LGBTQ+ SEXUALITY AND IMPLICATIONS FOR TRANS PERSONS IN AFRICA

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Abstract

Despite the negative connotations associated with queer or LGBTI+ (Lesbian, Gay, Bisexual, Transgender, and Intersex) discourse in most parts of Africa, where various perspectives have sparked discussions about anti-homosexuality bills, understanding of transgender, one of the umbrella groups of queerness or LGBTQI+, is surprisingly limited. Using a gender power lens but taken from a queer (contested) African feminist strand, especially as it goes beyond a binary narrative of "woman versus man" and through scoping reviews and narrative data to interrogate existing works on LGBTQ, the study focusses more specifically on transgender as an important space for discourse on inclusion and as gender liberatory. On the one hand, I provide an overview of the regional context around LGBT+ regulation in terms of decriminalisation through a scoping review, and on the other hand, I compare the narrative voices of small data on young people from Ghana about their understanding of transgender and how they play out the distinctiveness of queerness as a space for minority inclusion in Africa.

Keywords: LGBTQI+, sexual minority, transgender, transsexuality, same gender, same-sex, Ghana

Introduction

Classical queer (LGBT people) narratives disregard the many strands of power emerging from shifting genders in the margins of discrimination. The aim of the study is to provide an analysis of LGBTQ+ discussion in Africa, bringing into focus transgender (when a person's own gender expression does not conform to their assigned gender from birth) as an important constituent, in order to engage a broader discourse on LGBTQI+ power dynamics and implications for queer organising in Africa. As a researcher and supporter of minority rights, I have lived through the troubling conditions of discrimination and know how it can be power-laden. From my growing interest in calling for the need to be intentional because experiences of vulnerabilities and discrimination and the strategies for dealing with them differ across groups. I am convinced that the findings not only provide systematic data, but the analysis has far-reaching implications for progress and stagnation in regard to gender equality, i.e., SDG 5.

Usually, queer functions as an inclusive umbrella term for individuals within the LGBTI+ (lesbian, gay, bisexual, transgender, and intersex) community. Queerness challenges not only binary but also recognises potentially fluid and non-conforming genders, and so on (see Murray, 2018). While there is progress, there are important setbacks across the world including Africa (Kretz, 2013). Even in places where progress has been made, quite a number of people oppose societal acceptance of LGBTQI+ rights (PEW Research Centre, 2013). Hence, LGBTQI+ individuals everywhere around the world continue to face rejection. Disruptive and harsh laws targeted at the LGBTQ+ trace their origins to former colonial frames and are Western (even though a few are

indigenously derived), including Britain's penal code. What is more, because of the phobia towards LGBTQ and misconceptions around it, some members of the group tend to experience more systemic discrimination than others, i.e., trans people.

This study is basically arguing that there is a relative scarcity of research on transgender (also trans people) issues. My work basically is suggesting that if there was more research on trans research, there would be positive implications for the LGBTQ+ community in various ways. As some activists have argued, sometimes lumping gender issues together and calling to focus specifically on women; similarly, understanding trans-specific research will help in understanding the different facets of vulnerabilities and power issues in the LGBTQ community, and invariably can help us have focused analysis and target advocacy and activism. Individuals can be more accommodating since in Africa the entire debates relate to sexual intercourse, which is a very sensitive issue and very heteronormative. A deviation from the sexual norm is greeted with violence. Once people get to understand the dynamics, then they can be a bit more tolerant towards the transgender group, and that will be a great starting point for the LGBTQ community. It is within that context that the current study focusses on transgender people as a specific group within the LGBT community. In doing so, I first provide a synthesis of the literature on LGBT legislation and then proceed to present literature on trans discussion from globality to Africa and empirical data from Ghana for emphasis purposes. I found it useful to frame my argument within broader discourses on gender power relations.

Generally, gender power is an important concept in gender and queer theories, however the strands may be. Both viewpoints call for the need for a gender-equitable society and the need to challenge the concept of gender and bodies that matter (Butler, 1993). Connell & Messerschmidt (2005), for example, in their rethinking gender, pointed to a more complex model of gender hierarchy, emphasising the recognition of the interplay of power dynamics at different facets and levels. I agree with Connell and colleagues and also emphasise that in the treatment of gender, it is important to look at different facets of tensions and vulnerabilities (see also Butler's *Bodies and Power Revisited, 2004* in discussion of Foucault's *Discipline and Punish*).

At its core, African feminism supports the idea of the elimination of colonialism in knowledge production on the continent. Younger African feminists, such as Chimamanda Ngozi Adichie (2014), joined forces to create a different coalition that focusses not only on women's rights but also on recognising the importance of intersectionality, i.e., how multiple forms of inequality create obstacles and the potential for meaningful change. They draw on their predecessors such as Stella Nyanzi and Sylvia Tamale of Uganda, Ama Ata Aidoo and Takyiwaa Manuh of Ghana, and colleagues from elsewhere in Africa in reiterating narratives around gender and culture within the larger goal of the African liberation internationally while not necessarily being Afropessimistic, i.e., seeing everything from the perspective of Western domination. However, in doing so, African feminists also acknowledge the important role that collaboration offers from all well-meaning people towards development, thereby provoking a fair amount of debate within scholarly circles. So in my analysis, I am careful not to assume that every self-help must necessarily be antagonistic in nature. I am careful not to misread, for instance, Foucauldian consideration of power and resistance in Volume I of the History of Sexuality. Indeed, sexuality is about power and resistance, and Foucault

acknowledges that. However, the resistance is not always in a position of exteriority, as Foucault aptly put it (1990).

So, my strategy, taken from a gender power perspective, is to ask a few questions to guide the data collection and frame my analysis. What are the tensions involved in LGBT criminalization? What can we learn from the positives of decriminalisation, particularly in countries that have made progress? How do we analyse specific groups, such as transgender people, as a facet for understanding the dynamics of LGBTQI+ power relations and vulnerabilities in order to inspire inclusion in Africa? Would it amount to afropessimism (i.e., essentialises and racialises the LGBTQ+) if Africa can learn a few tricks from elsewhere, i.e., from eurowestern enclaves, so we can leverage progress? Using a mixed-methods approach, I engaged in a scoping review and narrative analysis from Ghana to situate my analysis of transgender people in Africa. I hope that the queer community may find the analysis useful, just as activists, both anti and pro, may learn alternative perspectives on the subject.

