

The Genetic Panopticon: Why Ghana's Mandatory Paternity Bill is a Global Outlier. (Trust, Not Tests-A Critique of the Proposed Mandatory Paternity Legislation.)

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ABSTRACT

This article provides a critical analysis of the proposed mandatory paternity legislation introduced in the Parliament of Ghana in early 2026. The proposed Private Member's Bills seek to mandate DNA testing as a prerequisite for birth registration and to criminalize "paternity fraud." This study contends that such measures represent an unprecedented state overreach that undermines the "presumption of legitimacy" established under the *Evidence Act 1975*.

Through a comparative jurisdictional lens, the article examines the legal frameworks of seven advanced economies including France, Germany, and the UK revealing that Ghana's proposal is a global outlier that prioritizes forensic truth over family stability and the "best interests of the child." The author concludes by recommending a shift toward voluntary mediation and the strengthening of existing family tribunals rather than the implementation of state-mandated genetic surveillance.

Keywords: Presumption of Legitimacy, Paternity Fraud, Constitutional Privacy, Bodily Integrity, Comparative Jurisprudence.

INTRODUCTION

The Legislative Context

The legislative push for mandatory paternity testing in Ghana reached a fever pitch in early 2026, driven by two distinct Private Member's Bills that represent a radical shift toward the forensic regulation of domestic relations. This movement began in April 2026, when Hon. Yakubu Mohammed, Member of Parliament for Ahafo Ano South East, formally announced his intention to introduce a bill making DNA paternity testing a compulsory prerequisite for birth registration.¹ Mohammed's proposal seeks to amend administrative protocols to ensure no birth certificate is issued until biological fatherhood is verified, aiming to ensure "paternity certainty" and compel biological fathers to fulfill maintenance obligations immediately.²

The legislative landscape was further intensified in May 2026 by Hon. Kwame Asare Obeng, the Member for Gomoa Central, who introduced a more punitive draft specifically seeking to criminalise "paternity fraud."³ Under this proposal, any woman who "knowingly and intentionally" misidentifies a child's biological father

¹ Ernest Best Anane, 'Parliament To Pass A Bill For Compulsory Paternity Test For Every Child Born In Ghana' *The Chronicle* (Kumasi, 27 April 2026) thechronicle.com.gh accessed 5 May 2026.

² *ibid.*

³ Victor Wutor, 'Ghana's parliament and the fight over "who your father is"!' *GhanaWeb* (Accra, 2 May 2026) ghanaweb.com accessed 5 May 2026.

would face criminal prosecution and potential custodial sentencing.⁴ By mandating DNA collection from the mother, child, and alleged father immediately after delivery, the bill effectively transforms maternity wards into forensic collection points.

Collectively, these bills, introduced under Article 106 of the 1992 Constitution, aim to dismantle the "presumption of legitimacy" that has anchored Ghanaian family law since the Evidence Act 1975.⁵ While sponsors argue they are protecting paternal rights and the child's right to identity.

The Problem Statement

While the stated motivation behind these legislative proposals is the mitigation of "paternity fraud" a social concern that undoubtedly causes emotional and financial distress the proposed solution of universal, mandatory DNA testing is a profoundly disproportionate response. The fundamental flaw in this legislative logic lies in its attempt to solve a complex social issue by dismantling the "presumption of legitimacy," a bedrock of the *Evidence Act 1975*.⁶ Under Section 32 of this Act, a child born to a married woman is legally presumed to be the child of her husband; this is not a denial of biology, but a deliberate legal policy designed to ensure "decency, morality, and policy" by protecting the child's legal status and social stability.⁷

To subject every Ghanaian mother and newborn to a state-mandated DNA test to catch a statistical minority of fraudulent cases is akin to using a sledgehammer to crack a nut. It undermines the sanctity of the family unit, treats biological truth as the sole metric of parental responsibility, and risks destabilising thousands of stable homes in the pursuit of forensic perfection.

The disproportionate nature of this response is underscored by its total abandonment of the "Best Interests of the Child" principle, which is mandated by both the *Children's Act 1998* and international law.⁸ By elevating biological "truth" above all other considerations, the state risks rendering children legally fatherless on a laboratory technicality. This forensic obsession ignores the reality that a child's welfare is often best served by the stability of an established family unit, regardless of genetic markers. To forcibly peel back the layers of a family's history without a specific legal dispute is to invite chaos where there was previously order.

Furthermore, the "presumption of legitimacy" was never intended to be an absolute bar to truth, but rather a safeguard against the "bastardization" of children and the resulting social stigma.⁹ Existing laws already provide a pathway for men who harbor genuine doubts to challenge paternity through the Family Tribunals.¹⁰

By making this process mandatory and universal, the state is not "empowering" men; it is conducting an invasive search into the private lives of every citizen. This creates a "legal panopticon" where the state assumes the role of an arbiter of domestic honesty, effectively signaling that the Ghanaian government views the marital home as a site of inherent deception rather than a sanctuary of trust.

Thesis

This article contends that the proposed mandatory paternity bills represent a significant state overreach from established legal norms, constituting a disproportionate state overreach that prioritizes forensic verification over social stability. The central thesis is that the legislation is a manifest violation of fundamental **constitutional**

⁴ A Plus pushes bill to criminalise paternity fraud in Ghana' *Pulse Ghana* (Accra, 15 February 2026) pulse.com.gh accessed 5 May 2026.

⁵ Constitution of the Republic of Ghana 1992, art 106

⁶ Evidence Act 1975 (NRCD 323), s 32.

⁷ *Goodright v Moss* (1777) 2 Cowp 591; See also 'Introduction to Presumptions' (Big Sam Connect, April 2025) bigsamconnect.com accessed 5 May 2026.

