

**A MULTI-DISCIPLINARY ANALYSIS OF THE GIRL  
CHILD'S RIGHT TO BASIC EDUCATION IN WEST AFRICA**

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## **Abstract**

Over the years, a net increase in enrolment rates in primary schools has been observed worldwide. Nevertheless, in West Africa, girls still lag behind in terms of basic education. Although many other African societies face educational challenges in terms of realising girls' right to education, educational challenges are far greater for women and girls in West Africa. This region is considered to have the highest illiteracy level in the world, and the level of illiteracy is even higher for females. As a result, a gap persists between the number of boys and girls in primary schools. The reasons why this gap persists is because cultural limitations and poverty still undermine the realisation of girls' right to basic education in this part of the world. Girls' right to primary education is undermined through patriarchy; negative cultural perceptions associated with girls' education, child labour or child marriages, to mention but a few. Not only are educational disparities visible in terms of gender, but educational disparities are also visible between urban and rural areas. By taking into account such differences, and in order to best achieve universal basic education in West Africa, the use of multiple strategies is advised. It requires primarily the enforcement of legal measures in order to improve girls' enrolment and retention rates. Simultaneously, it requires economic solutions which can help the poor to send girls to school, with in addition strategies which focus on the role that institutions can play; whether these institutions are governments, traditional or religious institutions. Evidently, with these strategies, the role played by other actors such as citizens and non-governmental organisations, in ensuring girls' right to basic education cannot be underestimated.

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# Chapter 1: Introduction

## 1.1 Background to the research

Over the years, a net increase in enrolment for basic education has been observed world-wide. Nevertheless, a great number of children, especially girls, are still unable to attend school; and some amongst those who are able to attend drop out of school. Sub-Saharan Africa and West Africa in particular, is one of the regions in the world largely affected by this persistent issue: ‘West Africa’ refers here to member states of the Economic Community of West African States (ECOWAS). This regional organisation is constituted of 15 member states: Benin, Burkina Faso, Cabo Verde, Côte d’Ivoire, the Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo. Notwithstanding higher enrolment rates for primary education throughout the world, West Africa remains the region in the world with the highest level of illiteracy, especially for girls.<sup>1</sup> According to statistics, 14 million children in West Africa are illiterate and 8 million out of these 14 million are girls.<sup>2</sup> One of the primary reasons accounting for this state of affairs is that even though basic education is meant to be free, in most West African countries much like other African countries, free primary education is yet to become the norm. Secondly, social and cultural barriers often pose significant obstacles to girls’ access to basic education.<sup>3</sup>

## 1.2 Problem statement

The present situation is disconcerting, given that laws are in place to ensure universal basic education. The right to basic education is codified in a number of universal (UN) and regional (AU) texts. Amongst these documents figures the Universal Declaration of Human Rights (UDHR), stipulating that everyone has the right to education;<sup>4</sup> the Convention on the Rights

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<sup>1</sup> C Pearce ‘From closed books to open doors-West Africa’s literacy challenge’ Briefing paper (2009) 2.

<sup>2</sup> C Pearce (n 1 above) 8.

<sup>3</sup> A Thody & M Kaabwe *Educating tomorrow: Lessons from managing girls’ education in Africa* (2000) 20.

<sup>4</sup> United Nations. The Universal Declaration of Human Rights (1948).

of the Child<sup>5</sup> (CRC) and the African Charter on the Rights and Welfare of the Child<sup>6</sup> (ACC) also stipulating that basic education should be free and accessible to all.

All 15 ECOWAS countries have not only ratified the CRC, but also the ACC, the African Charter on Human and Peoples' Rights (ACHPR), as well as Protocol on the Rights of Women in Africa to the African Charter, and the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). All these states acknowledge the UDHR, even though at the time of its adoption in 1948 by the UN General Assembly, all current ECOWAS members except Liberia could not vote on the UDHR.<sup>7</sup> By acknowledging or ratifying all the above mentioned texts, ECOWAS countries committed themselves to the realisation of the right to education. The right to education is also known as one of the Millennium Development Goals (MDG). The commitment of these countries to the realisation of this right is even more evident in the fact that the right to education is enshrined in the Constitutions of all ECOWAS members.<sup>8</sup>

Other commitments are apparent in a number of initiatives taken by these countries. One such initiative is the adoption in 2000 of the Dakar Framework of Action, through which African governments vowed to increase to 9% their portion of GDP allocated to education.<sup>9</sup> Other efforts are apparent from, for example, the adoption of the ECOWAS Protocol on Education and Training adopted in Dakar in 2002; or in a finding suggesting that a landmark decision was taken by the ECOWAS Court in 2009, which ruled that Nigeria and its Universal Basic

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<sup>5</sup> Office of the United Nations High Commissioner for Human Rights, *Convention on the Rights of the Child* (1989).

<sup>6</sup> OAU 'African Charter on the Rights and Welfare of the Child' <Internet: [http://www.africa-union.org/official\\_documents/Treaties\\_%20Conventions\\_%20Protocols/a.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf](http://www.africa-union.org/official_documents/Treaties_%20Conventions_%20Protocols/a.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf)> (accessed 16 August 2012).

<sup>7</sup> Université d'été des Droits de L'Homme Genève 'The international system of human rights' <Internet: [http://www.aidh.org/uni/Formation/02Charte\\_a.htm](http://www.aidh.org/uni/Formation/02Charte_a.htm)> (accessed 14 August 2012). CIA factbook "Liberia" <Internet: <https://www.cia.gov/library/publications/the-world-factbook/geos/li.html>> (accessed 14 August 2012). Liberia had already gained independence in 1847, and could vote as a member state of the United Nations' General Assembly at the time of adoption of the UDHR.

<sup>8</sup> See constitutions of ECOWAS members.

<sup>9</sup> Pearce (n 1 above) 18.

Education Commission should ensure free primary education for all.<sup>10</sup> In addition the ruling specified that the right to basic education is justiciable before the ECOWAS Court.<sup>11</sup> This case will be discussed at a later stage in the paper at hand.

Despite such commendable efforts, there is a gap between what is envisioned and the reality on the ground, pertaining particularly to girl-child basic education right in West Africa.<sup>12</sup> Statistics show that more than half of the children not attending primary schools in West Africa are girls.<sup>13</sup> The 2011 MDG report further indicates that in Sub-Saharan Africa as a whole, an estimate of 92 girls for every 100 boys were enrolled in primary school in 2009.<sup>14</sup> This figure is in actual fact only 1 point above the 2008 figure. Thus, it is a global estimate and not a breakdown per country. Although the difference of 92 girls for every 100 boys might not seem huge, this gap ought not to exist. Hence, closing this gap which could be regarded as a matter of time, and tackling high drop-out rates, will be essential in sustaining the positive gains of high enrolment rates – especially for West Africa, where girls’ dropout rates are still high.<sup>15</sup>

Against this backdrop, the question worth asking is: How can access to universal basic education be best achieved in West Africa? The aim in answering such a question is to explore ways for addressing the issue at hand. Before answering this important question, another question is worth asking: Why does an educational gap exist between boys and girls in West Africa? Answers to these questions will provide a clear understanding of reasons

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<sup>10</sup> Right to education project ‘Landmark court decision on right to education’ <Internet: <http://www.right-to-education.org/node/719>> (accessed 20 August 2011).

<sup>11</sup> Right to education project (n 10 above).

<sup>12</sup> UNICEF ‘The state of the World’s children report 2011: Adolescence: an age of opportunity. Statistics table 5 Education’ < Internet: <http://www.unicef.org/sowc2011/statistics.php>> (accessed 20 August 2011).

<sup>13</sup> C Pearce (n 1 above) 2.

<sup>14</sup> United Nations ‘Millennium Development Goals Report’ (2011) 20. The 2009 girls’ enrolment figure for sub-Saharan Africa, is in actual fact only 1 point above the 2008 figure. For 2008 figure see: United Nations ‘Millennium Development Goals Report’ (2010) 20. In 2008 the enrolment ratio in Sub Saharan Africa was 91 girls for every 100 boys.

<sup>15</sup> C Pearce (n 1 above) 8. It is argued in this document that ‘drop-out rates are high: in Benin, Niger, Senegal and Burkina Faso, for example, fewer than 1 in 4 children who start primary school actually complete it; generally, the figures are lower for girls’. In other words, fewer girls complete primary school. Therefore more girls than boys drop-out of school.

behind high drop-out rates of girls or their non-attendance of primary school in West Africa. These reasons are, nevertheless, not peculiar to West Africa.

### 1.3 Literature review

The discrepancy between existing documents and the reality on the ground in term of education is reflected in a number of writings. These writings are analyses which account for the gap between boys' and girls' education, and which also underline why this gap exists. Amongst these texts, figures a book written by Thoko Kaime, who points to the fact that traditional ways of living do hamper the realisation of children's rights and the realisation of girls' rights in particular.<sup>16</sup> Thus, Doek and others draw a link between two self-reinforcing elements, the education of girls or lack thereof and poverty.<sup>17</sup> Reasons provided in these analyses, much like in other analyses, offer answers to one of the questions raised in the study.

As for the other question raised in the study pertaining to how the right to education can be best implemented and the educational gap narrowed, OXFAM as well as Marie Cecile Zoungrana and others argue in favour of innovative solutions.<sup>18</sup> Such solutions would for instance encompass cost reduction strategies that would motivate parents to send girls to school; or the construction of more schools closer to inhabited areas, which would allay fears of concerned parents. Thus, although much has not been written on the topic concerning specifically West Africa, all these readings covering Sub-Saharan Africa as a whole provide to a certain extent answers to the questions raised in the study.

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<sup>16</sup> T Kaime *The African Charter on the Rights and Welfare of the Child: A socio-legal perspective* (2009).

<sup>17</sup> EJ Doek et al *Child poverty: African and international perspectives* The African Child Policy Forum (2009).

<sup>18</sup> OXFAM 'Girls education in Africa' Education and Gender Equality Series' Programmes Insights (2005) 5; MC Zoungrana et al. 'Chapter 8 : l'émancipation des Africaines par l'école : mythe ou réalité' in T Locoh et al (eds) *Genre et sociétés en Afrique : Implications pour le développement* (2007) 214.



## 1.4 Methodology

The nature of the subject at hand calls for the use of a multidisciplinary approach. Although the legal approach is still very much dominant in the academic field of human rights, the richness of the multidisciplinary approach is undeniable, argues Viljoen.<sup>19</sup> Law is limited in providing answers; therefore one has to go beyond law. In doing this, the legal approach will be adopted while covering existent legal measures that are in place to ensure universal basic education. Achieving the latter is the legal ideal hoped for. In addition, it will be highlighted that law or the legal conditions of a country/countries play a role in how things play out in a society. On the other hand, a sociological as well as an economic approach will be adopted in order to examine the causes for a shortcoming in implementing girl-child basic education right in West Africa. In addition, an anthropological outlook will serve to understand why patriarchal and certain cultural ideals, which support the old way of doing things, are obstacles to girls' education. The importance of using these approaches will become apparent in the following section.

## 1.5 Structure of the mini-dissertation

In the second chapter of the study, patriarchy and culture are presented as possible barriers to girls being denied education in certain West African families.<sup>20</sup> This is evident in communities with a deep rooted traditional perception of women's role; and in communities within which are conducted traditional practices such as early child marriages, and female genital mutilation.

