

THE LEGALITY OF POLYGAMOUS MARRIAGES IN GHANA

According to pertinent sources on Ghanaian law,^{1/} three forms of marriage are recognized in Ghana, (a) a marriage under the various customary laws, (b) a marriage celebrated in accordance with Islamic law and registered under the provisions of the Marriage of Mohammedans Ordinance of 1951, as amended,^{2/} and (c) a statutory marriage contracted pursuant to the provisions of the Marriage Ordinance of 1951, as amended.^{3/}

Customary marriages are potentially polygamous in the sense that only a man is allowed to marry more than one wife. A woman cannot, however, contract a new marriage during the subsistence of another marriage. Customary marriages are statutorily recognized in sections 44-49 of the Marriage Ordinance, as amended.^{4/}

Islamic marriages in Ghana are polygamous, insofar as a man is permitted by law to have up to four wives. Women are not at liberty to have more than one husband at a time.

Statutory marriages contracted under the provisions of the Marriage Ordinance, as amended, are monogamous, and no man or woman can legally enter into another marriage during the term of a subsisting marriage, whether contracted under customary or Islamic law.

^{1/} Area Handbook for Ghana 117-119 & 222-223 (1971); see also the following works of W. C. Ekow Daniels, "The Legal Position of Women Under Our Marriage Laws" 9 University of Ghana Law Journal [hereafter UGLJ] 39-63 (1972); "Towards the Integration of the Laws Relating to Husband and Wife in Ghana" 2 UGLJ 20-60 (1965); N. A. Ollennu, "Law Reform in Ghana in the 70s" 7 UGLJ 1-30 (1970); T. O. Elias, Ghana and Sierra Leone: The Development of Their Laws and Constitutions 179-183 (1962).

^{2/} 2 Laws of the Gold Coast, Ch. 129, 438-445 (1951).

^{3/} Id., Ch. 127, at 410-435.

^{4/} Id. at 427-428.

Contracting a statutory marriage during the term of a valid customary or Islamic law marriage constitutes bigamy, under the provisions of sections 262-266 of the Criminal Code of Ghana, as amended. ^{5/}

As outlined above, only customary and Islamic law marriages are legally recognized by Ghanaian law as polygamous. Customary and Islamic law marriages, can not, however, be performed during the continuance of a statutory marriage.

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January, 1983

^{5/} Act 29 of 1960, 1 Acts of Ghana 99-100 (1960).

CM:ehc
83-486
1/25/83