⁸ Children's Act 1998 (Act 560), s 2; UN Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, art 3.

⁹ *Goodright v Moss* (1777) 2 Cowp 591.

¹⁰ Evidence Act 1975 (NRCD 323), s 33 (which allows for the rebuttal of presumptions by "a preponderance of the evidence").

rights, is **economically unfeasible** for the average Ghanaian household, and is **legally regressive** when measured against international standards of family jurisprudence.

The constitutional infringement is twofold: it invades the sanctity of the home and private life as protected under Article 18,¹¹ while simultaneously violating the principle of bodily integrity through coerced medical procedures. Finally, by comparing these proposals to the standards of advanced democracies, it becomes clear that Ghana's legislative trajectory is moving toward a forensic-first model that most developed legal systems have rejected in favour of protecting the "best interests of the child" and the "social bond" of fatherhood.

LITERATURE REVIEW

The Empirical Landscape and Statistical Limitations

Proponents of universal DNA testing frame paternity fraud as a national emergency. They base this claim on private laboratory statistics.¹² Media reports heavily cite the March 2026 report by the Blueprint DNA Organisation. This report states that 42.3% of paternity tests in Ghana across 2025 resulted in a negative exclusion. This means four out of ten tested men were not the biological fathers. Regional data shows urban hubs like Greater Accra and Ashanti recorded exclusion rates of 38% and 40%.

The Methodological Limitation

Using these private clinic figures to justify a universal law is a major analytical error. The central limitation of the current debate is the complete lack of randomized, population-wide empirical data on paternity fraud in Ghana.

The 42.3% figure does not represent the general public. It comes from a highly selective, non-random sample pool. These are families who already had severe marital disputes or deep suspicions.

Global sociological data shows that true non-paternity rates in the general, non-disputed public fall between 1% and 4%. Forcing every citizen into a genetic database based on a selective, conflict-driven sample is a disproportionate response. The state is applying a heavy-handed legal solution to a baseline population that remains completely unmapped by rigorous scientific data.

The scholarly debate surrounding Ghana's 2026 paternity bills is polarized between a forensic-rights perspective and a constitutional-privacy framework. Proponents of the legislation, most notably the parliamentary sponsors Hon. Yakubu Mohammed and Hon. Kwame Asare Obeng, ground their arguments in the concept of "paternal justice." Their work suggests that the state holds a moral mandate to eliminate "paternity fraud," which they frame as a profound financial and psychological injury against men.¹³ In this view, biological truth is presented as the only authentic foundation for parental responsibility. This perspective is a form of biological essentialism that prioritizes the "right to know" as a primary human right.

In contrast, a significant body of legal scholarship, exemplified by analyses from *Lexis Ghana*, anchors its critique in the **1992 Constitution**. These works argue that the universal and compulsory seizure of genetic data constitutes an unconstitutional "genetic panopticon," violating the right to privacy under Article 18.¹⁴ This school of thought suggests that genetic data is the most intimate form of private property and that its state-mandated collection treats every citizen as a forensic subject without the prerequisite of a criminal investigation.

¹¹ Constitution of the Republic of Ghana 1992, art 18; Children's Act 1998 (Act 560), s 2.

¹² Blueprint DNA Organisation, '2026 Ghana DNA Insights Report' (Accra, March 2026); see also 'Study reveals 42.3% of DNA tests in Ghana in 2025 show tested men are not the fathers' Pulse Ghana (Accra, 26 March 2026) <<https://pulse.com.gh>> accessed 13 May 2026.

¹³ Ernest Best Anane, 'Parliament To Pass A Bill For Compulsory Paternity Test For Every Child Born In Ghana' *The Chronicle* (Kumasi, 27 April 2026).

¹⁴ Mandatory Paternity Testing in Ghana: Should It Be Required?' *Lexis Ghana* (Accra, 29 April 2026) lexisghana.com accessed 5 May 2026.

Furthermore, global comparative works such as those analyzing the **French Bioethics Law** and the **German Genetic Diagnostics Act** reveal that advanced legal systems intentionally prioritize "family peace" (*paix des familles*) over forensic precision.¹⁵ Scholars in these jurisdictions argue that the law's primary duty is to protect the "social bond" of fatherhood rather than policing biological markers.

When evaluating these works, a fundamental tension emerges regarding the "Best Interests of the Child." While the Ghanaian bills assume that biological certainty is always in the child's interest, international jurisprudence, particularly in the **United Kingdom**, maintains a "stability" standard. In the landmark case *Re H (A Child)*, the court investigation concluded that the stability of an established family unit outweighs a father's desire for biological truth.⁴

Moreover, scholarly investigations into the economic realities of Ghana indicate that tethering birth registration to expensive DNA tests often costing five times the monthly minimum wage will inevitably create a "stateless" underclass of undocumented children.¹⁶

Existing literature also reveals a critical logistical gap; most pro-bill arguments assume a national infrastructure for DNA testing that simply does not exist in rural Ghana. There is a lack of research on how a "geographic tax" affects the rights of rural mothers, nor is there sufficient study on the potential spike in domestic violence resulting from mandatory biological reveals in patriarchal settings.

In my view, the current legislative push in Ghana represents a regressive shift that mistakes **data for dignity**. By elevating the double helix above the social contract, the state abdicates its role as the protector of the family unit. The bill functions as a "sledgehammer" because it attempts to solve a complex trust deficit through a laboratory report. True progress lies in the synthesis of law and sociology strengthening **Family Tribunals** and **Mediation** to ensure that the law serves the child's stability rather than the state's forensic curiosity.