Methodology

This study is in two dimensions. First, a scoping review methodology was used in reviewing existing literature on sex negativity and attitudes towards queer sexualities and the grey literature of countries within the sub-Saharan African region that had either criminalised or decriminalised acts of homosexuality. This design was appropriate to summarise the evidence in a rapidly evolving discourse that, in recent times, has been politically and negatively charged in most parts of Africa, with different perspectives leading to discussion of an anti-homosexuality bill. The review was conducted per the guidelines developed by the Joanna Briggs Institute (JBI) and the Extension for Scoping Reviews (Tricco et al., 2018; Peters et al., 2020).

The second dimension of the study was eliciting the views of 10 conveniently and purposefully sampled young educated adults through in-depth interviews to explore their knowledge and perceptions of transgender people, the factors that influence such understanding, and how this works to influence an understanding of the distinctiveness of queerness in Africa.

The data production, i.e., reviews and small sampled narratives, were framed with an African feminist gender lens. I believe that data production itself is a power issue and therefore acknowledges the difficulties that bedevils the current scoping review. I struggled to find data on the main theme of Africa due to the paucity of publications. This can partly be explained not only from the angle of the sensitivity of the subject but also from the reason that there have not been sustained efforts in discussing transgender as an isolated minority group in the literature in Africa from African writers themselves.

Eligibility Criteria

This scoping review's scope was mainly on sexual and gender minorities in Africa, specifically transsexuality or transgender people within the African context, as an important space for minority inclusion. Given the complexity surrounding LGBT+ discourses in recent times and the interest they have garnered in both political and public spheres, the context of this review was limited to original and peer-reviewed papers published from 2015 onwards. Further inclusion criteria were

studies published in the English language, studies conducted within the African region, studies with full-text accessibility, and studies focused on gender and sexual minorities in Africa. Studies were excluded if they were secondary research papers (i.e., systematic/scoping reviews), conference abstracts, editorials, and opinion pieces; studies published in languages other than English; and studies published before 2015.

Search Strategy

The search strategy for this study was informed by the JBI three-step search strategy for scoping reviews (Tricco et al., 2018). This includes searches for published studies and unpublished (grey) literature.

Initial search terms were developed based on the study's title, objectives, and keywords to guide searches and queries in the bibliographic databases, including Google Scholar, Crossref, and Scopus. A Google search was used to retrieve grey literature on selected countries within the sub-Saharan region that have criminalised or decriminalised homosexuality and the respective legislation within these countries. An initial search was conducted on February 4, 2024, with restrictions on the date and a maximum number of search results of 1000 records per search using the "publish or perish" software. The search query consisted of terms such as 'trans sexuality','minority inclusion', 'LBGTQ+ inclusion', 'transgender identity', 'gender identity', 'gender diversity','sexual''minorities','sexual orientation','sexual''''diversity','sexual''rights', 'transgender rights', and 'gender expression' and matched with Boolean terms 'AND' and 'OR' to produce broader results, enabling the retrieval of a wide spectrum of relevant literature. This broadened the scope of the search results while ensuring inclusivity and comprehensiveness in capturing pertinent information for the study. With some modifications, the same search strategy was applied to retrieve relevant information on grey literature. Search terms such as 'homosexuality laws', 'anti-gay laws', 'homosexuality legislation', and 'homosexuality criminalisation or decriminalisation' were used in retrieving relevant information about countries within sub-Saharan Africa where such acts were either legal or illegal. While the approach for the grey literature search remained systematic and comprehensive, it deviated from the specific search strategy proposed by JBI (Joanna Briggs Institute). Instead, alternative methods tailored to the nature of grey literature were employed to ensure thorough coverage. Despite the deviation from the JBI search strategy, the overarching principles of systematic review methodology, such as transparency, reproducibility, and rigour, were maintained throughout the grey literature search process. This ensured that relevant information from published and unpublished sources was captured, contributing to a comprehensive understanding of the research topic.

Selecting studies for the review

All records retrieved were screened to determine if they met the eligibility criteria (Tricco et al., 2018). The record-screening and selection of eligible studies identified went through three phases. The first phase involved manually taking out or removing studies that did not meet the eligibility criteria. Duplicated studies were also manually removed based on title and abstract screening. Zotero management software was also used to remove duplicate studies. After duplicates were removed, the titles and abstracts of 241 articles were blindly reviewed. The second phase involved screening articles assessed for full-text review, and the final phase involved selecting studies for inclusion in the final review.

As depicted in the flow diagram, a total of 241 titles and abstracts were examined, and a total of 118 papers were retrieved for further consideration. Thirty-eight (38) papers could not be retrieved, and finally, 80 papers were screened using a full-text version. A total of 60 papers were excluded based on the inclusion and exclusion criteria set out in this scoping review. In all, 20 studies were included in the final review.

Fig.1: Here: Flow diagram of steps used in selecting relevant studies

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Results

As shown in Figure 1, in the scoping review, details of the 20 studies included in the final review are shown in Table 1. The following countries were represented: South Africa (n = 8), Ghana (n = 5), Nigeria (n = 2), Zimbabwe (n = 1), and Kenya (n = 4). The grey literature identified a list of countries within the sub-region where acts of homosexuality are criminalised or decriminalised (see Tables 2 and 3). In countries where same-sex or homosexuality were not permitted, about 31 countries had criminalised such acts. For the majority of these countries, these laws were derived from colonial laws that largely banned acts of sodomy, which were mainly termed 'unnatural canals." However, the ambiguities of these laws (i.e., the unnatural canal), which many have criticised as focusing on gays and neglecting lesbians, have seen countries such as Ghana, Nigeria, Uganda, Kenya, and Namibia pass subsidiary legislation to criminalise all forms of queer sexualities that were not previously captured in the sodomy law (see table 4).

