



Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Ghana: A Shadow Report

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Submitted by:

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I. Introduction

This shadow report is submitted to the Human Rights Committee (“Committee”) by Solace Brothers Foundation,¹ The Initiative for Equal Rights (TIERs)², the Center for International Human Rights of Northwestern University School of Law, and the Global Initiative for Sexuality and Human Rights (“GISHR”) of Heartland Alliance for Human Needs & Human Rights, in anticipation of the Committee’s adoption at its 115th Session of the List of Issues for the periodic review of the Republic of Ghana’s compliance with the International Covenant on Civil and Political Rights (“Covenant”).³

The purpose of this report is to direct the Committee’s attention to serious and ongoing violations of the Covenant rights of lesbian, gay, bisexual, and transgender (“LGBT”) individuals by the Republic of Ghana. In particular, this report will focus on the following violations:

- Criminalization of same-sex sexual conduct and the resulting arbitrary arrests and detentions, in violation of Articles 2(1), 9, 17, and 26 of the Covenant;
- Violent attacks motivated by the victim’s real or perceived sexual orientation and a pervasive climate of homophobia, in violation of Articles 2(1), 7, 9, 17, and 26 of the Covenant; and
- Suppression of freedom of expression, assembly, and association in violation of Articles 19(2), 21, and 22 of the Covenant.

This report will discuss these violations and will propose for the Committee’s consideration issues pertinent to them. We respectfully ask the Committee to consider these violations and to include the suggested issues in the List of Issues for the upcoming periodic review of Ghana’s compliance with its Covenant obligations.

¹ Solace Brothers Foundation is a Ghanaian NGO that, since its founding in 2012, has worked to advance human rights and sexual reproductive health rights for LGBT persons in Ghana.

² The Initiative for Equal Rights (TIERs) is an African NGO that envisions a society where human rights are guaranteed regardless of sexual orientation, gender identity and expression. TIERs works to achieve this through education, empowerment and advocacy.

³ International Covenant on Civil and Rights, 16 Dec. 1966, 999 U.N.T.S. 171 *available at* <https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf> [hereinafter *Covenant*].

II. Laws Criminalizing Same-Sex Sexual Conduct, Leading to Arbitrary Arrests and Detentions

Under the 1960 Ghanaian Criminal Code, same-sex sexual conduct is a criminal offence. This law is used to threaten, arrest and punish individuals for engaging in same-sex sexual conduct.

Chapter 6 Section 104 of Ghana's Criminal Code states:

- “(1) Whoever has unnatural carnal knowledge –
 - (a) 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; or
 - (b) of any person of sixteen years or over with his consent is guilty of a misdemeanor; or
 - (c) of any animal is guilty of a misdemeanor.
- (2) Unnatural carnal knowledge is sexual intercourse with a person in an unnatural manner or with an animal.”⁴

Subsection (1)(b) of Section 104 of Ghana's Criminal Code criminalizes consensual “unnatural carnal knowledge.” Because “unnatural carnal knowledge” is used to refer to same-sex sexual conduct, the criminalization of such conduct singles out and discriminates against individuals based on their sexual orientation.

Articles 2(1) and 26 of the Covenant require all States Parties to respect and ensure non-discrimination and equality under the law. Any discrimination based upon attributes such as race, color, sex and “other status” is prohibited. This Committee has previously recognized that the Covenant's guarantee of non-discrimination and equal protection of the law prohibit discrimination on the basis of sexual orientation and gender identity.⁵

Article 17 Section 1 of the Covenant states that “no one shall be subjected to arbitrary or unlawful interference with his privacy, home or correspondence, nor to unlawful attacks on his honour and reputation.”⁶ Section 2 goes on to specify: “Everyone has the right to the protection of the law against such interference or attacks.”⁷

Section 104(1)(b) of Ghana's Criminal Code violates these articles of the Covenant. By criminalizing same-sex sexual conduct, it singles out and discriminates against individuals based on their sexual orientation, and it violates the privacy, honour and reputation of the affected individuals.

⁴ Criminal Code Act 29 (1960) Ch. (6) § 104 (Ghana).

⁵ See, e.g., *Toonen v. Australia*, Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1991, ¶ 8.7 (1994).

⁶ *Covenant*, *supra* note 3, art. 17(1).

⁷ *Id.* at art. 17(2).

Article 9(1) of the Covenant affirms that everyone has the right to liberty and that “[n]o one shall be subjected to arbitrary arrest or detention.”⁸ Article 9(1) is violated when individuals are arrested or detained for engaging in consensual same-sex sexual conduct.