The Legal and Constitutional Critique

Violation of Privacy (Art 18):

The proposed legislation represents a direct assault on the right to privacy, a fundamental liberty enshrined in Article 18 of the 1992 Constitution. Specifically, Article 18(2) mandates that 'no person shall be subjected to interference with the privacy of his home, property, correspondence or communication.'¹² By making DNA testing a state mandate for every newborn, the government effectively asserts a right to seize and catalog the genetic data of every citizen at birth. This is not merely an administrative hurdle; it is a profound invasion of the "genetic privacy" of the family unit.

The state's overreach in this regard is twofold. First, it compels the disclosure of highly sensitive biological information without the specific suspicion of a crime or a pending legal dispute. In modern jurisprudence, genetic data is considered the most intimate form of private property. For the state to require the surrender of this data as a prerequisite for a birth certificate a basic document of identity constitutes a form of "state-sponsored surveillance" over the most private aspects of human relationships. As noted in the context of global human rights, the forced extraction of DNA for non-forensic, universal purposes is a violation of "informational self-determination."¹³

Second, the bill ignores the "sanctity of the marital home." By introducing a mandatory third party the state-run laboratory into the birthing room, the law disrupts the private autonomy of the family. The Constitution protects the home from "interference"; yet, these bills propose to interfere in the most intrusive way possible by legislating a default state of distrust. This move shifts the Ghanaian legal landscape from a "liberty-based"

¹⁵ Law No 94-653 of 29 July 1994 (France); Genetic Diagnostics Act 2009 (Germany).

¹⁶ *Re H (A Child) (Paternity: Best Interests)* EWCA Civ 154.

⁵ Victor Wutor, 'Ghana's parliament and the fight over "who your father is"!' *GhanaWeb* (Accra, 2 May 2026).

system, where families are left to manage their own internal relations unless a conflict arises, to a "control-based" system where the state acts as a mandatory forensic auditor of every conception.

The state's overreach in seizing genetic data extends beyond the immediate collection of a sample; it involves the creation of a permanent, state-managed biological record of every citizen. Under the proposed framework, the government does not merely "verify" paternity; it effectively creates a national genetic database under the guise of birth registration. This is a radical departure from the constitutional intent of Article 18, which seeks to shield the individual from arbitrary state intrusion. When the state compels a mother to surrender her child's DNA, it is not conducting a simple administrative check; it is engaging in the "compulsory disclosure of intimate biological secrets" without the safeguards of a warrant or a specific allegation of wrongdoing.¹⁷

This policy creates a "chilling effect" on the right to family life. The European Court of Human Rights, in interpreting similar privacy protections, has held that the retention of cellular samples and DNA profiles is a "grave interference" with the right to private life, particularly when applied to individuals who have not been convicted of any crime.¹⁸ In the Ghanaian context, the bill treats every newborn and their mother as a subject of forensic scrutiny. By conditioning the child's legal identity the birth certificate on the surrender of genetic privacy, the state places a "unconstitutional condition" on the exercise of a fundamental right. It forces parents to choose between their child's legal recognition and their right to keep their most intimate biological information out of the hands of state actors.¹⁹

Bodily Integrity (Art 15)

Closely linked to the violation of privacy is the direct infringement upon **bodily integrity**, a right protected under the umbrella of human dignity in Article 15 of the *1992 Constitution*. Article 15(1) mandates that 'the dignity of all persons shall be inviolable,' while Article 15(2) explicitly prohibits any condition that detracts from the 'worth and dignity' of the human being.²⁰ By mandating a medical procedure no matter how minimally invasive, such as a buccal swab or blood draw for the sole purpose of forensic surveillance, the bill treats the bodies of mothers and newborns as mere evidence for state processing.

The ethical core of modern medicine and law is **informed consent**. Coercing a mother, immediately after the physical and psychological toll of childbirth, to undergo a genetic extraction as a prerequisite for her child's legal existence is a form of state-sanctioned duress. It strips the mother of her medical autonomy and subjects the newborn to an unnecessary clinical intervention that serves no diagnostic or therapeutic purpose. In legal jurisprudence, the "sanctity of the body" dictates that the state cannot physically touch or extract material from a citizen without their consent or a compelling penal justification.²¹ To implement a universal mandate is to suggest that the state's interest in forensic "truth" supersedes the individual's right to physical self-determination.

The mandate reduces the mother-child bond to a "crime scene" dynamic. By requiring forensic validation at the point of birth, the state effectively "brands" the mother with a presumption of dishonesty. This detracts from her "worth and dignity" by signaling that her word and the social recognition of the father are insufficient without a laboratory stamp. As constitutional scholars have argued, the state has no business forensic birth monitoring or

¹⁷ 'Mandatory Paternity Testing in Ghana: Should It Be Required?' *Lexis Ghana* (Accra, 29 April 2026) lexisghana.com accessed 5 May 2026.

¹⁸ *S and Marper v United Kingdom* (2008) ECHR 1581. See also Article 17 of the International Covenant on Civil and Political Rights (ICCPR), which protects against arbitrary interference with privacy and family.

¹⁹ Victor Wutor, 'Ghana's parliament and the fight over "who your father is"!' *GhanaWeb* (Accra, 2 May 2026) ghanaweb.com accessed 5 May 2026.

²⁰ Constitution of the Republic of Ghana 1992, art 15(1)-(2).

