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A Load Too Heavy: Kayayei Practice and Ghana's Child's Rights Obligation Under Domestic and International Law

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Abstract

As the first country to ratify the Convention on the Rights of the Child (CRC) 1989, Ghana boasts a robust child rights protection framework. With a blend of laws and institutions, it has continued to demonstrate what its image of child protection is, and how it hopes to bring this to fruition. Much of this has however remained unrealized due to implementation challenges. Mirroring this crisis is the Kayayei practice, an informal sector trade in which women engage in head portering, with a significant population being young and underage girls. The serious implications that the practice has for the future of girls in the country, make it a worrying human rights issue deserving of further academic inquiry. This article presents an analysis of this practice and how it impacts the lives of girls in the country. It focuses on constitutional provisions as well as legislative and policy responses to determine how they engage the practice. Identifying implementation as a major challenge, it makes a number of recommendations, such as public education, strengthening of relevant agencies, and tackling the economic inequality in the north of the country. It submits that this will deepen child's rights protection in the country.

I. INTRODUCTION

Children are a precious gift from God,¹ but it appears that certain segments of the African society are yet to sufficiently apprehend this fact. This is seen in the dominance of child labor and related anti-children practices on the continent. Much is written about African children, and much of it agonises the heart. Children are disproportionately affected by the lorry-load of ills generated by adults on the continent - ills for which they have no role to play in the making. Though Goal 1 of the Sustainable Development Goals (SDGs) reaffirms the need to “end poverty in all its forms everywhere,”² the World Bank states that one out of six children, representing about 356 million globally, lived in extreme poverty before the COVID-19 pandemic.³ It has also been reported that about 305 million children – two in every five – will be living in extreme poverty by 2030, representing a little over half of all global poverty.⁴ In Africa, children make up half of the population and are afflicted by all manner of ills such as extreme hunger, diseases,

¹ See *Psalm 127:3-5* (Lo, Children are an heritage of the Lord; And the fruit of the Womb is his reward. As arrows are in the hand of a mighty man; so are children of the youth. Happy is the Man that hath his quiver full of them; They shall not be ashamed, but they shall speak with the enemies in the gate).

² See *Goal 1: End poverty in all its forms everywhere*, SUSTAINABLE DEVELOPMENT GOALS (SDGs), <https://www.un.org/sustainabledevelopment/poverty/> (last visited Mar. 27, 2023).

³ See *1 in 6 Children Live in Extreme Poverty, World Bank-UNICEF Analysis Shows*, THE WORLD BANK (Oct. 20, 2020), <https://www.worldbank.org/en/news/press-release/2020/10/20/1-in-6-children-lives-in-extreme-poverty-world-bank-unicef-analysis-shows>.

⁴ See Kevin Watkins & Maria Quattri, *Child Poverty in Africa – An SDG Emergency in the Making*, BRIEFING PAPERS (August 2019), <https://cdn.odi.org/media/documents/12863.pdf>.

and disability, among others.⁵ Children across Africa face poverty, forced labor, and all manners of exploitation. Tens of millions of children are experiencing stunted growth due to malnutrition⁶ and, as of 2020, about thirty-seven million were out of school.⁷ In this mix, child labor occupies a central place. The African region is most affected by state fragility and crisis, which have heightened the crisis of child labor.⁸ According to the International Labour Organisation (ILO), Africa has the highest number of child laborers with an estimated 72.1 million children in child labor and 31.5 million in hazardous work.⁹ The age profile of these child laborers is much younger than anywhere else in the world. Children in the youngest age bracket constitute the largest group in hazardous work.¹⁰ The ILO's breakdown of children in child labor shows that fifty nine percent are between the ages of five to eleven years, twenty six percent are of ages between twelve to fourteen years, and fifteen percent fall within the ages of fifteen to seventeen years old.¹¹

Child labor is a product of poverty, though it may be triggered by several other factors ranging from child to child.¹² It intersects the debilitating socio-economic conditions prevalent in most countries on the continent. In several parts of sub-Saharan Africa, poverty is a major factor underpinning child labor.¹³ Poor households, out of the desperation to survive, turn to their children to take up jobs to support the family. The dislocation in the economy of most countries in the region has seen a dramatic rise in all sorts of socio-cultural practices in which children - who ordinarily as infants ought to be nestled in the care, comfort, and guidance of their parents or guardians - toil day and night, weeks, and sometimes years as laborers in return for a pittance called wages. In the course of these indignities, they also become vulnerable to all manner of abuses such as rape and assaults.

In a country such as Ghana, child labor occurs mostly in the informal sector of the country's economy, with children working as head porters, domestic laborers, hawkers, fare collectors, miners, etc.¹⁴ Around Lake Volta in the Volta region of the eastern region, children

⁵ See Daniil Filipenco, *Children Hunger in Africa – Statistics and Facts*, DEVELOPMENT AID (July 19, 2022), <https://www.developmentaid.org/news-stream/post/146514/children-hunger-in-africa-statistics-and-facts>.

⁶ See *Malnutrition*, WORLD HEALTH ORGANIZATION, <https://www.who.int/news-room/fact-sheets/detail/malnutrition> (last visited Mar. 29, 2023).

⁷ See *Children Out of School, Primary – Sub Sahara Africa*, THE WORLD BANK, <https://data.worldbank.org/indicator/SE.PRM.UNER?locations=ZG> (last visited Mar. 10, 2023).

⁸ *Child Labour in Africa*, INT'L LABOR ORG., https://www.ilo.org/ipsec/Regionsandcountries/Africa/WCMS_618949/lang--en/index.htm (last visited Mar. 10, 2023).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² LORETTA E. BASS, *CHILD LABOR IN SUB-SAHARAN AFRICA 6* (Lynne Rienner Publishers eds., 2004).

¹³ See G. Hilson, *Child Labor in African Artisanal Mining Communities: Experiences from Northern Ghana*, 41 DEV. & CHANGE 445, 448 (2010).

¹⁴ See K. Ofori-Dua, *Child Labor: The Silent Thief of Children Rights in Ghana*, REFLECTIONS 60 (2011).

have been sold to fishermen for as little as \$20 to work in hazardous conditions to free fishing hooks underwater.¹⁵ These children also produce and maintain equipment such as boats, traps, and nets and go out onto the lake in boats, bailing water and casting nets.¹⁶ An NGO, City of Refuge Ministries (CORM) estimates that between 7,000 – 10,000 children are trapped in this trade.¹⁷ They are potentially exposed to physical and psychological harm, as well as the opportunity cost of missing school at a young age.¹⁸

Of all child labor practices in Ghana, the Kayayei practice stands in a class of its own, especially for its gendered dimension and highly detrimental effects on girls in the country. Whereas the practice generally encompasses women engaged in the trade of head portering, this article narrows its scope to the case of underage girls which it calls ‘Kayayei girls’ i.e., females below the age of eighteen, who have become a key component of this trade. For instance, the first part of the title of this article, ‘A Load too Heavy,’ comes from the theme of the 2005 ILO World Day Against Child Labour, which took place in Geneva, Switzerland.¹⁹ The event was convened for the purpose of raising awareness on the problem of child labor in the artisanal mining industry.²⁰ Interestingly, this theme aptly captures the current inhumane physical and health challenge that thousands of girl head porters in Ghana, known as Kayayei, face because of the weight of the goods they carry to make a living. This practice of head portering involves young girls trapped in long hours of sweat and toil in which they bear heavy head-pans of loads and help shoppers in large markets to carry their goods, has become the signature of the country’s child labor economy. It has become the face of child’s rights violations in Ghana, a country with an enviable child rights protection framework but which continues to grapple with a lack of appropriate implementation infrastructure to deal with the problem. In a 2003 survey commissioned by the ILO, it is noted that about 1.2 million of Ghana’s six million children are engaged in activities that come within the classification of child labor.²¹

Due to the invisible nature of the practice, continuous debate is critical to rescuing the thousands of girls involved; yet it is one practice that has received minimal attention in legal scholarship over the years. Scrutinizing it at this time is not only imperative but rewarding, as it would, on the one hand, begin the process towards the abolishment of the practice, and on the other hand, bring about that paradigmatic shift to better position the rights of girls in the larger international human rights frame. While well-rounded laws and policies have been enacted in

¹⁵ See L. Boyle, *Child Trafficking: A Symbol of Poverty and Vulnerability*, GRAPHIC ONLINE (Dec. 13, 2013), <https://www.graphic.com.gh/features/opinion/child-trafficking-a-symbol-of-poverty-and-vulnerability.html>.

¹⁶ See I. Bellwood-Howard & A. Abubakari, *Children’s Harmful Work in Ghana’s Lake Volta Fisheries: Research Need to Move Beyond Discourses of Child Trafficking* (ACHA, Working Paper No. 5, 2020).

¹⁷ Boyle, *supra* note 15.

¹⁸ Bellwood-Howard & Abubakari, *supra* note 16.

¹⁹ Hilson, *supra* note 13 at 445.

²⁰ *Id.*

²¹ See Orla Ryan, *Accra Porters Are Among World Army of Child Workers*, REUTERS (June 12, 2007), <https://www.reuters.com/article/ghana-child-labour-idUKNOA23526920070612>.

Ghana, for true change to take place, the floodlight must move to calls for strengthening the implementation framework.

