



UNITED NATIONS UNIVERSAL PERIODIC REVIEW OF GHANA

Submission to the UN Human Rights Council

Human Rights Violations against Key Populations in Ghana
(Sex Workers and Men who Have Sex with Men)

By the Human Rights Advocacy Centre

House No: F1002/2 Koi Street,
Osu Ako Adjei, Accra.
P.O.Box OS 134, Osu, Ghana

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I. INTRODUCTION

This shadow report is submitted to the Human Rights Council (“Council”) by the Human Rights Advocacy Centre (“HRAC”). The Human Rights Advocacy Centre is a non-profit, independent research and advocacy organization created to advance and protect human rights in Ghana. This report is a review of the human rights situation of key populations in Ghana from 2012-2016.

The purpose of this report is to direct the Council’s attention to the serious and ongoing instances of structural, systemic, and interpersonal human rights violations against key populations in the Republic of Ghana. In this report, key populations refers to the bracket of sex workers and men who have sex with men (MSM) vis a vis, their heightened risk to contracting HIV/AIDS. This report is pursuant to Human Rights Council resolution 5/1, reaffirmed in resolution 16/21.

This report will review violations of the key populations’ human rights and will recommend actions that the Republic of Ghana should take in order to safeguard these rights once again.

II. SEX WORKERS

A. LAW AND POLICY

Under Ghanaian law, it is illegal to engage in sex work. The Criminal Offenses Act of 1960 states in Section 274 that “Any person who- (a) knowingly lives wholly or in part on the earnings of prostitution; or (b) is proved to have, for the purposes of gain, exercised control, direction or influence over the movements of a prostitute in such manner as to aid, abet or compel the prostitution with any person or generally, shall be guilty of a misdemeanour.”¹ Section 275 states that “Any person who in any public place or in sight of any public place persistently solicits or importunes- (a) to obtain clients for any prostitute; or (b) for any other immoral purpose, shall be guilty of a misdemeanour.”² Section 276 states that “(1) Any person who persistently solicits or importunes in any public place or in sight of any public place for the purpose of prostitution shall be liable for a first offence to a fine not exceeding ‘500,000 [cedis]’ and for a second or subsequent offence shall be guilty of a misdemeanour.”³ In light of this criminal provision, no specific national policy has been adopted to target sex workers and their health-right related needs.

B. CURRENT SITUATION

While the criminality is consistent among the different actors in sex work, sex workers themselves are at much greater personal and legal risk. Some men engage in sex work, but a vast majority of the research is done on female sex workers (FSWs), who are more visible.

Sex workers are generally in their late 20s, and some research shows that they report being initiated into sex work in their early 20s,⁴ although there are also reports that a significant percentage begin sex work “between ages 12 and 14,” with many starting as early as age 12.⁵ They entered sex work

¹ Ghana Legal, http://laws.ghanalegal.com/acts/id/19/section/274/Persons_Trading_In_Prostitution

² Ghana Legal,

http://laws.ghanalegal.com/acts/id/19/section/275/Soliciting_Or_Importuning_For_Immoral_Purposes

³ Ghana Legal, http://laws.ghanalegal.com/acts/id/19/section/276/Soliciting_Or_Importuning_By_Prostitute

⁴ International Organization for Migration, <https://www.iom.int/sites/default/files/country/docs/ghana/IOM-Ghana-Research-HIV-Vulnerability-Among-Female-Sex-Workers.pdf> (2013)

⁵ Boston University, <https://www.bu.edu/cghd/files/2013/02/Young-female-Sex-Workers-final-report-July-2012.pdf> (2012)

“due to poverty” and continue in this work “due to economic hardship.”⁶ A study done by the International Organization for Migration (IOM) shows that as high as 75% of sex workers “were introduced to sex work by friends.”⁷

Sex workers generally feel they have “little control” over their “entry into sex work.”⁸ A study at Boston University (BU) analyzed “push/pull factors” which cause young women to begin sex work, and found common themes. As push factors, they noted “familial poverty, leaving school, and inherited sex work.”⁹ Pull factors included friends already in sex work, “financial need, and lure of economic opportunity.”¹⁰ Respondents to the study consistently reported “having no option.”¹¹ Almost all said they would leave sex work if given the opportunity, and the top reason for staying was “the unavailability of better paying work or another form of financial support.”¹² Other research, like the IOM study, supports this claim—the IOM questioners asked the respondents if they intended to stop sex work, and a staggering “91% said yes, however, 83% of those [them] cited the need for financial assistance to quit sex work.”¹³