²¹ *Schmerber v California* 384 US 757 (1966) (discussing the constitutional limits on the extraction of biological samples); see also 'Parentage, not paternity: Ghana's proposed compulsory paternity testing bill sparks fears of discrimination against mothers' *MyJoyOnline* (Accra, 4 May 2026) myjoyonline.com accessed 5 May 2026.

using the physical bodies of citizens to satisfy a legislative vendetta against a statistical minority of fraudulent cases.²²

Conflict with the Evidence Act

Beyond the constitutional infringements, the proposed bills create a catastrophic conflict with the established statutory framework of Ghanaian family law, specifically the **Evidence Act 1975 (NRCD 323)**. Section 32 of the Act codifies the "presumption of legitimacy," stating that a child born to a woman during her marriage, or within 300 days of its dissolution, is presumed to be the child of her husband.²³ This is not a mere evidentiary convenience; it is a substantive legal policy designed to safeguard the child's status and the stability of the marital unit.

The mandatory paternity bill seeks to effectively repeal this presumption by making scientific verification the primary and only source of legal parentage. In doing so, it shifts the burden of proof in a way that is legally regressive. While Section 33 of the Evidence Act already allows for this presumption to be rebutted by a "preponderance of the evidence" such as a DNA test in a specific dispute it does not require it for every case.²⁴ The current law wisely allows for "social fatherhood" to prevail in the absence of a challenge, recognizing that the peace of the family is often more valuable than the precision of the laboratory.

By mandating a test for every birth, the state creates a "legal collision course." If a DNA test results in a "non-match" for a married couple who had every intention of raising the child together, the law would technically strip the husband of his parental rights and the child of their inheritance and support claims, even against the wishes of all parties. This "forensic fundamentalism" replaces the nuanced, human-centered approach of the Evidence Act with a rigid biological determinism that treats families as clinical specimens rather than social institutions.²⁵

The Socio-Economic Argument: The "Poverty Tax"

While the legal and constitutional arguments against the mandatory paternity bill focus on principles of liberty and privacy, the socio-economic implications present a more immediate, existential threat to the average Ghanaian household. By tethering the issuance of a birth certificate a fundamental document of citizenship to an expensive forensic procedure, the state is effectively proposing a "poverty tax" on legal identity. This section examines the economic unfeasibility of the bill, arguing that the financial burden it imposes will disproportionately disenfranchise the poor, create a logistical nightmare for rural populations, and risk the emergence of a "stateless" generation of children whose parents simply cannot afford the price of biological truth.

Cost Analysis

The financial chasm between the cost of DNA testing and the economic reality of the average Ghanaian worker renders this bill practically unenforceable for a majority of the population. Currently, a standard paternity test in Ghana ranges between **GHC 2,500 and GHC 4,500** depending on the laboratory and the depth of the analysis.²⁶ When contrasted with the national daily minimum wage of **GHC 18.15** (amounting to roughly GHC 490 per month), it becomes clear that a single paternity test costs more than **five months of gross income** for a minimum-wage earner.²⁷

²² 'Mandatory Paternity Testing in Ghana: Should It Be Required?' *Lexis Ghana* (Accra, 29 April 2026) lexisghana.com accessed 5 May 2026.

²³ Evidence Act 1975 (NRCD 323), s 32.

²⁴ *ibid*, s 33. See also 'Introduction to Presumptions' (Big Sam Connect, April 2025) bigsamconnect.com accessed 5 May 2026.

²⁵ 'Parentage, not paternity: Ghana's proposed compulsory paternity testing bill sparks fears of discrimination against mothers' *MyJoyOnline* (Accra, 4 May 2026) myjoyonline.com accessed 5 May 2026.

²⁶ 'The Cost of DNA Testing in Ghana' (DNA Centers Ghana, 2026) dnacentersghana.com accessed 5 May 2026.

²⁷ National Daily Minimum Wage (Determination) Notice 2024; see also 'Economic Realities and the DNA Bill' *Daily Graphic* (Accra, 30 April 2026) graphic.com.gh accessed 5 May 2026.

For a family living at or below the poverty line, the requirement to produce a DNA result before obtaining a birth certificate is an insurmountable barrier. This creates a tiered system of citizenship. If the state intends to bear this cost, it would require a budgetary allocation of billions of Cedis annually funds that are desperately needed for the **National Health Insurance Scheme (NHIS)** or basic maternal healthcare.²⁸ By prioritising forensic verification over financial accessibility, the bill effectively punishes the poor for their inability to pay for "scientific certainty," turning a basic human right the right to a name and a nationality into a luxury commodity.

Rural Inaccessibility

The economic burden of the bill is exacerbated by a severe geographical divide, as DNA testing infrastructure in Ghana remains heavily concentrated in urban centres like Accra and Kumasi. For the millions of Ghanaians living in rural or peri-urban districts, the "cost" of the bill includes not only the laboratory fees but also the prohibitive expenses of travel, accommodation, and lost wages incurred while seeking an accredited facility.²⁹ This logistical bottleneck effectively creates a "geographic tax" on rural families, who already face significant hurdles in accessing basic healthcare and administrative services.

The most chilling consequence of this inaccessibility is the inevitable rise of a "stateless" generation.

Under the proposed legislation, a child's birth certificate is contingent upon a successful DNA result; without this document, a child cannot be enrolled in the National Health Insurance Scheme (NHIS), cannot be admitted into the public school system, and will later be unable to obtain a Ghana Card or passport.³⁰

By placing an expensive forensic barrier at the very entry point of citizenship, the state risks creating a mass of undocumented children who exist in a legal vacuum. This does not solve "paternity fraud"; it simply creates a social underclass of children who are punished with "civil invisibility" because of their parents' lack of proximity to a laboratory or the funds to pay for it.³¹

The Identity Crisis

The proposed nexus between DNA verification and birth registration threatens to precipitate a national identity crisis, as the birth certificate serves as the primary "breeder document" for all other forms of legal existence in Ghana. Under the Registration of Births and Deaths Act 2020 (Act 1027), registration is a mandatory civil duty intended to ensure that every child is recognized by the state.³² However, by introducing an expensive and logistically complex laboratory result as a prerequisite, the bill transforms a mandatory duty into a conditional privilege. The inevitable result is the mass disenfranchisement of children whose parents due to poverty or lack of proximity to urban labs cannot fulfill the forensic requirement.