On the empirical qualitative data, I spoke to ten conveniently sampled students I teach at the university and used purposive sampling to discuss with one student who self-identified as a transgender person. While I cannot verify the identity of the trans person, people have the right to self-identify with which gender they prefer, even though the laws of Ghana have no legal space for such individuals compared to other countries where there are laws to regulate it. The names of the participants were masked because they asked me to do so, except for the one who self-identified as transgendered. Even so, I did not want to endanger the identity of the participant, so it was masked. The participants were sampled from a university in Cape Coast, in the Central Region of Ghana, and all identified as Christians. Even though Ghana is a secular state, the majority of the population identify as adherents of the Christian faith, insurging populations among the Pentecostal-charismatic faith. Generally, LGBTQ+ and sexuality are sensitive topics, and it appears that the discussion about these topics is more conservative among the Muslim community than any other group. The choice of Cape Coast was discretionary; Cape Coast is a coastal area, and based on my own experiences working and living in that region, there is an upsurge of a growing queer community there. For purposes of protecting the vulnerability of the community due to the increasing homophobia and upon agreement with the participants, I decided not to provide any further descriptions of the participants and the study area, especially in regard to the one person who identified with the queer community beside the masked demographics in Table 5.

The presentation of the findings first began with a scoping review of criminalisation and efforts and the progress and stagnations. I proceeded with transgender analysis and focused on the complexities and comparative analysis of Africa and Ghana and how it has been conceptualised, as well as the challenges using existing literature. Last, I presented small narratives among young, educated people in Ghana to contextualise and support my work.

LGBT Legislation in Africa

This section is about the regional context around the legislation and attitude towards LGBTQ+ in general in terms of the negativities (i.e., criminalisation) and positivities (decriminalisation) around them.

Criminalisation

In many countries in the African south of the Sahara, Euro-Western incursions and subjugation have had a significant impact on indigenous cultures and legitimised so-called "what is African" in terms of cultural values and the protection of freedoms. Since independence, many African leaders have inherited colonial remnants to legitimise power over the people. Consequently, numerous countries have maintained colonial-era laws, and others have developed their own variations of anti-queer legislation (Kretz, 2013). A study by Kretz (2013) asserts that 34 African countries criminalise all aspects of queer identity and behaviour.

Indeed, one of the major issues that first surrounded the criminalisation of homosexuality was borne out of perceived cultural and colonial legacies, particularly around discussions of marriage, reproduction, and the protection of children, which are important cultural virtues among most African countries. For instance, the Ugandan, Kenyan, Namibian, and Nigerian Anti-Homosexuality Act (2023) seeks to primarily prohibit arguments for the protection of heterosexual marriages (what the Kenyan law captures as the Family Protection Bill) involving males and females and against the promotion or recognition of same-sex unions. In fact, the Namibian law aptly captures it as what it calls the definition of spouse and marriage (see Table 2). The Ghanaian bill, which is awaiting assent by the president, Nana Addo Dankwa Akufo-Addo, similarly calls it the "family values bill."

Even though not all African countries have specific laws that can be described as anti-gay legislation, most African countries have colonial remnants that criminalise homosexuality in several forms and shapes (Waites, 2024; Waites, 2019; Lennox and Waites, 2013), sometimes drawing comparison from other African jurisprudence or Euro-Western rulings and/or citing sources such as the [Thomas] Dobbs v. Jackson Women's Health Organisation, No. 19-1392, 597 U.S. 215 (June 2022), a landmark decision of the U.S. Supreme Court in which the court held that abortion is not deeply rooted in the nation's history and 'traditions'. This case, i.e., the US anti-abortion ruling, was cited by the Uganda Supreme Court as one reason that upheld the nation's anti-gay as a cultural right as well as the right to culture, stressing that homosexuality is not rooted in Uganda's history and, by extension, Africa's cultures (Devji, 2016).

Botswana's penal code outlaws the carnal knowledge of any person against the order of nature, with those found guilty facing seven years in prison. After several counteractions by queer activists, the high court ruled that the criminalisation of same-sex sexual activity cannot be enshrined in the Botswanan law in 2019 and 2021, respectively (Ontebetse, 2023).

The punishment for such violations of the law ranges from the death penalty to imprisonment and a substantial fine (see Table 2 on the Penalty from countries that have criminalised homosexuality in Africa). For instance, the Uganda anti-homosexual act of 2023 has been described by many as very draconian, and Uganda appears to be the only country to impose the maximum sentence of the death penalty on persons who engage in homosexuality, as well as organisations or individuals who engage in advocacy, financing, or the provision of medical care and legal representation of homosexuals. This means that individuals who, through acts of homosexuality, have contracted diseases cannot seek medical remedies. What is more, the implication is that in an attempt to

legislate against LGBT, the laws unintendedly also extend to the rest of the general populace, including multiple forms of sexual unions in heterosexual relationships. The Kenyan law also allows for a maximum imprisonment of 50 years. In Namibia and Ghana, it also has a prison term of up to six years, and in the case of Namibia, a fine of over 5,000 United States dollars. In Namibia and Ghana, the emphasis is also on anal sex between men, not between a man and a woman per se based on how they have been crafted as "unnatural (non-peno vaginal penetrative) sexual offences or canal knowledge."

Regardless of the stagnation, there is progress that has been achieved in terms of decriminalisation, which I discuss in the subsection below. The idea is to draw from the successes chucked in others to leverage LGBTQ+ activism and, more specifically, how the trans community can learn from such progress.

Decriminalisation

Lauro and colleagues Lauro, Corrêa, Gomes Da Costa Santos, and Matthew Waites in 2022 observed that some countries were more progressive with decriminalisation than others, which can be explained by their level of coloniality, i.e., the progressive relationship between the colonisers and the colonized. For instance, Waites argued countries other than the majority of British West Africa, such as the French (e.g., Cameroon, Benin, Senegal), Germans (e.g., Central African Republic, Chad), Italians (Libya and Eritrea), Belgians (Rwanda, DR Congo, Burundi), and the Portuguese colonisation (e.g., Guinea-Bissau, Angola), have achieved enormous progress in regard to the decriminalisation of same-sex sexual practices in some colonial countries. The law on 'vice against nature' in Guinea-Bissau since 1993; Cape Verde in 2003; São Tomé and Príncipe in 2012; Mozambique in 2014; and in Angola, where the law that seeks to prohibit discrimination against people on the basis of sexual orientation was amended in 2020 (see Waites, 2024, Lauro, Corrêa, Gomes Da Costa Santos, & Waites, 2022).

