



HUMAN
RIGHTS
WATCH

“No Choice but to Deny Who I Am”

Violence and Discrimination against LGBT people in Ghana

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Map of Ghana



Glossary

| | |
|------------------------|--|
| Bisexual | Sexual orientation of a person who is sexually and romantically attracted to both men and women. |
| Gay | Synonym in many parts of the world for homosexual; used in this report to refer to the sexual orientation of a male whose primary sexual and romantic attraction is toward other males. |
| Gender | Social and cultural codes (as opposed to biological sex) used to distinguish between what a society considers “masculine” or “feminine” conduct. |
| Gender Identity | A person’s internal, deeply felt sense of being female or male, both, or something other than female or male. A person’s gender identity does not necessarily correspond to the sex assigned at birth. |
| Homophobia | Fear of, contempt of, or discrimination against homosexuals or homosexuality, usually based on negative stereotypes of homosexuality. |
| Homosexual | Sexual orientation of a person whose primary sexual and romantic attractions are toward people of the same sex. |
| LGBT | Lesbian, gay, bisexual, transgender; an inclusive term for groups and identities sometimes associated together as “sexual and gender minorities.” |
| Lesbian | Sexual orientation of a female whose primary sexual and romantic attraction is toward other females. |

**Men Who
Have Sex with
Men (MSM)**

Men who have sexual relations with persons of the same sex, but may or may not identify themselves as gay or bisexual. MSM may or may not also have sexual relationships with women.

**Sexual
Orientation**

The way a person's sexual and romantic desires are directed. The term describes whether a person is attracted primarily to people of the same sex, a different sex, both or neither.

Sex Work

The commercial exchange of sexual services between consenting adults.

Transgender

The gender identity of people whose birth (which they were declared to have upon birth) does not conform to their lived and/or perceived gender (and gender that they are most comfortable with expressing or would express given a choice). A transgender person usually adopts, or would prefer to adopt, a gender expression in consonance with their preferred gender but may or may not desire to permanently alter their bodily characteristics in order to conform to their preferred gender.

Summary

In mid-September 2009, the District Chief Executive in my town called me for a meeting...I was taken to the conference room and made to sit in the middle of about 50 people. They asked me if I was a lesbian, and I said no. One police officer kicked me with his boot on my mouth, said I shouldn't talk. I started bleeding. Then everybody started to beat me. They took me outside, dragging me and beating me at the same time. A youth boy put a car tire around my neck and poured petrol over my body, ready to burn me. The pastor said I should confess everything before I die.

-Pearl, 30-year-old woman, January 2017, Kumasi, Ghana

Ghana has a mixed record on its treatment of lesbian, gay, bisexual and transgender (LGBT) people. It criminalizes “unnatural carnal knowledge” in section 104 (1) (b) of its Criminal Offences Act, which the authorities interpret as “penile penetration of anything other than a vagina.” However, the law is a colonial legacy that is rarely, if ever, enforced, and unlike several of its neighbors, Ghana has not taken steps in recent years to stiffen penalties against consensual same-sex conduct or to expressly criminalize sexual relations between women. At least two government agencies, the Ghana Police Force and the Commission on Human Rights and Administrative Justice (CHRAJ), have reached out to LGBT people and taken proactive steps, including through providing human rights training workshops to help ensure their protection. Nevertheless, LGBT people are very frequently victims of physical violence and psychological abuse, extortion and discrimination in many different aspects of daily life, because of their sexual orientation and gender identity.

This report is based on interviews conducted between December 2016 and February 2017 in Accra (Ghana's capital), Tamale (the capital of the northern region of Ghana), Kumasi (the capital of Ashanti region in southern Ghana) and Cape Coast (capital of Central region in southern Ghana) with 114 Ghanaians who self-identify as LGBT. It documents the human rights impact of section 104(1)(b) of the 1960 Criminal Offences Act (Act 29) on the lives of LGBT people in Ghana. Despite the rare, if any, prosecutions under this provision, Human Rights Watch found that the criminalization of adult consensual same-sex conduct contributes to a climate in which violence and discrimination against LGBT people is

common. The retention of section 104(1)(b) – commonly referred to as the anti-gay law – is often seen as tacit state approval of discrimination, and even violence, on the basis of real or imputed sexual orientation and gender identity. The law also contributes to a social environment in which there is pervasive violence against lesbian, bisexual and gender non-conforming women in the home and LGBT people more generally in communities where they live.

This report documents how dozens of LGBT people have, on numerous occasions, been attacked both by mobs and members of their own families, subjected to sexual assault, intimidation and extortion. For instance, in August 2015 in Nima, Accra, a young man was allegedly brutally assaulted by members of a vigilante group known as Safety Empire simply because they suspected he was gay. Also, several men described being severely beaten by mobs of young men—often after being lured into compromising situations and blackmailed on social media. In May 2016 in a village outside Kumasi in the Ashanti region, the mother of a young woman organized a mob to beat up her daughter and another woman because she suspected they were lesbians and in a same-sex relationship. The two young women were forced to flee the village.

Lesbian, gay, bisexual and transgender Ghanaians interviewed by Human Rights Watch said that the combination of the criminalization of adult consensual same-sex conduct and the profoundly religious and socially conservative Ghanaian context has an insidious effect on their individual self-expression. All the interviewees said that they either felt they had little choice but to adopt self-censoring behavior, or worse, deny their sexual orientation or gender identity to avoid suspicion by family members and the communities in which they live. Numerous interviewees told Human Rights Watch that in certain instances, such suspicion has led to violence, extortion and arrests.

Lesbian, bisexual women and transgender men are frequently victims of domestic violence. While Pearl’s story of being subjected to a mob assault for being a lesbian is horrific, violence against this group of women in Ghana often takes place in the privacy of their own homes—the place where they ought to feel the most secure. The report details the ways in which the intersection of gender and sexual orientation renders gender non-conforming women particularly vulnerable to domestic violence. While recognizing that the legal framework affects the lives of LGBT individuals generally, it is imperative to highlight

the abuse that lesbian and bisexual women are subjected to in the private sphere, particularly by family members who exercise domination and control over women's lives, bodies and sexuality.

Numerous lesbians described being threatened with violence, beaten and driven from their family homes after family members learned of their sexual orientation. One woman said that when her family heard that she was associating with LGBT people, they chased her out of the house with a machete; since then, she has not been able to go back home to visit her two-year-old daughter. Most lesbian and bisexual women told Human Rights Watch that they have no choice but to hide their sexuality from their family members and that they are expected to marry men and have children, thereby conforming to family and societal expectations. A young woman from Kumasi said that when her family suspected she was a lesbian, they took her to a prayer camp where she was severely beaten over a period of one month to "cure" her of her "deviant" sexuality. Prayer camps, run by privately-owned Christian religious institutions with roots in the evangelical or Pentecostal denominations, are supposed to serve as a refuge for people seeking spiritual healing. According to a 2014 Human Rights Watch report, there are several hundred prayer camps in Ghana.

Many LGBT Ghanaians told Human Rights Watch that their lives have been torn apart because of the stigma associated with homosexuality; the fear of violence perpetrated by family members and others in the community and homelessness, should their sexual orientation be disclosed. The negative public discourse about LGBT people, who are referred to in derogatory terms in public spaces, combined with the risk of physical violence has severe psychological implications. Many interviewees said they constantly struggle with the stress associated with hiding their sexuality, thus living double lives, to stay safe. Facing the risk of family rejection, many succumb to the pressure to marry. Others, ostracized from their families, find themselves with few economic options, leading some to rely on sex work as a means of survival.

LGBT victims of crime said the anti-gay law inhibited them from reporting to authorities for fear of exposure and arrest. Ghana's laws ought to protect everyone from violence, but fear that the anti-gay law could be used against them, combined with social stigma, serves as a

barrier to seeking access to justice. Felix, a young man from Kumasi told Human Rights Watch that in 2016 he was raped by a man he had met on social media, but did not report the rape to the police out of fear that he would be arrested for having “gay sex”.

In one high-profile case, Accra police arrested a suspect in a vicious mob attack against a gay man in August 2015—but his case has still not gone to trial, leading LGBT people to question whether it is futile to seek justice in the aftermath of homophobic and transphobic violence. While the police effectively investigated the case, the prosecutor who was assigned to the case in the Fast Track Court in Accra failed to appear in court.

Ghana is a country of profound contradictions. Despite its status as a liberal democracy, with a constitution that guarantees fundamental human rights to all its citizens, a relatively responsive police force, and an independent national human rights institution, the government has consistently rejected calls by United Nations bodies, including the Human Rights Council during the Universal Periodic Review of Ghana’s human rights record, to repeal the law against “unnatural carnal knowledge.” Ghanaian society is also very religious. According to a survey conducted by Gallup International Association, approximately 96 percent of the population claim to follow some form of religious belief system. Christianity, the dominant religion in the south and Islam in the north play a significant role in Ghanaian culture and society, and inform the view that homosexuality is an abomination and contrary to religious beliefs and teachings.

Human Rights Watch found that since 2010, and notably from February 2017, a few opinion leaders including government officials and parliamentarians have called for further criminalization of LGBT people. In February 2017, the Speaker of Parliament, Professor Mike Ocquaye, referred to homosexuality as an “abomination” and reportedly called for stricter laws against same-sex conduct and in July 2017, during a public discussion with Amnesty International about prospects for abolishing the death penalty, he equated homosexuality with bestiality.

Homophobic statements, not only by local and national government officials, but also local traditional elders, and senior religious leaders, contribute to a climate of

homophobia and in some cases, incite violence toward people on the basis of real or imputed sexual orientation or gender identity.

On a positive note, in June 2016, during the 32nd session of the UN Human Rights Council, the official delegation of the Permanent Mission of Ghana to the United Nations in Geneva affirmed that Ghanaian law prohibits persecution and violence based on sexual orientation and gender identity. Ghana's is also party to several regional and international human rights treaties, and has accepted procedures for individual complaints but unfortunately this has yet to help lesbian, gay, bisexual and transgender people realize equality. Retention of provisions prohibiting "unnatural carnal knowledge," failure to proactively address violence and discrimination, and the role of some politicians in inciting homophobia combine to relegate LGBT Ghanaians to what can be described as second-class citizenship. This report documents the enormous gap between the official government position articulated in international fora regarding protection from violence, and the daily abuses that LGBT people fall victim to in their homes and communities. Human Rights Watch found that despite positive initiatives from CHRAJ and from some individuals within the Ghana Police, the government is thus far failing to adequately protect LGBT persons from violence.

Human Rights Watch calls on the Parliament of Ghana to repeal section 104(1)(b) of the Criminal Offences Act, which criminalizes consensual adult same-sex conduct. The Ghanaian government should comply fully with the UN Human Rights Council's recommendations and adopt measures to monitor and report on hate speech and to protect LGBT persons from all forms of discrimination, intimidation and violence. Human Rights Watch strongly urges the government of Ghana to effectively implement Resolution 275 of the African Commission on Human and People's Rights, which requires all African states to take positive steps to end violence and discrimination on the grounds of sexual orientation and gender identity. Ghanaian authorities should act swiftly to protect LGBT people from violence, whether committed by state or non-state actors. In doing so, the authorities should engage in a constructive dialogue with the LGBT organizations to better understand its needs – with a particular focus on addressing the intersecting forms of discrimination that affect lesbian and bisexual women—and ensure that the necessary legislative and policy measures are taken to ensure their safety, dignity, and equality.

Recommendations

To the President

- Publicly condemn all threats and acts of violence against lesbian, gay, bisexual and transgender people, including violence perpetrated by family members.
- Adopt measures and take steps aimed at raising public awareness of the harm of homophobia that prevails in the country, and the need to combat it. In particular, hold accountable all public officials who make homophobic statements.
- Propose comprehensive legislation that prohibits all forms of discrimination, including on the grounds of sexual orientation and gender identity.
- Invite the African Commission on Human and Peoples' Rights and the Country Rapporteur for the Republic of Ghana to conduct an official visit to engage in constructive dialogue with the government and all stakeholders on the progress and challenges to domestic implementation of the African Charter on Human and Peoples' Rights, and other relevant regional human rights treaties that Ghana has ratified.

To Parliament

- Repeal sections 104(1)(b) of the Criminal Offences Act that criminalizes adult consensual same-sex conduct.
- Amend Chapter 5 of the 1992 Constitution on Fundamental Human Rights and Freedoms to include a specific prohibition of discrimination based on sexual orientation and gender identity.
- Introduce legislative and policy measures to prevent, protect, punish and provide effective remedies for lesbian, gay, bisexual and transgender individuals who are victims of violence on the basis of their real or imputed sexual orientation and gender identity and ensure enjoyment of their constitutional rights to equality and non-discrimination.
- Follow-up effectively on the various recommendations from the human rights treaty bodies, the universal periodic review and special procedures in order to ensure improved protection from violence and discrimination on the basis of sexual orientation and gender identity, in particular the recommendations

contained in the Concluding Observations adopted by the United Nations Human Rights Committee in August 2016 pursuant to consideration of Ghana's initial report to:

- Take necessary steps to protect lesbian, gay, bisexual and transgender persons against all forms of discrimination, intimidation and violence and amend section 104 of the Criminal Offences Act, 1960, to ensure that sexual relations between consenting adults of the same sex are not considered a misdemeanor and not punishable by law.

To the Inspector General of Police: Ghana Police Services

- Undertake prompt, independent, and effective investigations into allegations of acts of violence against LGBT people—whether in public spaces or in the home—always taking into account that such crimes may be motivated by hatred of their real or perceived sexual orientation and gender identity.
- Ensure that police stations provide a safe environment for LGBT persons to report cases of violence, including by establishing a human rights desk and a reporting hotline for cases of domestic violence.
- Ensure all law enforcement officials fully comply with the Ghana Police Service Standard Operating Procedures while executing their duties in respect of providing services to LGBT victims of crime, in particular, to identify and arrest perpetrators.
- Ensure that police apply the provisions on equality, human dignity and discrimination in the Constitution in all their dealings with LGBT individuals.

To the Ministry of Justice and Attorney-General's Department

- Issue clear directives to prosecutors and members of the judiciary to ensure that reported cases of violence against LGBT people are effectively prosecuted without delay and perpetrators punished in accordance with the law.
- Conduct capacity-building workshops for court officials and related personnel and integrate human rights of LGBT people into educational curricula to enhance officials' understanding of constitutional rights and sexual orientation and gender identity.

To the Commission on Human Rights and Administrative Justice

- In accordance with the mandate to promote human rights set out in relevant provisions of the 1992 Constitution and Commission on Human Rights and Administrative Justice Act 456, 1993, implement public education programs focusing on LGBTI rights.
- Monitor, investigate and report on incidents of hate speech and incitement based on sexual orientation and gender identity in accordance with the protection mandate.
- Effectively implement the actions adopted at the March 2017 workshop hosted by the Network of African National Human Rights Institutions in Nairobi, Kenya for staff of national human rights institutions on sexual orientation, gender identity and human rights, in particular:
 - Conduct internal training on sexual orientation and gender identity issues for all staff at regional and district levels.
 - Organize symposia and workshops for police, non-governmental organizations, the judiciary, media, health practitioners and religious leaders on human rights and sexual orientation and gender identity issues.
 - Continue to actively engage with LGBT human rights organizations to encourage LGBT persons to file discrimination complaints with the Commission.
- Launch a national public education campaign about rights protections, legal remedies, and social services available for victims of violence and discrimination, particularly as they relate to women's rights, sexual orientation, and gender identity.