This article seeks to attract more attention to this problem by examining efforts so far made by Ghana in combating the problem through laws and policies. It highlights areas of weakness and what needs to be done to redress this situation. It will examine relevant international and regional human rights treaties such as the International Covenant on Civil and Political Rights (ICCPR),²² the Convention on the Rights of the Child (CRC),²³ the African Charter on Human and Peoples' Rights (ACHPR),²⁴ and the African Charter on the Rights and Welfare of the Child (ACRWC)²⁵ to determine how these documents address the Kayayei problem, the extent of Ghana's obligations, and what the government has done with respect to these obligations in the context of relevant domestic legislation.

II. THE KAYAYEI PRACTICE AS CHILD LABOR – AN OVERVIEW

Hauling loads, especially carrying them on the head, is a customary way of transporting goods in Ghana. The practice pre-dates colonial rule and has been a part of the social structure of the society as a means of transporting goods in lieu of modern transportation.²⁶ As a part of the people's way of life, it has evolved over the years.²⁷ Though head-portering is one of the old ways in which farm produce was transported to the market, contemporary carrying of loads in the Ghanaian markets came from neighboring countries of Mali and Niger Republic.²⁸ This otherwise noble system of mobility has created a child labor market in the country, predominantly in cities such as Accra and Kumasi, where young girls engage in professional head portering called Kayayo, which when pluralized creates the term "Kayayei."²⁹ Both migration and portering are two main features of the Kayayei practice. The practice mirrors Ghana's internal migration phenomenon, a decades-old system of intra-country movement of

²² International Covenant on Civil and Political Rights, *opened for signature* Dec. 19, 1966, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, at 52, U.N. Doc. A/6316, 999 UNTS. 85 (entered into force Mar. 23, 1976) [hereinafter ICCPR].

²³ Convention on the Rights of the Child, *opened for signature* Nov. 20, 1989, 1577 UNTS. 3 (entered into force Sept. 2, 1990) [hereinafter CRC].

²⁴ African Charter on Human and People's Rights, June 27, 1981, 1520 U.N.T.S. 217 [hereinafter ACHPR].

²⁵ African Charter on the Rights and Welfare of the Child, July 1, 1990, OAU Doc. CAB/LEG/24.9/49 (entered into force Nov. 29, 1999). The last signature to the ACRWC was entered June 27, 2019. [hereinafter ACRWC].

²⁶ See T.Y Baah-Ennumh, O. Amponsah, & M.O. Adoma, *The Living Conditions of Female Head Porters in the Kumasi Metropolis Ghana*, 3 J. SOC. & DEV. SCI. 230, 231 (2012).

²⁷ See Kellisia Hazlewood, *Ghana's Invisible Girls: The Child-Kayayei Business and its Violation of Domestic and International Child Labour Law* (Dec. 2015) (LL.M theses, Regent University School of Law) (ProQuest).

²⁸ See Y.A. Agyei, E. Kumi & T. Yeboah, *Is Better to Be a Kayayei than to be Unemployed: Reflecting on the Role of Head-portering in Ghana's Informal Economy*, 81 GEOJOURNAL 293, 297 (2016).

²⁹ *Id.* at 293-94.

people from the north to the south of the country. Though males and females are involved in the Kayayei practice, females represent about eighty percent.³⁰

Ghana comprises ten regions,³¹ with significant disparity between the north and south of the country due to the government's policy of concentrating more of its resources in the south.³² While on the one hand, young individuals migrate from the rural areas to the city centers to look for jobs, on the other hand, men and women mainly from the northern region of the country, migrate to southern cities such as Accra, Kumasi, and Sekondi-Takoradi to find work as porters.³³ The north-south migration pattern has its roots in two key factors. First is the impact of British colonial rule in the country. Within this period, the Colonialists recruited laborers for the mines and railways that were being built in the south of the country.³⁴ Later, young men migrated from the north to the south, to work in cocoa farms and plantations.³⁵ According to Dr. Okyere, "to a considerable extent, this migratory practice, especially amongst youths from the country's three northern regions, has been shaped by British colonial expansion and contrivance."³⁶

Second is the fact that the northern region holds a higher poverty and illiteracy rate, which makes the south of the country more attractive; a sort of greener pasture.³⁷ In the last decade, there has been an increase in the migration of young illiterate females as well as those with minimal education, who come to the south of the country seeking a livelihood in the markets.³⁸ Research shows that migrants are generally younger and more likely to be illiterates, compared to the indigenes.³⁹ This has been linked to the fact that in northern Ghana, education started about a century after the south.⁴⁰ The initial migration pattern in the country was male-dominated, with the men as breadwinners migrating in search of greener pastures, while the

³⁰ A. Ziblim, *Addressing the Labor Market Vulnerabilities of Female Head porters (Kayayei) in Urban Ghana: An Optimal Policy Approach*, 5 INT'L J. HUMANITIES & SOC. STUD. 310 (2017).

³¹ The ten regions are Ashanti region, Brong-Ahafo region, Central region, Greater Accra region, Eastern region, Northern region, Upper East region, Upper West region, Western region and Volta region. See S. Buske, *Prostitutes, Orphans and Entrepreneurs: The Effect of Public Perceptions of Girl Child Kayayei on Public Policy*, 20 WM & MARY J. WOMEN & L. 299, 300 (2014).

³² See S. Buske, *Prostitutes, Orphans and Entrepreneurs: The Effect of Public Perceptions of Girl Child Kayayei on Public Policy*, 20 WM. & MARY J. & LAW, 299-300 (2014).

³³ See M.A. Yeboah & K. Appiah-Yeboah, *An Examination of the Cultural and Socio-Economic Profile of Porters in Accra Ghana*, 18 NORDIC J. AFR. STUD., 2 (2009).

³⁴ Kees Van Der Geest, *North-South Migration in Ghana: What Role for the Environment?*, 49 INT'L MIGRATION 69, 72 (2011).

³⁵ Ziblim, *supra* note 30 at 311.

³⁶ See S. Okyere, *Shock and Awe: A Critique of the Ghana-centric Child Trafficking Discourse*, 9 Anti-Trafficking Rev. 92, 100 (2017).

³⁷ Child Trafficking Project (CTP) (Jan. 3, 2017), <https://yovighana.org/child-trafficking-project-ctp/>.

³⁸ See J.A. Opare, *Kayayei: The Women Head Porters of Southern Ghana*, 18 J. SOC. DEV. AFR. 33, 34 (2003).

³⁹ A. Tanle, *Assessing Livelihood Status of Migrants from Northern Ghana Resident in the Obuasi Municipality*, 79 GEOJOURNAL 577, 586-87 (2014).

⁴⁰ *Id.* at 587.

women were expected to stay back home and perform nurturing and caregiving functions.⁴¹ Even when women migrated with the men, they were passive migrants accompanying them primarily for the purpose of catering to the emotional needs of the men.⁴² With this reality, the northern region has over time become a destination for recruiting young girls to work in the south.⁴³ Over the years, the pattern has changed and in present times, the dominant gender migrating from the north to the south are females, independent of their families and moving towards big cities like Accra and Kumasi.⁴⁴

By way of definition, the Kayayo refers to a female head-porter, who carries a load in metallic deadpans on behalf of shoppers in the general market in exchange for a fee.⁴⁵ While head portering is the exclusive preserve of girls, recent years have seen boys also join the fray.⁴⁶ It is a petty form of trading, and those who participate in it are generally self-employed members of the informal sector of the economy.⁴⁷ It is viewed as a means of saving the necessary capital to purchase equipment to enter other less tasking and profitable businesses.⁴⁸ The fact that it requires less initial capital investment makes it an attractive economic activity.⁴⁹

Most are females between the age range of fifteen to thirty-five, who migrate from the rural areas of northern Ghana to the southern region, fleeing issues such as poverty and child marriage.⁵⁰ Other issues that had been identified as fuelling the practice include Female Genital Mutilation (FGM), lack of education, marriage breakdown, and abandonment of parental responsibility.⁵¹ The case of parents abandoning their responsibility is mostly captured in fostering practice in the northern region, predominant amongst the Dagomba people, which involves families giving their daughters to extended relations, usually paternal aunts, as a way of deepening family relationships.⁵² Given the economic situation in the region, these aunties send the girls to work on their own or give them to third parties as bonded labor, who subsequently subject them to all manner of ill-treatment.⁵³ Apart from these issues, other Kayayei girls get the

⁴¹ See Gervin A. Apatinga & Faustina A. Obeng, *The Coping Strategies of 'Men Left Behind' in the Migration Process in Ghana*, 11 *MIGRATION & DEV.*, 1047 (2022).

⁴² *Id.*

⁴³ See *Child Trafficking Project (CTP)*, YOUTH DEVELOPMENT AND VOICE INITIATIVE (Jan. 3, 2017), <https://yovighana.org/child-trafficking-project-ctp/>.

⁴⁴ See Mariama Awumbila & Elizabeth Ardayfio-Schandorf, *Gendered Poverty, Migration and Livelihood Strategies of Female Porters in Accra, Ghana*, 62 *NORWEGIAN J. GEOGRAPHY*, 171 (2008).

⁴⁵ Agyei, Kumi & Yeboah, *supra* note 28 at 293.

⁴⁶ See Thomas Yeboah, *Fighting Poverty from the Streets: Perspectives of Some Female Informal Sector Workers on Gendered Poverty and Livelihood Portfolios in Southern Ghana*, 5 *J. ECON. & SOC. STUD.* 244 (2015).

⁴⁷ Buske, *supra* note 32 at 300.

