



Human Rights Violations Against  
Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Ghana:  
A Shadow Report

Submitted for consideration at the  
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Global Initiatives for Human Rights

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## **I. Introduction**

This shadow report is submitted to the Human Rights Committee (“Committee”) by Solace Brothers Foundation,<sup>1</sup> The Initiative for Equal Rights (“TIERS”)<sup>2</sup>, the Center for International Human Rights of Northwestern Pritzker School of Law, and the Global Initiatives for Human Rights of Heartland Alliance for Human Needs & Human Rights, in anticipation of the Committee’s consideration at its 117<sup>th</sup> Session of the Republic of Ghana’s compliance with the International Covenant on Civil and Political Rights (“Covenant”).<sup>3</sup>

The purpose of this report is to direct the Committee’s attention to serious and ongoing violations of the Covenant rights of lesbian, gay, bisexual, and transgender (“LGBT”) individuals by the Republic of Ghana. In particular, this report will focus on the following violations:

- Criminalisation of same-sex sexual conduct and the resulting arbitrary arrests and detentions, in violation of Articles 2(1), 9, 17, and 26 of the Covenant;
- 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 Covenant; and
- Discrimination in education based upon the victim’s real or perceived sexual orientation, in violation of Articles 2(1) and 26 of the Covenant.

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.”<sup>4</sup> Complaints can be filed online, by text message, or in person at the CHRAJ offices.<sup>5</sup> As of April

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<sup>1</sup> Solace Brothers Foundation is a Ghanaian NGO that, since its founding in 2012, has worked to advance human rights and sexual reproductive health rights for LGBT persons in Ghana.

<sup>2</sup> The Initiative for Equal Rights (“TIERS”) is an African NGO that envisions a society where human rights are guaranteed regardless of sexual orientation, gender identity and expression. TIERS works to achieve this through education, empowerment and advocacy.

<sup>3</sup> International Covenant on Civil and Rights, Dec. 16, 1966, 999 U.N.T.S. 171, *available at* <https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf> [hereinafter *Covenant*].

<sup>4</sup> Commission on Human Rights and Administrative Justice Ghana, *Discrimination Reporting System*, *available at* <http://drs.system.chrajghana.com/>.

<sup>5</sup> *Id.*

2016, 66 complaints had been filed, 27 of which were from LGBT people.<sup>6</sup> Of the 66 cases, 20 have been successfully resolved;<sup>7</sup> it is not known whether any of the 27 LGBT complaints are among the cases that have been successfully resolved.

This report will conclude with suggested recommendations to be made to the Republic of Ghana and suggested questions to be asked during the review session.

## **II. Laws Criminalising Same-Sex Sexual Conduct, Leading to Arbitrary Arrests and Detentions**

Under the 1960 Ghanaian Criminal Code, same-sex sexual conduct is a criminal offence. This law is used to threaten, arrest and punish individuals for engaging in same-sex sexual conduct.

Chapter 6 Section 104 of Ghana's Criminal Code states:

- “(1) Whoever has unnatural carnal knowledge—
- (a) of any person of the age of sixteen years or over without his consent shall be guilty of a first degree felony and shall be liable on conviction to imprisonment for a term of not less than five years and not more than twenty-five years; or
  - (b) of any person of sixteen years or over with his consent is guilty of a misdemeanor; or
  - (c) of any animal is guilty of a misdemeanor.
- (2) Unnatural carnal knowledge is sexual intercourse with a person in an unnatural manner or with an animal.”<sup>8</sup>

Subsection (1)(b) of Section 104 of Ghana's Criminal Code criminalises consensual “unnatural carnal knowledge.” Because “unnatural carnal knowledge” is used to refer to same-sex sexual conduct, the criminalisation of such conduct singles out and discriminates against individuals based on their sexual orientation.

Articles 2(1) and 26 of the Covenant require all States Parties to respect and ensure non-discrimination and equality under the law. Any discrimination based upon attributes such as race, color, sex and “other status” is prohibited. This Committee has previously recognized that the Covenant's guarantee of non-discrimination and equal protection of the law prohibit discrimination on the basis of sexual orientation and gender identity.<sup>9</sup>

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<sup>6</sup> Information provided to Solace Brothers Foundation (May 2016).

<sup>7</sup> *Id.*

<sup>8</sup> CRIMINAL CODE Act 29, Ch. (6), § 104 (Ghana).

<sup>9</sup> *See Toonen v. Australia*, Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1991, ¶ 8.7 (1994).

Article 17 Section 1 of the Covenant states that “no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.”<sup>10</sup> Section 2 goes on to specify: “Everyone has the right to the protection of the law against such interference or attacks.”<sup>11</sup>

Section 104(1)(b) of Ghana’s Criminal Code violates these articles of the Covenant. By criminalising same-sex sexual conduct, it singles out and discriminates against individuals based on their sexual orientation, and it violates the privacy, honour and reputation of the affected individuals.