Individuals in Ghana are often arrested on the basis of conduct relating to their sexual orientation, even though their actions are not violating other Ghanaian laws. These arrests discriminate on the basis of sexual orientation and violate the prohibitions against arbitrary arrests and unlawful attacks upon privacy, honour and reputation.⁹ Some examples include the following:

In November 2007, a British citizen, John Ross Macleod, was charged with “unnatural carnal knowledge” and “possessing obscene images” because, during a search, police found a CD filled with images of the photographer engaged in sexual intercourse with a 19-year-old Ghanaian man.¹⁰ He was asked to choose between “a six-month jail term” and “a fine of about £320.”¹¹ After being unable to pay a £2,500 bail surety, Macleod was remanded into custody, although he denied the charge of possessing obscene images.¹²

On Easter Sunday in 2011, a gay couple were married in Kumasi, Ghana.¹³ Subsequently, they were then banished from the town by the Tafohene (a local leader), Nana Agyin Frimpong II, who was infuriated when he heard of the “abominable act.”¹⁴ The couple had “allegedly disappeared on a honeymoon” when the story was reported.¹⁵

In July 2011, the Minister of Ghana’s Western Region Minister ordered law enforcement to arrest “all gay men and lesbians in the west of the country, and called on landlords and tenants to report anyone they suspected of being gay or lesbian.”¹⁶ Usually gay men will face sexual and physical abuse if imprisoned.¹⁷

⁸ *Id.* at art. 9(1)

⁹ Freedom House, *Freedom in the World 2013: Ghana* (May 23, 2013), available at <http://freedomhouse.org/report/freedom-world/2013/ghana>; see also United Kingdom Home Office, Operational Guidance Note: Ghana, (Nov. 12, 2013) (guidance for purposes of asylum decisions), available at <http://www.refworld.org/pdfid/528370ed4.pdf> [hereinafter UK Operational Guidance Note: Ghana].

¹⁰ Alexandra Topping, *Briton Charged Over Gay Sex in Ghana*, THE GUARDIAN (Nov. 7, 2007), available at <http://www.theguardian.com/uk/2007/nov/07/world.gayrights>; see also Australia Refugee Review Tribunal: Ghana April 9, 2008, Research Response Number: GHA33179, Question 3, available at http://www.justice.gov/eoir/vll/country/australian_refugee_review_tribunal/ghana/homosexuals-2006%20gay%20and%20lesbian%20conference.pdf.

¹¹ *Id.*

¹² *Id.*

¹³ *Gay Couple Wed in Kumasi, Ghana*, GLOBAL GAYS (Apr. 28, 2011), available at <http://archive.globalgayz.com/africa/ghana/gay-ghana-andreports-2011/#article2>.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ UK Operational Guidance Note: Ghana, *supra* note 9. See also Amnesty International, *Ghana: Human Rights Shortcomings in Law and in Practice*, Amnesty International Submission to UN Universal Periodic Review, Oct.-Nov. 2012, Human Rights Situation on the Ground, Human Rights of Lesbian, Gay, Bisexual, and Transgender People (Apr. 1, 2012), available at <https://www.amnesty.org/download/Documents/16000/afr280032012en.pdf>.

¹⁷ US State Department, Country Reports on Human Rights Practices 2012: Ghana (Apr. 19, 2013), available at <http://www.state.gov/h/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dldid204126> [hereinafter US State Department Report]; see also UK Operational Guidance Note: Ghana, *supra* note 9.

III. Violence Based on Real or Perceived Sexual Orientation and Gender Identity

Physical attacks against LGBT individuals in Ghana violate rights protected by Articles 7 and 9 of the Covenant. Article 7 protects against torture and cruel, inhuman or degrading treatment. Article 9 ensures security of person. Ghana's Covenant obligation is to ensure the protection of these rights by promoting compliance and preventing, investigating, prosecuting, punishing, and remedying violations. Ghana has not complied with these obligations.

Amnesty International and the NGO Freedom House reported in 2013 that violence against the LGBT community was prevalent¹⁸ and that "the persecution of sexual minorities has escalated."¹⁹ Examples of violent physical attacks against LGBT individuals in Ghana are as follows.