Financial burdens go beyond the sex workers supporting themselves— research findings reveal that many sex workers have a child or multiple children, and which is “bringing additional responsibilities on them in terms of catering for their children and themselves.”¹⁴ This finding confirms the 2009 UNAIDS report that a majority of sex workers are “expected to contribute to family income or are commonly the sole supporters of their family.”¹⁵ The income level varies based on location. However, sex workers who are mobile (called “roamers”) have more control over their income than sex workers who remain in one place (called “seaters”). Even for sex workers who remain in one place, there is often an initial move. “Sex workers migrate from rural areas or small towns to an urban setting, either because they were procured by brothels or pimps or as job seekers.”¹⁶

Since sex work is both illegal and morally condemned in Ghana, nearly all sex workers try to keep their work secret from their families and communities. Migrant sex workers are “mostly concerned

⁶ International Organization for Migration, <https://www.iom.int/sites/default/files/country/docs/ghana/IOM-Ghana-Research-HIV-Vulnerability-Among-Female-Sex-Workers.pdf> (2013)

⁷ International Organization for Migration, <https://www.iom.int/sites/default/files/country/docs/ghana/IOM-Ghana-Research-HIV-Vulnerability-Among-Female-Sex-Workers.pdf> (2013)

⁸ Boston University, <https://www.bu.edu/cghd/files/2013/02/Young-female-Sex-Workers-final-report-July-2012.pdf> (2012)

⁹ Boston University, <https://www.bu.edu/cghd/files/2013/02/Young-female-Sex-Workers-final-report-July-2012.pdf> (2012)

¹⁰ Boston University, <https://www.bu.edu/cghd/files/2013/02/Young-female-Sex-Workers-final-report-July-2012.pdf> (2012)

¹¹ Boston University, <https://www.bu.edu/cghd/files/2013/02/Young-female-Sex-Workers-final-report-July-2012.pdf> (2012)

¹² Boston University, <https://www.bu.edu/cghd/files/2013/02/Young-female-Sex-Workers-final-report-July-2012.pdf> (2012)

¹³ International Organization for Migration, <https://www.iom.int/sites/default/files/country/docs/ghana/IOM-Ghana-Research-HIV-Vulnerability-Among-Female-Sex-Workers.pdf> (2013)

¹⁴ Kwame Nkrumah University of Science and Technology, <http://ir.knust.edu.gh/bitstream/123456789/9026/1/BRIGHT%20OWUSU%20ANSAH.pdf> (2015)

¹⁵ Kwame Nkrumah University of Science and Technology, <http://ir.knust.edu.gh/bitstream/123456789/9026/1/BRIGHT%20OWUSU%20ANSAH.pdf> (2015)

¹⁶ Kwame Nkrumah University of Science and Technology, <http://ir.knust.edu.gh/bitstream/123456789/9026/1/BRIGHT%20OWUSU%20ANSAH.pdf> (2015)



about their friends and family members knowing about their work, and the shame this would bring.”¹⁷ In addition, the sex workers must maintain “constant vigilance...for fear of exposure, [which] greatly limits [their] social activities.”¹⁸

Their fear and anxiety are not unfounded—sex workers experience extreme violence from their clients, the public, and the police. They operate under a continually “potentially violent environment” and are “predisposed to dangers as all sorts of clients including those with dubious and criminal characters visit them and there are no proven security mechanisms in place to screen these clients.”¹⁹ This violence can take many forms, including “beating, pushing, tearing of dresses, non-usage of condoms during sex and stealing of [their] money and items.”²⁰ This is mostly perpetrated by sex workers’ male clients, who “see [sex workers] as vulnerable and weak and could therefore not defend themselves.”²¹ Sex workers who work on the street are “more vulnerable to victimisation and abuse.”²²

