welfare of the girl child, especially with regard to health, nutrition, and education.

At the height of the practice of FGM in the late 1990s, the WHO issued a statement to the effect that “…it is unacceptable that the international community remains passive (about
harmful traditional practices) in the name of a distorted vision of multiculturalism. Human
behaviours and cultural values, however senseless or destructive they may appear from the
personal and cultural standpoint of others, have meaning and fulfill a function for those who
practice them. However, culture is not static but is in constant flux, adapting and reforming.
People will change their behaviour when they understand the hazards and indignity of
harmful practices and when they realize that it is possible to give up harmful practices
without giving up meaningful aspects of their culture.” 54 This brings to the fore the matter of
education and law enforcement in the fight against FGM.

Ghana as a member of the UN and a signatory to the various agreements related to women
and children’s rights, is thus mandated to make its national laws and practices conform to the
appropriate international agreements and standards. The main objective being to eliminate all
forms of abuses that infringe on the rights of the child and the woman. The 1992
Constitution clearly prohibits all forms of infringement of the fundamental human rights of
the individual – women and children inclusive. Together with 23 other African countries,
Ghana has outlawed FGM by Act 484, Section 69A which states that “whoever excises,
infibulates or otherwise mutilates the whole or any part of the labia minora, labia majora and
the clitoris of another person commits an offense and shall be guilty of a second degree
felony and liable on a conviction to imprisonment of not less than three years”. However, it
is general knowledge that what the law has so far done is not to stop the practice of FGM, but
to ground it out of sight. Therefore, a lot of people in the communities mentioned would now
travel with their female wards to neighbouring Togo and Burkina Faso where the practice is
equally common to get it done.
The UN Declaration on the Elimination of Violence Against Women recognizes that violence against women does not only deprive them of their civil and political rights, but also their social and economic rights: "the underlying structural consequences of these forms of gender-based violence help to maintain women in their subordinate roles, contribute to their low level of participation and to their lower level of education, skills, and work opportunities." The Declaration provides that states should not invoke any custom, tradition, or religious consideration to avoid their obligation to eliminate violence against women, and that they must exhibit due diligence in investigating and imposing penalties for violence, and establishing effective protective measures.

Internationally, some of the efforts aimed at sustaining the campaign to eliminate violence against women include the following:\(^5\)

- The UN General Assembly adopts bi-annual resolutions on the issue of violence against women. The most recent resolutions adopted in 2012 include the intensification of efforts to eliminate all forms of violence against women and trafficking in women and girls.

- The UN Human Rights Council adopts annual resolutions on accelerating efforts to eliminate all forms of violence against women, the most recent being in 2012.

- In 2013, the Commission on the Status of Women (CSW) adopted, by consensus, Agreed Conclusions on the elimination and prevention of all forms of violence against women and girls. This represents a historic outcome, as there had been no agreed conclusions on this issue when it was last considered by CSW in 2003.
3.6 Conclusion

Clearly, the cultural practices discussed need not pose challenges to liberal democracy given the national and international efforts initiated in eliminating their negative aspects. Once there is political will to align persistently negative cultural practices with international law, the onus is on state institutions, both at the national and local level to ensure that FGM, early marriage and confinement of alleged witches are effectively abolished, not only to uphold the requirements of the country’s constitution, but also to help break the intergenerational cycle of poverty by allowing women and girls to participate more fully in society.
Endnotes

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Actionaid research on FGM in the Bawku West Municipality, Upper West Region, op.cit. p 9.
CHAPTER FOUR

SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

4.0 Introduction

Having discussed in some detail three identified cultural traditions and how their practices infringe on the fundamental human rights of the women and girls who undergo them, a situation which pose challenges to democratic process in Ghana, this final chapter concludes with summaries of findings, conclusions and recommendations as to how best to curb these practices and thereby enhance and sustain the development and consolidation of liberal democracy in Ghana.

4.1 Summary of Findings

Ghana’s constitution supports the individual’s right to culture although this should be within the ambit of both national and international laws, taking into consideration that the cultural practices identified and discussed in this study have been in existence for ages and have been passed on from generation unto generation. They actually constitute an accepted tradition in the beliefs system and identity of the people who practice them, however, the mischief that they tend to cause in terms of Human Rights abuse, Gender and Socio – Economic inequalities and discrimination are commonplace in several parts of the country, and are particularly prevalent in the three northern regions of Ghana.

In addition, Ghana has in place a national policy on culture aimed at promoting cultural interaction and inter-ethnic understanding through programmes that create enabling environment for national development.
In the same vein, a number of laws have been passed to guarantee greater protection for the rights of women and children, such as the Criminal Code (Amendment) Act 1998, Act 554 which now has enhanced the punishment for rape and defilement of children and also proscribed and criminalized FGM with severe sentences for convictions for child abuse. The efforts however, extend beyond national borders into the international arena with Ghana’s ratification of several international conventions aimed at fighting abuse against women and girls.

