

# FACTSHEET – UPR 2017, GHANA

3rd CYCLE UNIVERSAL PERIODIC REVIEW

## SEXUAL ORIENTATION AND GENDER IDENTITY (SOGI)



### SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES AND RECOMMENDATIONS MADE

For the second cycle of the UPR in 2012, Ghana accepted two out of twelve SOGI related recommendations. Those accepted recommendations were to “prevent, and ensure accountability for, acts of violence perpetrated against individuals, including on the basis of their sexuality (124.8)” and to “bring those responsible to justice in conformity with the international standards” (124.9). All the rejected recommendations were those that called on Ghana to decriminalize same-sex activity between two consenting adults.

Despite the establishment of a reporting system to collate human rights abuses against minorities including LGBT persons, LGBT people in Ghana still face violence, human rights abuse, discrimination and heightened hate/homophobic speech from government officials and religious leaders which incites violence and homophobia against the LGBT community in Ghana.

### NATIONAL FRAMEWORK

**VIOLENCE AND ARBITRARY ARREST CONTINUES TO EXIST AGAINST LGBT PEOPLE IN GHANA.** Unfortunately, LGBT people are still a target of abuse and violence in their communities, schools and in religious spaces. They continue to be abused because they do not report such cases for the fear of being arrested themselves for their real or perceived sexual or gender identity as LGBT.

**THERE IS HEIGHTENED EXPULSION OF STUDENTS FROM SCHOOL BECAUSE THEY ARE LGBT OR ARE PERCEIVED TO BE LGBT.** Students are expelled from school sometimes because their school mates suspect that they are LGBT or find them involved in a sexual activity. Expelling students who are suspected of being gay or lesbian can have a devastating impact on these young people. It prevents these students from achieving success in future careers that require higher education. It also subjects the students to potential abuse by outing them to parents who might punish them for their identification by the school as homosexual.

**GOVERNMENT OFFICIALS AND RELIGIOUS LEADERS MAKE HATE/HOMOPHOBIC STATEMENTS AGAINST THE LGBT COMMUNITY.** This validates impunity of violence and human rights abuse against the LGBT community in Ghana. Many perpetrators of violent attacks and human rights abuse against the LGBT community have based their actions on some of the hate/homophobic statements of key political, government or religious figures.

**HUMAN RIGHTS ADVOCATES WHO SPEAK AGAINST VIOLENCE AND HOMOPHOBIA ARE TARGET OF VIOLENCE AND DISCRIMINATION.** This has prevented many LGBT and human rights advocates from speaking out and being active in advancing the human rights protection and wellbeing of LGBT people in Ghana.

**THE GHANAIAN MEDIA CONTINUES TO SENSATIONALISE AND SPREAD FALSE RUMOURSE ABOUT THE LGBT COMMUNITY IN GHANA.** Every report about LGBT is sensationalised by the media to raise alarm and cause unnecessary panic. Some media houses give a false image and sometimes curse and insult the LGBT community because they have the media platform.

Residents of Libya Quarters at Madina Zongo in Accra conducted a manhunt targeting a young man accused of being homosexual. Malam Shaibu, an Islamic cleric at Madina Zongo, stated, “We shall burn [him] to death” because “Islam abhors homosexuality.” The leader of the manhunt, Shehu Munkaila Iddrisu, told the Daily Guide in an interview, “[w]e shall burn or bury him alive to serve as a deterrent to others who may entertain any thoughts of engaging in homosexuality.”<sup>14</sup> The mob severely beat members of the young man’s family and set fire to a motorbike that they believed belonged to him - *December, 2014*

### RELEVANT NATIONAL LEGISLATION, POLICIES AND INTERNATIONAL COMMITMENTS RELATING TO SOGI

**Laws 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 ICCPR; Section 14(1) and 17(2) of Chapter Five of the Constitution of Ghana**

**The climate of homophobia in violation resulting in the violation of Article 17 of the ICCPR and 25(1) of Chapter Five of the Constitution of Ghana**

**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 ICCPR and 17(2) Chapter Five of the Constitution of Ghana**

**Discrimination in education, in violation of Article 17 of the ICCPR, Article 13 of the ICESCR, Articles 2(1), 16, 29(1a), 29(1b) and 29(1d) of the CRC and articles 25(1) of Chapter Five of the Constitution of Ghana**