Sex workers are also at great and heightened risk for contracting HIV. The Ghana AIDS Commission reported that “11% out of 52,000 female sex workers (FSWs) in Ghana are living with HIV.”²³ UNFPA Ghana reported that while “Ghana’s HIV prevalence among the general population is 1.5%,” the prevalence among Ghanaian sex workers is 11.1%.²⁴ Reports have also found that roamers are more vulnerable to contracting HIV than seaters due to the formers’ “frequent movements, concurrent multiple non-paying partnerships and not always having condoms while at work.”²⁵ The prevalence of HIV among sex workers can also be broken down by region, as the Ghana AIDS Commission did, finding that the “Eastern Region has the highest prevalence of 3.6 % followed by Great Accra (3.5%), Ashanti (2.6%), Volta (2.5%), Western (2.4%), Upper Blaster (2.1%), Brong Ahafo (2.0%), Central (1.9), Upper West and Northern (0.9).”²⁶

The danger of sex workers contracting HIV is more extreme when they have sex without a condom. A major barrier in reaching 100% condom usage by sex workers with clients and non-paying partners

¹⁷ Kwame Nkrumah University of Science and Technology, <http://ir.knust.edu.gh/bitstream/123456789/9026/1/BRIGHT%20OWUSU%20ANSAH.pdf> (2015)

¹⁸ Kwame Nkrumah University of Science and Technology, <http://ir.knust.edu.gh/bitstream/123456789/9026/1/BRIGHT%20OWUSU%20ANSAH.pdf> (2015)

¹⁹ Kwame Nkrumah University of Science and Technology, <http://ir.knust.edu.gh/bitstream/123456789/9026/1/BRIGHT%20OWUSU%20ANSAH.pdf> (2015)

²⁰ University of Ghana, http://ugspace.ug.edu.gh/bitstream/123456789/8425/1/Ama%20Serwaa%20F.%20Asamoah_%20%20Gender%20Based%20Violence%20Awareness%20Creation%20Among%20Sex%20Workers%20in%20Accra%20A%20Case%20Study%20of%20the%20Sharper%20Initiative_2015.pdf (2015)

²¹ University of Ghana, http://ugspace.ug.edu.gh/bitstream/123456789/8425/1/Ama%20Serwaa%20F.%20Asamoah_%20%20Gender%20Based%20Violence%20Awareness%20Creation%20Among%20Sex%20Workers%20in%20Accra%20A%20Case%20Study%20of%20the%20Sharper%20Initiative_2015.pdf (2015)

²² Kwame Nkrumah University of Science and Technology, <http://ir.knust.edu.gh/bitstream/123456789/9026/1/BRIGHT%20OWUSU%20ANSAH.pdf> (2015)

²³ Ghana AIDS Commission, <http://www.ghanaims.gov.gh/gac1/pubs/2014%20STATUS%20REPORT.pdf> (2014)

²⁴ UNFPA Ghana, <http://unfpa.org/assets/user/file/PosterPresentation21-07-12.pdf> (2012)

²⁵ Newstime Africa, <http://www.newstimeafrica.com/archives/31586>

²⁶ Ghana AIDS Commission, <http://www.ghanaims.gov.gh/gac1/pubs/2014%20STATUS%20REPORT.pdf> (2014)



is the fact that “clients believe that they still have the ultimate decision on the use of condoms,” and “negotiating for condom use most often becomes violent,” making the situation more dangerous for sex workers.²⁷

In addition, legal aid to sex work is limited in the event of abuse. Due to the criminalization of sex work, sex workers are unwilling to access legal redress when they suffer abuses. . The HRAC is response to this provides legal remedies to sex workers through its human rights clinic. It provides remedies in the form of legal counselling and police follows –ups in cases such as domestic violence against sex workers.

C. RECOMMENDATIONS

In light of the above, the HRAC recommends that the Government of Ghana should;

- Address unfair legal and personal punishment of sex workers versus the punishment of clients, and institute legal protection for sex workers against the violence and threats of violence to which they are subjected.
- Support programs which help sex workers find alternative sources of income for sex workers as well as provide services to the children of sex workers.²⁸
- Foster “empowerment and social development” through psycho-social support as well as peer support.²⁹
- Improve health service delivery to target sex workers and their non-paying partners in regards to HIV and other health problems.
- Take steps to ensure that their health services for sex workers are “accurate and non-judgmental,” so as not to discourage sex workers from access health care.³⁰

III. MEN WHO HAVE SEX WITH MEN (MSM)

A. LAW AND POLICY

According to Ghanaian law (Criminal Offenses Act of 1960, Act 29 Section 104), the act of “unnatural carnal knowledge” is illegal, which is defined as “sexual intercourse with a person in an unnatural manner or with an animal.”³¹ If the individuals involved are under the age of 16, it is considered a felony offense, and if the individuals are over the age of 16, it is considered a misdemeanor.³² While the law does not expressly prohibit men from having sex with men, this law