To the African Commission on Human and Peoples' Rights

- Urge Ghana to submit its long-overdue report on the general human rights situation in the country, including information relating to violence and discrimination based on sexual orientation and gender identity.
- Conduct a visit to Ghana to assess the government's compliance with regional human rights treaties it has ratified and to engage in constructive dialogue with all stakeholders, including LGBTI individuals, on progress, obstacles, plans and measures adopted to ensure implementation of ACHPR Resolution 275 on the

Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity.

To Donors

- Increase financial and technical assistance to civil society organizations providing services to lesbian, gay, bisexual, and transgender people who have suffered violence, including domestic violence, and discrimination on the basis of their sexual orientation and gender identity.
- Specifically, increase funding for community organizing, advocacy, and direct services, including short and long-term shelters, legal aid, crisis hotlines, counseling, medical assistance, and job training to lesbians, bisexual women, and transgender men.

Methodology

This report is based on information collected during five weeks of field research in four cities in the Republic of Ghana from December 2016 to February 2017.

From November 28, 2016 to December 2, 2016, at the invitation of Solace Brothers Foundation and Centre for Popular Education Human Rights, Ghana (CEPEHRG), organizations that provide legal and psychosocial services to LGBT people in Ghana, Human Rights Watch conducted a research scoping mission in Ho, in the Volta region. A scoping mission is the first step in identifying the viability of a successful research project and provides an opportunity for partner organizations to give their consent. The scoping mission coincided with a five-day consultative meeting, which brought together 33 lesbian and gay activists to identify trends in human rights abuses and develop concrete strategies for responding to them. Human Rights Watch also met with representatives of the Ghana Police Service and the Commission on Human Rights and Administrative Justice (CHRAJ), present at the consultative meeting.

In addition, Human Rights Watch conducted in-depth research in Ghana to examine human rights violations against LGBT people and to assess the impact of section 104(1)(b) of the Criminal Code Act 29, 1960. Representatives of Solace Brothers Foundation and CEPEHRG helped identify interviewees. Human Rights Watch interviewed 122 individuals in Accra, Tamale, Kumasi and Cape Coast. These four cities were chosen based on the presence of non-governmental organizations, community-based activists, LGBT individuals known to these groups and other stakeholders. While we also received reports of human rights abuses in Takoradi and Koforidua, we were unable to conduct field research to confirm these reports.

Human Rights Watch interviewed 114 Ghanaians who self-identify as LGBT—52 lesbians, 45 gay men, 8 bisexual women, 4 transgender men, 4 bisexual men and 1 transgender woman. We are aware that in many countries, intersex people experience human rights violations similar to those faced by LGBT people, as well as other violations specifically related to their sex characteristics, such as forced genital surgeries. However, we did not seek out interviews with intersex people for this report and did not encounter any openly

intersex people in the course of our research, so throughout this report we refer to “LGBT” people rather than “LGBTI” people.

Human Rights Watch also interviewed three representatives of human rights organizations based in Accra, a representative of CHRAJ, the Assistant Commissioner of Police, and three diplomats in Accra.

Interviews were conducted primarily in English, in Twi in Kumasi, Ga in Accra, Fante in Cape Coast and Dagbani in Tamale, with the assistance of translators fluent in those languages. All persons interviewed provided verbal informed consent to participate and were assured that they could end the interview at any time or decline to answer questions. Participants were not compensated, but we reimbursed transport costs and the cost of a meal to those who travelled long distances from their homes to meet Human Rights Watch. Interviewees have been given pseudonyms and in some cases other identifying information has been withheld to protect their privacy and safety.

The report draws from relevant published sources, including United Nations documents, reports by other human rights organizations and academic articles. All documents cited in this report are publicly available or on file with Human Rights Watch.

On October 11, 2017, Human Rights Watch sent detailed letters outlining the findings presented in this report to the inspector general of police (see Annex 2) and Ghana minister of justice (see Annex 4) requesting the government’s response. On November 3, 2017, the Inspector General of Police responded in writing (see Annex 3) confirming that “the [Ghana] Police Service will adopt more proactive steps and pragmatic approaches to ensure the protection for LGBT individuals generally”. Human Rights Watch also wrote to the Commission of Human Rights and Administrative Justice (Annex 5) on October 11, 2017 to present an advance and embargoed draft copy of the report. The Minister of Justice and the Commission of Human Rights and Administrative Justice have not responded to our letters at the time of writing.

I. Background

Ghana's Constitution prohibits discrimination of all kinds. And therefore, the resolution of the African Commission of Human and Peoples' Rights is in conformity with our Constitution. The laws of Ghana will not permit any individual to be persecuted or assaulted because of their sexual orientation.

- Ghana State Representative, 32nd session of the Human Rights Council, June 2016

In December 2016, Nana Akufo-Addo, a former Attorney-General (2001-2003) and former Minister of Foreign Affairs (2003 - 2007) was elected president of Ghana. Ghana is one of few African countries that has had peaceful transfer of power since 1990s, and the recent elections "further solidified Ghana's credentials as a country determined to strengthen its democratic institutions and enhance its ability to live by the rule of law."¹ Since President Akufo-Addo assumed office in January 2017, he has come under tremendous pressure from numerous religious groups to declare his government's position on homosexuality, but has not done so.²

The 1992 Constitution of the Republic of Ghana guarantees a range of fundamental human rights and freedoms to all its citizens.³ Article 17(1) and (2) guarantees equality before the law and prohibits discrimination on grounds of "gender, race, colour, ethnic origin, religion, creed or social or economic status."⁴ Neither sex, sexual orientation nor gender identity are enumerated as prohibited grounds of discrimination. The Constitution guarantees respect for human dignity, protection of personal liberty, and the right to privacy for all. Furthermore, Ghana has ratified all the major regional and international human rights treaties and accepted the individual complaints procedures under the Optional Protocol to the International Covenant on Civil and Political Rights and the inquiry

¹ John Mukum Mbaku, "Africa in Focus: The Ghanaian Elections: 2016," *Brookings*, December 15, 2016 <https://www.brookings.edu/blog/africa-in-focus/2016/12/15/the-ghanaian-elections-2016/> (accessed July, 3 2017)

² See for instance: "Akufo-Addo Under Pressure to Take a Stance on Homosexuality," *Yen*, <https://yen.com.gh/91647-akufo-addo-pressure-a-stance-homosexuality.html> (accessed August 3, 2017)

³ "The Constitution of the Republic of Ghana," undated, http://www.ghana.gov.gh/images/documents/constitution_ghana.pdf (accessed June 28, 2017)

⁴ Ibid Article 17(1) All persons shall be equal before the law. (2) A person shall not be discriminated against on grounds of gender, race, colour, ethnic origin, religion. Creed or social or economic status.

procedure under the Optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women.⁵

Ghana's protective constitutional framework, and commitment to regional and international human rights treaties operate in a complex context of conservative religious views frequently marshalled to justify criminalization of adult consensual same-sex conduct and, thus contributing to high levels of stigma, discrimination, family rejection and violence against LGBT people in Ghana. The Christian population, at 71.2 percent is the majority, followed by Muslims at 17.6 percent and traditionalists who account for 5.2 percent of the population.⁶

All interviewees noted that conservative religious and cultural views fuel homophobic sentiments among the general population. Said, a Muslim man from Accra, told Human Rights Watch:

In Ghana, religion and culture are the most dominant factors that fuel homophobia and stand in the way of progress. The law is quoted only in police stations; the general population quotes the bible and the Quran.⁷

Religion, particularly Christianity, has strong influence in Ghana and since the law does not operate in a vacuum, the combination of strong anti-homosexuality religious beliefs and criminalization of consensual adult same-sex conduct increase the vulnerability of LGBT people to violence in the home and in public spaces.

The combination of criminalization and stigma produces severe consequences. For instance, Sam, a 32-year-old transgender man from Accra, said securing employment is virtually impossible because “no one will hire someone they perceive as woman who

⁵ “Ratification Status for Ghana,” *United Nations Human Rights Office of the High Commissioner*, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=67&Lang=EN (accessed July 6, 2017)

⁶ “Language and Religion in Ghana,” *Ghana Embassy*, Undated, <http://www.ghanaembassy.org/index.php?page=language-and-religion>

⁷ Human Rights Watch interview with Said, Accra, January 2017

presents as a man.⁸ According to Teresa, a 28-year-old lesbian, the issue of unemployment because of one’s sexual orientation is a major problem. She told Human Rights Watch:

The problem in Accra is that LGBT people can’t get work. Nobody wants to give them jobs. Also, when the family finds out, they don’t pay your school fees, so you are uneducated. There is also no support to learn a trade. When both lesbian partners don’t work, the femme partner is expected to date and sleep with men to get money—sometimes they both must do sex work to survive.⁹

Moral panics around sexuality, compounded by the fear of rapid social change, and the rise of Pentecostalism in Ghana mean that lesbian sexuality is perceived as a social threat, often associated with the occult, as depicted in popular Ghanaian video-films.¹⁰

A further impact of stigma is that potential LGBT role models are unable to be open about their sexual orientation or gender identity. Human Rights Watch interviewed a chief in Cape Coast who identifies as MSM. He explained, “Because of the stigma and fear, people hide their ‘true identity’ and do not want to damage the image of their families—especially if one is a member of the royal family.”¹¹ Approximately three years ago, his MSM identity was raised by members of the royal family as an issue of concern before he was appointed Chief, but since no one had any evidence and he had not been “caught in the act,” nobody challenged his appointment.

Similarly, Benson, an *Okomfo* or fetish priest who identifies as a gay man told Human Rights Watch that in February 2015, other fetish priests informed the Chief of Elmina that he is a homosexual. In Ghana, a fetish priest is a person who serves as a mediator between the spirits and the living, and performs rituals to consult and seek favors from the

⁸ Human Rights Watch interview with Sam, Accra, January 2017

⁹ Human Rights Watch interview with Teresa, Accra, January 2017

¹⁰Lindsey Green-Simms “Occult Melodramas: Spectral Affect and West African Video-Film,” *Camera Obscura* 80, Vol. 27 (2012): 2 pp 25-59. “While it is not always the case that street workers, gays and lesbians, or single businesswomen are associated with the occult, one often hears apprehensions about these figures expressed in such terms. The rise of Pentecostalism in both Nigeria and Ghana has in fact contributed not only to this sense of moral panic but also to a vocabulary in which threats to the monogamous heterosexual family are linked to the devil or various spirits.”

¹¹ Human Rights Watch interview with a chief, Cape Coast, February 2017

gods and provide spiritual guidance.¹² The Chief responded that they should report the matter to the police, but the other fetish priests did not have any evidence—he had never been “caught in the act”—and they did not file a report with the police.¹³ Both the fetish priest and Chief are highly respected members of the community in Cape Coast.

Inciting Homophobic Violence

On numerous occasions since 2010 and notably from February 2017, key opinion leaders including government officials, notably parliamentarians, local officials and influential religious leaders, have made remarks that contribute to a climate of homophobia and in some cases, incite violence towards LGBT people. Religion is very often used to justify these statements.

Ghanaian officials have argued that the Ghanaian public is not ready, because of strong religious beliefs, to accept the decriminalization of same-sex conduct or to guarantee equality and non-discrimination on the basis of sexual orientation and gender identity in the constitution. However, statements being made by some of these same officials feed into public sentiments against homosexuality and protection of the fundamental human rights of lesbian and gay people.

In July 2011, *Vibe Ghana*, an online newspaper, reported that Paul Evans Aidoo, Western Region Minister at the time, called for the immediate arrest of all homosexuals in the region.¹⁴ According to the media report, during an interview with Joy News, Aidoo claimed to have tasked the Bureau of National Investigations and security agencies to “smoke out persons suspected to be engaging in same sex” and further solicited the support of landlords and tenants to provide information that would lead to arrests of homosexuals, stating “all efforts are being made to get rid of these people in the society.”¹⁵

In March 2013 media reports surfaced claiming that the Paramount Chief of Tamale, Dakpema Naa Mahamadu Dawuni, issued a warning that he would “support any move by

¹² Human Rights Watch interview with Benson, Cape Coast, February 2017

¹³ Human Rights Watch interview with a chief, Cape Coast, February 2017

¹⁴ “Ghana Police Ordered To Arrest All Gays,” *Vibe Ghana.com*, July 19, 2011 <http://vibeghana.com/2011/07/19/ghana-police-ordered-to-arrest-all-gays/> (accessed May 27, 2017)

¹⁵ *Ibid.*

the youth to cleanse the community even if that will include lynching anyone suspected to be a homosexual or lesbian.’¹⁶ Malik, a 22-year-old man, confirmed to Human Rights Watch that the Chief issued this warning during the annual celebration of the yam, which he was attending.¹⁷ Malik told Human Rights Watch: “the Chief said that gay people should be banished from Tamale, that he was too tired of dealing with complaints from members of the community about gay people.”¹⁸

Influential opinion leaders, primarily representing religious institutions outside of government are also responsible for homophobic discourse. For instance, in February 2017, Osempaka Kaakyire Kifi, president of Movement for the Kingdom Image, a religious group, in a statement to President Akufo-Addo called on the government to “make the defence of homosexuals a treasonable offence” in Ghana.¹⁹ The Movement for the Kingdom Image which regularly comments on public policy issues is a well-known group in the country.²⁰ The statement, published in the media report, adds:

His Excellency the president of Ghana Nana Addo Dankwa Akufo-Addo has all the powers either to accept or decline the legalisation of the act, therefore, we are appealing to the president to see the need to enact harsh laws to deal recklessly with those outcasts who want legalisation of homosexuality in Ghana.²¹

Also in February 2017, Moses Foh-Amoaning, representative of the National Coalition of Proper Sexual Rights and Family Values²² and senior law lecturer at the Ghana School of

¹⁶ “Angry Tamale youth, chief threatens to lynch homosexuals,” *GhanaWeb*, March 18, 2013 <https://www.ghanaweb.com/GhanaHomePage/NewsArchive/Angry-Tamale-youth-chief-threaten-to-lynch-homosexuals-268039?channel=D1> (accessed February 17, 2017)

¹⁷ Human Rights Watch interview with Malik, Tamale, January 2017

¹⁸ Ibid

¹⁹ “Make defence of homosexuals treasonable – Government urged,” *GhanaWeb*, February 28, 2017 <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Make-defence-of-homosexuals-treasonable-Government-urged-514297> (accessed May 27, 2017)

²⁰ See for instance commentary issued after Ghana’s 2016 elections: Feature: Akufo-Addo’s government will perform poorly if he abandons God available at: <http://www.ghanaclass.com/feature-akufo-addos-govt-will-perform-poorly-if-he-abandons-god/>

²¹ Ibid.

²² “The National Coalition for Proper Human Sexual Rights and Family Values,” *Facebook Page*, created December 18, 2013, https://www.facebook.com/pg/ncphsrfv/about/?ref=page_internal “The National Coalition for Proper Human Sexual Rights and Family Values is an amalgamated organization of Christian, Muslim and Traditional Rulers, Leaders and Institutions

Law in Accra, called for “proper psychological treatment” for homosexuals in Ghana, adding that the coalition “will propose comprehensive legislation which is solution based to resolve this issue of gay and lesbians’ rights.”²³ In a March 2017 radio interview, Osofo Kofitse Ahadzi, a cultural anthropologist and senior member of the Afrikania Mission,²⁴ a neo-traditional religious movement in Ghana, reportedly called on gay people to “go and hang themselves²⁵ “If they can’t live normal lives, they should go and commit suicide and save our generation from getting out of tune with reality.”²⁶

These commentators and opinion leaders get extensive online media coverage. In an interview with Human Rights Watch, a representative of the media explained the media’s engagement with LGBT issues, noting that it is a difficult issue to navigate:

For the past decade, the media has had difficulties in generating information about LGBT rights. The explanation is that LGBT persons are unwilling to openly declare their sexual orientation for fear of ostracism and, in some cases, mob action. Occasionally, they have communicated their concerns and asked to remain anonymous.²⁷

While noting that LGBT rights are difficult to navigate in a country with strong conservative views, he acknowledged that “as the country aspires to build a more inclusive society, the media may soon have to grapple with this sensitive issue.”²⁸

The Ghanaian government should exercise leadership and publicly and consistently condemn violence and discrimination against LGBT individuals.

which was inaugurated on the 18th of December, 2013 with the sole purpose of providing a focused and researched intellectual response to the growing menace of Lesbian, Gay, Bisexual and Transgender (LGBT) Rights activities in the world.”