A young man named Maiga Larry and his family were the target of violence after Mr. Larry was accused of introducing teenagers in the community to homosexuality.²⁰ As a result, the people of Libya Quarters at Madina Zongo in Accra²¹ began hunting him. Malam Shaibu, an Islamic cleric at Madina Zongo, said "we shall burn Maiga to death" because "Islam abhors homosexuality."²² Shehu Munkaila Iddrisu, who led the manhunt, told Daily Guide "[w]e shall burn or bury him alive to serve as a deterrent to others who may entertain any thoughts of engaging in homosexuality."²³ The group set fire to a motorbike that allegedly belonged to Maiga and severely beat his family members, including his parents, Salamatu and Nurudeen Larry.²⁴

Mac-Darling Cobbinah, the founder and director of the Ghanaian LGBT rights organization Centre for Popular Education and Human Rights - Ghana ("CEPEHRG"),²⁵ has received repeated threats from individuals and groups in Ghana. According to Mr. Cobbinah, in 2006, "[during] the media hype of the gay conference [in Ghana], there was a threat on our office vehicle . . . The threat stated, 'burn you up' and this forced me to be transported to a nearby country . . ."²⁶ Mr. Cobbinah also received threats from his neighbors when he lived in a part of Accra known as Teshie.²⁷ The police were asked to intervene in this situation but the pleas "proved futile."²⁸ As a result, he moved to another location near the military camp. One day,

¹⁸ Amnesty International, Annual Report 2013: Ghana (May 23, 2013), *available at* <https://www.amnesty.org/en/region/ghana/report-2013>; *see also* UK Operational Guidance Note: Ghana, *supra* note 9.

¹⁹ Freedom House, Countries at Crossroads: Ghana (Sept. 20, 2012), *available at* http://www.freedomhouse.org/report/countries-crossroads/2012/ghana#_edn2; *see also* UK Operational Guidance Note: Ghana, *supra* note 9.

²⁰ *Manhunt for Gay Muslim*, DAILY GUIDE (Dec. 18, 2014), *available at* <http://www.dailyguideghana.com/manhunt-for-gay-muslim/>.

²¹ Libya Quarters is an apartment complex at the junction in Madina, Accra commonly referred to as "Zongo."

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ CEPEHRG is the first Ghanaian-led LGBT rights organization founded in Ghana. *Ghana's LGBT Struggle: Death Threats, Stigma, and Hope for Change*, LE GLOBALISTE (Dec. 19, 2012), *available at* <http://www.leglobaliste.com/2012/12/19/ghanas-lgbt-struggle-death-threats-stigmas-and-hope-for-change/>.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

when Mr. Cobbinah was on his way home from lectures, he “was almost hit by multiple cars.”²⁹ The drivers and passengers “rained insults on me and promised to kill me the next time they saw me.”³⁰ He also mentioned that he has received “several death threats on [the] phone and also through text messages” because of his work.³¹

On March 11, 2012, a group of young men from the Ga-Mashie Youth for Change, armed with “canes, cutlasses, stones, and broken bottles,” attacked a birthday party in the Jamestown neighborhood of Accra celebrating the birthday of a woman who is a lesbian. The attackers claimed that the party was really a wedding between two women. According to a witness who went by the alias “Hillary,” the attackers beat some of the women at the party, stripped them naked, and stole their phones and money.³² The attack was reported to the police but the police did nothing to protect them; the only individuals arrested were some of those attending the party.³³ The LGBT community in Jamestown was under threat for several days and some community members had to go into hiding because the police were looking for them, but not one of the attackers was ever arrested or investigated.³⁴

In 2013, the NGO African Men for Sexual Health and Rights (“AMSHer”) reported that a group of boys in the Lapaz neighborhood of Accra violently attacked numerous people in the rented apartments in that neighborhood, due to the sexual orientation of the victims.³⁵

On March 4, 2015, a group of women suspected of being lesbians were “shit-bombed and pelted with stones” during a party.³⁶ Their attackers were a group of youths from the area where the attack occurred. These attackers suspected the party was an engagement ceremony for two of the women present. One anonymous victim recalled: “They threw stones and [feces] at us, but I don’t understand their anger, isn’t [it] the right of the individual to decide what they want to do with themselves?”³⁷ Nevertheless, the attackers have vowed to continue the attacks “until homosexuality is completely eliminated from the area.” So far, “scores” of lesbians in the area have been attacked.³⁸

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² Jonathan Migneault, *Clash Over Gay Rights in Accra*, Journalists for Human Rights (Mar. 26, 2012), <http://www.jhr.ca/blog/2012/03/clash-over-gay-rights-in-accra/>. See also Prince Kweku, *Report: Socio-Political Situation of LGBT people in Ghana, 2013*, African Men for Sexual Health and Rights [AMSHer] (Mar. 14, 2014) [hereinafter AMSHer Report].