In the third chapter of the study, material conditions/poverty is presented as the second major hindrance to girls' education. It is evident through cost issues related to poverty and choices of early marriages. These are marriages with often limited reproductive health choices. In addition poverty affects girls' right to education through child labour and trafficking which

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<sup>19</sup> F Viljoen *Beyond the law: Multi-disciplinary perspectives on human rights* (2012). See introduction by F Viljoen, and chapter 7 by S Rushiella who argues in favour of a multidisciplinary approach, or even better an inter-disciplinary approach.

<sup>20</sup> E Kane 'Girls' education in Africa: What do we know about strategies that work?' (2004) 4; T Kaime (n 15 above).

are intended for purposes of economic gains.<sup>21</sup> Conversely, a lack of personal motivation on the part of some girls, nourished by these elements enumerated, can be a discouraging aspect for parents. The discriminatory attitude of ill-trained teachers towards female students is another element to be taken into account. These are all, some of the restrictive elements linked to material conditions and which prevent girls from enjoying their right to basic education.<sup>22</sup>

Lastly, in the final section of the study, recommendations on how to further close the gap between girls and boys in West Africa will be proposed. These recommendations are based on the premise that one has to go beyond legal reforms to bring about more concrete changes for women.<sup>23</sup> As an example of such recommendations, more awareness campaigns especially in rural areas are to be suggested. In other words, families that are against the education of girls and traditional institutions have to be sensitized about existent legal texts concerning education and they have to be convinced of the benefits of educating girls. Subsequently, it will be underlined that these campaigns can only be most effective alongside primary education being free in all West African countries; to encourage those who complain about costs issues to send their girls to schools. For this purpose, the role played by each country and ECOWAS is important. Thus, the construction of more non-formal schools will be considered. Non-formal schools have proved to be instrumental in areas where modern schools are perceived to be part of an alien culture.<sup>24</sup>

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<sup>21</sup> T Skard *Continent of mothers: Understanding and promoting development in Africa today* (2003) 98-99; LE Bass *Child labor in Sub-Saharan Africa* (2004) 8.

<sup>22</sup> P Alcock *Understanding poverty* (2006); A Kuenyehia *Women and law in West Africa: Gender relations in the family, a West African perspective* (2003).

<sup>23</sup> A Kuenyehia *Women and law in West Africa: Situational analysis of some key issues affecting women*, introductory chapter (1998).

<sup>24</sup> T Skard (n 21 above) 83-84.

## Chapter 2: Patriarchy and culture as possible barriers to girls' education

In this chapter, the effects of patriarchy on girls' education in West Africa are discussed. The extent to which this kind of familial structure is prevalent in West African families is such that, its impact on girls' education deserves great attention.<sup>25</sup> Various limitations imposed through this type of family structure and perceptions associated to it, can have a negative impact on girls' education. Subsequently patriarchy deserves attention. Moving on from the analysis of patriarchy as a family structure or a cultural family structure, attention will be given to two cultural practices presenting major obstacles to girls' right to education in West Africa. The emphasis here is on the word practices. These practices are child marriages and female genital mutilation.

### 2.1 Patriarchy

Patriarchy is defined by sociologist and anthropologists as a family structure that allows the oldest male figure or the father figure of a family to enjoy undisputed authority and power over others members of the family.<sup>26</sup> This power is exerted to a greater extent or at disproportionate length *vis a vis* female members of the family.<sup>27</sup> As a result females can have unfavourable decisions taken on their behalf. However, contestation cannot be ruled out completely in this kind of setting; and in order to prevent any form of contestation most patriarchs, especially the ones living in rural areas, would rather not have their girl-child empowered through education. The fear is that these children would start questioning the family structure. This argument rests on the assumption that education would not only enlighten their children, but it would trigger conflict within the family once the children start

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<sup>25</sup> T Ekiyor 'Female combatants in West Africa: Progress or regress?' WANEP- From the field 5<sup>th</sup> edition. On the first page of the document, the author contends that 'patriarchy is enshrined and entrenched in West African societies'. Nevertheless, this by no means implies that women do not play an important role in West African societies.

<sup>26</sup> M Kambarami 'Femininity, sexuality and culture: patriarchy and female subordination in Zimbabwe' Understanding Human Sexuality Seminar Series (2006); W Kariuki 'She is a woman after all: Patriarchy and female educational leadership in Kenya' (2006) 2 *Postamble* 65.

<sup>27</sup> n 26 above.

questioning the patriarchal structure of their family.<sup>28</sup> This reason explains why patriarchs in some West African families stand firmly against the education of girls. This is evident in the actions of patriarchal West African families who believe educating girls can only corrupt girls' mind, and therefore such families prevent girls from studying.<sup>29</sup> In the past, the same line of thought was followed outside the region, for example within certain Sudanese societies, where a lower bride price was paid for an educated woman, because educated girls were perceived to have corrupt minds.<sup>30</sup> The higher a woman's level of education, the lower her bride price used to be. In these types of scenarios, patriarchy acts as a barrier to girls' education.

Nowadays across Africa, the more educated a woman is the higher her bride price.<sup>31</sup> Hence, she is considered to have more value if she is educated. Nonetheless, Bekker warns that it would be mistaken to imagine that an educated girl's bride price is determined 'by paying more as you would for a thoroughbred animal; and that costs borne by parents throughout the girl's years of education is a deciding factor'.<sup>32</sup> In other words, in most cases the girl's parents would set the bride price to be paid by the groom according to how much they invested in their daughters' education. Moreover, parents take into account the fact that the girl is able to read, write, will be able to teach her future children and contribute financially in her husband's household if ever she works someday. Such advantages of having educated girls explains why increasingly in West Africa, fathers in some patriarchal families are more inclined to allow girls to go to school. Awareness campaigns have also played a role in this change of heart shown by some of these patriarchs. But in spite of such progresses, it is to be noted that whether a girl is allowed to attend school or forbidden from doing so, she is

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<sup>28</sup> M Bloch et al (eds) *Women and education in Sub-Saharan Africa: Power, opportunities and constraints* (1998).

<sup>29</sup> U Idoko 'Education means self-actualization: why the girl child must stay in school' *West Africa Insight* (2010) 2. Idoko gives an example of Muslim patriarchal West African families within which educating girls is seen as rendering the girls rebellious.

<sup>30</sup> Oxfam (n 18 above) 5.

<sup>31</sup> C Bodewes *Parish transformation in urban slums: voices of Kibera Kenya* (2005) 113. According to Bodewes "the amount or value of the bride price is based on the girl's level of education. See also abstract of CE Kaufman et al 'Adolescent pregnancy and parenthood in South Africa' (2000). It is argued in this document that "education is also strongly associated with the valuation of bride price: girls who are better educated bring a higher price".

<sup>32</sup> E-mail from Prof .JC Bekker on 26 April 2012 (on file with author).

expected to be submissive within a patriarchal family. The aim is to prevent her from becoming rebellious in her future husband's home. In this context patriarchy is regarded as a symbol of stability, in opposition to any form of rebellion.<sup>33</sup> However, even with these types of scenarios where a girl from a patriarchal family may be allowed to attend school, one should be wary of how patriarchy can be an obstacle to her education. Its effects can be visible especially when a girl is given loads of household chores which do not allow her to have sufficient time to study; or which do not allow a girl to perform to the best of her ability in school, all in the name of girls having to be completely submissive.<sup>34</sup> In such cases the girls may eventually drop out of school.

Understandably, perceptions and beliefs are some of the drivers behind decisions taken by some parents who oppose girls' education. Beside the negative patriarchal-bound perceptions that were enumerated in the previous sections, other negative perceptions about girls education are reflected in the first argument suggesting that boys are heirs to their fathers and as a result boys deserve to have an education;<sup>35</sup> mainly because a boy is considered a future father figure who will assume the role of head of family within his family of birth, whenever his father will pass away. A boy is equally considered a future father figure for the family he will build for himself later in life.

The other argument through which negative perceptions are reflected, and which is advanced by people opposing girls' education, suggests that boys are more intelligent than girls hence boys' education should come first.<sup>36</sup> The underlying assumption is that boys are cleverer and physically stronger. As a result, it is assumed that girls would benefit greatly from an informal education which only teaches girls how to run a household and how to become the epitome of an ideal woman; whereas their male counterparts are assumed to benefit greatly from a formal education preparing them to become future breadwinners. Such assumptions which draw a

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<sup>33</sup> OC Izugbara 'Patriarchal ideology and discourses of sexuality in Nigeria' The Department of Sociology and Anthropology University of Uyo: Nigeria (2004) 25.

<sup>34</sup> A Look 'In Senegal educators fight to keep girls in school' <[www. Voanews.com](http://www.Voanews.com)> (accessed 08 March 2012).

<sup>35</sup> D Kandiyoti 'Bargaining with patriarchy' (1988) 2 *Gender and Society* 274; OC Izugbara (n 32 above) 8. The birth of a male child is greeted with more joy.

<sup>36</sup> MB Sutherland 'Gender equity in success at school' (1999) 45 *International Review of Education* 431 at 438.

link between levels of intelligence and gender are erroneous. Many studies have proven that gender should not be considered as a yardstick for intelligence. This has to be understood by those who oppose girls' education. Thus, in order for these people to change their attitude towards girls' education; perceptions have to be altered for more positive changes to take place.

## 2.2 Culture

### 2.2.1 Defining culture

Culture is described as the traditions as well as customs that are learnt, and are passed on from one generation to the next.<sup>37</sup> These customs, traditions also encompass gender roles that are taught through a process called socialisation. On the one hand, culture presents a metaphysical or intangible aspect through ideas, norms, values and perceptions, to mention but a few;<sup>38</sup> On the other hand, it has a material aspect which is visible through totems and cultural practices such as female genital mutilation (FGM) or early marriages, amongst other things.<sup>39</sup> Of concern here are the role of FGM and impact of cultural perceptions associated with the practice of child early marriages on girls' education in West Africa. Financial aspects involved in early marriages as well as FGM, and repercussions on reproductive health will also be discussed.

### 2.2.2 Cultural perceptions associated with early marriages

Through the process of socialisation, West African girls are taught reproductive roles, which are roles typically assigned to women. Girls are given responsibilities regarding house chores; and they are generally not given any role aside from that of managing a household and a

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<sup>37</sup> A Giddens Sociology (2001) 26- 29; CP Kottak *Cultural anthropology:Appreciating cultural diversity* (2011) 5.

<sup>38</sup> ML Anderson & HL Taylor Sociology: *The essentials* (2003) 36.

<sup>39</sup> A Giddens (n 37 above)

nurturing role.<sup>40</sup> This explains some parent's reluctance, especially the ones living in rural areas, to send their girls to school. Most parents living in rural areas still hold on to the view that a girl should stay at home and carry out what is required of her. Evidently, the benefit of sending a girl to school is not yet understood by everyone. The table below reflects statements made regarding higher figures of child marriages in rural areas.

**Table 1: Statistics on child marriages (2000-2009) in ECOWAS countries<sup>41</sup>**

Countries	Total	Urban	Rural
Benin	34	19	47
Burkina Faso	48	29	61
Cape Verde	18	-	-
Côte d'Ivoire	35	27	43
Gambia	36	24	45
Ghana	25	13	38
Guinea	63	45	75
Guinea-Bissau	24	14	32
Liberia	38	25	49
Mali	71	60	77
Niger	75	42	84
Nigeria	39	22	50

<sup>40</sup> N Sudarkasa 'Sex roles, education and development in Africa' (1982) 13 *Anthropology & Education Quarterly* 279.

<sup>41</sup> Data source extracted from UNICEF 'Table 9 Child Protection' Internet: [http://www.unicef.org/protection/57929\\_58008.html](http://www.unicef.org/protection/57929_58008.html) (accessed 18 April 2012). Table notes: Child marriage – Percentage of women 20–24 years old who were married or in union before they were 18 years old. Child marriage – data compiled from MICS, DHS and other national surveys. (–) Data not available.