Without a birth certificate, a child is effectively rendered a non-person in the eyes of the state; they cannot be enrolled in the National Health Insurance Scheme (NHIS), are barred from the Free Senior High School (SHS) programme, and will ultimately be denied a Ghana Card or passport.³³ By tethering legal identity to biological certainty, the state prioritises a father's "right to know" over a child's "right to exist" as a citizen. Instead of

²⁸ 'Mandatory Paternity Testing in Ghana: Should It Be Required?' *Lexis Ghana* (Accra, 29 April 2026) lexisghana.com accessed 5 May 2026.

²⁹ 'Rural Realities: The Logistical Nightmare of Mandatory DNA' *The Mirror* (Accra, 1 May 2026) graphic.com.gh accessed 5 May 2026.

³⁰ Registration of Births and Deaths Act 2020 (Act 1027); see also 'Poverty and the Right to Identity' *MyJoyOnline* (Accra, 3 May 2026) myjoyonline.com accessed 5 May 2026.

³¹ Victor Wutor, 'Ghana's parliament and the fight over "who your father is"!' *GhanaWeb* (Accra, 2 May 2026) ghanaweb.com accessed 5 May 2026.

³² Registration of Births and Deaths Act 2020 (Act 1027).

³³ 'Poverty and the Right to Identity: The Hidden Cost of the DNA Bill' *MyJoyOnline* (Accra, 3 May 2026) myjoyonline.com accessed 5 May 2026.

curing "paternity fraud," the legislation risks creating a permanent underclass of undocumented citizens, punished from birth for a forensic cost they did not choose and cannot afford.³⁴

Global Comparative Analysis: Lessons from Advanced Nations

To evaluate the merit of the proposed Ghanaian legislation, one must look beyond national borders to the established norms of global family jurisprudence. A survey of advanced democracies reveals a striking consensus: while forensic science is a valuable evidentiary tool, the move toward universal, state-mandated paternity testing is viewed as a radical and undesirable overreach. In these jurisdictions, the law is not merely a search for biological "truth," but a guardian of social order and family stability. Most advanced legal systems have purposefully rejected the "forensic-first" model in favour of protecting the "social bond" and the "best interests of the child." By comparing the Ghanaian proposal to the standards of seven advanced nations, it becomes clear that Ghana's legislative trajectory is moving toward a form of "genetic policing" that the rest of the developed world has largely codified against.

France: The Primacy of the Social Bond

France maintains the most stringent opposition to unregulated paternity testing in the Western world. Under the *French Bioethics Law*, DNA paternity testing is strictly prohibited unless ordered by a judge within the specific context of a legal proceeding.³⁵ The French legal system is anchored in the concept of *possession d'état* (possession of status), which holds that a father is defined by his social role giving his name, providing support, and being recognized as the parent by the community rather than his genetic markers.³⁶ Consequently, private DNA testing is a criminal offense, carrying penalties of up to one year in prison or a €15,000 fine.³⁷ By contrast, Ghana's bill seeks to make the laboratory result the *only* valid source of paternal status, a move that French law views as a threat to the "tranquility of the family."

Germany: The Requirement of Multi-Party Consent

German jurisprudence prioritizes the "right to informational self-determination." Under the *Genetic Diagnostics Act (GenDG)*, "secret" paternity tests are illegal.³⁸ A DNA test can only be performed if there is documented, informed consent from all affected parties: the mother, the putative father, and the child (represented by a legal guardian).³⁹ German law recognizes that forcing a genetic revelation upon a family without consent is a violation of the constitutional right to privacy and human dignity. Unlike the proposed Ghanaian mandate, which removes consent entirely, German law ensures that the pursuit of "truth" does not occur at the expense of individual autonomy and bodily integrity.

The United Kingdom: The "Best Interests" Override

In the United Kingdom, while DNA testing is available, it is subject to a rigorous judicial "safety valve." Under the *Family Law Reform Act 1969*, courts have the discretion to order tests, but they are not mandatory.⁴⁰ Most importantly, British judges can and frequently do refuse to order a paternity test if they determine that the disclosure would be contrary to the **best interests of the child**.⁴¹ In the landmark case of *Re H (A Child)*, the court held that the stability of a child's existing family life outweighed a father's desire for biological

³⁴ Victor Wutor, 'Ghana's parliament and the fight over "who your father is!"' GhanaWeb (Accra, 2 May 2026) ghanaweb.com accessed 5 May 2026.

³⁵ Law No 94-653 of 29 July 1994 (France).

³⁶ Civil Code (France), art 311-1.

³⁷ 'In 1994, France banned DNA testing because it had the potential to break up families' (Instagram, 18 June 2024) [instagram.com](https://www.instagram.com) accessed 5 May 2026.

³⁸ Genetic Diagnostics Act (Gendiagnostikgesetz - GenDG) 2009 (Germany), s 17.

³⁹ *ibid*.

⁴⁰ Family Law Reform Act 1969 (UK), s 20.

⁴¹ Children Act 1989 (UK), s 1.

certainty.⁴² This stands in stark contrast to the Ghanaian proposal, which lacks any judicial oversight to protect the child from the psychological wreckage of a state-mandated biological reveal.

