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COI QUERY RESPONSE

GHANA -LGBT

A report reviewing events of 2023 published in April 2024 by the *United States Department of State* includes noting that: "...The law criminalized the act of "unnatural carnal knowledge," which was defined as "sexual intercourse with a person in an unnatural manner or with an animal." The offense covered only persons engaged in same-sex male relationships and those in heterosexual relationships. There were no reports of adults prosecuted or convicted for consensual same-sex sexual conduct, but police used the law to harass the LGBTQI+ community through detention, extortion, and arbitrary arrest."¹

This report also points out that: "The LGBTQI+ community reported police violence against LGBTQI+ persons. Civil society organizations and activists reported police were reluctant to investigate claims of assault or violence against LGBTQI+ persons. Stigma, intimidation, and the perceived bias of some police against LGBTQI+ persons dissuaded survivors from reporting abuse. Activists noted great difficulty in engaging officials on problems facing the LGBTQI+ community because of social and political prejudice. Evictions, extortion, public humiliation, and community ostracism were common. LGBTQI+ persons in prison were vulnerable to harassment, as well as sexual, mental, and physical abuse, which authorities generally did not investigate. Attacks by private citizens on LGBTQI+ persons were frequent and growing in number."²

In January 2024 *Amnesty International* pointed out that: "LGBTI people continue to face discrimination and other human rights violations in Ghana and might face increased risks if the Ghanaian Parliament passes one of the most draconian antiLGBTI rights bills in the continent. The Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill 2021 was officially introduced in Parliament for its first reading on 2 August 2021. After that, the Bill was referred to the Constitutional Legal and

¹ United States Department of State (22 April 2024) 2023 Country Reports on Human Rights Practices: Ghana, p.12

² *ibid*, p.12

Parliamentary Affairs Committee which held public hearings on the Bill for almost two years. In March 2023, the Committee released its report on the Bill. The Committee's final report was presented to Parliament on 5 July, the same day that there was the second reading of the Bill."³

This document also states that: "...if passed into law, the bill will encourage even more hatred and intolerance, and promote persecution against people on the basis of their real or perceived sexual orientation and gender identity simply because they do not or cannot conform to dominant social and gender norms. It intends to impose restrictions and criminal penalties against a range of people, including LGBTI people and anyone who expresses support or sympathy towards LGBTI people. It also places a positive obligation on everyone in Ghana to report any conduct perceived to be of an 'LGBTI nature' to the police or to a list of chosen people in the community in the absence of the police."⁴

In February 2024 *Amnesty International* points out that the: "...Parliament's passage of this draconian bill is shocking...The bill is one of the most draconian in Africa and seeks to further criminalize lesbian, gay, bisexual and transgender (LGBT) people...LGBTI people have already reported forced evictions, loss of jobs, increased violence and other violations of the rights guaranteed by the country's Constitution since the bill was introduced in parliament."⁵

In March 2024 the *United Nations Office of the High Commissioner for Human Rights* states that: "...adoption of the discriminatory legislation would pose a serious threat to the protection of human rights in the country...The immediate targets of the bill are sexual and gender minorities, who are already bearing the brunt of a rise in violence and discrimination."⁶

Human Rights Watch in March 2024 states that: "The current law punishes same-sex conduct between men with a maximum penalty of three years in prison. Under the new bill, anyone who identifies as LGBT or any sexual or gender identity that is contrary to the binary of male and female commits a misdemeanor and is liable on conviction to a fine of between 750 and 5,000 penalty units (from US\$750 to 4,700), or a prison term between two months and three years, or both. After the introduction of the bill in 2021, twenty-one LGBT activists were unlawfully arrested and detained for holding a human rights education meeting, on the ground that they were promoting homosexuality and that the gathering was an unlawful assembly. Police also raided a center for the LGBT community and the center was subsequently shut down."⁷

This report also states that: "The debates about the bill attacks against LGBT people. have been associated with heightened attacks against perceived LGBT people."⁸

In March 2024 *BBC News* states that: "Homophobia is not uncommon in Ghana, where gay sex is already against the law and carries a three-year prison sentence, but now the LGBTQ+ community is feeling terrorised. A new bill, passed by MPs last week, will impose a jail term of up to three years for simply identifying as LGBTQ+ and five years for promoting their activities."⁹

