

# **POSITION PAPER**

## **EVE WOMENS' SUMMIT ON THE STATUS OF GHANAIAN WOMEN**

(18th – 20th December, 2022)

### **Advancing Gender Equity and Women Empowerment Laws in Ghana**

Equality between men and women, and women's empowerment are essential for achieving economic, cultural, social, political, environmental security among all people. International treaties that focus on gender equality and women's empowerment contribute significantly to global peace and development. Ghana since independence has ratified a number of international and regional treaties/frameworks which confirm its commitment to promoting human rights for all people as well as bridging the gender equality gap between men and women. Some of these treaties include Convention on the Elimination of all Forms of Discrimination (CEDAW), 1979, Beijing Declaration and Platform for Action of 1995, African Charter on Human and Peoples' Rights (African/Banjul Charter), Protocol to the African Charter on the Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) of 2003, African Charter on Democracy, Elections and Governance - Adopted in Addis Ababa, Ethiopia, on 30th January, 2007.

The 1992 Constitution of Ghana presents a national framework in which several articles align with the international human rights framework at the same time responding to peculiar national situations. Furthermore, responding to its international and regional commitments and the 1992 Constitution there exist a number of laws and policies whose implementation contribute to gender equality and women's empowerment. These include laws on marriage, divorce, inheritance, gender-based violence, reproductive rights; policies on affirmative action, amendments to the Criminal Offences Act which make Female Genital Mutilation, 'trokosi' and cruel widowhood rites offences.

In addition, a National Gender Policy is in place to guide all sector Ministries Departments and Agencies which are expected to apply a number of approaches the overarching one being gender mainstreaming in putting in place their budgets and programmes. Others are bills which have not been passed by Parliament since their introduction many years ago – Property Rights of Spouses Bill, new Intestate Succession Bill and the Affirmative Action Bill. The Ministry for Gender, Children and Social Protection has submitted all outstanding periodic reports on women and children to the relevant treaty bodies. With regard to implementation of the laws and policies mentioned above, progress has been made in many areas although there are other areas that require action by primarily Government and civil society groups as complementary actors. (Review of Gender Equality and Women's Empowerment Laws and Polices in Ghana, 2016)

Aside the passage of laws and their effective implementation in Ghana, one of the major setbacks of attaining gender quality has been the persistence of socio-cultural norms in our community, these practices have been so detrimental in ensuring the effective implementation of gender equality laws in Ghana. These traditional practices, many of which are against the law, continue to be practiced throughout the nation, particularly in rural regions, also it is still unclear whether they represent genuine African cultural practices or a distorted depiction of how things once were (Atindanbila et al., 2014)

It is respect to his background that the Eve's Foundation from the 18<sup>th</sup> to 20<sup>th</sup> December, 2022 organised a Women's Summit with the theme Status of Women in Ghana at (Venue). The main objectives of the conference were to identifying issues related to the delay in passing pending gender legislature, find out if our laws are behind international standards and identify the advocacy measure adopted to help the passing and implementation of gender laws. The conference brought together key women's rights experts as panelist at the summit. These include Edna Leslie Kuma, Sheila Minkah Primo, Joyce Bawa Mogtari and Kezia Kenneth Azumah.

This position paper outlines key discussions held at the women's summit. They were focused on the legal frameworks, gaps, weaknesses and challenges in responding to commitments under international treaties, in the text of national laws and policies and in implementation of these laws/policies and recommendations made for further advocacy action.

## **Legal Frameworks Promoting Gender Equality in Ghana**

### **Domestic Violence Act (Act 732)**

Issues of Domestic Violence came first into the public domain when the Ghana Police created the Women and Juvenile Section (WAJU) in 1998; a specialized unit that dealt with crimes against women and children as physical spousal abuse started to appear often in media reports in the late 1990s. In 1999 the Gender Studies and Human Documentation Studies report on a national study on violence against women revealed that, one out of every three women in Ghana has experienced domestic violence in her lifetime. These events commenced major campaigns on domestic violence in the country by women's rights organization.

This resulted in the Ghana's government passing a number of national laws to safeguard women's rights and prohibit violence against women and girls. The Domestic Violence Act (Act 732) was passed by the Ghana government and Parliament in February 2007 after years of lobbying work by significant women's rights and civil society organizations, the media, and international organizations. The National Policy and Plan of Action (NPPOA) was developed in 2008 by the Ministry. The Domestic Violence Act major stakeholders' mandate were well outlined in the NPPOA to ensure its successful implementation.