⁴⁸ See Seema Agarwal, et al, *Bearing the Weight: The Kayayoo, Ghana's Working Girl Child*, 40 *INT'L SOC. WORK.* 245 (1997).

⁴⁹ *Id.* at 245-46.

⁵⁰ Agyei, Kumi & Yeboah, *supra* note 28 at 298.

⁵¹ Ziblim, *supra* note 30 at 312.

⁵² Buske, *supra* note 32 at 304.

⁵³ *Id.*

support of their family members and relatives to embark on the journey down south to work, given the limited opportunities in their local environment.⁵⁴ While the practice of Kayayei is said to be more prevalent in large Ghanaian cities such as Accra, Kumasi, and Sekondi-Takoradi, it has also been spotted in places like Koforidua.⁵⁵ According to reports, there are about 23,000 Kayayei in Kumasi, while Accra has around 15,000.⁵⁶

Kayayei girls suffer a lot in terms of the labor conditions under which they work. They are used by women traders to move their goods between markets, or from purchasing points to transport bays.⁵⁷ Essentially, they are a part of the transport infrastructure of Ghana.⁵⁸ The goods they haul in the market is a load extremely heavy for their tender years. It is a job in which the customer has major leverage in determining what is and is not heavy for the girls.⁵⁹ As the customer is more driven by his or her own interest, he or she is likely to exercise his or her discretion against the health interest of the girl.⁶⁰ The result is that the youngest and smallest girls end up carrying loads too heavy for their young bodies.⁶¹ The size of the load is a contributory factor to risks when they convey the goods. Their mode of conveying the goods is a complicated and very dangerous one.⁶² They have to weave their way through traffic, under extreme risk of accidents or other kinds of mishap.⁶³ Given the weight of the load they carry and the fact that the commute sometimes involves long distances, they come under severe strain and may end up with body aches and pains.⁶⁴

Due to the high cost of living in most cities where the girls operate, many receive wages that are at best only useful for survival.⁶⁵ Oftentimes their daily income is dependent on the economic fortunes of the market, such that when the market is doing well, they also do well, and when the reverse is the case, they suffer alongside.⁶⁶ While they are a popular feature in most markets, they have to compete with the male porters and truck pushers who are able to charge more given their enhanced capacity to carry heavier loads.⁶⁷ This leaves the girls depending on the goodwill of customers.⁶⁸ The service they render to customers is not captured by any written

⁵⁴ Opare, *supra* note 38 at 36.

⁵⁵ Agyei, Kumi & Yeboah, *supra* note 28 at 298.

⁵⁶ *Id.*

⁵⁷ Agarwal, et al, *supra* note 48 at 246.

⁵⁸ *Id.*

⁵⁹ Buske, *supra* note 32 at 308.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² Yeboah and Appiah-Yeboah, *supra* note 33 at 4.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ Agyei, Kumi & Yeboah, *supra* note 28 at 298.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

contract document, which makes them highly vulnerable to exploitation.⁶⁹ Not only are they exploited by customers who may refuse to pay them or even pay less, but are also harassed by other members of the public such as the police and other drivers.⁷⁰

The girls largely manage their finances by saving in an informal banking system called “Susu,”⁷¹ which involves them saving a fixed amount daily for each day of the month while the money manager retains a day’s savings.⁷² Within this system, they become targets of all sorts of fraudulent manipulations. They sometimes fall prey to Susu collectors who abscond with their savings and can also be defrauded of their savings in places where they are accommodated.⁷³

As domestic economic migrants, their living conditions are inhumane. Many of them sleep in bus terminals, in open marketplaces, and on the streets, with these places lacking provision of electricity, proper sanitation, or water.⁷⁴ They thereby become susceptible to all manner of sexual abuses and diseases,⁷⁵ as well as being vulnerable to extreme weather conditions and robbery attacks.⁷⁶ Generally, they are perceived as street kids, which informs how members of the public interact with them.⁷⁷ With the COVID-19 pandemic, challenges faced by the girls were exacerbated as many experienced difficulties breathing due to the face mask they had to wear in compliance with pandemic measures while carrying loads.⁷⁸ Also, the unsanitary nature of where they live, which is mostly congested, as well as the fact that there was little space for social distancing, made them susceptible to the virus.⁷⁹ Generally, the Ghanaian society’s nonchalance towards these girls and the seeming normalization of the practice, stamps verisimilitude on the denigration of children’s rights in different parts of sub-Saharan Africa.

The Kayayei practice is a form of child labor. UNICEF refers to child labor as damaging to children's health and education while additionally having the potential for further exploitation and abuse.⁸⁰ Such abuse impacts a variety of human rights.⁸¹ While the practice is distressingly an open secret, it is strange why not much has been done to bring it to a stop. A lot has to do with challenges of implementation in Ghana’s domestic legal responses. Before getting to those

⁶⁹ *Id.*

⁷⁰ Yeboah and Appiah-Yeboah, *supra* note 33 at 3.

⁷¹ Opare, *supra* note 38 at 45.

⁷² *Id.*

⁷³ Yeboah and Appiah-Yeboah, *supra* note 33 at 3.

⁷⁴ Agyei, Kumi & Yeboah, *supra* note 28 at 298.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ Buske, *supra* note 32 at 311.

⁷⁸ See Suleiman Dauda & Razak J. Imoro, *Ghana and COVID-19: Perspectives on Livelihoods, Health and Living Conditions of Internal Migrants in Accra*, 8 COGENT SOC. SCI. 8 (2022).

⁷⁹ *Id.*

⁸⁰ See UNICEF, CHILD PROTECTION INFORMATION SHEETS, 3 (2006).

⁸¹ See E.C. Lubaale, *The Recognition of the Right of Children to Freedom from Child Labour in Africa: Is it Enough?*, 28 AFRIKA FOCUS 23, 26 (2015).

issues, it is important to first examine the existing legal framework relevant to these practices, as well as its intersection with the international legal framework prohibiting child labor.

III. THE KAYAYEI PRACTICE – THE LEGAL FRAMEWORK UNDER INTERNATIONAL AND DOMESTIC LAW AND GHANA’S OBLIGATIONS

Under this section, this article will examine how the law at the international and domestic levels addresses child labor practices such as the phenomenon of Kayayei girls. It will also demonstrate how state parties’ commitment to international obligations may be noble, yet remain unrealized at the domestic level. To execute this task, the first port will be to examine responses under relevant international and regional treaties.

Traditionally, children were considered the responsibility of their parents or guardians, embedded in the larger family structure.⁸² Access to them was only through their parents or family members, and they did not emerge from the shadow of their guardians until they attained school age.⁸³ With respect to being bearers of rights, they also had narrower legal rights compared to adults.⁸⁴ Much of this changed in the latter decades of the twentieth century as children became more visible, especially with the adoption of the two leading treaties on children’s rights, the CRC and the ACRWC. In the last thirty years, these two instruments have brought about significant progress in efforts to realize children’s rights protection in Africa.

The CRC is the last of three international instruments related to the rights of the child, with the first being the 1924 Geneva Declaration on the Rights of the Child,⁸⁵ and the second being the 1959 UN Declaration on the Rights of the Child.⁸⁶ The CRC has three key components: the preamble, provision of core rights to children, and articles on implementation;⁸⁷ and in just about two years had been ratified by one hundred state parties, with the number reaching 191 in 1997.⁸⁸ With 196 state parties, the CRC is the most ratified treaty in the world,⁸⁹

⁸² GARCIA ET AL., AFRICA’S FUTURE, AFRICA’S CHALLENGE 2 (2008).

⁸³ *Id.*

⁸⁴ See Elizabeth M. Calciano, *United Nations Convention on the Rights of the Child: Will it help Children in the United States?*, 15 HASTINGS INT’L & COMP. L. REV. 515, 517 (1992).

⁸⁵ See GENEVA DECLARATION ON THE RIGHTS OF THE CHILD, Sept. 26, 1924, O.J. Spec. Supp. 21, 43.

⁸⁶ G.A. Res. 1386 (XIV), DECLARATION ON THE RIGHTS OF THE CHILD, (Nov. 20, 1959); Maria Grahn-Farley, *The Child Perspective in the CRC*, 12 N.Y. CITY L. REV. 431, 439 (2009).

⁸⁷ See e.g., Lainie Rutkow and Joshua T. Lozman, *Suffer the Children? A Call for the United States Ratification of the United Nations Convention on the Rights of the Child*, 19 HARVARD HUM. RTS. J. 161, 164 (2006).

⁸⁸ See Jaap E. Doek, *The UN Convention on the Right of the Child: Some Observations on the Monitoring and the Social Context of its Implementation*, 14 U. FLA. J. L. & PUB. POL’Y 125, 126 (2003).

