

STATEMENT

UPR Pre-session on Ghana

Geneva, 29th November, 2022

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

Mrs. Chair and colleagues at the table, Distinguished delegates, especially the delegation of Ghana, Representatives from UN agencies and colleagues from Civil Society, thank you for the opportunity to take the floor today.

This statement is delivered on behalf of a cluster of LGBTQIA+ led CSOs in Ghana.

In this statement, I will focus on the human rights situation for the LGBTQIA+ people in Ghana. Two main issues will be addressed: 1) Discrimination and arbitrary arrests; 2) Criminalization and violence against LGBTQIA+ persons

For context, more than half of the noted recommendations by the government of Ghana during the 3rd UPR cycle in 2017 were on SOGI demonstrating that this is a sensitive issue in Ghana.

1). Discrimination and Violence

The government of Ghana has ratified the International Covenant on Civil and Political Rights and the constitution provisions are applied in line with the convention

In this vein, the only four SOGI-related recommendations supported by Ghana during the 3rd cycle of the UPR focused on protection of the LGBTQ+ community from discrimination and violence. However, we see that these challenges remain.

For example, after the third UPR cycle the CHRAJ sigma and discrimination reporting system included SOGI as a ground for discrimination. Unfortunately, SOGI has since then been removed from reporting system and as of this morning it was still not possible to report incidents of discrimination based on SOGI.

We have also seen push back on the right of association. For example, on the 21st of May, 2021, 21 LGBTQIA+ activists were arrested and detained for 22 days. They were charged with the crime of unlawful assembly and denied bail three times by the Courts.

Another significant example is the involvement of the Police in shutting down the first and only LGBTQIA+ community centre in February 2021. The centre which was to serve as a social service delivery centre for the LGBTQIA+ community and was in no

way violating any laws in Ghana. The closure of the centre raises concerns of Ghanaians freedom of association as guaranteed under the constitution.

This is demonstrative of wider concerns with regards to the protection of the rights of LGBTQIA+ persons and so we recommend the Government should:

- 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

2). Criminalization and violence

Chapter 5 of Ghana's constitution safeguards the fundamental human rights of every person in Ghana. However, the presence of the "unnatural carnal knowledge" in the criminal offences act from 1960 is used to criminalize same sex relations between consenting adults and has been used to discriminate against LGBTQIA+ people.

Since the third UPR cycle, the situation has deteriorated in Ghana and in 2021 some members of Ghana's parliament introduced a private members' bill titled "Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill, 2021".

Clause 6 of this bill seeks to explicitly criminalise same sex intercourse but also aim to criminalise persons who identify as LGBTQIA+ meaning that the bill, as it is stated now, intends to criminalise identity and not only conduct. The bill is problematic in many ways no less than the Attorney General of Ghana in a recent opinion states some parts of the bill is unconstitutional and other parts unapplicable. This is why the only practical effect of this bill if passed would be to fuel even more discrimination and violence against an already vulnerable group.

To be clear, there is no way this bill can be implemented without violating fundamental human rights and as concluded by a group of 9 Independent Special Procedures mandate holders of the United Nations "adopting the legislation in its current or any partial form would be tantamount to a violation of a number of human rights standards/.../".

In view of this, we hope that the Government continue to safeguard all Ghanaians longstanding constitutional rights and we endorse the UNs recommendation that the government of Ghana:

- 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.
- must take steps to repeal Section 104(1)(b) of the criminal offences Act by 2030 to leave no one behind

In conclusion, and based on the information previously provided, we would respectfully encourage all member states to consider to put forward the previously mentioned recommendations to Ghana during its upcoming review

Thanks again to UPR-Info for giving us the floor today, and on behalf of the LGBTQIA+ led CSOs in Ghana, I would like to thank all delegations attending, in particular to the Ghanaian Delegation, and to the public. We remain at your disposal for your questions and requests on the topics discussed.