In addition to Waites observation, the data shows that southern and central Africans have also adopted a more progressive perspective on LGBTQ+ rights compared to their counterparts from other African subregions. For instance, De Vos (2008) reveals that in Africa, South Africa is one of the most advanced when it comes to sex positivity, i.e., the recognition of queer rights. South Africa was the first country in Africa to extend full marriage rights to same-sex couples, which was instituted in 2006, giving room for same-sex partners to enjoy the same benefits as heterosexual spouses (National Coalition for Gay and Lesbian Equality, 1999). Adoption of children by same-sex couples was legalised, and the Children's Status Act that classified children born to same-sex couples through insemination as illegitimate was repealed (National Coalition for Gay and Lesbian Equality, 1999). Furthermore, the constitutional court interpreted the term sexual orientation as an erotic attraction for both the same sex and the opposite sex (National Coalition for Gay and Lesbian Equality, 1999). Other countries have made very significant strides in that respect, including Angola, Mauritius, Mozambique, Guinea-Bissau, Botswana, Lesotho, Cape Verde, Namibia, and the Seychelles. In fact, in 2024, a high court in Namibia ruled that the ban on gay sex in that southern African country was unconstitutional (Washingtonpost.com, June 21, 2024; Africanews.com, June 22, 2024).

The approach has been a strong synergy between civil society and self-help using indigenous strategies and strategic litigation. The Coalition of African Lesbians (CAL) in South Africa, as part of their key goal, is to shape and influence discussions within the African Commission on Human and Peoples' Rights (ACHPR). Established in 1987, with its headquarters in Gambia, the role of the ACHPR is to protect, promote, and interpret human rights on the continent. CAL seeks to ensure that lesbian rights are addressed within the ACHPR's framework (FEMNET & Civil Society, 2018).

Another important strategy for decriminalisation has been through both local activists in terms of self-help (sometimes with support from civil societies (e.g., the Church and NGOs) and the international community (e.g., the Britton Wool institutions), legislation, strategic litigation, and, in most cases, judicial interpretations from the courts. For example, through strategic litigation, across most of the countries that have decriminalised homosexuality, the courts found the criminalisation of consensual sex between consenting adults to be unconstitutional and discriminatory. So, in South Africa, for example, the Court amended the definition of marriage to include same-sex spouses and protection of all persons regardless of sexual orientation. The Seychelles amended the penal code to remove sodomy as a felony offence punishable by imprisonment. Sodomy, which is often non-consensual in nature, has generally been used as a "witch hunt" against the gay community, in particular, in many African countries. And in the case of Mozambique, there was a new penal code in 2015 that explicitly removed "crimes against nature," making homosexuality legal. In 2019, the High Courts of Botswana and Kenya issued opposing rulings on decriminalising homosexuality in response to cases brought by activists. While in Botswana, the courts overturned sections 164 and 165 of the Penal Code on the grounds that they violated rights of freedom and were discriminatory, Kenya, on the other hand, upheld sections 162 and 165 of that country's Penal Code on homosexuality with the reason that Article 45(2) of the Constitution prohibits same-sex marriage, even though not all same-sex relationships are about marriage per se.

In December 2023, for example, the Vatican released a groundbreaking declaration, "Fiducia Supplicans" (see www.vatican.va/roman, 2023), allowing blessings for Catholics in same-sex or gender unions. While accepted by some clergy in Africa, it has been challenged by others, and they have provided responses as criticism of church teachings on marriage, which they feel cannot be changed, thereby legitimising systemic discrimination against queer people, in particular transgender (persons who have dysphoria with their assigned gender at birth, i.e., cisgender) or transsexuals (those whose current sex has changed from their birth-assigned sex), since that appears to be more visible to populations due to their transvestite, i.e., behaving (e.g., dressing) in what would conventionally be seen as not conforming to their visible gender (naming, dressing, description, deportment). This explains the emphasis on transgender people in the current paper.

Trans Africa: Learning from Others

Even though at some point the terms transgender and transsexuality are used interchangeably, both terms relate to gender identity construction, except to say that transgender is a broader term that incorporates the more specific term of transsexuality, which may include altering aspects of their body, even though gender identity (whether genderism, agender, bigender, cisgender, gender queer, non-binary, and so forth) is not based on physical traits per se. So, due to the

complexities involved and the differences in defining transgender, one has actually defined transsexuality, even if the two terms are used in special cases differently.

Most of the studies retrieved on Africa did not specifically focus on transgender people per se. They were generally aimed at sexual minorities, focusing on LGBQ or homosexuality issues (see Crandall, Phaleng, Dacus, Bista, Brouard, Nel, et al., 2022; McAdams-Mahmoud, Stephenson, Rentsch, Cooper, Arriola, Jobson, et al., 2014). The majority, however, focused on the perspectives of the general populace (parents and guardians, community leaders such as the clergy, and students) about homosexuality and persons who identified as queer. The methodologies used were largely qualitative in nature, using interviews, personal biographies, and media reports on homophobia. A few were based on large data sets that were largely based on perception surveys of the student population (e.g., Anarfi & Gyasi-Gyamerah, 2014; Mucherah, Owino, & McCoy, 2016; Gitau, 2021; Acquah, Botchwey, Adoma, & Kumah, 2023). This points to the gaps that needed to be filled because of the lumping of transgender and sexuality with homosexuality, with the former more considered a gender identity than an orientation (LGB).

The literature shows that transgender people continue to face social stigma, discrimination, and physical and psychological violence for not conforming to society's norms concerning gender. For instance, though South Africa may be progressive in terms of some of the legal protections accorded to transgender people, a report from the survey by Luhur et al. (2021) presented information on public opinion about transgender people and their rights in South Africa and indicated that most South African communities believe that transgender people should not be a part of their communities because they are violating culture and tradition. Despite the laws in place, transgender individuals encounter violence and harassment in their daily lives, indicating that societal attitudes outweigh legal protections (Luhur et al., 2021). A survey of LGBT South Africans indicated that 42% of transgender respondents fear discrimination because they identify as transgender. Transgender people still live in fear due to the harassment they face from people.