⁸⁹ See e.g., *Committee on the Rights of the Child: United Nations Human Rights Treaty Bodies*, UNITED NATIONS HUMAN RIGHTS, OFFICE OF THE HIGH COMMISSIONER, <https://www.ohchr.org/en/treaty-bodies/crc>; *UN Convention on the Rights of the Child (UNCRC)*, SAVE THE CHILDREN, <https://www.savethechildren.org.uk/what-we-do/childrens-rights/united-nations-convention-of-the-rights-of-the-child#:~:text=Who%20has%20signed%20up%20to,one%20country%20still%20to%20ratify>; E. Stoecker, *International Child Abduction & Children’s Right: Two Means to the Same End*, 32 MICH. J. INT’L L. 511, 519 (2011); Rutkow and Lozman, *supra* note 87.

and the first internationally legally binding instrument incorporating the full range of civil and socio-economic rights for children.⁹⁰ It is almost universally ratified, save for the exception, which is the United States (US).⁹¹

The CRC opened for signature, ratification, and accession on January 26, 1990, and while Article 46 opens the document to signature by all states, Articles 47 and 48 provide for its ratification and accession, respectively.⁹² The treaty becomes legally binding on a country thirty days after ratification or accession has been received.⁹³ Essentially, all of the CRC's 54 articles can be broken down into eight key categories viz:

“General measures of implementation; the definition of the child; general principles (including non-discrimination, the best interest of the child, the right to life, survival, and development and respect for the views of the child), civil rights and freedoms; family environment and alternative care; basic health and welfare; education, leisure, and cultural activities; and lastly, special protection measures (including sexual exploitation of children, child labor, children in armed conflicts, and refugee children).”⁹⁴

Under the CRC, children are viewed as rights holders. This position has been strengthened by the work of the Committee on the Rights of the Child (CRC Committee) which notes that children as rights holders are entitled to “special protection measures,” as well as a “progressive exercise of their rights.”⁹⁵ This place of children as holders of internationally binding rights has also been noted by Jessemen, who additionally states that this encompasses the right to protection, as well as participation.⁹⁶

Human rights norms are a body of standards in international law, regulating the conduct of states.⁹⁷ The years following the end of the Second World War saw the emergence of new African states that saw in nationhood the guaranteed promise of human rights protection.⁹⁸ The

⁹⁰ See G.S. Sanghera, *The 'Politics' of the Children's Rights and Child Labour in India: A Social Constructionist Perspective*, 12 INT'L J. HUM. RTS. 216 (2008).

⁹¹ See Soo Jee Lee, *A child's voice vs. A parent's control: Resolving a tension between the convention on the rights of the child and U.S. Law*, 117(3) COLUMBIA LAW REV. 687, 687 (2017).

⁹² Convention of the Rights of the Child art. 46-48, Nov. 20, 1989, 1577 U.N.T.S. 3.

⁹³ Rutkow and Lozman, *supra* note 87 at 166.

⁹⁴ See Jonathan Todres, *Emerging Limitations on the Rights of the Child: The U.N. Convention on the Rights of the Child and its Early Case Law*, 30 COLUM. HUM. RTS. L. REV. 159, 166 (1998).

⁹⁵ CRC, *General Comment No. 7*, COMMITTEE ON THE RIGHTS OF THE CHILD, U.N. Doc. CRC/C/GC/7/Rev. 1 (Sept. 20, 2006).

⁹⁶ See Christine Jessemen, *The Protection and Participation Rights of the Child Soldier: An African and Global Perspective*, 1 AFR. HUM. RTS. L. J. 140, 141 (2001).

⁹⁷ See Chidi A. Odinkalu, *Back to the Future: The Imperative of Prioritising for the Protection of Human Rights in Africa*, 47 J. AFR. L. 1, 1 (2003).

⁹⁸ See S.K.B. Asante, *Nation Building and Human Rights in Emergent African Nations*, 2 CORNELL INT'L L. J. 72, 72 (1969).

new states also inherited the standards of their colonial powers.⁹⁹ Though the development of human rights norms has decisively moved at an unprecedented speed since the end of the Second World War, many African states have largely responded to this progress with an air of nonchalance.¹⁰⁰ The correlation between this nonchalance and horrific reports of violations of civil and political rights and non-justiciability of socio-economic status on the continent can hardly be ignored. As Odinkalu notes, the appalling human rights records of the continent are traceable to the refusal of the governments to exercise their inherent capacities.¹⁰¹ Reiterating the same point, particularly in the context of socio-economic rights, Agbakwa notes that such an excuse of lack of capacity is often “*a rationalization for a lack of political will and continued elevation of luxury over necessity.*”¹⁰²

It is, however, worth stating that Ghana is one country that has acquitted itself quite creditably when it comes to progress in human rights development and its record with respect to protecting the rights of children. For instance, it was the first country to ratify the CRC on February 5, 1990, and this it did without any reservation, which signified an important step towards protecting children’s rights¹⁰³ and a commitment to translating its obligation in the treaty into national legislation.¹⁰⁴ This is especially as the CRC prescribes that “*state parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.*”¹⁰⁵

A number of provisions in the CRC directly touch on the Kayayei practice in Ghana. In Article 19(1), the CRC prohibits general acts of child abuse stating that “*state parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.*”¹⁰⁶ In line with this provision, states are required to identify, investigate and report cases of child abuse in their jurisdiction.¹⁰⁷

⁹⁹ See Mirna E. Adjami, *African Courts, International Law and Comparative Case Law: Chimera or Emerging Human Rights Jurisprudence*, 24 MICH. J. INT’L L. 103, 109 (2002).

¹⁰⁰ See Olusola B. Adegbite, *Accountability for Human Rights Violations in Nigeria’s Counterinsurgency Against Boko Haram: Problematizing the Optional Protocol to the International Covenant on Civil and Political Rights*, 5 PADJADJARAN J. INT’L L.1, 14 (2021).

¹⁰¹ Odinkalu, *supra* note 97, at 3-4.

¹⁰² See Shedrack C. Agbakwa, *Reclaiming Humanity: Economic, Social and Cultural Rights as the Cornerstone of African Human Rights*, YALE HUM. RTS. & DEV. L. J. 177, 185 (2002) (emphasis added).

¹⁰³ See Siobhan E. Laird, *Enforcing the Law on Child Maintenance in Sub-Saharan Africa: A Case Study of Ghana*, 25 INT’L J. L. POL’Y FAMILY 220, 221 (2011).

¹⁰⁴ See Viktoira Tomsson, *The Effectiveness of the Convention on Rights of the Child – Examined Through a Legal Assessment of Ghana’s Implementation of Article 35 Concerning Child Trafficking*, Masters Dissertation, STOCKHOLM UNIVERSITY 1, 15-16 (2020).

¹⁰⁵ Convention of the Rights of the Child art. 35, Nov. 20, 1989, 1577 U.N.T.S. 3 (emphasis added).

¹⁰⁶ *Id.* at art. 19 (emphasis added).

¹⁰⁷ See O. Adonteng-Kissi, *Child Labour Versus Realising Child’s Right to Provision, Protection and Participation*, 74 AUSTRALIA SOC. WORK, 474 (2021).

Article 32 of the CRC which falls within the category of rights referred to as ‘protection rights’¹⁰⁸ also calls for the recognition of the right of children to be protected from economic exploitation and from performing any work that is likely to be hazardous, interferes with their education, or deemed to be harmful to their health, or their physical, mental, spiritual, moral or social development.¹⁰⁹ This provision is unique as it entails both rights and obligations; in one part it affirms the right of the child to be free from exploitative and harmful labor, and on the other part, requires states to take active steps to prevent child labor.¹¹⁰ The insertion of this provision in the CRC is significant given that despite over seventy years of different conventions protecting children from exploitation, child labor remains rife in both developed and developing countries.¹¹¹

On a broader level, the CRC also obligates state parties to “*protect the child against all forms of exploitation prejudicial to any aspects of the child’s welfare.*”¹¹² Recognizing that there are children living in exceptionally difficult conditions in most states, the CRC provides additional rights for children such as orphans, children of refugees, disabled children, and children of minority groups.¹¹³ Most girls who get involved in the Kayayei practice are children of impoverished minority groups in northern Ghana, making them deserving of extra special attention from the government.

At the regional level, the ACRWC is also emphatic about its prohibition of child labor, which the Kayayei practice represents. Article 15(1) of the Charter states that “*every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s physical, mental, spiritual, moral, or social development.*”¹¹⁴ Furthermore, Article 15(2) provides that;

State parties to the present Charter shall take all appropriate legislative and administrative measures to ensure their full implementation of this Article which covers both the formal and informal sectors of employment and having regard to the relevant provisions of the International Labour Organisation relating to Children. State parties shall in particular: (a) provide through legislation minimum age for admission to every employment; (b) provide for appropriate regulation of hours and conditions of employment; (c) provide for appropriate penalties or sanctions to ensure the effective enforcement of this article; (d) promote the

¹⁰⁸ See Timothy J. Fitzgibbon, *The United States Convention on the Rights of the Child: Are Children’s Rights Really Protected? A Case Study of China’s Implementation*, 20 LOY. L.A. INT’L & COMP. L. REV. 325, 338 (1998).

¹⁰⁹ Convention of the Right of the Child art. 32(1), Nov. 20, 1989, 1577 U.N.T.S. 3.

¹¹⁰ See Hillary V. Kirstenbroker, *Implementing Article 32 of the Convention on Rights of the Child as a Domestic Statute: Protecting Children from Abusive Labour Practices*, 44 CASE W. RES. J. INT’L L. 930 (2012).

¹¹¹ See Maureen Moran, *Ending Exploitative Child Labour Practices*, 5 PACE INT’L L. REV. 288 (1993).

¹¹² CRC 1989, art. 36 (emphasis added).

¹¹³ STEPHEN N. ACHILIHU, *DO AFRICAN CHILDREN HAVE RIGHTS?* 32 (Universal- Publishers eds., 2010).

¹¹⁴ ACRWC 1990, art. 15 (emphasis added).

