**REPORT FROM LGBT+ RIGHTS GHANA**

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**FREEDOM OF RELIGION OR BELIEVE (FoRB) AND SEXUAL ORIENTATION AND GENDER IDENTITY (SOGI)**

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The current status of Freedom of Religion or Believe (FoRB) in relation to freedom from discrimination based on gender, sexual orientation, ethnicity, tribe or even religion is one that is often overlooked and not properly regulated in Ghana. According to the Ghana Statistical Service (2010) report as cited by the Pew Research Centre (2013), 72.2% of Ghanaians are Christians, 17.6% are Muslims, 5.2% are traditional worshipers and 5.2% are not affiliated to any religion. Whereas Human rights defender in Ghana are currently making their voices heard with regards to discrimination based on Sexual orientation and gender identity. It is against this backdrop that it is necessary to identify and address the tension that exists between the freedom of religion or believe and freedom from discrimination based on sexual orientation and gender identity. Some might experience it as a religious duty to ensure morality in the general society and not only on their own behalf as an individual. In this case, their perception of morality might conflict with someone else’s freedom from violence based on sexual orientation or gender identity. In a similar fashion someone’s freedom from violence based on sexual orientation and gender identity might limit a religious person’s freedom to practice their religious belief when this includes a religious obligation to, for example, stone people practicing sodomy. The Presbyterian Bishop of Ghana, Most. Rev. Paul Kwabena Boafo during an interview with Vice Magazine on the stance of the church in LGBTQ+ issues and the current anti-LGBT+ bill in Parliament, he expressed that the church held it as their religious duty to be the conscience of the people, hence they must have a say in legislating issues regarding the LGBTQ+ community.

The liberty of a person can be curtailed when that person breaks the law and is arraigned before a court of competent jurisdiction. When the culprit is found guilty, he/she may be sentenced to a jail term and sent to prison. In that case, his right to free movement has been curtailed. (Morten, 2016). Fundamentalism within religious spaces is fast increasing, hence there is the need to regulate FoRB. Every activity, ritual, practice, shared narratives and perspectives of religious persons/practitioners that compromises the freedom from discrimination based on SOGI and every other freedom enshrined in Ghana’s constitution should and must be curtailed. It’s about protecting the individual’s right to choose for themselves how they want to live their lives and what they want to believe without fearing violence or discrimination. Therefore, laws that protect and respect an individual’s choice would benefit both religious freedom and freedom from violence based on sexual orientation and gender identity.

There are remnants of traditional religious practices that still affirm Queerness in Ghana. Religion and the various traditional rites play a very pivotal role in the lives of Ghanaians. It serves as their devotions and goes a long way to feed into their narrative on issues, particularly moral issues. This is inclusive of queer persons. There has been no instance where traditional religious narratives have been used to promote the acceptance of the LGBTQ+ publicly and on record. However, there are still traditional rites and rituals that portrays same sex relations. For instance, in celebrating the akom-kpele deity of Nungua in the southern part of Ghana, they get possessed by their deities and they manifest same sex relations. Similarly, in the Gborbu Kpele also of Nungua. These rituals however have not gone a long way to promote freedom from discrimination and abuse based on sexual orientation and gender identity. There are also many examples of contemporary Christianity that is fully affirming of diverse sexual orientation and gender identities. They find justification within the religious doctrine to fully accept and be inclusive of LGBT+ persons. The Religious Advocacy Department in LGBT+ Rights Ghana is organising a monthly Queer Believer’s Mingle for queer believers where queer affirming faith is practiced. (LGBT+ Rights Ghana annual Report 2021)

The former Western Regional Minister, Paul Evans Aidoo; is on record to have mandated landlords and tenants to be on the lookout for persons with traits that are suggestive of being homosexuals. In that same speech he added “Being a God-fearing nation and a God-fearing people, let us not joke with the issue and let us not talk about Human Rights. This is uncultural, anti-Ghanaian and if care is not taken, these people will face a very tough time in the future.” (Green, 2011). Fast forward in February 2021, we witnessed how a landlord unlawfully ejected and orchestrated for the national security and media to raid and shut down an LGBT+ center that was intended to provide resources for the queer community in Ghana. In the same vein, law makers; whom in this instance can be considered as service providers are currently considering at anti-LGBT+ bill that will not only criminalize LGBT+ identities and sympathizers but also restrict service providers from rendering any kind of service to known or perceived LGBT+ persons. Many LGBT+ people and organisations have already experienced landlords and service providers expressing hesitation and concerns on their continued business if the proposed bill were to be voted through parliament.

