



Outright Brief:

Addressing Ghana's Movement Toward Passage of Anti-LGBTQ Bill

On Wednesday, 5 July 2023, Ghana's Parliament took a step toward passage of the Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill, 2021, by voting to adopt the Report of the Committee on Constitutional, Legal, and Parliamentary Affairs on the bill. This step means that hundreds of thousands of lesbian, gay, bisexual, transgender and queer Ghanaians and their allies are at imminent risk of facing criminal penalties for simply existing. It also means that Ghanaian LGBTQ civil society will be eviscerated, along with feminist and human rights movements that support LGBTQ equality. It is time for the international community and other stakeholders to take meaningful steps to support human rights in Ghana and oppose the bill's advancement.

The advancement of Ghana's anti-LGBTQ Bill comes shortly on the heels of the enactment of the Anti-Homosexuality Act, 2023, in Uganda, a bill that Outright has characterized as based on genocidal ideology, and with a pending anti-LGBTQ bill in Kenya. While Ghana's Bill does not go as far as imposing death sentences, it casts an even wider net by criminalizing anyone who simply "holds out as" LGBTQ or an ally, thereby similarly proposing the complete elimination of a segment of society. Like Uganda's law, it contains a "duty to report," and will hamper the ability of development agencies, the World Bank, and corporations to deliver assistance or carry out business without being complicit in persecution.

In Outright's analysis, the unanimous vote on Wednesday on Ghana's Bill and the vocal support of certain groups for the Bill, as shown in the media, make clear that Parliamentarians are unwilling to take into consideration human rights and social inclusion of LGBTQ people, and it will be incumbent on President Nana Addo Dankwa Akufo-Addo to veto the bill.

Background

On 29 June, Hon Samuel Nartey George, along with seven other members of parliament submitted to the Speaker of Parliament a private members bill, [The Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill, 2021](#). The Bill passed through the first reading in Ghana's unicameral legislature and was referred to the Committee on Constitutional, Legal, and Parliamentary Affairs in August 2021.

The drafting of the Bill closely followed a convening of the World Congress of Families, a US-based hate group, in 2019. Ipas, a sexual and reproductive health organization, has [tracked](#) how foreign influence, including from the WCF and other US right-wing evangelical groups, contributed to mobilization in support of the bill.

Outright issued a report in [2022](#) that demonstrated how the mere introduction of the Bill in parliament increased violent attacks on people presumed to be sexual or gender minorities.

What Are the Next Steps for Ghana's Human Sexual Rights and Ghanaian Family Values Bill?

- The Bill will go through a [Consideration Stage](#) where it will be discussed clause by clause and all concerns, including proposed amendments, are debated and voted upon. The Speaker states each clause of a bill and members note their questions and concerns. Thereafter, the changes or amendments are voted upon.
- The Bill is then redrafted by the Attorney General's Department and proceeds to the third reading. It is expected that this process may take place within the [current sitting](#) of Parliament which should end in July; Parliament resumes in October after a recess.
- At the third reading the MPs debate the principles and policies of the Bill and if there are no objections, the MPs present in the House vote on the Bill. If any

amendments are made to the Bill at this stage, the Clerk will incorporate them in the Bill and send the final draft to the Government printer. The Bill is then transmitted to the President.

- Article 106 of the Constitution of Ghana stipulates the Presidential process on legislation passed by Parliament. The president will, within seven days, inform the Speaker whether he assents to the Bill. If the President assents, the Bill becomes law. The new law is published in the Gazette and enters into force. If the President refuses to assent to the Bill, he is required within fourteen days to state in a memorandum to the Speaker any specific provisions of the bill which in his opinion should be reconsidered by parliament, including his recommendations for amendments if any; or to inform the Speaker that he has referred the bill to the Council of State for consideration, which must be done within 30 days after the third reading.
- Parliament shall reconsider a bill taking into account the comments made by the President or the Council of State. Parliament shall vote and the Bill will be considered to have passed by a resolution supported by two thirds of all the Members of Parliament.
- The Bill is sent back to the President. At this point, the president cannot refuse to assent to or refer the bill. He is obligated to assent to it within 30 days.

If the President assents to the bill, it is published in the Gazette and enters into force. At this time, any aggrieved citizen can move to the High Court of Ghana and challenge the constitutionality of the content of the bill.

The Content of the Bill

The bill builds on the existing criminalization of same-sex relations under Section 104 of Ghana's colonial-era Criminal Code. It threatens to limit fundamental rights and freedoms for LGBTQ individuals and allies and to squelch efforts to promote socioeconomic inclusion of LGBTQ persons. The analysis below references the Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill, 2021 and the proposed amendments in the Committee report.