Article 9(1) of the Covenant affirms that everyone has the right to liberty and that “[n]o one shall be subjected to arbitrary arrest or detention.”<sup>12</sup> Article 9(1) is violated when individuals are arrested or detained for engaging in consensual same-sex sexual conduct.

Individuals in Ghana are often arrested on the basis of conduct relating to their sexual orientation, even though their actions are not violating other Ghanaian laws. These arrests discriminate on the basis of sexual orientation and violate the prohibitions against arbitrary arrests and unlawful attacks upon privacy, honour and reputation.<sup>13</sup> Some examples include the following:

In November 2007, a British citizen, John Ross Macleod, was charged with “unnatural carnal knowledge” and “possession of obscene pictures” because, during a search, police found a CD filled with images of the photographer engaged in sexual intercourse with a 19-year-old Ghanaian man.<sup>14</sup> He was asked to choose between “a six-month jail term” and “a fine of about £320.”<sup>15</sup> After being unable to pay a £2,500 bail surety, Macleod was remanded into custody, although he denied the charge of possessing obscene images.<sup>16</sup>

In August 2014, when a mob in Walewale threatened to lynch a 21-year-old male student for wearing women’s clothes and having sex with men, the police responded by arresting the victim.<sup>17</sup> The mob threatened to kill the student and his family if he were “released locally.”<sup>18</sup>

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<sup>10</sup> *Covenant*, *supra* note 3, art. 17(1).

<sup>11</sup> *Id.* at art. 17(2).

<sup>12</sup> *Id.* at art. 9(1).

<sup>13</sup> Freedom House, *Freedom in the World 2013: Ghana* (May 23, 2013), available at <http://freedomhouse.org/report/freedom-world/2013/ghana>; see also United Kingdom Home Office, Operational Guidance Note: Ghana, at p. 19 (Nov. 12, 2013) (guidance for purposes of asylum decisions), available at <http://www.refworld.org/pdfid/528370ed4.pdf> [hereinafter *UK Operational Guidance Note: Ghana*].

<sup>14</sup> Alexandra Topping, *Briton Charged Over Gay Sex in Ghana*, THE GUARDIAN (Nov. 7, 2007), available at <http://www.theguardian.com/uk/2007/nov/07/world.gayrights>; see also Australia Refugee Review Tribunal: Ghana April 9, 2008, Research Response Number: GHA33179, at p. 7 available at [http://www.justice.gov/eoir/vll/country/australian\\_refugee\\_review\\_tribunal/ghana/homosexuals-2006%20gay%20and%20lesbian%20conference.pdf](http://www.justice.gov/eoir/vll/country/australian_refugee_review_tribunal/ghana/homosexuals-2006%20gay%20and%20lesbian%20conference.pdf).

<sup>15</sup> *Briton Charged Over Gay Sex in Ghana*, *supra* note 14.

<sup>16</sup> *Id.*

<sup>17</sup> Colin Stewart, *Ghana student faces anti-gay threats, so police arrest him*, 76 CRIMES (Aug. 27, 2014), available at <http://76crimes.com/2014/08/27/ghana-student-faces-anti-gay-threats-so-police-arrest-him/>; see also Zoure Stephen, *Gay Man Arrested*, PEACE FM (Aug. 25, 2014), available at <http://news.peacefmonline.com/pages/social/201408/212045.php>.

<sup>18</sup> *Ghana student faces anti-gay threats*, *supra* note 17.

### III. Violence Based on Real or Perceived Sexual Orientation and Gender Identity

Physical attacks against LGBT individuals in Ghana violate rights protected by Articles 7 and 9 of the Covenant. Article 7 protects against torture and cruel, inhuman or degrading treatment. Article 9 ensures security of person. Ghana's Covenant obligation is to ensure the protection of these rights by promoting compliance and preventing, investigating, prosecuting, punishing, and remedying violations. Ghana has not complied with these obligations.

Amnesty International and the NGO Freedom House reported in 2013 that violence against the LGBT community was prevalent<sup>19</sup> and that "the persecution of sexual minorities has escalated."<sup>20</sup> Examples of violent physical attacks against LGBT individuals in Ghana are as follows:

In 2011, in the community of Takoradi in the Western Region of Ghana, the father of a young Ghanaian man set his son's mattress and clothes on fire when he found out that his son was gay. He warned his son that continuing a gay lifestyle would result in his being disowned.<sup>21</sup> Afterwards, the young man suffered verbal harassment and threats upon his life in his community.<sup>22</sup> To avoid being ridiculed or attacked, he was forced to hide from community members before walking home each night, making each day a struggle for dignity and survival. Because of this harassment, the young man ultimately decided to leave his home community and move to Accra.