The United States: Fourth Amendment Protections

In the United States, the concept of a state-mandated universal DNA test at birth has been consistently rejected as a violation of the **Fourth Amendment**, which protects citizens against "unreasonable searches and seizures."⁴³ American courts have established that biological samples, including DNA, are highly private material that the state cannot seize without a "compelling interest" and, in most non-criminal cases, a specific warrant or court order.⁴⁴ While testing is high in the US, it remains a voluntary tool used in child support disputes, rather than a prerequisite for citizenship. The US model emphasizes that the state has no business conducting "genetic dragnets" on innocent families.

Canada: Security of the Person

Canadian law is guided by the *Charter of Rights and Freedoms*, specifically Section 7, which guarantees the "right to life, liberty, and security of the person."⁴⁵ Compelling a mother and child to undergo a medical procedure for forensic purposes is viewed as an infringement on their physical and psychological security. Provincial laws, such as Ontario's *Children's Law Reform Act*, allow for DNA testing but maintain a focus on the welfare of the child.⁴⁶ Canadian jurisprudence acknowledges that "biological truth" must often yield to the "social truth" of established parental relationships to prevent child traumatization.

Australia: The Presumption of Parentage

Australia's *Family Law Act 1975* maintains strong legal presumptions for married and *de facto* couples, effectively shielding families from unnecessary forensic scrutiny.⁴⁷ A "parentage testing order" is only issued if there is a genuine dispute and the court is satisfied that the test is necessary.⁴⁸ Like the UK, Australia prioritizes the stability of the home, ensuring that the law does not actively go looking for biological discrepancies unless a family unit has already broken down to the point of litigation.

Sweden: State-Led Mediation, Not Mandates

Sweden represents a high-intervention social model, where the state ensures every child has a legal father through "fatherhood inquiries" for unmarried parents.⁴⁹ However, even in this system, the approach is one of **mediation and support** rather than criminalization. DNA testing is used as a supportive tool to help unmarried fathers establish rights, not as a mandatory barrier for all births. Swedish law balances the child's right to know their origins with a respect for the family's privacy, avoiding the draconian penalties proposed in the Ghanaian "A Plus" bill.

Comparitive Analysis

When contrasted with the seven aforementioned jurisdictions, Ghana's legislative attempt emerges as a dramatic outlier that prioritizes **forensic determinism** over the **social and legal stability** of the family. While advanced democracies have spent decades refining legal "safety valves" to protect children from the fallout of biological revelations, the proposed Ghanaian bills seek to institutionalize suspicion as a prerequisite for citizenship.

⁴² *Re H (A Child) (Paternity: Best Interests)* [2002] EWCA Civ 154.

⁴³ US Constitution, amend IV. See also 'DNA Evidence in Paternity Disputes' *SciVision* (25 October 2025) scivisionpub.com accessed 5 May 2026.

⁴⁴ *Maryland v King* 569 US 435 (2013).

⁴⁵ Canadian Charter of Rights and Freedoms, s 7.

⁴⁶ Children's Law Reform Act, RSO 1990, c C.12 (Canada).

⁴⁷ Family Law Act 1975 (Cth) (Australia), s 69W.

⁴⁸ *ibid.*

⁴⁹ Family Law Act 1975 (Cth) (Australia) s 69W.

Mandatory vs. Discretionary Testing

The most striking contrast lies in the nature of the state's intervention. In the **UK, Australia, and Canada**, DNA testing is a **discretionary tool** used only when a specific dispute arises and a judge determines that a test is in the child's best interest. Ghana's proposal, however, is **universal and mandatory**. It removes judicial oversight entirely, assuming that the "truth" is always beneficial, whereas the British and Australian systems recognize that "biological truth" can sometimes be a weapon that destroys a child's established support system.⁵⁰

Criminalization vs. Mediation

Perhaps the most significant state overreach is found in the "A Plus" Bill's push for criminalization. While **Sweden** uses "fatherhood inquiries" to **support** unmarried mothers and ensure children have legal fathers, Ghana's proposal seeks to **imprison** mothers for naming the "wrong" man. This shifts the state's role from a facilitator of child welfare to a forensic prosecutor of maternal honesty a stance that would be considered a violation of human dignity and "security of the person" in **Germany and Canada**.

All seven advanced jurisdictions, to varying degrees, honor the **Presumption of Legitimacy** or the concept of *possession d'état* (possession of status). In **France**, this social bond is so sacred that private testing is banned to prevent the "desacralization" of the family. Ghana's bill effectively repeals this ancient protection. By making a lab report the only valid entry point for a birth certificate, Ghana moves from a system of **trust-based family law** to one of **state-mandated genetic surveillance**.

Constitutional Barriers to Genetic Dragnets

In the **United States**, a universal DNA mandate would fail immediately under the **Fourth Amendment** as an "unreasonable search." Advanced democracies generally view the state's seizure of biological data from non-criminals as an overreach. Ghana's attempt, by contrast, treats every newborn as a "subject of interest" and every birth as a "forensic event," ignoring the **Article 18** privacy protections that were intended to mirror these global constitutional standards.⁵¹

Financial Accessibility and the Right to Identity

None of the compared nations tie the fundamental **right to a birth certificate** to an expensive medical procedure. In those countries, birth registration is a low-cost, administrative right. Ghana's attempt to tether identity to a GHC 2,500 test creates a "**poverty tax**" that is unheard of in advanced legal systems, risking a "stateless" underclass that nations like **Sweden and Germany** have specifically designed their social laws to prevent.