Senegal	39	23	55
Sierra Leone	48	30	61
Togo	24	15	36

According to these same statistics, Niger, Mali and Guinea top the list in terms of ECOWAS countries with the highest percentages of child marriage. In these countries, much like in other countries in the region, people who oppose girls' education consider education to be a recipe for disaster or disgrace. Such sceptics believe that exposing a girl child to the presence of boys in school and in an environment beyond parents' control, could lead to undesirable outcomes like pregnancies.<sup>42</sup> For this reason, a girl can either be forced to stay at home or prompted into an early marriage. The underlying assumption is that once a girl is married, people opposing girls' education do not see the relevance of education in the life of a married girl.

Alternatively, in cases where a girl is still allowed to attend school after being wedded, it is assumed that the authority exerted over her by her husband would be a sufficient deterrent for any sexual misconduct in school. Meanwhile, if the girl's husband impregnates her, studies are interrupted temporarily if not permanently owing to the girl's multiple household responsibilities or owing to pregnancy related medical reasons. These medical reasons vary from the development of a medical condition called obstetric fistula, to cases of death during delivery or even death of the girl's unborn child.<sup>43</sup> Maternal mortality is twice higher if not five times higher amongst young girls compared to mortality rates for much older women who are in their 20's and above.<sup>44</sup> For the lucky girls who survive delivery, obstetric fistula is

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<sup>42</sup> A Thody & M Kaabwe (n 3 above) 28; MC Zoungrana et al (n 18 above) 208.

<sup>43</sup> Chances of preventing all that is limited particularly that access to proper reproductive health system allowing safe abortion for women, is limited in a number of sub-Saharan African countries. See CG Ngwena 'Protocol to the African Charter on the Rights of Women: Implications for access to abortion at the regional level' (2010) 110 *International Journal of Gynecology and Obstetrics* 163-166.

<sup>44</sup> J Bayisenge 'Early marriage as a barrier to girl's education: A Developmental Challenge in Africa' National University of Rwanda; ICRW 'Child marriage facts and figures' <<http://www.icrw.org/child-marriage-facts-and-figures>> (accessed 28 April 2012);



generally the predicament to live with, as previously stated. It is a medical condition which leads to the incontinence of urine and faeces;<sup>45</sup> and as a result, girls presenting this type of medical condition are commonly rejected or stigmatised not only by the community they live in but by their husband as well. The same husbands for whom girls were once forced to leave school for or have their studies disrupted for, as a result of post-delivery complications, can easily repudiate the girls.

Furthermore, considering age gaps and physical differences, young brides are at greater risk of wife battering by their husband, especially if the husband has an abusive personality. Age gap also plays an important role as far as sexual experiences and transmission of sexual diseases are concerned. In other words, the men young girls are forced to marry are often people who have had numerous sexual experiences, and who could infect these girls with sexually transmissible diseases or HIV.<sup>46</sup> As a consequence of an ill state of health, studies can be disrupted. Having the opposite case whereby girls infect husbands is less probable, as the majority of girls are virgins when they are married off.

Thus for all these reasons, West Africans opposing girls' education have to understand that early marriage is a real recipe for disaster, not education.<sup>47</sup> One has to consider how early marriages most often results in the interruption of girls' access to primary education, and how it prevents girls from enjoying their childhood just like other children. A girl child has the right to become a future skilled worker, rather than being someone who is married off too young for financial gains.<sup>48</sup> These financial gains are sought through the girl's bride price or at times through monthly financial assistance provided by a girl's husband to her parents. Such calculations of weighing a girl's education against lessening family burdens by marrying the girl off ought not to be. A girl's education can bring much greater rewards to a family.

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<sup>45</sup> R Mutyaba 'Early marriage: A violation of girls' fundamental human rights in Africa' (2011) 19 *International Journal of Children's Rights* 339 at 347.

<sup>46</sup> J Bayisenge (n 43 above) 6; USAID 'HIV/AIDS health profile: West Africa' (2011) 1. HIV prevalence rate in West Africa is estimated at 2% for most countries. Thus, it is argued in this paper that women and girls' 'vulnerability to HIV stems both from greater physiological susceptibility to heterosexual transmission and from the severe social, legal, and economic disadvantages facing them'.

<sup>47</sup> U Idoko 'Education means self-actualization: why the girl child must stay in school' West Africa Insight (2010).

<sup>48</sup> R Mutyaba (n 45 above) 351.

### 2.2.3 The practice of female genital mutilation and its impact on girls' education in West Africa

Female genital mutilation (FGM) has been practiced over the years in a number of countries mainly in Africa, the middle-east and Asia. Across the world an estimate of 100 to 140 million girls and women have experienced FGM, and each year 3 million girls join their ranks.<sup>49</sup> In Africa, it is estimated that 92 million girls of 10 years of age and above have been subject to FGM. This practice has cost many women their lives or the loss of a precious part of their femininity, as well as the interruption of studies for other women. According to the World Health Organisation:<sup>50</sup>

*Female genital mutilation (FGM) comprises 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.*

Such procedures include the cutting or stitching of the external genitalia of a woman, as well as other methods. Various motives inform the decisions of parents who have the courage to put their daughters through this kind of traumatic experience. The first motive is the preservation of a woman's purity or virginity. The second motive is that FGM is performed as a rite of initiation in order to take a girl into womanhood; and it is considered a ritual of cleansing for preparing a woman before she gets married. Lastly, it is perceived as a medium for suppressing a woman's libido and guard against female promiscuity or marital infidelity.<sup>51</sup> In addition, there is a misconception regarding religion as the basis for carrying out FGM in some societies. This is a fallacy which ought to be done away with. All the aforementioned motives inform the decisions of those who practise FGM in West African societies. Herein is a table with the list of 28 African countries, in addition to a non-African country Yemen, where FGM is also still practiced widely:

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<sup>49</sup> World Health Organisation 'Female genital mutilation: fact sheet N°241' <http://www.who.int/mediacentre/factsheets/fs241/en/index.html> ( accessed 6 March 2012); UNFPA 'Promoting gender equality: frequently asked questions on female genital mutilation/ cutting' <Internet: <http://www.unfpa.org/gender/practices2.htm>> (accessed 6 March 2012).

<sup>50</sup> World Health Organisation (n 49 above).

<sup>51</sup> World Health Organisation 'An update on WHO's work on female genital mutilation (FGM): Progress report' (2011) 6.

**Table 2: Percentage of women aged 15-49 who have been cut; data for the 29 countries known to practice FGM/C widely<sup>52</sup>**

Country or territory	Total	Place of residence		Wealth Index Quintile					Source
		Urban	Rural	Poorest	Second	Middle	Fourth	Richest	
Benin	13	9	15	15	19	17	10	5	DHS 2006
Burkina Faso	73	76	71	68	74	67	78	76	MICS 2006
Cameroon	1	1	2	1	4	1	1	1	DHS 2004
Central African Republic	26	21	29	38	31	26	21	14	MICS 2006
Chad	44	46	44	53	47	43	37	43	MICS 2010
Côte d'Ivoire	36	34	39	55	34	37	38	23	MICS 2006
Djibouti	93	93	96	-	-	-	-	-	MICS 2006
Egypt	91	85	96	95	96	95	92	78	DHS 2008
Eritrea	89	86	91	94	91	89	87	84	DHS 2002
Ethiopia	74	69	76	73	76	75	78	71	DHS 2005
Gambia	78	72	83	75	86	86	82	64	MICS 2005-06
Ghana	4	2	6	9	7	3	1	1	MICS 2006
Guinea	96	94	96	-	-	-	-	-	DHS 2005
Guinea-Bissau	50	41	57	49	57	60	44	41	MICS 2010
Kenya	27	17	31	40	31	29	26	15	DHS 2008-09
Liberia	58	40	72	73	71	67	51	35	DHS 2007, UNICEF HQ calculations
Mali	85	81	87	94	88	82	77	86	DHS 2006
Mauritania	72	60	84	96	90	77	60	49	MICS 2007
Niger	2	2	2	-	-	-	-	-	DHS 2006
Nigeria	30	y	37	26	13	23	30	39	DHS 2008
Senegal	28	22	34	39	43	32	23	13	DHS 2005
Sierra Leone	91	85	95	95	95	95	92	81	DHS 2008

<sup>52</sup> Table taken over from Childinfo 'Percentage of women aged 15-49 who have been cut; data for the 29 countries known to practice FGM/C widely' Internet: Source: [http://www.childinfo.org/fgmc\\_prevalence.php](http://www.childinfo.org/fgmc_prevalence.php) (accessed 6 March 2012). DHS: Demographic and Health Surveys, MICS: Multiple Indicator Cluster Surveys, SHHS: Sudan Household Health Surveys, ZSBS: Zambia Sexual Behaviour Survey.

Somalia	98		97	98	98	99	98	98	96	MICS 2006
North Sudan	89		88	90	74	84	89	91	93	SHHS 2006, UNICEF HQ calculations
Togo	4		3	5	5	5	5	4	2	MICS 2010
Uganda	1		0	1	1	1	1	0	0	DHS 2006
United Republic of Tanzania	15		8	17	25	16	17	13	6	DHS 2010
Yemen	23	y	26	22	-	-	-	-	-	DHS 1997
Zambia	1		-	-	-	-	-	-	-	ZSBS 2009

Of the 28 African countries listed in the table above, 14 are ECOWAS countries. The latter figure shows the magnitude of the problem in the West African region, even though according to a 2011 progress report, Egypt and Ethiopia alone were said to account for almost half of the total number of African women having undergone FGM.<sup>53</sup> It is essential to underline that the totals listed in Table 2 above only indicate for each country the percentage of the female population aged between 15 and 49 that has undergone FGM; and these totals do not reflect the percentage of the total number of African female aged between 15 and 49 having undergone FGM and who live in each of these countries. Figures listed for West African countries where FGM is still widely practiced are alarming. By looking at the Table, the West African region is the African region with the most countries where FGM is still widely practiced.

In order to reduce the number of people still practising FGM, specific strategies have been adopted. In Senegal and Burkina Faso, for instance, perpetrators of FGM can be prosecuted and punished. In Burkina Faso, 14 people were arrested for practising FGM on 16 girls aged between two and ten years in 2004.<sup>54</sup> Punishments for such perpetrators vary from a fine to a punishment of life imprisonment. The adoption of these kinds of drastic measures was driven by an assessment of the health related issues attached to this practice, and the associated

<sup>53</sup> World Health Organisation (n 51 above) 2.

<sup>54</sup> BBC 'Circumcision arrest in Burkina' <<http://news.bbc.co.uk/2/hi/africa/3574466.stm>> (accessed 14 March 2012); MH Mottin-Sylla & J Palmieri *Confronting female genital mutilation: The role of youth and ICTs in changing Africa* (2011) 6.

infringement of women's rights.<sup>55</sup> In total, 18 African countries have legislated criminal laws criminalising FGM. Nevertheless, this figure is disputed by those who state 21 countries. Below is a table with the list of the 18 countries:

**Table 3: List of African countries that have criminalised FGM<sup>56</sup>**

Countries that are ECOWAS members	Other African countries that have criminalised FGM
Benin (2003)	Central African Republic (1966)
Burkina Faso (1996)	Chad (2003)
Côte d'Ivoire (1998)	Djibouti (1994)
Ghana (1994)	Egypt (2008)
Guinea (1965, 2000)	Eritrea (2007)
Niger (2003)	Ethiopia (2004)
Senegal (1999)	South Africa (2005)
Togo (1998)	Kenya (2001)
	Mauritania (2005)
	Tanzania (1998)

Of these countries listed, it is worth noting that Eritrea is one of the latest countries to have made great strides in criminalising FGM. The Eritrean government, in 2007, made a proclamation banning FGM and which rendered punishable this practice on its territory.<sup>57</sup> Sanctions vary from a fine to a year of imprisonment, or a maximum of 10 years of imprisonment. Such actions taken to criminalise FGM much like in other African countries, particularly ECOWAS countries listed in Table 3, are commendable and greatly needed.<sup>58</sup> These actions are undertaken with the aim of ensuring that other women do not go through female circumcision, and suffer from its psychological or physical consequences.