Mac-Darling Cobbinah, the founder and director of the Centre for Popular Education and Human Rights - Ghana ("CEPEHRG"), an NGO that works on health issues affected men who have sex with men, has received repeated threats from individuals and groups in Ghana.<sup>23</sup> According to Mr. Cobbinah, in 2006, "[during] the media hype of the gay conference [in Ghana], there was a threat on our office vehicle. . . . The threat stated, 'burn you up' and this forced me to be transported to a nearby country."<sup>24</sup> Mr. Cobbinah also received threats from his neighbors when he lived in a part of Accra known as Teshie.<sup>25</sup> The police were asked to intervene in this situation, but the pleas "proved futile."<sup>26</sup> As a result, he moved to another location near the military camp. One day, when Mr. Cobbinah was on his way home from lectures, he "was almost hit by multiple cars."<sup>27</sup> The drivers and passengers "rained insults on me and promised to kill me the next time they saw me."<sup>28</sup>

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<sup>19</sup> Amnesty International, Annual Report 2013: Ghana (May 23, 2013), available at <http://www.amnestyusa.org/research/reports/annual-report-ghana-2013>; see also UK Operational Guidance Note: Ghana, *supra* note 13, at p. 17.

<sup>20</sup> Freedom House, *Countries at Crossroads: Ghana* (Sept. 20, 2012), available at [http://www.freedomhouse.org/report/countries-crossroads/2012/ghana#\\_edn2](http://www.freedomhouse.org/report/countries-crossroads/2012/ghana#_edn2); see also UK Operational Guidance Note: Ghana, *supra* note 13, at p. 17.

<sup>21</sup> *Father Disown Son For Being Gay?*, NEWS GHANA (Apr. 27, 2014), available at <http://www.newsghana.com.gh/father-disown-son-gay/>; Information provided to Solace Brothers Foundation.

<sup>22</sup> *Id.*

<sup>23</sup> *Ghana's LGBT Struggle: Death Threats, Stigma, and Hope for Change*, LE GLOBALISTE (Dec. 19, 2012), available at <http://www.leglobaliste.com/2012/12/19/ghanas-lgbt-struggle-death-threats-stigmas-and-hope-for-change/>.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

He also mentioned that he has received “several death threats on [the] phone and also through text messages” because of his work.<sup>29</sup>

On March 11, 2012, a group of young men from the Ga-Mashie Youth for Change, armed with “canes, cutlasses, stones, and broken bottles,” attacked a birthday party in the Jamestown neighborhood of Accra celebrating the birthday of a woman who is a lesbian. The attackers claimed that the party was really a wedding between two women. According to a witness who went by the alias “Hillary,” the attackers beat some of the women at the party, stripped them naked, and stole their phones and money.<sup>30</sup> The attack was reported to the police, but the police did nothing to protect them; the only individuals arrested were some of those attending the party.<sup>31</sup> The LGBT community in Jamestown was under threat for several days and some community members had to go into hiding because the police were looking for them, but not one of the attackers was ever arrested or investigated.<sup>32</sup>

The NGO African Men for Sexual Health and Rights (“AMSHer”) reported that, in 2013, a group of boys in the Lapaz neighborhood of Accra violently attacked numerous people in the rented apartments in that neighborhood, due to the sexual orientation of the victims.<sup>33</sup>

In December 2014, residents of Libya Quarters at Madina Zongo in Accra conducted a manhunt targeting a young man accused of being homosexual.<sup>34</sup> Malam Shaibu, an Islamic cleric at Madina Zongo, said, “We shall burn [him] to death” because “Islam abhors homosexuality.”<sup>35</sup> The leader of the manhunt, Shehu Munkaila Iddrisu, told the Daily Guide in an interview, “We shall burn or bury him alive to serve as a deterrent to others who may entertain any thoughts of engaging in homosexuality.”<sup>36</sup> The mob severely beat members of the young man’s family, including his mother and father, and set fire to a motorbike that they believed belonged to the targeted man.<sup>37</sup>

On March 4, 2015, a group of women suspected of being lesbians were “shit-bombed and pelted with stones” during a party in Teshie in the Greater Accra region.<sup>38</sup> Their attackers were a group of youths from the area where the attack occurred. These attackers suspected the party was an

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<sup>29</sup> *Id.*

<sup>30</sup> Jonathan Migneault, *Clash Over Gay Rights in Accra*, JOURNALISTS FOR HUMAN RIGHTS (Mar. 26, 2012), <http://www.jhr.ca/blog/2012/03/clash-over-gay-rights-in-accra/>. See also Prince Kweku, *Report: Socio-Political Situation of LGBT People in Ghana, 2013* (Mar. 14, 2014), available at <http://www.amsher.org/report-socio-political-situation-lgbt-people-ghana-2013/> [hereinafter *Socio-Political Situation*].