In 2017, there was a call on Ghanaian members of Parliament by religious leaders to never consider enacting any law that seeks to legalize same sex relation in the country. (The Ghanaian times, 2017, 24th February, pp. 16-17). Since then, legislators and the national security agencies have been silent on traditional, religious norms/practices that promotes violence and discrimination against members of the LGBTQ+ community; even though these practices are affronts and infringes on the rights and freedom of queer persons. A report from Daily Guide Network, on October 9th 2021, describe the inhumane traditional ritual a suspected gay man was subjected to in one of the rural areas in Ghana to supposedly cleanse him off for engaging in same sex relations. Similarly, other religious leaders take perceived queer persons through such rituals to either change their sexuality or properly align their genders. These practices are usually legally defended by the Ghanaian customary law Art 26; that stipulates that every person is entitled to enjoy, practise, profess, maintain and promote any culture, language, tradition or religion subject to the provisions of this Constitution. However, clause 2 of this art prohibits practices which dehumanise or are injurious to the physical and mental well-being of a person. Unfortunately, when it involves LGBT+ issues, the concept of conscientious objection come to play and the second part of Art 26 clause 2 of the customary law is overlooked.

In the past year, we have seen an uprise in the engagements and activities of LGBT+ activists, Human rights defenders and academics. After the introduction of the anti-LGBT+ bill in 2021, fifteen renowned legal, academic and civil society professionals filled a memorandum challenging the anti-gay legislation submitted to Parliament. They went ahead to organize press conferences, grant interviews and engage in several public dialogues to expose the unconstitutional nature of the bill. Sadly, it has ended at that. No individual or organization has gone up against religiously-motivated discriminations and abuses the LGBT+ community faces under the customary law nor challenged the current Ghanaian criminal code that criminalizes consensual same sex relations- as yet. The criminal code Act (1960) states;

Whoever has unnatural carnal knowledge:

i) of someone aged sixteen years or over against his will shall be charged with a first degree

felony and shall serve a jail term of not less than five years and not more than 25 years;

or

ii) if the fellow is sixteen years or over with his consent shall be charged with a

misdemeanor; or

iii) even an animal shall be guilty of a misdemeanor.

The current strategy at LGBT+ Rights Ghana to derail the progress of the anti-LGBT+; which is said to be an elaboration of the aforementioned law, is to partner with other civil society organizations to contest the criminal code in the supreme court later this year – 2023.

Any attempt to regulate religious and traditional activities in Ghana has been demonized. In 2016, Peace FM reported on the arrest of a popular pastor for allegedly indulging in fraudulent activities. His church members protested and engaged in a clash with police officials to demand for the immediate release of their pastor irrespective of his crimes. Similarly in 2020, some concerned youth in Ghana raised questions as to why churches are exempted from paying taxes and why activities of the church are not regulator under any institution in Ghana. Dr. Lawrence Tetteh, the leader of a renowned church in Ghana was reported to have taken a swipe at people who were demanding the taxation of churches by the state. He said in a speech that, “Today, very ignorant people wake up and say the church should be taxed. That is an insult from the economic point of view; that is double taxation.” He went further, “Remember in the history of the Bible, we had ungodly people who asked the church to be taxed. What people lose sight of is that, the people you think are very rich, you can count them; you live in Ghana, how many pastors use Land Cruisers? If you take the few of us (pastors) that seem to be doing well, we are not more than ten”. (The Spectator, 2022). Legislators do not dare to address issues as their positions in Parliament can easily be compromised if they fall in the wrong books of renowned religious leaders. Religious leaders have powers that supersedes law makers by virtue of the fact that they control the narratives of over 50% of the entire country. It is in this same capacity that the church is pushing and threatening legislators to push for the passage of an anti-LGBT+ bill. Therefore, activities of religion and spirituality are not under any restriction to allow for the freedom from discrimination and violence based on SOGI.