*dissemination of information on the hazardous of child labour to all sectors of the community.*¹¹⁵

In addition to these two treaties, general rules of international law impose obligations on states to protect, respect, and fulfil children's rights.¹¹⁶ With respect to this obligation, Ghana is unarguably one of the recognizable forward-looking countries on the African continent. The country operates under a constitutional democratic framework, which provides for several fundamental rights applicable to children. Under its Constitution,¹¹⁷ which is its supreme law,¹¹⁸ enacted in 1992 but took effect January 7, 1993, the people of the country enjoy an extensive range of fundamental human rights and entitlements. In line with its constitutional and international obligation, the government has an affirmative duty to prevent, investigate, and punish persons who exploit children and thereby violate their rights through the Kayayei practice.

The Kayayei practice violates a series of rights that the Ghanaian child ought to enjoy such as the right to life, dignity of the human person, personal liberty and security of the person, freedom from discrimination, and the highest attainable standard of health. These are rights that the Constitution and relevant international and regional human rights instruments extensively guarantee and protect.

To start with, the right to life is guaranteed under the Constitution,¹¹⁹ the ICCPR,¹²⁰ UNCRC,¹²¹ ACHPR,¹²² as well as UDHR.¹²³ Within the same breadth, the Constitution,¹²⁴ the ICCPR,¹²⁵ ACHPR,¹²⁶ and UDHR¹²⁷ all guarantee the right to personal liberty and security of the person which are all applicable to these girls.

The practice is also an attack on the dignity of girls in Ghana, as they are made to engage in the demeaning labor of head porting. As head porters, they are disdained and looked down upon by society, which reduces their self-worth. The right to dignity is expressly protected under

¹¹⁵ *Id.* (emphasis added).

¹¹⁶ See O. B. Adegbite, *Ensuring the Right of the Child in the Boko Haram Insurgency: The Province of UNICEF's Complementary Mandate Under International Law*, 19 *INDONESIAN J. INT'L L.* 165 (2022).

¹¹⁷ See THE CONSTITUTION OF THE REPUBLIC OF GHANA, Apr. 28, 1992.

¹¹⁸ *Id.* at art. 1.

¹¹⁹ *Id.* at art. 13.

¹²⁰ International Covenant on Civil and Political Rights art. 6, Dec. 9, 1966, 999 U.N.T.S. 171.

¹²¹ CRC 1989, art. 6 (1).

¹²² African Charter on Human and Peoples' Rights art. 4, June 27, 1981, 1520 U.N.T.S. 217.

¹²³ G.A. Res. 217 art. 3, Universal Declaration of Human Rights (Dec. 10, 1948).

¹²⁴ THE CONSTITUTION OF THE REPUBLIC OF GHANA, *supra* note 117 at art. 14.

¹²⁵ International Covenant on Civil and Political Rights, *supra* note 120, at art. 9.

¹²⁶ African Charter on Human and Peoples' Rights, *supra* note 122, at art. 6.

¹²⁷ G.A. Res. 217, *supra* note 123, at art. 3.

the Constitution,¹²⁸ the ICCPR,¹²⁹ and ACHPR,¹³⁰ which is relevant to the case of these girls who work all day hauling heavy goods from place to place under their weak frame.

Two requirements are at the core of child labor: the age of the worker in question, and the exploitative nature of the work being done.¹³¹ It is without question that the Kayayee practice fulfils these two standards. In both practices, young persons below the age of eighteen are forced into work situations prohibited under nearly all laws. In the Kayayee practice, the young age of the girls, the inhumane condition under which they work, and the exploitative nature of the trade renders it a form of child labor.¹³² Reports from Ghana's Statistical Service through its Child Labor Survey of 2003 state that out of 6.36 million children in the country, about 1.27 million are involved in what can be referred to as child labor.¹³³ The Ghanaian government is under a duty to faithfully execute the provisions of its Constitution as well as international obligations. The government has a duty under the Vienna Convention to ensure that every treaty in force is performed in good faith,¹³⁴ and cannot invoke its domestic law as a justification for bypassing treaty obligations.¹³⁵

In addition to being a violation of rights under the Ghanaian Constitution and IHRL, this practice also violates relevant legislation designed to protect children in the country. By being the first country to ratify the CRC, Ghana made a strong statement on its image of childhood.¹³⁶ This commitment is reinforced by the Constitution in Article 28 which states:

*The parliament shall enact such laws as are necessary to ensure that – children and young persons receive special protection against exposure to physical and moral hazards – a child shall not be subjected to torture, or other cruel, inhuman, or degrading treatment or punishment – no child shall be deprived by any other person of medical treatment, education or any social or economic benefits by reason only of religious or other beliefs.*¹³⁷

In 1995, a process of legal reform commenced leading to a draft children's bill based on existing legislation and the country's obligation under the CRC.¹³⁸ The bill was later passed into

¹²⁸ THE CONSTITUTION OF THE REPUBLIC OF GHANA, *supra* note 117, at art. 15.

¹²⁹ International Covenant on Civil and Political Rights, *supra* note 120, at art. 5.

¹³⁰ African Charter on Human and Peoples' Rights, *supra* note 122, at art. 5.

¹³¹ Ziblim, *supra* note 30 at 313.

¹³² *Id.*

¹³³ *Id.*

¹³⁴ VIENNA CONVENTION ON THE LAW OF TREATIES, 1155 U.N.T.S. 331, art. 26 (*entered into force* Jan, 27 1980).

¹³⁵ *Id.* at art. 27.

¹³⁶ DeBrenna LaFa Agbenyiga, *Defining Childhood: A Historical Development Perspective*, in Robert K. Ame, DeBrenna LaFa Agbenyiga & Nana A. Apt, (eds.) CHILDREN'S RIGHTS IN GHANA – RIGHT OR RHETORIC? 15 (Lexington Books, 2011).

¹³⁷ THE CONSTITUTION OF THE REPUBLIC OF GHANA, *supra* note 117, at art. 28. (emphasis added).

¹³⁸ Tomsson, *supra* note 104, at 16.

law by the parliament culminating in the enactment of the Children's Act of 1998 (Act 560).¹³⁹ With the turn of the new millennium, Ghana was one of the countries in the West African sub-region to enact legislations to combat child trafficking.¹⁴⁰ Further reforms also saw the enactment of the Human Trafficking Act of 2005 (Act 694).¹⁴¹ Other legislative steps reflecting its commitment to the CRC include the 1994 and 1998 amendments to the Criminal Code, the enactment of the Juvenile Justice Act of 2003, and the Domestic Violence Act of 2007, as well as its endorsement of the ILO Convention on Worst Forms of Child Labour of 1999.¹⁴² Reflecting earlier discussion in this article on the rights of Kayayee girls being violated, the Children's Act states that "every child has the right to life, dignity, respect, leisure, liberty, health, education and shelter from his parents."¹⁴³ It further notes that every parent has rights and responsibilities to "protect the child from neglect, discrimination, violence, abuse, exposure to physical and moral hazards and oppression."¹⁴⁴ Parents are only relieved of these responsibilities when they have surrendered such to the state in accordance with the law.

Child labor intersects human rights and labor issues. The eradication of the practice of child labor is both an issue of human rights and international labor standards.¹⁴⁵ The Children's Act is Ghana's principal source of child labor laws and it reflects the rights of children as protected by international legal instruments.¹⁴⁶ It provides that anyone below the age of eighteen is prohibited from being employed, or involved in any hazardous work.¹⁴⁷ It prohibits children from being employed in exploitative work providing that "no person shall engage a child in exploitative labor"¹⁴⁸ and defines such work as one that "deprives the child of its health, education, and development."¹⁴⁹ The Children's Act states the age of fifteen as the minimum age for admission of a child to general employment and thirteen years for employment of a child in light work.¹⁵⁰ Applying the concept of child labor to all activities that children engage in, is problematic.¹⁵¹ For instance, in recognition of the special circumstances created by family farming, international standards make agriculture an exception, from other kinds of work that are

¹³⁹ Children's Act (Act No. 560/1998) (Ghana) [hereinafter Children's Act].

¹⁴⁰ See Benjamin N. Lawrance, *From Child Labour Problem to Human Trafficking Crisis: Child Advocacy and Anti-Trafficking Legislation in Ghana*, 78 INT'L LABOR & WORLD HISTORY, 79 (2010).

¹⁴¹ Human Trafficking Act, 2005 (Act 694) (Ghana).

¹⁴² Agbenyiga, *supra* note 136.

¹⁴³ Children's Act, *supra* note 139.

¹⁴⁴ *Id.* at art. 6(3)(a).

¹⁴⁵ See D.S. Ehrenberg, *The Labor Link: Applying the International Trading System to Enforce Violations of Forced and Child Labour*, 20 YALE J. INT'L L. 377 (1995).

¹⁴⁶ Buske, *supra* note 32 at 327.

¹⁴⁷ See Christina Wenngren, *Causes of Child Trafficking: A Case study of Ghana*, LUND UNIVERSITY, 14 (2011).

¹⁴⁸ Children's Act, *supra* note 140 at art. 87 (1).

¹⁴⁹ *Id.* at art. 87(2).

¹⁵⁰ *Id.* at art. 89; 90(1).