<sup>31</sup> *Clash Over Gay Rights in Accra*, *supra* note 30; *Report: Socio-Political Situation of LGBT people*, *supra* note 30; Interviews with participants by Stefano Fabeni, Executive Director, Global Initiatives for Human Rights of Heartland Alliance.

<sup>32</sup> Interviews, *supra* note 31.

<sup>33</sup> *Socio-Political Situation*, *supra* note 30.

<sup>34</sup> *Manhunt for Gay Muslim*, DAILY GUIDE (Dec. 18, 2014) [hereinafter *Daily Guide*]; Finish Immigration Service, *Status of LGBTI People in Cameroon, Gambia, Ghana and Uganda*, at p. 57 n. 350 (Dec. 3, 2015), available at [http://www.migri.fi/download/64428\\_Status\\_of\\_LGBTI\\_people\\_in\\_Cameroon\\_Gambia\\_Ghana\\_and\\_Uganda\\_3.12.2015.pdf?e3a49d609249d388](http://www.migri.fi/download/64428_Status_of_LGBTI_people_in_Cameroon_Gambia_Ghana_and_Uganda_3.12.2015.pdf?e3a49d609249d388) [hereinafter *Finish Immigration Service*]. Libya Quarters is an apartment complex at the junction in Madina. Accra is commonly referred to as “Zongo.”

<sup>35</sup> *Manhunt for Gay Muslim*, *supra* note 34; Finish Immigration Service, *supra* note 34, at p. 57.

<sup>36</sup> *Manhunt for Gay Muslim*, *supra* note 34; Finish Immigration Service, *supra* note 34, at p. 57.

<sup>37</sup> *Manhunt for Gay Muslim*, *supra* note 34.

<sup>38</sup> Emmanuel Torny, *Lesbians Shit-Bombed and Stoned*, PULSE (Mar. 4, 2015), available at <http://pulse.com.gh/news/cruelty-lesbians-shit-bombed-and-stoned-id3538287.html>.

engagement ceremony for two of the women present. One anonymous victim recalled: “They threw stones and [feces] at us, but I don’t understand their anger, isn’t [it] the right of the individual to decide what they want to do with themselves?”<sup>39</sup> Nevertheless, the attackers have vowed to continue the attacks “until homosexuality is completely eliminated from the area.” So far, “scores” of lesbians in the area have been attacked.<sup>40</sup>

During a period of time in 2015, the LGBT community in the Nima area of Accra was terrorized by a homophobic vigilante gang called “Safety Empire,” whose stated aim is to “wage a crusade against homosexuality.”<sup>41</sup> The leader of this group, who goes by various names including Sulley Fuseini and Doya Dundu,<sup>42</sup> referred to himself on one of his Facebook pages as “The Gay Slayer.”<sup>43</sup> According to reports, Fuseini and his gang would attack their victims after Fuseini had lured them on Facebook under the guise of asking them on a date. Upon a victim’s arrival, Fuseini and his gang would strip, beat, and humiliate the victim. Videos of these attacks were posted on social media, thus further humiliating the victim and causing fear in the LGBT community.<sup>44</sup>

In one such incident, on August 14, 2015, Sulley Fuseini led a Safety Empire mob in brutally attacking a man they accused of being gay. The victim was stripped naked and whipped mercilessly with belts, sticks, and sharp metal. The attackers videotaped the attack.<sup>45</sup>

In another incident, on September 4, 2015, Fuseini and his gang attacked a victim with boiling water, causing burns to the victim’s face.<sup>46</sup> In a positive development following this attack, Fuseini was apprehended and placed in the custody of the Accra Regional Police Command in mid-September, 2015.<sup>47</sup> However, as of May 2016, his case still remains pending.<sup>48</sup> After three months in detention, Fuseini was released on bail and allowed to return to the Nima neighborhood where he and his gang had carried out their attacks.<sup>49</sup>

In January 2016, a mob of students at Opoku Ware Senior High School in Kumasi attempted to lynch three male students who were accused of having “engaged in homosexuality.”<sup>50</sup> The attackers, who were prevented from carrying out the attack by some of the teachers at the school,

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<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Gay Gets 100 Lashes for Attempting Recruit Another Man Over*, NEWS GHANA (Aug. 16, 2015), <http://www.newsghana.com.gh/gay-gets-100-lashes-for-attempting-recruit-another-man-over/>; Linda Tenyah Ayettey, *Nima Gay Attacker Arrested*, DAILYGUIDE (Sept. 18, 2015), available at <http://dailyguideafrica.com/nima-gay-attacker-arrested/>.

<sup>42</sup> Colin Stewart, *Ghana arrests reputed leader of violent anti-gay gang*, 76 CRIMES (Sept. 18, 2015), available at <http://76crimes.com/2015/09/18/ghana-arrests-reputed-leader-of-violent-anti-gay-gang/>.