The Human Cost: Psychological and Social Impact

Beyond the cold metrics of law and economics, the proposed paternity bills carry a devastating human cost that threatens the psychological well-being of the Ghanaian child and the social standing of the mother. By institutionalizing suspicion at the moment of birth, the state moves beyond its administrative mandate and begins to dismantle the emotional and social structures that hold the family together.

The Psychological Impact: Sacrificing Stability for Biology

Proponents argue that under UNCRC Article 7, a child has an absolute right to know their biological origins. However, international jurisprudence dictates that this right is not absolute and must yield to the broader "best interests of the child" standard codified in UNCRC Article 3 and Section 2 of the Children's Act 1998. In a stable family unit, forcing a biological verification without an active dispute can inflict psychological trauma,

⁵⁰ *S and Marper v United Kingdom* (2008) ECHR 1581 (on the gravity of state retention of DNA data).

⁵¹ Constitution of the Republic of Ghana 1992, art 18; see also 'Parentage, not paternity: Ghana's proposed compulsory paternity testing bill sparks fears of discrimination against mothers' *MyJoyOnline* (Accra, 4 May 2026) myjoyonline.com accessed 5 May 2026.

disrupt support networks, and cause sudden legal fatherlessness. Welfare parameters dictate that genetic tracking should remain a discretionary judicial remedy rather than an administrative birth registration mandate.

The "A Plus" bill, which seeks to criminalize misidentification, effectively "brands" every mother as a suspect from the moment she enters the labor ward. This creates a hostile environment that detracts from the "**worth and dignity**" of women as protected under Article 15 of the Constitution.⁵² By requiring forensic validation of a mother's word, the state signals a profound distrust in women's agency and honesty. This "branding" carries significant social risks, including the potential for increased domestic violence. In highly patriarchal domestic settings, an unexpected genetic non-match may elevate the risk of domestic instability and immediate physical harm for mothers. This vulnerability is compounded because a laboratory test cannot differentiate between deliberate misrepresentation, non-viable biological anomalies, or unrecorded clinical baby-switching incidents at birth.⁵³

The Erosion of "Social Fatherhood"

Finally, the bill threatens to erase the noble tradition of "social fatherhood" in Ghana. Historically, fatherhood has been a labor of love, responsibility, and community recognition. By reducing fatherhood to a mere genetic match, the law devalues the men who step up to raise, provide for, and love children who may not be their biological offspring. This "biological determinism" suggests that a man's contribution to a child's life is only valid if his DNA matches, a regressive view that ignores the thousands of stable, happy families built on commitment rather than chemistry.

Abstract Summary of Comparative Findings

The table below provides a quick reference summary of how advanced global legal systems treat genetic testing in relation to parentage, contrasting them with Ghana's proposed framework.

| Jurisdiction | Statutory Testing Framework | Core Legal Principle |
|------------------|---|--|
| France | Judicial order only; private testing is a criminal offence. ⁵⁴ | <i>Possession d'état</i> (social role overrides biology). |
| Germany | Judicial order only; secret testing is illegal. ⁵⁵ | Informational self-determination and human dignity. |
| United Kingdom | Discretionary judicial tool; no universal mandates. ⁵⁶ | Best interests of the child override biological truth. |
| United States | Voluntary civil tool; state mandates rejected. ⁵⁷ | Fourth Amendment constitutional privacy. |
| Canada | Discretionary; provincial family tracking allowed. ⁵⁸ | Section 7 Charter security of the person. |
| Australia | Discretionary judicial parentage orders during litigation. ⁵⁹ | Legal presumption of parentage stability. |
| Sweden | Voluntary state-led mediation for unmarried parents. ⁶⁰ | Child's right to know balanced with privacy. |
| Ghana (Proposed) | Universal and mandatory at the point of birth. ⁶¹ | Forensic determinism over social family structures. |

⁵² Constitution of the Republic of Ghana 1992, art 15(1).

⁵³ 'Parentage, not paternity: Ghana's proposed compulsory paternity testing bill sparks fears of discrimination against mothers' *MyJoyOnline* (Accra, 4 May 2026) myjoyonline.com accessed 5 May 2026.

⁵⁴ Code Civil (France) art 311-1. Code Civil (France) art 311-1.

⁵⁵ Genetic Diagnostics Act 2009 (Gendiagnostikgesetz - GenDG) (Germany) s 17.

⁵⁶ Family Law Reform Act 1969, s 20.

⁵⁷ US Constitution amend IV.

⁵⁸ Canadian Charter of Rights and Freedoms, s 7.

⁵⁹ Family Law Act 1975 (Cth) (Australia) s 69W.

⁶⁰ Children and Parents Code (Sweden) ch 1.

⁶¹ Professor Victor Wutor, 'Ghana's parliament and the fight over "who your father is!"' GhanaWeb (Accra, 2 May 2026)

<<https://ghanaweb.com>> accessed 13 May 2026.

CONCLUSION AND RECOMMENDATIONS

A Plea for Legislative Prudence

The proposed mandatory paternity bills, while framed as a pursuit of "truth" and "justice" for fathers, represent a disproportionate and draconian response to a complex social issue. By mandating forensic verification at the point of birth, the state is not merely solving "paternity fraud"; it is dismantling the **presumption of legitimacy**, violating **constitutional privacy**, and imposing an unconscionable **"poverty tax"** on the right to identity. As this article has demonstrated through **comparative jurisprudence**, advanced democracies have rejected such forensic policing in favour of protecting the "social bond" and the **best interests of the child**.