<sup>55</sup> African Commission on Human and Peoples' Rights 'Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' (2003) <Internet: <http://www.achpr.org/instruments/women-protocol/>> (accessed 14 March 2012). See Article 5 (harmful practices).

<sup>56</sup> Reproductive Rights 'Female Genital Mutilation (FGM): Legal prohibitions worldwide' < Internet: <http://reproductiverights.org/en/document/female-genital-mutilation-fgm-legal-prohibitions-worldwide>> (accessed 14 March 2012).

<sup>57</sup> DR Mekonnen 'The abolition of female circumcision in Eritrea: Inadequacies of new legislation' (2007) 7 *African Human Rights Law Journal* 389 at 398; Government of Eritrea, Proclamation 158 /2007A Proclamation to Abolish Female Circumcision (2007).

<sup>58</sup> BBC (n 54 above).

Health issues related to this practice, range from infections, to complicated child birth in cases where infibulation has already been carried out on a specific individual. Nhima Cisse, who is currently a Member of Parliament in Guinea-Bissau, suffered the same fate during childhood, and later on in life struggled immensely during childbirth.<sup>59</sup> Her first born only survived 24 hours, but luckily the following three children were able to survive as she gave birth in the best conditions in hospitals abroad.<sup>60</sup> Unfortunately, for young girls confronted with the same circumstances and no means to be flown abroad, this situation means an assured death; or postnatal complications as the complication discussed on the section on early marriages. In the event of the first situation, death means permanent absences of some schoolgirls in schools. In the second situation, depending on the gravity of postnatal complications, girls' absence in schools may be temporal or permanent.

Beside difficulties experienced during childbirth, other physical consequences of FGM need attention. These other immediate consequences are generally visible through haemorrhage and severe pain felt by victims or through infections that are visible in the short term.<sup>61</sup> Other infections, such as bladder infection or that of the reproductive system, occur in the long run. Different tools such as razor blades, a piece of glass or knives – to mention but a few – are often instruments with which these infections are transmitted while carrying out FGM. These instruments constitute an essential breeding ground for bacteria, as they are used on multiple patients. While being employed on multiple patients, these same instruments are mediums through which HIV infection can occur.<sup>62</sup> In a state where a girl is already HIV infected, attending school will become increasingly hard as the person becomes weaker. In worst case scenarios the person could be restricted from attending school by teachers. This is more evident in areas where there is great stigma attached to HIV. As far as other infections are concerned, weeks taken off to carry out female circumcision on a girl; and time given to the girl to recover from pain in addition to possible infections, results in school absenteeism

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<sup>59</sup> S Nzirorera 'In Guinea-Bissau, a victim of female genital mutilation/cutting calls for its end' < [http://www.unicef.org/infobycountry/guineabissau\\_41785.html](http://www.unicef.org/infobycountry/guineabissau_41785.html)> (accessed 12 March 2012);

<sup>60</sup> World Health Organisation (n 50 above); B Ras-work 'The impact of harmful traditional practices on the girl child' United Nations Division for the Advancement of Women (DAW) (2006) 4.

<sup>61</sup> Government of Eritrea (n 57 above).

<sup>62</sup> E Monjok et al 'Female genital mutilation: potential for HIV transmission in Sub-Saharan Africa and prospects for epidemiologic investigation and interpretation' (2007) 11 *African Journal of Reproductive Health* 33 at 37-38.

during that period. Worst case scenarios are when recurrent infections result in physical weakness, prolonged absenteeism, and eventually result in discouraging a girl from ever attending school.

As much as physical harm caused by FGM is not to be taken lightly, psychological effects are also not to be disregarded. Both physical and psychological effects of FGM have an impact on girls' education. Concerning the psychological aspects, it is proven that inattentiveness, loss of interest and poor performance in school are observable in girls who have undergone FGM.<sup>63</sup> Some girls feel a sentiment of shame for having undergone this painful procedure against their will, in addition to having their sexual privacy violated. For other girls this sentiment of shame is triggered by an ill state of health related to HIV or other infections; while in other instances it is a sentiment of shame felt because of the marginalisation of classmates when they see a girl child constantly sick. The result of all this is often girls dropping out of school and not seeing the relevance of attending school.

Lastly, it is worth noting that cases of girls dropping out of school in FGM scenarios may well be a decision taken by parents for financial considerations specifically. Parents who spend too much of their savings on the FGM of their daughter can opt for the termination of the girl child's education, if they deem not to have the finances for the girl to pursue her education.<sup>64</sup> Although not an ideal situation, it is one of the reasons why a girl may not be able to receive an education in West Africa.

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<sup>63</sup> E Finke 'Genital mutilation as an expression of power structures: Ending FGM through education, empowerment of women and removal of taboos' (2006) 10 *African Journal of Reproductive Health* 13; IPPF 'Briefing paper: Female genital mutilation' (2008); BBC 'Circumcision arrest in Burkina' <<http://news.bbc.co.uk/2/hi/africa/3574466.stm>> (accessed 14 March 2012).

<sup>64</sup> Finke (n 63 above) 13 at 16.

## **Chapter 3: Effects of poverty and material conditions on girls' education in West Africa**

From discussions in the previous chapter, it is to be noted that FGM and early marriages are not only culturally motivated, but are in other circumstances based on financial considerations owing to poverty. In other words, in as much as culture plays an important role in both practices being carried out. Nevertheless, in specific instances poverty is the reason behind the execution of these practices. Such instances are situations whereby FGM is undertaken as a prerequisite for an early marriage that will be financially rewarding for a family giving its girl-child in marriage. FGM may or may not always precede an early marriage, which can be carried out with the objective of making economic gains and acquisitions. When economic considerations surpass cultural motivations in undertaking FGM or child marriage – poverty and not culture – becomes in turn the driver for acquiring money and wealth.

Child labour and child trafficking are also closely linked to poverty, as circumstances arising from poverty; and both present major obstacles to the realisation of girls' right to primary education. But unlike FGM and early marriages, financial considerations play a far greater role if not the role of sole driver, as far as child labour and child trafficking are concerned. Both are perceived to be quick ways of making money, although the reality might not always be the case. Thus, through both, girls' education is negatively affected. For this reason, the first section of this chapter explores the negative effects of child labour, and the second section explores the effects of child trafficking.

### **3.1 Child labour**

The term child labour commonly refers to economic activities undertaken by a child under strenuous physical or mental conditions, with or without pay. Nevertheless, the term child labour can also be used when referring to a child who is overworked with domestic chores at home.<sup>65</sup> In this case the child clearly does not receive any pay for the work done. According to the ILO (International Labour Organisation), child labour is any type of work undertaken

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<sup>65</sup> UNICEF 'Child labour and commercial sexual exploitation. Related links' Internet: [http://www.unicef.org/esaro/5480\\_child\\_labour\\_sexual\\_exploitation.html](http://www.unicef.org/esaro/5480_child_labour_sexual_exploitation.html) (accessed 15 June 2012).



by a child below the age set by ILO standards. In general the child must be 15 years of age, which is the age of completion of compulsory schooling, before undertaking any form of economic activities. Nevertheless, this is subject to exceptions by taking into account ILO convention C138.<sup>66</sup> Article 2 of C 138 specifies that the minimum age for employment should not be less than 15 years. But where economic conditions are dire and poor educational conditions prevail, a state should consult with organisations of employers and workers to set the minimum age of employment at 14 years.

.Meanwhile UNICEF defines child labour as work that can be identified in these terms based on a child's age and depending on the number of hours of work undertaken. These numbers of hours identified per age groups and which enable to identify a child's work as child labour are the following:<sup>67</sup>

*Ages 5-11: At least one hour of economic work or 28 hours of domestic work per week.*

*Ages 12-14: At least 14 hours of economic work or 28 hours of domestic work per week.*

*Ages 15-17: At least 43 hours of economic or domestic work per week.*

Beside the provisions of ILO C138 for the minimum age of work and the abovementioned specifications made by UNICEF, ILO convention C 182 is similarly a landmark document with respect to child labour. It is the convention concerning the prohibition and immediate action for the elimination of the worst forms of child labour, and which defines what the worst forms of child labour are. The worst forms of child labour are identified as:<sup>68</sup>

*slavery, debt bondage, prostitution, pornography, forced recruitment of children for use in armed conflict, use of children in drug trafficking and other illicit activities, and all other work likely to be harmful or hazardous to the health, safety or morals of girls and boys under 18 years of age.*

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<sup>66</sup> ILO 'C138 - Minimum Age Convention, 1973 (No. 138) Convention concerning Minimum Age for Admission to Employment' (Entry into force: 19 Jun 1976).

<sup>67</sup> UNICEF (n 65 above).

<sup>68</sup> ILO 'InFocus programme on promoting the declaration on fundamental principles and rights at work: Child labour in Africa'.

As this definition points out, child labour or the worst forms of child labour may be assumed willingly or unwillingly by children for various reasons, with poverty being the driving force behind work motivations. For children hailing from child headed households work is a means for survival regardless of how physically or mentally demanding the job may be.<sup>69</sup> For the ones hailing from adult headed households or single parent headed households, child labour is a form of contribution to the day to day running of the household. But not least, it is a way to contribute to the household income, if work is conducted outside the familial home. For other children, work is simply an alternative they were forced by parents to take, as a result of parents not being able to bear school fees. Limited availability of schools in some areas as well as poor quality of education in some schools, are other reasons why parents could refrain from sending children in school.<sup>70</sup>

In Africa, statistics reveal that 41% of all African children are subjected to child labour. And more than 30% of African children who are between the age of 10 and 14 are agricultural workers.<sup>71</sup> The rest are mainly domestic workers. Majority of African children involved in child labour take on tasks requiring long hours of work, physical efforts beyond their physical strength, and which are paid low wages; Where this is done upon parents' requests, some parents profit from the exploitation of their children and believe to be doing so in the children's best interest. The girl-child is no exception to this practice. The following is a table illustrating the percentage of children between the age of 5 and 14 who are involved in child labour in the ECOWAS region specifically:

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<sup>69</sup> M Boas & A Hatloy 'Child Labour in West Africa: Different Work – Different Vulnerabilities' (2008) 46 *International Migration* 3 at 4.

<sup>70</sup> A Admassie 'explaining the high incidence of child labour in Sub- Saharan Africa' African Development bank (2002) 262.

<sup>71</sup> ILO (n 68 above).