<sup>43</sup> Colin Stewart, *Warning: Violent homophobe active in Ghana*, ERASING 76 CRIMES (Aug. 15, 2015), available at <http://76crimes.com/2015/08/15/warning-violent-homophobe-active-in-ghana/>.

<sup>44</sup> *Ghana arrests reputed leader of violent anti-gay gang*, *supra* note 42; *Warning: Violent homophobe active in Ghana*, *supra* note 43.

<sup>45</sup> *Nima Gay Attacker Arrested*, *supra* note 41; *Ghana arrests reputed leader of violent anti-gay gang*, *supra* note 42; *Gay Gets 100 Lashes*, *supra* note 41.

<sup>46</sup> *Nima Gay Attacker Arrested*, *supra* note 41.

<sup>47</sup> *Id.*

<sup>48</sup> Information obtained by Solace Brothers Foundation from one of the victims of the attacks (May 7, 2016).

<sup>49</sup> *Id.*

<sup>50</sup> *Three Opoku Ware SHS Students Suspended for Alleged Homosexuality*, GRAPHIC ONLINE (Jan. 19, 2016), available at <http://www.graphic.com.gh/news/general-news/56588-three-opoku-ware-shs-students-suspended.html>.

had been armed with clubs, machetes and stones.<sup>51</sup> The school responded to this situation by expelling the three intended victims.<sup>52</sup>

#### IV. Climate of Homophobia

##### A. General prevalence of homophobia

Homophobia is very common in Ghana, and transphobia would likely be as well but for the fact that the social climate is so bad that transgender individuals keep their gender identity hidden. LGBT individuals and those supporting LGBT human rights are targets of homophobia. Disdain and resentment against the LGBT community have grown in recent years and often lead to the violence discussed in Section III.<sup>53</sup> Examples of the homophobic environment in Ghana include the following:

P.W., a 21-year-old Ghanaian, did not dare tell anyone that he is gay, even though he has known since he was 13 years old. When his mother discovered his secret from his schoolmate, “she packed his bags and threw him out of the house, disowning her son for what she saw as an evil act.”<sup>54</sup> His mother told him “because of what [he] chose to be, [he] was no longer her son.”<sup>55</sup>

On August 28, 2010, the online Ghanaian news source, *The Mirror*, published an article entitled “Homosexuality is deviant behaviour,” which stated that homosexuals “need therapy” and are “dangerous armed gangs who demand freedom to operate but cannot be given space at all.”<sup>56</sup> The article continues to urge Ghanaians not to look to European or American tolerance of homosexuality and instead to consider homosexuality a “deviant behaviour.” Also, the author, like many others in Ghana, finds same-sex marriage to be “immoral, selfish, and unacceptable.”<sup>57</sup>

News reports in Ghana perpetuate the myth of homosexuality as a cult-like behaviour. For example, the October 2014 article *I Was Introduced into Gayism by My Class Teacher*, published by the online news publication *News Ghana*, warns of “an underworld of child recruitment into homosexuality,” in which homosexuals “are constantly on the prowl for somewhat unsuspecting minors that they can lure astray.”<sup>58</sup> According to the author, “Our children in secondary schools and everywhere are clearly massively exposed,” necessitating “a deliberate massive response.”<sup>59</sup>

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<sup>51</sup> *Id.*

<sup>52</sup> *Three Opoku Ware SHS Students Suspended, supra* note 50; *Gay Students Would Have Polluted Others – Owass Headmaster*, GHANA WEB (Jan. 20, 2016), available at <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Gay-students-would-have-polluted-others-Owass-Headmaster-409262?ref=ghanacelebrities.com>.

<sup>53</sup> UK Operational Guidance Note: Ghana, *supra* note 13, at p. 19.

<sup>54</sup> Orla Ryan, *Ghana’s Secret Gay Community*, BBC NEWS (Mar. 14, 2007), available at <http://news.bbc.co.uk/2/hi/africa/6445337.stm>.

<sup>55</sup> *Id.*

<sup>56</sup> Mike T. Nagumo, *Homosexuality is Deviant Behaviour*, THE MIRROR (Aug. 28, 2010).

<sup>57</sup> *Id.*

<sup>58</sup> *I Was Introduced into Gayism by My Class Teacher*, NEWS GHANA (Oct. 31, 2014), available at <http://www.newsghana.com.gh/introduced-gayism-class-teacher/>.