²⁷ University of Ghana,

http://ugspace.ug.edu.gh/bitstream/123456789/8425/1/Ama%20Serwaa%20F.%20Asamoah_%20%20Gender%20Based%20Violence%20Awareness%20Creation%20Among%20Sex%20Workers%20in%20Accra%20A%20Case%20Study%20of%20the%20Sharper%20Initiative_2015.pdf (2015)

²⁸ USAID, http://pdf.usaid.gov/pdf_docs/pnaed197.pdf (2011)

²⁹ USAID, http://pdf.usaid.gov/pdf_docs/pnaed197.pdf (2011)

³⁰ USAID, http://pdf.usaid.gov/pdf_docs/pnaed197.pdf (2011)

³¹ Ghana Legal, http://laws.ghanalegal.com/acts/id/19/section/104/Unnatural_Carnal_Knowledge

³² Ghana Legal, http://laws.ghanalegal.com/acts/id/19/section/104/Unnatural_Carnal_Knowledge



“is often interpreted as being the particular piece of legislation that criminalizes homosexual behaviour.”³³ The 1992 Constitution “prohibits discrimination in employment or occupation on grounds of gender, race, color, ethnic origin, religion, political opinion, social or economic status, or disability,” but notably, “the law does not prohibit discrimination on the grounds of age, language, sexual orientation and/or gender identity, HIV-positive status, or having other communicable diseases.”³⁴

B. CURRENT SITUATION

Because of the extreme prejudice and discrimination they face, men who have sex with men (MSM) are often not vocal about their status, so it is difficult to get exact statistics on the number of MSM in Ghana. However, it is estimated that there are about 30,000 MSM in Ghana.³⁵ Men have sex with men in Ghana for two primary reasons: for pleasure, and for money.

It is estimated that the “prevalence of HIV among [MSM] in Ghana is more than 15 times greater than the prevalence of HIV among adult males in the general population,”³⁶ and the Ghana AIDS Commission anticipates that the HIV population “will rise slowly due to increased survival on ART [Anti-Retroviral Therapy] as prevalence decreases.”³⁷ The 2011 Ghana Men’s Study revealed “a high prevalence of HIV (17.5%) among MSM at five sites in Ghana, with the highest rates in Greater Accra (34.4%) and the Ashanti region (13.6%),” and another study found that the prevalence of HIV was “higher among older MSM (>35 years) and those with higher levels of income.”³⁸

Access to healthcare for MSM is limited. “Less than half (44.8%) of...MSM population had accessed HIV-prevention services in the previous year.”³⁹ A strong deterrent for MSM from receiving healthcare is the “fear of being stigmatized,” which “discourage[d] persons from being tested for HIV infection and those who tested positive from seeking timely care.”⁴⁰ Because MSM are considered criminals, they do not feel safe getting tested for STIs, and some men have died from treatable STIs because they were “too embarrassed to see a doctor.”⁴¹ The Commission on Human Rights and Administrative Justice (CHRAJ) and some NGOs have set up and supported centers which provide free HIV testing as well as legal redress for MSMs who suffer abuses. However, “high patient volume and the physical layout of many clinics often made it difficult for the centers to respect confidentiality.”⁴² as well as to make referrals for legal redress.

³³ International Refugee Rights Initiative, <http://www.frlan.org/ghana-lgbti-resources>

³⁴ US State Department, <https://www.state.gov/documents/organization/252899.pdf> (2015)

³⁵ Digital Culture and Education, http://www.digitalcultureandeducation.com/uncategorized/green_et_al_html/ (2014)

³⁶ Digital Culture and Education, http://www.digitalcultureandeducation.com/uncategorized/green_et_al_html/ (2014)

³⁷ Ghana AIDS Commission, <http://www.ghanaims.gov.gh/gac1/pubs/2014%20STATUS%20REPORT.pdf> (2014)

³⁸ Digital Culture and Education, http://www.digitalcultureandeducation.com/uncategorized/green_et_al_html/ (2014)

³⁹ Boston University, http://www.bu.edu/cghd/files/2013/10/Ghana-brief_MSM-2_Sept-4_Final.pdf (2013)

