

LGBTQ+: The Position of the Ghanaian Society as the Majority Seeks Closure

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BACKGROUND

The debate on whether the promotion of LGBTQ+ is in the right direction and founded on the grounds of human rights may continue to exist, however; this paper takes on a side on the grounds of the moral philosophy that no man lives in isolation and that we all live in a society with all of us being connected; we thereby have an effect on others and others on us. This assertion explains why society is always interested in the way of life of every individual. We inherit this moral system as we are born into society and we should expect at all times to be questioned, admonished, advised and criticised where necessary, by society. The paper takes a look at the Ghanaian position on LGBTQ+ on the grounds of religious belief, and by extension how these belief is perceived by the masses to influence the institutions that makes the laws that governs the society.

The social label adopted by LGBTQ+ individuals and their activities has been questioned by many, some of these arguments raised against LGBTQ+ individuals are founded on the grounds of mental stability, psychological well-being, and other areas of human science (Javaid Rehman & E. Polymenopoulou, 2013; Muhlestein, 2007). Notwithstanding, the religious argument has been one of the strongest or say, the most persuasive argument against the LGBTQ+ movement, most notably in Africa and Ghana to be precise (Asante, 2020; Gyasi-Gyamerah & Akotia, 2016). The Ghanaian society is made up of several religious groups, amongst these religions, Christianity dominates, followed by Islam and other religious groups (Ghana Statistical Service, 2022). Religion plays a critical role in the decision formation of individuals; it is as such, an essential element that drives perceptions, which include reception or acceptance of any subject matter. With LGBTQ+ as a topic, it is evident that the religious aspect will play a role in the perceptions of individuals with its acceptance in society in a country like Ghana.

THEORITICAL FRAMEWORK

The divine command theory

The devine command theory is the anchor for this paper, this theory posit that morality is reliant upon God's word, thus; actions are moral or ethical if it is commanded by God to be right, as well as an action is considered unethical or immoral if God condemns it(Quinn, 2017).

All religious bodies in Ghana, all believe in a Supreme being (God); they believe that the ideal way of life of a man is expressed by the commandments and teachings of their scriptures. As it is in Judge 1:7 in the Bible, telling of the story of Sodom and Gomorrah and the judgement brought upon them by God for their engagement in homosexuality, Islam finds the label and acts of LGBTQ+ as abominable as such (Huda, 2019). In addition, within the Ghanaian society, there hasn't been any traditional group that has openly come out to claim that their belief supports and promotes LGBTQ+, rather traditional leaders have always condemn these acts of LGBTQ+ anytime the topic comes up.

MAIN ARGUMENTS

The paper attempts to prove that the perception and reception of the large majority of Ghanaians on the subject of LGBTQ+ are largely informed by their religious disposition, and that religious values are rooted in the life formation of the large majority of the Ghanaian populace, these values play a role in how they approach some social issues. Though not self-righteous of everyone, when it comes to the subject of LGBTQ+, there is always an overwhelming number of people who sing the same song. Lastly, the paper attempts to establish the link between how religious perceptions are likely to inform the law on matters of LGBTQ+.

A LOOK AT RELIGION

Émile Durkheim describes religion as the unified system of beliefs and practices relative to sacred things, that is to say, things set apart and forbidden beliefs and practices which unite into one single moral community all those who adhere to them. (Weimann, 2016) posits that religion provides for individuals a religious commitment, which is the degree to which one's religious beliefs underlie a person's behaviour in day-to-day life. Cook (2018), argues that the way of life of individuals is informed by their customs and traditions incorporated into their religion; this aligns with the stand of (Weimann, 2016). In the African setting where Christian religion dominates in a way, Gunda (2010) has argued that in contemporary Africa the Bible has become 'a site of struggle' where 'the debate on homosexuality is being fought'. This view is also shared by Bongmba (2015). Interestingly, religions in their anti-homosexual rhetoric, tend to demonstrate a conflation of 'Christian values' and 'African tradition', suggesting that both are inseparable and present a similar set of moral norms.

OPINIONS ON THE ISSUE OF LGBTQ+

In 2011, the report of Ghana's Constitution Review Commission upon submission on the issue of homosexual rights; some few submissions charged the 1992 constitution to recognise homosexual rights. Nonetheless, an overwhelming majority of submissions were of the view that the Constitution should not recognise homosexuality. Some of the reasons given were that; for persons to be lesbian or gay will prevent procreation which will cause the extinction of the society. Also, our cultural system frowns upon this act, making it an abomination to be a homosexual, stressing that homosexuality is alien to the Ghanaian society. The overwhelming submission added that we as Ghanaians should not be tempted to learn blindly from foreign countries; in that homosexuality is nothing worth emulating, and will do no good to the society, instead, it is against the natural order of life and that of God. The majority of the submissions were that Ghana should resist demands from unprincipled Ghanaians and the western world to house debauched sexual tendencies.

In regards to Article 17(2) of the 1992 Constitution which stipulates: "a person shall not be discriminated against on the grounds of gender, race, colour, ethnic origin, religion, creed or social or economic status", the opinions the Review Commission gathered were that; the ban on discrimination of persons on the grounds of sex and sexual orientation should continue to hold to avoid possible ill-treatment of persons on the ground of biological differences. However, in doing so, sex or sexual orientation should not be included in the anti-discrimination clause to safeguard that it is not misconstrued as recognising homosexuality.