<sup>59</sup> *Id.*



Due to fears about being ostracized and abused physically, verbally and emotionally, most LGBT individuals in Ghana feel forced to hide their identities.<sup>60</sup> “I’m a lesbian and I have accepted myself. I have been abused a number of times, people have said a lot of hurtful words to me but that will not stop me from being who I am,” said one anonymous interviewee quoted on December 11, 2015 in News Ghana.<sup>61</sup> However, she explained, “In this country we are not allowed the right to reveal our real identity.”<sup>62</sup>

Media sources in Ghana often condone abusive treatment of LGBTIQ persons in Ghana. For example, on March 23, 2016, George Sydney Abugri published a widely-circulated opinion piece in the Ghanaian news source, Graphic Online, that argued that “all humans must conform” to natural law.<sup>63</sup> In this way, Abugri promoted the biased, faith-based logic that the only way to deal with homosexuality is to eliminate it.<sup>64</sup> He suggested that LGBTIQ persons be forced to receive “psychological help” to “conform” to heteronormative social structures.<sup>65</sup>

### ***B. Homophobic Statements and Promotion of Criminalising Same-Sex Sexual Conduct by Public Officials and Religious Leaders***

Homophobic statements and public support of the criminalization of same-sex sexual conduct by public officials and religious leaders serve to perpetuate societal prejudices against LGBT individuals and even encourage more hate speech, hate crimes, and discrimination by both state and non-state actors. Homophobia and the promotion of criminalising same-sex sexual conduct violate Articles 2(1) and 26 of the Covenant (equality and non-discrimination). Examples of homophobic statements by public officials and religious leaders include the following:

A report presented by African Men for Sexual Health and Rights (“AMSHer”) notes that “[t]he involvement of religious leaders in promoting hate and homophobia within the society as well as in the media recently has also incited people to attack known LGBT people in their homes and meeting places.”<sup>66</sup> Church leaders have also “mounted pressure on government to pass a law to criminalize same-sex marriage even though there is an existing law that criminalizes certain same-sex activities.”<sup>67</sup>

On July 18, 2011, the General Secretary of the Christian Council of Ghana (“CCG”), Reverend Fred Deegbe, directed churches to “treat homosexuality with the contempt it deserves.”<sup>68</sup> The CCG also called on church members to “boldly condemn” any political party that would take a position supporting homosexuality. Reverend Deegbe, who believes that any group encouraging acts of

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<sup>60</sup> *Gay Community in Ghana Speak Out*, NEWS GHANA (Dec. 11, 2015), available at <http://www.newsghana.com.gh/gay-community-in-ghana-speak-out/>.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Gays in Ghana: Taking the Noisy Quarrel to the Scottish Parliament*, GRAPHIC ONLINE (March 23, 2016), available at <http://www.graphic.com.gh/features/opinion/60702-gays-in-ghana-taking-the-noisy-quarrel-to-the-scottish-parliament.html#sthash.Kc1O9WC8.xiqq>.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Socio-Political Situation*, *supra* note 30.

<sup>67</sup> *Id.*

<sup>68</sup> Bernard Benghan & Christabel Akoto Manu, *Xtian Council Declares Stand on Homosexuals*, GHANAIAN TIMES (July 19, 2011). The Ghanaian Times is a government owned local newspaper in Accra, Ghana.

homosexuality is violating the Christian doctrine, said “the council would protest any attempt by government to legalise the practice...and make sure the regime is removed from office.”<sup>69</sup> Reverend Emmanuel Martey, also a member of the CCG, said the increase of sexually transmitted diseases was due to homosexuality and he urged the government to end the “mayhem.”<sup>70</sup>

In November 2011, then-President John Evans Atta Mills opposed “any attempt to legalize homosexuality.”<sup>71</sup> In a response to Britain’s warning that it would cancel foreign aid to Ghana if same-sex conduct continues to be criminalized, he stated:

“No one can deny Prime Minister Cameron his right to make policies, take initiatives, or make statements that reflect his societal norms and ideals but he does not have the right to direct other sovereign nations as to what they should do especially where their societal norms and ideals are different from those which exist in Prime Minister [Cameron’s] society. ... I as president of this nation will never initiate or support any attempt to legalize homosexuality in Ghana. ...Ghana will continue to operate within its constitution regardless of any threats from any country.”<sup>72</sup>

This statement is particularly distressing because, while same-sex sexual conduct is criminalised in Ghana, homosexuality itself is not. The statement sends a very dangerous message to the public, wrongly suggesting that homosexuality itself is illegal.

Similarly, during an African Union summit held in February 2012, then-President Mills stated that “Ghanaian society frowns on homosexuality, if the people’s interest is that we do not legalize homosexuality, I don’t see how any responsible leader can decide to go against the wishes of his people.”<sup>73</sup>

In July 2011, the Western Regional Minister of Ghana “ordered the security forces to arrest all gay men and lesbians in the west of the country, and called on landlords and tenants to report anyone they suspected of being gay or lesbian.”<sup>74</sup>

Uproar ensued when, in July 2012, Ghana’s Constitution Review Commission recommended that Ghana’s Supreme Court decide on “whether the country should legalize same-sex acts.”<sup>75</sup> “Over 98% of the submissions received by the commission were against LGBT rights.”<sup>76</sup> Tribal leaders, government officials and even members of the Commission openly criticized the suggestion,

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<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Ghana’s President Slams David Cameron: You can’t threaten us with gay aid!*, VIBEGHANA.COM (Nov. 2, 2011), available at <http://vibeghana.com/2011/11/02/ghanas-president-slams-david-cameron-you-cant-threaten-us-with-gay-aid/>.

