

UPR Pre-session on Ghana

Geneva, 29th November, 2022

Delivered by: A Cluster of LGBTQIA+ led CSOs - Ghana

ISSUES ADDRESSED

1. Discrimination and arbitrary arrests
2. Criminalization and violence against
LGBTQI+ persons

CONTEXT

- TOTAL RECOMMENDATIONS – 260
 - SUPPORTED RECOMMENDATIONS – 229 (88%)
 - NOTED RECOMMENDATIONS – 31 (12%)
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- TOTAL RECOMMENDATIONS BASED ON SOGI – 20 (8%)
 - SUPPORTED RECOMMENDATIONS BASED ON SOGI – 4 (2%)
 - NOTED RECOMMENDATIONS BASED ON SOGIE – 16 (52%)

DISCRIMINATION AND ARBITRARY ARRESTS

The four supported recommendations relating to SOGI from Cycle 3 focused on protection of the LGBTQ+ community from discrimination and violence.

1. Colombia 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

DISCRIMINATION AND ARBITRARY ARRESTS

2. Czechia 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.

3. Ireland 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

DISCRIMINATION AND ARBITRARY ARRESTS

4. Italy 146.61

Take measures to fight against violence and discrimination based on sexual orientation and gender identity

RECOMMENDATIONS

- Redouble efforts to ensure full implementation of previously accepted UPR recommendations, in particular fighting discrimination and violence based on SOGI
- adapt the National Gender Policy and complementary subnational action plans to eradicate discrimination motivated by SOGI as part of efforts to leave no one behind in the fight to end gender-based violence

CRIMINALIZATION AND VIOLENCE

Section 104 (1) (b) and (2) in Ghana's Criminal Offences Act

“(1) Whoever has unnatural carnal knowledge—

(b) of any person of sixteen years or over with his consent is guilty of a misdemeanour

(2) Unnatural carnal knowledge is sexual intercourse with a person in an unnatural manner or

with an animal.”

CRIMINALIZATION AND VIOLENCE

During the 3rd UPR cycle 10 of the 16 noted recommendations on SOGI were on decriminalization of consensual same-sex relations.

Greece 147.10

Eliminate the type of crime of “unnatural carnal knowledge” and adopt measures to eradicate discrimination motivated by sexual orientation and gender identity

Honduras 147.12

Decriminalize same-sex sexual relations and adopt measures to put an end to discrimination and violence against lesbian, gay, bisexual, transgender and intersex persons

CRIMINALIZATION AND VIOLENCE

Germany 147.9

Decriminalize same-sex sexual relations between consenting adults by repealing section 104 (1) (b) of the Criminal Code and introduce comprehensive anti-discrimination legislation to provide equal protection against discrimination for all persons and on all grounds

Argentina 147.34

Consider amending legislation that penalizes consensual same-sex relations between adults in order to guarantee the rights of the lesbian, gay, bisexual, transgender, and intersex community, among others

CRIMINALIZATION AND VIOLENCE

“Promotion of Proper
Human Sexual Rights and
Ghanaian Family Values Bill,
2021”

CRIMINALIZATION AND VIOLENCE

“The cornerstone of fundamental human rights under the constitution is articles 12(2), 17(1) and 21(1) (a), (b) and (e), which respectively guarantee equality before the law, the prohibition of all forms of discrimination and freedom of expression, thought, conscience and belief, and association respectively” – Godfred Yeboah Dame, Attorney-General and Minister for Justice (Ghana)

CRIMINALIZATION AND VIOLENCE

A group of 9 Independent Special Procedures mandate holders of the United Nations issued a statement, expressing their concern about the draft private members' bill and stating that the bill is a “recipe for violence” and when presenting their analysis of the bill to the Ghanaian Government they concluded “that adopting the legislation in its current or any partial form would be tantamount to a violation of a number of human rights standards/.../”.

RECOMMENDATIONS

- must take steps to repeal Section 104(1)(b) of the criminal offences Act by 2030 to leave no one behind
- must take into account Ghana's international obligations under the international human rights treaties it has ratified protecting a number of rights – such as right to equality, freedom of expression, freedom from torture – that would be jeopardized by the current bill.

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