In spite of the national and international efforts at promoting the rights of women and children, particularly, girls, in this case, harmful cultural practices persist. While majority of the victims as well as the custodians or patriarchs of these harmful cultural practices were found to be rather ignorant of the constitutional provisions which guarantee the fundamental Human Rights of every citizen including women and children, others were aware but continued these practices in the name of preserving their culture. In all three case studies, the study confirms that entire communities, comprising the traditional and spiritual authorities and ordinary citizens, including parents, condone the perpetration of such abusive practices.

The study also reveals that although men and boys equally fall victim to early or forced marriage, male circumcision as well as being accused of being wizards, it was found that women and girls are disproportionately affected, with a higher rate of physical, emotional and psychological harm.

More so, women and girls not only lose their right to choose to succumb to the harmful aspects of cultural practices, they are consequently deprived of their basic rights to justice, education, healthcare and other forms of protection which are otherwise provided by the law.
This situation is partly attributable to the ineffective institutional systems at both the national and local levels. Inadequate resource support for carrying out set mandates appears to be a major contributory factor to this ineffectiveness.

From all indications, the primary challenge to the effective elimination of these harmful cultural practices has been that of enforcement. The laws of Ghana mandates the Ghana Police Service and the Ministry of Justice and the Attorney General’s Department to arrest and prosecute offenders or defaulters of all laws including the ones indicated above. In addition, institutions such as CHRAJ, the Department of Social Welfare and the Domestic Violence and Victims Support Unit (DOVVSU), who per their mandates should monitor and investigate cases of human rights abuses as well as educate people to prevent or remedy such mischief are ineffective as a result of inadequate logistics and human resource capacity.

4.2 Conclusions

The campaign in Ghana to eliminate human rights abuses visited on women and children through negative cultural practices has picked up quite some momentum in recent times. However, age-old abusive customs are so entrenched in the traditions and belief systems of the affected societies that they virtually defy reform. This appears to have set the law and tradition on a collision course.

Nevertheless, respect for the fundamental human rights of women and children cannot be risked in the name of multiculturalism, especially when the key defining features of Ghana’s liberal democracy are threatened. A failure to handle the situation properly, could lead to the gradual disruption of the socio-cultural set-up in the contemporary globalized world environment.
The practice of culture, as well as the objective of maintaining a liberal democratic national psyche, behoves all players in a pluralistic approach to take up the challenge of reform. In line with the cultural pluralistic/multiculturalist theoretical basis of this study, Ghana has, and should sustain the right environment for all religion, culture and tribe to coexist and practice their belief, albeit within the ambit of the country’s laws.

It is concluded that the engagement of multiple actors becomes imperative in ensuring that the fundamental human rights of the individual is guaranteed. This would thus entail the active participation of NGOs, IGOs, CSO, Local and Traditional Authorities as well as the entire citizenry in a collaborative effort to protect the vulnerable and thereby deepen the country’s democratic process.

The study finds that the hypothesis that some of the existing cultural practices among certain groups in Ghana pose a real challenge to the defining features of liberal democracy as a governance system despite their acceptance and practice from generation to generation is grounded in the data gathered and analysed. A typical example is that, adult, sane women are incarcerated in camps, neither for mental illness nor for any proven crime, but for some reason of culture and tradition and are therefore unable to exercise their franchise, thus defeating the constitutional provision of universal adult suffrage. In addition, the women and children, by being deprived of their fundamental human rights through such cultural practices lose their basic rights of freedom of movement and association not to mention their limited or no access to good health and education.
The study also points to the conclusion that although Ghana has respectably high credentials within the international community as a model of good democratic governance and socio-economic reform in Africa, the impact of the negative aspects of culture dents this reputation considerably and could as well be a formidable driver of insecurity if not checked. Consequently, and in answer to earlier questions posed in the study, indeed, harmful practices, which are injurious to people and in this case, women and girls should be amended or forsaken and be aligned with the country’s laws.

4.3 Recommendations

Ghana’s pluralist democratic process requires the active participation of several stakeholders to uphold the key defining features of a liberal democracy. In view of their group acceptability and practice over generations, efforts to eradicate these obnoxious cultural practices, which indeed undermine liberal democracy, require a combination of education, sensitisation, law enforcement and consensus. The leadership of national and local level authorities, the participation and advocacy of CSOs, the media and other such stakeholders, as well as the cooperation and understanding of community and traditional leaders of the challenges posed by negative cultural practices are paramount in building the required consensus that would lead to eradication of rights abuse.

4.3.1 Early/Child Marriage or Marriage by Abduction

It is considered that there should be a conscientious effort at bringing about equal opportunity for both sexes through sensitisation of local communities and the citizenry at large. The gender prejudices against women could also be diminished quite considerably by according qualified women the opportunity to lead and contribute their quota to the local as well as
national political economy. This is likely to boost the image of women in what is predominantly a patriarchal societal setting.