The Ministry of Gender, Children and Social Protection in 2016 conducted national research on domestic violence in Ghana, which revealed that more than a quarter of women surveyed has experienced domestic violence in her lifetime and the situation is not getting any better. Though the Domestic Violence Act criminalizes abuse within a domestic relationship, such as physical, sexual, economic and emotional abuse, and harassment. There still exist a number of challenges that stands in the way for survivors from accessing justice in Ghana. Some of these challenges include;

- There may be various programmes addressing domestic violence in Ghana however these may not be enough, well-structured and coordinated
- The existence of only one Police Hospital for survivors of domestic violence slows down access to justice for survivors
- Punishment imposed in the domestic violence act is not punitive and deterrent enough for perpetrators
- Though the Domestic Violence Act defines harm from a more comprehensive approach, it could argue that its approach in addressing access to justice is not so realistic. Some of its provisions are difficult to implement.
- The operationalizing of the DV Funds and the limited allocation of enough funds to the fund by government is a major setback in supporting survivors access justice in Ghana. Service providers who refer victims suffering from imminent danger are faced with the burden of locating alternate housing facilities and providing for their daily needs. Many of the victims and survivors of abuse have to spend the night at the DOVVSU offices.
- Although the Act provides that a victim of domestic violence who is assisted by the police to obtain medical treatment is entitled to free medical treatment from the state, the reality on the ground sadly contradicts the provision in the Act. Victims/survivors are often asked to pay directly for the medical report, which typically costs between GHC 300 and GHC 1500. This single act has denied many from accessing justice because they are not able to pay for the medical report.

### **Criminal Offences Act (Act 29)**

The Criminal offenses Act (Act 29) criminalises acts that causes harm or harms any woman, man or child or persons in their daily engagements or activities and spells out punishments with respect to these acts. The Act criminalises acts such as the Female Genital Mutilation (FGM) and prescribes punitive action against perpetrators. It is a second-degree felony where perpetrators are liable on conviction to a term of imprisonment of not less than three years and not more than ten years. Despite this law, FGM continues in some communities. Factors that sustain the practise include the need to sustain historical traditions and religious rites and ensuring moral standards among young women. Women and girls feel obligated to conform to social norms to be accepted by peers. Also, some men prefer circumcised women. Currently before Parliament is the Review of the Criminal Offences Act (Act 29) to criminalize witchcraft accusation in Ghana. This is based on the background on the observance of a discriminatory and dehumanizing practice found in some parts of Ghana where old women are labeled as as witches in their communities and unfortunately are made to undergo severe abuse when accused of being responsible for ills within their families or communities. Some of these women are burned to death, publicly flogged or ostracized from their communities into camps popularly known as 'witch camps'. This practice is a violation of the rights of these elderly poor women, yet there is no specific law that outlaws it. Much as some efforts were made by the Gender Ministry to address the violations including closing two of the camps, not much has happened to address this systemic abuse. When women, frequently the elderly, are accused of practicing witchcraft, and exiled from their homes, made to reside in "witch camps," and prohibited from returning to their communities, is considered gender-based violence. (Review of the Domestic Violence Act, Mechanisms and LI by WILDAF and Oxfam).

### ***The Intestate Succession Bill***

Since 2009, the Intestate Succession Bill was drafted and presented before Parliament for enactment. The bill elapsed and has since been in and out of Parliament. The bill is currently before Parliament for enactment into law to replace the current one. The objective of the bill is to guarantee and make better provisions for the nuclear family as well as for the customary law family when one dies intestate. The bill also aspires to establish a consistent intestate succession law that will be used across the various religions and ethnic groups regardless of one's inheritance system and the type of marriage that was entered into. The gaps with the current law is that, it does not make comprehensive protection for surviving spouse and children's rights to inheritance when one dies intestate.

### ***The Property Rights of Spouses Bill***

The Property Rights of Spouses Bill seeks to alleviate rights disparities between sexes particularly with respect to the distribution of property amongst spouses during divorce. It provides for the fair distribution of marital property during divorce amongst spouses. Article 22 (3) of the 1992 Constitution, provides that spouses shall have equal access to property jointly acquired during marriage. Assets which are jointly acquired during marriage shall be distributed equitably between the spouses upon dissolution of the marriage.

Often property jointly owned by spouses during marriage is mostly registered in the man's name. Women rarely contribute directly financially to the acquisition of property, they contribute in kind and even when they do, there is almost never the necessary documentation to attest to it. After a marriage dissolves, women frequently receive close to nothing. Truthfully, there have been several educations on spouse-property-related laws however this has not led to its speedy passage. Moreover, these laws are not feminine-centered, it will go a long way to benefit both genders. It is evidential that wives are those often hard-hit during divorce particularly with the distribution of property.