There is anti-trans legislation, including conflating gender with biological sex (such as gender markers), self-identity claims, medical care, sports (trans), work, custody of children, etc. There is a significant influence of legislation on trans identity because duty-bearers and people continue to believe that trans is something that requires legislation. For instance, on gender markers, even in trans-friendly countries, transgender people are required to have official documents that authenticate their change of gender markers. Gender markers are characteristics used in society to identify individuals according to the gender they identify with. These markers could be clothing, mannerisms, names, hairstyles, pronouns, and passports. Though the Alteration of Sex Description and Sex Status Act 49 of 2003 enables transgender individuals in South Africa to change their gender markers on official documents like birth certificates and passports, it often hinders transgender people seeking accurate identity documents because of the strict requirements. These requirements include medical assessments, psychiatric evaluations, and surgery. Such criteria pose certain challenges and may not align with every individual's transition journey because not every transgender person may want to have medical assessments, psychiatric evaluations, or surgery. Also, these processes involve money, and not every transgender person may have the financial capacity to cater for such requirements, including what some have

regarded as legal documentation that validates a person's transgender identity. Critics argue that these strict requirements keep discrimination and marginalisation against transgender people continuing, denying them the right to legal recognition of their gender identity (Luhur et al., 2021). Calls for legal reforms have been made to remove these barriers to ensure that transgender individuals have access to identity documents that affirm their identity without discrimination (Luhur et al., 2021). These strict requirements have significant implications for transgender individuals, hindering their ability to access essential services like healthcare, education, employment, and travel (Luhur et al., 2021) and providing support for various rights and opportunities, including in sports, the right to adopt children, and undergoing gender-affirming surgery (Luhur et al., 2021).

A study carried out in Kwa-Zulu Natal revealed that transgender individuals frequently encounter little aggression from healthcare providers. These include instances where they were compelled to conform to the gender identity associated with their assigned sex at birth to access healthcare services (Uvuno et al., 2019). Transgender individuals encounter discrimination and stigma, which leads to adverse physical and mental health outcomes. However, in the health sector, doctors' attitudes towards transgender patients vary, with consultants being more comfortable and knowledgeable about their care compared to trainee doctors. There is a need for greater acceptance, understanding, and support for transgender individuals in society and healthcare settings (Uvuno et al., 2019). A study on transgender youth in educational settings revealed instances of bullying and discrimination perpetrated by fellow students. Additionally, the study highlighted that transgender and gender non-conforming students face bullying from teachers and school staff, which manifests in verbal and physical forms (Sanger, 2014). There is a need for greater acceptance, understanding, and support for transgender individuals in society and healthcare settings (Uvuno et al., 2019).

Similarly, a study by Tillewein et al. (2023) on the institutional barriers to healthcare services among transgender individuals reported encountering barriers to receiving discrimination from healthcare providers based on their gender, as well as encountering gender markers as a barrier to receiving appropriate healthcare services. The study investigated the barriers faced by transgender individuals in accessing healthcare services in rural areas, particularly focussing on institutional barriers within the healthcare system. One attitude that was observed in various healthcare settings was the mistreatment of transgender people. The study highlights the need for education and awareness among healthcare providers regarding transgender health, particularly in rural areas where essential healthcare services are often lacking (Tillewein et al., 2023).

Though research on LGBT+ populations keep growing, only a few studies have examined transgender individuals' specific workplace experiences. Hadjisolomou (2021) conducted a case study focusing on Katherine, a transwoman who worked in the food retail industry in a small city in the United Kingdom. In the study, she thoroughly discussed the discriminatory and transphobic behaviour of customers who visited the store where she was working. The study posits that Katherine shared some coping strategies, such as confronting or refusing to serve transphobic customers, which helped to reduce the negative consequences of stigma and discrimination,

reflecting how transgender people living everywhere in the world, including Africa, have utilised their agency in dealing with discrimination.

Due to the peculiarity of trans issues, compared to African countries, in some advanced countries, such as the United States, for example, there is insurance coverage for expenses incurred undergoing the established healthcare routine for transgender people (Baker, 2017). This is due to the agreement that there is a need for such healthcare. Also, there are new legal systems that prohibit insurance discrimination against transgender people (Baker, 2017), including the belief that trans kids should not have access to gender affirmative care based on laws because surgery is rejected by the trans community. These kinds of discrimination are not only an issue in Africa but also issues that are falling out of advanced societies where trans people continue to suffer from religious institutions from the West, including financial support. Thus, laws translating transphobia and emerging rhetoric used in the United States and elsewhere across the world, including French politicians in France, bear semblances to what we find across African societies, which this study regards as the acculturation of trans people, including campaigns against trans bodies.

Ghanaian Queer Front

Among the most discriminated-against categories of the LGBT group is the trans community. Even though some activists and scholars regard transsexuality as the more fluid group of people among the umbrella term, in most cases, trans people have usually been misrepresented as gay or lesbian because of their gender identity, as evidenced by their cross-dressing or demeanour.

Ghana operates within a heteronormative framework, and there is currently an anti-LGBTQ bill known as the Human Sexual Rights and Family Values Bill, 2021, awaiting the president's assent into law. Evidence from the Afrobarometer report and others points to evidence of transphobia and gayphobia due to the very patriarchal nature of the cultures and the role of men in these, and views their activities as contrary to established social norms and practices. One study, Acquah et al. (2023), for example, looked at the perspective of tertiary-level students in Ghana on the passage of the anti-LGBTI. The results of the study showed that the majority of the students were in support of the passage of the anti-LGBTQ bill. Some of the reasons that accounted for this support were concerns about their health implications and the belief that the country lacks the medical infrastructure to adequately care for LGBTQ individuals. Also, according to the study, about 62% of the students argued that LGBTQ practices violate our cultural and societal values, while about 54% gave religious reasons why they agreed with the passing of the LGBTQ bill. A few of the students, about 25%, posited that it was a western culture. The researcher admonished in his conclusion that people should be educated, especially on things that do not have any scientific backing. Although extensive studies have not been conducted on the perception of Ghanaians about transgender people, the study by Acquah et al. (2023) revealed a dislike among Ghanaian students towards LGBTQ individuals. This suggests that Ghanaians are hesitant to accept transgender people.

In Ghana, generally, there are diversities in trans lives and identities, and this has implications for their levels of vulnerability. Contrary to popular narratives about female vulnerability compared

to men in heterosexuality, trans men are more vulnerable than trans women. This is partly because of the cultural construct of masculinity, where men are generally expected to behave like men in terms of appearance (clothing and deportment, i.e., voice). On the other hand, even though women are expected to be women, there are cultural openings for women to be men. And these are also signs of bravery.