Conscientious objection comes to play in the numerous forms of discrimination against the LGBTQ+ community on a daily basis. Since there are no current laws to deny the rights to freedom from violence and discrimination of queer persons, whatever discrimination the LGBTQ+ community faces now is as a result of conscientious objection.

Sadly, this supersedes every ethical code, conducts governing institutions and the ultimate laws of the country- the constitution.  A religiously indoctrinated health worker could refuse providing services for a known member of the LGBTQ+ community based on conscientious objection and will be excused. A chief Psychiatrist, Dr. Akwesi Osei stated in March 2013 that “Homosexuality is not natural and should not be qualified as Human Rights, which are natural rights”. In its true nature, it is a disorder. This was over 2 decades after the World Health Organization had declassified same sex relations as mental illness. In this light, Dr. Osei narratives could be seen as unethical and prejudicial; motivated by this religion or personal believes.

In a Ghanaian context, the question is whether or not it shall be allowed to provide services to sexual and gender minorities, and not whether one should be allowed to object to providing services to said group. Hate against same sex relations is deeply indoctrinated into Ghanaians. The inception of every family begins in and with their respective religious spaces; as religion plays a role in the union of a man and a woman. In the aftermath, every addition to the family, usually by birth is also dedicated to the religious space and made to undergo their respective doctrine right from infancy. Therefore, the impact of religion on the family is one that can never be overemphasized. Also, most public schools within the country are religious owned, hence the doctrine is also passed through various syllabus (Religious and Moral Education, Christian Religious Studies etc.) and some extracurricular activities. With these being noted, the Ghanaian religious stance on LGBT+ persons have always been in the negative; this is what has resulted in Ghanaian’s low tolerance of gender and sexual minorities as unveiled in a survey conducted by the Center for Democratic Development in Ghana. Only 7% of the Ghanaian population are tolerant to same gender loving persons. (Ghanaweb.com, 6th October, 2021). In this light, there are nationally recognized anti-LGBT+ groups actively strategizing to clump down on the LGBTQ+ community in Ghana while propagating to advance the rights, freedom and influence of religious leaders. The Coalition for Proper Sexual Human Rights and Ghanaian Family Values is putting measures in place to completely clump down on the LGBT+ community. With their affiliation with local and international religious bodies; they aim to completely strip off the rights of LGBT+ community members while radically promoting the manifestation of their freedom of religion or belief. Their sole mandate is to push for conversion therapy as they lobby through government, religious and social spaces to increase their capacities.

A former speaker of Parliament, Professor Oquaye publicly stated in 2019 how the state does not seek to kill any member of the LGBT+ community but rather ensure they are handed over to the church to be delivered. Both state and none state actors have been instrumental in pushing for torturous practices religious leaders met out on members of the LGBTQ+ community to supposedly change them. Currently, there is no state policy or laws that directly and legally affirms these. Also, non-discriminatory policies within institutions do not consider members of the LGBT+ community when stipulating those policies. In July 2021, during an in-camera hearing on the anti-LGBT+ bill with LGBT+ Rights Ghana and the Committee on Constitutional, Legal and Parliamentary affairs, one of the proponents of the bill stated that the LGBT+ in Ghana is not recognized as a community, therefore rights must not be assigned to them and they do not fall under marginalized groups in Ghana. On the contrary, when the anti-LGBT bill passes, it will further give legitimacy to discrimination and abuse faced by members of the LGBT+ community within various institutions in the country.

The Religious Advocacy Department at LGBT+ rights Ghana is currently organizing a monthly Queer Believers’ Mingle to offer a faith community where LGBT+ community members can be free to practice their faith in a safe and judgement free space. The gatherings also include healing work as it relates to religious trauma. This contributes to the community members’ freedom of religion and it is also preventing further violence by providing an alternative place to practice beliefs that don’t include going to a space where they might get exposed to further trauma. LGBT+ Rights Ghana is currently in partnership with queer affirming churches and religious leaders on the international level to advocate, lobby and make recommendations to the churches here in Ghana to provide safe spaces for the LGBTQ+ community. The organization is facilitating a Podcast initiative that will allow the Protestant Church of Berlin; a queer affirming worship space to suggest reforms to local churches in Ghana. The team spearheading this campaign began engagements with the church in 2021.

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