²³ Leticia Osei, “Homosexuals are ‘sick’ people who need psychiatric treatment – Foh-Amoaning,” *Ultimate FM Online*, February 24, 2017, <http://ultimatefmonline.com/2017/02/24/homosexuals-sick-people-need-psychiatric-treatment-foh-amoning/>

²⁴ “Afrikania Mission (Religious Movement,” <http://what-when-how.com/religious-movements/afrikania-mission-religious-movement/> (accessed September 18, 2017)

²⁵ “Kill yourselves if you can’t be straight – Homosexuals told” *GhanaWeb*, March 13, 2017, <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Kill-yourselfes-if-you-can-t-be-straight-Homosexuals-told-518288> (accessed August 10, 2017)

²⁶ *Ibid.*

²⁷ Human Rights Watch interview with a representative of the media, Accra, January 2017

²⁸ *Ibid.*

Family Rejection and Coerced Marriage

Most of the women interviewed by Human Rights Watch said they were pressured by family members into having children, dating and marrying men in order to maintain ties with their families and community. Many of those who refused to do so or chose to remain truthful to their sexuality and gender identity, encountered violence.

Several lesbians told Human Rights Watch that they will have to marry a man because of family pressures. Khadija, a 24-year-old lesbian who lives in Accra said she will soon have to start dating men because her family already arranged a marriage for her in 2015:

Around May 2015, my parents were forcing me to get married to a man from Nima, Nigeria, that my grandmother had found for me. I ran away from home—just left the house with my handbag and went to Takoradi and stayed in my place of work for two months. When I came back, they were still wanting me to get married. I walked into the house and my mother started insulting me...calling me a prostitute.²⁹

Khadija left home that day, contacted her partner and lived with her for a year, but remained in hiding even at her partner's house because her partner's family would not have approved of them living together. Khadija and her partner stayed in separate rooms of the family compound and Khadija relied on her partner for financial support. She hid in the house the entire time and was only able to freely move around the house when her partner's family members were not there. Khadija returned home after a year and did not disclose her sexual orientation to her family. She told Human Rights Watch that while she avoided the first efforts at an arranged marriage, her family will eventually find another man to marry—irrespective of her sexual orientation—“because all women in Ghana are expected to marry.”

Aisha, a 21-year-old lesbian English teacher from Kumasi was not only taken through a process termed “deliverance” in a church camp, but also rejected by her family when she refused to partake in a forced marriage. She described what her family and church did to her:

²⁹ Human Rights Watch interview with Khadija, Accra, January 2017

On January 24, 2015, my older brother told my parents, grandparents and cousins that I am a lesbian and it is all over social media. My mother collapsed, and my grandparents immediately took me to church for “deliverance”. I had to stay at the mission house of the church for one month. During the first week they prayed for me. While praying, the junior pastor would beat me with the “holy” cane to deliver me from the evil spirit.³⁰

Aisha told Human Rights Watch that a month later, her parents took her home and wanted to force her to get married. When her uncle intervened, her parents said she could stay in the house but that they did not want to have anything to do with her, and she should not touch or use anything belonging to the family. She said: “Until today, I have my own plate, spoon, cup and I cook in the neighbor’s house. If I am not at home by 8p.m., I must sleep outside or at a friend’s place.”³¹

Human Rights Watch interviewed nine gay men and six lesbians in Tamale, northern Ghana, all of whom said that they will never disclose their sexual orientation to family members, and that when family members have asked, they deny their sexual orientation out fear of being disowned and ostracized by the family and the community. Despite being aware and fully accepting of their own sexual orientations, they said they would eventually marry persons of the other sex because that is what is expected by their families.

Rose, a 33-year old lesbian, is under constant pressure from family members to get married and have a child, while living in fear of being exposed as a lesbian.³² She told Human Rights Watch: “My plan is to make some money so I can leave Ghana, I will go somewhere else—anywhere else so that I can just be who I am and not hide all the time.” When 25-year-old Hasina’s parents found out she was in a relationship with a woman they accepted 1,800 CEDIS (approximately US\$409) from a 49-year old man who wanted to marry her.³³ At the time of the interview with Human Rights Watch, Hasina had left her home in Kumasi to avoid the marriage.

³⁰ Human Rights Watch interview with Aisha, Kumasi, January 2017

³¹ Ibid.

³² Human Rights Watch interview with Rose, Tamale, January 2017

³³ Human Rights Watch interview with Hasina, Kumasi, January 2017 no

Although pressure to marry primarily affects lesbian and bisexual women, some gay and bisexual men face similar issues. Isaac, a 22-year-old gay man who has a female partner said: “If you are a feminine man, they insult you in this place, but if you have a girlfriend it shields you from the insults...my girlfriend doesn’t know I am ‘like that’ and I will have no choice but to marry her one day because in my religion you can’t avoid getting married.”³⁴

Malik, a 22-year-old gay man told Human Rights Watch how a group of boys came to his home and told his family they suspected he was gay.³⁵ Malik denied everything and moved out of the family home but in June 2016 he felt compelled to marry a young woman from a nearby village due to pressure from his family.

Ghana’s Domestic Violence Act, No. 732 from 2007, provides that victims of domestic violence can obtain protection orders and that if the subject of a protection order violates a final court protection order they can be prosecuted. A family relationship is included within the meaning of a domestic relationship for the purposes of the Act.

Section 1 defines domestic violence as “physical abuse...including the forcible confinement or detention of another person...subjecting another person to torture or other cruel, inhuman or degrading treatment or punishment; economic abuse, including the deprivation or threatened deprivation of economic or financial resources...and emotional, verbal or psychological abuse” within the context of a previous or existing domestic relationship. Under section 3(2) of the Act, a person who is found guilty of domestic violence may receive a fine or a prison sentence for no more than two years or both. The Act also allows police in certain circumstances to arrest a person on grounds of domestic violence without a warrant.

In July 2016, the government published a study titled *Domestic Violence in Ghana: Incidence, Attitudes, Determinants and Consequences*.³⁶ The study, commissioned by the Ministry of Gender, Children and Social Protection in Ghana and the UK Department for

³⁴ Human Rights Watch interview with Isaac, Tamale, January 2017

³⁵ Human Rights Watch interview with Malik, Tamale, January 2017

³⁶ “Domestic Violence in Ghana: Incidence, Attitudes, Determinants and Consequences,” Republic of Ghana, July 2016 http://www.statsghana.gov.gh/docfiles/publications/DV_Ghana_Report_FINAL.pdf

International Development “provides an in-depth understanding of the incidence, attitudes, causes and consequences of domestic violence in Ghana, as well as investigating the effectiveness of existing institutional support offered to women and men.” The study makes brief reference to the possibility that “gay men/women” might be victims of domestic violence, but does not include any data or analysis on incidents of domestic violence perpetrated against sexual and gender minorities in the context of family relationships. Lesbian, bisexual and gender non-conforming women who told Human Rights Watch about their experiences of domestic violence said that they had never reported to the police, for fear of disclosing their sexual orientation.

II. The Criminal Code, and Calls to Amend It

Ghana is one of several dozen former British colonies that inherited Victorian laws prohibiting so-called “unnatural offenses.”³⁷ Under section 104(1)(b) of the Criminal Offences Act, 1960 (Act 29), “whoever has unnatural carnal knowledge...of a person sixteen years or older, with his consent, is guilty of a misdemeanor.”³⁸ Unnatural carnal knowledge is defined in section 104(1)(2) as “sexual intercourse with a person in an unnatural manner or with an animal.”³⁹

In principle, this offense could apply to oral or anal sex between a man and a woman, as well as to sex between men. Ghana’s Constitution Review Commission has recognized as much, stating that “Unnatural carnal knowledge is defined at common law to involve penile penetration of anything other than a vagina,” adding: “...the law only anticipates the situation where a man has unnatural carnal knowledge of a woman or another man, but does not envisage the situation where a woman engages in unnatural carnal knowledge of another woman.”⁴⁰

Jones Blantari, Assistant Commissioner of Police, told Human Rights Watch that “the term unnatural carnal knowledge is vague, does not have any clear meaning in law, creates difficulties in consistent interpretation and its application is used to target LGBT people.”⁴¹ In certain instances, the law has been used to arrest individuals suspected of being lesbian or gay. The UN Human Rights Committee has expressed concern to the government

³⁷ Human Rights Watch, *This Alien Legacy: The Origins of “Sodomy” in British Colonialism* December 17, 2008, <https://www.hrw.org/report/2008/12/17/alien-legacy/origins-sodomy-laws-british-colonialism>

³⁸ Section 104(1)(a) of the same Act provides: “Whoever has unnatural carnal knowledge of any person of the age of sixteen years or over without his consent shall be guilty of a first-degree felony and shall be liable on conviction to imprisonment for a term of not less than five years and not more than twenty-five years.” The essential difference between the two sub-provisions of section 104 relates to lack of consent. For the purposes of this report, the only provisions of concern are section 104(1)(b) and 104(2). Human Rights Watch supports the effective implementation of laws that criminalize all forms of sexual violence or assault.

³⁹ “Criminal Code, 1960 (ACT 29),” undated, <http://www.wipo.int/edocs/lexdocs/laws/en/gh/gho10en.pdf>

⁴⁰ Republic of Ghana, *Report of the Constitution Review Commission: From a Political to a Developmental Constitution*, December 2011, p. 654 http://www.constitutionnet.org/sites/default/files/crc_research_report.pdf (accessed August 3, 2017)

⁴¹ Human Rights Watch interview with Jones Blantari, Assistant Commissioner of Police, Accra, January 2017

about the official position that “same-sex sexual activity falls within the definition of unnatural carnal knowledge” and is a punishable misdemeanor.⁴²

In August 2011, Ghana’s then-Attorney General, Minister Martin A.B.K Amidu, was reported to have told a press conference that section 104 was only enforced in cases involving rape. He also denied that the law would pursue what people did in private:

The law does not follow you to see what you do, your house is your castle, your room is your castle, what you do there is nobody’s business. It is only when you rape an adult by way of unnatural carnal knowledge that you become a subject of prosecution.⁴³

It may be that the then-Attorney General was acknowledging an official policy of non-enforcement of parts of section 104, which would at least be consistent with the right to privacy protected under Article 18(2) of the Constitution.⁴⁴ Indeed, Human Rights Watch did not identify any cases in which individuals have been charged with heterosexual conduct under the law. Interviewees told Human Rights Watch that the government has to date failed to convincingly justify the rationale for keeping such a law on the books, when it has a policy of non-enforcement.

Ghana has had vigorous debate about the role of the law about consensual same-sex sexual conduct. The work of the 2010 Constitution Review Commission (the Commission) touched on the possibility of amending the Constitution to better protect LGBT people, as described in further detail below, but the Commission ultimately declined to take a stand on the issue. In 2011, when the United Kingdom’s threatened to redirect a small amount of

⁴² Supra n(3) para 43 : “The Committee is concerned about reports that lesbian, gay, bisexual and transgender persons are subjected to discrimination, intimidation and harassment and about the impunity enjoyed by the perpetrators of such acts. The Committee notes with concern the explanation provided by the State party that same-sex sexual activity falls within the definition of unnatural carnal knowledge, under section 104 of the Criminal Offences Act, 1960, and is considered a misdemeanor if it is between two consenting adults”.

⁴³ “Homosexuality is Not Illegal – Attorney-General,” *GhanaWeb*, August 30, 2011 <https://www.ghanaweb.com/GhanaHomePage/NewsArchive/Homosexuality-Is-Not-Illegal-Attorney-General-217527> (accessed August 3, 2017)

⁴⁴ Constitution of the Republic of Ghana section 18(2) provides: “No person shall be subjected to interference with the privacy of his home, property, correspondence or communication except in accordance with law and as may be necessary in a free and democratic society for public safety or the economic well-being of the country, for the protection of health or morals, for the prevention of disorder or crime or for the protection of the rights or freedoms of others.”

direct general aid to other programs if countries did not protect the rights of lesbians and gay men, the then-president, John Atta Mills, stated that he would neither initiate nor support any attempt to “legalize homosexuality” in Ghana.⁴⁵

The Ghanaian government has rejected several appeals from the United Nations human rights system to repeal section 104(1)(b), criminalizing “unnatural carnal knowledge”. In October 2012, during the Universal Periodic Review (UPR) process, in which countries’ human rights records are evaluated by the UN Human Rights Council⁴⁶, the Ghanaian delegate explained:

With regard to the recommendations on decriminalization of same sex relations between consenting adults, I wish to reiterate that Ghana does not have a policy of non-equal treatment of its citizens and any acts of violence perpetrated against any manner of persons in Ghana is [*sic*] investigated and appropriately dealt with.....the Constitution of Ghana entrenches the fundamental principles of non-discrimination and equality.....Unless and until an issue, be it social, religious, economic or political is sufficiently advanced in the moral consciousness of the citizenry and an unequivocal demand is made on Parliament to address the issue through effective legislation, any attempt to bypass the true wishes of the people will be counter-productive.⁴⁷

In October 2013, then-President John Dramani Mahama, articulated a similar position: “I believe that laws must prevail. For instance, people must not be beaten or killed because of their sexual orientation, but in my country, there is a strong cultural hostility towards it.”⁴⁸

⁴⁵ “Ghana refuses to grant gays’ rights despite aid threat” *BBC*, November 2, 2011 <http://www.bbc.com/news/world-africa-15558769> (accessed April 15, 2017)

⁴⁶ “United Nations Human Rights Council,” *United Nations Human Rights Office of the High Commissioner*, undated, <http://www.ohchr.org/en/hrbodies/hrc/pages/hrcindex.aspx> (accessed October 25, 2017); “The Human Rights Council is an inter-governmental body within the United Nations system made up of 47 States responsible for the promotion and protection of all human rights around the globe.”