**Table 4: Percentage of children aged 5-14 engaged in child labour in ECOWAS countries:<sup>72</sup>**

Country or territory	Total	Gender		Place of residence		Wealth Index Quintile					Source
		Male	Female	Urban	Rural	Poorest	Second	Middle	Fourth	Richest	
Benin	46			-	-	-	-	-	-	-	DHS 2006 data, UNICEF HQ calculations
Burkina Faso	38			-	-	-	-	-	-	-	ENTE-BF 2006, UCW Project calculations
Cape Verde	3	y		-	-	-	-	-	-	-	IDRF 2001, UCW Project calculations
Côte d'Ivoire	35			20	45	52	44	39	22	14	MICS 2006
Gambia	25			17	29	34	29	25	21	11	MICS 2005-06
Ghana	34			20	43	48	46	31	24	14	MICS 2006
Guinea	25			-	-	-	-	-	-	-	MICS 2003 data, UNICEF HQ calculations
Guinea-Bissau	57			45	65	67	66	59	47	38	MICS 2010
Liberia	21			16	24	27	25	21	18	14	DHS 2007
Mali	36			24	39	40	42	38	32	21	MICS 2010
Niger	43			-	-	-	-	-	-	-	DHS 2006 data, UNICEF HQ calculations
Nigeria	29			21	32	34	34	29	27	17	MICS 2007
Senegal	22			-	-	-	-	-	-	-	DHS 2005 data, UNICEF HQ calculations
Sierra	48			28	57	59	57	57	44	26	MICS 2005

<sup>72</sup> Table taken over from Childinfo 'Percentage of children aged 5-14 engaged in child labour' < Internet: [http://www.childinfo.org/labour\\_countrydata.php](http://www.childinfo.org/labour_countrydata.php)> (accessed 10 April 2012). DHS: Demographic and Health Surveys, ENTE-BF: Enquete Nationale sure le Travail des Enfants au Burkina Faso (Burkina Faso), IDRF: Inquerito as despesas e receitas familiares (Cape Verde), MICS: Multiple Indicator Cluster Surveys, - Data not available, y Data differ from the standard definition or refer to only part of a country. Such data are included in the calculation of regional and global averages.

Leone												
Togo	47		44	49	31	54	54	55	54	33	27	MICS 2010

Figures in the table above show that children's economic participation is higher in rural areas in contrast with urban areas. The reason being that poverty levels are higher in rural areas and subsequently in these areas more parents rely on children's work as an additional source of income. In a greater number of the countries listed in the table above, the number of boys involved in child labour is higher than the number of girls. Moreover, more girls than boys are inclined to play the role domestic workers. Girls are thought to be best suited for this kind of job, considering that in West Africa girls are domesticated from an early age.<sup>73</sup> Girls carry out many family's house chores, and work in farms or generally as domestic servants in other people's home. Unfortunately, during the time spent by girls while working in farms or as domestic servants, some girls are eventually sold by their parents to their employer. The employer in turn has the option to continue exploiting or the option to traffic the girls in other countries for the sake of money.

This practice is common in West Africa, in countries like Benin or Togo for instance, where traffickers have already made a name for themselves and where proper border control is not always guaranteed. A case in point is when in 2006, two girls Amina Aku and Zina Adam were reported to have been trafficked from Ghana to Benin in order to serve as domestic servants.<sup>74</sup> The girls were eventually rescued after escaping from the traffickers' hands. Reports also suggest that in general when children are sent to work in other countries, they do so as beggars, are involved in petty trade, and work in farms or as domestic workers in people's home.<sup>75</sup>

<sup>73</sup> M Dottridge 'Trafficking in children in West and Central Africa' (2002) 10 *Gender and Development* 38 at 39.

<sup>74</sup> Ghanaweb 'Two girls trafficked to Benin rescued' (2006). Internet: <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=103482> (accessed 9 May 2012).

<sup>75</sup> E Harsch 'Child labour rooted in Africa's poverty' (2001) 15 *Africa Recovery* 14.

As a result not only children's wellbeing is affected by child labour, but their education suffers from it as well. It in turns not only increases the number of illiterate boys, but the number of illiterate girls as well. It in turns worsens the educational conditions of girls, amongst who the number of illiterate persons is already higher than the number of illiterate boys in West Africa. When children are subjected to child labour and want to juggle work with school, exhaustion leads to children being unable to continue attending school or being unable to focus in school. Exhaustion can be physical or mental. For children who simply do not have the time to juggle school and work, school is considered not to have a place in their daily lives.

This type of situation is experienced as well by girls who work as domestic servants. These girls barely have any time of their own from morning until night, when it is finally time for the girls to go to bed after everyone else has gone to bed. Similarly, hundreds of thousands of children working in the cocoa industry in West Africa find themselves in the same situation, where school barely has any place in the children's lives; which are lives fraught with many risks including health risks. For instance many in the cocoa farms regularly cause serious injuries to their legs, while using the machetes they work with.<sup>76</sup> With school having very little place if not any place at all in the lives of these children, possibilities of having an education are forgone, in the hope of building a better future through work. This is another way child labour affects negatively access to basic education. Such circumstances require more actions.

Any work activity should not interfere with the education or health of a child. Even though in the African culture as well as the African Children's Charter, a child is said to have duties towards parents, such duties are by no means meant to be at the expense of the child's wellbeing or education.<sup>77</sup> For this reason, parents must ensure that duties of their children do not become obligations that are not sensitive to the needs of a child or the best interest of a child's education, especially girls. Thus more projects should be initiated to eliminate child labour in West Africa.

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<sup>76</sup> H Hawksley 'Ivory Coast farms child labour: little change' <internet: <http://www.bbc.co.uk/news/world-africa-15681986>> (accessed 12 May 2012).

<sup>77</sup> C Heyns & M Killander *Compendium of key human rights documents of the African Union*. African Children's Charter (2010). Article 31 of the ACC makes provision for the duties of the African child.

For all these reasons, projects such as project Lutrena initiated in collaboration with ILO's IPEC (international program for the elimination of child labour) and nine ECOWAS countries are commendable.<sup>78</sup> Lutrena was introduced with the objective to fight child trafficking in west and central Africa, with the former region being identified as a zone where recruitments generally takes place; and the latter region being identified as zone of sale or exploitation of children. The program much like many other programs established a connection between the recruitment of girls in West Africa and their employment as domestic servants in central African countries like Gabon. Likewise, WACAP (the West Africa cocoa/commercial agriculture project) initiated for the period of 2003 to April 2006 was a project of the sort, also carried out under the auspices of IPEC.<sup>79</sup> This initiative was equally destined for the fight against child labour and for the elimination of worst forms of child labour in the agricultural sector to be precise. The scope of its operations covered the agricultural sector in Cameroon, Cote d' Ivoire, Ghana, Guinea and Nigeria;<sup>80</sup> thus allowing the rescue of many children who were in the end reunited with their families. Additional projects of the kind are needed to save girls from the exploitation they might be subjected to in their own country or other countries; to reunite them with their families, and see to it that they have access to primary education.

### 3.2 Child trafficking

Human trafficking is an additional problem affecting the West African region, particularly children living in the region. Human trafficking is one of the most lucrative enterprises in organised crime, generating about 7 to 10 billion dollars per year globally.<sup>81</sup> Such large profits

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<sup>78</sup> A Keita 'Chapter 16: the implementation of ILO child labour standards in Africa: Mali an assessment from a socio legal perspective' in N Giuseppe et al. *Child labour in a globalized world: A legal analysis of ILO action* (2008) 350- 352. The 2005 Lutrena agreement was signed by Benin, Cote d' Ivoire, Guinea, Niger, Nigeria, Liberia, Mali and Togo.

<sup>79</sup> WACAP 'West Africa cocoa/commercial agriculture programme to combat hazardous and exploitative child labour (Cameroon, Cote d'Ivoire, Ghana, Guinea and Nigeria): Terminal report'.

<sup>80</sup> ILO 'WACAP: The West Africa Cocoa/Commercial Agriculture Project' <<http://www.ilo.org/public/french/region/afpro/yaounde/coop/wacap/index.htm>> (accessed 15 May 2012). On this webpage also figures the number of children taken away from child labour the year 2006.

<sup>81</sup> A Sesay & K Olayode 'Regionalisation and the war on human trafficking in West Africa' Obafemi Awolowo University (2008) 2. (On file with author, used for purposes of this dsissertation only).

explain why an estimated 200 000 to 800 000 people are trafficked annually in West Africa.<sup>82</sup> Evidently women and children form the most vulnerable group or easiest groups to target amongst victims of human trafficking. According to the UN protocol on Human Trafficking (Palermo Protocol), certain criteria define human trafficking. The definition of human trafficking provided by this protocol is a holistic definition. According to article 3(a) and 3(c) of the Palermo protocol, human trafficking is the ‘recruitment, transportation, transfer, harbouring or receipt of persons’ willingly or unwillingly.<sup>83</sup> These actions can be carried out forcefully or not forcefully through the abuse of power or deception, with the intentions of exploiting those who are trafficked. Exploitation can be in the form of forced labour, sexual exploitation, slavery, debt bondage or trafficking of human body parts.<sup>84</sup>

This definition not only takes into account the use of force, but it also reckons that fraud, deception and control can be used to facilitate trafficking in persons. Furthermore, this definition underlines the fact that perpetrators of human trafficking not only include human traffickers, but also intermediaries and people on the receiving end. Subsequently tackling human trafficking requires an understanding of the subject, its causes and all actors involved. In other words, tackling human trafficking or even child trafficking in West Africa, requires a multidimensional approach.

The history of child trafficking in West Africa can be traced back as far as the 1980’s, when this phenomenon proved to be progressively a very lucrative business in the region.<sup>85</sup> Through this illegal business, many children have been subject to interstate mobility or intrastate mobility for purposes of child soldier recruitment, labour exploitation, sexual exploitation, slavery and sale of children, amongst other things. Unfortunately, in the beginning, people’s ignorance of the many ways in which traffickers operate played a major role in the expansion of child trafficking in West Africa. But over the years this changed and West Africans became more wary of traffickers. Nevertheless the problem still persists, and poverty is at the heart of the problem.

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<sup>82</sup>A Sesay & K Olayode (n 81 above) 3.

<sup>83</sup> United Nations ‘Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime’ (2002). See Article 3.

<sup>84</sup> United Nations (n 83 above).

<sup>85</sup> M Dottridge (n 73 above) 39.

Poverty plays a major role in human trafficking in two ways. On the one hand, criminals who are for the most part destitute ex combatants or transnational criminals get involved in human trafficking in West Africa for purposes of making money.<sup>86</sup> On the other hand, owing to poverty a number of poor families fall prey to human trafficking. As children are sent away to ease family burden and improve children's living conditions, families get tangled in the web of human trafficking. This process happens through children being left in the hands of traffickers or through children being put in the care of relatives living in urban areas or in another country, especially in the case of children hailing from rural areas. The process of putting children in the care of unknown traffickers or relatives is at times initiated by parents, but in other instances it is the other way around. When it is the other way around, strangers or relatives take the first step in approaching the children's family in a reassuring manner. Reassuring ways include making false promises for a better life elsewhere and vowing to provide an education for the children.<sup>87</sup> This deception works at its best when parents are convinced that once children are given a better life, they will be able to assist parents financially. These are ways traffickers or relatives use to earn people's trust, by painting rosy pictures for which parents can easily fall for. In sum, high levels of poverty and desperation push number of West African parents to place children in the wrong hands, of those who employ deception as weapons.

After being trafficked, children are in turn exploited in various ways; and most often parents never receive a dime of children's sweat. In worst case scenarios, parents never have the opportunity to set eyes again on their children. Aside from deception, it is worth mentioning that abduction is the other essential means employed by traffickers to conduct child trafficking. In this case children are forcefully taken away from their home and are subject to trafficking. For example children may be playing outside their homes or walking back home from school and be suddenly abducted by a stranger walking on the street, or worst, by an unscrupulous neighbour.

