



SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES AND RECOMMENDATIONS MADE

Civil society identified five key issues relating to the protection of persons based on lived and perceived SOGIESC, leading up to Ghana's 3rd UPR cycle in November 2017. These issues were: the ambiguity of the law; invasion of privacy; deprivation of education; violence carried out by vigilante groups with impunity and; the asymmetrical application of the laws. Ghana received 19 recommendations to address these issues raised compared to the 12 recommendations it received during the second cycle. Those that it accepted were as follows.

- 146.59 Take the steps necessary to protect lesbian, gay, bisexual, transgender and intersex persons from violence and discrimination on the basis of their sexual orientation and gender identity (Ireland)
- 146.60 Ensure that victims of discrimination and violence based on sexual orientation and gender identity have access to rehabilitation and remedy and that all perpetrators are punished (Czechia)
- 146.61 Take measures to fight against violence and discrimination based on sexual orientation and gender identity (Italy)
- 147.2 Continue strengthening the application of the discrimination reporting system, which protects the rights of people because of their sexual orientation and gender identity, and ensure that the education system guidelines prevent discrimination against students (Colombia)

Regrettably, Ghana noted 16 recommendations. These recommendations can be summarised as follows.

- Repealing existing discriminatory law(s) while, adopting, strengthening and/or implementing laws that protect LGBTI persons from violence and/or discrimination (147.1, 147.10, 147.12, 147.27, 147.29, 147.30, 147.32, 147.34, 147.36, 147.8, 147.9,)
- Funding campaigns and raising public awareness to fight discrimination and promote universal access to public services (147.22, 147.38,
- Producing national guidelines to prevent discrimination and violence in schools and universities (147.26)
- Ensuring accountability for crimes motivated by SOGI (147.40)

Ghana failed to translate any of the voluntary commitments it made during the second and third cycles into sustainable policy initiatives. Instead, it regressed on protecting the human rights of persons made vulnerable due to lived or perceived SOGIESC.

NATIONAL FRAMEWORK

Whereas for the first three cycles Ghana had been reluctant to address human rights abuses based on SOGIESC, for the fourth cycle, Ghana will be under review in light of having ramped up hostility. It accepted two recommendations in the second cycle and four in the third. Despite this, none of the accepted recommendations have been turned into concrete policy changes. During the third cycle, Ghana pointed to the establishment of the "Discrimination Reporting System" monitored by its Commission on Human Rights & Administrative Justice (CHRAJ) as evidence of making incremental strides toward addressing violence and discrimination. However, not long thereafter, state authorities even removed the discrimination reporting system at the height of a media firestorm against LGBTI persons in 2021. They recently reinstated it leading up to this cycle of the UPR. However, this time, they removed any mention of SOGI. Furthermore, the Parliament is discussing draft legislation that seeks to explicitly criminalise LGBTI identities, advocacy, support and affirming education. Ever since its introduction in June 2021, Ghana has seen heightened vindicated national hostility in the public discourse towards LGBTI persons and allies. The media has been at liberty to spread the identities of, and misinformation about, LGBTI persons with no repercussions. Additionally, we've seen mass arbitrary detentions carried out by state officials. We are inundated by reports of vigilante attacks and kidnapping by members of the public at large, victims of whom have few avenues for redress.

This intensified climate of homophobia and discriminatory application of laws to target sexual and gender minorities violates Articles 2(1), 9, 17, 25(1) and 26 of the ICCPR; Sections 14(1) and 17(2) of Chapter Five of the Constitution of Ghana. It also violates the spirit of ACHPR/Res.275(LV)2014: "[Resolution on Protection against Violence and other Human Rights Violations against Persons based on their real or imputed Sexual Orientation or Gender Identity.](#)"

Discriminatory application of national laws

Section 104 of Ghana's Criminal Offences Act (Act 29) is routinely used as justification for the incitement of harassment as well as state-sanctioned attacks based on lived or perceived SOGIESC. The legal provision is vaguely written and does not specify what 'unnatural carnal knowledge' (penetrative sex) entails. Natural carnal knowledge was interpreted in the Supreme Court case of *Banuosin v The Republic* in March 2014 as the penetration of the "vulva" or "vagina"(pp.23). Penetration of any other orifice is therefore implicitly sanctionable under this law and includes persons of the opposite sex. The law has no specific bearing on minority SOGIESC exclusively but is cited by the media, politicians, members of the Ghana police services and even the judiciary to justify targeting LGBTI persons.

Since 2021, we have seen increased use of the Unlawful Assembly clause (Section 201-202) to arrest LGBTI persons. In such cases, there are few opportunities for appeal and legal redress for ensuing damages. This was first and most infamously used in [Ho to target 21 LBO women and trans/ inter sex advocates](#). In May 2021, they were arrested when attending a human rights conference. They were detained for several weeks. Though they were released on bail and charges were later dropped, they were not compensated for the violence many faced in jail from security personnel, nor for the subsequent harm, this caused their reputation and their livelihoods. That same year, [state authorities had arrested 22 persons in Kwahu](#) for attending an alleged lesbian wedding; five men were also beaten by an angry mob in Chogu, only to be arrested and charged with unnatural carnal knowledge. In 2022, three policemen and five men violently stormed a party in Gbawe attended by LGBTI persons. The police participated in the beatings and then stood by as the men robbed the attendees. [Police subsequently arrested 30 of the attendees who couldn't escape](#) the ambush, and charged them with 'unlawful assembly'.

'Family values' private member's bill

In June 2021, [eight parliamentarians presented](#) the draft "Promotion of Proper Sexual Rights and Ghanaian Family Values" bill. If made law, it will criminalise LGBTI identities, advocacy, support and affirming education. It also sets out to institutionalize conversion therapy, has an extradition clause for persons charged under it, and once passed will make it illegal to attempt to change it. Following its introduction in Parliament, there has been a surge in violent attacks, housing discrimination and the denial of basic health and social services directed towards persons based on their perceived or imputed SOGIESC. It has worsened the political and social climate for LGBTI persons, normalizing homophobic vitriol in the media space. It has also made it increasingly difficult for community-based organisations that provide SRHR-related services to operate in the country.

RECOMMENDATIONS

1. Take measures to ensure the implementation of all voluntary commitments made in the second and third cycles of the UPR.
2. Protect LGBTI persons from violence and discrimination, by enforcing existing laws that protect all persons without distinctions; punishing perpetrators and ensuring victims have proper access to rehabilitation and remedy.
3. Repeal section 104 (1)(b) of the Criminal Offences Act 1960 (Act 29) and replace it with laws that protect all persons from violence, discrimination and stigma based on real or perceived SOGIESC.
4. Reject the "Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill".
5. Institutionalise training all staff in the Ghanaian Police Service to understand the specific needs of LGBTI persons, equipping the police with adequate tools, professionalism, and knowledge of international and national human rights legal frameworks that they must abide by.
6. Ensure that sexual relations between consenting adults of the same sex are not punishable by law.
7. Take the steps necessary to protect LGBTI persons from violence and discrimination on the basis of their sexual orientation and gender identity.



This report is submitted for the fourth cycle of the UPR by Solace Initiative, Rightify Ghana, LGBT+ Rights Ghana, CEPEHRG, One Love Sisters Ghana, Courageous Sisters Ghana, Hope Alliance Foundation, OHF Initiative, PORSH, SAME, Glorious Interfaith Initiative, Interfaith Diversity Network of West Africa, Alliance for Dynamics Initiative, Key Watch Ghana, Sisters of the Heart, Resilience Sisters Ghana, Youth Alliance for Equality Foundation and Queer Ghana Education Fund.