While the preamble of the Committee report acknowledges Ghana's obligation to uphold human rights, the entire Bill is at odds with Ghana's International and regional human rights obligations as it contravenes rights to privacy, bodily autonomy, freedom of expression, association, and assembly, and non-discrimination, among others as stated below:

1. Any individual who engages in consensual same-sex relations or "holds out as" being LGBTQ or an ally will be liable to three years in prison. Unlike Ghana's current law on unnatural offenses, these provisions explicitly criminalize sex between women. The bill criminalizes both the person and the act, pronouncing the mere existence of LGBTQ individuals as a crime. The government, through this law, is attempting to eradicate a cross-section of its population, contrary to the duties and responsibilities that a government owes to its citizens - specifically, protection of ALL its citizens.
2. The Bill prohibits the funding and sponsorship of what has been described as crimes under the law. Any donor who funds LGBTQ organizations or supports advocacy for LGBTQ rights will be liable to three to five years in prison.
3. LGBTQ and ally organizations that operated prior to the enactment of this law, conducting activities ranging from provision of queer-friendly health services to legal aid for victims of violence to emergency support, will be disbanded. Any LGBTQ or ally organization attempting to register will be denied registration and could face up to five years in prison. This limits freedom of association and will eviscerate Ghanaian LGBTQ civil society.
4. This law further seeks to limit freedom of expression, requiring owners of media houses and technological platforms to monitor and restrict content alleged to evoke the interest of the child in an activity prohibited under the act, or teach a child to explore any gender or sex other than the binary categories of male and female. Anyone found guilty of the offence of so-called LGBTQ "propaganda, advocacy, support, and other promotional activities" through media, including social media, will be liable to a minimum of six years in prison. This includes the owner of the media platform.

5. The Bill requires any person “in whose presence an offense is committed under this Act” to report the offense to a police officer, political leader, “opinion leader” or customary authority. There is a high likelihood that this provision will be used to extort money from individuals and encourage arbitrary detention of persons because of their real or perceived SOGIE. To comply with the law, landlords who choose not to report are likely to forcefully evict individuals or organizations from their premises. The mere tabling of the bill has already led landlords and neighbors to take on the task of [fishing out](#) people suspected of being LGBTQ, to comply with the bill’s provisions.

How Will the Bill Impact International Development Work and the Private Sector in Ghana?

The Bill imposes a duty on all Ghanaian citizens to respect its provisions, explicitly naming parents, guardians, teachers, churches, mosques and other religious bodies, creative and media personnel, members of government bodies, and other constitutional bodies.

Private citizens are burdened with a duty to report offenses committed in their presence, including “holding out” as LGBTQ and the so-called promotion of homosexuality, to law enforcement. To this end, humanitarian and development organizations and private companies will be required to report their co-workers, grantees, partners, and beneficiaries, putting them at risk of imprisonment. Several international and multinational institutions operate in Ghana, providing much-needed services in health care, poverty alleviation, and water security, among others. Their critical work to serve LGBTQ populations and other marginalized communities is threatened by this legislation which will isolate beneficiaries and put aid providers at risk of arrest for contravening the provisions of the bill. Law enforcement officials may construe organizations’ and companies’ direct and indirect engagement with LGBTQ people through development and humanitarian programs as an illegal form of allyship.

The limitation of freedom of association will prompt the shutdown of LGBTQ organizations, shelters, drop-in centers, and allied organizations, interrupting the provision of services to LGBTQ individuals. The prohibition of funding and sponsorship will hinder the core functions of development partners and funding institutions by targeting support to NGOs for programming, if the programming is deemed to encourage homosexuality. This will affect programming on comprehensive sexuality education, sexual and reproductive health, access to services for LGBTQ individuals, and advocacy for equality, inclusion, and non-discrimination.

What Should the International Community Do to Support LGBTQ Human Rights in Ghana?

- The diplomatic community should undertake bilateral engagement with key actors in the government of Ghana, condemning the bill, stating the negative impact it has on LGBTQ lives, and calling on the government to foster a safe and inclusive environment for all citizens. This will include engaging with President Nana Addo Dankwa Akufo-Addo, calling on him not to assent to the Bill.
- Multinational companies, the World Bank, the African Development Bank, and humanitarian and development organizations should, in engagement with Members of Parliament and the President of Ghana, strongly condemn the bill and make clear that it will compromise their ability to operate safely and ethically in Ghana.
- Diplomats, international financial institutions, and humanitarian and development organizations should urgently strengthen their connections and relationships with LGBTQ people and activists in Ghana in order to better support them and ensure their protection if the bill becomes law.
- Funders should support the work of LGBTQ organizations and other human rights organizations in Ghana to advocate against the bill, challenge the Bill if it is enacted and provide support for human rights defenders working to promote LGBTIQ+ rights who are at a high risk due to this law.