⁴⁷ “Statement at the Consideration of the Report of the Working Group on the Universal Periodic Review of Ghana, 22nd Session of the Human Rights Council, 14 March 2013,” Ghana’s UPR held on October 23, 2012, https://www.upr-info.org/sites/default/files/document/ghana/session_14_-_october_2012/ghanaplenarystatement2013.pdf

⁴⁸ “President of Ghana visits KSU,” *Marietta Daily Journal*, October 1, 2013, http://www.mdjonline.com/news/president-of-ghana-visits-ksu/article_c29067ef-56cd-5372-a27d-a0c7c73ac3e9.html (accessed April 23, 2017)

In June 2016, Ghana abstained from a vote on the appointment of a United Nations Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity.⁴⁹ According to the Office of the High Commissioner for Human Rights (OHCHR), the Ghanaian delegate justified its position thus:

The laws of Ghana would not permit any individual to be persecuted because of their sexual orientation. However, the matter was culturally very sensitive in Ghana. Ghana supported those who were naturally inclined to have a different sexual orientation, but it did not accept the propagation or commercialization of it. It would therefore abstain.⁵⁰

But there is little indication that the Ghanaian authorities are willing to take proactive steps to protect LGBT individuals from violence and ensure the prosecution of anyone who does commit hate crimes motivated by homophobia. Recent statements by political leaders are a cause for concern. The Speaker of Parliament, Mike Oquaye, called homosexuality an “abomination” in a February 2017 speech,⁵¹ and stated that Parliament would “do its best to strengthen its laws against homosexuality.”⁵² Following a meeting with Amnesty International in July, the speaker reiterated his position, warning that Ghana would not tolerate pressure from external forces to accept homosexuality.⁵³ Dr. Akwasi Osei, Chief Executive Officer for the Mental Health Authority (MHA), immediately commended the speaker in a radio interview, calling for the adoption of laws that further

⁴⁹ “Independent Expert on sexual orientation and gender identity,” *United Nations Human Rights Office of the High Commissioner*, undated, <http://www.ohchr.org/EN/Issues/SexualOrientationGender/Pages/Index.aspx>; Note that at the Human Rights Council, Ghana abstained from the vote, but voted against the appointment at the General Assembly.

⁵⁰ “Council establishes mandate on protection against violence and discrimination based on sexual orientation and gender identity,” *United Nations Human Rights Office of the High Commissioner*, Undated, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20220>

⁵¹ “NEWS BREAK: Speaker Of Parliament Mike Oquaye Calls For Ghana To Criminalise Homosexuality,” *YouTube*, February 23, 2017, <https://www.youtube.com/watch?v=btPcEsStQn8> (accessed February 27, 2017)

⁵² See: “Same sex marriage is abomination in Ghana – Speaker,” *Kasapa FM Online*, February 20, 2017, : <http://kasapafmonline.com/2017/02/20/sex-marriage-abomination-ghana-speaker/>, “The Speaker made this remark Monday, February, 20, 2017, when the Founder of the Royal House Chapel International, Apostle General Sam Korankye Ankrah and the leadership of his church, paid a courtesy call on him to solicit the support of Parliament to help sanitize religion in the country”; See also: Isaac Kaledzi, “Ghana’s Parliament Speaker Wants ‘Complete’ Ban On Homosexuality,” *Africafeeds*, February 20, 2017, <http://africafeeds.com/2017/02/20/ghanas-parliament-speaker-wants-complete-ban-homosexuality/>; See also: Kaboina Wlsing, “Amend Ghana’s laws to ban homosexuality – Oquaye,” *Starr FM Online*, February 20, 2017, <http://starrfmonline.com/2017/02/20/amend-ghanas-laws-ban-homosexuality-oquaye/>

⁵³ Citifmonline, “Africans getting fed up with gay rights noise—Ghana’s speaker of parliament,” *Africa News*, <http://www.africanews.com/2017/07/12/africans-getting-fed-up-with-gay-rights-noise-ghana-s-speaker-of-parliament/>

criminalize homosexuality.⁵⁴ President Akufo-Addo, who took office in 2017, does not appear to have publicly articulated his government’s position on homosexuality, and Human Rights Watch was not able to confirm what the president’s position is.

The Constitution Review Commission

Ghana’s 1992 Constitution guarantees fundamental human rights to all its citizens.⁵⁵ Article 17 guarantees equality before the law and prohibits discrimination on grounds of “gender, race, colour, ethnic origin, religion, creed or social or economic status.”⁵⁶ Sexual orientation and gender identity are not enumerated as prohibited grounds of discrimination. Furthermore, Article 17 of the Constitution does not include “sex” as a protected ground of non-discrimination. However, the Constitution ensures respect for human dignity, protection of personal liberty, and the right to privacy for all – including for LGBT people.⁵⁷

In 2010, the government established a Constitution Review Commission (Commission), a Presidential Commission of Inquiry, to engage in a public consultation process on the 1992 Constitution and to propose amendments.⁵⁸ In December 2011, the Commission presented its report and recommendations to then President John Evans Atta Mills, after reviewing a

⁵⁴ “Parliament Must Pass Laws to Further Criminalize Homosexuality – Dr. Akwasi Osei,” *Peace FM Online*, July 12, 2017, <http://www.peacefmonline.com/pages/local/social/201707/320184.php>

⁵⁵ “Constitution of the Republic of Ghana,” *Government of Ghana*, Undated, http://www.ghana.gov.gh/images/documents/constitution_ghana.pdf, Section 12, Chapter 5

⁵⁶ Ibid section 17: Equality and Freedom from Discrimination. Section 17(3): For the purposes of this article, “discriminate” means to give different treatment to different persons attributable only or mainly to their respective descriptions by race, place of origin, political opinions, colour, gender, occupation, religion or creed, whereby persons of one description are subjected to disabilities or restrictions to which persons of another description are not made subject or are granted privileges or advantages which are not granted to persons of another description.

⁵⁷ Ibid section 15(1) The dignity of all persons shall be inviolable, section 14(1) - Every person shall be entitled to his personal liberty and no person shall be deprived of his personal liberty except [in accordance with procedure permitted by law, section 18(2) - (2) No person shall be subjected to interference with the privacy of his home, property, correspondence or communication except in accordance with law and as may be necessary in a free and democratic society for public safety or the economic well-being of the country, for the protection of health or morals, for the prevention of disorder or crime or for the protection of the rights or freedoms of others.

⁵⁸ Republic of Ghana, *Report of the Constitution Review Commission: From a Political to a Developmental Constitution*.

total of 83,161 formal submissions from the public.⁵⁹ The Commission was dissolved in August 2012.⁶⁰

Under the sub-theme “equality and non-discrimination,” the Commission addressed two issues: whether or not sexual orientation should be enumerated as one of the grounds for non-discrimination, and the extent to which the Constitution should recognize the rights of lesbians and gay men in Ghana.⁶¹ The Commission received an overwhelming number of submissions advocating for the continued exclusion from the Constitution of sex and sexual orientation as protected grounds against discrimination and to “ensure that it is not interpreted to recognise homosexuality in Ghana.”⁶² Noting that the inclusion of both “sex” and “gender” in the anti-discrimination clause of the Constitution “would add to the legal arsenal of those who argue that the Constitution abhors discrimination on the grounds of sexual orientation” the Commission found that “gender” served a specific purpose: “to ensure the recognition of the natural/biological state of a woman and a man.”⁶³

Numerous submissions also argued that section 104(1)(b) of the Criminal Offences Act outlaws same-sex conduct because “natural carnal knowledge means having sex via the vagina and therefore having sex by any other means amounts to unnatural carnal knowledge, even if it is with one’s spouse.”⁶⁴ In its final report the Commission recommended that it be left to the Supreme Court to decide the legality of same-sex sexual relations if the matter came before it, because the court could consider all arguments in favour of and against decriminalization and interpret the provisions of the Constitution.

In March 2012, three months after the release of the Commission’s report, former Justice Yaonansu Kpegah, petitioned the Supreme Court to declare that homosexuality is not a

⁵⁹ Ibid The terms of reference of the Commission are to: a. ascertain from the people of Ghana, their views on the operation of the 1992 Fourth Republican Constitution and, in particular, the strengths and weaknesses of the Constitution; b. articulate the concerns of the people of Ghana on amendments that may be required for a comprehensive review of the 1992 Constitution; and c. Make recommendations to the Government for consideration and provide a draft Bill for possible amendments to the 1992 Constitution.

⁶⁰ “Constitution Review Commission Dissolved,” *Modern Ghana*, August 15, 2012, <https://www.modernghana.com/news/411605/constitution-review-commission-dissolved.html> (accessed September 17, 2017)

⁶¹ Ibid para 110 & 117

⁶² Ibid para 112 – Equality and non-discrimination

⁶³ Ibid para 113

⁶⁴ Ibid para 121

human rights issue and sexual orientation should not be included in the anti-discrimination clause.⁶⁵ According to Ghanaian media, Kpegah further requested the Court to “declare that under the country's customary law, which is an integral part of the laws of Ghana, acts of homosexuality are an abomination and, 'indeed, a taboo and are unacceptable as a natural and normal way of life in any decent society'”.⁶⁶ The court adjourned the matter indefinitely, without providing reasons.⁶⁷

No further action was taken on the recommendation of the Commission and the Supreme Court has yet to issue any decision on the matter. Several LGBT activists interviewed by Human Rights Watch expressed the view that the best approach to reforming section 104(1)(b) would be for human rights lawyers to approach the courts and seek a declaratory order of unconstitutionality.

Albert, a co-founder of an LGBT organization in Accra explained to Human Rights Watch:

We need to explain to the government what the outcome of the repeal will be. That it is not about promoting homosexuality or targeting children or advocating for same-sex marriage. It is none of these things—it is about removing the barriers to the full enjoyment of rights by LGBT individuals in Ghana.⁶⁸

Retention of the discriminatory provisions under section 104(1)(b) of the Criminal Offences Act is at odds with core human rights norms that are also reflected in the Ghanaian Constitution, including respect for human dignity and rights to equality and non-discrimination. In interviews with Human Rights Watch, LGBT individuals and representatives of human rights organizations emphasized that, irrespective of the path selected for law reform, whether through litigation or a parliamentary process, they are merely advocating for protection of their constitutional rights.

⁶⁵ Human Rights Watch interviews with Jones Blantari, Assistant Commissioner of Police, and three representatives of different non-governmental organizations, Accra, January 2017.

⁶⁶ “Justice Kpegah wants Supreme Court declaration on homosexuals,” *Modern Ghana*, March 29, 2012, <https://www.modernghana.com/news/386138/justice-kpegah-wants-supreme-court-declaration-on-.html>

⁶⁷ Ibid.

⁶⁸ Human Rights Watch interview with Albert, Accra, February 2017

III. Abuses against LGBT People

According to the data from the state agency, the Commission on Human Rights and Administrative Justice (CHRAJ), 36 of the 75 discrimination cases filed with CHRAJ since August 2013, were filed by LGBT people.⁶⁹

In 2015, Men Who Have Sex with Men Global Forum (MSMGF), in collaboration with The Centre for Popular Education and Advocacy, Ghana, (CEPEHRG) conducted a survey documenting human rights abuses against sexual and gender minorities in Ghana.⁷⁰ Fifty of the survey participants reported that on at least one occasion they had been victims of abuse and discrimination based on sexual orientation. The kinds of incidents included harassment or intimidation in the community, causing the victim to flee for security reasons and losing access to their home and livelihood; sexual assault and abuse, resulting in physical and psychological harm; and denial of protection by the police, including certain cases in which LGBT individuals who file complaints have been subjected to extortion and arbitrarily arrested. A collective of human rights organizations submitted a shadow report in 2016 for Ghana's Universal Periodic Review at the UN Human Rights Council that reinforced these findings.⁷¹

Human Rights Watch's research corroborates that LGBT people are often victims of mob attacks, physical assault, sexual assault, extortion, discrimination in access to housing, education and employment, and family rejection on the grounds of their sexual orientation or gender identity. In an environment in which homophobic views abound, and few are willing to publicly come to the defense of LGBT people, it is easy for violence to flourish.

⁶⁹ Data available on file with Human Rights Watch

⁷⁰ CEPEHRG & MSMGF, Documentation of LGBTIQ Human Rights Abuses in Ghana: A 2015 Community Led Documentation Project–Report on file with Human Rights Watch

⁷¹ “Human Rights Violations Against Lesbian, Gay, Bisexual and Transgender Intersex and Queer People in Ghana: a Shadow Report, Submitted for Consideration at the 117th Session of the Human Rights Committee, Geneva, June-July 2016,” *Solace Brothers Foundation, The Initiative for Equal Rights, Center for International Human Rights of Northwestern Pritzker School of Law, and Heartland Alliance for Human Needs & Human Rights Global Initiatives for Human Rights*, May 2016, http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/GHA/INT_CCPR_CSS_GHA_24149_E.pdf

Numerous human rights advocates told Human Rights Watch they believe the law against “unnatural carnal knowledge” has contributed to the commission of these abuses. Furthermore, they stated that the law acts as an impediment to access to justice, deterring many LGBT victims of crime from seeking redress and contributing to a culture of impunity.

Violence against lesbian, bisexual and gender-non-conforming women in Ghana often takes place in the privacy of their own homes. Numerous lesbian and bisexual women interviewees told Human Rights Watch that when their family members suspected that they were homosexual, they were beaten and evicted from the family home. Ghana’s comprehensive law on domestic violence ought to protect women from family violence, but a fear that the Criminal Offences Act could be used against them, combined with social stigma, serves as a barrier to seeking access to justice.

Arrests

Human Rights Watch is not aware of any prosecutions under section 104(1)(b) of the Criminal Code. Nevertheless, police sometimes use the law to conduct arbitrary arrests of individuals suspected to be homosexual, and as a way to extort money from them. Such abuses in turn lead to a chain of adverse consequences in victims’ lives.

In June 2016, police arrested three women at a soccer training camp in Kumasi accused of being lesbians allegedly after being tipped off by the partner of one of the women. Adama told Human Rights Watch:

The camp master asked the police why we were being arrested. The police said it is because we are lesbians. We were handcuffed, put in a police van and taken to Suame Police Station. More than 100 people had gathered at the camp to watch the scene, some people even followed the van to the police station. At the police station they asked us if we were “into it,” yelling and shouting at us. We denied everything, and the police released us.⁷²

However, their troubles did not end with their release. When they returned to the training camp, the coach expelled the three women from the team, and when they returned home,

⁷² Human Rights Watch interview with Adama, Kumasi, January 2017

their parents disowned them for “bringing shame” to their respective families. Six months later, they described their desperate living conditions: “We move from one friend’s place to another because we can never go back home. We have no work, no money and sometimes we do not eat for two or three days,” one of them said.⁷³

Victoria, a 29-year old lesbian from the Cape Coast, told Human Rights Watch that not only did her father disown her when he learned of her sexual orientation in July 2016, but he also reported her to the police, who arrested her.⁷⁴ Fortunately for Victoria, her grandmother paid bail to facilitate her release. She was not formally charged with any offence, but instructed to report to the police station daily. Victoria reported to the police station approximately five times, but was not reporting at the time of the interview with Human Rights Watch.

Emelia, a 35-year-old lesbian from Kumasi, told Human Rights Watch that in December 2014, her partner’s mother brought police officers to her home to arrest her and her partner.⁷⁵ They were not formally charged with any offence, but spent three days in detention at Suame Police Station, and were released after paying 200 CEDIS (approximately US\$45).

In some cases, when LGBT people report crimes, they are either threatened with arrest or are in fact arrested, even though they are the victim of assault or theft. Brian, a 28-year old man from Takoradi, told Human Rights Watch:

On August 20, 2016, my friend was having a birthday celebration attended by more than 50 people in Tanokrom. He is also a baker, so he had four-layer cake. About 20 to 25 area boys invaded the party, saw the cake and assumed it was a gay wedding. They started beating people and also stole our phones and other valuable items. My friend immediately reported the incident to the police at Takoradi Market Circle Police Station. But the police turned around and arrested him instead. They also wanted him to

⁷³ Ibid

⁷⁴ Human Rights Watch interview with Victoria, Cape Coast, February 2017

⁷⁵ Human Rights Watch interview with Emelia, Kumasi, January 2017

disclose the names of all the people who were at the party. My friend had to pay 300 CEDIS (approximately US\$68) bribe to be released.⁷⁶

According to Brian, his friend who had been arrested provided the police with names and thereafter the police rounded up about 15 men for allegedly attending a gay wedding, but later released them without charge. As far as he is aware, the assault and theft cases that his friend had reported were not investigated by the police.