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<sup>86</sup>A Prosper 'Cross-border criminal activities in West Africa: options for effective responses' Koffi Annan International Peace Keeping Training Centre (2006) 4.

<sup>87</sup> K Manzo 'Exploiting West Africa's children: Trafficking, slavery and uneven development' (2005) 37 *Area* 393 at 399. The Author states that traffickers rely on perceptions of uneven development to deceive a greater number of people.



Here again children are the greatest victims, while those conducting child trafficking benefit from it financially. Girls who are trafficked are for the most part taken to be domestic workers or child prostitutes, whom are subject to all sorts of abuses including rape.<sup>88</sup> In the end, dreams or promises of being given an education are shattered and give way to a nightmare never for once suspected by the children. Ensuing from this, the children lose out on their education and – the way out of poverty so wished for by their parents who sent away their children – simply remains a status quo. Ultimately families which send away their children, including girls, end up being faced with a loss of future human capital. The reason is that, if such children remain with their parents and are provided an education, they could be of great help someday. They could one day become professionals who would lift up their parents out of poverty and improve their family's living condition.

Child trafficking is a barrier to the development of children and their education. This is why Thomas Jaye states that 'trafficking reinforces the cycle of illiteracy and poverty';<sup>89</sup> which places the girl-child at an even more disadvantageous position than what the reality already is. As previously stated more girls than boys are out of school in West Africa, and more girls compared to boys face greater obstacles regarding their education. Therefore when their numbers are affected by child trafficking, a greater number of girls face the possibility of not having an education.

This is why the role played by governments and ECOWAS is crucial, in not only helping those who cannot afford the education of their children but in enforcing legislative measures in the fights against child trafficking in West Africa. The UN convention on trafficking, the CRC's protocol on the prostitution, sexual exploitation and pornography of children, in addition to the ACC recognise the vulnerability of children regarding child trafficking; and the need to protect children. These texts related to the fight against human trafficking are supplemented at the ECOWAS level by the ECOWAS treaty on extradition and the ECOWAS convention on mutual assistance on criminal matters;<sup>90</sup> both of which regulate how extradition of criminals, including traffickers, should be conducted and how cooperation in

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<sup>88</sup> Sesay & Kehinde (n 81 above) 23. The authors argue that 'the girl-child, is perhaps the most vulnerable among the groups that are most at risk'.

<sup>89</sup> T Jaye 'The security culture of the ECOWAS: Origins, development and the challenge of child trafficking' (2008) 26 *Journal of Contemporary African Studies* 151 at 161.

<sup>90</sup> ECOWAS, Convention on extradition, Abuja (1994); See also Sesay & Kehinde (n 81 above) 13.

terms of criminal investigations can be used to put traffickers behind bars. In the same line of thoughts a declaration and plan of action against trafficking was issued by ECOWAS at its 2001 summit in Dakar.<sup>91</sup>

The need for such initiatives on the part of ECOWAS became increasingly evident as the region became over time a zone of free movement; a zone within which an ECOWAS citizen can travel to any country of the community without visa and reside in the country for a duration not exceeding 90 days.<sup>92</sup> Traffickers saw in this opportunity a blessing to facilitate their illegal trade, as well as an opportunity to allay almost all their fears except fears of control at customs. But in spite of such fears, the integrity and professionalism of customs officers leave to be desired at times, especially when custom officers are paid low wages or when salaries are not always paid in time. As a result, in such circumstances customs officers tend to develop the habit of bribing citizens during control. Alternatively, they may even go to the extent of becoming collaborators of traffickers by helping traffickers smuggle people, and have in return financial rewards.<sup>93</sup>

Still in the same vein of how governments can be instrumental in the fight against child trafficking and in the protection of children's rights, it is worth mentioning the ECOWAS trafficking in persons unit. Following the 2001 Dakar declaration, ECOWAS established in 2007 the trafficking in persons unit. One of the main goals of this unit, operating under the ECOWAS humanitarian and social affairs department, is to foster cooperation and ensure that governments put in place measures such as the ratification of legal instruments against child trafficking.<sup>94</sup> Through this kind of initiative pressure can be put on governments to adopt legal measures or to enforce existent laws, in order to guarantee the protection of children especially girls from child trafficking.

But despite having all these commendable initiatives, Paul Ahiave notes that owing to 'a reversal in economic priorities in recent years' there are setbacks in the fight against human

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<sup>91</sup> UNICEF Innocenti Insight 'Child trafficking in West Africa: policy responses' Innocenti Research Centre (2002) 3.

<sup>92</sup> ECOWAS 'Protocol A/P.1/5/79 relating to free movement of persons, residence and establishment (1979), Art 3.

<sup>93</sup> Sesay & Kehinde (n 81 above) 16.

<sup>94</sup> T Jaye (n 89 above) 162.

trafficking in West Africa.<sup>95</sup> This situation is something that West African governments need to take into account, in spite of current financial difficulties. Governments have to ensure that setbacks are offset and that the war on human trafficking can be won. Consequently, appropriate measures need to be taken to continue the fight against human trafficking. These measures are essential, if one is to guarantee the protection and the realisation of children's rights, including the right to education.

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<sup>95</sup> P Ahiave 'Towards eliminating trafficking in persons' West Africa Insight (2010).

## **Chapter 4: Addressing the obstacles to girls' education in West Africa**

The legal conditions at national level as well as measures taken at the regional or international level are all important in the realisation of girls' right to basic education. Nonetheless, it is worth noting that the legal approach is limited, as it is mainly based on prescriptions. Evidence in the paper at hand prove that questions of political will, resource limitations and societal limitations do determine whether prescriptions are followed or not. Thus all these elements are not to be disregarded while analysing discrepancies between prescriptions and reality on the ground. Law is necessary but not sufficient, in implementing universal basic education right. Subsequently, it is best advised to use concurrently strategies that are beyond the sphere law with the legal approach. These strategies are to be devised at different levels, but first recommendations for what need be done at the legal level have to be discussed.

### **4.1 Recommendations concerning the legal approach to resolving girls' access to basic education**

Concerning the legal approach, there is a continued need for law enforcement although it may be easier said than done. As discussed in the second chapter, through penal actions such as the imprisonment of people conducting FGM, possible obstacles to girls' education can be countered in West Africa. However the assistance of populations in denouncing wrongdoings is essential in arresting culprits and preventing further obstacles to the education of girls. Laws have to be clearly explained in order to prevent ill actions from more people, rather than just focusing on arresting culprits.<sup>96</sup> This way, more good than harm will be done to guarantee the education of girls in West Africa.

Moreover, it is worth noting that all West African countries have provisions in their constitution for basic education right. But, only specific countries have provisions for *free* primary education, which is an essential component for realising universal basic education. Amongst the countries which have provisions for free primary education, only few have in

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<sup>96</sup> AC Packer *Using human rights to change tradition: Traditional practices harmful to women's reproductive health in Sub-Saharan Africa* Intersentia: New York (2002) 154.

actual fact implemented policies of free primary education. For instance article 18 of the Malian constitution guarantees free primary education, however many parents still pay fees indirectly.<sup>97</sup> In a number of public schools parents are still charged for registration fees, fees intended for pupils' material or books, and even school management levies for maintaining schools.<sup>98</sup> More often than not, where parents cannot cover these costs, expulsion ensue or parents refrain from sending children to school especially girls. Like Mali, in Nigeria Article 18.3(a) of the constitution guarantees free, compulsory and universal basic education, but such legal guarantees are not always evidenced by the reality on the ground.<sup>99</sup>

Where this type of gap regarding the right to education exist between laws on free basic education and the reality on the ground, West African citizens have so far not reverted to the judicial system in their country to seek redress. This is usually one of the last things on citizens' mind. Nevertheless, an exceptional case presented before the ECOWAS court of justice by a Nigerian non-governmental organisation established in 2004, is worth highlighting. This organisation known as the Socio-Economic Rights and Accountability Project (SERAP) took the Nigerian government before the ECOWAS court in 2009.<sup>100</sup> The plaintiffs made a case against this government for falling short of its constitutional duties regarding primary education. In this *SERAP v The Federal Republic of Nigeria* saga, the court ultimately ruled in favour of SERAP. The court argued that the Nigerian Universal Basic Education Commission to be precise, has to uphold the right to free and compulsory primary education while fighting corruption; as corruption undermines the realisation of free basic education.<sup>101</sup> Undeniably, it sets a precedent for the right to free primary education in West Africa. It reaffirms the commitment or possibility of having a citizen(s)' interest represented by a non-profit organisation – where the former may not have the financial means to bear

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<sup>97</sup> Republique du Mali, La Constitution (1992) <Internet: [http://www.chr.up.ac.za/chr\\_old/indigenous/documents/Mali/Legislation/La%20Constitution.pdf](http://www.chr.up.ac.za/chr_old/indigenous/documents/Mali/Legislation/La%20Constitution.pdf)> (accessed 01 august 2012). Article 18: Tout citoyen a droit à l'instruction. L'enseignement public est obligatoire, gratuit et laïc. L'enseignement privé est reconnu et s'exerce dans les conditions définies par la loi.

<sup>98</sup> C Pearce et al 'Delivering education for all in Mali' Oxfam International Research Report (2009) 19.

<sup>99</sup> R Wolfrum & E De Wet (eds) *Constitutions of the countries of the world XIV* .Constitutions of the countries of the world: The Federal Republic of Nigeria (2011).

<sup>100</sup> Right to Education Project (n 10 above).

<sup>101</sup> (n 10 above)

costs related to having a case before the ECOWAS court. Besides, the adoption of the ECOWAS court's supplementary protocol in 2005 actually gave from then onwards, right of standing before the court by not only individuals but non-governmental organisations as well.<sup>102</sup>

#### **4.2 Recommendations for improving efforts made at the institutional level**

At the institutional level, or level of traditional institutions as well religious institutions to be precise, more efforts need to be undertaken. In the sense that West African local communities, families and traditional institutions that are not in favour of girls' education have to be sensitized about legal texts pertaining to basic education right. These actors have to be constantly reminded of the benefits of educating girls. For this purpose, a mixed approach combining legal and other aspects like sociological considerations, is best suited to address targeted populations and to bring about social change where needed. In doing so, awareness campaigns have to be culturally sensitive in order to bring about change progressively and to curb the resistance of targeted populations.

Alternatively, in communities where cultural and religious leader have already been sensitized and are aware of the importance of girls' education, these leaders would be instrumental in reaching out to those who oppose girls' education. Traditional elders, chiefs, and religious leaders still have sufficient clout in West African societies and in the rest of Africa in general. Subsequently, the role these actors could play in persuading people is not to be underestimated. In Guinea for example, reliance on the role of traditional and religious leaders proved to be a successful strategy in implementing the right of girls to education; in addition the role played by these leader was instrumental in creating more awareness. These efforts made by targeted religious leaders, coupled with efforts made by the Guinean government –

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<sup>102</sup> ECOWAS, Supplementary Protocol. A/SP.1/01/5 amending the preamble and articles 1,2,9 and 30 of the protocol A/P.1/7/91 relating to the community court of justice and article 4 of paragraph 1 of the English version of the said protocol. Article 4: insertion of a new article 10 in the protocol of the community court of justice (2005); University of Pretoria Centre for Human Rights 'ECOWAS Court to rule on preliminary objection in Senegal election case' Internet: <http://www.chr.up.ac.za/index.php/centre-news-2012/993-ecowas-court-to-rule-on-preliminary-objection-in-senegal-election-case.html> (accessed 01 August 2012); see also IHRDA 'Court of Justice of the Economic Community of West African States' internet: <http://www.ihrda.org/court-of-justice-of-the-economic-community-of-west-african-states/> (accessed 01 August 2012).

resulted in an increase of girls' enrolment rate of 17% in 1989 to an enrolment rate of more than 40% by 2004.<sup>103</sup> It was a remarkable effort which clearly showed the importance of integrating religious leaders in the implementation of policies regarding girls' education. In the same vein Thomo Kaime argues that religious and traditional leaders are instrumental, when stating that local chiefs can and should create more awareness about government policies; while ensuring that policies are implemented thereafter.