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One positive development that should be noted is the establishment in 2013 of a “[Discrimination Reporting System](#)” by [Ghana’s Commission on Human Rights & Administrative Justice](#) (“CHRAJ”). This mechanism is charged with receiving complaints, investigating them, and attempting to resolve them. According to the Complaint Form, “[a]ny person who believes he/she has experienced discrimination on the basis of HIV status, gender identity or sexual orientation may report an incident through the CHRAJ stigma and discrimination reporting portal.” Complaints can be filed online, by text message, or in person at the CHRAJ offices. As of April 2016, 66 complaints had been filed, 27 of which were from LGBTIQ people. Of the 66 cases, 20 have been successfully resolved; it is not known whether any of the 27 LGBTIQ complaints are among the cases that have been successfully resolved.

### CHALLENGES

### IMPACT

1. Section 104 of Ghana’s Criminal Code criminalizes consensual “unnatural carnal knowledge” (penetrative sex) but does not define what kind of sex is natural and what kind of sex is not. For example, if a case is made that non-procreative forms of sex is unnatural and therefore criminal, opposite sex non-procreative sexual practices (oral, anal, etc.) should be subject to criminality. Interpretative use to persecute LGBT people under the erroneous pretence of “law” is arbitrary and discriminatory.
2. Climate of normalized (and celebrated) homophobia leading to discrimination.
3. Violence perpetrated with impunity on the basis of SOGI.
4. Regal recourse is withheld from survivors or victims of discrimination and violence on the basis of perceived SOGI.

1. This contributes to the climate of homophobia and fear, subjecting sexual and gender minorities to a perpetual state of trauma. It normalizes the belief that not only intrinsic sexual propensities or manifest forms of expression are illegal, but the very identities of people are subject to criminalization, though no legal instrument explicitly does so.
- 2/3. The consensus of criminality with a tenuous, if not absent legal basis, provides the ground for celebrated homophobia fuelling a belief in the necessity and thus justification of violent acts perpetrated against people based on perceived SOGI.
4. It puts to question the legitimacy of Ghana’s laws, legal institutions and corresponding normative practices. When they are asymmetrically applied based the subjective (and homophobic) convictions of the agents entrusted by the people to maintain them, the rule of law degenerates into abstraction rather than that on which people can rely in reality.

### RECOMMENDATIONS

1. Provide clear national guidelines to prevent discrimination directed towards students on any grounds and provide mechanisms for effective redress whenever a student faces such discrimination, including legal action unhampered by limitations based on financial capacity of the child, nor the family.
2. **Protect against violence and discrimination** by speeding up the implementation of recommendation 124.8, which requires Ghana to ensure accountability for acts of violence perpetrated against individuals, including on the basis of their sexuality.
3. Implement recommendation 124.9 that requires Ghana to ensure that complete and impartial investigations are fully conducted without prejudice into allegations of attacks and threats against persons based on their SOGI and bring those responsible to justice in conformity with local laws and international standards.
4. Guarantee the speedy implementation of recommendation 126.3 to ensure that local law enforcement and auxiliary personnel comport themselves in accordance to human rights treaty obligations. Include members of the LGBTIQ community in the strategic implementation of recommendation 124.20 made during the second cycle of Ghana’s Periodic Review.
5. Enforce Section 208(1) of Ghana’s Criminal Code which states that “Any person who publishes or reproduces any statement, rumour or report which is likely to cause fear and alarm to the public or to disturb the public peace knowing or having reason to believe that the statement, rumour or report is false is guilty of a misdemeanor” to discourage false statements that cause fear and alarm towards people based on SOGI.

### ABOUT THIS FACT SHEET

### REFERENCES:

This report is submitted for the third cycle of the UPR by Solace Brothers Foundation (SBF), Perfector of Sentiments (POS) Foundation, Priorities On Rights and Sexual Health (PORS), Amnesty International, Ghana, Human Rights Advocacy Centre (HRAC), Center for Popular Education and Human Rights Ghana (CEPEHRG), [Society and Youth Development](#) and The Africa Center for International Law and Accountability (ACILA).

Solace Brothers Foundation is an organization committed to working for the protection of human rights of sexual minorities in Ghana. POS Foundation promotes youth development human rights and social accountability. [PORS](#) is an NGO with the sole aim of attaining equal rights and privileges in life for vulnerable sectors of society..