The report added:

"The Commission finds that the framers of the 1992 Constitution substituted sex (which was in the 1979 Constitution) with gender for the following purpose: to ensure the recognition of the natural/biological state

of a woman and a man. The Commission observes that including sex in the anti-discrimination clause of the Constitution, in addition to gender would add to the legal arsenal of those who argue that the Constitution abhors discrimination on the grounds of sexual orientation” (Constitution Review Commission, 2011)

These submissions go on to prove that, the perceptions of the majority of Ghanaians that the activities of LGBTQ+ individuals are unnatural, are much founded on the grounds of religious beliefs, and they will not accept such an act being legalised.

Tweneboah (2018) argues that religious values and imaginations are core features of how Ghanaians approach the issue of homosexuality. The Ghanaian society can be said to be one that stresses heterosexism, thus the belief that heterosexuality which is, romantic or sexual attraction between people of the opposite sex or gender is the default, and that non-normative body and attraction are strange and wrong.

THE GHANAIAN LAW ON HUMAN RIGHTS

Tweneboah (2018) argues that despite the constitutional assurance of sexual freedom, these human rights must be viewed within the context of religious and customary definitions which society has given to marriage and sexuality. This assertion seems to align with the submissions given by the Constitution Review Commission in 2011 as a representation of the overwhelming number of Ghanaians.

The laws governing Ghana’s Human Rights come at the backdrop of the preamble of the African Charter on Human and People’s Rights (ACHPR) which takes into consideration the consideration and recognition of the virtues of the historical tradition and values of the African civilisation (AU, 1981). These virtues, traditions and values should reflect the concept of human and people’s rights. In cognisance to this assertion made by the ACHPR and the laws governing Ghana’s Human Rights, then the argument by some, that the law is no substitute for morality is defeated because the founding principles of the virtues, traditions and values of the African descent is one that seeks to shape the moral upbringing of individuals.

Tweneboah (2018) further argues that, the state is unable to fully invoke its legal systems on topics related to homosexuality due to the stronghold of religious and customary notions on sexuality with regards to the state norms in Ghana which guard individual freedoms, including sexual freedom. This argument is valid in this regard; the Ghanaian law frowns on discrimination against persons based on gender, however, gender is only viewed as being either male or female and to date, the law has no interpretation for any other meaning aside from this gender binary reality which sticks very deep in the convictions of the overwhelming majority of the Ghanaian society. Likewise, there is no provision expressly granting the freedom of people of other sexual orientations like LGBTQ+ individuals; hence making their activities illegitimised in society.

THE LAW ON HOMOSEXUALITY IN GHANA CURRENTLY

The Criminal Offences Act of 1960 criminalizes the practice of homosexuality among men in Ghana by making it a misdemeanour for a person to have unnatural carnal knowledge of another person not less than sixteen years of age with that person’s consent. Common law defines unnatural carnal knowledge as “penile penetration of anything other than a vagina”. By this definition, the law only contemplates the possibility of a man having unnatural carnal knowledge of a woman or another man, but not the possibility of a woman having unnatural carnal knowledge of another woman or other labels of sexual associations adopted by the LGBTQ+ community. This shows that the law is lacking in some aspect of the definition of unnatural carnal knowledge as it fails to capture a lot of the aspects of sexual orientation of the LGBTQ+ community. In view of this, It is only fair to say that, the framers at that time could not have envisaged the far-reaching length of such acts as it has become today.

THE PUSH FOR CLOSURE

In 2021, the Speaker of the Ghanaian Parliament received a private member's Bill, (Promotion of proper human sexual rights and Ghanaian family values)(Africanews, 2021). This Bill seeks to criminalise the identities and activities of LGBTQ+ individuals; the Bill also seeks to criminalise the advocacy of such identities as well as opinions that seek to deviate from the principles of the gender binary (male and female). Prior to this Bill, notable personalities over the past years have commented on the issue of LGBTQ+ with its probable legalisation one day in Ghana. The likes of the three former presidents, John Agyekum Kuffour, Prof. John Evans Atta-Mills and John Dramani Mahama have all added their voices to re-iterate the position of the Ghanaian society on the issue of LGBTQ+. The current president, H.E Nana Addo Dankwa Akufo-Addo has also stated emphatically that it will not be in history that under his watch that LGBTQ+ was legalised (Graphic Online, 2021).

While the Bill has caused some divided opinions in the Ghanaian public discourse, with those

in support claiming; this will close the door on LGBTQ+. Others are of the view that the passage of the Bill will infringe on rights of individuals. The Bill is still before parliament and awaiting its passage and assent from the President.

CONCLUSION

LGBTQ+ in some countries is legal, that's because there is that strong public opinion that has called for such a move. However, in Ghana, the reality is that there isn't that strong public opinion calling for a change in our values and principles. As it stands LGBTQ+ still remain unnatural, ungodly and alien to the Ghanaian society. In the case of Ghana, if the Bill (Promotion of proper human sexual rights and Ghanaian family values) goes through, it will re-iterate the stand of the majority of Ghanaians who believe that laws are made to reflect the moral standards of society and as such human rights should be respected in the spirit of the values and standards of society.

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