26-year-old Alexander said that in December 2016, in Cape Coast, a stranger harassed and insulted him in the street because of his presumed sexual orientation and they had a physical fight.⁷⁷ Alexander told Human Rights Watch that the next morning, the same man came to his home with a police officer, who arrested him, took him to Bakaano Police Station and informed him that he would be charged for “sleeping with other boys.”⁷⁸ Alexander was released on the same day at approximately 5p.m., after he had called his Assemblyman, who intervened on his behalf.⁷⁹

Ibrahim told Human Rights Watch that after the Chief of Tamale called upon youth to carry out mob justice against gay people in 2013:

My friend was taken to the chief’s palace because the youth boys said he was gay. There were many people gathered at the palace, shouting that he should be beaten and killed because he was bringing shame to Tamale. The chief told the youth boys to take him to the police station. His uncle bailed him out and he immediately moved to Accra because he was afraid of what the youth boys might do to him.⁸⁰

⁷⁶ Human Rights Watch interview with Brian, Cape Coast, February 2017

⁷⁷ Human Rights Watch interview with Alexander, Cape Coast, February 2017

⁷⁸ Ibid.

⁷⁹ For information on Assemblies at District Level in Ghana see:
https://www.ghanaweb.com/GhanaHomePage/republic/district_assemblies.php

⁸⁰ Human Rights Watch interview, Tamale, January 2009. Human Rights Watch was not able to interview Ibrahim’s friend directly because he had left Tamale, supposedly “gone underground” and none of the activists could provide his contact details.

Physical Violence

Human Rights Watch documented numerous cases involving severe physical abuse of LGBT individuals. In general family members or the public meted out the abuse but in some cases, such as the case of Pearl described below, it was with the explicit involvement or acquiescence of the police or other state officials. Violence against women suspected of being lesbian or bisexual, thereby transgressing patriarchal expectations of women's roles in the family and society, is more frequent than family violence against gay men.⁸¹ Family violence against lesbian and bisexual women has often gotten little attention because it tends to happen behind closed doors.

The vast majority of victims did not report the abuse to the police, explaining that stigma, fear of exposure and arrest, and the attitudes of certain members of the police force, deterred them from doing so. Human Rights Watch found that criminalization of same-sex conduct contributed significantly to a climate of impunity for crimes committed against LGBT people, including physical and sexual violence.

One of the most severe instances of violence documented by Human Rights Watch involved a government official and ultimately led to a near-lynching in Asankrangwa, western Ghana. The victim, Pearl, is a 30-year-old woman and respected activist in the LGBT movement in Ghana.⁸² Pearl has for many years provided shelter to lesbian, bisexual and gay people evicted and disowned by their family members in Kumasi, a deeply important and personal undertaking for Pearl, because of what she has suffered as a result of her sexual orientation.

In September 2009, a senior government official and a senior police officer, in the city of Asankrangwa physically, including sexually, assaulted Pearl.⁸³ Pearl had applied for a vacancy in a government agency and the DCE was the hiring manager. He wanted a local person, not Pearl, to have the position so he called her for a meeting at his home, together with the police official, but interrogated her about her sexual orientation,

⁸¹ Human Rights Watch interviews in Accra, Kumasi and Cape Coast, January and February 2017

⁸² Human Rights Watch interview with Pearl, Kumasi, January 2017

⁸³ District Chief Executive is the political head of the district at local government level appointed in terms of section 242 and 243 of the Ghana Constitution.

According to Pearl:

The driver dropped me off at the DCE's house for the meeting. [The DCE] asked me many personal questions about my private life, about a young woman that I was dating and about my mother. He was insisting that I am a lesbian, but I denied it. Then he called the [police official] to come and question me.

Pearl realized the conversation was being recorded and when she asked why, she said, the police official slapped her. Then, the DCE threatened her with rape:

The [district official] then said: "Maybe I should insert my penis in her vagina and that will make her talk." I started crying, I was shaking. I realized he had an erection....and I was just crying. They told me I had three days to leave the town and never return and that I should write a letter saying that I don't want the position and I don't want any money from the company. I didn't reply. I just went home.

Early the next morning, Pearl said, 12 young men she believes were sent by the district official, came to her home: "They stripped me naked, and one of the boys had me pinned down on the floor and opened my legs to check if I have a penis," she told Human Rights Watch.

Despite the trauma of the assault and bruises she had sustained, Pearl had to go to work. While at work, she received a telephone call to attend a meeting at the municipal office. She described what happened:

At around 11:30[a.m.] the [district official] called to say I am needed at the municipal office. When I arrived, media men, youth, chiefs, police, teachers—everybody—all gathered at the municipal office. The youth wanted to beat me up immediately but the DCE told them I must answer questions first. I was taken to a conference room and made to sit in the middle of about 50 people. They asked me if I am a lesbian, and I said no. The police officer kicked me with his boot in my mouth—said I shouldn't talk—I started

bleeding. Then everybody started to beat me. They dragged me outside while beating me at the same time. They also took 1600 CEDIS (approximately US\$365) that I had in my pocket. In the square, they put a car tire around my neck and poured petrol over my body and were ready to burn me. There was a pastor in the crowd, and he said I should confess to everything before I die. The media men were recording everything on their phones for radio stations and members of the public were phoning in. One man took a machete from another guy, he hit me on the head with the blunt end of the machete—then turned it around and slashed the top of the tire—his goal was to cut me.⁸⁴

Pearl told Human Rights Watch that she was not set on fire because her father arrived at the scene and managed to convince the crowd to let her go, promising to have her “cleansed of the evil spirit” and expelled from the town.

Human Rights Watch interviewed Pearl’s father and a young man she knew when she lived in Asankrangwa. On the afternoon of the brutal assault, his manager called Pearl’s father to his office and told him that he had received a telephone call from a youth leader in Asankrangwa and that he should immediately go to that town because his daughter was in trouble. He told Human Rights Watch, “when I arrived at the town, I found a huge gathering of seriously angry people around my daughter; they were carrying clubs and clearly wanted to deal with her seriously and she was bleeding and weeping.” Pearl’s father described how he pleaded with the crowd to release his daughter and promised that he would remove her from the town immediately. He said, “It is very unfortunate that my daughter had to go through all of that trouble, but she had to leave the town because it was not safe for her to be there.”⁸⁵

Pearl’s father took her home to Tarkwa, where he kept her in isolation in a storage room for about six days, with one meal a day and no access to bathroom facilities. Eventually, after consulting family members and friends, he evicted her from the family home and disowned her for bringing shame to the family. She never filed a complaint with the police.

⁸⁴ Human Rights Watch interview with Pearl, Kumasi, January 2017

⁸⁵ Human Rights Watch telephone interview with Pearl’s Father, October 7, 2017

To understand the events leading to Pearl’s public assault, Human Rights Watch interviewed Michael, a young man who knew Pearl at that time, and he described the situation:

She came to that town to work and we became friends. We would hang out together in the town and in her home after work and on weekends. Then a rumor started circulating that she is bringing “certain ugly behavior” to the town, that she is a lesbian. I decided to monitor her, to watch her closely, but I did not see anything suspicious. People were saying she is spreading bad behavior in the town and the youth groups were very angry, they wanted her to leave the place. People suspected she was a lesbian because she always dressed in men’s clothing. I suggested she should leave the town for her own safety. When the beating happened, I was not there. I decided I would not go anywhere near that place because people knew we were friends, and they would have dragged me into the issue as well.⁸⁶

Michael explained to Human Rights Watch that people in Asankrangwa do not tolerate homosexual behavior and everyone was relieved when Pearl finally left the town. He further explained that he was upset about what had happened to her, but he was also relieved that she had left the town because he “could finally be free and not be associated with a person suspected of being a lesbian.”⁸⁷

Human Rights Watch interviewed a lesbian couple, Dorothy and Emily, who reported that on May 10, 2016, they were attacked by a mob in Ampayo village, about a two-hour drive from Kumasi.⁸⁸ According to Dorothy, Emily’s mother found them in an intimate situation and called out to everyone in the vicinity, shouting that there were lesbians in the house and that “the youth should deal with them.” Dorothy explained:

About 20 to 25 people came into the room. [My partner] was naked, her mother told her to get dressed. One of the guys took a cutlass from the house, wanted to put it on my vagina. We struggled and he burnt my stomach with a piece of hot steel. They managed to cut [my partner] on the

⁸⁶ Human Rights Watch telephone interview with Michael, October 2017

⁸⁷ Ibid.

⁸⁸ Human Rights Watch interview with Dorothy and Emily, Kumasi, January 2017

face—there was a major hole and she was bleeding. The crowd wanted to kill both of us. A neighbor stepped in and stopped the whole thing.

Dorothy and Emily did not report the incident to the police, because they were scared and believed they had committed a crime and would be arrested. Their neighbor gave them 100 CEDIS (approximately US\$27) to go to hospital and they lived with him for two weeks, until he started demanding sex from both of them and they fled. Dorothy said:

We decided to move to Kumasi. We found an abandoned building, and lived in that room, sleeping on boxes on the floor. We went to work for people in the market here in Kumasi every day. We would make maybe five CEDIS (approximately US\$1) per day. We lived in the abandoned building for two months. Pearl heard about our story, she came to find us, and we moved into her house and stayed there for three months. We don't have jobs now, so we are forced to do things we don't want to do. We must have sex with men to survive – we have no family, no money, nothing. Sometimes I must steal stuff and sell so we can have something to eat.⁸⁹

Several interviewees in Accra told Human Rights Watch that in March 2015, a group of “youth boys” [members of a gang that operates as a local vigilante group] violently attacked attendees of a birthday gathering because they suspected they were all homosexual. Emmanuella, a 24-year-old lesbian originally from the Eastern region, told Human Rights Watch that she was at the birthday party with a group of friends when approximately 20 “youth boys” from the Teshie neighborhood invaded the party.⁹⁰ She said:

They entered the space, carrying urine and feces in plastic bags—they were also carrying stones and they started throwing these things at us. There were about 35 people at the party. They beat up the host, Tamsen, with a cane. Tamsen went to the police station the next day to report the incident. The police told her that if it's because of the lesbianism thing, they don't want to hear anything about it. We later learned that the area boys had told

⁸⁹ Ibid.

⁹⁰ Human Rights Watch interview with Emmanuella, Accra, January 2017

the police at Teshie police station that they were planning this action and the police should not get involved.

Constance, a 31-year-old lesbian who was also at the birthday party, told Human Rights Watch that she was afraid of reporting the incident to the police because of the stigma and discrimination LGBT people often encounter at the Teshie police station.⁹¹ She said: “Teshie is a lawless place, lesbians are not safe here, we are subjected to street abuse and harassment on a daily basis but we don’t go to the police because we know they don’t care and will not help us.”⁹²

Domestic Violence against Lesbian and Bisexual Women

Lesbian Blamed for Death of Family Members

About six years ago my girlfriend came to visit me. A friend saw us holding hands, she took a picture, sent it to my senior sister who confronted me about being a lesbian and told my mother. My father is in the army, so when he came home from Accra, and heard the story, he didn’t say a word—he just started beating me with his belt, and the buckle struck above my eye. I was bleeding, my mom intervened. They argued, he got into his car, drove back to Accra and was killed in a car accident on the way. My family blamed me for his death. Things were okay for about a year, then my mother started to get sick. One day, while I was serving her food, she said from that day onwards she would not accept my food—won’t take anything from me because of my disgusting lesbian behavior. I told her that’s how I am, that I can’t change—I can’t do anything about it. She suddenly fell from her chair and collapsed. I took her to hospital—she died an hour later. My maternal side of the family blamed me for her death.

-Priscila, 23-year-old woman from Kumasi⁹³

⁹¹ Human Rights Watch interview with Constance, January 2017, Accra

⁹² Ibid. See also “Homophobic residents flood town with posters of alleged lesbians,” *GhanaWeb*, March 7, 2015, <https://www.ghanaweb.com/GhanaHomePage/NewsArchive/Homophobic-residents-flood-town-with-posters-of-alleged-lesbians-349426>; On March 7, 2015 the Starr newspaper reported that a group of homophobic residents of Teshie, Accra printed and circulated posters of a lesbian couple.

⁹³ Human Rights Watch interview with Priscila, Kumasi, January 2017

Lesbians and bisexual women are vulnerable to domestic violence at the hands of family members. Human Rights Watch interviewed several who experienced physical violence, psychological abuse and intimidation by family members when they learned of their sexual orientation. Many women said that even after they tried to deny or conceal their sexual orientation, their family members assaulted, expelled, or ostracized them. None of the victims interviewed by Human Rights Watch had filed complaints with the police. In many cases, the deep-seated fear of stigma and social isolation, stopped victims from reporting crimes against them.

Agnes, a 26-year-old lesbian from Accra, now unemployed, told Human Rights Watch:

On 3 February, 2016, my father went to my workplace and told my manager that I am a lesbian. He “outed” me at work. When I arrived home that same day, he had packed all my belongings in a bag and left it outside the door. He said I should leave and never come back to his house because I have disgraced the family.

Agnes stayed with a friend for two months, and then tried to return home. However, she said:

When [my father] saw me at the gate he chased me away with cutlasses. Until today, even when I see him in public, I must run away and make sure that he does not see me. He will kill me if I try to go back home. My father has killed someone before, so I know he will have no problem killing me. I am terrified of my father.⁹⁴

Emelia, a 35-year-old lesbian from Kumasi, told Human Rights Watch that when her father found out she was a lesbian in 2016, he beat her for more than three hours with his fists and a belt, and when she tried to run away, he hit her on the leg with a broken beer bottle. Then he asked her to leave the family home.⁹⁵ Josephine, 43, also from Kumasi, described how her brother and sister, after confronting her about her sexual orientation in December 2015, proceeded to beat her up with a wooden implement.⁹⁶ Josephine spent more over a month in hospital recovering from her injuries, and at the time of the interview in January

⁹⁴ Human Rights Watch interview with Agnes, Kumasi, January 2017, no. 78

⁹⁵ Human Rights Watch interview with Emelia, Kuamsi, January 2017,

⁹⁶ Human Rights Watch interview with Josephine, Kumasi, January 2017

2017, had still not fully recovered from the injuries. She now lives with her best friend, out of fear that her family may attack her partner as well.

Rasheeda, a 25-year-old woman from Accra, was one of only two lesbians interviewed by Human Rights Watch who voluntarily, disclosed their sexual orientation to her family members. She explained what happened:

Approximately five years ago I was dating women, and my partner would visit me at home. One day my mother came into the house and confronted me about being a lesbian. When I told her it was true, that yes, I am a lesbian, she started beating me—with her hands all over my body. There were other family members in the house, they tried to stop her, but she grabbed my left arm and cut me with a blade that she had been carrying—there was so much blood. My uncle managed to stop her then, and took me to the hospital. It took three months for the wound to heal.⁹⁷

Lesbian and bisexual women in Ghana suffer similar consequences as a result of the criminalization of “unnatural carnal knowledge” and the social stigma as that of gay and bisexual men. However, they also experience specific violence perpetrated by family members, pressure to enter heterosexual marriages and lack of autonomy over sexual and reproductive health and choices. None of the gay and bisexual men interviewed by Human Rights Watch stated that they had been subjected to physical violence by family members because of their sexuality.

Abigail, also 33, described family pressure to get married and have children, and her fear of her family learning of her sexual orientation. She said, “if my family knew, they would kill me.... they may suspect something, but they can never have proof because that would be the end for me.”