Data from Ghana

In order to have a feel for the literature and to contextualise the scoping review from a Ghanaian perspective, I interviewed 10 young people who were university students aged between 22 and 25 years (see Table 5). Generally, the participants, regardless of their own gender, largely defined transgender as a person who acts like the opposite sex, a man who behaves like a woman, and vice versa. They believe that society makes one transgender and have even extended that notion to homosexuality, which for me is an important addition to existing knowledge where LGBTQ+ issues have been largely perceived from a religious or spiritual perspective. One participant had this to say:

> *I think transgender people are related to those who are born males and act like females, as well as to those who are born females and act like males. (female, 23 years old, Christian).*

Another said:

> *For me, I think it's more like a guy who has changed to become a girl, or vice versa. It is simply homosexuality (male, 24 years old, Christian).*

The idea of seeing transgender as crossdressing in a manner that is culturally ascribed or associated with a particular gender and seeing that as homosexuality is a widely held view that most people hold across the world and in Ghana.

The interviewees expressed varied knowledge about the term transgender. I realised that their responses included a source and their own label for transgender. As a result, themes such as source of knowledge, where interviewees provided us with the various sources where they gained information on the term transgender, labelling of transgender, and conjecture were all part of the themes that emerged as we explored interviewees' knowledge about trans people.

During the interviews, it was observed that our interviewees described certain basic behaviours and acts that gave them suspicions as to whether an individual was trans or homosexual. This is a response from one of the interviewees when asked about the things that raised her suspicion of an individual being transgender. Akua Atta, a female who is 22 years old, said:

> *The way he walks, talks, and even when he is eating and even when he sees you come on, if you are a guy, be a guy. Yoo sis WhatsApp, like something [mimicking what she thinks guys should do], not her sister [with a tiny voice] like my cousin does. I am like, I am a girl, and I don't do this, and you are doing this. He's young, so we have to start beating him before he grows with it, because when he grows with it, it will be trouble. (Christian).*

Most of the interviewees said that transgender people are determined by how they walk, dress, and talk. The interviewees believed that biological factors caused individuals to be transgender. There are a number of studied factors that have been noted to be the cause of transgender; among these factors, the biological cause of transgender has not been left out. During our interviews, two of the ten interviewees believed that transgender was inborn; even though these assertions were not backed by evidence, they seem to strongly admit it is biological, and they also said that some individuals also deliberately chose to become transgender. Judging from some responses by one of the interviewees, she explained that Kojo-Basia (Akan, where Kojo is a name for a boy and Basia is female but euphemistically meaning man-woman) is a genetic cause, which is an abnormality in the genes causing a male to act and behave like a female and vice versa.

Ghanaian society has a set of ideas about how we expect men and women to dress, behave, and present themselves. Gender roles in society mean how individuals are expected to act, behave, dress, and conduct themselves based on their assigned sex. For example, girls and women are expected to dress in typically feminine ways and to be polite, accommodating, and nurturing. Men are generally expected to be strong, aggressive, and bold. This was evident in the interviewees' responses as they expressed how society has taught them to perceive individuals who behave contrary to society's set standard of behavior. According to one of the interviewees, individuals choose to be transgender in the sense that their socialisation affects their behaviour, as in going according to society's set standards of behavior. One interviewee also gave the response that since she was the only female among her siblings and she had no female friends, she ended up behaving like a male.

What was intriguing for me was about transgender being homosexual, especially when I cross-validated that notion in an attempt to enquire whether what the general populace defines as trans differs from what those who identify themselves as such actually think. So, I asked Yaw, one of the interviewees who accepted that he was transgender, about what he thinks of homosexuality since he believes that about 90 percent of transgender people are likely to be homosexuals because of the situations surrounding them. He said:

> *Some people [look very sad], although they hardly know me, describe me as gay. Yes, they have affected my thoughts in some way. As I said, we may see someone who is transgender in a movie, and people will accuse those people of being homosexuals. When I see those things, I think a lot because I know that's what people think of me. Because I can think about it and then say to myself that there is no evidence to prove the person is a homosexual. But most of the time, I feel the pain, and sometimes I feel pity for those who have been. (male, Christian, and unmarried).*

From the above quote, Yaw is trying to say that his friends sometimes accuse transgender individuals, which in a way makes him feel bad because their views make him believe all other people have the same perception about transgender individuals: that they are homosexuals. Even though at times he encourages himself by saying to himself that there is no evidence showing he is a homosexual, he still feels hurt by their views, which makes him feel pity for other transgender individuals. Another interviewee told us:

Oh yes, whenever you are against something, it's not because it's bad, but sometimes because you want it to be corrected or you need some corrections for something. So it has really affected my perception about transgender and homosexuality because whenever we argue, the people who go for the motion will come up with different ideas that I never taught of, so at a point I realise that, hey, maybe this thing is good, so let's live it; maybe that's how they are born to be. So at a point, it changes my perception of such people (Kojo Nkansah, 23 years old, at a university in Ghana).

Even though the participant was against transgender, after an argument with friends, he learnt certain things from them, which made him change his perception and attitude towards transgender. He later came to accept that sometimes that was how God made them to be.

Again, an interviewee told me about how exposure and Western education have also influenced his perceptions of transgender people and homosexuals.

Level 200 I was in a gender class, and HIV was a compulsory course in level 100. With the gender, I am still doing it, and to my lecturer, he wishes society would just allow transgender and homosexuals to do what they want to do, since in all things we are copying western lifestyles, we should just accept them. Since we see their culture as normal, this should also be normal.

Understanding trans in Ghana

I engaged a transgender person and how they feel and express their gender and gender roles through clothing, behaviour, and personal appearance. Yaw, who identifies as a transgender person, feels there is a mismatch between his gender identity and biological sex; hence, unconsciously, he portrays the characteristics of the opposite sex, making it problematic for society to decipher who he really is. This leads to rejection and avoidance by society. Yaw said:

I am a man, and unlucky for me, my feelings and my thoughts are like those of a lady, so you should understand that when I am talking to a male, it will be different. Do you get it? It will be like a girl who has met a boy (transgender person, 23 years old, Christian).