### ***The Affirmative Action Bill***

Women's participation in decision making at all levels has been a major challenge since the independence of Ghana. Currently, only 40 Parliamentarians are women out of the 275 members of Parliament. This constitutes only 14.5% of the members of the current Parliament. This is the highest Ghana has experience since the 4<sup>th</sup>

Republic. In addition, there is enough evidence to suggest that efforts by government to increase women's participation in decision making have not yielded enough results to ensuring the effective participation of women in decision making within the public sector. The Affirmative Action Bill (AA Bill) has been drafted for enactment into law since 2011. The objective of the bill is to ensure the participation of 30% to 50% of women into decision making positions into public offices. The bill to date, it has been in and out of Parliament. Some of the positive argument for the passage for the bill include:

- Gender parity is not only a feminine fight. Thus, striving for 30% to 50% representation of women or females in all disciplines or spheres would lead to gender equality because women are the most populated, well-equipped, and have the required competencies to survive even in patriarchal dominated fields.
- It is not just the unwillingness of women; neither are policies ineffectiveness nor a shortage of competent women to serve in public office but heavily the competitiveness from the opposite gender.
- Policies will only support or encourage gender drives but opportunities created will call for participation

## **Challenges**

Challenges to the effective realisation of gender equality and women empowerment in Ghana include:

1. Socio-cultural norms and practices existing in our communities affecting gender equality and women empowerment in our communities
2. Low political will by policy makers in ensuring the passage and enforcement of gender equality and women empowerment laws in Ghana
3. Limited financial resources to support the budgets of state mechanisms in the enforcement of gender equality and women empowerment laws in Ghana
4. Limited capacity of personnels of state institutions in the enforcement and operationalization of the provisions in the gender equality and women empowerment laws in Ghana
5. Limited knowledge by the general public on gender equality and women empowerment provisions in our laws

## **Recommendations**

### **Government**

- Increased commitment by policy makers in ensuring the passage of gender equality and women empowerment laws placed before Parliament of Ghana.
- Provide adequate financial resources to state institution working on promoting gender equality in Ghana particularly the Ministry of Gender, Children and Social Protection to ensure the quality delivery of services
- Promote coordination amongst state actors in ensuring the enforcement of gender equality laws in Ghana e.g. the Attorney General's Department and the Police should work hand in hand
- Government should have good policy indicators to assess the impacts of these gender-related policies e.g National Development and Planning Commission (NDPC), Ministry of Gender Children and Social Protection (MoGCSP)
- Enact gender equality laws that will promote women and men access to opportunities, resources and access to justice for both men and women.
- Provide infrastructures and logistics to state institutions working to advance gender equality in Ghana such as The Ministry of Gender, Children and Social Protection
- The need for a call-in for resocialization, policies, and numerous laws for all sectors of the country in promoting gender equality and women's empowerment.

### **International Partners**

- Development partners to provide more funding support to government and non-for-profit organisations in ensuring more programmes and activities in ensuring the enforcement of the gender equality in Ghana and women empowerment.

### **Parliament**

- Engagements with the Members of Parliament should be continuously on issues bordering on gender equality to enable them ensure the speedy passage of the bills presented before Parliament

### **Civil Society Organizations (CSOs)**

- Initiate programmes and projects in increasing knowledge of women and men on gender equality and access to justice at the community level
- Women and men should be supported with information on opportunities available to them to help build their capacity.
- Systems must therefore be put in place to push the speedy passage of the Affirmative Action Bill, Review of the Criminal Offences Act on criminalizing witchcraft, Intestate Succession bill and Property Rights of the Spouses bill
- There should be sensitization and education of religious bodies and traditional leaders to build their capacity to enable them review socio cultural norms affecting gender equality and women empowerment in Ghana.
- Continue to advocate for the passage of the gender equality laws and women empowerment in Ghana

### **Media**

- Use their platforms to provide public education on gender equality issues and laws to increase the knowledge of the general public on gender equality in Ghana.

### **Citizens**

- Increase knowledge particularly on gender equality laws in Ghana to enable them envision and support the advancement of gender equality in Ghana
- Provide survivors of abuse with all the needed social services support right at the family, friends, and religious leaders levels to enable them access justice
- Parents should encourage to be supportive of their children because of their enormous impact on their children/the younger ones
- Women should learn to harness the right attitude and mentality, which is an assert for progress on women empowerment
- Parents should desist from engaging in early marriages, especially in the northern belts a call for intense education