Naa, a 26-year old woman, told Human Rights Watch that if her family found out her sexual orientation, they would immediately disown her. She said: “There is no conversation to be

⁹⁷ Human Rights Watch interview with Rasheeda, Accra, January 2017

had, even if they insult gay people in my presence, I cannot say anything—I started out as a lesbian, but my family was demanding a boyfriend, so I had to start dating men.”⁹⁸

Anne’s experience with her family is similar to many other lesbians that Human Rights Watch interviewed. Six years ago, when her mother and brother found out she was a lesbian, they asked her to leave the family home because of the shame she had brought to the family. She was 18 years old. For the past six years, Anne has lived with and relied on the support of friends and members of the LGBT community in her town to survive, and is not permitted to return home for as long as she identifies and lives as a lesbian.

Jake, a 30-year-old transgender man from Accra who works as a security guard said he knows he will soon have to marry a man, and that he does not have a choice because his family is very religious. Even though he is employed and economically independent, he does not want to lose his family, because the family connection is important to him. Jake said:

The government should let the public know that it is not a crime, that they should just leave LGBT people alone—let them be, let them live their lives. Even though I am a man, a transgender man, I know that I will not have a choice but to marry a man and have children. Because of the general perception in society, I will not have a choice. I will have to take it as normal, it is what is expected of me by my family and society.⁹⁹

Public Violence, Blackmail and Extortion of Gay Men

Several young gay men described the role social media played in the physical abuse and victimization they suffered. The perpetrators take advantage of the stigma, shame and homophobic environment, confident that the victim will not report the crime to the police.

Felix, a 26-year-old gay man, met someone on a social media platform and after chatting for about three months, they decided to meet around May 2016.¹⁰⁰ He told Human Rights Watch:

⁹⁸ Human Rights Watch interview with Naa, Accra, January 2017 no. 24

⁹⁹ Human Rights Watch interview with Jake, Accra, January 2017

¹⁰⁰ Human Rights Watch interview with Felix, January 2017, Kumasi

This man invited me to his house. As we were about to get intimate, he left the room and returned with three other men. They started asking me all kinds of questions about being gay and telling me it is an abomination. They told me to take off all my clothes. Then one of them started to rape me, the second guy was taking pictures, while the third was hitting me with a belt. All of this happened at the same time. When they were done, they told me to get dressed and leave. They took my phone and wallet.

Felix did not report the rape to the police out of fear that he would be arrested for having “gay sex.” For a period of two months after the rape, the three men regularly contacted Felix threatening to post the pictures on Facebook if he did not pay them. Despite being very poor and unemployed, he gave them 800 CEDIS (approximately US\$182) in total.

Similarly, Solomon, a 31-year-old who identifies as a transgender woman but presents publicly as a man due to social stigma, said she met a man on a dating site sometime in 2010 and after chatting on text for about two weeks, they arranged to meet at a bar.¹⁰¹ Solomon told Human Rights Watch that later in the evening, the man asked her to accompany him to his house so he could drop off keys for his brother. She agreed, but then realized she had been set up:

On the way, we were surrounded by six guys. Without saying a word, they started beating me and took everything I had, including my money and mobile phone. They took all the items and gave them to the man I had met with. They stripped me naked and beat me, with belts, sticks, fists and anything they could find in the street.

Solomon was assisted by two men who witnessed the assault. She reported the incident to the Hong Kong Police Station, within the Odorko District Police station. Solomon said when one of the assailants was apprehended, he admitted to beating her up, but claimed it was because Solomon wanted to have sex with a young boy in the neighborhood.

¹⁰¹ Human Rights Watch interview with Solomon, Accra, January 2017

Police detained the suspect for one night. Solomon said while the district police were eager to investigate the assault case, and for the matter to proceed to court, the accused's mother pleaded with the District Chief Police Commander (DCPC), promising to pay for Solomon's hospital treatment if she dropped the case. Solomon said she was forced to drop the charges when the DCPC told her that she would be prosecuted under the Criminal Offences Act if she proceeded with the assault case.

Justice, a 23-year-old gay man from Accra, was also set up by a man whom he had met on a social media platform.¹⁰² On September 11, 2014, Justice arranged to meet the man at a bar, Santa Maria, at 2p.m. He described what happened:

We met at the spot we had arranged and while we were chatting, four boys approached us and asked us why two men were standing there talking to each other—they started throwing stones and started beating me up. I fought back. I realized [the other man] had organized the beating. They wanted to take my phone but I fought back hard and they ran away.

Justice reported the incident but, in part out of fear that he would be arrested for planning to meet another man for sex, did not provide the police with full information about the incident.

No Access to Justice

Assessing the Ghana Police response to rights-abuses faced by LGBT people, Jefferey, a representative of a non-governmental organization, told Human Rights Watch that there were no given expectations that action would be taken, but singled out Assistant Commissioner of Police Jones Blantari, also the Programme Coordinator of Ghana Police AIDS Control Programme, for praise:

The primary challenge is convincing the police to protect LGBT victims of crime. We always have to work through a network that we trust, specifically [Officer] Blantari. It is extremely difficult to go to a regular police station and report a crime if you are LGBT—it takes a call from Blantari or a paralegal or

¹⁰² Human Rights Watch interview with Justice, January 2017, Accra

an LGBT advocacy person for the police to take cases seriously. A lay LGBT person can't just walk into a police station and report a case.¹⁰³

Several interviewees confirmed this. Alfred, a 28-year old fashion designer from Accra, told Human Rights Watch that in June 2015 he was physically assaulted by four young men from his neighborhood, Mamprobi, who knew of his sexual orientation. He said the boys beat him up with their hands and belts, while shouting: "It's people like you who make Ghana not go forward, it's gay peoples' fault." Alfred reported the assault at Mamprobi Police Station. The police took his statement and gave him a medical form to take to Ghana Police Hospital for a medical examination. Alfred told Human Rights Watch that when he returned to the police station the next day, "nobody was paying attention, so I sat there for a long time." It was only after he reported the case to a friend who works for a human rights organization that the police called him to the police station, and told him they would arrest the young men:

We went to the homes of the boys with the police. Their parents begged me to withdraw the charges and settle everything. The families gave me 500 CEDIS (approximately US\$114) to pay hospital bills. They also apologized.¹⁰⁴

Alfred explained that as a member of the Akan group, he believes that if someone offends you, and they apologize, you must forgive them, so he did not pursue the case. The police did not pursue the matter either, in fact they encouraged this arrangement.

In one high-profile case, Accra police arrested a suspect in a vicious mob attack against a man, Arafat, in 2015. The attack was recorded and uploaded to Facebook. After five court appearances in the Fast Track Court, both the prosecutor and the suspect, who had been released on bail, stopped coming to court. Human Rights Watch was informed by representatives of an organization providing legal support to Arafat, that on June 8, 2017, the magistrate struck the case off the court roll. The fact that a widely reported case, with video evidence of the assault and a complainant who not only reported the case but also

¹⁰³ Human Rights Watch interview with Jefferey, January 2017, Accra

¹⁰⁴ Human Rights Watch interview with Alfred, January 2017, Accra

regularly attended court has not gone to trial leads LGBT people to question whether it is futile to seek justice in the aftermath of homophobic and transphobic violence.

Arafat, the 22-year-old victim of the vicious mob assault described what happened:

On August 13, 2015, I visited a friend and he introduced me to Hakim, who told me he was gay. We started chatting and the next day, August 14, he called me to ask me if I could meet him at the roundabout. We met at the roundabout around 10:20[p.m.] that night. As we were walking, two men followed us. After a few minutes, they approached us—asked me where I was taking Hakim to. They started hitting me with sticks and belts. They were screaming and shouting that I am gay and want to have sex with Hakim. They raised the alarm, so people came out to see what the commotion was about. They dragged me to a place called Gambo—that’s where they hang out. Started asking me questions, like whether I knew other gay people in the area. There were more than 20 men at this point. When they were done with their questions, they made me take off my clothes. I had only boxer shorts on. They put me on a bench and started beating me with belts and sticks. I was questioned for one hour and beaten for about two hours after that. Every time I fell off the bench, even though they were holding my hands and legs, they would pick me up and continue with the beating. No one tried to stop them, no one helped me. The people who beat me up uploaded the video on Facebook as a warning to other gay people.¹⁰⁵

Only with the support of LGBT activists could Arafat open a case of assault at Nima Police Station against the attackers. He said: “The police were initially reluctant to deal with the case—they said the ringleader has too many cases against him already. They did not want to investigate a new case against him. It was only when the Human Rights Advocacy Centre got involved and put pressure that they started following up and investigating.”¹⁰⁶

¹⁰⁵ Human Rights Watch Interview with Arafat, Accra, February 2017

¹⁰⁶ Ibid.

The police eventually arrested and charged one suspect, who was detained for over four months, but he was released on bail in March 2016. Since the case was struck off the roll in June 2017 due to the prosecutor's failure to appear in court, Arafat fears that his attackers will never be brought to justice.

IV. Signs of Positive State Action

The government should recognize that we are human beings, with dignity, not treat us as outcasts in our own society. We want to be free so we can stand tall in public and not deal with obstacles and harassment daily. This will make it easier for us to get an education, learn a trade, get jobs and be useful and productive Ghanaians.

-Julia, 40-year-old woman, Cape Coast, January 2017

The anti-gay law in Ghana is a colonial legacy and prosecutions are rare if ever. Unlike several of its neighbors, not only has Ghana not introduced additional penalties for adult consensual same-sex conduct, but two government agencies, the Ghana Police Force and the Commission on Human Rights and Administrative Justice have proactively tried to reach out to LGBT people and ensure their protection. As noted in section III above, despite these efforts LGBT people are still frequently subject to various forms of violence. This can be attributed to the government's reluctance to, amongst other protective measures, repeal section 104(1)(b) of the 1960 Criminal Offences Act.

Commission on Human Rights and Administrative Justice

The legal basis for the creation of the Commission on Human Rights and Administrative Justice (CHRAJ) is article 216 of 1992 Constitution.¹⁰⁷ The mandate of CHRAJ, to protect and promote human rights, is set out in the Constitution and the enabling legislation, the Commission of Human Rights and Administrative Justice Act (Act 456), 1993. Article 218 of the Constitution, mandates the CHRAJ to *inter alia*:

- Investigate complaints of violations of fundamental human rights and freedoms, injustice....and unfair treatment of any person by a public officer in the exercise of his official duties.¹⁰⁸

¹⁰⁷ Commission on Human Rights and Administrative Justice (CHRAJ) Ghana, Undated, http://www.chrajghana.com/?page_id=43; Article 216 of the Constitution: there shall be established by Act of Parliament within six months after Parliament first meets after the coming into force of this Constitution, a Commission on Human Rights and Administrative Justice which shall consist of - (a) a Commissioner for Human Rights and Administrative Justice; and (b) two Deputy Commissioners for Human Rights and Administrative Justice

¹⁰⁸ Ibid Article 218(a)

- To investigate complaints concerning practices and actions by persons, private enterprises and other institutions where those complaints allege violations of fundamental rights and freedoms under this Constitution.¹⁰⁹
- To educate the public as to human rights and freedoms by such means as the Commissioner may decide, including publications, lectures and symposia.¹¹⁰

These functions are restated under section 7 of the CHRAJ Act, and since August 2013, the CHRAJ has implemented an online complaint system for allegations of discrimination including on the basis of sexual orientation and gender identity.¹¹¹ The CHRAJ receives and processes complaints, including those filed anonymously, and collects and publishes the data online.

According to CHRAJ figures 36 of the 75 discrimination cases filed with CHRAJ since 2013, were from LGBT people.¹¹² Cephass Essiful Ansah, officer in charge of the online discrimination reporting system at CHRAJ, told Human Rights Watch that he attends meetings with and conducts human rights training workshops for LGBT organizations because of the regular complaints of blackmail and discrimination.¹¹³ While noting that the government is unlikely to change its official position on criminalization of unnatural carnal knowledge, Cephass explained the CHRAJ mandate and approach:

We are not promoting their activities, but we are protecting their human rights. This is the policy position of the Human Rights Commission and it is based on our Constitution. Our on-line reporting system is for LGBT people and key populations. It was established because people were only reporting to NGOs, so we had to develop an online system. At the Commission, we are protecting their human rights –we deal with this topic from a human rights perspective, because protection is paramount.¹¹⁴

¹⁰⁹ Ibid Article 218(c)

¹¹⁰ Ibid Article 218 (f)

¹¹¹ Commission on Human Rights and Administrative Justice, Ghana; Statistics provided by CHRAJ Complaints Officer on file with Human Rights Watch

¹¹² Data available on file with Human Rights Watch.

¹¹³ Human Rights Watch interview with Cephass Essiful Ansah, Accra, January 2017

¹¹⁴ Ibid.

Several interviewees told Human Rights Watch that they are aware of the mandate of CHRAJ and that they feel comfortable to approach the institution for legal support.

For instance, Simon, a 30-year-old gay man from Kumasi told Human Rights Watch that after his ex-partner of three years reported him to the police for being gay, they were both arrested and detained from January 16-18, 2016 at Kumasi Central Police Station. Simon said that they were released after the CHRAJ Kumasi regional office intervened by “explaining the situation to the police—told them that being gay is not a crime—that only unnatural carnal knowledge is a crime”. They each paid 200 CEDIS (approximately US\$46) at the police station and went home.¹¹⁵

Ghana Police Practice

The Ghana Police Service has at times responded appropriately to abuses against LGBT people, and for example in cases of false accusations and blackmail of gay men or those suspected of being homosexual by members of the public. Several interviewees in Tamale told Human Rights Watch that they had not experienced police harassment or arbitrary arrests, and that the police service was responsive to their reports of harassment by members of the public. Malik, a 22-year old self-employed gay man from Tamale told Human Rights Watch:

My friends and I were constantly being harassed and threatened by youth boys. About 6 months ago, sometime in July 2016, a group of about 10 guys—youth vigilante group—came to my house. They were shouting, threatening to beat us up and kill us for being gay. They said gays are not welcomed in Tamale. The next day we went to report them at Tamale Central Police Station. The police questioned them and charged them with threats to life. They each had to pay 400 CEDIS (approximately US\$90). Since then we have not been harassed by anyone.¹¹⁶

According to a *Ghanaweb* news report, in March 2017, two men were accused of having anal sex in the room by hotel attendants at Mataheko in Accra. Hotel staff called the

¹¹⁵ Human Rights Watch interview Simon, Kumasi, January 2017

¹¹⁶ Human Rights Watch interview with Malik, Tamale, January 2017

police, who arrested the men and handed them over to the Domestic Violence and Victim Support Unit (DOVVSU).¹¹⁷ Following investigations, the police commander reportedly concluded that ‘the statements given by hotel attendants were inaccurate, and told the media:

Even though some of us may be against homosexuality in the country as our religious beliefs infringe on that, the police do not want people to take the law into their own hands and humiliate, molest innocent persons on suspicion that they are homosexuals without proper evidence.¹¹⁸

In May 2017, Assistant Commissioner of Police, Jones Blantari, in his capacity as Programme Coordinator of Ghana Police AIDS Control Programme, delivered a presentation at a workshop convened by Inerela-Ghana titled “Transformative Framework for the LGBT Community in Ghana.”¹¹⁹ Clarifying the provision of the Criminal Offences Act that deals with “unnatural carnal knowledge,” Blantari concluded:

“...the law as it stands now is clearly inadequate and its application to prosecute LGBTI [people] in Ghana is just a matter of taking advantage of convenient public outrage on activities that may seem morally reprehensible.¹²⁰

At the October 2012 Universal Periodic Review (UPR) of its human rights record before the UN Human Rights Council, Ghana accepted 123 out of 148 recommendations, rejecting 25 regarding abolition of the death penalty and repeal of the provisions of Criminal Offences Act criminalizing adult consensual same-sex conduct.¹²¹

It is instructive to note that while Ghana rejected recommendations aimed at ensuring protection from violence for LGBT individuals, the government accepted UPR

¹¹⁷ “The sex was acted - Alleged homosexuals claim,” *GhanaWeb*, March 24, 2017, <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/The-sex-was-acted-Alleged-homosexuals-claim-521725>

¹¹⁸ Ibid.