This assertion proves that he indeed identifies as the opposite sex, although his biological appearance says otherwise. To him, it is unconscious, hence biological. He further argues that he is portraying the characteristics of a trans person because 'God' made him that way; hence, it is natural and cannot be hidden.

To me, it's through birth. I don't know who will intentionally learn to be a Kojo Basia. If there are people like that, then I have yet to meet them. I know it's by birth. As I said, if someone is not close to you, the person will have their own perception of you. The world has made this whole thing. If a stranger sees people like me, the first thing that pops up is, 'Oh, he is gay or she is a lesbian'. The person gets that impression because the world has created that image for Kojo Basia people. The world makes it look like if you see a man behaving like a female, then he is gay, and if you see a woman behaving like a man, she is a lesbian. So, if the person

> *doesn't get close to you, that is what he or she will think. But it doesn't bother me at all because, after all, that person isn't close to me, and eventually, if that person gets close to me, he or she will understand. So, I am not troubled if someone who hardly knows me thinks I'm gay. And it's not such a person's fault; society has made it that way.*

This means that most people see him as gay simply because of his transgender behavior. Society has created the perception that any person who exhibits traits such as walking like the opposite sex, talking like the opposite sex, dressing like the opposite sex, and even eating like the opposite sex is a homosexual. Therefore, Yaw thinks how his peers identify him is unfair, and he is hurt by that because his religion frowns against homosexuality, and thus he is against homosexuality; therefore, it will be bad of him to engage in sexual activities with persons of the same gender.

To Yaw, the feeling is difficult to explain since it is a part of them; it is unconscious, and sometimes, as people laugh at them for certain actions they pose, they are hurt and wish they even possessed the genital of the gender they feel within so that their gender will match their biological sex.

> *I prefer to come as a woman; I am making this choice because I see womanhood as the best. Oh yes, very simple. That's how I feel if it's not about the transgendered thing. If I am given the second chance to choose my preferred sex, I will choose to be a lady. No doubt about that!*

One of the most sensitive issues has to do with sexual orientation. It was unclear whether they hide their sexual orientation out of fear of society or because they feel it is a private issue. Yaw asserted this claim when he was asked to whom he was attracted. He responded by saying,

> *Erm, I prefer not to answer this question. It's my personal something. I prefer to hide that. [Repeated it 2X]. I can't tell you.*

It was difficult to get participants to answer the question, "Who are you attracted to?" Information about which people transgender individuals are attracted to is very sensitive and thus confidential to them. It becomes extremely difficult to determine the sexual orientation since transgender individuals do not acknowledge whether or not they are homosexuals or heterosexuals. At the same time, the refusal not to discuss sexual orientation with me is because clearly his gender identity is not consistent with his origin, a situation that makes most people critique transgender as complex. For example, he (because of the cisgender name, Yaw) sees himself as female while at the same time being socialised as being heterosexual, even if he 'prefers to hide [his sexual orientation], making him a heterosexual queer in that regard. Not many people would understand and accept these complexities, especially in a society where there is a lack of legislation and access to facilities for such groups.

Discussion and Conclusion

Using a dual approach, the study investigates the literature on LGBTQ to inform a small data analysis on activism for transgender individuals within the LGBQ+ umbrella. While the findings

point to very interesting facets of queer politics, the discussions are taken from a panoramic viewpoint, i.e., a literal understanding of the data.

On LGBT Legislation in Africa, the study found that the regional context around the legislation in terms of the negativities relates to criminalisation largely in terms of the death penalty to imprisonment. There was distinction among the umbrella groups in terms of the kind of penalties that individuals were to suffer from, even though largely the laws tended to focus on homosexuality. This means that LGBTQ+ people, regardless of the diversities among the group in terms of their sexual expressions and orientations, were often bundled together as being homosexuals, and consequently laws were targeted at such. That said, important findings were that because most of the countries had instituted legal regimes for punishments, it should go without challenging that persons accused of homosexuality would have their rights to defend themselves. Therefore, by extension, since not all trans people necessarily are homosexuals and is about gender identity, there is leeway for such persons to defend themselves and be successful using the various laws within their society. The implication, however, is that people would unnecessarily be defamed and have to spend precious times with the courts defending their individual liberties, and this can be depressing and discriminatory. The other challenge relates to how people can freely express themselves in public spaces without suffering violence from the general populace due to misunderstandings of the law and instance justice. While saying this, I am not in any way suggesting that persons who identify as homosexuals can be unduly harassed using legal politics. My analysis relates to how people are bundled together and seen from a very limited prism as necessarily homosexuals.

One important role is the need for Euro-Western support since they were important influencers for the promulgation of colonial laws of anti-gay and gender diverse legislation. The remnants of colonial laws and ongoing happenings in Western and European societies that criminalise certain forms of minority gender and sexuality find themselves in diverse ways in African jurisprudence, especially for African countries of the commonwealth, drawing comparisons from other African jurisprudence or Euro-Western sources in legitimising the so-called indigenous cultural right that homosexuality is unAfrican.

The findings showed that irrespective of the sustained efforts in the subordination of minority sexual and gender rights, there are successes that have been chucked and that can serve as a motivation for some other societies to learn from. One of the major elements in the decriminalisation of LGTQ+ rights is for local people to harness their own agency in demanding the rights through strategic litigation. The essence of calling for local indigenous people is to negate the unnecessary fear that local people are incapable of doing anything for themselves. This challenges the idea about imperialism and the need for afrocentrism. This is not to suggest that we cannot partner with well-meaning people regardless of their colour, race, or geographical origin in pulling efforts together. Rather, the idea is that local people should be seen leading the fight towards their own freedom since the fight is theirs to do.

The findings showed that because of the lumping together of the umbrella group, there appear to be different facets of vulnerabilities and unfair treatment of people of the LGBTQ+ group.

Therefore, there is the need for targeted efforts, such as transgender people, as a facet for understanding the dynamics of LGBTQI+ power relations and vulnerabilities in order to inspire inclusion in Africa. I found that although the literature is replete on LGBTQ+, very few exist specifically on transgender and sexuality; transgender is lumped together as a sexual orientation even though it is theorised in the literature as a gender identity; thus, transgender is equated to homosexuality (as was evident in the empirical narratives) based on scanty gender analysis on the subject in Africa.