³ Amnesty International (9 January 2024) Africa: We are facing extinction: Escalating anti-LGBTI sentiment, the weaponization of law and their human rights implications in select African countries, p.19

⁴ *ibid*, p.20

⁵ Amnesty International (29 February 2024) Ghana: President Nana Akufo-Addo must not sign deeply discriminatory anti-LGBT law

⁶ United Nations Office of the High Commissioner for Human Rights (1 March 2024) UN experts urge Ghana's President to reject discriminatory bill

⁷ Human Rights Watch (5 March 2024) Ghana: President Should Veto Anti-LGBT Bill

⁸ *ibid*

⁹ BBC News (7 March 2024) Ghana's LGBT terror: 'We live in fear of snitches', p.1

This document also states that: “A case has been filed at the Supreme Court and President Nana Akufo-Addo says he will wait for the outcome before taking action on the bill.”¹⁰

In May 2024 *Reuters* states that: “Ghana's Supreme Court said on Wednesday that lawyers battling over the legality of one of Africa's most restrictive anti-LGBTQ bill must amend their motions due to insulting language in their submissions and then postponed the case.”¹¹

This document also states that: “Gay sex is already punishable with up to three years in jail in Ghana. If the bill takes effect, it will lengthen the sentence and intensify a crackdown on the rights of LGBTQ people and those accused of promoting lesbian, gay or other minority sexual or gender identities.”¹²

In May 2024 the *International Lesbian, Gay, Bisexual, Trans and Intersex Association* states that: “Ghana currently criminalises same-sex sexual activity under Section 104(1)(b) of its Penal Code (1960), as amended in 2003...”¹³

Agence France Presse in July 2024 states that: “Ghana's Supreme Court on Wednesday deferred its ruling on a request to restrain parliament from transmitting a highly contested anti-LGBTQ bill to President Nana Akufo-Addo for his final approval. The ruling means debate around the bill, which has dominated Ghana's political discourse since parliament passed it in February, will be sidelined from the campaign for December's presidential election race. Chief Justice Gertrude Torkornoo, chairing the five-member Supreme Court panel, said the court will expedite the case. But the case has been adjourned indefinitely, with no date set for further rulings.”¹⁴

Reuters in July 2024 states that: “Ghana's Supreme Court on Wednesday upheld a six-decade-old law criminalising gay sex as the west African country awaits another court decision on whether to introduce even harsher penalties in a new bill. The seven-member panel dismissed a lawsuit challenging the law, with presiding Justice Paul Baffoe-Bonnie saying reasons for the decision will be given later. The Ghanaian Criminal Code of 1960 prohibits same-sex sexual acts, calling them “unnatural carnal knowledge.” Offenders face up to three years in jail.”¹⁵

In July 2024 the *United Nations Office of the High Commissioner for Human Rights* comments on the: “...decision by the Supreme Court of Ghana to uphold colonialera provisions of the Criminal Offences Act that effectively criminalise consensual same-sex relations. The Court’s ruling on 24 July is especially concerning given reports of a recent spike in violence against LGBTQ+ people in Ghana.”¹⁶

A compilation of COI sources published by the *United Kingdom Home Office* in July 2024 is additionally referenced and included below.¹⁷

¹⁰ *ibid*, p.3

¹¹ *Reuters* (9 May 2024) Ghana's top court postpones hearing on challenge to anti-LGBTQ bill

¹² *ibid*

¹³ International Lesbian, Gay, Bisexual, Trans and Intersex Association (30 May 2024) *Laws on Us: A Global Overview of Legal Progress and Backtracking on Sexual Orientation, Gender Identity, Gender Expression, and Sex Characteristics* [Ghana excerpt].

¹⁴ *Agence France Presse* (17 July 2024) Ghana supreme court defers ruling on anti-LGBTQ bill

¹⁵ *Reuters* (24 July 2024) Ghana's top court upholds law criminalising gay sex

¹⁶ United Nations Office of the High Commissioner for Human Rights (26 July 2024) Comment by UN Human Rights Office spokesperson Liz Throssell on Ghana court ruling

¹⁷ United Kingdom Home Office (July 2024) Country Policy and Information Note Ghana: Sexual orientation, gender identity and expression (SOGIE)

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