¹⁵¹ Franziska Humbert, *THE CHALLENGE OF CHILD LABOR IN INTERNATIONAL LAW* 17 (Cambridge University Press, 2009).

deemed child labor.¹⁵² To this end, it has also been asked whether child labor should still be considered a problem, in a situation where a child is engaged in decent and well-paid work, occurring with reasonable hours and affording the child attendant opportunities for learning and training.¹⁵³

Flowing from this understanding, it is recognized that not all forms of child labor are exploitative, as some work involving children is deemed an integral part of the socialization process that inculcates valued skills and may facilitate survival and healthy development.¹⁵⁴ In this light, the Children's Act draws a distinction between the types of work that are legally permitted for the child, and hazardous child labor. It defines light work as "which is not likely to be harmful to the health or development of the child and does not affect the child's attendance at school or the capacity of the child to benefit from school work."¹⁵⁵ As can be gleaned from the provision above, even where work is not dangerous to the physical well-being of the child, so long as it interferes with the child's opportunity to acquire education, it is deemed harmful.¹⁵⁶ It provides that "the minimum age for the employment of a person in hazardous work is eighteen years,"¹⁵⁷ and then defines hazardous work as one which, "poses a danger to the health, safety or morals of a person."¹⁵⁸ While children between the ages of thirteen and fifteen can be employed in light work and other forms of work, the Kayayei practice doesn't fall within this category, given the quantum of work it involves and the related hazards. Accordingly, it is prohibited by the Children's Act which states that "hazardous work includes...head portorage of heavy loads."¹⁵⁹ Head portorage constitutes hazardous work, as it imperils the physical and mental health of the girls who have to carry very heavy loads at such a young age.¹⁶⁰ It could also truncate their lives, given the dangers they are exposed to by reason of unsafe living conditions.¹⁶¹

The Act also provides that the Social Services Sub-Committee of a District Assembly and Department shall be responsible for enforcing its provisions in the informal sector.¹⁶² As the Kayayei practice falls within this sector, it is the duty of social service officers to investigate

¹⁵² See Erika George, *Incorporating Rights: Child Labor in African Agriculture and the Challenge of Changing Practices in the Cocoa Industry*, 21 U.C. DAVIS J. INT'L L. & POL'Y, 66 (2014).

¹⁵³ See Katherine Cox, *The Inevitability of Nimble Fingers: Law, Development and Child Labor*, 32 VAND. J. TRANSNAT'L L. 121 (1999).

¹⁵⁴ See Philip Alston, *Implementing Children's Rights: The Case of Child Labour*, NORDIC J. INT'L L. 36 (1989).

¹⁵⁵ Children's Act, *supra* note 140 at art. 90(2).

¹⁵⁶ See Jennifer Bol, *Using International Law to Fight Child Labour: A Case Study of Guatemala and the Inter-American System*, 13 AM. U. INT'L L. REV. 1145 (1998).

¹⁵⁷ Children's Act, *supra* note 139, at art. 91(1).

¹⁵⁸ *Id.* at art. 91(2).

¹⁵⁹ *Id.* at art. 91(3)(c).

¹⁶⁰ Hazlewood, *supra* note 27 at 26.

¹⁶¹ *Id.*

¹⁶² Children's Act, *supra* note 139, at art. 96(1).

cases where girls below the age of eighteen are involved in this sort of work.¹⁶³ Where a prima facie case has been made, it shall be reported to the police who shall further investigate and take necessary steps to prosecute the offender.¹⁶⁴ In the event that the offender is a relative of the child, a probation or social welfare officer will prepare a social inquiry report on the matter, which will be considered by the police, before any action is taken.¹⁶⁵

These provisions equally conform with standards in ILO's Conventions prohibiting exploitative and hazardous work. Defining hazardous work, the ILO Worst Forms of Child Labor Convention (Child Labor Convention) states that it comprises "work which by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, and morals of the child."¹⁶⁶ The ILO Minimum Age Convention (Minimum Wage Convention)¹⁶⁷ also ties the issue of hazardous work with the minimum age of employment stating that "the minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, and morals of the child shall not be less than 18 years."¹⁶⁸ Ghana ratified the Child Labor Convention and the Minimum Wage Convention on June 13, 2000, and June 6, 2011, respectively, meaning that the above provision is binding on the country.¹⁶⁹

The Kayayei practice also violates Ghana's Human Trafficking Act of 2005. The Act, which is the country's flagship document on human trafficking, is modeled after the Palermo Protocol.¹⁷⁰ This is an international crime control treaty geared towards facilitating the cooperation of states in combating human trafficking,¹⁷¹ which Ghana ratified in 2012.¹⁷² It criminalizes human trafficking, with part of its objectives being to prevent and reduce crime as well as punish offenders.¹⁷³ It also establishes a human trafficking fund for the purpose of rehabilitating and reintegrating children and adults that have been trafficked.¹⁷⁴ The Act defines human trafficking as "the recruitment, transportation, transfer, harboring, trading or receipt of

¹⁶³ *Id.* at art. 96(2).

¹⁶⁴ *Id.* at art. 96 (3).

¹⁶⁵ *Id.* at art. 96(4)(5).

¹⁶⁶ *ILO Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor 1999* at art. 3(d) June 17, 1999.

¹⁶⁷ *ILO Minimum Age Convention*, 1973 (No.138).

¹⁶⁸ *Id.* at art. 3(1).

¹⁶⁹ ILO, Ratifications for Ghana, INTERNATIONAL LABOR ORGANIZATION (ILO), https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103231.

¹⁷⁰ *PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN, SUPPLEMENTING THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME*, U.N Doc. A/53/383 (2020) [Hereinafter 'Palermo Protocol'].

¹⁷¹ See J. Chuang, *Beyond a Snapshot: Preventing Human Trafficking in the Global Economy*, 13 INDIANA J. GLOB. LEGAL STUD. 137, 148 (2006).

¹⁷² Tomsson, *supra* note 104, at 21.

¹⁷³ Wenngren, *supra* note 147, at 15.

¹⁷⁴ *Id.*

persons within and across national borders (a) the use of threats, force, or other forms of coercion, abduction, fraud, deception, the abuse of power or exploitation of vulnerability or; (b) giving or receiving payments and benefits to achieve consent.”¹⁷⁵ Instructive in this definition is the expression “within and across national borders” which goes to show that the Kayayei practice, which involves the recruitment and transportation of children within the country for commercial labor, is a form of trafficking. Also of note is the second part of the definition which talks of “giving or receiving payments and benefits to achieve consent”. This is important as the consent of the child is immaterial when it comes to establishing the commission of the crime of human trafficking. This is noted in the Act which states that:

“where children are trafficked, the consent of the child, parents or guardian of the child cannot be used as a defence in a prosecution under this Act, regardless of whether or not there is evidence of abuse of power, fraud or deception on the part of the trafficker or whether the vulnerability of the child was taken advantage of.”¹⁷⁶

Despite Ghana’s clear international obligations as well as the existence of a developed constitutional and legal framework, child trafficking manifested in the Kayayei practice remains worryingly prevalent and a major affront on the rights of the girl child in the country. It violates the country’s laws as it strips girls of their rights and freedoms guaranteed by the Constitution.¹⁷⁷ It destroys their childhood as they are forced into a life of early labor which threatens their physical and moral welfare.¹⁷⁸ Their moral development, virtue, and dignity are severely affected, as they have to leave the protective care of their parents and relatives, to survive in a distant land where they are exposed to some of the worst forms of barbarities.¹⁷⁹ In view of this, the international community has continued to voice its concern about the situation. While the United Nations Office on Drugs and Crime notes that the internal trafficking of children is one of the biggest challenges in Ghana,¹⁸⁰ the CRC Committee has observed that the country’s measures toward addressing the problem are insufficient.¹⁸¹ It is clear that the Ghanaian government has a major crisis on its hands and must take concrete actions to ensure that the rights of these girls aren’t further eroded. It must exercise state power to ensure that this degrading practice is put to a stop.

IV. SUGGESTED STATE ACTIONS

¹⁷⁵ *Human Trafficking Act 2005*, art. 1(a)(b).

¹⁷⁶ *Id.* at sec. 1(4).

¹⁷⁷ Hazlewood, *supra* note 27 at 21.

¹⁷⁸ *Id.*

¹⁷⁹ *Id.* at 22.

¹⁸⁰ See R. Johansen, *Child Trafficking in Ghana*, UNITED NATIONS – OFFICE OF DRUGS AND CRIME <https://www.unodc.org/unodc/en/frontpage/child-trafficking-in-ghana.html>, (last visited Mar. 27, 2023).

¹⁸¹ UN COMMITTEE ON THE RIGHTS OF THE CHILD (CRC), *Consideration of Report submitted by State Parties under Article 44 of the Convention, Consolidated third to fifth periodic reports due in 2011*, Ghana, CRC/C/GHA/3-5 (Aug. 6, 2014).