³³ AMSHer Report, *supra* note 32; Interviews with participants by Stefano Fabeni, Executive Director, Global Initiative for Sexuality and Human Rights of Heartland Alliance.

³⁴ *Id.*

³⁵ AMSHer Report, *supra* note 32.

³⁶ Emmanuel Torny, *Lesbians Shit-Bombed And Stoned*, PULSE (Mar. 3, 2015), available at <http://pulse.com.gh/news/cruelty-lesbians-shit-bombed-and-stoned-id3538287.html>.

³⁷ *Id.*

³⁸ *Id.*

IV. Climate of Homophobia

A. General prevalence of homophobia

Homophobia is very common in Ghana, and transphobia would likely be as well but for the fact that the social climate is so bad that transgender individuals keep their gender identity hidden. LGBT individuals and their supporters are targets of homophobia. Disdain and resentment against the LGBT community have grown in recent years and often lead to the violence discussed in Section III.³⁹ Examples of the homophobic environment in Ghana include the following:

Patrick Williams, a 21-year-old Ghanaian, did not dare tell anyone that he is gay even though he knew since he was 13 years old. When his mother found out from his schoolmate that he was gay, “she packed his bags and threw him out of the house, disowning her son for what she saw as an evil act.”⁴⁰ His mother told him “because of what he chose to be, he was no longer her son.”⁴¹

On August 28, 2010, the online Ghanaian news source, *The Mirror*, published an article entitled “Homosexuality is deviant behaviour,” which stated that homosexuals “need therapy” and are “dangerous armed gangs who demand freedom to operate but cannot be given space at all.”⁴² The article continues to urge Ghanaians not to look to European or American tolerance of homosexuality and instead to consider homosexuality a “deviant behavior.” Also, the author, like most others in Ghana, finds same-sex marriage to be “immoral, selfish, and unacceptable.”⁴³

B. Homophobic Statements and Promotion of Criminalizing Same-Sex Sexual Conduct by Public Officials and Religious Leaders

Homophobic statements and public support of the criminalization of same-sex sexual conduct by public officials and religious leaders serve to perpetuate societal prejudices against LGBT individuals and even encourage more hate speech, hate crimes, and discrimination by both state and non-state actors. Homophobia and the promotion of criminalizing same-sex sexual conduct violate Articles 2(1) and 26 of the Covenant (equality and non-discrimination). Examples of homophobic statements by public officials and religious leaders include the following:

A report by African Men for Sexual Health and Rights (“AMSHer”) notes that “[t]he involvement of religious leaders in promoting hate and homophobia within the society as well as in the media recently has also incited people to attack known LGBT people in their homes and meeting places.”⁴⁴ Church leaders have also “mounted pressure on government to pass a law to

³⁹ UK Operational Guidance Note: Ghana, *supra* note 9.

⁴⁰ Orla Ryan, *Ghana’s Secret Gay Community*, BBC NEWS (Mar. 14, 2007), available at <http://news.bbc.co.uk/2/hi/africa/6445337.stm>.

⁴¹ *Id.*

⁴² Mike T. Nagumo, *Homosexuality is Deviant Behaviour*, THE MIRROR, Aug. 28, 2010.

⁴³ *Id.*

⁴⁴ AMSHer Report, *supra* note 32.

criminalize same-sex marriage even though there is an existing law that criminalizes certain same-sex activities.”⁴⁵

On July 18, 2011, the General Secretary of the Christian Council of Ghana (“CCG”), Reverend Fred Deegbe, directed churches to “treat homosexuality with the contempt it deserves.”⁴⁶ The CCG also called on church members to “boldly condemn” any political party that would take a position supporting homosexuality. Reverend Deegbe, who believes that any group encouraging acts of homosexuality is violating the Christian doctrine, said “the council would protest any attempt by government to legalise the practice...and make sure the regime is removed from office.”⁴⁷ Reverend Emmanuel Martey, also a member of the CCG, said the increase of sexually transmitted diseases was due to homosexuality and he urged the government to end the “mayhem.”⁴⁸

In November 2011, then-President John Evans Atta Mills opposed legalizing same-sex relations.⁴⁹ In a response to Britain’s warning that it would cancel foreign aid to Ghana if same-sex conduct continues to be criminalized, he stated:

No one can deny Prime Minister Cameron his right to make policies, take initiatives, or make statements that reflect his societal norms and ideals but he does not have the right to direct other sovereign nations as to what they should do especially where their societal norms and ideals are different from those which exist in Prime Minister [Cameron’s] society...I as president of this nation will never initiate or support any attempt to legalize homosexuality in Ghana...Ghana will continue to operate within its constitution regardless of any threats from any country..⁵⁰

Similarly, during an African Union summit held in February 2012, then-President Mills stated that “Ghanaian society frowns on homosexuality, if the people’s interest is that we do not legalize homosexuality, I don’t see how any responsible leader can decide to go against the wishes of his people.”⁵¹

⁴⁵ AMSHeR Report, *supra* note 32.