<sup>73</sup> Dan Littauer, *Ghana Supreme Court to Rule on Gay Rights*, GAY STAR NEWS (July 21, 2012), available at <http://www.gaystarnews.com/article/ghana-government-rule-gay-rights210712>.

<sup>74</sup> Amnesty International, *Ghana: Human Rights Shortcomings in Law and in Practice*, Amnesty International Submission to UN Universal Periodic Review, Oct.-Nov. 2012, at p. 6, available at <https://www.amnesty.org/download/Documents/16000/afr280032012en.pdf>.

<sup>75</sup> Littauer, *supra* note 73.

<sup>76</sup> Survey conducted by CRC (created in Jan. 2010) regarding the review of the 1992 constitution.

calling homosexuality “un-African” and “morally repugnant.”<sup>77</sup>

In February 2013, the current President of Ghana, John Dramani Mahama, also distanced himself from LGBT rights activists, saying, “Homosexual conduct which is unnatural carnal knowledge of one person or another is criminal and punishable by the laws of Ghana.”<sup>78</sup>

On July 18, 2015 in Takoradi, the Muslim Chief Imam of Takoradi, Alhaji Mohammed Awal, publicly condemned homosexuality “as dirty and abominable.”<sup>79</sup> At the opening prayers of Eid-ul-Fitr at the end of Ramadan, he encouraged his Muslim followers to shun the “devilish acts” of homosexuality<sup>80</sup>

On February 14, 2016, Valentine’s Day, a prominent Ghanaian religious and academic leader, Pastor Mensa Otabil, gave a sermon stating that same-sex marriages do not make sense, associating gay marriage with darkness and calling on Christians to “overcome the darkness.”<sup>81</sup> Pastor Otabil is the leader of one of Ghana’s largest churches and the chancellor of a large private university in Ghana. He is considered to be one of Ghana’s most influential leaders; indeed, in 2015, one news outlet ranked him as the most influential person in Ghana.<sup>82</sup> A news report of his Valentine’s Day sermon elicited a torrent of hateful comments condemning not only gay marriage, but LGBT individuals in general. “HOMOSEXUALITY IS AN ABOMINATION,” one comment began, “If they want to marry what they love then soon they will marry their pets (dogs, cats, horses).”<sup>83</sup>

At a press conference in Accra on February 22, 2016, about the then-upcoming plenary assembly of the Regional Episcopal Conference of West Africa, Conference President Cardinal Theodore Sarr urged Africans not to accept homosexuality.<sup>84</sup> Cardinal Sarr argued that acceptance of homosexuality is the culture of the West infringing upon Africa.<sup>85</sup>

A sign that was posted at Accra International Airport as of February 2016 summed up the official atmosphere of hostility towards LGBT individuals.<sup>86</sup> The sign began by saying: “Ghana warmly welcomes all visitors of goodwill.” But the next sentence made clear that this welcome did not extend to LGBT visitors, who are considered to be sexual deviants: “Ghana does not welcome paedophiles and other sexual deviants.” The posting further warned: “Ghana imposes extremely

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<sup>77</sup> *Id.*

<sup>78</sup> *Socio-Political Situation, supra* note 30; *President Mahama speaks: Homosexuality is Criminal*, GHANA WEB (Feb. 1, 2013), available at <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=263862>.

<sup>79</sup> GNA, *Homosexuality is dirty and abominable-Chief Imam*, MODERN GHANA, (July 18, 2015), available at <https://www.modernghana.com/news/630606/homosexuality-is-dirty-and-abominable-chief-imam.html>.

<sup>80</sup> *Id.*

<sup>81</sup> *Same-sex Marriage 'Doesn't Make Sense' – Otabil*, GHANA WEB (Feb. 14, 2016), available at <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/Same-sex-marriage-doesn-t-make-sense-Otabil-415453>.

<sup>82</sup> *Otabil Is Most Influential Ghanaian*, STARRFM (Feb. 16, 2015), available at <http://www.starrfmonline.com/1.1998160>.

<sup>83</sup> *Same-sex Marriage 'Doesn't Make Sense', supra* note 81.

<sup>84</sup> *Africa Won't Accept Homosexuality – Catholic Bishops*, MODERN GHANA (Feb. 22, 2016), available at <https://www.modernghana.com/news/676425/africa-wont-accept-homosexuality-catholic-bishops.html>.