¹¹⁹ Inerela-Ghana is a faith-based organisation actively involved in reducing the spread and impact of HIV and AIDS. The workshop was attended by men who have sex with men (MSM), psychologists, religious groups, and peer educators.

¹²⁰ Jones Blantari Presentation, LGBTI and the Law in Ghana. Presentation on file with Human Rights Watch.

¹²¹ Universal Periodic Review, Ghana Second Review, Session 14 https://www.upr-info.org/sites/default/files/document/ghana/session_14_-_october_2012/recommendationsandpledgesghana2012.pdf

recommendations relating to ensuring effective implementation of the Domestic Violence Act,¹²² strengthening the capacities of two institutions, namely, the Domestic Violence Support Unit of the Ghana Police Service and the Commission on Human Rights and Administrative Justice (CHRA).¹²³ The Domestic Violence Victim Support Unit (DOVVSU), established in 1998, is a specialized unit within the Ghana Police Service with a broad mandate to protect the victims against all forms of abuse by providing advice, conducting investigations and arrests and as necessary, prosecutions. The DOVVSU functions include “to investigate all female and children related offences; to handle cases involving domestic violence; to prosecute all such cases, where necessary, and [to perform] any other functions [as] directed by the Inspector General of Police.”¹²⁴

LGBT-related UPR Recommendations Rejected by Ghana, October 2012

R-126.20. Adopt measures and take steps aimed at raising public awareness to fight against the climate of homophobia that prevails in the country.

R-126.21. Adopt proactive measures at all levels to combat violence, stigmatization and discrimination towards persons on the basis of their sexual orientation.

R-126.22. Eliminate the type of crime of “unnatural sexual relations”, and adopt measures to eradicate discrimination motivated by sexual orientation and gender identity.

R-126.23. Ensure that the provisions in the Constitution that guarantee equality and dignity are equally applied to members of the lesbian, gay, bisexual and transgender (LGBT) community and ensure thorough and impartial investigation into all allegations of attacks and threats against individuals targeted because of their sexual orientation or gender identity.

¹²² Domestic Violence Act, 732 of 2007 available at [http://evaw-global-database.unwomen.org/-/media/files/un%20women/vaw/full%20text/africa/ghana%20-%20domestic%20violence%20act%20\(2007\).pdf](http://evaw-global-database.unwomen.org/-/media/files/un%20women/vaw/full%20text/africa/ghana%20-%20domestic%20violence%20act%20(2007).pdf)

¹²³ Commission on Human Rights and Administrative Justice (CHRAJ), national human rights institution established in accordance with the 1992 Constitution of Ghana and by its enabling Act, Act 456, in 1993, available at <http://www.chrajghana.com/>

¹²⁴ Ghana: Domestic Violence Victim Support Unit (DOVVISU), formerly the Women and Juvenile Unit (WAJU), established by the Ghanaian police and whether it provides protection to women in Ghana (March 2006)

R-126.24. Consider the report of the High Commissioner on sexual orientation and gender identity and determine which of the recommendations can be taken into account in the further detailing of government policies.

R-126.25. Train police, first responders, justice system and social services officials to respect and fully protect all human rights of every Ghanaian, including those who are lesbian, gay, bisexual, and transgender.

As this report demonstrates, these institutions are essential for the protection of the rights of LGBT people in Ghana. Effective action by the Police Services and the DOVVSU can contribute significantly to ensuring Ghana's compliance with its responsibility to act with due diligence to prevent, investigate and punish acts of violence against LGBT people.

V. Ghana's Legal Obligations

The government needs to clarify the provisions of the Criminal Code. Parliament or the courts need to tell people in Ghana that it is not a crime to be gay. We don't want to be afraid of meeting people in public spaces and of going to work.

- Representative of an LGBT group, Accra, January 2017

Chapter five of Ghana's 1992 Constitution guarantees a range of fundamental human rights and freedoms to all its citizens.¹²⁵ Section 12(1) of the constitution provides:

The fundamental human rights and freedoms enshrined in this Chapter shall be respected and upheld by the Executive, Legislative and Judiciary and all other organs of government and its agencies and, where applicable to them, by all natural and legal persons in Ghana, and shall be enforceable by the Courts as provided for in this Constitution.¹²⁶

Section 12 then provides that such fundamental human rights and freedoms are "subject to respect for the rights and freedoms of others and for the public interest."¹²⁷ The constitution does not provide a definition of "public interest". Article 17(1) and (2) of the constitution guarantees equality before the law and prohibits discrimination on grounds of "gender, race, colour, ethnic origin, religion, creed or social or economic status."¹²⁸

Sexual orientation and gender identity are not enumerated as prohibited grounds of discrimination. Furthermore, Article 17 of the Constitution does not include "sex" as a ground for non-discrimination. The Constitution ensures respect for human dignity, protection of personal liberty, and the right to privacy for all – this should be understood to extend to LGBT people.

¹²⁵ "Constitution of the Republic of Ghana," *Government of Ghana*.

¹²⁶ *Ibid* section 12(1)

¹²⁷ *Ibid* Section 12(2)

¹²⁸ *Ibid* Article 17(1) All persons shall be equal before the law. (2) A person shall not be discriminated against on grounds of gender, race, colour, ethnic origin, religion. Creed or social or economic status.

Chapter six of the Constitution sets out the Directive Principles of State Policy, including ones particularly pertinent to the protection of the human rights of LGBT people in Ghana, which must guide legislative and policy measures regarding sexual orientation and gender identity issues:

- Section 35(4) (4): The State shall cultivate among all Ghanaians respect for fundamental human rights and freedoms and the dignity of the human person.
- Section 37(1): (1) The State shall endeavour to secure and protect a social order founded on the ideals and principles of freedom, equality, justice, probity and accountability as enshrined in Chapter 5 of this Constitution; and in particular, the State shall direct its policy towards ensuring that every citizen has equality of rights, obligations and opportunities before the law.
- Section 37(2)(b): (2) The State shall enact appropriate laws to ensure the protection and promotion of all other basic human rights and freedoms, including the rights of the disabled, the aged, children and other vulnerable groups in development processes.
Section 37(3): The State shall be guided by international human rights instruments which recognize and apply particular categories of basic human rights to development processes.
- Section 41(d): The exercise and enjoyment of rights and freedoms is inseparable from the performance of duties and obligations, and accordingly, it shall be the duty of every citizen - (d) to respect the rights, freedoms and legitimate interests of others, and generally to refrain from doing acts detrimental to the welfare of other persons. ¹²⁹

In 2007, the government of Ghana enacted the Domestic Violence Act, (Act No. 732).¹³⁰ It provides that protection orders may be issued in response to complainants of domestic

¹²⁹ Ibid Chapter 6 The Directive Principles of State Policy, Article 34(1): The Directive Principles of State Policy contained in this Chapter shall guide all citizens, Parliament, the President, the Judiciary, the Council of State, the Cabinet, political parties and other bodies and persons in applying or interpreting the Constitution or any other law and in taking and implementing any policy decisions, for the establishment of a just and free society.

¹³⁰ Ghana Domestic Violence Act 732, 2007 <https://s3.amazonaws.com/ndpc-static/CACHES/PUBLICATIONS/2016/04/16/domestic+violence+act.pdf>

violence and that criminal charges can be brought for violations of court issued protection orders. While the act is silent on domestic violence motivated by sexual orientation and gender identity, LGBT individuals subjected to domestic violence are entitled to protection and legal recourse afforded by it.

Obligations under International Law

Ghana has ratified several regional and international human rights treaties that obligate it to respect and protect the rights of LGBT people, including the right to equality before the law, non-discrimination, human dignity, privacy and the right to be free from violence. These include the African Charter on Human and Peoples' Rights (African Charter),¹³¹ the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol),¹³² the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),¹³³ and the International Covenant on Civil and Political Rights (ICCPR).¹³⁴ By becoming a party to these treaties Ghana has accepted legal obligations to exercise due diligence in protecting people from all forms of violence regardless of their sexual orientation or gender identity, whether perpetrated by state or non-state actors.

Under Article 4(2) of the Maputo Protocol states are required to take necessary measures to enact and enforce laws to prohibit and punish all forms of violence against women.¹³⁵ In October 2012, the African Commission adopted its General Comment to article 14(1)(d) and

¹³¹ "African Charter on Human and Peoples' Rights (Adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986)," http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf Ratified by Ghana on January 24, 1989.

¹³² "Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa," <http://www.achpr.org/instruments/women-protocol/>

¹³³ The Convention was adopted by General Assembly resolution 34/180 of December 18, 1979. Entry into force September 3, 1981, Ratified by Ghana January 2, 1986

¹³⁴ The Covenant was adopted by the United Nations General Assembly Resolution 2200A (XXI) of December 16, 1966. It entered into force on March 23, 1976, Ratified by Ghana on September 7, 2000.

¹³⁵ "Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa," Article 2: States Parties shall take appropriate and effective measures to: a) enact and enforce laws to prohibit all forms of violence against women including unwanted or forced sex whether the violence takes place in private or public; b) adopt such other legislative, administrative, social and economic measures as may be necessary to ensure the prevention, punishment and eradication of all forms of violence against women; c) identify the causes and consequences of violence against women and take appropriate measures to prevent and eliminate such violence;....e) punish the perpetrators of violence against women and implement programmes for the rehabilitation of women victims;

(e) of the Maputo Protocol, in which it expressly included sexual orientation as a recognized ground of discrimination:¹³⁶

According to the African Commission there are multiple forms of discrimination based on various grounds such as: race, sex, sexuality, sexual orientation, age, pregnancy, marital status, HIV status, social and economic status, disability, harmful customary practices and/or religion. In addition, the African Commission recognises that these forms of discrimination, individually or collectively, prevent women from realising their right to self-protection and to be protected.¹³⁷

Article 24(a) of the Maputo Protocol also obligates parties to “ensure the protection of poor women and women heads of families including women from marginalized population groups and provide an environment suitable to their condition and their physical, economic and social needs.”¹³⁸

In May 2014, the African Commission on Human and Peoples’ Rights (the African Commission) adopted Resolution 275 on “Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation and Gender Identity” (Resolution 275), re-affirming, *inter alia*, the rights to freedom from discrimination, equality before the law and equal protection of the law.¹³⁹ Through this resolution, the African Commission expressly condemned “violence and other human rights abuses including rape, assault, arbitrary imprisonment and other forms of persecution and the situation of systematic attacks by State and non-state actors against persons on the basis of their imputed or real sexual orientation or gender identity”, and urged all states party to the African Charter to:

¹³⁶ General Comments on Article 14 (1) (d) and (e) of the Protocol to the “African Charter on Human and Peoples’ Rights on the Rights of Women in Africa.”

¹³⁷ Ibid para 4

¹³⁸ “Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa,” Article 24 Special Protection of Women in Distress

¹³⁹ “275: Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity,” *African Commission on Human and Peoples’ Rights*, Undated, <http://www.achpr.org/sessions/55th/resolutions/275/>

...end all acts of violence and abuse, whether committed by State or non-state actors, including by enacting and effectively applying appropriate laws prohibiting and punishing all forms of violence including those targeting persons on the basis of their imputed or real sexual orientation or gender identities, ensuring proper investigation and diligent prosecution or perpetrators, and establishing judicial procedures responsive to the needs of victims.¹⁴⁰

Resolution 275 underscores the obligation on African states to act with due diligence to protect LGBT individuals from all forms of violence. Ghana referenced Resolution 275 at the UN Human Rights Council in June 2016 when abstaining from a vote on the appointment of a United Nations Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity. The Ghanaian delegate explained why Ghana had taken a relatively “progressive” position in abstaining from the vote, rather than following the lead of other African states that voted against the resolution:

This resolution was adopted against the backdrop of what the Commission found to be alarming incidents of acts of violence, discrimination and other human rights violations that continue to be committed against individuals in many parts of Africa because of their actual or imputed sexual orientation and gender identity....in 2011 Ghana voted against the resolution that has been referred to in the preambular paragraph. But there has been evolution in thinking—partly because of... the resolution of the African Commission on Human and Peoples’ Rights, which I just cited.¹⁴¹

The Committee on the Elimination of Discrimination against Women, the UN treaty body responsible for monitoring state compliance with CEDAW, has also emphasized a state’s due diligence obligations. In its 1992 general recommendation No. 19 the committee confirmed that in addition to preventing violence by public authorities “...under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to

¹⁴⁰ Ibid.

¹⁴¹ “Appointing an Independent Expert on Sexual Orientation and Gender identity: An Analysis of Process, Results and Implications: 32nd Session of the Human Rights Council June 13 – 1st July, 2016,” *ARC International*, p.50, <http://arc-international.net/wp-content/uploads/2016/08/HRC32-final-report-EN.pdf>

investigate and punish acts of violence and for providing compensation.”¹⁴² The committee reiterated in 2010 (in general recommendation 28) that states have a legal obligation to prevent, investigate, prosecute and punish all acts of gender-based violence.¹⁴³

Article 4 (c) of the 1993 Declaration on the Elimination of Violation against Women provides:

States should condemn violence against women and **should not invoke any custom, tradition or religious consideration to avoid their obligations** with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should: Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons.¹⁴⁴ **[emphasis added]**

In July 2017, the CEDAW Committee adopted general recommendation No. 35 on gender-based violence against women, calling on all States parties to CEDAW to “repeal all legal provisions that discriminate against women, and thereby enshrine, encourage, facilitate, justify or tolerate any form of gender-based violence against them – and in particular, to repeal provisions that allow, tolerate or condone forms of gender-based violence against women, including legislation that criminalizes being lesbian, bisexual, or transgender.”¹⁴⁵

The CEDAW Committee, in general recommendation No. 33 on women’s access to justice notes that women who identify as lesbian, bisexual or transgender are disproportionately criminalized, and this impedes their access to justice as victims of crime.¹⁴⁶ While section 104(1)(b) of the Criminal Offences Act in Ghana does not expressly criminalize same-sex conduct between females, Human Rights Watch found that this law impedes lesbian and bisexual women’s ability to seek justice and legal redress.

¹⁴² CEDAW General Recommendation 19 para 9

¹⁴³ CEDAW/C/GC/28 para 19

¹⁴⁴ A/RES/48/104 Declaration on the Elimination of Violence against Women available at: <http://www.un.org/documents/ga/res/48/a48r104.htm>

¹⁴⁵ CEDAW General Recommendation. No. 35 on gender-based violence against women, updating general recommendation No. 19 CEDAW/C/GC/35 available at:

http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_35_8267_E.pdf

¹⁴⁶ CEDAW General Recommendation No. 33 women’s access to justice CEDAW/C/GC/33 para 49

In addition to being a barrier to access to justice, retention of the provision criminalizing “unnatural carnal knowledge”, even if it is not enforced, is a breach of Ghana’s obligations under international human rights treaties that the State has ratified.