The Kayayei practice reflects a child protection problem, as the general lack of adequate care and protection for this class of children, by all stakeholders meant that they have to fend for themselves and family. Yet, child protection is a matter of priority under the international legal framework governing the rights of children,¹⁸² especially as the CRC and other international instruments provide for the right of the child to be free from harm.¹⁸³ The United Nations Children’s Educational Fund (UNICEF) notes that preventing and responding to violence, exploitation, and abuse is essential to ensuring children’s right to survival, development, and well-being.¹⁸⁴ On this score, it further states that:

*Strong child protection provides a bulwark against the web of risks and vulnerabilities underlying many forms of harm and abuse; sexual abuse and exploitation; trafficking; hazardous labor; violence; living or working on the streets; the impact of armed conflicts including the use of child by armed forces and groups; harmful practices such as Female Genital Mutilation/Cutting (FGM/C) and child marriage; lack of access to justice; unnecessary institutionalization, among others.*¹⁸⁵

In defining this system, UNICEF further states that:

*Child protection systems comprise the set of laws, policies, regulations, and services needed across all sectors – especially social welfare, education, health, security, and justice – to support prevention and response to protection-related risks. These systems are part of social protection and extend beyond it. At the level of prevention, their aim includes supporting and strengthening families to reduce social exclusion, and lower the risk of separation, violence, and exploitation.*¹⁸⁶

In recognizing the importance of child protection, the Ghanaian government notes that it “seeks to guarantee the rights of all children to a life free from violence, abuse, exploitation, and neglect.”¹⁸⁷ It also notes that the major stakeholders in child protection are “children and youth, families, communities, government, civil society and private organizations.”¹⁸⁸ It further notes that achieving an effective child protection system requires: appropriate policies, legislation, and regulations; well-defined structures and functions and adequate capacities; supportive social

¹⁸² UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL, UNICEF Child Protection Strategy, May 20 2008, E/ICEF/2008/5/Rev. 1 (2008).

¹⁸³ *Id.* at para. 1.

¹⁸⁴ *Id.* at para. 2.

¹⁸⁵ *Id.* at para. 4. (emphasis added).

¹⁸⁶ *Id.* at para 12-13. (emphasis added).

¹⁸⁷ GOVERNMENT OF GHANA, Child and Family Welfare Policy, MINISTRY OF GENDER, CHILDREN AND SOCIAL PROTECTION, Nov. 2014, iv.

¹⁸⁸ *Id.*

norms; effective promotion, prevention, and response actions; high-quality evidence and data for decision-making; and efficient fiscal management and sufficient resource allocation.¹⁸⁹

Ghana is bound by its obligations in international legal instruments, in so far as its Parliament has ratified and adjusted its domestic laws in line with the principles and norms established in these instruments.¹⁹⁰ For the most part, notwithstanding this very commendable framework, the implementation framework is characterized by issues such as a lack of implementing legislation, lack of sufficient awareness, lack of coordination amongst relevant agencies, and insufficient preventive measures. The result is that this robust framework hasn't translated into meaningful realities for girls trapped in the Kayayei practice. Highlighting this point, the CRC Committee has recognized the fact that Ghana has milestones to cover with respect to combating its obligation on children's rights protection. While it recognizes the country's efforts at strengthening its legal framework, it however notes a clear disconnect between what obtains in the law and in practice.¹⁹¹ It notes importantly the lack of adequate human and financial resources to effectively implement the Children's Act and other legislations designed to protect children.¹⁹² On this basis, this article makes a number of recommendations that can help ameliorate the situation.

1. Need for a stronger implementation of the domestic legal and policy framework.

Ghana must be commended for its comprehensive legal framework for the protection of children, as reflected in relevant constitutional provisions, the Children's Act of 1988, and the Human Trafficking Act of 2005, which have all been discussed above. There are also agencies designated to ensure the implementation of these laws. For instance, the country's Ministry of Women and Children's Affairs (MOWAC) has the responsibility for implementing the Human Trafficking Act of 2005.¹⁹³ However, a major area of challenge is the implementation framework. In its concluding observations on Ghana, the CRC Committee has called on the government to strengthen all efforts to bring all legislations in conformity with the CRC and ensure effective implementation of children-related legislation.¹⁹⁴

¹⁸⁹ *Id.*

¹⁹⁰ Tomsson, *supra* note 104, at 48.

¹⁹¹ See COMMITTEE ON THE RIGHTS OF THE CHILD, Consideration of Report submitted by State Parties under Article 44 of the Convention, Consolidated third to fifth periodic reports due in 2011, Ghana, CRC/C/GHA/3-5, para. 15.

¹⁹² *Id.*

¹⁹³ See M. Sertich & M. Heemskerk, *Ghana's Human Trafficking Act: Success and Shortcomings in Six Years of Implementation*, 19 HUMAN RIGHTS BRIEF 3 (2011); HUMAN TRAFFICKING ACT 2005, sec. 41; LRC, *The Legislative Instrument on the Human Trafficking Act, 2005 (Act 694), Laid before Parliament – The Role of LRC*, LEGAL RESOURCES CENTRE, <http://lrcghana.org/the-legislative-instrument-on-the-human-trafficking-2005-act-694-laid-before-parliament-the-role-of-lrc/>.

¹⁹⁴ See *Concluding Observations on the Combined Third to Fifth Periodic Reports of Ghana*, COMMITTEE ON THE RIGHT OF THE CHILD, CRC/C/GHA/CO/3-5, para. 9 (June 9, 2015).

Legislations in the country are implemented by means of additional regulations called “Legislation Instruments (LI)” which prescribe the procedure to be followed under the relevant law.¹⁹⁵ The lack of an LI since 2005, when the Human Trafficking Act was enacted, created a lacuna in its implementation, especially in regards to key functions such as the rescue, rehabilitation, and reintegration of trafficked victims, as well as prosecution of offenders.¹⁹⁶ In June 2015, the Ministry of Gender, Children and Social Protection finally presented before the Parliament an LI for the Act, containing comprehensive provisions dealing with the prevention, protection, and prosecution of offenders, as well as rescue, rehabilitation, and reintegration of victims. After years of consultations, drafting, and re-drafting, the LI was passed into law finally creating a long-sought environment for stakeholders to counter trafficking at the national and international levels.¹⁹⁷ With this new implementing legislation, it is key that the government now directs its attention more than ever before, to enforcing the Human Trafficking Act to curb the Kayayei practice.

Most of the compromises relating to the Kayayei practice happen at the local level. Challengingly, this level is also hamstrung by problems of implementation. A good example is the case of Kayayei girls who ply their trade in Kumasi, are required to purchase a daily ticket from the Kumasi Metropolitan Assembly (KMA) before they are allowed to work in the market.¹⁹⁸ While a number of the officers of the KMA know that the girls are below the legally permitted employment age and shouldn’t be doing such work, they still sell tickets to them, in addition to other forms of illegal payments extracted from the girls.¹⁹⁹ This reveals a glaring vacuum between the noble intention of the central government to eradicate this practice and the disconnect at the local level.

In addition to doubling efforts on the implementation of the Human Trafficking Act through the instrumentality of the LI, there is also a need for adequate policy response in form of a National Plan of Action (NPA) to support the legal framework. Addressing this point, the CRC Committee has urged the Ghanaian government to adopt an NPA for effective implementation of the provisions of the CRC.²⁰⁰ It has also urged the government to develop a comprehensive policy and strategy addressing children’s issues, including the provision of human, technical, and financial resources and ensure effective implementation of existing strategies.²⁰¹ It has also suggested that key priorities of the plan be incorporated into the country’s poverty reduction

¹⁹⁵ Sertich and Heemskerk, *supra* note 193.

¹⁹⁶ LRC, *supra* note 193.

¹⁹⁷ LRC, *Legislative Instrument to the Human Trafficking Act, 2005 (Act 694) Now Law*, LEGAL RESOURCES CENTRE, <http://lrcghana.org/legislative-instrument-to-the-human-trafficking-act-2005-act-694-now-law/>, (last visited Mar. 27, 2023).

¹⁹⁸ Buske, *supra* note 32 at 328.

¹⁹⁹ *Id.* at 329.

²⁰⁰ COMMITTEE ON THE RIGHTS OF THE CHILD, *supra* note 191, at para. 18.

²⁰¹ Concluding Observations on the Combined Third to Fifth Periodic Reports of Ghana, *supra* note 194, at para. 11.

strategy to ensure the allocation of adequate human and financial resources to combat such anti-children practices.²⁰² In 2010, the government took a step in this direction when it launched the NPA for the elimination of the worst form of labor, with the goal of reducing this practice to the barest minimum by 2015. Aside this, the country has also gone ahead to develop other children-related policies and plans of action such as the National Plan of Action on Orphans and Vulnerable Children 2010 - 2015; the Early Childhood Care and Development Policy, 2004; the National Domestic Violence Policy and Plan of Action; Hazardous Child Labor Framework; Gender and Children's Policy Standards.²⁰³

One way of fast-tracking the realization of these children-related policies and plans is to ensure that education gets to all children in Ghana. This is different from children having access to education, which is the structure under the current framework. Ghana must be commended for its rights-based approach to education which, under the 1992 Constitution, provides that "basic education shall be free, compulsory and available to all."²⁰⁴ This triggered the establishment of the Free Compulsory Universal Basic Education program (FCUBE).²⁰⁵ However, this constitutional provision, as well as FCUBE, have been significantly impeded by the prevalent cultural attitude in the country, in which the society views it as unnecessary to educate the girl-child.²⁰⁶ While the FCUBE operates under a framework sufficient enough to deliver education to Kayayei girls, it remains an issue whether there is a willingness to do so.²⁰⁷ The government has to go beyond just promises, but must be deliberate about educating these girls. Beyond the general FCUBE program, it must design practical programs directly targeting Kayayei girls. Such a program must include the provision of materials necessary for enrollment and continuance in schools such as books, uniforms, bags, food, transportation, accommodation, and even toiletries for personal hygiene.

2. Increased public education campaign

There is a need to instill a greater understanding of how much the Kayayei practice is inimical to the future of girls in Ghana. This point has been noted by the CRC Committee, which stressed the need for awareness, sensitization, and more public education of all Ghanaians, including children, and the importance of protecting children and their rights.²⁰⁸ While it is clear that some of the parents and relatives of these girls do it out of ignorance, it is also clear that others manipulate their authority over these girls and see it as a way of profiting from their

²⁰² COMMITTEE ON THE RIGHTS OF THE CHILD, *supra* note 191, at para. 18.