Since early marriage is associated with and contributes to poverty, adolescent girls who have had to drop out of school to become wives and mothers could be offered skills training through developmental programmes to empower them economically and give them control over their lives.

Incorporating the teaching of human rights and social studies in the early stages of the educational curriculum of schools could also be very helpful. Sensitization programmes aimed at the need to educate the girl child instead of marrying her off at an early age requires intensification with emphasis on the advantages that the community as a whole stands to derive therefrom. A great deal of emphasis need be placed on the fact that educated and skilled girls are less of a burden on society and that such girls are more likely to grow up into responsible women who become meaningful contributors to the socio-economic and democratic development of the community and society as a whole.

The impact of monitoring and follow up visits by officials of CHRAJ and DOVVSU during the handling of cases of abuse of women and girl rights would be better felt if central government and local authorities commit to support their efforts with adequate resources.

In the matter of care for victims, it is recommended that owing to the disorientation, diverse forms of abuse, emotional trauma, depression and other health hazards that confronted girls who marry at tender ages, government and local authorities in collaboration with other
stakeholders should consider setting up rehabilitation facilities in the local authority areas to cater for the diverse needs of these victims.

4.3.2 Confinement of Witches in Camps

While efforts are ongoing to reintegrate the alleged witches confined in the camps into society, government in collaboration with gender experts, human rights activists, philanthropists and CSOs need to engage in a collaborative effort to assist and support these women and their dependants both in the integration effort and while they still remain in the camps. An improvement in the conditions in the camps including managerial control is considered a good beginning.

Their current state of neglect and exclusion only deepens their impoverishment and lack of opportunity. Offering them some skills training and organising them into cooperatives of various types of endeavor that blends with the local economy could empower them economically, restore their dignity and give a new life. Shea nut processing, farming including the running of poultry and piggery as well as the brewing of pito (local alcoholic drink) are areas of endeavor worth considering.

4.3.3 FGM

Intensive, regular community education targeted at community leaders, religious leaders, circumcisers, medical personnel, parents and potential victims, on the adverse effects of the practice would contribute to the building of consensus for the elimination of this cruel cultural practice. The enforcement of the law with punitive measures that set example would also serve as deterrent to the perpetrators.
Considering that immorality is often cited as the age-old raison d’etre for FGM in the local communities, the communities need to be sensitized and guided to implement alternative measures that would enhance morality not only among young girls but among the youth in general. These could include public awards during festivals, where girls who have kept their virginity or are morally upright by societal standards, may be decently paraded before a community gathering and ushered into womanhood, following which, marriage plans may appropriately commence.

Affected communities can also adopt a “shame and tell attitude” by forming vigilante groups to look out for perpetrators and report to the law enforcement agencies.

In addition, government hospitals in the three northern regions should have specialized units that can offer on gratis, counseling and corrective surgical services to victims badly scarred either psychologically or physically by FGM.

4.3.4 General Recommendations

The monitoring, investigation and enforcement of the rights of women and girls or their breach should be made a priority in the effort to ensure the preservation of the fundamental human rights of the citizenry as enshrined in the constitution. A planned partnership of Government with philanthropists, NGOs, IGOs and other stakeholders could facilitate the mobilization of resources for this effort. Additionally, a positive response to a call from the UN Secretary General, Ban Ki Moon for men to join the global fight against not only FGM, but other dehumanising cultural practices against women, should be heeded due to the great benefits such support could bring.
The Ministry of Chieftaincy and Traditional Affairs which serves as a bridge between tradition and modernity would need to liaise with the Ministry of Justice and the Attorney General’s Department and the Ministry of Gender and Social Protection to take both educational and enforcement steps to ensure that these vulnerable groups are protected. Considering the highly acclaimed pluralist character of the Ghanaian society, there is pressing need for consensus building such that all parties are made to appreciate the supremacy of the law and the inalienable rights therein for every individual.

The Media has a role to ply by incessantly highlighting the unlawful nature of these cultural practices as violations of the human rights of the victims and the punishments that they attract. The law enforcement agencies should also widely publicise each and every case of those who break the law and the punishments that they receive in order to serve as a deterrent. The effect on the victims and the impact on the image of the community that they come from and that of the country as a democracy based on the rule of law should form part of this deliberate publicity campaign. A conscious effort needs to be made to solicit stakeholder and corporate funding for this publicity campaign.

It would also be worthwhile to consider that establishment of centres with adequate facilities and amenities that could serve as rehabilitation centres for victims of harmful cultural practices, in the name of multiculturalism during the process of their reintegration into society in the instances where they have been ostracised or require assistance or support.

The call for female representation in the Regional Houses of Chiefs requires consideration for early implementation. Women representation at such traditional level of authority would
give women a voice on the traditional platform and thereby strengthen the case against these harmful practices against women and children in the traditional and local communities.
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