<sup>85</sup> *Id.*

<sup>86</sup> Colin Stewart, *Akwaaba! (Welcome!), says Ghana — but not if you're gay*, 76 CRIMES (Feb. 5, 2016), <http://76crimes.com/2016/02/05/akwaaba-welcome-says-ghana-but-not-if-youre-gay/>; see also Samuel Kabutey Thompson, *Gays in Ghana Threaten the Government*, GHANA VIBES (2016), available at <http://ghanavibes.com/gays-in-ghana-threatens-the-government-find-out/>.

harsh penalties on such sexually aberrant behaviour.” It concluded with the admonition: “If you are in Ghana for such activity, then for everybody’s good, including your own, we suggest you go elsewhere.”<sup>87</sup> By posting this sign, Ghanaian officials actively sought to discourage LGBT visitors from entering Ghana. LGBT Ghanaians who viewed the sign in their own airport were once again made to feel unwelcome in their own country. As of May 2016, the sign had been taken down due to renovation work going on at the airport; whether or not it will be reposted once the renovation work is completed is unknown.<sup>88</sup>

## V. Discrimination in Education

Article 2(1) of the Covenant states that each State Party to the Covenant must “respect and ensure to all individuals” the rights recognized in the Covenant without any discrimination. Article 26 of the International Covenant on Civil and Political Rights prohibits discrimination in every field and requires equality for all persons before the law.

Unfortunately, in Ghana, LGBT students have been discriminatorily excluded from schools, and LGBT rights advocates and educators who teach about sexual health have been subjected to violent attacks and hostility. The following incidents are examples of how discrimination in education is still an evident reality in Ghana:

In May 2012, a group of schoolboys from the Volta Region assaulted an educator from an NGO who was on his way to teach a workshop on sexual health.<sup>89</sup> He was carrying educational materials about safe sex, such as condoms and pamphlets, when he was attacked.<sup>90</sup> Instead of charging the group of boys who were guilty of the attack, the police detained the educator.<sup>91</sup>

In April 2013, 19 students at Opoku Ware Secondary High School in the Ashanti regional capital of Kumasi were expelled for “practicing homosexuality.”<sup>92</sup> The students were additionally accused of meeting secretly to plan ways to persuade other students to engage in homosexual acts.<sup>93</sup>

Not long before the 19 expulsions at Opoku Ware SHS, 34 female students were expelled from Wesley Girls Senior High School in Kumasi for “engaging in lesbianism.”<sup>94</sup>

In January 2016, three male students at Opoku Ware Senior High School in Kumasi were expelled for having allegedly “engaged in homosexuality.”<sup>95</sup> The headmaster of the school, Dr. Alexis

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<sup>87</sup> *Akwaaba! (Welcome!), says Ghana*, *supra* note 86.

<sup>88</sup> Information obtained by Solace Brothers Foundation by visiting the airport (May 2016).

<sup>89</sup> UK Operational Guidance Note: Ghana, *supra* note 13, at p. 18.

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *19 ‘homosexual’ students of Opoku Ware SHS sacked*, GHANAWEB (April 16, 2013), available at <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/19-homosexual-students-of-Opoku-Ware-SHS-sacked-271155>.

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> *Three Opoku Ware SHS Students Suspended for Alleged Homosexuality*, GRAPHIC ONLINE (Jan. 19, 2016), available at <http://www.graphic.com.gh/news/general-news/56588-three-opoku-ware-shs-students-suspended.html>;

Frimpong Nimoh, defended the decision to expel the students on the grounds that “the students posed a threat to their colleagues,” in that they “would have convinced others to become gays if they had not been expelled.”<sup>96</sup> He also claimed that the students had help from the outside to influence others to join them: “We didn’t want them to pollute others into it. You see this is something that they initiate others into, and they are very powerful and when you trace you would see that they have influence from outside.”<sup>97</sup>

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.

## VI. Proposed Recommendations for Ghana

1. **Decriminalize same sex sexual conduct** by repealing Chapter 6, Section 104, Subsection (1)(b) of the Ghana Criminal Code.
2. **Protect against violence and discrimination.** Take measures to prevent further hate crimes, hate speech, and discrimination based on sexual orientation or gender identity. Ensure that any crimes motivated by sexual orientation or gender identity are promptly investigated, prosecuted, and punished, and that the victims are provided appropriate remedies.
3. **Protect against stigmatization.** Open a dialogue between representatives of the Government of Ghana and human rights defenders and individuals to promote better understanding of LGBT issues. Develop and implement programs, including programs in schools, to educate and sensitize the general public about human rights and equality.

## V. Suggested Questions

1. What measures is Ghana taking to decriminalize same-sex sexual conduct?
2. What steps is Ghana taking to protect LGBT people against violence and discrimination?

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*Gay Students Would Have Polluted Others*, *supra* note 52. As noted in Section III, above, prior to being removed from the school, these students were the target of a mob of students that wanted to lynch them.

<sup>96</sup> *Gay Students Would Have Polluted Others*, *supra* note 52.

<sup>97</sup> *Id.*