²⁰³ GOVERNMENT OF GHANA, *supra* note 187, at 3.

²⁰⁴ GHANA CONST. art. 25 (1) (a); Buske, *supra* note 32 at 331.

²⁰⁵ Buske, *supra* note 32 at 331.

²⁰⁶ *Id.* at 332.

²⁰⁷ *Id.* at 333.

²⁰⁸ UN COMMITTEE ON THE RIGHTS OF THE CHILD (CRC), *Consideration of Report submitted by State Parties under Article 44 of the Convention, Consolidated third to fifth periodic reports due in 2011*, Aug. 6, 2014, Ghana, CRC/C/GHA/3-5, para. 17.

vulnerability. The government must be able to separate sincerely ignorant parents from others with ill intentions. While it targets criminally minded parents for necessary prosecution, the larger percentage who engaged in it due to ignorance are deserving of education. However, with prosecution becoming increasingly difficult due to a myriad of challenges, in order to cover as much ground as possible, it is necessary for the government to focus more on educating towards reducing the practice drastically.

The government must build on the success of its recent advocacy in this area and take the battle to the doorstep of the perpetrators: the parents, guardians, and relatives of these girls, particularly in the north of the country, where the practice is most endemic. The government must target villages, clans, and very remote areas for its public education and mass awareness campaigns. To record quicker success, it must involve village heads and community leaders in its efforts as they exercise great influence over the local people. Such public education has the potential of extraordinarily impacting the minds of the people, thereby reducing the practice. There is also a need to educate the girls themselves, as most of them do not consider the practice to be harmful in any way, or even detrimental to their future. This in fact is an impediment to the enforcement of relevant laws designed to protect the rights of these girls.

3. Enhanced capacity and promotion of synergies among relevant organizations.

Ghana has a number of state apparatuses created to deal with children's rights issues within which the Kayaye practice falls. These are the Anti-Trafficking Unit, the Domestic Violence and Victim Support Unit (DOVVISU), the Ministry of Social Welfare (MSW), the National Commission on Children (NCC), the Ministry of Women and Children Affairs (MOWAC), the Commission on Human Rights and Administrative Justice (CHRAJ), as well as the Women and Juvenile Unit of Ghana Police Service (WAJU). It has also demonstrated readiness towards dealing with issues of children's rights by establishing a special unit, the Women and Children's Unit in 2006, as a part of the Legal and Investigations Department of the CHRAJ.²⁰⁹ The CHRAJ continues to play its monitoring role while also publishing the State of Human Rights (SOHR) report annually.²¹⁰

The Children's Act provides responsibility for children's protection within a framework of district assemblies. It assigns the protection of children to the District Assembly (DA) and investigations into violations of children's rights to the DOVVSU.²¹¹ In essence, the DA acts as the "eyes" and "ears" of the government in realizing legislative and policy objectives. The Act states that "a District Assembly shall protect the welfare and promote the rights of children

²⁰⁹ COMMITTEE ON THE RIGHTS OF THE CHILD, *supra* note 191, at para. 23.

²¹⁰ *Id.*

²¹¹ GOVERNMENT OF GHANA, *supra* note 187, at 4.

within its area of authority and shall ensure that within the district government agencies liaise with each other in matters concerning children.”²¹² It further states that:

“a child is in need of care and protection if the child... is an orphan or deserted by his relatives; has being neglected or ill-treated by the person who has the care and custody of the child; has a parent or guardian who does not exercise proper guardianship; is destitute; is wandering and has no home or settled place of abode or visible means of subsistence; is otherwise exposed to moral and physical danger.”²¹³

These provisions show the critical nature of these institutions in realizing the objectives of legislations already discussed in this article. Notwithstanding the fine lines of these provisions, as well as the array of institutions, the protection of children’s rights remains a challenge. For instance, the Department of Children (DOC) only has personnel at the regional level while CHRAJ has a presence in all regional capitals, two sub-national capitals, and ninety-nine districts.²¹⁴ Also, the DOVVSU functions in all regional capitals and seventy-five districts, and the Anti-Trafficking Unit of the Ghana Police has presence in four regional capitals aside Accra.²¹⁵ With such meagre human resources, these agencies are unable to effectively address glaring issues of children’s rights violations. For Ghana to effectively combat the Kayayei practice, it must increase and enhance the capacity of these agencies and organizations to appropriately respond to the menace.

There must be more increased allocation of resources to necessary state agencies to help them respond as appropriate to this crisis. This will involve training, financial resources, and law enforcement support to move to the locations where this practice is endemic. This will enable necessary agencies to compile data on the prevalence of this practice, to facilitate an understanding of the scope and extent of the problem. Without data, it would be difficult for any state response to achieve the desired result. Besides, the mandates of these agencies also overlap, coupled with a lack of clarity on where to draw the line in terms of mandates. For instance, there is a lack of clarity on the responsibilities of the DSW which apply a social work approach to the care and protection of vulnerable children and the MOWAC which also has some child protection responsibilities.²¹⁶ Ghana boasts of notable NGOs and faith-based organizations that have demonstrated appreciable commitment to fighting this scourge, with more than 150 coming together to form the Ghana Coalition on Rights of the Child.²¹⁷ To harness the hidden potential in these organizations, the government must do more to develop a framework of collaboration between relevant state agencies and these NGOs.

²¹² Children’s Act, *supra* note 139, at art. 16 (1).

²¹³ *Id.* at art. 18 (2) (a) (b) (c) (d) (f) (n).

²¹⁴ GOVERNMENT OF GHANA, *supra* note 187, at 6.

²¹⁵ *Id.*

²¹⁶ See Nicola Jones, William Ahadzie and Daniel Doh, *Social Protection and Children: Opportunities and Challenges in Ghana*, UNICEF GHANA, MINISTRY OF EMPLOYMENT AND SOCIAL WELFARE, 90 (2009).

²¹⁷ *Id.* at 91.

4. *The need to fight poverty and economic inequalities in the country*

A major factor that has helped the flourishing of the Kayayei practice is the poverty level in Ghana. Though it was the first country to ratify the CRC, most children in the country are yet to access most of the rights guaranteed by the Convention.²¹⁸ As the country lacks the kind of child support system obtainable in the developed nations of the world, when parents are unable to care for their children, the need to survive sets in, forcing these children to find other ways and means of fending for themselves.²¹⁹ The implication is that involvement in practices such as the Kayayei practice has become more of a solution to poverty by the girls than the problem which the government considers it to be. It therefore means that to indeed stem the tide of the practice, beyond increasing effort on implementation through the existing legal and institutional child protection framework, the socio-economic challenges in the country, especially the wide gulf between the northern and southern regions of the country, must be tackled headlong. The point has been made that if the rural people of the north were more economically well off, fewer people would migrate to the south.²²⁰ One way is to introduce programs that will help the women of the region develop entrepreneurial skills and also put resources in their hands, to start commercial ventures upon completion.²²¹ When such local communities control their own economic fortunes, the circle of poverty can be quickly halted and the Kayayei practice can be correspondingly addressed.²²²

V. CONCLUDING REMARKS

This article has examined the Kayayei practice in Ghana and the impact of this problem on girls in the country. It has analyzed provisions in relevant international human rights and labor treaties and how Ghana's obligation under these documents is calibrated. It has also engaged the existing legal framework in the country, highlighting important sections which speak to the issue. The article has been able to establish the fact that though Ghana boasts a robust legal framework on child's rights protection, a major hindrance to realizing the objectives of these laws is the problem of implementation. Accordingly, it has made a number of recommendations that can help improve the status of child's rights protection in the country.

The importance of rights (inclusive of the rights of children) lies in their universality, indivisibility, interdependency,²²³ and the respect that the holders deserve.²²⁴ It is in this light

²¹⁸ See Samuel Okyere, *Are Working Children's Rights and Child Labour Abolition Complementary or Opposing Realms?* 56 INT'L SOC. WORK 88 (2012).

²¹⁹ *Id.*

²²⁰ See Katherine Ahlvin, *The Burden of the Kayayei: Cultural and Socio-Economic Difficulties Facing Head Porters in Agboghloshie*, 1 PURE INSIGHTS, 1- 17 at 16 (2012).

²²¹ *Id.*

²²² *Id.*

²²³ See Michael Freeman, *The Value and Values of Children's Rights*, in THE HUMAN RIGHTS OF CHILDREN 21 (Ashgate Publ'g ed., 2011).

²²⁴ *Id.* at 22.

that Ghanaian girls forced into the Kayayei practice must be viewed. They are rights holders and the obligation to ensure that they are indeed able to enjoy the full spectrum of rights they hold, rests on the government.

As it stands, the Kayayei practice is a major obstruction to the enjoyment of rights by these girls. It is also a thorn in the flesh of the government's effort towards realizing the rights of children in the country. Therefore, eradicating it must be taken as a matter of immediate priority for the government. This article has provided the much-needed direction for the realization of such eradication. Clearly, further research is required to further engage other areas that this article could not cover due to its scope and craft more solutions. The recommendations offered in this article, however, represent important first steps. It is hoped that with the government's renewed efforts on this issue, the future will tell a better story of the Ghanaian girls involved in the Kayayei practice.