Moreover, Kaime states that even churches can and do play an active role of educating their audience about human rights.<sup>104</sup> Therefore, West African religious and traditional institutions can continue to play an important role in ensuring that more girls have access to primary education. This is not to say that the aforementioned institutions are not already playing an active role, but to say that much more can be achieved through their involvement. The role of these institutions can only be much appreciated by governments. The latter would certainly have to play the role of effective governments. Such governments can adequately guide and support the role of traditional and religious leaders. The reason is that ineffective governments produce adverse results.<sup>105</sup>

Still on the subject of institutional recommendations, attention should be given to the establishment of a greater number of non-formal schools; particularly in rural areas and for those who feel comfortable with the mode of teaching in non-formal schools.<sup>106</sup> These kinds of schools usually operate in a non-formal type of setting and classes are often taught in the early afternoon or late afternoon, with flexible timetables and limited hours. This flexibility allows a number of girls who have by a certain time of the day covered a lot of house chores, to attend classes.

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<sup>103</sup> L Mwambene 'Implementing the girl child's right to education in selected countries in Africa' in J Sloth-Nielsen *Children's rights in Africa: a legal perspective* Ashgate: England (2008) 229. See also E Kane (n 20 above) 94.

<sup>104</sup> T Kaime (n 16 above) 150-152.

<sup>105</sup> (n 16 above) 145.

<sup>106</sup> T Skard (n 21 above) 86-88.

Moreover, the fact that in most of these non-formal schools teaching is done in local dialect, instead of a foreign language, makes it easier for a greater number of people to attend.<sup>107</sup> Children attending classes can then identify with the local dialect which in turn facilitates their learning process, particularly if the children live in an area where a foreign language is not frequently spoken.<sup>108</sup> In contrast, children living in cities are from the youngest age exposed to an environment where people speak at least one foreign language. Thus, in this type of environment children can be taught a foreign language by parents even before starting primary school, which is barely the case for many children in rural areas.

For all these reasons, establishing additional non-formal schools in rural areas would be to the greater advantage of girls who fail in the formal system of schooling as a result of language adaptation problems. Failure often leads to girls being taken away from school. But, with classes being taught in local dialects at non-formal schools, chances of failure would be reduced, and chances of failure being used as an excuse to interrupt a girl's studies would be reduced as well. Nevertheless, the system of introducing more non formal schools should be in such a way that after the first cycle of study, students can be allowed to switch to the formal system of schooling taught in foreign language. Hence, a year specifically designed as a year of transition, and year of adaptation to the foreign language of teaching used in formal schools, would be needed.

### **4.3 Strengthening the economic approach to girls' right to basic education**

At the financial level, it is evidenced in previous chapters that issues of costs and financial gains determine why certain parents do not send their girls to school. Therefore, insisting on the realisation of free primary education in all countries cannot be overstated. Hence by firstly ensuring free primary education governments would be resolving considerations of cost

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<sup>107</sup> J Ki-Zerbo, *Éduquer ou périr* Unicef- Unesco (1990) 102. 'L' un des facteurs clés dans cette renovation, c' est l' introduction des langues africaines dans le dispositif educative'. See also Tostan 'Community-led development: Brochure' (2009) 6-7.

<sup>108</sup> E Kane (n 19 above) 117. The author argues that: ' "Bilingual education," or teaching in the local language at some point in the school cycle, is being tested in Burkina Faso, Guatemala, Guinea, Mali, Malawi, Peru, Pakistan and Zambia, among other countries. It has been linked to lower repetition and dropout rates, higher attendance and promotion rates and higher test scores in all subjects, especially for girls.'



issues, thereby encouraging many unprivileged families to send girls to school. In Benin for instance the abolition of school fees for girls in rural areas resulted in an increase of girls' enrolment in primary schools.<sup>109</sup>

Secondly, by helping parents cut down on costs related to sending children in schools located far, a number of parents would be less hesitant. A way of resolving this issue is by having government build schools closer to inhabited areas where schools are lacking. Alternatively, communities lacking schools can take matters in their own hands and put in place a system *de cotisation*, with which money saved up by community members would be used to build schools.

Still at the financial level, microcredit loan programs for education which are introduced for poverty reduction should receive more attention. The reason is that programs of the sort are aimed at community development and self sufficiency of the poorest families which cannot afford to send children to school. Generally, as a result of such families not being able to afford school fees, children are exposed to child labour, child trafficking or child marriages to mention but a few. Therefore microcredit programs empower people by giving them loans they would use to set up a business and generate an income. The loans are to be repaid on the long term and with low interests. The rationale behind this kind of program is to have part of the income generated on businesses to be used for the education of children, especially girls. In 1998 in Togo, the microcredit project launched in the district of Nawa helped to provide loans for 50 women. Income generated from their activities helped to send their children to school. Before the introduction of the project, number of children use to work as servants in Togo or elsewhere, and few amongst them had already been trafficked.<sup>110</sup>

#### **4.4 Working with NGOs and citizens to improve girls' access to basic education**

At the level of NGOs' contribution and at the level of citizens' effort to have a much deeper impact on the right to primary education of girls, one has to ensure that funds dispatched by donors are not just thrown at the situation. Clear directives should be given and follow up programs have to be sustained, to combat corruption. Funds disbursed can be used to establish

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<sup>109</sup> L Mwambene (n 103 above) 228.

<sup>110</sup> UNICEF Innocenti Insight (n 91) 16.

canteens where children can eat in schools. No child can learn properly on a hungry stomach, hence if canteens could be established in most schools, it would not only be an incentive for pupils but for parents equally.

These efforts have to go hand in hand with widespread and continued awareness campaigns on the major obstacles to girls' education in West Africa. Younger generations should form part of targeted groups, and campaigns should not be limited to adults. The reason is that, by sensitizing children as well, more girls even in spite of fears of speaking out would plead for attending school in case of opposition by parents. Additionally, more boys would be persistent in convincing parents to agree to the education of female siblings – including cousins who are girls and could be living in relatives' home as domestic servants. Therefore targeting younger generations is very important. For example, Corinne Packer argued that by changing mentalities of young Sudanese male and older men regarding facial scarring, which had long been a sign of beauty in some tribes – overtime less girls decided to have it undertaken just like less girls were forced by parents to do it.<sup>111</sup> The role future generations can play in changing mentalities should never be underestimated. Hence, one must capitalise on how children generally have an influence on parents by appealing to their hearts, and use that as previously stated, in order to improve girls' access to basic education in West Africa. Every citizen can play a role in guaranteeing this right.

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<sup>111</sup> AC Packer (n 96 above) 192-193.

## Chapter 5: Conclusion

Perceptions, patriarchy and cultural practices like early marriages and FGM are still very much obstacles to girls' right to basic education in West Africa. In places where they persist as obstacles, mentalities have to be changed. For this purpose, there is a continued need for awareness campaigns to sensitise people opposing laws regarding girls' education; and campaigns have to educate people on the advantages of girls' education. Nevertheless, younger generations should not be excluded of target groups to ensure that change of mentalities operates at all levels, especially in families opposing girls' education. Thus considering that some parents do not see the necessity of sending girls to school, because such parents perceive girls to be less intelligent; it is essential to establish a greater number of non-formal schools, particularly in rural areas. With courses taught in local languages in non-formal schools, chances for limiting girls' failure can be increased, particularly in rural areas.

Besides the fact that set mentalities and traditional practices are still challenges to girls' education, poverty is equally a powerful stumbling block to girls' access to basic education in West Africa through child labour and trafficking. Both child labour and child trafficking pose a serious threat to girls' education, in as much as harmful practices like FGM and early marriages do. Where children are involved in child labour or trafficking, school is almost impossible or difficult to handle time wise or physically, owing to fatigue. While such activities are undertaken, money is made at the expense of young girls not being able to enjoy their full rights or missing out on their right to education. Poverty is a barrier to education, and lack of education creates favourable conditions for the deepening of poverty.

Efforts from all stakeholders, governments, ECOWAS, citizens and NGOs are needed to empower communities for the realisation of girls' right to basic education in West Africa. Microcredit systems and girls' education subsidies can help in lessening financial burdens of poor families and improving girls' enrolment rates. In addition all West African governments should ensure that free primary education becomes a reality; in order to ensure higher school enrolment rates and retention rates for girls. Hence, by having effective governments which dedicate larger chunks of their budget to education and by having system *de cotisation* formed by community members at grassroots levels, more schools can be built in areas lacking schools. Once again rural areas where there is a limited number of schools and where

education gaps are even greater between boys and girls, require more attention. Many parents who complain about cost issues would then be encouraged in sending girls to school.

Lastly, it is worth noting that the legal approach cannot be considered the sole medium through which change can take place. This is particularly evident in the face of cultural resistance to changes despite existent legal provisions. Therefore combining the legal approach with other approaches enables one to understand reasons behind cultural resistance and cultural assumptions as well as practices, which act as barriers to girls' education. This mixed approach also enables to understand how economic dynamics do play a crucial role in obstructing girls' access to basic education. Subsequently, adopting a multidisciplinary approach serves to find answers and practical solutions for the implementation of universal basic education in West Africa.

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## Bibliography

Admassie, A 'explaining the high incidence of child labour in Sub-Saharan Africa' African Development Bank (2002) 262.

African Commission on Human and Peoples' Rights 'Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' (2003) <Internet: <http://www.achpr.org/instruments/women-protocol/>> (accessed 14 March 2012).

Ahiave, P 'Towards eliminating trafficking in persons' West Africa Insight (2010).

Alcock, P (2006) *Understanding poverty* Palgrave Macmillan: Basingstoke.

Anderson, ML & Taylor, HL (2003) *Sociology: The essentials* Wadsworth: Thomson Learning.

Bayisenge, J 'Early marriage as a barrier to girl's education: A Developmental Challenge in Africa' National University of Rwanda.

Bass, LE (2004) *Child labor in Sub-Saharan Africa* United Kingdom: Lynne Rienner Publishers.

BBC 'Circumcision arrest in Burkina' < <http://news.bbc.co.uk/2/hi/africa/3574466.stm>> (accessed 14 March 2012).

Bloch, M et al (ed) (1998) *Women and education in Sub-Saharan Africa: Power, opportunities and constraints* United Kingdom: Lynne Rienner Publisher.

Boas, M & Hatloy, A 'Child Labour in West Africa: Different work – different Vulnerabilities' (2008) 46 *International Migration* 3.

Bodewes, C (2005) *Parish transformation in urban slums: voices of kibera Kenya* Kenya: Paulines Publications Africa.

Childinfo 'Percentage of children aged 5-14 engaged in child labour' Internet: [http://www.childinfo.org/labour\\_countrydata.php](http://www.childinfo.org/labour_countrydata.php) (accessed 10 April 2012).

Childinfo 'Percentage of women aged 15-49 who have been cut; data for the 29 countries known to practice FGM/C widely' <Internet: [http://www.childinfo.org/fgmc\\_prevalence.php](http://www.childinfo.org/fgmc_prevalence.php)> (accessed 6 March 2012).