⁴⁰ US State Department, <https://www.state.gov/documents/organization/252899.pdf> (2015)

⁴¹ <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Homosexuality-In-Ghana-The-Statistics-60421>

⁴² US State Department, <https://www.state.gov/documents/organization/252899.pdf> (2015)



The Ghana AIDS Commission reports that only “sixty percent of [MSM] use condoms,”⁴³ and in a BU study, “fifty percent of all participants reported using condoms inconsistently or not at all.”⁴⁴ The respondents gave various reasons for not using condoms, including “reduced sexual pleasure,” as well as the rationale that “condoms were not needed during sex with trusted, long-term partners,” which suggests a “less than perfect understanding of HIV risk.”⁴⁵

There are countless reports of violence against MSM, including incidents of physical and verbal assaults. For example, the NGO African Men for Sexual Health and Rights reported that a group of boys in Accra “violently attacked numerous people in the rented apartment in that neighborhood, due to the sexual orientation of the victims.”⁴⁶ These incidents are far too common, and are fueled by the public figures denouncing homosexuality. Public denunciation is quite common against MSM, as “prominent figures in the media, religious community, and civil society have demanded more robust enforcement of laws in Ghana’s criminal code prohibiting homosexuality.”⁴⁷

These incidents of violence and persecution have combined to create to a climate of fear for MSM in some parts of Ghana. Some claim that the state of fear is so extreme that it is itself a “form of violence.”⁴⁸ Suicide is common, though the exact statistics are unclear. MSM are often in denial about their desire, and go out of their way not to have gay associations, which contributes to the continued state of silence and fear for MSM.⁴⁹ Additionally, MSM are more likely to be dependent or addicted to alcohol, though their “consumption of drugs and other intoxicating substances [is] more limited.”⁵⁰ Invariably, MSM face “widespread discrimination in education and employment.”⁵¹ Discrimination against people with HIV/AIDS is severe, and the two groups often overlap.⁵² The HRAC through its legal clinic provide legal counselling, court monitoring and police follows on both criminal and civil cases involving MSMs. A network of lawyers affiliated to the human rights clinic at the HRAC also provides legal support for this population.

⁴³ News Ghana, <https://www.newsghana.com.gh/sixty-percent-of-men-who-have-sex-with-men-in-ghana-use-condoms/> (2012)

⁴⁴ Boston University, http://www.bu.edu/cghd/files/2013/10/Ghana-brief_MSM-2_Sept-4_Final.pdf (2013)

⁴⁵ Boston University, http://www.bu.edu/cghd/files/2013/10/Ghana-brief_MSM-2_Sept-4_Final.pdf (2013)

⁴⁶ http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/GHA/INT_CCPR_ICO_GHA_21415_E.pdf

⁴⁷ Freedom House, https://freedomhouse.org/report/countries-crossroads/2012/ghana#_edn2 (2012)

⁴⁸ Ghana Web, <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Homosexuality-In-Ghana-The-Statistics-60421>

⁴⁹ Ghana Web, <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Homosexuality-In-Ghana-The-Statistics-60421>

⁵⁰ Boston University http://www.bu.edu/cghd/files/2013/10/Ghana-brief_MSM-2_Sept-4_Final.pdf (2013)

⁵¹ US State Department, <https://www.state.gov/documents/organization/252899.pdf> (2015)

⁵² US State Department <https://www.state.gov/documents/organization/252899.pdf> (2015)



C. RECOMMENDATIONS

In view of the above, the HRAC recommends that the Government of Ghana should;

- Take steps to provide legal aid and health related facilities targeting MSM in order to improve their wellbeing and security.
- Adopt a holistic national response to address incidences of discrimination and violence against MSMs as well as to promote tolerance of MSMs among the general public
- Upscale existing programs to reach MSM online and via the telephone to provide support and services, as well as get in contact with the “networks of men engaged in commercial sex work and enlist the support of the pimps and managers of the establishments where sex work takes place.”⁵³
- Should upscale capacity building and awareness on the rights of MSMs.
- The Ghana Education Service and various community stakeholders should encourage in-school and out-of-school education on the sexual health for MSM.

⁵³ Boston University, http://www.bu.edu/cghd/files/2013/10/Ghana-brief_MSM-2_Sept-4_Final.pdf (2013)