In 2016, the UN Human Rights Committee, which evaluates countries’ compliance with the International Covenant on Civil and Political Rights, expressed concern about reports of discrimination, intimidation and harassment of LGBT people, the government’s failure to respond to such abuses, and the criminalization of adult consensual same-sex conduct.¹⁴⁷ A collective of human rights organizations based in Ghana and elsewhere had submitted a Shadow Report on human rights violations against LGBT people in Ghana, which described how criminalization leads to arbitrary arrests and detention, violent attacks against LGBT people, and suppression of freedom of expression and association.¹⁴⁸ The UN Human Rights Committee called on Ghana to protect LGBT people from discrimination, intimidation and violence and to “amend section 104 of the Criminal Offences Act, 1960, to ensure that sexual relations between consenting adults of the same-sex are not considered a misdemeanor and not punishable by law.”¹⁴⁹

¹⁴⁷ CCPR/C/GHA/CO/1 para 43

¹⁴⁸ “Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Ghana: A Shadow Report,” *Solace Brothers Foundation, The Initiative for Equal Rights, Heartland Alliance: Global Initiative for Sexuality and Human Rights and Centre for International Human Rights, Bluhm Legal Clinic, Northwestern Law*, http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/GHA/INT_CCPR_ICO_GHA_21415_E.pdf

¹⁴⁹ *Supra* (n9) para 44

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Annex 1: African Commission on Human and Peoples' Rights Resolution 275: Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity

African Commission on Human and Peoples' Rights

The African Commission on Human and Peoples' Rights (the African Commission), meeting at its 55th Ordinary Session held in Luanda, Angola, from 28 April to 12 May 2014:

Recalling that Article 2 of the African Charter on Human and Peoples' Rights (the African Charter) prohibits discrimination of the individual on the basis of distinctions of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or any status;

Further recalling that Article 3 of the African Charter entitles every individual to equal protection of the law;

Noting that Articles 4 and 5 of the African Charter entitle every individual to respect of their life and the integrity of their person, and prohibit torture and other cruel, inhuman and degrading treatment or punishment;

Alarmed that acts of violence, discrimination and other human rights violations continue to be committed on individuals in many parts of Africa because of their actual or imputed sexual orientation or gender identity;

Noting that such violence includes 'corrective' rape, physical assaults, torture, murder, arbitrary arrests, detentions, extra-judicial killings and executions, forced disappearances, extortion and blackmail;

Further alarmed at the incidence of violence and human rights violations and abuses by State and non-State actors targeting human rights defenders and civil society organisations working on issues of sexual orientation or gender identity in Africa;
Deeply disturbed by the failure of law enforcement agencies to diligently investigate and prosecute perpetrators of violence and other human rights violations targeting persons on the basis of their imputed or real sexual orientation or gender identity;

1. **Condemns** the increasing incidence of violence and other human rights violations, including murder, rape, assault, arbitrary imprisonment and other forms of persecution of persons on the basis of their imputed or real sexual orientation or gender identity;
2. **Specifically condemns** the situation of systematic attacks by State and non-state actors against persons on the basis of their imputed or real sexual orientation or gender identity;
3. **Calls on** State Parties to ensure that human rights defenders work in an enabling environment that is free of stigma, reprisals or criminal prosecution as a result of their human rights protection activities, including the rights of sexual minorities; and
4. **Strongly urges** States to end all acts of violence and abuse, whether committed by State or non-state actors, including by enacting and effectively applying appropriate laws prohibiting and punishing all forms of violence including those targeting persons on the basis of their imputed or real sexual orientation or gender identities, ensuring proper investigation and diligent prosecution of perpetrators, and establishing judicial procedures responsive to the needs of victims.

Adopted at the 55th Ordinary Session of the African Commission on Human and Peoples' Rights in Luanda, Angola, 28 April to 12 May 2014

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Annex 2: Human Rights Watch Letter to Ghana Police Service

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Kevin P. Ryan
Ambassador Robin Sanders
Bruce Simpson
Donna Slaight
Siri Stolt-Nielsen
Darian W. Swig
Makoto Takano
John R. Taylor
Amy Towers
Peter Visser
Marie Warburg
Catherine Zennström

October 11, 2017

Mr. David Asante-Apeatu
Inspector General of Police
Ghana Police Service Headquarters
Cantonment,
Ring Road, Accra

Telephone: [REDACTED]

Email: [REDACTED]

CC: [REDACTED]

Dear Mr. Asante-Apeatu,

I hope this letter finds you well.

I am writing to present an advance and embargoed draft copy of our report on the human rights situation of lesbian, gay, bisexual and transgender (LGBT) people in Ghana, to be released in early November, in order to provide the Ghanaian government an opportunity to respond to our findings and recommendations. Our established practice is to submit our findings to authorities and institutions whose record is the subject of the report in order for their information and point of view to be reflected in the reports we publish.

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Human Rights Watch conducted in-depth research in Ghana to examine human rights violations on the basis of sexual orientation and gender identity and to assess the impact of section 104(1)(b) of the Criminal Code Act 29, 1960 on the lives of LGBT people. Our research shows that despite the rare, if any, prosecutions under this provision of the Criminal

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Code, the criminalization of adult consensual same-sex conduct contributes to a climate in which violence and discrimination against LGBT people is common. This law fuels a social environment in which there is pervasive violence against lesbian, bisexual and gender non-conforming women in the home and LGBT people more generally in communities where they live. Furthermore, this law contributes significantly to a climate of impunity for crimes committed against LGBT people.

In order to incorporate your response into our report, we would, however, need to receive your response (in writing) by October 24, 2017. Please note that this is a draft copy, which is under embargo until a release date (to be announced) in November 2017.

We very much look forward to receiving your response and maintaining a constructive dialogue with the Ghanaian government on the important matters and recommendations raised in the report.

Sincerely yours,



Graeme Reid
Director, LGBT Rights Program

Annex 3: Response from Ghana Police Service

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In case of reply the
Number and date of this
Letter should be quoted



Headquarters
Ghana Police Service
ACCRA

Tel: (0302) 763409/761257
Email: hq.wpcst@police.gov.gh

My Ref. No. HE.191/323/01

NOVEMBER 2017

The Director
LGBT Rights Program
Human Right Watch (HRW)
350 Fifth Avenue, 34th Floor
New York, NY 10118-3299

[Attn.: Graeme Reid]

RE – REPORT ON HUMAN RIGHTS SITUATION OF LESBIAN, GAY, BISEXUAL AND TRANSGENDER (LGBT) PEOPLE IN GHANA

I am directed by the Inspector-General of Police to acknowledge receipt of your letter dated 11th October 2017 on the above subject matter and to respectfully submit our response on the following headings:

- a) APPLICATION OF PROVISIONS ON FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS AS CONTAINED IN THE 1992 CONSTITUTION OF GHANA AND OTHER PROVISIONS.

Chapter five of the 1992 Constitution of Ghana christened as Fundamental Human Rights and Freedoms and other human rights provisions are taught to Police Officers at the National Police Training School, Accra and all the other training schools to recruits to apprise them of issues in relation to Fundamental Human Rights and Freedoms. The course is equally taught at the Police Academy to Cadet Officers who subsequently graduate as Senior Police Officers and also to Senior Police Officers at the Ghana Police Command and Staff College (GPCSC) at Winneba. The 1992 Constitution of Ghana guarantees an array of Fundamental Human Rights and Freedoms to all citizens of Ghana. Police Officers are taught to know these human rights, respect them and protect people against violation of their fundamental human rights, and by extension, crime committed against LGBT people. In short, the Police have observed and applied and will continue to apply the provisions on equality, human dignity and non-discrimination as captured in

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the 1992 Constitution and other Regional and International human right treaties that Ghana has ratified in all their interactions and dealings with LGBT people.

Some individual Police Officers have also on their own taken positive initiatives to reduce domestic violence as recognized and acknowledged by HRW in their research findings.

b) COMPLIANCE WITH SOPs, RULES AND REGULATIONS GOVERNING ACTIVITIES OF THE GHANA POLICE SERVICE

The Ghana Police Service has Standard Operating Procedures (SOPs) dubbed the Police Service Instructions (S.I), the Police Service Act 350 of 1970 and the Police Service Regulations, 2012 (C.I.76) that regulate their activities and operations and serve as reference documents for all officers to observe and apply. These SOPs and statutory provisions, have been applied by all Police Officers to all persons including services offered to LGBT victims of crime. Police Officers who fall foul of the SOPs, the Act and the Regulations above mentioned are subjected to Police Service Disciplinary Enquiry Proceedings and those found culpable are punished appropriately to serve as a deterrent to others.

c) POLICE STATIONS AS SAFE ENVIRONMENT FOR LGBT PERSONS TO REPORT CASES.

According to Human Rights Watch, their findings have proved that Gay, Lesbians, Bisexual women and Transgender men (LGBT) have been subjected to domestic violence, sexual assault, intimidation, discrimination because of criminalization of adult consensual same sex conduct between these people. The victims of such crimes fail to report to the Police for fear of exposure and arrest on the footing that the anti-gay law would be used them.

It must be placed on record that Police Stations throughout the country serve as safe environment or haven for LGBT person to report cases of violence, assault and other crimes to the Police for the necessary action. The Police Intelligence and Professional Standard Bureau (PIPS) is a complaint directorate of the Service

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where the public is also at liberty to report Police misconduct like the prosecutor who failed to appear in court as found by HRW and other allied complaints like the extortion the research of HRW showed, to the directorate for investigation and quick Police action.

The Domestic Violence and the Victims Support Unit (DOVVSU) of the Ghana Police Service is doing a lot in this regard by offering protection, guidance and counseling to victims of domestic violence. In some cases, suspects have been arrested on grounds of domestic violence without warrant and prosecuted. The Domestic Violence Act 2007, (Act 732) has been a very useful statutory provision in the process.

The Ghana Police Service emergency hotline 18555 toll free to all networks is also handy for all and especially victims of crimes of LGBT to inform the Police in all such cases for prompt action.

2. Going forward the Police Service will adopt more proactive steps and pragmatic approaches to ensure the protection for LGBT individuals generally
3. Best regards.



F KWAME TSIDI
Assistant Commissioner of Police
Chief Staff Officer

ACHRA

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350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: +1-212-290-4700
Fax: +1-212-726-1200; 017-501-2452

Annex 4: Human Rights Watch letter to the Minister of Justice

Kenneth Roth, Executive Director

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Nicholas Dawes, *Media*
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Bill Frelick, *Refugees' Rights*
Arvind Ganesan, *Business and Human Rights*
Liesl Gerntholtz, *Women's Rights*
Steve Goose, *Arms*
Diederik Lohman, *acting, Health and Human Rights*
Graeme Reid, *Lesbian, Gay, Bisexual, and Transgender Rights*

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Marie Warburg
Catherine Zennström



HRW.org

October 11, 2017

Honorable Minister Gloria Afua Akuffo
Ministry of Justice and Attorney-General's Department

Accra

Tel: [REDACTED]
Fax: [REDACTED]

By email: [REDACTED]

Dear Honorable Minister,

I hope this letter finds you well.

I am writing to present an advance and embargoed draft copy of our report on the human rights situation of lesbian, gay, bisexual and transgender (LGBT) people in Ghana, to be released in early November, in order to provide the Ghanaian government an opportunity to respond to our findings and recommendations. Our established practice is to submit our findings to authorities and institutions whose record is the subject of the report in order for their information and point of view to be reflected in the reports we publish.

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Human Rights Watch conducted in-depth research in Ghana to examine human rights violations on the basis of sexual orientation and gender identity and to assess the impact of section 104(1)(b) of the Criminal Code Act 29, 1960 on the lives of LGBT people. Our research shows that

despite the rare, if any, prosecutions under this provision of the Criminal Code, the criminalization of adult consensual same-sex conduct contributes to a climate in which violence and discrimination against LGBT people is common. This law fuels a social environment in which there is pervasive violence against lesbian, bisexual and gender non-conforming women in the home and LGBT people more generally in communities where they live. Furthermore, this law contributes significantly to a climate of impunity for crimes committed against LGBT people.

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Sincerely yours,



Graeme Reid
Director, LGBT Rights Program

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: +1-212-290-4700
Fax: +1-212-726-1200; 017-501-2452

Annex 5: Human Rights Watch Letter to Human Rights Commission and Administrative Justice

Kenneth Roth, Executive Director

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Makoto Takano
John R. Taylor
Amy Towers
Peter Visser
Marie Warburg
Catherine Zennström

October 11, 2017

Dr. Isaac Annan
Director: Human Rights
Ghana Human Rights Commission
Old Parliament House, High Street
Accra

Tel: [REDACTED]

By email: [REDACTED]

Dear Dr. Annan,

I hope this letter finds you well.

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Sincerely yours,



Graeme Reid
Director, LGBT Rights Program

Annex 6: Terminology Used in Ghana

| | |
|---|---|
| Kojo Besi / Kwadwo Besia Ntowbea | A Twi term which describes a man who does not conform to typical masculinity. Akan terms from Akwapim area, meaning Ntow (boy), bea (feminine or woman). Translation is a term which describes a feminine boy. |
| Nuu-Yoo | Ga term for masculine woman. Literally translated ‘man/woman’. Can be a positive term or derogatory. |
| Yoo-fem | Ga term for ‘doing woman’, a male who is considered woman-like. A non-derogatory term. |
| Nuu-Feem | Ga term for ‘doing man’, a female who is considered man-like. A non-derogatory term. |
| Obarima | Akan for male. |
| Obaa | Akan for female. |
| Supi | A Twi/Ga term to describe same sex relationships between women. May also be used to derogatorily to describe a woman who is seen as masculine. |
| Sasso | A more recent community developed term for ‘gay’ which also may be used to substitute kojo besia. This term means peers in Ga/Twi. A non-derogatory term. |

Source: CEPEHRG & Global Forum on MSM & HIV, *Documentation of LGBTIQ Human Rights Abuses in Ghana: A 2015 Community Led Documentation Project*

“No Choice but to Deny Who I Am”

Violence and Discrimination against LGBT people in Ghana

Ghana has a mixed record in its treatment of lesbian, gay, bisexual and transgender (LGBT) people. Ghanaian officials have publicly supported an end to violence based on sexual orientation and gender identity, but fail to repeal the law that contributes to discrimination. Section 104(1)(b) of its Criminal Offences Act criminalizes “unnatural carnal knowledge.” The law is a colonial legacy that is rarely, if ever, enforced, and unlike several of its neighbors, Ghana has not taken steps in recent years to stiffen penalties against consensual same-sex conduct or to expressly criminalize sexual relations between women. Nevertheless, the inference that Section 104(1)(b) criminalizes adult consensual same-sex conduct contributes to a climate in which LGBT people are very frequently victims of violence, extortion and discrimination in many different aspects of daily life, because of their sexual orientation or gender identity.

Based on 114 interviews with LGBT people in Accra, Tamale, Kumasi, and Cape Coast, *“No Choice but to Deny Who I Am”* found that section 104(1)(b) fuels violence against lesbian, bisexual and gender non-conforming women in the home and LGBT people more generally in communities where they live. The report also found that, homophobic statements by local and national government officials, local traditional elders, and senior religious leaders foment homophobia and in some cases, incite violence.

Human Rights Watch calls on the Parliament of Ghana to repeal Section 104(1)(b), and on the government of Ghana to adopt measures to monitor and report on hate speech and to protect LGBT persons from all forms of discrimination, intimidation and violence. Ghanaian authorities should also engage in a constructive dialogue with the LGBT population to better understand its needs – with a particular focus on addressing the intersecting forms of discrimination that affect lesbian and bisexual women -- and ensure that the necessary legislative and policy measures are taken to ensure their safety, dignity, and equality.



*A young lesbian woman at an LGBT community center in Accra, Ghana.
2017 Human Rights Watch*