CIA factbook ‘Liberia’ <Internet: <https://www.cia.gov/library/publications/the-world-factbook/geos/li.html>> (accessed 14 August 2012).

Doek, EJ et al (2009) *Child poverty: African and international perspectives* The African Child Policy Forum.

Dottridge M ‘Trafficking in children in West and Central Africa’ (2002) 10 *Gender and Development* 38.

ECOWAS, Convention on extradition, Abuja (1994).

ECOWAS, Supplementary protocol. A/SP.1/01/5 amending the preamble and articles 1, 2, 9 and 30 of the protocol A/P.1/7/91 relating to the community court of justice and article 4 of paragraph 1 of the English version of the said protocol (2005).

Ekiyor T ‘Female combatants in West Africa: Progress or regress?’ WANEP- From the field 5<sup>th</sup> edition.

Finke, E ‘Genital mutilation as an expression of power structures: Ending FGM through education, empowerment of women and removal of taboos’ (2006) 10 *African Journal of Reproductive Health* 13.

Ghanaweb ‘Two girls trafficked to Benin rescued’ (2006) < Internet: <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=103482> > (accessed 9 May 2012).

Giddens, A (2001) *Sociology: Appreciating cultural diversity* Blackwell Publishers: Oxford.

Government of Eritrea, Proclamation 158 /2007A Proclamation to Abolish Female Circumcision (2007).

Harsch, E ‘Child labour rooted in Africa’s poverty’ (2001) 15 *Africa Recovery* 14.

Hawksley, H ‘Ivory coast farms child labour: little change’ < Internet: <http://www.bbc.co.uk/news/world-africa-15681986> > (accessed 12 May 2012).>.

Heyns, C & Killander, M (2010) *Compendium of key human rights documents of the African Union*. African Children’s Charter. Pretoria University Law Press.

ICRW ‘Child marriage facts and figures’ <Internet: <http://www.icrw.org/child-marriage-facts-and-figures>> (accessed 28 April 2012).

Idoko, U 'Education means self-actualization: why the girl child must stay in school' West Africa Insight (2010).

IHRDA 'Court of Justice of the Economic Community of West African States' <Internet: <http://www.ihrda.org/court-of-justice-of-the-economic-community-of-west-african-states/>> (accessed 01 August 2012).

ILO 'WACAP : The West Africa Cocoa/Commercial Agriculture Project' < Internet: <http://www.ilo.org/public/french/region/afpro/yaounde/coop/wacap/index.htm>> (accessed 15 May 2012).

ILO 'C138 - Minimum Age Convention, 1973 (No. 138) Convention concerning Minimum Age for Admission to Employment' (Entry into force: 19 Jun 1976).

ILO 'InFocus programme on promoting the declaration on fundamental principles and rights at work: Child labour in Africa'.

IPPF 'Briefing paper: Female genital mutilation' London (2008).

Izugbara, OC 'Patriarchal ideology and discourses of sexuality in Nigeria' The Department of Sociology and Anthropology University of Uyo: Nigeria (2004).

Jaye T 'The security culture of the ECOWAS: Origins, development and the challenge of child trafficking' (2008) 26 *Journal of Contemporary African Studies* 151.

Kaime, T (2009) *The African Charter on the Rights and Welfare of the Child: A socio-legal perspective* Pretoria: Pretoria University Law Press.

Kambarami, M 'Femininity, Sexuality and Culture: Patriarchy and Female Subordination in Zimbabwe' Understanding Human Sexuality Seminar Series (2006).

Kandiyoti, D 'Bargaining with patriarchy' (1988) 2 *Gender and Society* 274.

Kane, E 'Girls' education in Africa: What do we know about strategies that work?' Washington, D. C: World Bank (2004).

Kariuki, W 'She is a woman after all: Patriarchy and female educational leadership in Kenya' (2006) 2 *Postamble* 65.

Kaufman, CE et al 'Adolescent pregnancy and parenthood in South Africa' (2000).

Keita, A ‘Chapter 16: the implementation of ILO child labour standards in Africa: Mali an assessment from a socio legal perspective’ in Giuseppe, N et al. (2008) *Child labour in a globalized world: A legal analysis of ILO action* USA: Ashgate publishing.

Ki-Zerbo, J (1990) *Éduquer ou périr* Unicef- Unesco.

Kottak, CP (2011) *Cultural anthropology: Appreciating cultural diversity* New York: McGraw-Hill.

Kuenyehia, A (1998) *Women and law in West Africa: Situational analysis of some key issues affecting women* Human Right Study Centre: University of Ghana.

Kuenyehia, A (2003) *Women and law in West Africa: Gender relations in the family, a West African perspective* Ghana.

Look, A ‘In Senegal educators fight to keep girls in school’ <Internet: [www. Voanews.com](http://www.Voanews.com)> (accessed 08 March 2012).

Manzo K ‘Exploiting west Africa’s children : Trafficking, slavery and uneven development’ (2005) 37 *Area* 393.

Mekonnen, DR ‘The abolition of female circumcision in Eritrea: Inadequacies of new legislation’ (2007) 7 *African Human Rights Law Journal* 389.

Monjok, E et al ‘Female genital mutilation: potential for HIV transmission in Sub-Saharan Africa and prospects for epidemiologic investigation and interpretation’ (2007) 11 *African Journal of Reproductive Health* 33.

Mottin-Sylla, MH & Palmieri, J (2011) *Confronting female genital mutilation: The role of youth and ICTs in changing Africa* Cape Town: Pambazuka Press.

Mutyaba, R ‘Early marriage: A violation of girls’ fundamental human rights in Africa’ (2011) 19 *International Journal of Children’s Rights* 339.

Mwambene, L (2008) ‘Implementing the girl child’s right to education in selected countries in Africa’ in Sloth-Nielsen, J (ed) *Children’s rights in Africa: a legal perspective* England: Ashgate.



Ngwena, C. G. 'Protocol to the African Charter on the Rights of Women: Implications for access to abortion at the regional level' 110 *International Journal of Gynecology and Obstetrics* (2010) 163-166.

Nzirorera, S 'In Guinea-Bissau, a victim of female genital mutilation/cutting calls for its end' <Internet: [http://www.unicef.org/infobycountry/guineabissau\\_41785.html](http://www.unicef.org/infobycountry/guineabissau_41785.html)> (accessed 12 March 2012).

OAU 'African Charter on the Rights and Welfare of the Child' <Internet: [http://www.africa-union.org/official\\_documents/Treaties\\_%20Conventions\\_%20Protocols/a.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf](http://www.africa-union.org/official_documents/Treaties_%20Conventions_%20Protocols/a.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf)> (accessed 16 August 2012).

Office of the United Nations High Commissioner for Human Rights, Convention on the Rights of the Child (1989).

OXFAM 'Girls education in Africa' Education and Gender Equality Series, Programmes Insights, December 2005.

Packer, AC (2002) *Using human rights to change tradition: Traditional practices harmful to women's reproductive health in Sub-Saharan Africa*, Intersentia: New York.

Pearce, C 'From closed books to open doors-West Africa's literacy challenge' Briefing paper (2009).

Pearce, C et al 'Delivering education for all in Mali' Oxfam International Research Report (2009).

Prof . Bekker, JC (Email on 26 April 2012: on file with author).

Prosper, A 'Cross-border criminal activities in West Africa: options for effective responses' Koffi Annan International Peace Keeping Training Centre (2006).

Ras-work, B 'The impact of harmful traditional practices on the girl child' United Nations Division for the Advancement of Women (DAW) (2006).

Reproductive Rights 'Female Genital Mutilation (FGM): Legal prohibitions worldwide' <Internet: <http://reproductiverights.org/en/document/female-genital-mutilation-fgm-legal-prohibitions-worldwide>> (accessed 14 March 2012).

Republique du Mali, La Constitution (1992) Internet: [http://www.chr.up.ac.za/chr\\_old/indigenous/documents/Mali/Legislation/La%20Constitution.pdf](http://www.chr.up.ac.za/chr_old/indigenous/documents/Mali/Legislation/La%20Constitution.pdf) (accessed 01 august 2012).

Right to education project 'Landmark court decision on right to education' <Internet: <http://www.right-to-education.org/node/719>> (accessed 20 August 2011).

Sesay, A & Olayode K 'Regionalisation and the war on human trafficking in West Africa' Obafemi Awolowo University (2008). (On file with author, used for purposes of this dsissertation only).

Skard, T (2003) *Continent of mothers: Understanding and promoting development in Africa today* London: Zed Books.

Sudarkasa, N 'Sex roles, education and development in Africa' (1982)13 *Anthropology & Education Quaterly* 279.

Sutherland, MB 'Gender equity in success at school' (1999) 45 *International Review of Education* 431.

Thody, A. & Kaabwe. M (2000) *Educating tomorrow: Lessons from managing girls' education in Africa* Johannesburg: Juta.

Tostan 'Community-led development: Brochure' (2009).

UNFPA 'Promoting gender equality: frequently asked questions on female genital mutilation/cutting' <Internet: <http://www.unfpa.org/gender/practices2.htm>> (accessed 6 March 2012).

UNICEF 'Child labour and commercial sexual exploitation. Related links' <Internet: [http://www.unicef.org/esaro/5480\\_child\\_labour\\_sexual\\_exploitation.html](http://www.unicef.org/esaro/5480_child_labour_sexual_exploitation.html)> (accessed 15 June 2012).

UNICEF 'The state of the World's children report 2011: Adolescence: an age of opportunity Statistics, table 5 Education' < Internet: <http://www.unicef.org/sowc2011/statistics.php>> (accessed 20 August 2011).

UNICEF Innocenti Insight 'Child trafficking in West Africa: policy responses' Innocenti Research Centre (2002).

UNICEF 'Table 9 Child Protection' <Internet: [http://www.unicef.org/protection/57929\\_58008.html](http://www.unicef.org/protection/57929_58008.html)> (accessed 18 April 2012).

United Nations. The Universal Declaration of Human Rights (1948).

United Nations 'Millennium Development Goals Report'. New York (2011).

United Nations 'Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations convention against transnational organized crime' (2002).

Université d'été des Droits de l'Homme Genève 'The international system of human rights' <Internet: [http://www.aidh.org/uni/Formation/02Charte\\_a.htm](http://www.aidh.org/uni/Formation/02Charte_a.htm)> (accessed 14 August 2012).

University of Pretoria Centre for Human Rights 'ECOWAS Court to rule on preliminary objection in Senegal election case' <Internet: <http://www.chr.up.ac.za/index.php/centre-news-2012/993-ecowas-court-to-rule-on-preliminary-objection-in-senegal-election-case.html>> (accessed 01 August 2012).

USAID 'HIV/AIDS health profile: West Africa' (2011).

Viljoen F (2012) *Beyond the law: Multi-disciplinary perspectives on human rights* Pretoria University Law Press: Pretoria.

Wolfrum, R & De Wet, E (eds) *Constitutions of the countries of the world XIV. Constitutions of the countries of the world: The Federal Republic of Nigeria* (2011).

World Health Organisation 'Female genital mutilation: fact sheet N°241' <Internet: <http://www.who.int/mediacentre/factsheets/fs241/en/index.html>> (accessed 6 March 2012).

World Health Organisation 'An update on WHO's work on female genital mutilation (FGM): Progress report' (2011).

Zoungrana, MC et al 'Chapter 8 : l'émancipation des Africaines par l'école : mythe ou réalité' in T Locoh et al (eds) (2007) *Genre et sociétés en Afrique : Implications pour le développement* Paris: Ined.