To ensure that Ghanaian family law remains both progressive and protective, the following recommendations are proposed to Parliament:

- i. **Retention of the Presumption of Legitimacy.** Parliament must uphold **Section 32 of the Evidence Act 1975**, recognising that the stability of the family unit is a superior public interest to universal biological monitoring.
- ii. **Shift to Discretionary, Not Mandatory, Testing:** DNA testing should remain a tool for the **Family Tribunals**, available only when a genuine dispute arises and a judge determines that a test serves the welfare of the child.
- iii. **Decouple DNA from Birth Registration:** The right to a legal identity should never be conditional upon an expensive medical procedure. Birth registration must remain accessible, affordable, and inclusive of all children.
- iv. **Strengthen Family Mediation Services:** Rather than criminalising mothers, the state should invest in mediation and counselling services to resolve paternity disputes through dialogue rather than custodial sentencing.
- v. **Legislative Impact Assessment:** Before proceeding, a full socio-economic impact assessment must be conducted to determine the financial burden on the **NHIS** and the risk of creating a "stateless" underclass of undocumented citizens.

In conclusion, fatherhood is a sacred social contract of care, presence, and responsibility. To reduce it to a laboratory result is to devalue the essence of the Ghanaian family. Parliament should reject these bills and instead seek solutions that strengthen trust, protect children, and uphold the constitutional dignity of all citizens

Addressing Counterarguments: Biological Origins vs. Child Welfare

The Argument for Biological Origins

Proponents of universal DNA testing rely on international human rights frameworks.⁶² They specifically cite Article 7 of the United Nations Convention on the Rights of the Child (UNCRC).⁶³ This article guarantees every child the right to know and be cared for by his or her parents.⁶⁴ Proponents argue that hiding biological reality deprives children of their true genetic heritage. They contend that genetic transparency is essential for medical history and paternal justice.

⁶² UN Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (UNCRC).

⁶³ Ibid

⁶⁴ UN Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (UNCRC).

The Rebuttal: The Best Interests of the Child

This biological argument relies on an incomplete reading of child welfare laws.⁶⁵ The right to know biological origins is not absolute⁶⁶. It must be balanced against Article 3 of the UNCRC.⁶⁷ This article mandates that "the best interests of the child shall be a primary consideration"⁶⁸. This exact standard is codified in Section 2 of Ghana's Children's Act 1998.⁶⁹

A child's best interests are multi-dimensional.⁷⁰ They encompass:

1. Emotional continuity within the home.
2. Stable financial support systems.
3. Social belonging inside an established family unit.

In stable families, forcing genetic verification at birth causes immediate harm.⁷¹ Without an active dispute, forced tests can inflict severe psychological trauma.⁷² They disrupt parental support networks. They can cause sudden, legal fatherlessness on a laboratory technicality.

Therefore, child welfare parameters dictate that biological verification must yield to social truth. Genetic tracking must remain a discretionary, litigation-specific remedy. It must never become a mandatory prerequisite for birth registration.

Final Call to Action

In light of these concerns, Parliament must resist the allure of populist forensic legislation that promises biological certainty at the cost of constitutional integrity. The legislature is urged to uphold the spirit of the 1992 Constitution, which seeks to protect the dignity of the individual and the sanctity of the family from arbitrary state intrusion.⁷³ Members of Parliament should recognise that a stable nation is built on homes grounded in trust and legal security, not on a regime of mandatory genetic policing that punishes the poor and stigmatises mothers. Rather than rushing to pass bills that treat every citizen as a forensic suspect, the House should reaffirm its commitment to the "best interests of the child" by strengthening existing judicial mechanisms and preserving the protective shield of the presumption of legitimacy. The quest for truth must never be allowed to trample the very freedoms and social bonds that define the Ghanaian Republic.

"The law of England [and by extension, the common law tradition] is that the declaration of a father or mother cannot be admitted to bastardize the issue born after marriage... it is a rule founded in decency, morality, and policy."

— Lord Mansfield⁷⁴

⁶⁵ Ibid

⁶⁶ Re H (A Child) (Paternity: Best Interests) [2002] EWCA Civ 154.

⁶⁷ UN Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (UNCRC).

⁶⁸ UN Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (UNCRC).

⁶⁹ Children's Act 1998 (Act 560) s 2.

⁷⁰ Re H (A Child) (Paternity: Best Interests) [2002] EWCA Civ 154.

⁷¹ Justice Sedinam Awo Kwadam, 'Parentage, not paternity: Why Ghana must tread carefully on compulsory DNA testing at birth' Ghana News Agency (Accra, 8 May 2026) <<https://gna.org.gh>> accessed 13 May 2026.

⁷² Children's Act 1998 (Act 560) s 2.

⁷³ Constitution of the Republic of Ghana 1992, art 18; see also Victor Wutor, 'Ghana's parliament and the fight over "who your father is!"' GhanaWeb (Accra, 2 May 2026) ghanaweb.com accessed 5 May 2026.

For centuries, legal jurisprudence has maintained a delicate balance between biological reality and social stability. Lord Mansfield's famous dictum was not a denial of science even in its most primitive form but a recognition that the law serves a higher purpose than mere forensic accuracy. It serves to protect the sanctity of the family unit and the legal security of the child.

The proposed mandatory paternity legislation currently before the Ghanaian Parliament seeks to overturn this ancient wisdom. By demanding that every birth be treated as a forensic inquiry, the state risks trading "decency, morality, and policy" for a cold, laboratory-verified truth that may, in the end, leave the Ghanaian family more fractured than ever before.

This article examines this legislative shift through a critical lens, comparing Ghana's trajectory with the established norms of advanced global democracies. It argues that fatherhood is a social contract of care and commitment a bond that the law should protect with the "presumption of legitimacy" rather than undermine with a state-mandated barcode of suspicion.