⁴⁶ Bernard Bengan & Christabel Akoto Manu, *Xtian Council Declares Stand on Homosexuals*, GHANAIAAN TIMES, July 19, 2011. The Ghanaian Times is a government owned local newspaper in Accra, Ghana.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Ghana’s President Slams David Cameron: you cant’s threaten us with gay aid!* VIBEGHANA.COM (Nov. 2, 2011), available at <http://vibeghana.com/2011/11/02/ghanas-president-slams-david-cameron-you-cant-threaten-us-with-gay-aid/>.

⁵¹ Dan Littauer, *Ghana Supreme Court to Rule on Gay Rights*, GAY STAR NEWS (July 21, 2012), available at <http://www.gaystarnews.com/article/ghana-government-rule-gay-rights210712>.

Uproar ensued when, in July 2012, Ghana's Constitution Review Commission recommended that Ghana's Supreme Court decide on "whether the country should legalize same-sex acts."⁵² "Over 98% of the submissions were received by the commission against LGBT rights."⁵³ Tribal leaders, government officials and even members of the Commission openly criticized the suggestion, calling homosexuality "un-African" and "morally repugnant."⁵⁴

In February 2013, the current President of Ghana, John Dramani Mahama, also distanced himself from LGBT rights activists, saying, "Homosexual conduct which is unnatural carnal knowledge of one person or another is criminal and punishable by the laws of Ghana."⁵⁵

V. Violations of the Right to Freedom of Expression, Assembly, and Association

Articles 19(2), 21, and 22 of the Covenant protect the freedom to express ideas and impart information, the freedom to peacefully assemble, and the freedom to associate with others.⁵⁶ In Ghana, LGBT individuals and LGBT rights advocates are subject to violent attacks and hostility. The following incidents are examples of how the freedoms of expression, assembly, and association have been abridged:

In April 2013, Opoku Ware Secondary High School and Wesley Girls Senior High School expelled and dismissed students for homosexuality. Nineteen students from Opoku Ware in Ashanti Region were expelled for practicing and allegedly recruiting students to practice same-sex acts. Later on, 43 girls were dismissed from Wesley in Kumasi for engaging in "lesbianism."⁵⁷

The LGBT community is not alone in facing violent aggression. LGBT-rights advocates and educators who teach about sexual health are met with similar hostility.⁵⁸ For example, in May 2012, a group of schoolboys from the Volta Region assaulted an educator from an NGO who was on his way to teach a workshop on sexual health.⁵⁹ He was carrying educational materials about safe sex, such as condoms and pamphlets, when he was attacked.⁶⁰ Instead of charging the group of boys who were guilty of the attack, the police detained the educator.⁶¹

⁵² *Id.*

⁵³ Survey conducted by CRC (created in Jan. 2010) regarding the review of the 1992 constitution.

⁵⁴ *Id.*

⁵⁵ AMSHeR Report, *supra* note 32; *President Mahama speaks: Homosexuality is Criminal*, GHANA WEB (Feb. 1, 2013), available at <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=263862>.

⁵⁶ *Covenant*, *supra* note 3 at arts. 19(2), 21, 22.

⁵⁷ US State Department Report, *supra* note 17.

⁵⁸ UK Operational Guidance Note: Ghana, *supra* note 9.

⁵⁹ US State Department Report, *supra* note 17; see also UK Operational Guidance Note: Ghana, *supra* note 9.

⁶⁰ UK Operational Guidance Note: Ghana, *supra* note 9.

⁶¹ *Id.*

VI. Proposed Issues to be Included in the List of Issues for Ghana

1. What measures will Ghana take to ensure that LGBT individuals receive the same protection of the laws as everyone else? In particular, when will Ghana repeal the provision of its Criminal Code that criminalizes same-sex sexual conduct?
2. What steps will Ghana take to reduce the climate of homophobia and to prevent violent attacks on LGBTI individuals? When such attacks do occur, what additional steps will Ghana take to ensure that the perpetrators are brought to justice and that the victims have adequate remedies?
3. What measures will Ghana take to protect everyone's right to freedom of expression, assembly, and association?