Just as it pertains to other contexts, transgender people have become very complex. For instance, in Ghana too, regardless of the constitution and the plethora of legislation such as the Affirmative Action and Gender Equity Act, which was passed in July 2024, there remain strong stereotypical perceptions generally towards homosexuals, and that conflates how they perceive those whose gender identity deviates from the known gender norms while at the same time still holding on to cultural notions of binary sexual expressions. Just like across Africa from the reviews, I found from the empirical data in Ghana too that those stereotypical reasons for identifying one as gay, lesbian, or homosexual are largely based on deportments (i.e., speech or voice and prefer to have friends of their own gender or the opposite gender and why), which raises issues about identity politics and power. Thus, irrespective of the spectrum that one belongs to, they were all perceived as being homosexuals as far as the deportments were concerned, and this has implications for gender negativities and setbacks of inclusivity in terms of treatment.

For instance, because of the lumping together as homosexuals, trans people have all been categorised as homosexuals and usually lie at the far right of the power struggles. So, for example, if someone who is concerned about being male has fewer male friends, is always with female friends, or prefers female comradeship or memberships, then such a male is perceived as being homosexual. This notion is power-laden and discriminatory. Even though being queer generally has an angle of spirituality or transgressive sexuality/gender usually attributed to evil spirits, a view that Nathanael Homewood (2024) extensively engages with in his Seductive Spirits, trans people often suffer the most from an angle of homophobia due to cultural notions of sex and gender. In Africa, as pointed out by some African writers, such as Oyèrónkẹ́ Oyěwùmí, sex and gender are inseparable, and often it is a given that a person's biological sex would align with their socialisation and sexual orientations and preferences. Thus, the binarity of gender from Western narratives in understanding African gender is problematic given the diversities of cultures in Africa. This is a reflection of what culminates in legislation, which is often violence against gender non-conformism and same-sex practices across countries in Africa. This violence, in many African contexts, entails accusations about Western or foreign influence in the process, threatening African cultural and social values, which are often forged with Euro-Western ideologies, especially those grounded in religiosity.

Even though the review was heavily skewed generally towards the broader spectrum, the few specifics I engaged with from both the review and small empirical data showed different resistance and power strategies from a trans perspective. While the empirical study, due to the limited sample, found only one category of transgender strand, i.e., transgender groups conforming to scripted gender roles, as noted by some participants, I am also aware, both from the literature and

my relations with the LGBTQ+ community, from possible participants who were not ready to offer perspectives about themselves that there is a second group that does not want to be boxed in by scripted or 'traditional' gender roles. That said, the divergence among transgender people is not that different from other groups, including heterosexuals. For instance, even among people who identify as heterosexuals, there are more and more queer heterosexuals. These nuances continue to challenge the straight-jacket labelling and categorisation, which sometimes lead to confusion and a lack of solidarity among the in-groups. Thus, the idea is not about being gay or lesbian, but rather about the gender spectrum one is attached to, i.e., gender as liberation paths people may want to explore.

One important role of legislation and decriminalisation of LGBTQ+ in Africa is the changing role of religion, especially leveraging on Western narratives. In particular, while not all church groups support individual freedoms in regard to sexualities, some Christian groups, including the Catholic Church, which was one of the original proponents of criminalisation, appear to have relaxed their cannons, which is now playing a critical role in decriminalisation, and this shows significant progress. In the SADC, the regional organisation of southern African countries is showing more progress in terms of decriminalisation, and in Eastern Africa, discourse is becoming more intense. Despite the rulings from the European Court of Human Rights (1981), the United Nations Human Rights Committee (1992), and other related rulings in regard to the criminalisation of homosexuality as a violation of human rights, the political tension around queer lives remains tense and antagonistic. But there are positive lessons we can learn from others. There is a need for protection laws for the LGBTQ community as they pertain elsewhere, such as those of the Global Equality Caucus (GEC), which has officially formalised its network in Southern Africa at a dedicated convening event in Johannesburg. We also have useful lessons from non-African societies in order to engage in dialogical debates, particularly with anti-trans governments, who are usually right-wing and far-right politicians.

We need to sustain our efforts and campaigns through media education, hosting talk shows and programs that not only allow the trans community to discuss their own reality but also provide a platform for activists, advocates, and experts to discuss LGBTQ challenges. There is no need for Africa to reinvent the wheel; it can learn from progress made elsewhere. For example, in thinking of African solutions, one can learn from existing viewpoints elsewhere that challenge conventional knowledge in terms of the difference between us and them. I do not think that amounts to afropessimism. Rather, I feel a multi-racial coalition-building could offer the kind of solidarity needed to confront the current issue of the LGBTQ+ debacle across the globe. Nothing wrong with learning from best practices. For example, Christiane Amanpoour's "Sex and Love" in the CNN series uses a participatory approach where Michel Martin, NPR "Morning Edition Host," leads conversations on LGBQ showcasing the work of activists in support of the trans community and building safe spaces in response for LGBTQ+ migrants fleeing persecution in their home countries (see The WNET Group, August 31 and October 12, 2023: www.pbs.org).

To conclude, the transgender world and literature have been on the margins of African literature, and the need for continued and sustained research on them is eminent. Cultural framing and the desire to claim African identity partly explain anti-homosexual laws, which disproportionately

affect not only conceptions about transgender people but also their experiences. But new shifting voices are important, and I feel my research also provides additional voices to existing attempts to elevate discourses about LGBQ+ to more nuanced perspectives and to highlight the peculiar challenges of the transgender community. Strategic advocacy from both the moral community and strategic litigation are crucial. The findings from both the review and the empirical data point to promising directions regarding decriminalisation of LGBT issues in Africa and lessons that can be learnt from countries in southern Africa and how the rest of the continent can reflect on the important achievements of self-help, strategic litigation, religious teachings, and 'theology of grace' by the church as applied by the Catholic Church on the opportunity to accept queer relationships as part of God's own grace for humanity.

References

References here

Table 1: Summary of selected studies on homosexuality in sub-Saharan Africa

Table 2: Countries that have criminalised homosexuality in Africa
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Table 3: Countries that have decriminalize homosexuality in Africa
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Table 4: Countries that have enacted subsidiary legislations to criminalize homosexuality in Africa
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Table 5: Sociodemographic from Ghana's Empirical Data
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